



Lawyers' Insurance
Association of Nova Scotia

ANNUAL REPORT 2010



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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 public protection mandate of the Nova Scotia Barristers' Society.

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

Report from the Chair of the Board



JOHN W. TRAVES QC

Chair

John W. Traves QC joined the Board in 2003. He was appointed Chair in 2010. John is the Director, Legal Services Division with the Department of Justice (NS).

On behalf of the Board of LIANS, I am pleased to present the Association's Annual Report for 2010. The full practising levy for private practitioners for the 2010-11 year is \$1,152, for Nova Scotia Legal Aid \$576 and provincial government staff lawyers \$350.

This is a \$177 increase in the levy for private practitioners over the last year.

LIANS has been successful in maintaining one of the lowest insurance assessments in the country. This success is due in part to the return to members of excess surplus held by LIANS and CLIA surplus credits. It is also due in large measure to the hard work, commitment and dedication of your Director, Melanie McGrath, and the dedicated staff, Patricia Neild, Gerri O'Shea, Stacey Gerrard, Christine Smith, Cynthia Neild and Jennifer Curran, who work so diligently to assist members. I continue to be impressed with the positive results that this group of people continues to deliver to members.

Our actuaries advise us that the true levy necessary to meet our expected liabilities in the coming year would be \$2,014 per private practitioner, 1.75 times the levy actually being charged to private practitioners. In consultation with our actuaries, LIANS continues to make the return of these surplus monies to the members with the expectation that the levy will increase over time until it reaches the true cost of insurance.

Our investment returns continue to meet the goals established for them by the Board, ensuring the long-term financial viability of LIANS. While overall we continue to have a relatively favourable claims experience, it remains up to each and every member to do their part to contribute to the situation by being careful and claims wise in the way in which we practise.

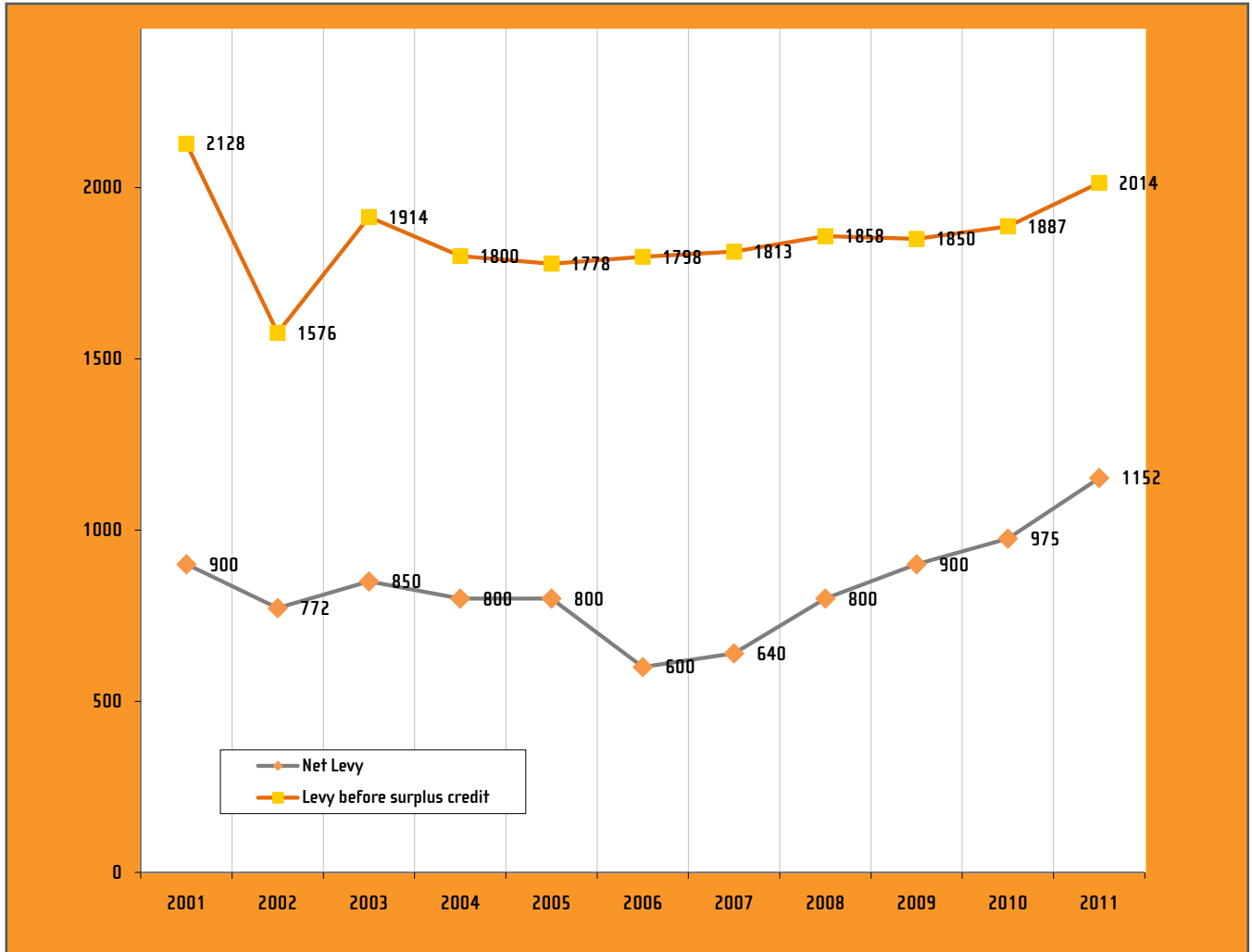
Our claims experience with CLIA (which provides coverage of our liability claims in excess of \$300,000, up to a maximum of \$1 million per occurrence) has been impacted somewhat by an increase in claim severity that we have experienced the past year. Based on our excellent results over the long term, the CLIA premium portion of our insurance levy is among the lowest of the participating provinces and territories.

LIANS is very pleased to continue its activities for the benefit of members. The departure of Deborah Gillis QC resulted in Stacey Gerrard joining the Association as LIANS Counsel. This has resulted in an opportunity to provide continued advice on risk and practice management while strengthening our in-house resources for claims management.

A summary of the past year's financial highlights, taken from the audited financial statements of LIANS, is attached to this report.

John W. Traves QC, Chair

Insurance Levy — 10-year history



“As the excess surplus is distributed back to the members, it is expected that members will see a steady increase in the annual insurance levy, to the point where the excess surplus is depleted and the annual levy represents 100% of the cost of the coverage.”

Program Report

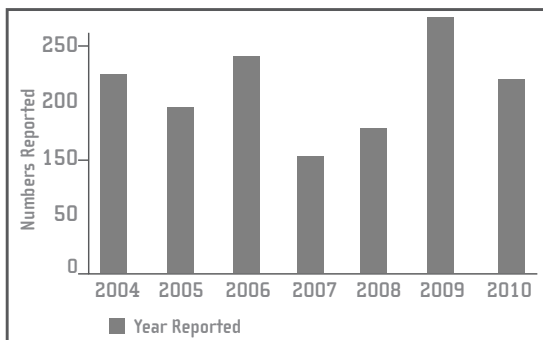


MELANIE MCGRATH
Director

Melanie McGrath joined LIANS in January 2010 as Director after a number of years in private practice and practising in-house at a national insurance company.

Claims Management

The number of claims reported in 2010 decreased but the value of the claims increased. The number of new claims reported was 221, as compared to 269 in 2009, 183 in 2008 and 153 in 2007. Based on reporting to date, we do not expect to see much change in 2011. Claims costs increased in 2010 due largely to the increased complexity of claims processed.



Claims Reported Per 100 Lawyers (2000 - 2010)

00	01	02	03	04	05	06	07	08	09	10
16	14	19	16	14	12	14	10	11	16	13

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 2009 and 2010 is set out.

Area of Law	1998-2007	2007	2008	2009	2010
Real Estate	47%	50%	69%	49%	40%
Bankruptcy/Insolvency/Receivership				<1%	<1%
Criminal		3%	4%	<1%	2%
Employment/Labour	3%	0%	0%	3%	<1%
Immigration				0%	1%
Intellectual Property				<1%	<1%
Tax				30%	34%
Civil Litigation	13%	15%	9%	5%	10%
Commercial	11%	6%	3%	9%	3%
Corporate	13%	3%	7%	<1%	3%
Matrimonial & Family	5%	6%	2%	<1%	1%
Estate Planning & Administration	4%	14%	4%	2%	6%
Administrative/Boards/Tribunal	1%	0%	0%	0%	0%
All Other	3%	3%	2%	0%	0%
Arbitration					<1%
	100%	100%	100%	100%	100%

As the chart above illustrates, claims costs arising from the practice area of tax law continue to be significant due to the severity of a single claim. It is expected that this claim will continue to impact the claims cost in this area

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through 2011. In terms of numbers of claims themselves, real estate claims continued to be the largest proportion, with 65 per cent of the number of claims reported being in this area. A number of real estate claims resulted from a failure to record documents, resulting in errors in security priorities. However, such claims have not caused an increase in severity of the damage claims in real property and the overall cost of these claims decreased from 2009.

Claims in the areas of civil litigation were also higher than in 2009, with 15 per cent of claims being made in this area. Claims costs were also higher. Claims with respect to the areas of estate planning/wills and family law were consistent in number but increased in terms of cost. In the area of commercial law, however, both the number of claims and the costs associated with them decreased.

No one problem caused LIANS claims experience to rise in 2010. Missed limitations, including statutory limitation periods in other provinces where the cause of action occurred, continue to result in claims now that lawyers are more mobile. It is important to remember that the law in this area varies province to province. Missed judgments on title searches also caused a number of claims. It is important to remember to search for all possible spellings of a name when searching judgments, and to remember to search for judgments even if no mortgage is going on the property. Other causes, including the failures of office systems, unsupervised delegation, poor communication with clients or others, and general lack of oversight resulted in claims in all areas of law.

It is interesting to note that LIANS closed 236 claims files in 2010. Of these files, 88 per cent were closed with no payment of any damages. In addition, 59 per cent closed with no payment of either defence costs or damage. LIANS

also conducted its first closed file satisfaction survey with respect to files that were closed in 2010, with 92 per cent of respondents indicating they were very satisfied with the handling of their claim.

In 2011, look for additional resources from the Risk and Practice Management Program through the relaunched website, the electronic newsletter LIANSwers, the mentorship program and other literature. In addition, through Stacey Gerrard, LIANS Counsel, the RPM program will continue to provide fraud alerts to members and Stacey is available to offer confidential assistance to help answer specific or general questions with respect to your practice management.

Program Report



CHERYL CANNING
Chair
NSLAP Committee

Cheryl Canning is Chair of the Lawyers Assistance Program. She is a partner with Burchells LLP.

Nova Scotia Lawyers Assistance Program

The 2010-2011 year was an interesting one for NSLAP. With the completion of the implementation of a new service provider, Human Solutions, we turned our attention to monitoring usage and responding to the issues that always arise when a major change is undertaken. We are now one year into our working relationship with Human Solutions, and it appears we have “ironed out the wrinkles.”

During the first full year of service by Human Solutions, NSLAP saw 120 new cases opened. Approximately one-fifth of those cases involved members' usage of the eServices offered on the Human Solutions website. The eServices are online, self-paced learning and planning courses, directed at a wide variety of issues. In total, 61 e-Services were utilized in the one-year period, which means that many of the people using these services used more than one. We are very happy that Human Solutions has been able to offer us these alternative methods of assistance, in addition to the more traditional ones.

The majority of NSLAP users over the past year have been female, between the ages of 30-50. While there are many different types of problems addressed, marital/relationship and family issues make up almost half. General stress and mental health issues are next at about 30 per cent and workplace-specific issues are 18 per cent. Addictions were only 4.5 per cent. Obviously, there is some overlap among these issues, but this gives us an indication of the types of issues our members are facing.

NSLAP is now focusing on our peer volunteer group. We are attempting to create a group that represents all areas of the province and the various demographics of our members, yet is still manageable in size. We are currently making plans for an education program for these volunteers.

I cannot report on the past year's activities without commenting on the dedication and hard work exhibited by all of the committee members. The committee's work could not have been performed without the immeasurable assistance of our LIANS staff member, Melanie McGrath, as well as the support of both LIANS and the NSBS. I look forward to our continued cooperation over the next year.

Respectfully submitted,
Cheryl Canning
Chair, NSLAP Committee

Program Report



STACEY GERRARD
LIANS Counsel

Stacey Gerrard joined LIANS in October 2010, bringing with her both a common law and civil law degree as well as the ability to practise in both English and French.

Risk and Practice Management

The Risk and Practice Management program had another successful year providing support to the practising members.

Publications and presentations

This year saw the launch of *LIANSwers*, a bimonthly newsletter distributed to the membership electronically. The articles and information contained in the newsletter are intended to assist lawyers with the running of their practice and avoiding malpractice claims. It does not provide advice nor is it intended to replace the lawyer's own exercise of professional judgment.

With the recently revamped LIANS website, RPM resource material is uploaded regularly and material already provided is updated regularly. This includes templates for notes to file, sample retainer letters and checklists.

The RPM program continues to submit articles to *InForum* every two weeks. These include practice tips from LIANS Counsel and technology tips from the Database and Information Office. Information regarding the Lawyers' Assistance Program is also included in every edition.

The program also provided education seminars at County Bar meetings throughout the province in an effort to bring the risk and practice management message to the members directly.

On December 10, 2010, LIANS Counsel presented information on the Lawyers' Assistance Program at a Canadian Bar Association conference attended by legal support staff.

Fraud Alerts

Despite increased publicity and coverage regarding fraudulent email scams, our members continue to be the recipients of suspicious email. We are constantly monitoring and periodically notifying the membership of new email scams as we become aware of them, and continue to receive inquiries from our membership asking whether an email they received might be legitimate. We maintain a database of these fraudulent emails in order to confirm whether we are familiar with that particular scam and remind members of their obligations under the Client ID Regulations. Despite our best efforts, we noted that fraudulent emails are becoming much more sophisticated and sometimes implicate existing companies or websites, which makes it more difficult for our members to determine for themselves whether the email received is legitimate.

Staffing

In the fall of 2010, the Risk and Practice Management Program underwent staffing changes with the departure of Deborah Gillis QC in September. In October 2010, Stacey Gerrard joined LIANS to provide professional support to the RPM Program as LIANS Counsel.

Program Report

RPM Committee

In December 2010, the Terms of Reference were finalized for the new RPM Advisory Committee. Currently the Committee is composed of six members of the Bar, who are from different areas of practice, and two of whom are located outside the HRM. The Terms of Reference outline the responsibilities of the RPM Committee, which include:

- To meet regularly and as required to identify, monitor and discuss issues and processes that will assist in and be relevant to the development of practice management programming;
- To identify and assist in the development of practice management resources for members such as precedents, checklists and other practice management tools;
- To draw upon and use resources developed and maintained by the Professional Standards Committees;
- To identify and provide a network of confidential peer support services;
- To support LIANS Counsel through consultation on specific practice issues to allow Counsel to provide practice advice to individual lawyers or firms at their request.

The Committee has provided great assistance to LIANS Counsel and its members are thanked and commended for their ongoing work and support.

Solo and Small Firm Conference

Sixty-eight legal professionals attended the second annual LIANS Solo and Small Conference held November 29 at the Westin Hotel in Halifax, to gain knowledge of risk and practice management strategies and information tailored towards solo and small firm practitioners. Five sessions offered information on marketing, finding your ideal client, the business of law, how to avoid fraud, and technology.

Thirteen exhibitors also attended the conference to promote the use of their products in the member's practice.

The feedback received from the conference attendees was very positive, with the overall rating between 4 (very good) and 5 (excellent).

Member Inquiries

The program continues to provide one-on-one practice advice and assistance to members on topics such as fraud, closing a practice, file retention, Client ID Regulations, the Lawyers' Assistance Program and succession planning.

Watch for the implementation of the new Mentorship Program and development of the Locum Project in 2011. Also watch for updated information on succession planning.

Summary of Financial Highlights

Notes to the Summary of Financial Highlights

LIANS' financial position remained stable at the end of 2010.

Once again this year, surplus was distributed to insured members through a subsidy to the levy charged for the mandatory insurance policy.

During 2010, LIANS received a return of surplus subscribers' equity from CLIA of \$73,000. 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 \$120,000 to \$1,177,000 in 2010, from \$1,297,000 in 2009.

The reserve at the year end was \$8,413,000. This represents a decrease of \$166,000 from the 2009 year-end reserve of \$8,579,000.

Summary of financial highlights

Statement of financial position as at December 31, 2010

	2010	2009
Cash	\$ 44	\$ 43
Accounts receivable	188	18
Recoverable unpaid claims and expenses	955	177
Levy receivable	441	397
Prepays	297	311
Investments	14,223	14,554
Fixed assets	27	16
	\$ 16,175	\$ 15,516
Accounts payable and accrued liabilities	\$ 309	\$ 184
Unearned levy	753	688
Provision for levy deficiency	728	597
Provision for unpaid claims and expenses	5,972	5,468
Professional liability insurance reserve	8,413	8,579
	\$ 16,175	\$ 15,516

Statement of revenue, expenditure and reserve for the period ended December 31, 2010

	2010	2009
Revenue	\$ 2,466	\$ 2,692
Insurance premiums	(604)	(578)
Net revenue	1,862	2,114
Claims and expenses		
Payments	1,645	1,263
Group deductible limit reimbursement	(324)	-
	1,321	1,263
Increase in provisions for unpaid claims and expenses	(144)	34
Total claims and expenses	1,177	1,297
Administration	924	829
Deficiency of revenue over expenditure before under-noted	(239)	(12)
Return of C.L.I.A. surplus subscriber's equity	73	127
Excess (deficiency) of revenue over expenditure	(166)	115
Reserve, beginning of year	8,579	8,464
Excess (deficiency) of revenue over expenditure	(166)	115
Reserve, end of year	\$ 8,413	\$ 8,579

2010 Board, Committees and Staff

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STAFF: Melanie McGrath

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LIANS Counsel
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Claims Counsel
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Lawyers' Insurance
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Lawyers' Insurance Association of Nova Scotia 3rd Annual

2011 SOLO AND SMALL FIRM CONFERENCE

November 2011

Watch for information on the LIANS Risk and Practice Management Conference for Solo and Small Firms in November 2011.

Keep your eye on www.lians.ca for details.



WHAT IS LAP?

Who

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What

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When

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