



The Law Society of
Upper Canada

Barreau
du Haut-Canada

Lawyers Fund for Client Compensation Committee
June 10, 2004

Report to Convocation

Purpose of Report: Information

Prepared by Lawyers Fund for Client Compensation
Dan Abrahams, Acting Manager, 416.596.4640

REPORT TO CONVOCATION, JUNE 2004

1. The Lawyers Fund for Client Compensation Committee (“the Committee”) met on June 10, 2004.

Committee members in attendance were Larry Banack (Vice-Chair), Ronald Cass, Q.C., Richard Fillion, and Andrew Coffey.

Staff and others in attendance were Malcolm Heins (CEO), Zeynep Onen (Director of Professional Regulation), Dan Abrahams (Acting Lawyers Fund Manager), Louis Bourgon (Lawyers Fund Counsel), Fred Grady (Manager of Finance) Leslie Greenfield (Manager, Spot and Focused Audit) and Craig Allen (LawPRO VP and Actuary).

2. As a result of its meeting, the Committee is reporting on the following matters:

(A) ADMINISTRATION AND POLICY

i) Staff Recognition

The Committee wishes to express its gratitude to Fund staff for their dedication and for the quality of their work which has been instrumental to the efficient operation of the Fund in recent years.

ii) National Forum on Client Compensation

Dan Abrahams, Acting Lawyers Fund Manager, provided a verbal report on some of the key highlights from the 20th annual National Forum on Client Compensation held this year in Naples, Florida, under the auspices of the ABA Center for Professional Responsibility.

Overall, the Fund is in a healthy position relative to many funds operated in other North American jurisdictions. This is due in large part to a favourable claims history in recent years. Other jurisdictions, like Ontario, are attempting to determine an optimal fund surplus, that makes adequate provision for years in which the claims history is less favourable.

The protection afforded by the Compensation Fund is relatively comprehensive when compared with comparable funds elsewhere, particularly in smaller states. Many funds operate on a more marginal basis, and some tend to limit their risk exposure by adopting modest per claimant maximums and/or per lawyer caps.

iii) Spot Audit Program

As requested at the May Meeting, Leslie Greenfield, Manager - Spot and Focused Audit, presented a report to the Committee detailing the program’s history and recently introduced operational efficiencies. The report is attached as Appendix “A”.

The Spot and Focussed Audit program came into existence in response to a review of the financial health of the Fund reported to Convocation in 1997. The main objective of the Spot Audit department is to support and promote high quality law firm record keeping practices, thereby mitigating the risk of claims against the Fund.

During its first years of operation, the program's emphasis was on random (or "spot") audits. Since 2002, the department has made the transition to a more focussed approach to audits, in an effort to enhance the program's remedial value. In particular, the department now places greater reliance on an established set of indicia that are suggestive of high-risk activities.

In early 2003, the program identified areas of improvement in the program's operations and audit processes. As a result, a number of enhancements were introduced. These newly implemented operational efficiencies have resulted in a reduction in the number of days before a file is reviewed and in the aging of monitored files.

Survey results from Members audited in 2003 have been favourable. Overall, Members find the audit process to be useful and are appreciative of the feedback provided by auditors.

The Spot Audit program has recently released a new Law Society product called "The Bookkeeping Guide", available both in print and on the Law Society website. The Guide was created based on an identified need following discussions between members and auditors. The Guide has been well received by the profession.

Since the program was first introduced, auditors have noticed a trend toward fewer significant issues being discovered during audits.

The Committee also wishes to express its thanks to staff in the Spot and Focussed Audit program for their hard work and dedication.

iii) Budget & Levy Issues for 2005

The Committee continued its ongoing discussion about the Fund's budget for 2005. In particular, issues surrounding the member levy, optimum Fund surplus, and the desirability of continued insurance coverage were discussed. Background materials before the Committee included a memorandum from Craig Allen, V.P. and Actuary of LawPRO (Appendix "B") and a memorandum from Heather Werry, Fund Counsel, which sets out some anecdotal and other indicators that may assist in making projections for the Fund (Appendix "C").

Beginning in 2001, the Fund implemented two important measures to ensure its long-term viability. The first of these measures was to obtain insurance coverage to protect against catastrophic claims that arose in a given year. Currently, the Fund has insurance to a maximum of \$10 million that attaches at a claims level of \$15 million. The second measure was the introduction of a sustained program to increase the Fund balance. The current Fund balance, net of amounts earmarked for claims in progress, now stands at approximately \$18.0 million.

Given the continued growth of the Fund balance, the Committee must now consider whether continued insurance coverage is warranted and if a reduction in the member levy is appropriate at this time.

Craig Allen, LawPRO VP and Actuary, presented the Committee with a variety of claims scenarios for the purposes of evaluating the consequences of continuing the insurance and/or reducing the member levy. Mr. Allen's projections take into consideration the fact that the Fund currently does not have a per member cap on claims and does not receive claims from financial institutions. Mr. Allen underscored the unpredictable nature of future claim levels against the Fund. However, based on available data, the probability of a large catastrophic claim year appears rather unlikely.

Decision of the Committee

The Committee has asked for further input from staff on the pros and cons of maintaining the Fund's insurance coverage and other related budgetary issues. The Committee intends to review budgetary matters when it meets again in September.

(iv) Per Member Caps

The Committee discussed, in a general way, the possible reinstatement of a per member cap and the impact that this might have on the budget. The Committee is not making a recommendation at this time.

(B) INFORMATION

i) Grants Paid

The Committee wishes to report that, since its last Report to Convocation, grants have been paid from the Fund in the amounts shown. (Only members whose discipline proceedings are completed or who are deceased are identified by name.)

Member (Status if Disciplined)	Number of Claimants	Total Grants Paid (\$)
Howard, Graham I. (Disbarred May 1, 2003)	1	21,631.02
Mavis, Larry M. (Disbarred August 12, 2003)	1	1,000.00
McMullen, Philip Brian (Disbarred June 4, 2003)	2	3300.00
Sinclair, James William (Disbarred April 24, 2003)	1	65,138.06
St-Fort, Rene (Disbarred March 2, 2000)	1	57,650.00
Tran, Eric Gregory (Disbarred April 22, 2003)	1	70.70
Solicitor #97	1	41,632.17
Solicitor #99	1	57,796.47
Solicitor #121	2	55,250.00
TOTAL	11	\$303,468.42

SPOT AUDIT DIVISION

STATUS REPORT FOR 2003

Prepared for:
The Lawyers Fund for Client Compensation

May 31, 2004

SUMMARY

Program Objectives

The main objective of the Spot Audit department is to support and promote high quality law firm record keeping practices thereby mitigating the risk of client claims against the Lawyers Fund for Client Compensation and errors and omissions fund. It achieves this objective by conducting compliance audits to assess a law firm's financial filing, record keeping and money handling to the Law Society's requirements, and providing guidance to members.

The Spot Audit Division has been successful in achieving a number of objectives and targets for the 2003 fiscal year through enhancing the program's effectiveness by implementing a more focused audit approach and improving operational efficiencies.

Program Focus

In the past, the majority of the spot audits were randomly selected. For instance, in 2001 about 74% of the 1037 spot audits were randomly selected. This approach often resulted in audits being conducted on practices that were low risk or had very little activity in trust accounts.

In 2002 & 2003, the department examined and implemented an approach to enhance member segmentation analysis to improve audit capabilities and increase the focus on risk profiles. The identification of different types of data (indicia) that could be beneficial in detecting members involved in high risk activities was viewed as an essential exercise to manage risk and to enhance the program's remedial approach.

As a result of our transitioning to a more focused audit approach, 62% of the 2002 audits and 73% of the 2003 audits were elected using focused indicia. This focused/risk based audit approach has resulted in an increase of between 50 - 70% in the number of files escalated to Investigations since 2001.

The data and information used to establish this type of selection criteria is outlined in Appendix 1.

Program Efficiencies

In early 2003, we identified areas of improvements in the program's operations and audit processes. Changes were implemented to capitalize on these enhancements to operational efficiencies. Some of our major accomplishments include:

- Reduction in the number of days to submit files for review (2001: 60 days vs 2003: 21 days)
- Reduction in the number of days before a file is reviewed (2001: 78 days vs 2003: 36 days)
- Aging of monitored files (2002: 8 months vs 2003: 3 months)

As a result, audits are completed and issues dealt with on a more timely basis.

Membership Feedback

The survey results from members who were audited in 2003 continue to be very positive and indicate that the members appreciate and find value in the remedial approach that is utilized to assist them in their record keeping practices. Our surveys indicate a very high percentage (91%) of the members found the spot audit process to be constructive. Almost 100% of the members responded that they found the spot auditor's conduct to be professional and helpful, and the audit report to be useful.

Bookkeeping Guide

The Spot Audit program has recently released a new Law Society product called "The Bookkeeping Guide", available on the Law Society website. This Guide was developed based on membership needs identified by the Spot Auditors through discussions with members. The website is currently receiving several hundred visits per month. As part of our remedial mandate, the Guide is being provided to all new sole practitioners. These new practitioners will be selected for a spot audit within 9-12 months, and we will then assess the effectiveness of the Guide in assisting members in managing their financial books and records. To date the Guide has been well received, and the Law Society has received several testimonials.

Program Implications

The Spot Audit department is currently completing an average of 1000 audits per year. The original Spot Audit program target of 1400 audits per year set in 1998 was based on the objective of auditing every law firm once every 5 years. This target has not been achieved under the current Spot Audit program budget in any year of the program. It was based on an estimate of 1.5 days to conduct a "simple" audit of books and records and the assumption that all audits would be solely books and records. However, the reality of the current audit process is that it takes approximately 1.5 days to audit books and records, and 3.5 days to audit more complex engagements, such as those containing mortgages and estates, or re-audits. As a result, additional time and effort is required to deliver more of these higher risk and more complex files.

The change to conducting more focused audits is in keeping with the Law Society's requirements for quality assurance, the wish to reduce claims to the Compensation Fund, and the need to govern the membership in the public interest. Under this new process, the Law Society will require approximately 7.5 years to undertake an audit on every law firm.

APPENDIX 1

Spot Audit Indicia

Audit Selection Indicia

Spot Audit uses financial and non-financial indicia in identifying higher risk members for audit selection. A data extraction and analysis tool uses these indicia to identify potential high risk members for audit selection.

The specific indicia used in the audit selection process includes:

- Newly formed law practices.
- Members that are sole estate trustee.
- Members that handle private mortgages
- Late filers of the Member's Annual Report (MAR)
- Members whose MAR financial information indicates potential risk factors, such as:
 - ✓ indebtedness to clients
 - ✓ unreconcilable differences between client trust liabilities and trust bank balance
 - ✓ unchanged trust accounts
 - ✓ overdrawn trust accounts

Spot Audit has commenced implementing these enhancements in its selection process for 2003. As a result, the selection criteria for 2003 audits has shifted from random to more focused audits.

See Appendix 2 – Comparative Analysis for details.

APPENDIX 2
Comparative Analysis

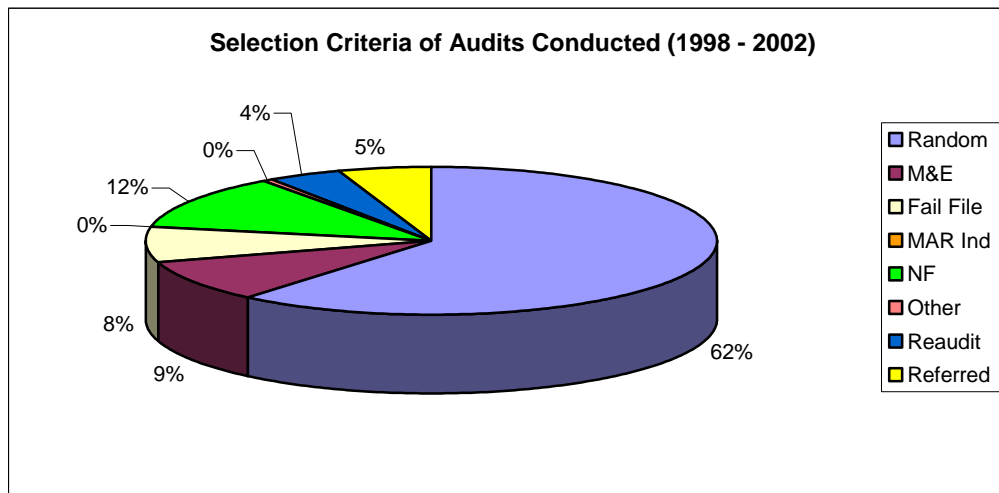
Audit Selection Criteria

The spot audit program has used several criteria in the selection of audits that were approved by Convocation at the commencement of the program in 1998. These selection criteria were:

- Random
- Firms with estate practices or private mortgages (M&E)
- Newly formed practices (NF)
- Referrals from other Law Society departments
- Reaudits
- Late filings of MAR's (Fail to File or FF)

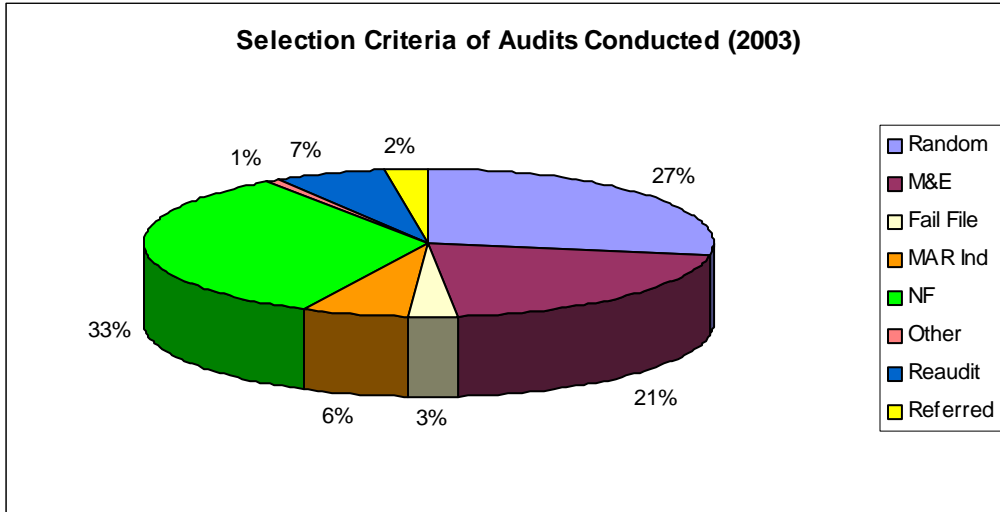
Since inception of the spot audit program, the majority (62%) of audits have been randomly selected.

Selection Criteria of Audits

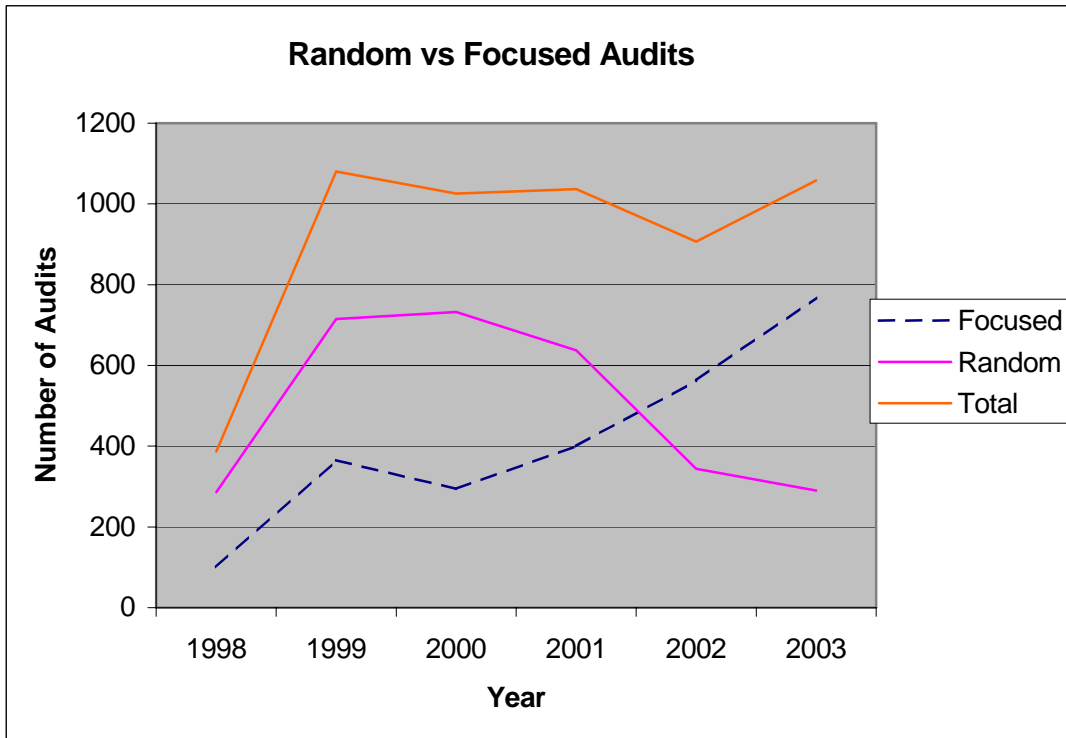


In 2002/2003, Spot Audit improved the selection process using specified indicia in conjunction with a data extraction/analysis tool. This allowed Spot Audit to extend its analysis over all MAR's recorded in the AS400, and reduced the risk of omitting higher risk members from being selected.

As a result, the percentage of audits randomly selected declined in 2003 to 27% of the total number of audits, while the percentage of focused audits increased. Mortgages & estates (M&E) and newly formed sole practitioners (NF) are the primary indicia used in the focused audit selections.



The graph below demonstrates that over the past 6 years, the ratio of focused and random audits has recently changed as a result of concentrating our efforts on potentially higher risk members.



SELECTION CRITERIA

Year	NI	FF	M&E	NF	Other	Random	Reaudit	MAR	Referred	Total
1998	37	90	8	0	0	286	1	0	2	424
1999	77	176	37	35	6	715	24	0	87	1,157
2000	31	69	94	86	1	732	28	0	16	1,057
2001	0	9	130	130	4	637	46	0	81	1,037
2002	0	9	132	280	5	344	87	0	50	907
2003	0	31	220	349	8	290	69	65	26	1,058
Total	145	384	621	880	24	3,004	255	65	262	5,640

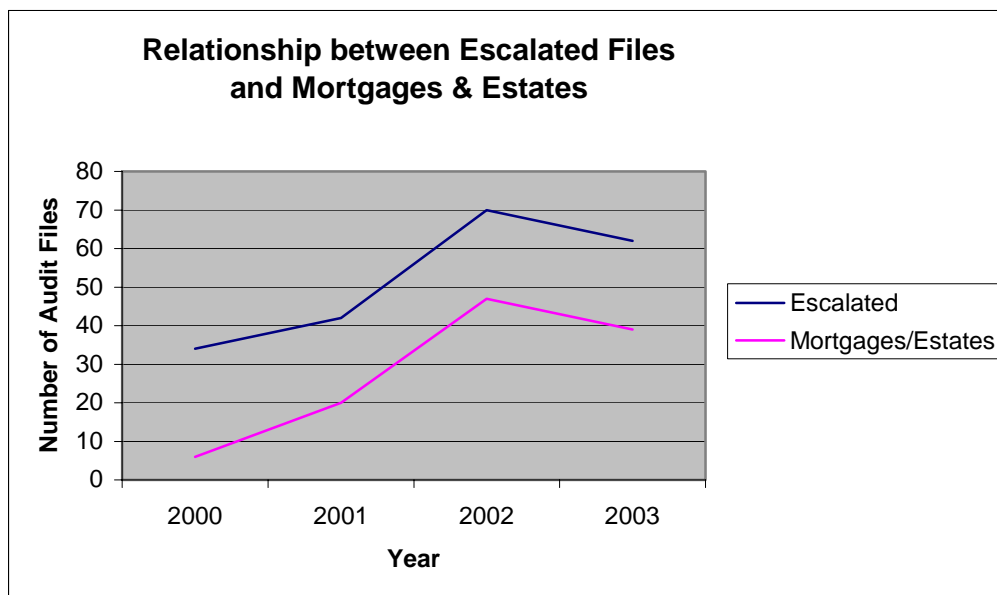
NI: Selection criteria not indicated.

Escalated Audit Files

Indicia of Escalated Files

In 2002, Spot Audit saw a significant increase in the number of escalated audit files. This was due to a change in our selection approach and a higher proportion of focused audits. As a result, we have seen an increase in escalated files of 50 - 70% since 2001 and a doubling of escalated files compared to 2000.

In 2002, firms with private mortgages and estates comprised 67% of audit files that were either escalated to Investigations or resulted in an undertaking. Audit engagements containing private mortgages and/or estates have been recognized as a key indicator of higher risk to the compensation fund and the public's protection. This continues to be our most contentious audit area and we focus on these as an important part of our public interest mandate.



Our recent efforts in the application of indicia in the audit selection process of potentially higher risk members, has resulted in these audits engagements gaining predominance as escalated files. For example, in Chart 1 below, we see that in 2001 the majority of escalated files were selected through the random process. Within two years, the use of indicia has now emerged as the selection basis for escalated files and, additionally, has resulted in an overall increase in the number of files escalated or undertakings prepared by members.

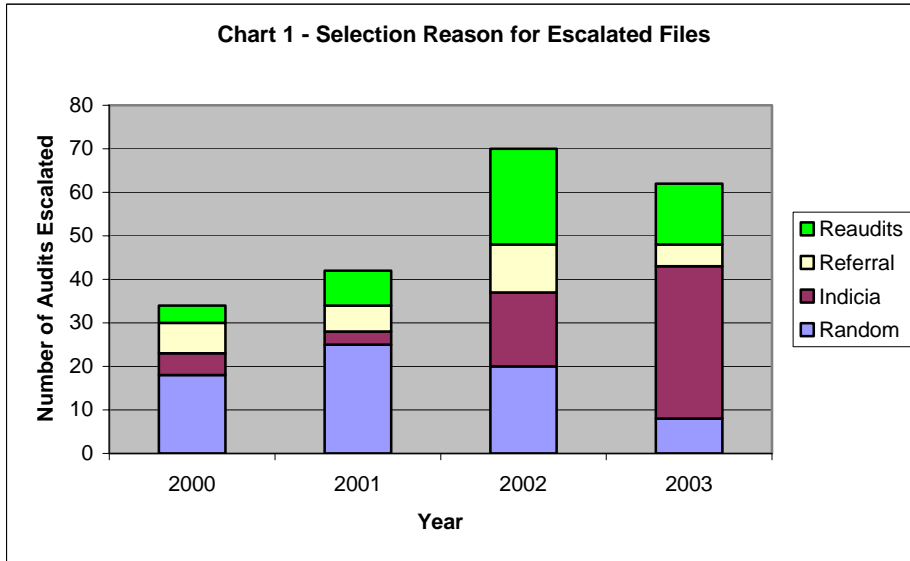
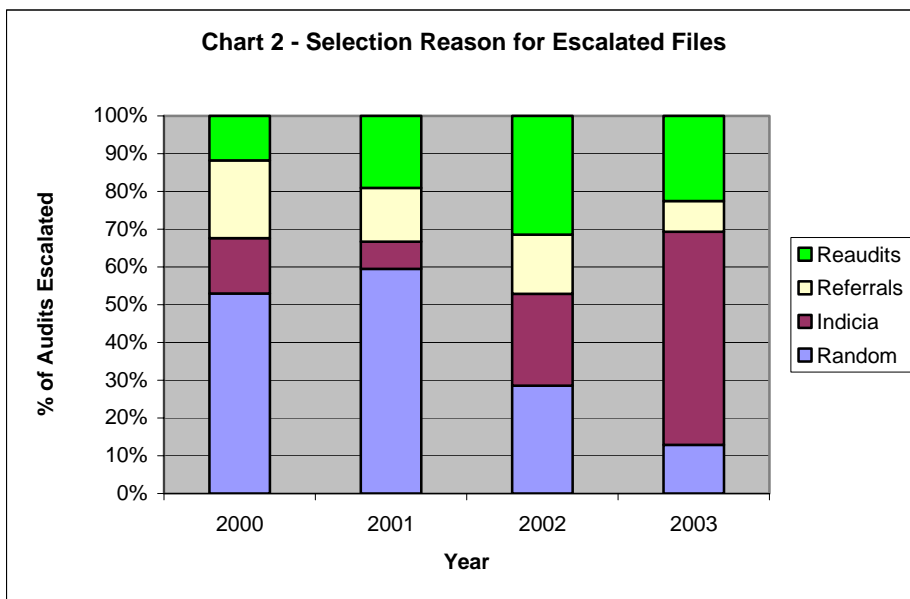


Chart 2 demonstrates the emerging importance of the use of indicia in uncovering audits with significant issues (i.e., escalated to Investigations), as a percentage of the total of escalated files for the year.



Survey Results

The survey responses from members audited in 2003 were extremely favourable on the spot audit program. Members found the spot audit process to be constructive, the Audit Report to Member to be useful and the spot auditors to be very professional and helpful.

From the 131 surveys received in 2003, the members responded that:

Spot audit process was constructive	91%
Auditor's conduct was professional and helpful	~100%
The Audit Report to Member was useful	~100%
The Internal Control List was useful	95%
Would be interested in attending a course on financial recording keeping	44%



TO: Lawyers' Fund for Client Compensation Committee

FROM: Craig Allen
Vice President & Actuary

DATE: May 31, 2004

RE: Considerations Re Compensation Fund Levy 2005

Beginning in 2001, the Compensation Fund undertook a sustained program to increase its Fund Balance (the net worth of the Fund net of amounts earmarked for claims in progress). In each year from 2001 through 2003, the Compensation Fund levy provided roughly \$2.6 million for smaller incidents and an additional amount for large-scale defalcations. In 2003, the additional amount was \$1.5 million, based on the average large-scale defalcation over the time since 1990. As there was no major defalcation during this period, the Fund Balance grew from \$9.3 million at December 2000 to \$17.4 million at December 2003.

The growth of the Fund Balance over that period created an opportunity to reduce the member levy from \$280 for 2003 to \$230 for 2004. With the lower levy, the provision for large-scale defalcations was reduced from \$1.5 million to \$400,000. Thus, the levy would roughly cover the Fund's costs for a year without a large-scale defalcation - if there were such a large-scale incident, its claims would reduce the Fund Balance. In the absence of a large-scale incident, the Fund Balance would remain at the same level.

Protection for worse-than-expected results is provided both by the Fund Balance and by the insurance of the Fund underwritten by LAWPRO. The insurance, to a maximum of \$10 million, attaches at a claims level of \$15 million.

Through March 31, 2004, the value of claims reported to the Fund is roughly \$500,000, which is less than the \$750,000 budgeted for the quarter. This favourable variance, along with better-than-expected investment results has increased the Fund Balance to \$18.0 million.

In light of the continued growth of the Fund Balance, the question arises whether the Fund Balance is high enough to justify

- eliminating the insurance, and/or
- subsidizing a reduction of the levy.

The following table presents the annual claims experience since 1991 for small-scale and large-scale defalcations. These claims are re-stated to the current limit of \$100,000 per claimant. For 2004, it is assumed that claims for the remainder of the year will equal the amount budgeted for those three quarters.

(\$000s)

Year	Small-Scale	Large-Scale	Total
1991	4,000	4,800	8,800
1992	4,400	0	4,400
1993	2,800	900	3,700
1994	2,500	1,600	4,100
1995	2,600	500	3,100
1996	2,500	3,700	6,200
1997	1,700	600	2,300
1998	1,500	2,200	3,700
1999	2,300	0	2,300
2000	1,800	4,000	5,800
2001	2,500	0	2,500
2002	2,000	0	2,000
2003	2,500	0	2,500
2004 (est.)	2,750	0	2,750

For the purpose of evaluating the consequences of continuing the insurance and reducing the levy, the following claims scenarios are presented. They are tested against four options with respect to the 2005 levy and the insurance coverage:

1. Levy \$199, without Insurance
2. Levy \$215, with Insurance
3. Levy \$230 (same as 2004), without Insurance
4. Levy \$230, with Insurance (status quo)

Scenario 1:

Under this scenario, claims for the year are valued at \$2.5 million. This is the level of claims experienced in 2003, and is roughly equal to an average year of claims (in the absence of a large-scale defalcation).

The current Fund Balance of \$18.0 million changes to the following, under each of the options, in this scenario:

Option	Fund Balance, Dec 2005
\$199, without Insurance	\$18.1 million
\$215, with Insurance	\$18.1 million
\$230, without Insurance	\$19.0 million
\$230, with Insurance	\$18.5 million

We see that, under all of these options, the Fund Balance increases slightly. This claims scenario is the most likely: results similar to this have appeared in seven of the last ten years.

Scenario 2:

Under this scenario, claims for the year are valued at \$5.9 million. This is the level of claims experienced in 2000, which is representative of a year in which a large-scale defalcation comes to light.

The current Fund Balance of \$18.0 million changes to the following, under each of the options, in this scenario:

Option	Fund Balance, Dec 2005
\$199, without Insurance	\$14.7 million
\$215, with Insurance	\$14.7 million
\$230, without Insurance	\$15.6 million
\$230, with Insurance	\$15.1 million

Under this scenario, the Fund Balance returns roughly to its December 2002 level of \$14.9 million. The insurance has little effect at this level.

Scenario 3:

Under this scenario, claims for the year are valued at \$11.5 million. This scenario is constructed by beginning with the value of claims experienced in 1991, \$7.5 million. This is the year where the Fund's claims reached their peak value.

While some of the claims reported in 1991 were limited by \$100,000 per-claimant limit now in place, many were limited to \$60,000. It is projected that the 1991 claims would have been valued at \$8.8 million had the \$100,000 limit been in place uniformly.

In addition, there were only 15,200 lawyers in private practice in Ontario in 1991, compared to the 20,000 currently in practice. If the count of 1991 claims were adjusted in line with the increased number of lawyers, the \$8.8 million of limits-adjusted claims would rise to \$11.5 million.

The current Fund Balance of \$18.0 million changes to the following, under each of the options, in this scenario:

Option	Fund Balance, Dec 2005
\$199, without Insurance	\$9.1 million
\$215, with Insurance	\$9.1 million
\$230, without Insurance	\$10.0 million
\$230, with Insurance	\$9.5 million

Under this scenario, the Fund Balance returns roughly to its December 2000 level of \$9.3 million. It is notable that such an extreme scenario (a level of claims experienced only once in fourteen years)

only returns the Fund back to its status at the time that the sustained program to increase the Fund Balance was started.

Scenario 4:

Under this scenario, claims for the year are valued at \$15.0 million. This is the highest level of claims at which the Fund is not indemnified by the insurance coverage.

The current Fund Balance of \$18.0 million changes to the following, under each of the options, in this scenario:

Option	Fund Balance, Dec 2005
\$199, without Insurance	\$5.6 million
\$215, with Insurance	\$5.6 million
\$230, without Insurance	\$6.0 million
\$230, with Insurance	\$5.5 million

Scenario 5:

Under this scenario, claims for the year are valued at \$20.6 million. This is the level of claims that would exhaust the Fund's financial resources, in the absence of insurance.

The current Fund Balance of \$18.0 million changes to the following, under each of the options, in this scenario:

Option	Fund Balance, Dec 2005
\$199, without Insurance	\$0
\$215, with Insurance	\$5.6 million
\$230, without Insurance	\$0.4 million
\$230, with Insurance	\$6.0 million

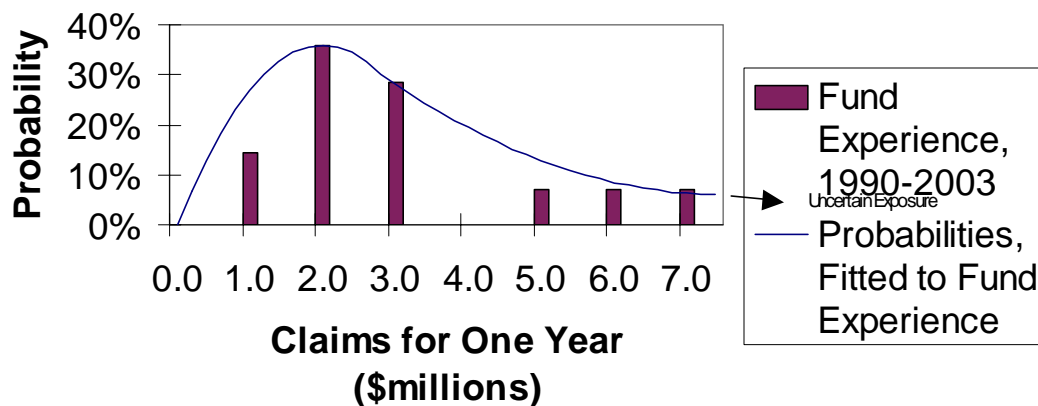
Inferences:

The impact on the Fund Balance of reducing the levy is minor, in comparison to the impact of various claims scenarios. In addition, there would be a minimal impact from eliminating the insurance, unless claims exceed \$15.0 million.

The attached chart shows the historical claims experience of the Fund since 1990, stated in probability format. This experience is shown in the context of a probability curve. It can be seen that in no year has the claims level exceeded \$7.5 million – this is well short of the \$15 million threshold at which the current insurance attaches. Furthermore, claims have not exceeded \$2.6 million since 2000. That said, the absence of a large-scale defalcation in the last four years does not

indicate that there is no possibility of another such defalcation arising in the next year - the experience of other Canadian jurisdictions points to the continued threat.

Probabilities of Claims Outcomes Lawyers' Fund for Client Compensation





Memorandum

From: Heather A. Werry, Counsel
Lawyers Fund for Client Compensation

TO: Lawyers Fund for Client Compensation Committee

cc: Dan Abrahams, Acting Manager

DATE: May 31, 2004

RE: Anecdotal and Economic Factors Affecting Fund Claims

I. ANECDOTAL EXPLANATIONS

Claims to the Fund have always been unpredictable as seen from the attached graphs, discussed in Section II of this memorandum. However discussions with experienced Fund staff produced the following anecdotal explanations for why the claims have decreased in the recent past. The order is not an indication of importance.

(a) SPOT AUDIT PROGRAM

The spot audit program was introduced in 1998 and is funded by the Lawyers Fund. The spot audit program replaced the previous system where members were required to annually have an accountant certify they were maintaining proper books and records. Now accountants trained by the LSUC do spot audits throughout the province. The hope was to reach every member every 5 years. The member does not know when they will be scheduled for an audit. It is difficult to determine if program is having a deterrent effect on claims. Better books and records likely result in the member knowing exactly what his trust liabilities are. The member is therefore less likely to make a serious error that could grow into a bigger problem.

(b) MORTGAGES

Mortgage investing has always been among the biggest problems for the Fund. Historically, large defalcations have involved clients investing in mortgages or other, similar types of investments. Some factors that may be reducing the volume of investing in mortgages by lawyers and thereby reducing the largest source of claims:

- **THE TWO LAWYER RULE** introduced May 2001 required separate representation for borrowers and lenders on private mortgages. Prior to the two lawyer rule

lawyers sometimes had mortgage companies that earned a brokerage fee of a percentage of the advance. We sense this business has largely dried up. There is little incentive for lawyers to get involved in mortgage arranging as charging a percentage of the advance was the only way to make money in this area.

- **MORTGAGE BROKERS** are taking over the business of arranging financing of mortgages
- **NO INSURANCE COVERAGE** Lawpro changed the insurance policy to discontinue coverage of mortgage brokering so members may have decided to stop doing brokerage work
- **TITLE INSURANCE** obtained for many transactions now and may provide coverage where fraudulent mortgages have been registered on title that the Fund may previously have responded to
- **HISTORICALLY LOW INTEREST RATES** borrowers are not looking to lawyers for funding as rates from financial institutions are very attractive
- **RISING REAL ESTATE VALUES** mortgages are not incurring losses due to strong real estate market so even if investing through lawyer no loss

II. ECONOMIC FACTORS

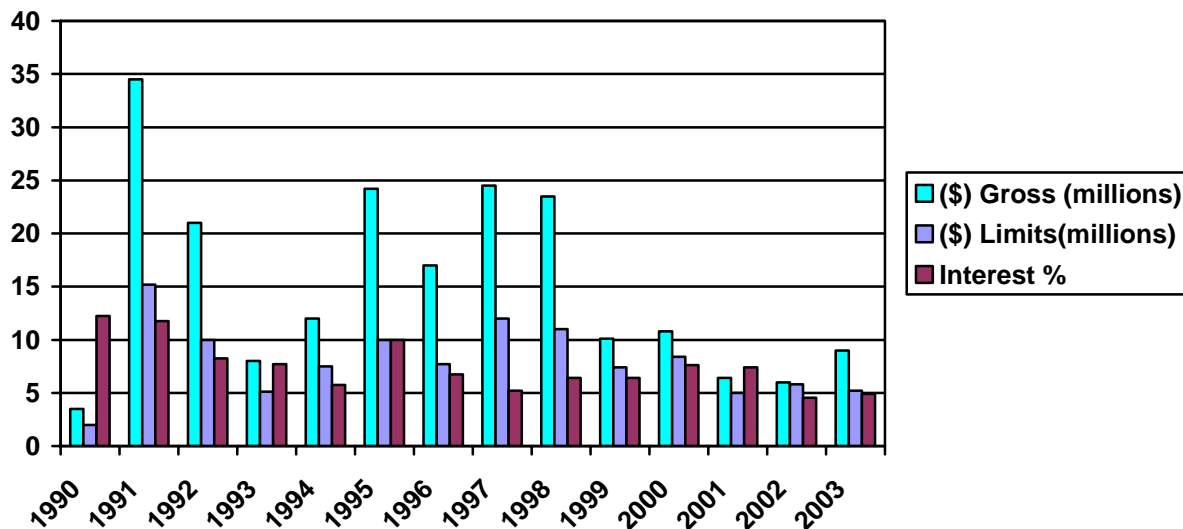
A relatively good economy in recent years, especially for real property assets, has probably had a positive impact on the level of claims. In general, losses and hence claims to the Fund tend to be discovered **after** a recession starts.

(a) GRAPH

The attached graph depicts new claims received in each calendar year, with and without limits applied. (The insurance works essentially on this basis, although rather than claims received, the insurance works on the basis of notice received. We have used claims rather than potentials as the dollar value of potentials is often not known.)

The graph also tracks fluctuations in mortgage interest rates. The graph only depicts the interest rate as at the last Wednesday in January in each year. There would be fluctuations in the interest rate within the year that would not be reflected in the graph, but general trends should be evident.

COMPARISON OF MORTGAGE INTEREST RATES* WITH NEW CLAIMS MADE** (GROSS & WITH LIMITS)



(b) ANALYSIS

It is clear from the graph that there is a wide fluctuation in claims from year to year. However once the \$100,000 limit is applied, the fluctuation is less marked. The gross claim amount can be misleading, as one very large claim can significantly alter the numbers. For example the level of gross claims in 2003 is almost twice the limited amount. In 1991 claims at limits were three times as large as in 2003. There has been a low volume of new claims received since 1999 with a small spike in 2000 reflecting the McInenly claims.

Is the volume of claims affected by economic factors? Arguably, the huge spike in 1991 is a reflection of the major recession in the real estate market that commenced in 1990. There is some delay before problems are discovered and hence the spike occurred in 1991 rather than in 1990. The mortgage interest rate in the 1990 to 2003 period was at its highest in 1990-91, and claims increased in the years immediately following those high rates.

Query whether a new recession like the one in 1990 would have the same impact on claims that it did in the past. Again, it seems plausible to surmise that new claims would not likely spike as in the past on a major real estate recession as claims involving mortgages are on the decline.

Minor economic fluctuations do not appear to result in changes in the volume of new claims. However it could probably be asserted that low interest rate periods have corresponded with low claims volumes. The fluctuations in claims during periods of relative economic stability are explained more by the discovery in any given year of one member's major defalcation. (McInenly is an example of this, of course.)

(c) STATISTICS CANADA REAL ESTATE DATA

We have also attached some statistics on housing starts and prices which have increased in Ontario continually since 1999. Again, it is fair to conclude that claims will remain relatively low as long as the real estate market is growing.

Housing Starts

	2002	2003
	Starts	
Canada	205,034	218,426
Newfoundland and Labrador	2,419	2,692
Prince Edward Island	775	814
New Brunswick	3,862	4,489
Nova Scotia	4,970	5,096
Quebec	42,452	50,289
Ontario	83,597	85,180
Manitoba	3,617	4,206
Saskatchewan	2,963	3,315
Alberta	38,754	36,171
British Columbia	21,625	26,174
Sources: Statistics Canada, CANSIM, table 027-0008 , Canada Mortgage and Housing Corporation (CMHC).		

Value of Building Permits (Residential Construction)

Residential construction permits	1999	2000	2001	2002	2003
	\$ millions				
Canada	19,957.1	20,342.1	22,619.2	29,586.9	31,971.4
Newfoundland and Labrador	151.2	168.1	185.6	244.1	297.1
Prince Edward Island	69.4	54.9	64.3	96.4	89.2
Nova Scotia	477.0	505.4	467.8	623.9	668.8
New Brunswick	274.2	265.3	284.4	372.9	410.2
Quebec	3,104.8	3,194.4	3,647.1	5,216.1	6,506.7
Ontario	9,833.9	10,226.0	11,166.7	13,714.4	14,275.5
Manitoba	364.3	345.1	340.7	440.8	525.5
Saskatchewan	270.3	251.0	222.0	276.4	350.0
Alberta	2,765.0	2,879.9	3,351.3	4,607.3	4,240.5
British Columbia	2,591.7	2,403.1	2,829.9	3,888.1	4,514.2
Yukon	18.1	14.4	16.1	22.0	28.9
Northwest Territories	..	10.5	27.7	53.8	50.7
Nunavut	..	24.0	15.5	30.7	14.0
Source: Statistics Canada, CANSIM, tables 026-0003 and 026-0008 and Catalogue no 64-001-XIE .					

New Housing Price Index

	1999	2000	2001	2002	2003
	1997=100				
Canada	101.9	104.1	107.0	111.3	116.7
House only	103.0	106.2	109.9	115.9	123.0
Land only	100.6	101.3	102.2	103.5	105.0
St. John's (Nfld.Lab.)	99.1	101.2	103.2	107.7	112.5
Charlottetown (P.E.I)	100.7	102.6	103.8	104.5	105.5
Halifax (N.S.)	104.0	107.4	110.5	114.4	119.1
Saint John –Moncton– Fredericton (N.B.)	98.2	97.9	98.0	100.1	102.9
Québec (Que.)	102.3	104.5	107.1	111.7	121.9
Montréal (Que.)	102.5	106.3	111.7	118.1	126.8
Ottawa–Gatineau (Ont./Que.)	103.3	110.9	123.7	133.3	138.3
Toronto (Ont.)	105.0	107.8	110.5	114.2	119.5
Hamilton (Ont.)	104.3	106.8	109.0	113.8	120.9
St. Catharines–Niagara Falls (Ont.)	105.7	110.1	112.7	114.9	120.5
London (Ont.)	101.3	104.2	106.8	109.8	115.0
Kitchener–Waterloo (Ont.)	104.0	108.2	111.4	116.0	119.8
Windsor (Ont.)	100.9	101.6	101.5	102.0	102.1
Sudbury–Thunder Bay (Ont.)	96.7	95.5	94.6	95.5	96.4
Winnipeg (Man.)	102.4	105.3	107.2	110.0	114.1
Regina (Sask.)	107.8	110.7	113.5	117.7	124.9
Saskatoon (Sask.)	103.7	105.8	108.8	110.5	113.6
Calgary (Alta.)	112.7	115.3	118.2	124.4	130.9
Edmonton (Alta.)	105.5	107.7	109.4	117.3	124.0
Vancouver (B.C.)	91.1	90.2	90.9	93.2	96.2
Victoria (B.C.)	89.7	85.8	86.2	89.3	96.2
Source: Statistics Canada, CANSIM, table 327-0005 and Catalogue no 62-007-XPB .					