

**PUBLIC TRUSTEE**  
**ANNUAL REPORT**  
**FOR**  
**FISCAL YEAR ENDING MARCH 31, 2010**

*In Reply Please Quote Our File Number:*

July 23, 2010

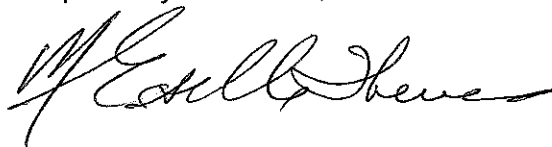
The Honourable Ross Landry  
Attorney General and Minister of Justice  
Province of Nova Scotia  
5151 Terminal Road, 4th Floor  
Halifax, NS B3J 1A1

Dear Mr. Landry:

Pursuant to Section 47 of the *Public Trustee Act* I submit this Annual Report for the fiscal period ending March 31, 2010.

The Financial Statements and Auditor's Report for this fiscal period have been incorporated into and form part of the report.

Respectfully submitted,



M. Estelle Theriault, Q.C.  
Public Trustee

MET/dw

## TABLE OF CONTENTS

<u>TITLE</u>	<u>PAGE</u>
<b>PUBLIC TRUSTEE PROGRAM OF NOVA SCOTIA</b>	<b>1</b>
<b>Scope of Program</b>	<b>1</b>
<b>Status of Public Trustee</b>	<b>1</b>
<b>GENERAL OBSERVATIONS</b>	<b>2</b>
<b>CASE LOADS</b>	<b>4</b>
<b>REVENUE AND COSTS OF PROGRAM</b>	<b>5</b>
<b>LAWS AND AMENDMENTS SIGNIFICANT TO PUBLIC TRUSTEE PROGRAM</b>	<b>5</b>
<i>Hospitals Act</i>	<b>5</b>
<i>Adult Protection Act</i>	<b>6</b>
<i>Powers of Attorney Act</i>	<b>6</b>
<i>Compensation for Victims of Crime Act</i>	<b>7</b>
<b>GUARDIANSHIP OF PERSONS</b>	<b>8</b>
<b>Consent to Medical/Surgical Treatment</b>	<b>8</b>
<b>REPRESENTATIVE LITIGATION</b>	<b>8</b>
<b>RENUNCIATION</b>	<b>9</b>
<b>AUDITOR'S REPORT AND FINANCIAL STATEMENT</b>	<b>10</b>
<b>SCHEDULES</b>	<b>17</b>

## **PUBLIC TRUSTEE PROGRAM OF NOVA SCOTIA**

### **SCOPE OF PROGRAM**

The Office of Public Trustee is established under the *Public Trustee Act* and functions in reference to that Act and other Statutes wherein specific roles are prescribed for the Public Trustee, e.g. *Hospitals Act*, *Personal Directives Act*, *Patient's Abandoned Property Act*, *Adult Protection Act*, *Guardianship Act*, *Probate Act*, *Presumption of Death Act*, *Survival of Actions Act*, *Involuntary Psychiatric Treatment Act*, etc.

The Public Trustee:

- (1) manages estates of living persons who need services of a trustee, guardian, attorney or other fiduciary not readily available in the private sector to such living persons;
- (2) administers estates of deceased persons and has standing to apply for grant of administration or administration with will annexed in any case where no grant of probate or administration has been issued;
- (3) may consent to health care decisions and nursing home placement decisions for incapable persons when consent cannot be obtained from the person, a named health care decision maker, a court appointed guardian of the person or a statutory decision maker;
- (4) acts as guardian *ad litem* or representative in litigation for minor, incompetent, deceased, missing or unascertained litigants in respect to whom a court makes representation orders.

### **STATUS OF PUBLIC TRUSTEE**

- (1) The Public Trustee is a corporation sole under that name with perpetual succession and an official seal and, as such, the Public Trustee may sue and be sued in that name.
- (2) The Public Trustee has the powers and duties given to or imposed upon it by statute and such further powers and duties as the Governor in Council may prescribe.
- (3) The person appointed to be Public Trustee has the status of a Deputy Head.

(4) Where the Governor in Council, a Minister of the Government or a Court is empowered to appoint a guardian, custodian, trustee, executor or administrator, the Public Trustee, if it consents to act, may be so appointed.

(5) For administration purposes, the Public Trustee reports to the Minister of Justice.

### **GENERAL OBSERVATIONS**

I am pleased to submit for your consideration the Annual Report of the Public Trustee of Nova Scotia for the fiscal year ending March 31, 2010.

The Public Trustee is very pleased with the results of its efforts during the past year. The Public Trustee has seen an increase in its caseload. At the same time we have exceeded our revenue projections and have ended the fiscal year under the projected cost forecast of the Public Trustee's budget.

2009/2010 was a year of development. It was projected that the *Personal Directives Act* would be proclaimed in the fall of 2009. Great efforts were expended by the Departments of Justice, Health, Community Services and the Public Trustee to develop protocols and policies to ensure all the departments work in unison when the legislation was proclaimed. Educational training materials were developed for presentation to healthcare professionals, social workers and all the district health authorities. Unfortunately the H1N1 epidemic struck the Province of Nova Scotia in the fall of 2009. All health personnel had to be dedicated to the efforts to immunize Nova Scotians and to care for those who became ill. As a result, the proclamation was postponed to April 1, 2010.

All the members of the implementation committee, including the Public Trustee's Office, used the extra months before the proclamation date to develop the policies and to better train the individuals directly affected by the legislation.

The Public Trustee hired and trained two Health Care Consultants who will be involved in making healthcare decisions as the substitute decision maker of last resort. These two individuals join the Coordinator of Health Care Decisions who was hired in the past fiscal year. It is projected that in the first year of the implementation of the legislation the Public Trustee will have approximately 740 clients. Multiple decisions are normally made for each client and it is estimated on average 2,100 decisions will be made by the healthcare decision teams.

The estate and trust division of the Public Trustee's Office continues to address an ever increasing demand for its services. At fiscal year end the Public Trustee was managing 177 deceased estate files, 340 adult living estates files and 228 infant estates files. Compared with the files managed five years ago, the Public Trustee has experienced a

72% increase in deceased estates, a 86.9% increase in adult living estates and a 34.2% increase in infant estates files (see Schedules "A", "B", "C" and "D"). It is expected that this trend will continue in the foreseeable future with the greatest demands occurring for the management of adult living estates. The population of Nova Scotia is getting older and many individuals have not prepared the legal mechanisms, such as enduring powers of attorney, to address the circumstances if they became mentally incompetent to manage their own financial estate.

The Public Trustee's Office is viewed as a reliable source of information about guardianship, trust administration and deceased estates. Inquiry calls are received from the general public, lawyers, healthcare professionals, social workers and on occasion the courts. Most of these inquiries are initiated by telephone calls but often entail subsequent written correspondence. In 2005 the Public Trustee had 270 inquiry files. In the fiscal year under review the Public Trustee had 410 inquiry files, which is a 51.9% increase. Many of the inquiry files deal with cases that potentially could become a Public Trustee file. This early screening helps to ensure that the files which should be referred to our office reach us as soon as possible. The calls also help to identify accounts which can be managed in the private sector. This overall process helps in the management of the Public Trustee's resources.

Effective April 1, 2008 the Public Trustee adopted the Canadian Institute of Chartered Accountants' Handbook Section 3862, Financial Instruments - Disclosure, and Section 3863, Financial Instrument - Presentation. The adoption of these standards required that the Public Trustee develop an income statement in its financial statements. At fiscal year ending March 31, 2009, the Public Trustee had to produce this statement by manually extracting the required data. In the fiscal year 2009/2010, the Public Trustee worked with the Information Technology Division of the Department of Justice to develop modifications to the Public Trustee's computerized accounting program to allow the information to be gathered electronically. I am pleased to advise that the required modifications were completed by March 31, 2010 and became available for use April 1, 2010. As always, the Public Trustee is grateful for the assistance and guidance from the Information and Technology Division of the Department of Justice. The expertise of this division continues to save the Public Trustee and the people of Nova Scotia great expense.

The audited Public Trustee statements for the fiscal period April 1, 2009 to March 31, 2010 are attached to this report.

Great effort was also expended this year in the creation of a new website for the Public Trustee's Office. I am extremely pleased with the detailed information which is now available online for all Nova Scotians to access. It is hoped that this website may reduce the number of calls to the Public Trustee, or alternatively when the calls are made the callers will possess a better understanding of the Public Trustee's Office and the laws it deals with.

Thanks must be given to the Department of Justice for their financial assistance in the development of this website.

### CASE LOADS

On a yearly basis the number of files under the Public Trustee's management continues to grow.

Schedule "A" attached to this report details the active cases under the Public Trustee's management as of March 31, 2010.

Schedule "B" attached to this report details the volume of cases added and closed throughout the year. A review of the volume at year end over the past five years shows an ever increasing number.

Schedule "D" provides a breakdown of the types of cases added. A review of this chart shows the Adult's Estate Living category is the largest type of case.

The Public Trustee opened 103 adult living files in the fiscal period under review creating a total of 340 adult living files on March 31, 2010. On March 31, 2005 the Public Trustee had 182 adult living estates. This is an increase of 87% in a period of five years. This increase reflects the aging population in Nova Scotia. It is anticipated that this number will continue to increase in the upcoming years.

The Department of Health has a great impact upon the Public Trustee's caseload. Of the 103 adult living files opened by the Public Trustee in the fiscal year under review 58 files came to the Public Trustee under the *Adult Protection Act* and 43 came to the Public Trustee pursuant to Section 59 of the *Hospitals Act*. Therefore, 98% of the adult living files undertaken by the Public Trustee in the fiscal year came to the Public Trustee from legislation overseen by the Department of Health.

In many instances the adult clients being referred to the Public Trustee for financial management are patients in hospitals awaiting long term care placement. The nursing home will not agree to have the incompetent adult placed in their facility unless someone is prepared to manage the adult's finances and the nursing home will be paid. By taking on these files the Public Trustee is helping the Department of Health and the District Health Authorities manage their budget and their valuable acute care bed spaces.

The Public Trustee is viewed as a valuable resource in estates, guardianships, trust law and health care decisions. In the fiscal year under review there has been a dramatic increase in inquiry files. There were 410 inquiry files opened as compared to 303 inquiry files in the previous year. This increase has put additional pressure and demand on the Public Trustee's staff, especially its legal staff.

The files referred to the Public Trustee are often the more complex and difficult accounts. In many instances no one else is prepared to deal with them. The Public Trustee is fortunate to have competent and dedicated staff who will strive to find solutions in all these cases.

### **REVENUE AND COSTS OF PROGRAM**

The Public Trustee does not earn any revenue for providing general advice in inquiry files nor does it earn any fees for providing health care consent.

The Public Trustee does earn revenue from the performance of its duties as trustee/guardian of living estates and as administrator of deceased estates. It was forecasted that the Public Trustee would earn \$650,000.00. The Public Trustee actually earned \$824,226.00.

The Public Trustee also earned revenue and income in its Special Reserve Fund in the amount of \$107,571.00. This revenue is credited to the general revenue of the province.

Totalling the fees the Public Trustee earned from its trustee/guardian/administrator services and the income earned from its Special Reserve Fund the total income earned by the Public Trustee equalled \$931,797.00 (see Schedule "E" and "E1" to this report).

Public expenditures for the general operating costs of the Public Trustee program including rent are funded by allocations from one of the global appropriations voted to the Department of Justice. Funding projected and actually allocated to the Public Trustee program for the fiscal period ended March 31, 2010 was as follows:

<b><u>FISCAL PERIOD</u></b>	<b><u>AUTHORITY</u></b>	<b><u>ACTUAL</u></b>
ended March 31, 2010	\$2,081,000.00	\$1,974,063.00

This is a budget saving of \$106,937.00.

Taking into account the total revenue earned from all sources by the Public Trustee the cost of running this valuable service was \$1,042,266.00.

### **LAWS AND AMENDMENTS SIGNIFICANT TO THE PUBLIC TRUSTEE PROGRAM**

#### **HOSPITALS ACT**

Section 59 and related sections of the *Hospitals Act* proclaimed in force April 1, 1979



created a mechanism whereby the Public Trustee, being notified by a hospital to do so, may "assume management" of the estate of a patient who has no guardian and is unable to administer his own estate. Hospital officials and community care officials had been leading proponents of that mechanism. They implemented it immediately. It became and continues to be the source of many of the Public Trustee's growing caseload of Adult Estates (Living). Of the 103 new Adult Estates (Living) files opened in the fiscal year ending March 31, 2010, 43 originated from Section 59 referrals.

On some occasions, the referrals from the hospitals do not become permanent files in the Public Trustee Office. However, the Public Trustee, through its investigative powers does assist the hospitals and the Department of Health to ascertain the extent of the patients' assets and incomes. This is crucially important if the patient requires placement in a nursing care facility.

### **ADULT PROTECTION ACT**

Enacted and in force in 1985 this statute contains special references to the Public Trustee being notified by the Minister of Community Services, or designate, S.13, or by the Family Court S.9(4), to intervene in the estate of one who is thought to be (or adjudged by the Court to be) "an adult in need of protection". The effect of S.13 is similar to the effect of S.59 of the *Hospitals Act* in that it authorizes and empowers the Public Trustee to assume immediate management of the estate of a living adult. Section 9(4) merely identifies a case in which the Public Trustee might invoke its standing (*Public Trustee Act*, S.5) to seek an *Incompetent Persons Act* Guardianship Order in respect to the estate of one who has been adjudged to be an adult in need of protection.

In the current fiscal year the Public Trustee received 59 referrals from Adult Protection. It is foreseen that the Public Trustee will continue to receive referrals from the Adult Protection Service even with the introduction of the *Personal Directives Act*. It is also foreseen that the Adult Protection Service may refer files to the Public Trustee under the new provisions of the *Personal Directives Act* rather than using the notice pursuant to Section 13 of the *Adult Protection Act*. Where applicable this will prevent the necessity of the Adult Protection Service having to apprehend the adult.

The Public Trustee is meeting with representatives of the Adult Protection Service to ensure the two programs work efficiently and smoothly thus providing better services to our common clients.

### **POWERS OF ATTORNEY ACT**

Enacted in 1988 to validate "enduring Powers of Attorney" the *Powers of Attorney Act*,

c.352, R.S.N.S. 1989 contains references to the Public Trustee. Section 4 provides that the attorney and not the Public Trustee shall administer a patient's estate pursuant to S.59 of the *Hospitals Act* if the instrument of enduring power of attorney "includes a provision expressly excluding the operation of subsection (2) of Section 59 and the attorney wishes to act".

Subsection (2) of s. 5 provides that an attorney shall, when the Court so orders, submit his accounts to the Public Trustee for approval.

Subsection (3) of s. 5 provides that an attorney may apply to the Court for an Order substituting another person as attorney upon giving notice of the application to the Public Trustee.

Subsection (4) of s .5 provides that if an attorney voluntarily submits his accounts to the Public Trustee the Public Trustee "shall consider the accounts when submitted".

The Public Trustee also received many calls from the public seeking general information about Enduring Powers of Attorney. Many of these calls deal with the questions of accountability and the concerns individuals have on the manner the attorney is managing the trust funds. The Public Trustee does not oversee or investigate private power of attorney relationships. The Public Trustee is not legislated to fill this juncture nor are we provided with budget resources to undertake this task. This, I believe, would be a large undertaking if the Public Trustee ever undertook this responsibility.

### **COMPENSATION FOR VICTIMS OF CRIME ACT**

The Criminal Injuries Compensation Board as constituted in 1981 under the *Compensation for Victims of Crime Act*, when making an award payable to a minor or to an adult who "is of unsound mind or in the opinion of the Board is incapable of managing his own affairs" may order that the award be paid to the Public Trustee in trust for the victim; S.31(3).

The *Compensation for Victims of Crime Act* and the *Victims' Rights and Services Act* were amended in the 1992 session of the Nova Scotia legislature. As a result of these amendments there has been a significant change in the process in which compensation awards are to be paid. The Criminal Injuries Compensation Board has been disbanded.

In the 1981 legislation the awards entrusted to the Public Trustee's office were monetary awards for pain and suffering. Under the new legislation the monetary awards for pain and suffering have been replaced with awards for counselling services.

The new legislation does allow other types of lump sum awards and there is the provision that these awards may be paid to the Public Trustee to be administered for the benefit of

the person. During the past fiscal year no such referrals have been made.

## **GUARDIANSHIP OF PERSONS**

### **CONSENT TO MEDICAL/SURGICAL TREATMENT**

Pursuant to the *Hospitals Act* and the *Involuntary Psychiatric Treatment Act* the Public Trustee is eligible to consent to treatment of a mentally incapable hospital patient who has no guardian, spouse or next-of-kin available and willing to consent.

Applications for consent tend to be presented urgently and on short notice. The Public Trustee refuses to consider any application for consent before the applicant has exhausted all reasonable efforts to locate and obtain the consent of another who is eligible to consent on behalf of the patient. The number of medical consents sought from the Public Trustee was 28. Under the *Hospitals Act* and the *Involuntary Psychiatric Treatment Act* the Public Trustee only has power to give consent to treat a patient while in a hospital (see Schedule "F" to this report).

The *Personal Directives Act* enables the Public Trustee of Nova Scotia to make health care decisions for anyone in Nova Scotia, wherever they may be living, in hospital or not, who does not possess the capacity to make health care decisions and who lacks a personal care directive (living will), a guardian of their person or family member able and willing to make the health care decision. The number of consents provided by the Public Trustee under the new legislation which became effective April 1, 2010 will increase dramatically.

## **REPRESENTATIVE LITIGATION**

The Public Trustee is eligible for appointment to act as guardian *ad litem* or representative in litigation of mentally incompetent adults, minors, missing persons, unascertained persons and estates of deceased persons and any other interest entitled to sue or be represented in a proceeding. When acting pursuant to an *Incompetent Persons Act* Guardianship Order the Public Trustee is *ipso facto*, unless the court otherwise orders, guardian *ad litem* of the incompetent. Further, to accommodate the Bar and the Court, the Public Trustee occasionally consents to act, if appointed by the Court to act, as guardian *ad litem* or representative of a person or deceased person or interest that is not otherwise on the Public Trustee's caseload (see Schedules "H" and "H1"). No resources have been allocated to the Public Trustee specifically for that function. No fees are awarded to the Public Trustee by the courts if this appointment is undertaken. This type of appointment is normally a major time commitment on behalf of the Public Trustee. Seven representative litigation files were opened in the fiscal year ending March 31, 2010.

## RENUNCIATION

In certain fact situations, more particularly defined in Sections 15, 23 and 24 of the *Public Trustee Act* and in Section 32 of the *Probate Act*, the Public Trustee "is entitled to apply for and to receive a grant of letters of administration or administration with will annexed of the estate" of a deceased person. Before the Public Trustee does renounce its right to administer an estate considerable time is spent reviewing the facts of each estate to ensure the beneficiaries, heirs and creditors would be properly protected and served if someone other than the Public Trustee is appointed to administer the estate "in priority to all other persons". The Public Trustee also considers the assets which are contained in the estate. Are there funds in the estate which will allow the Public Trustee to properly administer the estate and also will the administration of the estate generate revenue for the Public Trustee Office which then assists the Public Trustee to provide services to the many cases which provide little or no revenue to the Public Trustee. All factors are considered when the Public Trustee decides whether it will administer a deceased estate or whether it will renounce. By virtue of s. 36 of the *Public Trustee Act* the Public Trustee is empowered in a case where "the Public Trustee is entitled to take out letters of administration under this Act, he may authorize and appoint by writing under his hand some other person to take out such letters of administration" and "the Court of Probate shall, upon the application of a person so authorized and appointed by the Public Trustee as aforesaid, grant to such applicant letters of administration". Customarily the Public Trustee declines to function pursuant to s. 36 of the *Public Trustee Act* and prefers to leave the determination to the Court of Probate. Fifty-six (56) renunciations were given by the Public Trustee in the fiscal year ending March 31, 2010 (see Schedule "G" to this report).



Nova Scotia

# Office of the Auditor General

1888 Brunswick Street, Suite 302  
Halifax, Nova Scotia  
B3J 3J8 Canada

902•424•5907 tel  
902•424•4350 fax  
www.oag-ns.ca

## AUDITOR'S REPORT

To the Members of the Legislative Assembly; and

To the Minister of Justice

I have audited the balance sheet of the Public Trustee Trust Funds as at March 31, 2010 and statements of income and continuity of assets for the year then ended. These financial statements are the responsibility of the Public Trustee. My responsibility is to express an opinion on these financial statements based on my audit.

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

In common with many trust funds, it is not possible to verify by audit procedure that all the assets of any given trust or income earned on trust assets came under the administration of or were recorded by the Public Trustee. Accordingly, my verification of trust assets was limited to those recorded in the records.

In my opinion, except for the effect of adjustments, if any, which I might have determined to be necessary had I been able to verify the completeness of assets of the trust funds, these financial statements present fairly, in all material respects, the financial position of the Public Trustee Trust Funds as at March 31, 2010 and the results of operations and continuity of assets for the year then ended in accordance with Canadian generally accepted accounting principles.

Jacques R. Lapointe, CA  
Auditor General

Halifax, Nova Scotia  
May 30, 2010

Province of Nova Scotia  
Public Trustee Trust Funds  
Balance Sheet  
March 31, 2010

**ASSETS**

	2010	2009
<b>Estates and Trusts</b>		
Cash	\$ 2,336,315	\$ 249,197
Securities, real estate and other assets (Note 4)	41,908,987	34,554,373
Common Fund securities (Note 5)	2,905,037	2,884,570
Accrued interest	<u>340,171</u>	<u>530,623</u>
	<u>47,490,510</u>	<u>38,218,763</u>
 <b>Special Reserve Fund (Note 6)</b>		
Cash and securities	2,328,867	2,152,717
Accrued interest	<u>44,883</u>	<u>44,863</u>
	<u>2,373,750</u>	<u>2,197,580</u>
	<u>\$49,864,260</u>	<u>\$40,416,343</u>

**LIABILITIES**

<b>Estates and Trusts</b>		
Estates and trusts balances	\$47,490,510	\$38,218,763
 <b>Special Reserve Fund (Note 6)</b>		
Restricted funds	2,218,101	2,090,009
Funds transferable to Province of Nova Scotia	<u>155,649</u>	<u>107,571</u>
	<u>2,373,750</u>	<u>2,197,580</u>
	<u>\$49,864,260</u>	<u>\$40,416,343</u>

Approved:



Public Trustee  
M. Estelle Theriault, Q.C.

Province of Nova Scotia  
Public Trustee Trust Funds  
Income Statement  
For the Year Ended March 31, 2010

	Estates and Trusts	Special Reserve Fund	2010 Total	2009 Total
<b>Revenues</b>				
Pension	\$ 4,760,837	\$ -	\$ 4,760,837	\$ 4,358,718
Annuities	413,031	-	413,031	379,079
Other	727,038	-	727,038	889,705
Investment income	806,745	-	806,745	1,084,577
Interest on Special Reserve Fund	<u>-</u>	<u>155,669</u>	<u>155,669</u>	<u>108,051</u>
	<u>6,707,651</u>	<u>155,669</u>	<u>6,863,320</u>	<u>6,820,130</u>
<b>Expenses</b>				
Accommodation	4,911,242	-	4,911,242	4,260,998
Allowances	94,670	-	94,670	88,764
Medical	380,482	-	380,482	277,772
Utilities	102,386	-	102,386	181,622
Taxes	748,871	-	748,871	601,159
Funeral	389,022	-	389,022	244,076
Real estate	351,915	-	351,915	122,780
Insurance	87,274	-	87,274	76,248
Legal costs	1,471,399	-	1,471,399	470,952
Property care	199,595	-	199,595	189,248
Other	72,074	-	72,074	27,691
Fees charged by the Public Trustee	<u>824,226</u>	<u>-</u>	<u>824,226</u>	<u>652,900</u>
	<u>9,633,156</u>	<u>-</u>	<u>9,633,156</u>	<u>7,194,210</u>
<b>Income (loss) from operations</b>	(2,925,505)	155,669	(2,769,836)	(374,080)
Realized (loss)	(71,250)	-	(71,250)	(9,779)
Unrealized (loss) gain	<u>1,360,132</u>	<u>-</u>	<u>1,360,132</u>	<u>(1,241,048)</u>
<b>Net income (loss)</b>	<u>\$ (1,636,623)</u>	<u>\$ 155,669</u>	<u>\$ (1,480,954)</u>	<u>\$ (1,624,907)</u>

Province of Nova Scotia  
Public Trustee Trust Funds  
Statement of Continuity of Assets  
For the Year Ended March 31, 2010

	Estates and Trusts	Special Reserve Fund	2010 Total	2009 Total
<b>Balance, beginning of year</b>	<u>\$38,218,763</u>	<u>\$ 2,197,580</u>	<u>\$ 40,416,343</u>	<u>\$ 40,556,872</u>
<b>Add:</b> Assets acquired during the year	25,442,991	-	25,442,991	12,602,848
Net income earned	(1,636,623)	155,669	(1,480,954)	(1,624,907)
Excess interest transferred from Common Fund	<u>-</u>	<u>128,072</u>	<u>128,072</u>	<u>126,607</u>
	<u>23,806,368</u>	<u>283,741</u>	<u>24,090,109</u>	<u>11,104,548</u>
<b>Less:</b> Distributions of estates and trusts	14,376,469	-	14,376,469	11,110,821
Undistributable estates and trusts (per Section 28)	158,152	-	158,152	52,863
Payment to Province	<u>-</u>	<u>107,571</u>	<u>107,571</u>	<u>81,393</u>
	<u>14,534,621</u>	<u>107,571</u>	<u>14,642,192</u>	<u>11,245,077</u>
<b>Balance, end of year</b>	<u>\$47,490,510</u>	<u>\$ 2,373,750</u>	<u>\$ 49,864,260</u>	<u>\$ 40,416,343</u>

(See accompanying notes to the financial statements.)



**1. Authority**

The Office of the Public Trustee was established pursuant to the Public Trustee Act. The Public Trustee is empowered to perform the duties of a guardian, custodian, trustee, and executor or administrator of an estate. All investments by the Public Trustee are to be made in accordance with the Trustee Act.

**2. Accounting Policies**

These financial statements have been prepared in accordance with Canadian generally accepted accounting principles, modified by the following policies

**a) Revenue Recognition**

Investment Income is recognized as earned. Pensions, annuities and other revenues are recorded when received. Realized gains and losses on the sale of assets is recognized at the time of sale. Unrealized gains and losses on assets are recognized in the income statement at the end of each fiscal year.

**b) Financial Instruments**

The Public Trustee is required to designate its financial instruments into the following five categories: (i) held for trading, (ii) available for sale, (iii) held to maturity, (iv) loans and receivables or (v) other financial liabilities. All financial instruments are to be initially measured at fair value. Financial instruments classified as held for trading or available for sale are subsequently measured at fair value with any change in fair value recorded in net income or net assets, respectively. All other financial instruments are measured at amortized cost using the effective interest method.

Financial instruments of the Public Trustee consist of cash, securities, and accrued interest. The Public Trustee has designated its financial instruments as held for trading. Transaction costs associated with the transfer of financial assets and financial liabilities to the Public Trustee are expenses at the time of transfer. Transaction costs incurred on the disposition of securities are netted against the proceeds.

**c) Estates and Trusts**

New estates are recognized when received. Final dispositions of estates and trusts remain in trust and estate balances until disbursed.

**2. Accounting Policies (continued):**

**d) Use of Estimates**

The preparation of financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the period. Actual results could differ from management's best estimates as additional information becomes available in the future.

**3. Fair Value of Financial Assets and Financial Liabilities**

The fair value of the Public Trustee's cash and accrued interest approximates their carrying value due to their short term to maturity.

Investments and other assets held by the Public Trustee are adjusted to fair value at year end using observable market results. Real estate is adjusted to fair value using assessed or appraised value, if available at year end. Other assets for which there is not an observable market remain valued at a nominal amount (\$1).

Financial assets held in trust by the Public Trustee are exposed to market risk, mainly in the form of interest rate and price risks.

Investment in guaranteed investment certificates and other term deposits with a maturity greater than one year are subject to interest rate risk. The effect on net income of a 1% change in interest rates on term deposits with a maturity of greater than one year would be approximately \$96,009 (2009 – \$75,600). Because most term deposits held by the Public Trustee have a term to maturity of one year or less, interest rate risk is not considered significant. These risks are mitigated by investing in a diversified portfolio, including investing in fixed rate securities.

The maximum exposure related to price risk is reflected in the unrealized gains of \$1,360,132 at March 31, 2010 (2009 – (loss) \$1,241,048).

The Public Trustee is not exposed to significant credit or liquidity risk.

**4. Securities, Real Estate and Other Assets**

Securities consist of deposit certificates, bonds, debentures and stocks. The Public Trustee is responsible for administering certain other assets such as real estate, personal effects and chattels.

**5. Common Fund Securities**

Section 30 of the Public Trustee Act permits the Public Trustee to invest monies, not subject to any express trust or direction for investment thereof, in a Common Fund. Investments of the Common Fund are valued at market value as of March 31, 2010.

**6. Special Reserve Fund**

Section 32 of the Public Trustee Act provides for the establishment of a Special Reserve Fund. The purposes of the Fund are to provide for any deficiencies between income earned on investments of the Common Fund and interest required to be paid to the estates comprising the Common Fund; and also to provide for any deficiency between the aggregate amount of sums invested and the realized value of investments of the Common Fund.

The Fund consists of investment income earned on Common Fund securities in excess of interest paid to Common Fund estates. Income earned on securities held in the Special Reserve Fund also forms part of the Fund.

Income earned on securities held in the Special Reserve Fund is eligible for transfer to the Province in the next year. The Fund is restricted to the purposes described above.

**7. Operating Costs**

Operating costs of the Office of the Public Trustee are absorbed by the Nova Scotia Department of Justice and are not reflected in the Income Statement. These costs are offset by fees charged for administering estates and by investment income.

	2010	2009
Department of Justice		
Salaries and benefits	\$ 1,693,712	\$ 1,303,583
Other operating costs	132,204	148,256
Rent	<u>126,548</u>	<u>99,855</u>
	<u>1,952,464</u>	<u>1,551,694</u>
Less transfers to the Province		
Fees	824,226	652,900
Special Reserve Fund income, prior year	<u>107,571</u>	<u>81,393</u>
	<u>931,797</u>	<u>734,293</u>
Net cost to the Province	<u>\$ 1,020,667</u>	<u>\$ 817,401</u>

PUBLIC TRUSTEE STATISTICS

SCHEDULE "A"

CASES ACTIVE AS OF MARCH 31, 2010

ESTATES AND TRUSTS

<u>Estate of Deceased</u>	<u>Adult's Estate (Living)</u>	<u>Infant's Estate (Living)</u>	<u>Undistributable Estate or Trust</u>	<u>Missing Person's Estate</u>	<u>Patients' Abandoned Property Act</u>	<u>Specific Renunciation Trust</u>	<u>TOTAL</u>
177	340	228	10	3	2	23	968
						185	

REPRESENTATIVE LITIGATION

<u>Presumption of Death Act</u>	<u>Missing/ Unascertained Person</u>	<u>Survival of Actions Act</u>	<u>Guardian ad litem of Incompetent Adult</u>	<u>Guardian ad litem of Infant</u>
12	6	17	3	4
				42

CONSENT TO TREATMENT

**GRAND TOTAL: 1101**

REQUESTS, COMPLAINTS, INQUIRIES, LITIGATION, REFERRALS

Individual General Inquiries April 1, 2009 - March 31, 2010      TOTAL: 410

PUBLIC TRUSTEE STATISTICS

SCHEDULE "B"

VOLUME AND PROGRESS OF CASELOAD

<u>FISCAL YEAR</u>	<u>VOLUME AT START</u>	<u>NEW CASES ADDED</u>	<u>CASES CLOSED</u>	<u>VOLUME AT YEAR END</u>
April 1/09 - March 31/10 *	1050	284	233	1101
April 1/08 - March 31/09 *	1013	310	273	1050
April 1/07 - March 31/08 *	872	265	124	1013
April 1/06 - March 31/07 *	824	254	206	872
April 1/05 - March 31/06 *	799 (488 + 311)	192	167	824

\* Adjusted to include Representative Litigation cases

PUBLIC TRUSTEE STATISTICS

SCHEDULE "C"

BREAKDOWN OF CASES CLOSED

FISCAL YEAR ENDING	ESTATE OF DECEASED	ADULTS ESTATE (LIVING)	INFANTS ESTATE (LIVING)	UNDISTRIBUTABLE ESTATE OR TRUST	MISSING PERSON'S ESTATE	PATIENTS' ABANDONED PROPERTY ACT	SPECIFIC TRUST	CONSENT TO TREATMENT	RENUNCIATION	TOTAL
March 31/10	42	67	22	4	Nil	1	2	3	89	230
March 31/09	39	83	26	Nil	1	1	2	2	99	253
March 31/08	41	51	20	2	5	1	2	2	Nil	124
March 31/07	40	53	41	3	2	1	2	2	61	205
March 31/06*	40	46	22	2	2	1	1	3	50	167

\* As of 2006 Consent to Treatment and Renunciation figures are included in schedules

PUBLIC TRUSTEE STATISTICS

SCHEDULE "D"

BREAKDOWN OF NEW CASES ADDED

FISCAL YEAR ENDING	ESTATE OF DECEASED	ADULT'S INFANT'S ESTATE (LIVING)	UNDISTRIBUTABLE ESTATE OR TRUST	MISSING PERSON'S ESTATE	PATIENTS' ABANDONED PROPERTY ACT	SPECIFIC TRUST	CONSENT TO TREATMENT	RENUNCIATION	TOTAL
March 31/10	59	103	4	Nil	1	5	12	56	277
March 31/09	56	112	3	Nil	1	4	11	63	302
March 31/08	58	96	4	4	1	Nil	4	47	254
March 31/07	56	86	2	Nil	1	2	8	53	243
March 31/06*	45	62	3	Nil	1	4	6	45	192

\* As of 2006 Consent to Treatment and Renunciation figures are included in schedules

PUBLIC TRUSTEE STATISTICS

SCHEDULE "E"

FUNDS TRANSFERRED TO DEPARTMENT OF FINANCE

YEAR ENDING	PUBLIC TRUSTEE FEES	SPECIAL RESERVE FUND INVESTMENT INCOME	SECTION 28
	Revenue *1	Revenue	Trust Funds *2
March 31, 2010	\$824,226.00	\$107,571.00	\$158,152.00
March 31, 2009	\$652,900.00	\$81,393.00	\$52,863.00
March 31, 2008	\$665,149.00	\$78,877.00	\$406,151.00
March 31, 2007	\$582,492.00	\$75,059.00	\$9,056.00
March 31, 2006	\$550,034.00	\$64,135.00	\$18,601.00

\*1 Fees of counsel and solicitor, proctor's fees, administrator's commission collected from estates.

\*2 May be subject of claims, *Public Trustee Act*, s. 35.



PUBLIC TRUSTEE STATISTICS

SCHEDULE "E1"

YEAR ENDING	COMMON FUND INVESTMENT INCOME TRANSFERRED TO SPECIAL RESERVE FUND	SPECIAL RESERVE FUND ACCUMULATED NON-TRANSFERABLE EQUITY
March 31, 2010	\$128,072.00	\$2,218,101.00
March 31, 2009	\$126,607.00	\$2,090,009.00
March 31, 2008	\$143,287.00	\$1,962,921.00
March 31, 2007	\$114,331.00	\$1,816,397.00
March 31, 2006	\$98,666.00	\$1,700,981.00

**PUBLIC TRUSTEE STATISTICS**

**SCHEDULE "F"**

**CONSENT TO MEDICAL/SURGICAL TREATMENT**

<b><u>YEAR ENDING</u></b>	<b><u>NUMBER OF CONSENTS</u></b>
March 31, 2010	28
March 31, 2009	27
March 31, 2008	12
March 31, 2007	19
March 31, 2006	20

**SCHEDULE "G"**

**RENUNCIATIONS**

<b><u>YEAR ENDING</u></b>	<b><u>NUMBER OF RENUNCIATIONS</u></b>
March 31, 2010	56
March 31, 2009	63
March 31, 2008	47
March 31, 2007	53
March 31, 2006	45

PUBLIC TRUSTEE STATISTICS

SCHEDULE "H"

REPRESENTATIVE LITIGATION CASES OPENED

FISCAL YEAR ENDING:	PRESUMPTION OF DEATH ACT	MISSING/ UNASCERTAINED PERSON	SURVIVAL OF ACTIONS ACT	GUARDIAN <i>ad litem</i> OF INCOMPETENT ADULT	GUARDIAN <i>ad litem</i> OF INFANT	TOTAL
March 31, 2010	Nil	1	3	1	2	7
March 31, 2009	4	Nil	3	1	Nil	8
March 31, 2008	4	5	1	1	Nil	11
March 31, 2007	4	Nil	2	3	2	11
March 31, 2006	Nil	Nil	1	Nil	Nil	1

PUBLIC TRUSTEE STATISTICS

SCHEDULE "H1"

REPRESENTATIVE LITIGATION CASES CLOSED

FISCAL YEAR ENDING:	PRESUMPTION OF DEATH ACT	MISSING/ UNASCERTAINED PERSON	SURVIVAL OF ACTIONS ACT	GUARDIAN <i>ad litem</i> OF INCOMPETENT ADULT	GUARDIAN <i>ad litem</i> OF INFANT	TOTAL
March 31, 2010	Nil	Nil	Nil	2	1	3
March 31, 2009	6	Nil	14	Nil	Nil	20
March 31, 2008	Nil	Nil	Nil	Nil	Nil	Nil
March 31, 2007	Nil	Nil	Nil	1	Nil	1
March 31, 2006	Nil	Nil	16	Nil	1	17