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Lawyers' Insurance Association of Nova Scotia

November 10, 2010

## 2001 Annual Report

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### Report from the Chair of the Nova Scotia Barristers' Liability Claims Fund.

The last Hurrah! In my final year as Chair of the Board of the Liability Claims Fund, I am pleased to report another decrease in the annual insurance levy. This is our fourth in a row. The full practicing levy for 2002-03 is \$772, a reduction of \$128 from last year's levy of \$900 and a far cry from the high water mark of \$2700. This year's reduction was achieved through the continuation of our favourable claims experience and an application of substantial surplus credits.

Our actuaries advise us that the true levy necessary to meet our expected liabilities in the coming year would be \$1935 per member, more than two and a half times the levy being charged to members net of credits. Since we are gradually depleting our surplus, we can expect the levy to increase over time. However, if we have a reasonably stable loss experience, we expect to be able to hold our annual levy below \$1000 for some years to come.

In the past, we have received significant credits from CLIA (Canadian Lawyers Insurance Association) who provide our coverage from \$300,000 to \$1,000,000 per claim. This year, we have a very modest credit from CLIA and a substantially increased credit from the Liability Claims Fund. This is a result of an important change to the CLIA reciprocal rules effective January 1, 2002.

The CLIA insurance premium for the mandatory insurance above our group deductible is based on CLIA's best estimate of the amount of premium required to meet expected losses. In the past, paid premiums which were not used to meet our losses were held by CLIA in Nova Scotia's subscribers' equity account. There was no provision for repayment of these funds while Nova Scotia remained a member of CLIA. In recent years, as our claims experience improved, the balance in our subscribers' equity account had increased substantially, and had done so disproportionately to other CLIA subscribers.

Last year, our Board asked CLIA to review the reciprocal rules relating to subscribers' equity and provide a method for fair return of surplus equity. As a result of this request, the CLIA Advisory Board changed the rules and now allows each jurisdiction to withdraw their equity in excess of a predetermined threshold, while also continuing to permit retro-calls to be levied against subscribers whose equity falls below the required level.

All CLIA jurisdictions were given the option to withdraw their excess equity from CLIA effective July 2, 2002. Your Liability Claims Fund Board has approved the withdrawal from CLIA of subscribers' equity of approximately \$2.2 million. It is this \$2.2 million that has allowed us to increase the credit being offered by the Liability Claims Fund to each insured member. Nonetheless, we retain our full required level of subscribers equity in CLIA along with a small surplus which is the source of our CLIA credit in the amount of \$64 per member this year.

The Liability Claims Fund is committed to managing your funds cautiously. It is applying the surplus in a gradual manner and is investing the moneys conservatively under the watchful eye our Investment Committee.

The Liability Claims Fund Board has decided to conclude its Loss Prevention certificate programme. While this programme has been very well received by many, only about 1/3 of our members actually use their Loss Prevention Certificates. Moreover, after a detailed review of the objectives of the Loss Prevention program, it was determined that these objectives were not being met in the best possible fashion through the Loss Prevention Certificate programme. The Board has redirected its efforts and is committed to developing a new Loss Prevention programme. Staff and committee members are now working together to develop the programme. Approval has been given to develop a web site to facilitate the delivery of Loss Prevention information and resources to the membership. Work has also begun with the NSBS Admissions and Professional Development Department to develop loss prevention education programmes geared specifically to the reduction of the frequency and

severity of claims.

While we should all enjoy this period of relatively low insurance premiums, we must be conscious that claim occurrences are cyclical in nature. I believe that we are at the end of a positive cycle and can expect some increases in the coming years. We can keep new claims to a minimum if we practice carefully and attentively with an eye on claims avoidance.

Chair: John T. Rafferty

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND**  
**AUDITED FINANCIAL HIGHLIGHTS**  
(000's)

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**STATEMENT OF FINANCIAL POSITION**

AS AT DECEMBER 31, 2001

	<b>December 31</b> <u>2001</u>	<b>December 31</b> <u>2000</u>
Cash	\$ 1,939	\$ 2,501
Accounts receivable	222	164
Prepays	73	167
Investments	9,481	8,762
Fixed assets	<u>38</u>	<u>45</u>
	<b><u>\$ 11,753</u></b>	<b><u>\$ 11,639</u></b>
Accounts payable and deferred revenue	\$ 463	\$ 648
Provision for unpaid claims and expenses	4,460	4,062
Professional liability insurance reserve	<u>6,830</u>	<u>6,929</u>
	<b><u>\$ 11,753</u></b>	<b><u>\$ 11,639</u></b>

**STATEMENT OF REVENUE, EXPENDITURE AND RESERVE**

PERIOD ENDED DECEMBER 31, 2001

	<b>December 31</b> <u>2001</u>	<b>December 31</b> <u>2000</u>
Revenue	\$ 2,165	\$ 2,959
Insurance premiums	<u>241</u>	<u>390</u>
Net revenue	<u>1,924</u>	<u>2,569</u>
Claims and expenses		
Payments	1,415	949
Stop loss and group deductible limit reimbursements	<u>(269)</u>	<u>(79)</u>
	<b>1,146</b>	870
Growth in present value of unpaid claims and expenses	<u>398</u>	<u>68</u>
Total claims and expenses	<u>1,544</u>	<u>938</u>
Administration	<u>478</u>	<u>388</u>
(Deficiency) excess of revenue over expenditure	<b>(98)</b>	1,243
Reserve, beginning of year	<u>6,929</u>	<u>5,686</u>
Reserve, end of year	<b><u>\$ 6,831</u></b>	<b><u>\$ 6,929</u></b>

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND**

**FINANCIAL STATEMENTS**

**DECEMBER 31, 2001**

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## AUDITORS' REPORT

To the Directors of  
**Nova Scotia Barristers' Liability Claims Fund**

We have audited the statement of financial position of the **Nova Scotia Barristers' Liability Claims Fund** as at December 31, 2001 and the statements of revenue and expenditure, professional liability insurance reserve and cash flows for the year then ended. These financial statements are the responsibility of the Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we 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 our opinion, these financial statements present fairly, in all material respects, the financial position of the Fund as at December 31, 2001 and the results of its operations and cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

January 18, 2002

(Except for Note , which is as of

**Chartered Accountants**

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND**  
**STATEMENT OF FINANCIAL POSITION**

AS AT DECEMBER 31, 2001

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	2001	2000
<b>ASSETS</b>		
Cash	\$ 1,938,741	\$ 2,501,017
Accounts receivable	222,745	91,592
Accrued interest receivable	-	72,289
Prepaid insurance	73,696	167,692
Investments (Notes 2 and 3)	9,481,000	8,761,705
Capital assets (Notes 2 and 4)	<u>37,747</u>	<u>44,995</u>
	<b><u>\$11,753,929</u></b>	<b><u>\$11,639,290</u></b>
<b>LIABILITIES</b>		
Accounts payable	\$ 139,339	\$ 121,017
Deferred revenue	295,349	411,625
Insurance premiums payable (Note 5)	28,650	115,130
Provision for unpaid claims and expenses (Note 6)	<u>4,460,027</u>	<u>4,062,161</u>
	<b><u>4,923,365</u></b>	<b><u>4,709,933</u></b>
<b>NET ASSETS</b>		
Professional liability insurance reserve - unrestricted	<u>6,830,564</u>	<u>6,929,357</u>
	<b><u>\$11,753,929</u></b>	<b><u>\$11,639,290</u></b>

**Approved by the Board**

.....Director

.....Director

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND**  
**STATEMENT OF REVENUE AND EXPENDITURE**  
YEAR ENDED DECEMBER 31, 2001

	2001	2000
<b>Revenue</b>		
Fees (Note 2)	\$ 1,568,184	\$ 2,193,923
Investment income	350,604	652,341
Surcharge/deductibles recovered	(3,959)	25,902
Claims recovered - net	<u>250,505</u>	<u>86,410</u>
	<u>2,165,334</u>	<u>2,958,576</u>
<b>Insurance premiums (Note 7)</b>	<u>(241,388)</u>	<u>(389,888)</u>
<b>Net revenue</b>	<u>1,923,946</u>	<u>2,568,688</u>
<b>Claims and expenses</b>		
Payments		
Claims	619,932	377,531
Defence	758,932	530,480
Counsel	18,782	20,570
Repair costs	<u>18,214</u>	<u>20,695</u>
	1,415,860	949,276
Stop loss limit reimbursements	(123,257)	(14,704)
Group deductible limit reimbursement	<u>(146,224)</u>	<u>(64,351)</u>
	1,146,379	870,221
Growth in present value of unpaid claims and expenses	<u>397,866</u>	<u>67,642</u>
<b>Total claims and expenses</b>	<u>1,544,245</u>	<u>937,863</u>
	<u>397,701</u>	<u>1,630,825</u>
<b>Administration</b>		
Salaries and benefits	252,753	216,835
Loss Prevention program	46,445	34,746
Office (Schedule)	60,928	44,803
Actuarial and consulting fees	25,727	33,479
Management services - N.S.B.S.	25,000	21,988
Amortization	29,990	26,686
Accounting and audit	10,900	9,150
Investment management fees	<u>26,751</u>	<u>          </u>
	<u>478,494</u>	<u>387,687</u>
<b>(Deficiency) excess of revenue over expenditure</b>	<u>\$ (98,793)</u>	<u>\$ 1,243,138</u>

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NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND  
**STATEMENT OF PROFESSIONAL LIABILITY INSURANCE RESERVE**  
YEAR ENDED DECEMBER 31, 2001

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	2001	2000
<b>Reserve, beginning of year</b>	<b>\$ 6,929,357</b>	\$ 5,686,219
(Deficiency) excess of revenue over expenditures	<u>(98,793)</u>	<u>1,243,138</u>
<b>Reserve, end of year</b>	<b><u>\$ 6,830,564</u></b>	<b><u>\$ 6,929,357</u></b>

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND**  
**STATEMENT OF CASH FLOWS**  
YEAR ENDED DECEMBER 31, 2001

	<b>2001</b>	<b>2000</b>
<b>Net inflow of cash related to the following activities:</b>		
<b>Operating</b>		
(Deficiency) excess of revenue over expenditures	\$ (98,793)	\$ 1,243,138
Items not affecting cash		
Amortization	29,990	26,686
Increase in provision for unpaid claims and expenses	<u>397,866</u>	<u>67,642</u>
	<b>329,063</b>	1,337,466
Changes in non-cash operating working capital items	<u>(149,302)</u>	<u>4,969</u>
	<u>179,761</u>	<u>1,342,435</u>
<b>Investing</b>		
Purchase of investments, net	(719,294)	(2,562,681)
Purchase of capital assets	<u>(22,743)</u>	<u>(9,394)</u>
	<u>(742,037)</u>	<u>(2,572,075)</u>
<b>Net cash outflow</b>	<b>(562,276)</b>	(1,229,640)
<b>Cash position, beginning of year</b>	<u>2,501,017</u>	<u>3,730,657</u>
<b>Cash position, end of year</b>	<b>\$ <u>1,938,741</u></b>	<b>\$ <u>2,501,017</u></b>

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## NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED DECEMBER 31, 2001

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### 1. INCORPORATION OF FUND

The Nova Scotia Barristers' Liability Claims Fund is incorporated as a separate body corporate under the *Barristers and Solicitors Act*.

### 2. ACCOUNTING POLICIES

The financial statements have been prepared in accordance with Canadian generally accepted accounting principles and include the following significant accounting policies:

#### a) Claim Payments

The Society has been a member of the Canadian Lawyers' Insurance Association, a reciprocal insurance exchange, since policy year 1988/89. Claims paid out of the Nova Scotia Barristers' Liability Claims Fund are subject to a series of maximum limits which are: funds retention per claim, insurer's retention per claim, annual aggregate limit and the funds retention per policy year. Prior to May 1, 2000, up to five thousand dollars (\$5,000) of these amounts was recoverable from the insured member in the form of a deductible. For any claim paid after April 30, 2000, the deductible has been waived and a surcharge has been applied to the insured member's insurance levy for each of the following five years. The surcharge is calculated at 40% of the full practicing levy before credits as set for each of the five years following the payment of a claim.

#### Funds Retention Per Claim

The maximum amounts, per claim, paid out of the Fund are as follows:

<u>Fund Year</u>	<u>Amount</u>
1983/84 to 1987/88	\$50,000
1988/89 to 1997/98	\$100,000
1998/99 to current	\$300,000

#### Insurer's Retention Per Claim

Claims paid in excess of the above amounts are covered by insurance to a maximum of the following:

<u>Fund Year</u>	<u>Amount</u>
1983/84 to 1985/86	\$150,000
1986/87 to 1987/88	\$200,000
1988/89 to current	\$1,000,000

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND**  
**NOTES TO THE FINANCIAL STATEMENTS**

YEAR ENDED DECEMBER 31, 2001

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**2. ACCOUNTING POLICIES (continued)**

**a) Claim Payments (continued)**

Annual Aggregate Limit

Beginning policy year 1997/98, an aggregate limit was introduced providing an annual cap on claims per insured of \$2,000,000.

Funds Retention Per Policy Year

Pursuant to a stop loss and management agreement, the Fund's aggregate payments shall not exceed a specific sum during the year concerned, calculated exclusive of individual insured's deductibles, adjuster fees and Counsel fees.

The annual sum for each year concerned is as follows:

<u>Fund Year</u>	<u>Amount</u>
July 1, 1983 to June 30, 1985	\$650,000
July 1, 1985 to June 30, 1986	\$1,200,000
July 1, 1986 to June 30, 1987	\$1,750,000
July 1, 1987 to June 30, 1988	\$1,750,000
July 1, 1988 to June 30, 1989	\$850,000
July 1, 1989 to June 30, 1990	\$850,000
July 1, 1990 to June 30, 1991	\$900,000
July 1, 1991 to June 30, 1992	\$1,100,000
July 1, 1992 to June 30, 1993	\$1,900,000
July 1, 1993 to June 30, 1994	\$2,000,000
July 1, 1994 to June 30, 1995	\$2,100,000
July 1, 1995 to June 30, 1996	\$2,050,000
July 1, 1996 to June 30, 1997	\$1,950,000
July 1, 1997 to June 30, 1998	\$2,000,000
July 1, 1998 to June 30, 1999	\$2,500,000
July 1, 1999 to June 30, 2000	\$2,500,000
July 1, 2000 to June 30, 2001	\$2,500,000
July 1, 2001 to June 30, 2002	\$2,450,000

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND**  
**NOTES TO THE FINANCIAL STATEMENTS**

YEAR ENDED DECEMBER 31, 2001

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**1. ACCOUNTING POLICIES (continued)**

**a. Cash**

Cash is comprised of short-term amounts on deposit with financial institutions.

**c) Investments**

Investments are recorded at cost which includes, for bonds, accrued interest at the date of purchase and any discount or premium on purchase.

**d) Revenues**

Insurance levy revenues are recorded in the accounts of the Fund on an accrual basis. Surcharge revenues are recorded on a basis consistent with insurance levy revenues.

**e) Capital Assets**

Capital assets are recorded at cost, less accumulated amortization, and are amortized on a straight-line basis at the following rates:

Office equipment and furniture	5 years
Software	3 years
Leasehold improvements	over the term of the lease

**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND**  
**NOTES TO THE FINANCIAL STATEMENTS**

YEAR ENDED DECEMBER 31, 2001

**3. INVESTMENTS**

	<u>2001</u>	<u>2000</u>
Canada Treasury Bill		
5.346%, January 4, 2001	\$ -	\$ 5,499,199
Province of British Columbia Bond		
9%, January 9, 2002	-	1,000,000
Province of Ontario - Stripped Bonds		
4.998%, July 13, 2004	-	84,870
4.985%, June 2, 2004	-	170,715
7.529%, July 13, 2002	-	283,062
6.405%, June 2, 2002	-	229,568
6.407%, June 2, 2002	-	33,323
Government of Canada Stripped Bonds		
5.364%, December 1, 2001	-	130,267
7.141%, June 1, 2001	-	274,211
Province of Alberta - Stripped Bond		
7.659%, May 5, 2003	-	143,534
Province of Alberta – Treasury Bond		
5.180%, March 31, 2003	-	300,000
Province of British Columbia - Stripped Bonds		
6.119%, February 19, 2004	-	376,359
4.943%, June 18, 2003	-	89,293
5.860%, February 19, 2003	-	149,923
KBSH Canadian Bond Fund	<b>2,828,863</b>	-
KBSH Canadian Short-Term Bond Fund	<b>3,769,225</b>	-
KBSH Canadian Growth Equity Fund	<b>1,122,919</b>	-
KBSH EAFE Equity Fund	<b>911,623</b>	-
KBSH American Equity Fund	<b>848,370</b>	-
	<u>\$ 9,481,000</u>	<u>8,764,324</u>
Investment discounts	<u>-</u>	<u>(2,619)</u>
	<b><u>\$ 9,481,000</u></b>	<b><u>\$ 8,761,705</u></b>

The market value of these investments at December 31, 2001 was \$10,223,577.

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND**  
**NOTES TO THE FINANCIAL STATEMENTS**

YEAR ENDED DECEMBER 31, 2001

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**2. CAPITAL ASSETS**

		<b>Accumulated</b>	<b>Net Book Value</b>	
			<b>Amortization</b>	<b>20012000</b>
Office equipment	\$ 72,524	\$ 59,873	\$ <b>12,651</b>	\$ 1,821
Office furniture	26,962	23,294	<b>3,668</b>	2,529
Software	74,420	58,581	<b>15,839</b>	
Leasehold improvements	<u>6,210</u>	<u>621</u>	<u><b>5,589</b></u>	<u>40,645</u>
	<u>\$ 180,116</u>	<u>\$ 142,369</u>	<u>\$ <b>37,747</b></u>	<u>\$ 44,995</u>

**5. COMPULSORY INSURANCE COVERAGE - RETROASSESSMENTS**

The insuring agreements between the Nova Scotia Barristers' Liability Claims Fund and Canadian Lawyers Insurance Association (C.L.I.A.) allow for the assigning of retro-credits or charging of retro-assessments to the Fund.

C.L.I.A.'s actuaries review the financial statements of C.L.I.A. and make recommendations to C.L.I.A.'s Advisory Board for approval of charging either a retro-assessment or providing for retro-credits, at all times conforming with government insurance regulations.

As at December 31, 2001, these retro-assessment levies amounted to \$28,650 (2000 - \$115,130) and will be paid to C.L.I.A. over the next year.

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND**  
**NOTES TO THE FINANCIAL STATEMENTS**  
YEAR ENDED DECEMBER 31, 2001

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**6. PROVISION FOR UNPAID CLAIMS AND EXPENSES**

An independent actuary completes a valuation of the provision for unpaid claims and expenses of the Fund at each year-end. The provision represents the actuarial present value of the reserves required to settle all claims and is recorded on a discounted basis. The reserve includes a provision for indemnities, legal expenses and all administration for reported claims.

In the Fund's actuarial report dated \_\_\_\_\_, the actuarial reserve was projected at \$4,460,027 on a discounted basis (2000 - \$4,062,161) and \$5,097,540 on an undiscounted basis (2000 \$4,662,014).

The estimates of loss activity are, by necessity, subject to uncertainty and are derived from a wide range of possible outcomes. These estimates are continually reviewed as additional information affecting the estimated quantum of claims settlement is obtained. All changes in estimated claim amounts are recorded as incurred claims in the period in which the change in estimate is determined.

	<u>2001</u>	<u>2000</u>
Provision for unpaid claims and expenses		
- beginning of year	\$ 4,062,161	\$ 3,994,519
Payments made during the year	(1,415,860)	(949,276)
Stop loss limit reimbursements	123,257	14,704
Group deductible limit reimbursement	146,224	64,351
Current period expense	<u>1,544,245</u>	<u>937,863</u>
 Provision for unpaid claims and expenses		
- end of year	<u>\$ 4,460,027</u>	<u>\$ 4,062,161</u>

**7. EXCESS INSURANCE PROGRAM**

The insurance premiums represent the basic insurance policy fees only. On behalf of Canadian Lawyers Insurance Association (C.L.I.A.), the Fund facilitates the provision of excess insurance levies. These levies are then remitted to C.L.I.A. in their entirety and are not included as revenues or expenditures of the Fund.

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMSUND**  
**NOTES TO THE FINANCIAL STATEMENTS**  
YEAR ENDED DECEMBER 31, 2001

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**8. EQUITY IN CANADIAN LAWYERS' INSURANCE ASSOCIATION**

The Fund is a subscriber to the Canadian Lawyers Insurance Association (C.L.I.A.), a reciprocal insurance exchange through which the law societies of eight provinces and territories (or their associated liability insurance entities) enter into agreements of mutual indemnification. Separate reserves are maintained by C.L.I.A. with respect to risks assumed, and the Fund has an interest in surpluses in these reserves. C.L.I.A. prepares annual Subscriber Accounts, as of the end of C.L.I.A.'s fiscal year (December 31) which are approved by the C.L.I.A. Advisory Board. These accounts include a reserve for claims liabilities on a discounted basis. On that basis, the Subscribers Accounts of C.L.I.A. as of December 31, 2001 show the Fund's subscriber's equity to be \$ (2000 - \$4,102,276). The Fund's subscriber's equity is not reflected in these financial statements.

Effective January 1, 2002, the CLIA wide surplus target for Part A Subscribers will be available for allocation amongst the Part A Subscribers. Surplus above a 20% minimum asset test ("MAT") margin will be available for withdrawal immediately. Surplus between a 10% - 20% MAT margin will be paid out over a 5 year period.

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**SCHEDULE**

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**NOVA SCOTIA BARRISTERS' LIABILITY CLAIMS FUND  
OFFICE**

YEAR ENDED DECEMBER 31, 2001

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	<b>2001</b>	<b>2000</b>
Equipment rental	\$ 2,335	\$ 2,436
Rent	29,479	20,273
Stationery, postage and printing	8,903	7,425
Telephone	3,726	4,165
Travel and meetings	8,358	2,590
Other	<u>8,127</u>	<u>7,914</u>
	<u>\$ 60,928</u>	<u>\$ 44,803</u>

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