


MEMO TO: All Licensed Real Estate Agents and Restricted Real Estate Agents

SUBJECT: Financial Reporting Requirements

DATE: May 7, 2010

In January of this year I advised you that effective with fiscal years ending on or after December 31, 2010, you are required to file an annual audited trust financial statement and that effective immediately you are required to file an un-audited semi-annual trust financial statement for the period ended six months after their your fiscal year end commencing with fiscal years ending December 31, 2009. I also advised that a financial reporting package would be provided by this office.

Enclosed is the Financial Reporting Requirements for Real Estate Agents under the *Real Estate Trading Act*. Please ensure a copy of this is provided to your accountant and auditor as soon as possible. Also, as noted in the attached should you require further information or clarification, please contact Mr. Cory Comerford, C.A.



Douglas J. Connolly, C.G.A.
Superintendent of Real Estate
Agents and Salespersons

Encl.

- c. Newfoundland and Labrador Association
of REALTORS® Inc.

**Financial Reporting Requirements for
Real Estate Agents
Under the *Real Estate Trading Act***

Requirement to Maintain Trust Fund

A real estate agent and a restricted real estate agent (the “agent”) is required to maintain at least one interest-bearing trust account of a type approved by the Superintendent of Real Estate Agents and Salespersons (the “Superintendent”) in a financial institution that is authorized to receive money on deposit.

The trust account shall have deposited to it all funds received by the agent in connection with a real estate trade, as defined in paragraph 2(k) of the Act, within two banking days of their receipt by the agent. The receipt of funds by a salesperson is considered receipt by the agent.

An agent shall not disburse money from a trust account unless:

- (a) the offer of purchase has not been accepted by the vendor;
- (b) the sale has been completed;
- (c) written notice from the vendor and purchaser has been received by the agent authorizing the return of the deposit to the purchaser;
- (d) a court has given a direction as to the disbursement of the proceeds; or
- (e) the money has been deposited into the trust account in error.

Interest earned on money deposited in a trust account is the property of the agent.

Requirement to Provide the Superintendent with an Audited Statement

An agent shall have their trust account(s) audited annually and provide to the Superintendent an audited statement of the trust account(s) within 90 days of the agent’s year-end. The audit must be carried out by a person licensed under the *Public Accountancy Act*.

Financial statements must be prepared in accordance with the enclosed template. The package includes the following:

- Schedule 1 – Auditor’s report on compliance with the Real Estate Trading Act
- Schedule 2 – Auditor’s report on the trust financial statement
- Schedule 3 – Trust financial statement (sample completed Schedule is also attached)

Agents should provide copies of this package to their accountants and auditors at an early date so that the reporting requirements can be taken into account during their annual planning process.

Requirement to Provide the Superintendent with an Unaudited Semi-Annual Report

An agent is also required to provide to the Superintendent an unaudited semi-annual report of their trust account(s) within 30 days of the agent's semi-annual reporting date.

Financial statements must be prepared in accordance with the enclosed template. The package includes the following:

Schedule 3 – Trust financial statement

Schedule 4 – Certification

Agents should provide copies of this package to their accountants at an early date to ensure that the semi-annual financial reporting deadline is met.

Principles for Management of Trust Funds

The following general guidelines apply to the management of trust funds related to real estate agents:

Trust Account Balances

- Trust bank accounts must be clearly identified as trust accounts and such designation should be included in the bank's description of the account and on all deposit slips and cheques.
- Trust bank accounts cannot be used as collateral or pledged as security.

Interest Income

- Interest income earned on monies deposited in a trust account is the property of the agent.

Trust Position

- Total trust assets should always be equal to or greater than total trust liabilities.

Failure to Comply with Reporting Requirements

An agent who fails to comply with the foregoing requirements or has trust assets less than trust liabilities may be subject to one or both of the following:

- Acceleration of the trust reporting requirements to a quarterly or monthly basis until such time as the recognized deficiencies have been corrected and the Superintendent is satisfied that the agent is complying with the requirements.
- An investigation into the affairs of the agent which may result in:
 - the agent's licence being suspended, revoked or cancelled; or
 - the agent being charged with an offence under the Act, and upon conviction liable on summary conviction to a fine of not more than \$1,000 for a 1st offence and not more than \$2,000 for a subsequent offence, and, for either a 1st or a subsequent offence, in

default of payment of a fine or in addition to that fine, to imprisonment for a period not exceeding 6 months.

Agents requiring further information or clarification on the reporting requirements should contact Mr. Cory Comerford, C.A. at:

Province of Newfoundland and Labrador
Department of Government Services
Financial Services Regulation Division
2nd Floor, West Block, Confederation Building
P.O. Box 8700
St. John's, NL A1B 4J6

Telephone: (709) 729-0605 Fax: (709) 729-3205

SCHEDULE 1

SAMPLE AUDITOR’S REPORT ON COMPLIANCE WITH THE REAL ESTATE TRADING ACT:

Auditor’s Report

To the Superintendent of Real Estate Agents and Salespersons for the Province of Newfoundland and Labrador:

We have audited _____ (Agent Name) _____ compliance for the fiscal year ended (Agent’s Fiscal Year-end) with the criteria established by the *Real Estate Trading Act* and *Real Estate Licensing Regulations*. Compliance with the criteria established by the provisions of this Act and Regulations is the responsibility of the company’s management. Our responsibility is to express an opinion on this compliance 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 _____ (Agent Name) _____ complied with the criteria established by the provisions of the Act and Regulations referred to above. Such an audit includes examining, on a test basis, evidence supporting compliance, evaluating the overall compliance with the Act and Regulations, and where applicable, assessing the accounting principles used.

In our opinion, _____ (Agent Name) _____ is in compliance with the criteria established by the *Real Estate Trading Act* and the *Real Estate Licensing Regulations*.

Signed
Public Accountants

City
Date

SCHEDULE 2

SAMPLE AUDITOR'S REPORT ON THE TRUST FINANCIAL STATEMENT:

AUDITOR'S REPORT

To the Shareholders of (Agent Name)

We have audited the Trust Fund Financial Statement of (Agent Name) as at (Agent's Fiscal Year-end). This financial statement is the responsibility of the company's management. Our responsibility is to express an opinion on this financial statement 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 statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. 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, this financial statement presents fairly, in all material respects, the trust account balance of the agent as at (Agent's Fiscal Year-end) and the trust assets and liabilities for the year then ended in accordance with Canadian generally accepted accounting principles.

Signed

Public Accountants

City

Date

(Agent's Name)
Trust Fund Financial Statement
For the Year Ended _____

SCHEDULE 3
"SAMPLE"

	<u>201X</u>	<u>201X-1</u>
Trust Assets		
Trust Bank Account(s)	<u>\$9,650</u>	<u>\$10,000</u>
Trust Liabilities		
Balance, beginning of year	10,000	7,000
Add:		
Deposits	1,000	4,500
Interest Income	300	250
Other – provide details		
Less:		
Disbursements	(1,400)	(1,450)
Interest Transferred to Agent's General Account	(250)	(300)
Other – provide details		
Balance, end of year	<u>\$9,650</u>	<u>\$10,000</u>
Excess/(Deficiency)	<u>\$0</u>	<u>\$0</u>

SCHEDULE 3

(Agent's Name)
Trust Fund Financial Statement
For the Year Ended _____

	<u>201X</u>	<u>201X-1</u>
Trust Assets		
Trust Bank Account(s)	_____	_____
Trust Liabilities		
Balance, beginning of year		
Add:		
Deposits		
Interest Income		
Other – provide details		
Less:		
Disbursements		
Interest Transferred to Agent's General Account		
Other – provide details		
Balance, end of year	_____	_____
Excess/(Deficiency)	_____	_____

SCHEDULE 4

CERTIFICATION

I, _____ [Name] of the city of _____ in
the Province of _____ being the designated representative
for _____ [agent's name], certify that the
attached Financial Statement has been prepared from the books and records of the agent, which
books and records are maintained in accordance with Canadian generally accepted accounting
principles, and to the best of my knowledge and belief, is correct and complete and shows the
financial position of the trust fund on the ___ day of _____, 20__.

(Signature)

(Date)

(Witness signature)

(Date)