

# Annual Report







Mr. Jean-Pierre Charbonneau  
 President of the National Assembly  
 Québec Government  
 Québec

Mr. President:

I have the honour of submitting the Annual Report of the Association des courtiers et agents immobiliers du Québec for the fiscal year ended December 31, 1997.

Respectfully yours,

Bernard Landry  
 Vice-Prime Minister  
 Minister of State - Economy and Finance



Mr. Bernard Landry  
 Vice-Prime Minister  
 Minister of State - Economy and Finance  
 Québec Government  
 Québec

Sir:

Please allow me to submit the Annual Report of the Association des courtiers et agents immobiliers du Québec for the fiscal year ended December 31, 1997.

Yours truly,

Jacques Dumont  
 Inspector General



Mr. Jacques Dumont  
 Inspector General of Financial Institutions  
 Québec Government  
 Québec

Sir:

It is with pleasure that we submit the Annual Report of the Association des courtiers et agents immobiliers du Québec for the fiscal year ended December 31, 1997.

Sincerely yours,

François Léger, Eng.  
 Chartered real estate agent  
 Chairman of the Board

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## Members of the Board of Directors

at year-end 1997

### Elected Chairman

François Léger

### Elected Directors

Robert Aubin .....	Western Québec
Serge Brousseau .....	Montréal
Raymond Desbiens .....	Eastern Québec
David Farber (Treasurer) .....	Montréal
Pierre Paradis .....	Québec
Daniel Pelletier .....	Central Québec
Paul Robert .....	Montréal
Nicholas Stephens (Vice-Chairman) .....	Montréal

### Directors appointed by the government

Jean Mathieu

Madeleine Plamondon

### Secretary appointed by the Board of Directors

Serge Cayer



## Chairman's Report

François Léger, Eng.  
Chartered Real Estate Agent

Apart from its regular operations aimed at fulfilling its mission of protecting the public, the battle against illegal real estate brokerage, the revision of the *Real Estate Brokerage Act*, the study of the Office des profession as well as the Association's financial management and the implementation of a strategic plan were at the heart of the Board of Directors' priorities in 1997.

**F**or the first time throughout 1997, the Association had real resources to wage an effective battle against illegal real estate brokerage. The necessary powers and immunities were granted to us by the Québec Government in November 1996, and at the General Meeting held in April 1996, the members of the Association authorized the Board to pay for whatever legal proceedings it deemed necessary to undertake.

### **Illegal real estate brokerage**

Over one hundred alleged illegal real estate brokerage cases were opened in 1997. Of those, about forty were closed and six out of the 60 or so that remain outstanding have led to the filing of a formal complaint with the Court of Québec. Two of these led to an admission of guilt before it was even heard. I stress this to show that each complaint is rigorously examined to avoid long and costly court proceedings. Before a penal complaint is filed, we make sure we have proof showing that the accused acted "on someone's behalf" and "for compensation", which is fundamental to convince a judge of the party's guilt.

The experience we have gained this year served to remind us of the value of cooperation and sometimes also of its limits. The majority of cases related to illegal real estate brokerage were opened as a result of the vigilance of Association members, and I extend my sincere thanks to them.

However, some are the result of anonymous denunciations, and others drag on because some members do not want to jeopardize their clientele. However, this clientele runs the risk of being seriously compromised if transactions with "illegals" should go sour. That is why we must intervene, for their protection and the credibility of our profession. The entire cooperation of our members in the battle against illegal real estate brokerage should go without saying.



### Consultation on the revision of the Real Estate Brokerage Act

The Association has also made great efforts in order to be in a position to file requests for changes at the upcoming five-year revision of the *Real Estate Brokerage Act* in order to improve the protection of the public while simplifying the practice of real estate brokerage. A provision in the *Real Estate Brokerage Act* calls for the government to reassess the Act every five years. Since the Act came partially into effect in 1991 and fully by January 1994, it will be up for review very shortly.

It was important for the Board of Directors that every member have the opportunity to express their comments and suggestions for potential changes to the *Real Estate Brokerage Act*. The *Consultation Committee on the revision of the Real Estate Brokerage Act* was created by the Board for that purpose. Made up of 19 members representing the various spheres and banners of real estate brokerage, the Committee chose to base the public consultation process on observations made through its own expertise, the Association's experience as administrator of the Act and results from focus groups. Led by a team of professionals from a polling firm, these groups consisted of a limited number of consumers or practitioners.

The Committee then submitted to all Association members and to concerned organizations a reflection document presenting these observations as well as suggestions for changes. Overall, these were aimed at simplifying our By-law and making it more consistent with the current requirements of real estate brokerage in order to make it easier to apply. A more accessible and more realistic law will better serve both the public and the practitioners.

Among other things, the Committee suggested that each real estate broker and agent be made fully responsible for their own professional actions. In addition, the Committee suggested that any new candidate to the profession be required to undergo a field training period prior to applying for his certificate, and also called for the implementation of an ongoing professional training program. The suggestions are numerous and involve certification, professional titles, training, groups, the notion of place of business, mandatory forms and the Fonds d'indemnisation.

A questionnaire to be returned to the Consultation Committee accompanied the reflection document to give participants a chance to express their opinion on each of the topics covered. The first replies were returned to the Committee at the end of the 1997 fiscal year. Then, in February, some 30 meetings were held, including 19 public meetings in various Quebec regions, there again providing members and citizens an opportunity to express their views on improvements to be made to the *Real Estate Brokerage Act*. Following this, the Committee will draft a detailed report on the overall results of the consultation process, based on which the Board of Directors will determine what requests to submit to the government.

### Office des professions du Québec

Elsewhere, the *Study Committee on the Office des professions (ACAIQ - FCIQ joint Committee)*, made up of representatives from the ACAIQ and the Fédération des chambres immobilières du Québec (FCIQ), has finished gathering information on the consequences of a potential transition of the Association to a professional order. As soon as its report is complete, the Committee will send a copy to each member of the Association.

Following this, members will be called upon to vote in a referendum on the relevance of applying to the government to become a member of the Office des professions. The result of the vote will be released at our upcoming Annual Meeting on April 23, 1998.

To begin with, the Committee made a comparative study of the *Real Estate Brokerage Act* and the *Professional Code*. For each section of the Act and the Code, three questions were asked:

- Is it beneficial for the profession?
- Is it beneficial for the members?
- Is it beneficial for the public?

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In the second stage, the Committee interviewed people who are familiar with the inner workings of the Office des professions, including representatives of orders that have been established for various lengths of time. The Committee also met with the Inspector General of Financial Institutions.

I hope the *Study Committee on the Office des professions* report will meet your expectations and answer any questions you may have. If nothing else, it already has the merit of having strengthened the bonds between two major players in the field of real estate brokerage: the *Fédération des chambres immobilières du Québec* and the Association.

### **Improvement of our financial situation**

In 1997, our revenue exceeded expenses to the extent that the Association was able to erase the debt it had been carrying since its inception in 1991. The major portion of the deficit had been accumulated in the ACAIQ's first couple of years, when it had been necessary to incur expenses to set up the new organization despite the absence of revenue.

Several factors have contributed to this improvement. The sums collected to finance legal proceedings on illegal brokerage cases were not completely used since this was our first year in this area. It's normal to have a breaking in period and, in addition, we experienced serious difficulties in substantiating that "illegals" acted for compensation. Unfortunately, this proof is absolutely necessary to win a case in court. As a result of these technicalities, we brought less cases before the court than anticipated.

The upturn in the real estate market also contributed to our revenue surplus. It attracted new members, which helped substantially boost the Association's revenues in the areas of payable fees, sales of supplies (forms, etc.) and the sale of training manuals. Furthermore, our expense budget was not only respected but overall below forecast.

The improvement of the Association's financial situation will enable us to prepare more constructively for the future. We can now look at developing ongoing training activities, an area where much remains to be done.

In addition, we hope to bolster our visibility with the general public. The existence of our organization is reassuring for consumers, as indicated by focus groups. The Association projects an image of order and discipline, i.e. a professional image. Using it is also an excellent way to prevent illegal real estate brokerage.

### **Board of Directors**

There was no change in the make-up of the Association's Board of Directors this year. The administrators whose mandate expired in 1997 were all re-elected for a two-year term. They are Messrs. Robert Aubin (Western Region), David Farber and Nicholas Stephens (Montréal Region). I myself was re-elected by acclamation as Chairman of the Board of Directors.

The Board met 12 times this year. In addition, a special two-day meeting was held to discuss the Association's strategic plan.

### **Print media campaign**

In 1997, the Association began a public promotion of the consumers' rights and the duties of certified real estate brokers and agents. The Association published a series of articles entitled "*Ten practical tips to ensure faultless service*". These articles were aimed at reinforcing the profession's credibility by demonstrating that real estate brokerage is a regulated and controlled professional activity.

Many publications media welcomed these articles, which were published in several Québec regions. At the close of this year, the campaign was still underway.



### Strategic planning

The Association will implement a new strategic plan which will lead to results in coming months. Such plan aims at maximizing the effectiveness of our decision mechanisms and our work methods. It is also designed to further maximize the use of our resources and our activities based on the objectives we have set. Our monitoring tools will also be tightened, again in an effort to improve our management.

### Directions

The revision of the *Real Estate Brokerage Act* will take up much of our attention again in 1998. First, the Board of Directors will have to determine which changes to the Act and regulations to submit to the government. Amending a law is not an easy process, but the scope of our consultations, the validity of our claims and the consensus to which we aspire will certainly be our best assets.

The battle against illegal real estate brokerage will remain one of our top priorities. The harm it is causing to both consumers and the profession has been amply demonstrated.

Now that the Association's deficit has been eliminated, we will of course continue to manage our finances with great caution. We cannot afford to pay interest on a debt and, besides, we need this money too much to develop projects that are essential to the achievement of our mission.

In closing, I wish to recognize the dedication of the members of the Board of Directors, the Director General, Serge Cayer, and the members of our various committees, including Discipline Committee Chairman M<sup>e</sup> André Desgagné, and substitute Chairman M<sup>e</sup> Gilles Duchesne. I also wish to recognize the efforts of the Association's staff, without whom all these achievements would not have been possible. Finally, my sincere thanks to each and every one of you for your extraordinary contribution to the consultation on the revision of the *Real Estate Brokerage Act*. There is no doubt that our Association is in excellent health!

Thank you all!



**François Léger**

Chairman of the Board of Directors



# Director General's Report

Serge Cayer, Cert. Adm.  
Chartered Real Estate Broker

*The Real Estate Brokerage Act exists mainly to ensure the protection of consumers who use the professional services of real estate brokers and agents. In effect since 1994, this law protects against potential abuse in the field of real estate brokerage.*

**T**he Association des courtiers et agents immobiliers du Québec is the regulatory body responsible for the application and enforcement of the *Real Estate Brokerage Act*. The Association integrates the mechanisms provided for in the Act to assume its full responsibilities, including the Professional Inspection Committee, the Syndic's Bureau and the Discipline Committee. The Association also manages services associated with the licensing of real estate brokers and agents, information of the public and its members, legal advice, human and financial resource management, administrative support and training.

## Membership

The main purpose of the Membership Department is to maintain the Association's member directory up to date and to issue, renew, suspend and reinstate certificates. This department is also in charge of administering the mandatory examinations which each new candidate to the profession or any member who wishes to change certificate categories is required to take.

## Issuance and reinstatements

During the year 1997, the Association issued 1,824 agent certificates and 172 broker certificates. In addition, 35 brokers reclassified as "agents" and 20 agents classified as "brokers". We also reinstated 1,551 members. If you add suspensions, expirations, cancellations, abandonments and renewals, the number of transactions handled by the Membership Department was over 16,000.

## Renewal

Once a year, all Association members must renew their certificates through the Membership Department, otherwise they lose the right to carry out their activities. As of January 1, 1998, the Association had 9,719 members, up from 9,106 at the same time a year ago. The number of brokers is almost the same, i.e. 1,495 against 1,511, but agents (including affiliated brokers) registered a considerable boost, from 7,760 to 8,224.

As far as the breakdown by sex and the average age are concerned, 5,275 members (60%) are men and 3,468 (40%) are women. Last year, 62% of members were men and 38% were women. In both cases the average age is 48.



Table ①

**Certificates management** (for the period of January 1 to December 31, 1997)

	1997		1996	
	Agents	Brokers	Agents	Brokers
Issuances	1,824	172	1,475	218
Reclassifications (chartered broker > chartered agent)	35	(35)	31	(31)
Reclassifications (chartered agent > chartered broker)	(20)	20	(22)	22
Reinstatements	1,551	6	1,944	16
<b>Total</b>	<b>3 390</b>	<b>233</b>	<b>3,428</b>	<b>225</b>
Suspensions	2,124	28	2,941	83
Expirations	546	99	457	122
Cancellations	13	7	0	5
Abandonments	7	41	13	50
<b>Total</b>	<b>2,690</b>	<b>175</b>	<b>3,411</b>	<b>260</b>
<b>Other transactions</b>				
Reclassifications (affiliated agent > chartered agent)	53	0	27	0
Renewals	8,224	1,495	7,770	1,501
<b>Total</b>	<b>8,277</b>	<b>1,495</b>	<b>7,797</b>	<b>1,501</b>

Statistics also show that real estate brokers and agents, all certificate categories mixed up, have an average of 5 years of practice. Affiliated brokers have the longest experience with an average of 13,4 years, followed by chartered brokers (11,3) and chartered agents (10). As for affiliated agents, they have an average of 2,6 years of practice.

**Mandatory examinations**

In total, 1,424 candidates wrote mandatory examinations, including 1,285 for the affiliated agent certificate, 119 for the chartered broker or agent, and 20 for the certificate of broker or agent restricted to loans secured by immovable hypothec. This represents a 66% increase over last year.

The rate of success for the affiliated agent examination was 90% and the average grade was 78%. The success rate for the chartered broker and agent examination was 53% and the average grade was 66%. Finally, two of the 20 candidates for the restricted certificate failed the examination, for a success rate of 90% and an average grade of 83%.

Table ②

**Mandatory Examinations**

	1997		1996		1997		1996		1997		1996	
	Candidates		Successes		Failures		% of success		Average grade			
Affiliated agents	1,285	763	1,157	668	128	95	90%	86%	78%	77%		
Chartered brokers & agents	119	57	63	35	56	21	53%	63%	66%	68%		
Restricted brokers & agents	20	36	18	36	2	0	90%	100%	83%	81%		
<b>Total</b>	<b>1,424</b>	<b>856</b>	<b>1,238</b>	<b>739</b>	<b>186</b>	<b>116</b>	<b>87%</b>	<b>86%</b>	<b>77%</b>	<b>77%</b>		

Table 3

## Breakdown of ACAIQ members

	January 1	January 1	December 31	December 31
	1998	1997	1997	1996
<b>By certificate category</b>				
Chartered agent	2,022	2,021	2,146	2,124
Affiliated agent	6,077	5,618	6,492	5,960
Chartered broker	1,490	1,507	1,589	1,638
Affiliated broker	90	86	90	86
Restricted broker	5	4	5	7
Restricted agent	35	35	41	40
<b>Total</b>	<b>9,719</b>	<b>9,271</b>	<b>10,363</b>	<b>9,855</b>
<b>Breakdown by sex and average age</b>				
Men (average age: 48 years / 1997 vs. 48 years / 1996)	5,275	5,136	5,657	5,480
Women (average age: 48 years / 1997 vs. 49 years / 1996)	3,468	3,173	3,680	3,348
<b>Total</b>	<b>8,743</b>	<b>8,309</b>	<b>9,337</b>	<b>8,828</b>
<b>Breakdown of chartered real estate brokers</b>				
Natural persons	519	549	568	618
Legal persons and partnerships	976	962	1,026	1,027
<b>Total</b>	<b>1,495</b>	<b>1,501</b>	<b>1,594</b>	<b>1,635</b>
<b>By ACAIQ region</b>				
Montréal region				
Montréal (06)	3,218	3,116	3,445	3,175
Laval (13)	876	790	912	804
Montérégie (16)	1,823	1,712	1,927	1,749
<b>Sub-total</b>	<b>5,917</b>	<b>5,618</b>	<b>6,284</b>	<b>5,728</b>
Québec region				
Québec (03)	853	804	919	829
Chaudière-Appalaches (12)	265	219	281	220
<b>Sub-total</b>	<b>1,118</b>	<b>1,023</b>	<b>1,200</b>	<b>1,049</b>
Eastern region				
Lower St-Lawrence (01)	148	155	163	155
Saguenay – Lac Saint-Jean (02)	211	212	229	213
North Shore (09)	69	71	82	74
Northern Québec (10)	4	4	4	4
Gaspésie – Îles-de-la-Madeleine (11)	11	8	12	10
<b>Sub-total</b>	<b>443</b>	<b>450</b>	<b>490</b>	<b>456</b>
Central region				
Mauricie – Bois-Francs (04)	362	323	388	333
Eastern Townships (05)	347	302	364	308
Lanaudière (14)	364	326	381	332
<b>Sous-total</b>	<b>1,073</b>	<b>951</b>	<b>1,133</b>	<b>973</b>
Western region				
Outaouais (07)	382	328	412	339
Abitibi-Témiscamingue (08)	96	92	102	93
Laurentians (15)	690	644	742	653
<b>Sub-total</b>	<b>1,168</b>	<b>1,064</b>	<b>1,256</b>	<b>1,085</b>
<b>Certificates suspended</b>	<b>—</b>	<b>165 *</b>	<b>—</b>	<b>564</b>
<b>Total</b>	<b>9,719</b>	<b>9,271</b>	<b>10,363</b>	<b>9,855</b>

\* Renewed with mention "suspended"

## Training

In the area of training, the Association must prepare mandatory examinations and submit them to the government's approval, administer them to real estate brokerage certificate candidates and grade them. During 1997, we began an ongoing revision of the examination versions in circulation.

## Administrative services

The management of the Association's member files and human and financial resources requires the integration of office automation and computer systems. Administrative services have this responsibility and in this regard encompass the activities of the Membership Department (above), the General Secretariat and Accounting and Finance.

## General Secretariat

The Association's human resources is managed by the General Secretariat Department. Staff recruitment, application of labour standards, payroll and benefits management are among its main responsibilities. In addition, the General Secretariat coordinates member, board and committee meetings.

In 1997, the Board of Directors met 12 times and the Finance Committee, 3 times. The role of this Committee is to make recommendations to the Board to ensure sound management of the Association's finances.

As of December 31, 1997, the Association employed 44 staff, i.e. two less than at the same time the year before.

## Accounting and Finances

The Accounting and Finances Department is mostly responsible for managing the Association's finances. It prepares the organization's budget based on the requirements of the Board of Directors and the general management, and drafts and analyzes financial statements.

This department is also responsible for managing inventories of all the products provided by the Association (forms, reference books, pamphlets, etc.). In the past year, over 1,200,000 forms were sold from about 2,900 orders, and approximately 1,500 reference books.

## Legal Affairs

The main duties of the Legal Affairs Department are:

- to advise the general management and the various authorities within the organization;
- to study the legal impact on the public and the profession of government and legislative initiatives as well as changes to the regulations proposed by the profession itself;
- to provide the public and the members with a telephone service for legal, ethics and penal information;
- to represent the Association before the Discipline Committee and the penal and civil tribunals.

## Legal and ethics information

In 1997, the Legal Affairs and Ethics Department received 13,650 telephone requests for information, down from 15,379 for the last period, a decrease of 11%. However, a slight increase in the percentage of calls by members was noted, i.e. 53% of the total number of requests for information received, compared to 50% for 1996. The remaining calls, or 47% of the total volume came directly from consumers (buyers, sellers, lessors and lessees) dealing with brokers and agents.

As in 1996, these requests for information had mostly to do with the interpretation or use of mandatory forms. In addition, we noted increased member concern regarding the smoothness of transactions, and even more so when other members are involved.

We must mention however, again this year, a certain lack of responsibility on the part of managers of places of business. Several situations exposed by agents leave no doubt as to the valuable help which the manager's intervention could have provided.

And finally, the legal and ethics information service, available free to everyone, is one of the best tools by which the ACAIQ has to stay up-to-date on the needs of consumers, brokers and agents. It also allows us to answer the many questions we receive from consumers, thereby reinforcing the protection of the public.

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## Discipline

Throughout the year, 79 disciplinary cases which the Syndic deemed to justify the filing of a complaint before the Association's Discipline Committee, were transferred to the Legal Affairs Department. All led to a formal complaint and were filed with the clerk of the Discipline Committee, except for seven which will be in February 1998.

Some disciplinary decisions were appealed before higher courts this year. Eight cases were appealed before the Court of Québec. In each case, the Legal Affairs Department contested the validity of the recourse on the grounds that the wording of the *Real Estate Brokerage Act* and its references to the *Insurance Act* contains no right of appeal. A total of 15 cases are being appealed before the Court of Québec, but none has yet been heard on the merits due to the jurisprudence tangle concerning their right of appeal. The first of these cases will be heard before the Québec Court of Appeal on March 2, 1998, and the others should be follow shortly.

In order to recover unpaid fines, we had to serve 15 homologation motions. Following a judgement on an homologation motion, the Association has ten years to have the judgment executed. Four out of the 15 motions were suspended because the defendant declared bankruptcy in the meantime. The bankrupt person is not released from his debts regarding disciplinary or penal fines, and he may not recover his right to practice unless he pays them.

Three execution briefs were also served on bad debtors. There again, one brief was suspended due to a dispute concerning the ownership of the property concerned. None of these cases has been closed.

## Claims Report

In 1997, Legal Affairs investigated 164 claims of professional misconduct sent by various insurance companies. This represents a substantial 71% increase in the number of claims compared to the previous year, where there were 96. These reports were referred to the Professional Inspection Department.

## Illegal real estate brokerage

The Legal Affairs Department had to act officially on 104 cases of illegal real estate brokerage. In most cases, investigations were outsourced to four private agencies and 10 investigators were assigned to the cases.

For various reasons, 43 of these cases were closed. For instance, formal notices prompted a few violators to abandon their practice, and three people rectified their situation by becoming members of the Association. Other cases concerned members of the Association and were consequently referred to the Syndic, whose job it is to determine whether a formal complaint should be filed before the Discipline Committee. Finally, some cases were closed due to lack of information on the alleged violators or because the actions did not constitute illegal brokerage.

Sixty-one cases remain active, including six which have led to the filing of a penal complaint before the Court of Québec. To win these cases, we must be able to prove that the defendant acted on someone's behalf and for compensation, and it is often very difficult to prove compensation. This is why we were unable to file as many complaints as we would have liked before the Court of Québec.

Of the six cases that went to court, two led to a guilty plea and the defendants immediately paid the fines and the Court of Québec registry fees. These cases will be closed as soon as the Justice Department transfers the money to the Association.

I want to stress the excellent cooperation we received from our membership, without whom investigators could not have succeeded. However, I also deplore the attitude of certain members who, after requesting an investigation, refused to cooperate with us.

## Civil litigation

During 1997, the Legal Affairs Department dealt with two civil cases. The first dates back to 1995 and involves the Association as a third party in a motion for declaratory judgment opposing *La Capitale, Maître courtier inc.* and *Les Services immobiliers Royal LePage Itée* to *Re/Max Québec inc.* However, this dispute ended in an out-of-court settlement in December 1997.



The second case concerns an interim injunction received in 1996. Through this petition, Collège Jean-Guy Leboeuf inc. was trying to prevent the Association from informing its members that it would not recognize the two compulsory 45-hour courses stipulated in section 8 of the *Regulation respecting the application of the Real Estate Brokerage Act* if these were taken as a remote course via the Télé-enseignement channel. The petition having been rejected by the judge, the attorneys for Collège Jean-Guy Leboeuf inc. immediately filed another motion for declaratory judgment. As of December 31, 1997, the Association was awaiting the court's decision on another motion by Collège Jean-Guy Leboeuf amending the previous one to make it into an action for damages in the amount of \$381,876.

Because the Syndic and the assistants Syndics, and the Membership Department are regularly subpoenaed by the Superior Court, the Court of Québec or the Small Claims Court, Legal Affairs has opposed all of these cases. The subpoena usually orders us to file the documents relating to a disciplinary investigation or the member's file with the Court.

### Committees

During 1997, three Legal Affairs lawyers took part in the work of the Consultation Committee on the revision of the *Real Estate Brokerage Act*, set up by the Association's Board of Directors.

The Director of the Department also participated as a member in the work of the Joint Committee of ACAIQ and Fédération des chambres immobilières du Québec representatives. This Committee was created to conduct a study on the consequences of making the Association into a professional order.

### Other activities

Legal Affairs lawyers assisted inspectors from the Professional Inspection Department in meetings held to conclude some of their inspections.

## Communications

When the Association began its operations, the Communications Department set objectives and developed communications activities which were mainly aimed at making members of the profession aware of the role of the Association and familiar with the legislation and regulations. In 1997, we added new objectives and developed new strategies to:

- increase awareness of the Association so that the public will be better informed of their rights in the area of real estate brokerage;
- help the Association better assess the needs and concerns of consumers;
- help the public understand the useful role played by real estate brokers and agents.

### Communications plan

With this in mind, we prepared a communications plan which was submitted to the Board of Directors. Based on our mission of protecting the public, this plan proposes activities to increase public awareness of the Association and promote the development of the professional competence of real estate brokerage practitioners. The communications plan will be integrated into the strategic plan which the ACAIQ Board of Directors is scheduled to adopt in the coming year.

### Consultation Committee

The Communications Department worked very closely with the *Consultation Committee on the revision of the Real Estate Brokerage Act*, both in designing and publishing the document and in organizing the public consultation process. Also as part of this work, in cooperation with a firm specializing in marketing research, we held consumer focus groups to survey consumer perception of real estate brokerage and its practitioners.

Consumers declared themselves satisfied with their last business dealings with a real estate broker or agent. On the other hand, they have a negative perception of the profession overall and are often unaware of the existence of the Association. They feel its presence would reassure them in their relationship with a real estate brokerage professional.

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Focus groups were also held with real estate brokers and agents. Among other things, they highlighted major concerns concerning their professional training.

The work done by the Consultation Committee also served to initiate a permanent dialogue with consumer protection agencies, professional orders and other professional groups as well as Members of Parliament.

### **Publication**

The Communications Department published four issues of *ACAIQ Magazine* as well as the Association's 1996 Annual Report. Numerous communiqués and information documents as well as four new forms recommended by the Association were also produced by the Department during the year. All these publications are available in French and English.

### **Press relations**

The Communications Department is also responsible for coordinating the Association's public appearances and ensuring good press relations. Because of the Association's public protection role, we were frequently called upon to appear in news reports involving brokers and agents. We collaborated fully by providing as much information as possible on the roles of the Association, the broker and the agent and on the main aspects of a real estate transaction. This approach enabled us to establish credibility for the ACAIQ in the media and, in the longer term, should improve the public's perception of the work of our members.

The Association also organized an information campaign by sending more than 350 targeted publications a series of ten consumer advice columns on how to carry out a real estate transaction and the advantages of dealing with a real estate broker or agent. This initiative yielded excellent results, especially with regional weeklies, of which many published the articles. In addition, the French consumer protection magazine *Protégez-vous* announced its intention of publishing the entire series in its March 1998 issue.

The Communications Department has begun preparing more detailed brochures for the general public, both for buyers and sellers, based on this advice series. In the coming year, we should also publish the first records of decisions rendered by the Discipline Committee since its creation.

### **Internal support**

The Communications Department supports the various departments of the Association, including by writing, presenting and translating certain documents. The Department also helps organize and hold the General Meeting and annual elections.

### **Fonds d'indemnisation**

The Department prepared the Annual Report of the Fonds d'indemnisation, in addition to taking part in its general public information campaign through the written press. We also helped the Fonds d'indemnisation develop an advertising campaign project for 1998.

### **Web site: [www.acaiq.com](http://www.acaiq.com)**

The Communications Department devoted a portion of its activities to the creation of a Web site for the Association, with the first functions becoming operational at the end of the year. The site includes a directory of Association members, accessible only to ACAIQ members. It includes the professional data and certificate numbers of all active brokers or agents who agreed to have this information published. Other functions will be added progressively in coming months.

### **"Partners" Program**

The Communications Department coordinates the agreements concluded between the Association and a limited number of suppliers in order to offer discounted products and services to its membership. Over 1,500 brokers and agents are now taking advantage of the *Partners Program* in the areas of cell phones and personal insurance. In addition, the *Partners Program* also gives access to liability, home and car insurance as well as business insurance. It also provides savings on long-distance calls.

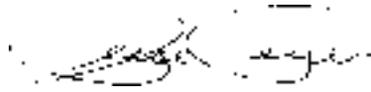


## Conclusion

The year 1997 marked the beginning of a new era for the Association. After balancing our budget last year, we are now in robust financial health with the elimination of our long-term debt.

We still plan on implementing a new strategic plan beginning next year to focus our interventions and work methods more closely on our objectives. The battle against illegal real estate brokerage has only just begun, and other projects which we need to implement if we are to fulfill our mission, including in the areas of professional training and public information, will require new investments.

In ending, I would like to thank the Association's staff. Our employees make a great contribution to the life and the image of our organizations through their competence and dedication. I also wish to recognize the outstanding work accomplished by our department heads, especially during my prolonged absence in 1997.



**Serge Cayer**  
Director General

## Association Staff as at December 31, 1997

### General Administration

**Serge Cayer** Director general

### Legal Affairs

**Robert Nadeau** Manager  
**Claude Barsalou** Assistant manager  
**Manon Bonnier** Legal advisor  
**Julie Charbonneau** Legal advisor  
**Claudie Tremblay** Legal advisor  
**Julie Pinet** Secretary

### Communications

**Claude Lafrenière** Manager  
**Patrick Martinet** Writer  
**Michel St-Pierre** Computer graphics artist  
**Véronique Parret** Secretary

### Accounting & Finances

**Vo-Long Truong** Manager  
**Richard Cardinal** Senior Accountant  
**Nancy Talbot** Accountant  
**Micheline Miller** Accountant clerk  
**Isabelle Lupien** Order clerk  
**Stéphane Plante** Stockroom clerk

### Professional Inspection

**Jocelyn Gagné** Manager  
**Jacques Couture** Inspector  
**Pierre Denault** Inspector  
**Francine Boucher** Secretary

### General Secretariat

**Louise Day** Manager  
**Marie-Josée Forget** Secretary and register  
**Johanne Daigle** Receptionist  
**Diane Heppell** Secretary  
**Christiane Langevin** Secretary

### Administrative services

**Gilles Marin** Manager  
**Alain Bond** Senior Programme analyst  
**Frédéric Lannoye** Programme analyst  
**Sébastien Dreyfuss** System specialist

### Membership

**Marie-Josée Dubé** Manager  
**Tony Ah Chin Kow** Clerk  
**Doreen Carrière** Clerk  
**Wahiba Ibrahim** Clerk  
**Bibiane Laliberté** Clerk  
**Micheline Leblanc** Clerk  
**Francine Soulière** Clerk  
**Magalie Odnéus** Secretary

### Syndic

**François Pigeon** Syndic  
**Jacqueline Houle** Assistant syndic  
**Suzanne Robillard** Assistant syndic  
**Brigitte Montpetit** Investigator  
**Lise Thiffault** Secretary  
**Christine Sénécal** Secretary



## Syndic's Report

François Pigeon  
Syndic

*The role of the Syndic of the Association is to investigate wherever he has reason to suspect professional misconduct in a real estate broker or agent.*

*The Syndic has all the power of an investigating commissioner. He may summon whom he wants, question witnesses, send subpoenas and even perform searches if necessary. The Syndic and the Assistants Syndics are appointed by the ACAIQ Board of Directors and are chosen among the members of the profession.*

**T**he year 1996 had been one of adjustment. It was the Discipline Committee's first complete year, and during that time we had noticed that a lot of time was being spent on each case, conducting investigations and attending hearings. Our processing time for new requests for investigations was longer for these reasons.

### Highlights

Our objective for 1997, therefore, was to reduce our processing time. This objective has been partially achieved since the number of cases outstanding went from 282 on December 31, 1996 to 208 at the end of 1997. We also completed 658 investigations during the year, versus 624 in 1996. In addition, 584 new cases (628 in 1996) were opened, three quarters of which as a result of a consumer request.

Currently, there is a three-month response time to investigation requests, and our goal is to reduce this to 60 days. There is also about a year between the time a request for investigation is submitted and the time when the Discipline Committee's decision is rendered, provided of course the request leads to a formal complaint. This is why at the end of the year the Association's Board of Directors authorized the hiring of a third Assistant Syndic, and even a fourth one if necessary, on a temporary basis.

Still, it is difficult to predict how long a case will take. This year for example, although there was a drop in the number of requests for investigation (584 vs 628), as well as in the number of formal complaints (79 vs 132), we noticed that the various processing stages of a case took more time. Relying on the new jurisprudence, defendants counter vigorously, causing investigations and hearings to drag on.



Table ①

### Requests for investigations involving members of the ACAIQ

for the period of January 1 to December 31, 1997

	1997	1996	1997	1996	1997	1996
	Files opened during the month		Investigations completed during the month		Pending or current investigations	
January	54	37	48	66	288	249
February	49	49	47	65	290	233
March	41	53	73	67	258	219
April	55	64	76	64	237	219
May	60	51	72	61	225	209
June	33	44	52	66	206	187
July	45	50	51	42	200	195
August	38	44	48	45	190	194
September	60	45	28	37	222	202
October	60	52	42	30	240	224
November	47	65	54	36	233	253
December	42	74	67	45	208	282
<b>Total</b>	<b>584</b>	<b>628</b>	<b>658</b>	<b>624</b>	<b>2,797</b>	<b>2,666</b>

In 1997, we also did a lot of prevention work. For example, when we examine a case, we explain to the professionals involved not only the motives for the request for investigation, but also the potential risks involved. These explanations often go beyond the object of the dispute, in order to prevent further errors. In fact because some cases of professional misconduct occur with no ill intent, they could be avoided, for instance through training sessions. This is why in 1997 we gave about twenty conferences which were attended by several hundred members.

In the same vein, we sent 132 various letters of recommendation to members, in addition to a great volume of advice given over the phone. Furthermore, 48 members solemnly promised to abide by a regulation they had violated, mainly in the area of advertising. Depending on the offence, the violator could be obligated to publish an erratum.

The Syndic Bureau's objective is not to file as many formal complaints as possible before the Discipline Committee. Rather, it is to carry out our collective duty to serve the public "professionally". Each request for investigation is examined with care and discretion. Several factors, including the nature of the offence, the quality of the proof and the practitioner's good faith are taken into consideration. If we reach an out-of-court agreement to satisfy a client who has suffered a prejudice, so much the better.

This being said, we are forced to admit that there are still members who have yet to take the professional approach and for instance who ignore their duty as "advisor" to the consumer spelled out in the *Rules of Professional Ethics of the ACAIQ*. We met others for whom the quality of their communications with clients, colleagues or even representatives of the Syndic's Bureau is optional. Fortunately, this is not the profile of the majority, who are practicing following the rules of the art, but it is not an isolated case either. These people will have to rectify this situation, as this behaviour is neither professional nor acceptable.

Table 2

**Verification of type of advertising used by ACAIQ members**

for the period of January 1 to December 31, 1997

	1997		1996	
	Requests during the month		Written notices sent during the month	
January	19	12	10	0
February	11	28	18	0
March	29	20	23	39
April	19	25	23	27
May	15	36	16	32
June	14	23	16	25
July	8	23	11	9
August	10	73	9	37
September	5	28	1	32
October	15	30	9	43
November	11	20	9	48
December	13	7	15	15
<b>Total</b>	<b>169</b>	<b>325</b>	<b>160</b>	<b>307</b>

**Directions**

As already indicated, we hope to reduce our response time to requests for investigation to 60 days. More and more consumers know or are becoming aware of the existence of the Association and when they do, they feel reassured. We do not want undue intervention delays to undermine this trust which our profession also needs.

The Syndic's Bureau will pursue its prevention activities. However, we will be less lenient in matters of advertising, where we note a resurgence of a liberal use of adjectives which are neither verifiable nor quantifiable. We will also pay close attention to the quality of the information on the object of transactions provided to consumers by real estate intermediaries. Each shall have to be verified and substantiated by a document. All these rules have already been circulated to our members many times. If necessary, the Syndic's Bureau will not hesitate to recommend harsher sanctions to the Discipline Committee.

Our role being to investigate alleged cases of professional misconduct, this activity report may leave a more negative impression than it should. One must consider, however, our active base of approximately 10,000 members and the volume of business transacted, which is about ten times that. In proportion, the 580 or so requests for investigation which we received and the 80 formal complaints we filed with the Discipline Committee show on the contrary that real estate professionals are trustworthy and that the profession is serious about self-discipline.

In ending, I wish to thank the Syndic's Bureau staff for their valuable contribution, as well as the staffs of the other departments within the Association, particularly Legal Affairs. I also thank the members of the Board of Directors who are constantly helping us improve the quality of our actions by giving us the necessary resources. And I have saved the last word for the great majority of Association members. The example you set speaks for itself. Thank you!



**François Pigeon**  
Syndic



## Discipline Committee

Me André Desgagné  
Chairman, Discipline Committee

*Created in accordance with section 128 of the Real Estate Brokerage Act, the Discipline Committee is an autonomous tribunal, independent from the Association's Board of Directors and staff. The Discipline Committee receives complaints against an ACAIQ member for a violation of the provisions of the Act and its regulations, including the Rules of Professional Ethics of the ACAIQ.*

Each complaint is examined by three members of the Discipline Committee, including one chairman and two members of the profession. The chairman is one of two lawyers, the other acting as substitute, appointed by the government after consultation with the Bar, among lawyers with at least ten years of practical experience. The members of the profession are part of some 65 real estate brokers or agents designated by the Board of Directors among Association members.

The Discipline Committee basically operates following the provisions of the *Professional Code*. Certain Committee decisions may be appealed, under the terms and conditions set out in the *Real Estate Brokerage Act* and the *Insurance Act*.

### **Discipline Committee activities**

(Tables 1 to 3)

As of December 31, 1997, 96 complaints (versus 105 in 1996) had been filed with the Discipline Committee. All were filed by the Association's Syndic Bureau. In total, these 96 complaints contained 206 violation counts (versus 265 in 1996).

Since separate hearings are held to rule on a defendant's guilt and to determine the penalties to be imposed, if applicable, the Committee held 67 hearings on guilt and 85 on penalties. Releases were granted 47 times, i.e. 44 times before the hearing and 3 times after the parties had been heard by the Committee.

During the period, the Committee rendered 54 decisions on guilt and 85 decisions on penalties. Three decisions on guilt were still under consideration at the end of the year.

The Committee rendered guilty verdicts on 186 accusation counts and non-guilty verdicts on 26 counts. As a plaintiff, the Syndic withdrew an accusation count 7 times. Out of 82 guilty pleas, 80 were accepted by the Committee; in one case, the Committee merged two separate counts (for which two guilty pleas had been registered) and in the other, the Committee refused the guilty plea and declared the defendant not guilty.

## Penalties

(Table 4)

The penalties which may be imposed by the Discipline Committee against a member of the profession range from a simple reprimand to a temporary or permanent revocation of the right to carry out real estate brokerage activities, or to the imposition of fines ranging between \$600 and \$6,000 per accusation count.

The Committee issued 29 reprimands, 135 fines and in 7 cases, recommended to the Association's Board of Directors to require the member to take and pass specific courses. There were 2 cases of restriction of the right to practice under the constant supervision of a chartered agent. There were also 2 certificate suspensions for periods of 30 and 90 days, as well as one case of cancellation. Finally, the Committee recommended to the Board of Directors to undertake a complete professional inspection of one defendant's place of business. Fines totaled \$172,900 and costs to be reimbursed by defendants amounted to \$70,103.62.

The amount of the fines is not determined based on the maintenance costs of the disciplinary system, but rather on the experience of professional orders or associations comparable to the ACAIQ, and of the jurisprudence established by the Discipline Committee. The Committee also determines a penalty by taking into account its deterring effect, the type of violation and the amount of damages caused, and the gains registered by the violator as a result of the violation. For example, an agent who pockets a \$3,000 commission without his broker's knowledge violates the *Real Estate Brokerage Act*. The deterring effect of a \$1,200 fine would be arguable since the agent would still gain \$1,800 from his actions.

Continued on next page ►

Table 1

### Number of files

	1997	1996
Current as at January 1	26	33
Filed during the year	96	107
Returned by the Superior court	0	1
	122	141
<b>Less</b>		
Decisions rendered on penalties	85	106
Rejected complaints /acquittals	8	7
Complaints withdrawn	0	2
<b>Current files as at December 31</b>	<b>29</b>	<b>26</b>

Table 2

### Hearings / Releases / Decisions

	1997	1996
<b>Hearing held</b>		
On guilt	67	75
On penalties	85	106
<b>Releases granted</b>		
Prior to the hearing	44	33
After representations to the Committee	3	8
<b>Decisions</b>		
Under advisement on guilt	3	7
Under advisement on penalties	0	0
Rendered on guilt	54	66
Rendered on penalties	85	106

Table 3

### Committee decisions by count

	1997	1996
<b>Decisions on guilt</b>		
Guilty finding	186	113
Non-guilty finding	26	30
Withdrawal of charge *	7	15
<b>Decisions on penalties</b>		
Reprimands	29	40
Fines	135	165
Mandatory courses	7	15
Restrictions on right to practice	2	3
Cancellations / suspensions *	3 *	2

\* Concerns one defendant only

Table 4

### Fines, cost and publications

	1997	1996
<b>Penalties</b>		
Total fines	\$172,900.00	\$200,600.00
Total cost to be reimbursed	\$70,103.62	\$79,838.18
<b>Publications in the ACAIQ Magazine</b>		
Fines / reprimands	103	101

►

Table 5

**Counts and penalties**

▼ **Violations to the Rules of professional Ethics of the ACAIQ**

Section in the rules	Number of counts	Penalties
1	2	Reprimand to \$1,500
1 & 12	1	\$1,600
5	2	\$1,000 to \$2,000
11	21	Reprimand to \$2,000
13	14	Reprimand to \$2,000 + 3 cases of suspension
22	4	Reprimand to \$1,000
24	15	Reprimand to \$1,200
26	5	Reprimand to \$1,500
28	3	Reprimand to \$600
29	4	\$600 to \$900
30	1	\$1,000 (+ courses)
39	4	\$1,000 to \$1,500
40	2	\$1,200 to \$2,400
41	3	Reprimand to \$600
42	1	Reprimand
43	13	\$600 to \$1,500
46	1	Reprimand
49	1	Reprimand
54	4	\$6,000

▼ **Violations to the By-Law of the ACAIQ**

Section in the rules	Number of counts	Penalties
2	7	Reprimand to \$800
63	1	\$600
70	2	Reprimand to \$600
72	7	\$1,000 to \$4,000
78	2	\$600 to \$1,000
87	1	Reprimand
96	2	\$600 to \$1,000
98	2	\$600
99	1	Course
101	3	Cancellation
102	5	Reprimand to \$600
103	1	\$1,000
104	1	\$1,000
107	5	\$600 to \$800
115	2	\$700 to \$1,500\$
147	13	Reprimand to \$1,400

▼ **Violations to the Real Estate Brokerage Act**

Section in the rules	Number of counts	Penalties
19	2	\$1,500 to \$1,800 (+ course)
22	2	\$600 to \$800
115	3	\$6,000
127	2	\$6,000

▼ **Others**

Sections	Number of counts	Penalties
72, 115, 147 of the <i>By-law of the ACAIQ</i> and 39 of the <i>Rules of Professional Ethics of the ACAIQ</i>	2	\$1,200 supervision (+ course)
72, 108, 115 & 147 of the <i>By-Law of the ACAIQ</i>	1	\$1,200

► ...continued from page 27 (Penalties)

In total, 103 decisions of the Discipline Committee were published in *ACAIQ Magazine* during the period. Two certificate suspension notices and one cancellation notice were also published.

**Nature of violations**

(Table 5)

The charges made before the Discipline Committee were for violations to the *Rules of Professional Ethics of the ACAIQ*, the *By-law of the ACAIQ* or the *Real Estate Brokerage Act*. An accusation count may be filed under more than one section of the Act or its Regulations.

## Violations to the Rules of Professional Ethics of the ACAIQ

A total of 101 penalties were taken in relation to accusation counts on violations to the *Rules of Professional Ethics of the ACAIQ*.

- **21 penalties for violation of section 11:** *A member shall verify, in accordance with generally accepted practice, the information that he provides to the public or to another member. He shall be in a position to prove the accuracy of that information at all times.*
- **15 penalties for violation of section 24:** *A member shall protect and promote the interests of his client while providing fair treatment to all parties to a transaction.*
- **14 penalties, including 3 suspensions, for violation of section 13:** *A member shall not participate in any act or practice in real estate matters which may be illegal or which may cause prejudice to the public or to the profession.*
- **13 penalties for violation of section 32:** This section stipulates that a member shall not abuse another member's good faith nor use unfair practices against him.

## Violations to the By-law of the ACAIQ

There were 57 penalties relating to accusation counts on violations to the *By-law of the ACAIQ*:

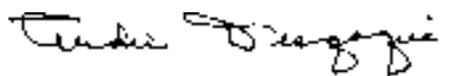
- **16 penalties for violation of section 147:** *An affiliated real estate agent or broker shall, without delay, send to the person who manages the place of business to which he is assigned the information and documents required in order to maintain the records, books and registers.*
- **10 penalties for violation of section 72:** This section is relating to the affiliated broker or agent's obligation to receiving his compensation from a chartered broker and refraining from sharing it.
- **7 penalties for violation of section 2:** This section is relating to the use of the title of chartered real estate broker and carrying out the profession and to persons whom a chartered real estate broker may employ or authorize to act on his behalf.
- **1 cancellation of the right to practice for violation of section 101:** *Only a member whose certificate issued by the Association is not under*

*suspension may advertise, solicit clients or make representations relating to the carrying on of the activity of real estate broker referred to in section 1 of the Act.*

## Violations to the Real Estate Brokerage Act

The Discipline Committee also imposed penalties in 9 cases of violation to sections of the *Real Estate Brokerage Act*:

- **3 penalties for violation of section 115:** This section is relating to the obligation for a member of the Association to facilitate the examination of books, registers, accounts, records and other documents by the Syndic. In each case, the penalty was a \$6,000 fine.
- **2 penalties for violation of section 22:** This section is relating to the obligation for a member of the Association to disclose his quality as broker or agent to the prospective contracting party when he holds an interest in the immovable that is the object of a real estate transaction.



Me André Desgagné  
Chairman of the Discipline Committee

The Discipline Committee ►

# The Discipline Committee

The Discipline Committee is composed of at least three members appointed for a three-year term. The chairman and substitute chairman are appointed by the government from among lawyers with at least ten years in practice. The other persons, all ACAIQ members, are appointed by the Board of Directors. The Committee's secretary is also appointed by the Board.

## Chairman

Me André Desgagné

## Substitute Chairman

Me Gilles Duchesne

## Members

Albert-Mongrain, Darlene  
 Allard, Denis  
 Ariëns, Imelda  
 Bachir, Samir  
 Belley, Louise  
 Blanchard, Gaétane  
 Bourgeault, Maryse  
 Brosseau, Serge  
 Brunet, Luc  
 Bureau, Denis  
 Cayer, Louis  
 Corbeil, Jean-Marc  
 Cousineau, Andrée  
 D'Aoust, Robert  
 Depelteau, Clément  
 Duguay, Louise  
 Dumais, France  
 Dupras, Marie-Andrée  
 Fecteau, Luce  
 Fiasché, Nicola  
 Forlini, Nancy  
 Gadoua, Pierre  
 Gagnon, Micheline  
 Gagnon, Normand  
 Gaspard, Jean-Pierre

Gauthier, Lise M.  
 Gauthier, Nicole  
 Gélinas, Bernard  
 Gendreau, Denise  
 Gignac, Lucille  
 Girard, Bernard  
 Giroux Laveau, Lana  
 Godin, Muriel  
 Grossenbacher, Danielle  
 Guérard, Jean-Guy  
 Hardacker, Lois  
 Houde, Yves-Denis  
 Jones, Stewart  
 Kimpton, Pierre  
 La Palme, Léo  
 Langelier Sanche, Michèle  
 Lapointe, Guy F.  
 Laurin, Jean  
 Lavoie, Hélène  
 LeBel, Réjean  
 Lecompte, Éloi  
 Léger, Éric  
 Lemoine, Albert  
 Léonard, Michel  
 Leroux, Robert

Lévesque, Denis  
 Lévesque, Pierre  
 Liboiron, Michel  
 Mailloux, Luc  
 Martel, Paul-André  
 Ouellet, Damien  
 Patry, Pierre  
 Pelchat, Daniel  
 Pépín, Lucie  
 Perrault, Jean-Nicolas  
 Racine, Normand  
 Robitaille, Paul  
 Santarelli, Adrian  
 Shelso, Robert  
 Théorêt, André  
 Trudeau, Jerry R.  
 Waddell, France  
 White, Kenneth

## Secretary

Marie-Josée Forget



# Professional Inspection Committee

Jocelyn Gagné

Chairman of the Professional Inspection Committee

*The objective of the Professional Inspection Committee in 1997 was to take a closer look at the work of agents. To do this, a completely new inspection procedure was implemented and followed throughout the year.*

**W**e prepared written recommendations for all the agents whose files we examined, in addition to meeting almost all of them to answer their questions and clarify some of our comments. These meetings enabled us to convey to agents as well as to brokers a lot of information which we hope will help improve the quality of services offered to the public. The participants were receptive to this approach and demonstrated a common desire to improve.

The Professional Inspection Committee also devised a self-evaluation procedure especially for brokers whom we identified as being less active or even inactive. This procedure was useful in certain cases, but of course it could never replace our inspection visits.

## Role of the Committee

Section 66 of the *Real Estate Brokerage Act* establishes the importance of the role played by the Professional Inspection Committee: "The primary role of the Association is to ensure the protection of the public by the enforcement of rules of professional ethics and the professional inspection of its members, and in particular by seeing to it that its members pursue their activities in accordance with the Act and the regulations." Section 108 stipulates that "The function of the committee is to supervise the carrying on of the professional activities of the members of the Association, with the exception

of professional competence, in particular by auditing their records, accounts, books and registers." The Committee is also required to make recommendations to correct any discrepancy observed during one of its inspections.

After completing an initial inspection tour of all Québec real estate brokers in December 1996, the Professional Inspection Committee began in 1997 to inspect the professional activities of agents while continuing to monitor brokers' books and registers as required by law. We feel that this inspection tour had a more direct impact on the protection of the public since it deals with the very actions that affect the consumer. In the course of this review, we examined how agents fulfilled their obligations with regard to the brokerage contracts and promises to purchase that they drafted and negotiated, and how they advised their clients in these transactions.



### Number of inspections

In 1997, the Inspection Committee visited 559 brokers and examined the brokerage contracts and transactions files of 2,390 agents, approximately a third of the profession. After the inspection, each received a personal report containing our observations and recommendations.

The members of the Committee then met with these brokers and agents to explain the comments contained in the report and the corrective measures to be taken. Seventy meetings were set up during the year, and more than 1,800 brokers and agents took part. Judging from the comments received, this method was very much appreciated by our members.

The Committee also developed and implemented a self-evaluation procedure in the form of a questionnaire especially for less active brokers. We conducted 97 such remote inspections. However, the experiment was not conclusive and this procedure will have to be reevaluated in order to widen its scope.

Again this year, we endeavoured to spread our inspections over all regions proportionately to the number of members. However, for practical reasons, we did not adhere strictly to this principle.

### Cases referred to the Syndic following an inspection

In most cases where we found discrepancies, we were able to correct these through simple recommendations and follow-up by the Committee. Only two cases had to be referred to the Syndic for investigation.

### Accounts in trust

As of December 31, 1997, 512 brokers held an account in trust to which their 6,345 agents also have access. As a general rule, we noticed a marked improvement in the way the books for these accounts were kept.

However, we continue to deplore again this year the fact the *Real Estate Brokerage Act* contains no provision forcing a trustee who is not a member of the Association to cooperate. This can pose a public protection problem since it is impossible for the Professional Inspection Committee or the Association's Syndic to inspect these accounts.

It should be noted that it is not current practice in several regions to ask for a deposit when a real estate transactions is in process and that in the few cases where it is done, the trustee is usually not a real estate broker. By not having the authority to audit, we cannot verify whether the money was deposited in the trustee's trust account and, if not, why. In such a case, the Association cannot adequately fulfill its mission.

### General observations

Because we focused more attention on the work of agents, we were able to observe certain facts that are closely related to the protection of the public. The way an agent's files are kept gives us a fairly good idea of the quality of this agent's work and the care he takes in serving his clients.

Incorrect information on the object of brokerage contracts that is transmitted to the public and to other members remains a major concern for the Committee. However, it should be said that the situation improved significantly in 1997. During that year, we noted that brokers and agents were generally more aware of their responsibilities in this regard, and their files are improving consistently. Still, the problem of non-verified information remains the main cause of complaints against real estate brokers and agents.

As the profession evolves, the role of real estate broker has gone from a supervisory role to a role of service provider, which is not consistent with the spirit which guided the drafting of the current law. The Act makes the broker fully responsible for real estate transactions which in fact are all signed on their behalf. We have noticed however that many brokers are becoming aware of their legal responsibility and tend to assume it.

The notions of place of business and establishment continue to create confusion when it comes to the requirements regarding bookkeeping, registers and agent supervision. The supervision ratios outlined in section 13 of the Act pose problems for brokers who employ large numbers of agents. We also see smaller broker operations hiring agents without having the necessary administrative structures.

Generally speaking, books and registers are being kept considerably better and several brokers now use a computerized system that meets the requirements of the law. Others use manual registers produced by the ACAIQ and these seem to work fine for them. However, a small number of brokers are still experiencing problems in this area. We have also noted that some agents are very late in submitting documents to their broker.

In reviewing agent brokerage contract and transaction files, we noted discrepancies in the use of compulsory forms. The main problems have to do with:

- choosing the proper form and filling it out properly ;
- the choice of clauses and drafting them in accordance with the will of the parties, particularly because of the legal implications;
- follow-up on conditions attached to promises to purchase.

We have also noted that several promises to purchase could technically be considered void because they were accepted with changes or after the deadline had expired, because they were not notified or were notified after the deadline; or because there was no follow-up on the conditions concerning, among other things, clause A4.2 of Annex A.

Similarly, we came across a good number of brokerage contracts which could technically be considered invalid.

### Other activities

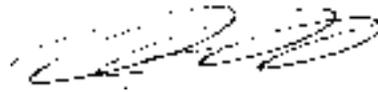
Many new brokers asked to meet with us to make sure they would set up their files and registers properly right from the start. We changed our inspection program so that we could meet with them during their first few months of operations.

We have noted that with the increase in the number of inspections, follow-up work and requests for information have also increased. However, we give these all the attention they require since this helps us maximize the positive effects of our inspections.

## Recommendations to the Board of Directors

**Need for continuing education:** our activities of the past year have confirmed that the members of the profession need a continuing education program. However, to be effective, any such initiative will have to focus very closely on the day-to-day activities of brokers and agents. It will also have to take into account the constraints imposed by the practice of their profession.

**Management of in-trust deposits:** we wish again this year to draw the Board's attention to the matter of deposits that escape the audits of the Professional Inspection Committee or the Syndic because they are paid to a trustee over whom the Association has no jurisdiction. We recommend that the Board of Directors examine this matter in order to make these audits possible.



Jocelyn Gagné

Chairman of the Professional Inspection Committee



## Treasurer's Report

David Farber, Treasurer  
Chairman of the Finance Committee

The 1997 fiscal year of the Association des courtiers et agents immobiliers du Québec ended in a \$513,460 excess revenue over expenses.

This surplus means not only that we have followed our expense budget, but also that we have eliminated our accumulated deficit.

The Association's finances are now sound.

A significant increase in certificate renewals, the recruiting of new members and the collection of supplementary fees to counter illegal real estate brokerage explain the increase in revenues. This exceptional result is due to an upswing in the resale market which enabled many professionals to return to real estate.

### Expenses

Expenses registered an increase of \$169,528 over 1996. The main reasons for this increase are:

- a new spending account, this year totaling \$86,299, for our investigations in cases of illegal brokerage.
- our annual contribution to the Inspector General of Financial Institutions, increased by \$46,048 over 1996;
- expenses of \$36,757 for focus groups as part of our consultation on the revision of the *Real Estate Brokerage Act*;
- an increase of \$11,635 in our mail and delivery costs due mainly to the postal strike.

There was not other significant increase in expenses for 1997. Salaries and benefits remained basically the same at \$2,080,609, a 1% increase over 1996. Office expenses went up slightly from \$243,266 in 1996 to \$248,709 in 1997.

Our leasing expenses totaled \$372,544 in 1997, an increase of \$14,531 over 1996. This variation is due to the fact that the previous year, the Association had received a refund of \$46,326 in overpaid municipal taxes, which had reduced these expenses by the same amount in 1996.

We may conclude from this fiscal year that the Association finished straightening out its financial situation in 1997. This state of affairs will give our organization the stability it needs to look confidently to the future.

David Farber  
Chairman of the Finance Committee

# Auditors' Report

Samson Bélair/Deloitte & Touche, S.E.N.C.  
Chartered Accountants



To the Members  
of Association des  
courtiers et agents  
immobiliers du  
Québec

**W**e have audited the balance sheet of the Association des courtiers et agents immobiliers du Québec as at December 31, 1997 and the statements of revenue and expenses and surplus for the year then ended. These financial statements are the responsibility of the Association's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with 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 Association as at December 31, 1997 and the results of its operations and the changes in its financial position for the year then ended in accordance with generally accepted accounting principles.

*Samson Bélair  
Deloitte & Touche*

Chartered Accountants

February 6, 1998

# Statement of revenue and expenses

year ended December 31, 1997

	1997		1996	
	\$	\$	\$	\$
<b>Revenue</b>				
Fees				
Members		3 570,005		2 981,283
Supplies and services				
Sales	562,979		483,303	
Less direct costs	(343,194)	219,785	(310,936)	172,367
Discipline				
Penalties and disbursements	276,892		269,387	
Less direct costs	(265,193)	11,699	(213,114)	56,273
Investment income and other		161,751		141,051
		<b>3 963,240</b>		<b>3 350,974</b>
<b>Expenses</b>				
Salaries and employee benefits		2 080,609		2 058,970
Office expenses		248,709		243,266
Occupation of premises (Note 3)		372,544		358,013
Attendance allowance and employee benefits		62,999		60,978
Meetings and travelling		163,864		170,993
Elections		19,226		18,664
Publications and public relations		76,702		59,148
Penal		86,299		–
Professional fees		78,755		88,620
Financial expenses		11,197		9,723
Depreciation		148,745		157,794
		<b>3 349,649</b>		<b>3 226,169</b>
<b>Excess of revenue over expenses</b>				
before undernoted items		613,591		124,805
<b>Other revenue (expenses)</b>				
Interest from trust accounts (Note 5)		93,728		186,733
Contribution to the Inspector General of Financial Institutions		(193,859)		(147,811)
<b>Excess of revenue over expenses</b>		<b>513,460</b>		<b>163,727</b>

# Statement of surplus (deficit)

year ended December 31, 1997

	1997	1996
	\$	\$
<b>Deficit, beginning of year</b>	<b>(290,120)</b>	(453,847)
<b>Excess of revenue over expenses</b>	<b>513,460</b>	163,727
<b>Surplus (deficit), end of year</b>	<b>223,340</b>	(290,120)

# Balance sheet

as at December 31, 1997

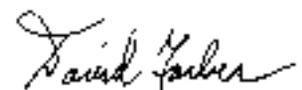
	1997	1996
	\$	\$
<b>Assets</b>		
Current assets		
Cash	315,613	2 215,075
Temporary investments	2 562,325	588
Accounts receivable	125,205	173,451
Supplies inventory	82,475	109,558
Prepaid expenses	34,235	34,186
	<b>3 119,853</b>	2 532,858
Fixed assets (note 4)	<b>336,286</b>	428,975
Deferred expenses	-	2,237
	<b>3 456,139</b>	2 964,070
<b>Liabilities</b>		
Current liabilities		
Accounts payable and accrued liabilities	803,707	867,117
Deferred revenue	2 274,273	2 157,940
	<b>3 077,980</b>	3 025,057
Deferred lease inducement	154,819	229,133
	<b>3 232,799</b>	3 254,190
<b>Surplus (deficit)</b>	<b>223,340</b>	(290,120)
	<b>3 456,139</b>	2 964,070

Approved by the Board:

Director



Director



# Notes to the financial statements

year ended December 31, 1997

## 1. Description of business

The Association is incorporated under the *Real Estate Brokerage Act* (Québec). It brings together all real estate brokerage practitioners to protect the public while fostering the development and harmonious practice of the profession.

## 2. Accounting policies

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

### *Inventory valuation*

The supplies inventory is valued at the lower of cost and net realizable value. Cost is determined by the average cost method.

### *Depreciation and amortization*

Fixed assets are depreciated and amortized over their estimated useful lives according to the straight-line method and the following annual rates:

Furniture and leasehold improvements	6 years
Office equipment	4 years
Telephone equipment	5 years
Computer equipment	3 years
Computer update	1 year

### *Deferred charges*

Deferred charges represent costs related to the preparation of teaching manuals. These costs are amortized on a straight-line basis over a two-year period from the date they are put on the market.

### *Deferred revenue*

Income from annual fees is charged to earnings on a monthly basis and distributed over the duration of certificates.

### *Deferred lease inducement*

Deferred lease inducement represents an amount of \$445,880 collected from the landlord as an inducement premium for rental of the premises. This income is amortized on a straight-line basis over the duration of the lease, which expires in June 2000. The amortization is applied against occupancy costs on the statement of revenue and expenses.

# Notes to the financial statements (cont'd)

year ended December 31, 1997

## 3. Occupation of premises

Occupation of premises expenditures include the following:

	1997	1996
	\$	\$
Rental and occupational costs	432,399	452,656
Amortization of leasehold improvements	51,134	55,031
Amortization of deferred lease inducement	(74,313)	(74,313)
Sub-leasing revenue	(36,676)	(29,035)
Refund of municipal taxes	-	(46,326)
	<b>372,544</b>	358,013

## 4. Fixed assets

	1997			1996
	Cost	Accumulated Depreciation	Net book value	Net book value
	\$	\$	\$	\$
Furniture	406,521	318,982	87,539	125,477
Office equipment	59,346	49,592	9,754	22,644
Telephone equipment	66,385	51,143	15,242	28,520
Computer equipment and updates	612,071	516,926	95,145	72,594
Leasehold improvements	327,815	199,209	128,606	179,740
	<b>1 472,138</b>	<b>1 135,852</b>	<b>336,286</b>	428,975



## Notes to the financial statements (cont'd)

year ended December 31, 1997

### 5. Fund for public information

A fund entitled "Fonds de financement de l'Association des courtiers et agents immobiliers du Québec pour l'information du public" was established by the Board of Directors of the Association in accordance with *the Real Estate Brokerage Act* (Québec). The fund consists of interest generated by the sums of money held in trust in conformity with the law. The fund shall be used primarily for the production and release of information relating to the rights of the public in the field of real estate brokerage and, subsidiarily, for professional inspection of the members of the Association and, if funds are sufficient, for discipline of those members.

Interest thus paid to the fund and fund-related expenses, which are included in the revenue and expenses of the Association, are as follows:

	1997	1996
	\$	\$
Earnings		
Interest on sums of money held in trust paid to the fund	<b>93,728</b>	186,733
Fund-related expenses		
Information relating to the rights of the public *	<b>284,677</b>	314,861
Professional inspection	<b>198,953</b>	273,415
Discipline	<b>255,455</b>	202,149
	<b>739,085</b>	790,425
<b>Balance of the fund</b>	-	-

\* Directly to the public \$110,477 in 1997, and \$143,113 in 1996.

### 6. Commitment

The Association has entered into a long-term lease agreement expiring in June 2000 which calls for lease payments of \$870,580 for the rental of premises, including premises the Association has since sublet to a third party. The minimum amounts payable over the forthcoming years are as follows:

**1998:** \$348,232 / **1999:** \$348,232 / **2000:** \$174,116

### 7. Statement of changes in financial position

A statement of changes in financial position has not been presented as it would not provide any additional meaningful information.

