

2010-2011
Annual Report

Department of
Justice and
Consumer Affairs

Public Trustee Branch

August 23, 2012

Hon. Marie-Claude Blais
Minister of Justice and Consumer Affairs
P. O. Box 6000
Fredericton, N. B.
E3B 5H1

Dear Mr. Minister:

In accordance with the provisions of Section 20 of the *Public Trustee Act*, I have the pleasure to submit for your consideration the Annual Report of the Public Trustee for the fiscal year ending March 31st, 2011.

Respectfully submitted,

Chantal Landry
Public Trustee

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About the Public Trustee Branch

The Public Trustee Branch is part of the Justice Services Division of the Department of Justice and Consumer Affairs. The mandate of the Office is to protect the interests of vulnerable citizens of New Brunswick by providing professional, efficient, and cost-effective Trustee and Guardianship services when there is no one else willing or able to act on their behalf.

The Public Trustee is appointed, by the Lieutenant-Governor in Council, pursuant to section 15 of the *Civil Service Act* and Section 2 of the *Public Trustee Act*.

The Public Trustee provides services to the people of New Brunswick in accordance with the *Public Trustee Act*, which received Royal Assent on June 30, 2005. The Act was proclaimed in stages. On June 1, 2008, the sections empowering the Public Trustee to deal with individuals' financial and property affairs came into force. The General Regulation on fees also came into effect on that date. On May 1, 2009, the remaining sections of the *Public Trustee Act* were proclaimed allowing the Public Trustee to manage personal care of those vulnerable people that previously had no one to make decisions on their behalf.

The Public Trustee operates under the *Public Trustee Act* and other statutes which establish specific roles for the Public Trustee. As of April 1, 2009, these statutes include: the *Mental Health Act*; the *Probate Court Act*; the *Presumption of Death Act*; the *Family Services Act*; the *Property Act* and the *Infirm Persons Act*.

The *Public Trustee Act* requires that the Auditor General audit the financial management of the Trust annually.

Contact information

Public Trustee Office
412, Queen Street, Suite 210
P.O. Box 400
Fredericton, NB E3B 4Z9

Telephone: (506) 444-3688
Toll Free: 1 (888) 336-8383
Fax: (506) 444-3500

Email: public.trustee@gnb.ca
Website: www.gnb.ca/justice

Branch Strategy

Referrals to the program are made using the Initial Inquiry Form, which can be accessed by visiting the Public Trustee website or can be provided to anyone who contacts the office. The Public Trustee assesses each Initial Inquiry and determines if the individual falls within the scope of the program. The individual making the referral is advised in writing of the decision taken by the Public Trustee.

Services offered

The Public Trustee can act on behalf of an individual in one or more of the following capacities:

- As a Power of Attorney
- As the Executor or an Administrator of an estate
- As a Litigation Guardian, representing the legal interest of an individual who is a minor child or an adult incapable of making decisions on his/her behalf
- As a decision maker for an individual institutionalized under the *Mental Health Act*
- As a decision maker for an absent individual, as directed in the *Presumption of Death Act*
- As a decision maker for an individual declared under the *Infirm Persons Act* to be incompetent to manage his/her personal and financial affairs

Investment Strategy

The central mandate of the investment policy within the office of the Public Trustee is the preservation of wealth of clients and trusts that are served by the Public Trustee Branch. Consequently, the Public Trustee employs a conservative investment management orientation. All trust property is invested in a manner that reflects a prudent investor standard and the high duty of care required to fulfill the responsibilities of the Public Trustee.

The Public Trustee's long term objectives as a prudent investor are threefold:

- a) to minimize any risk of capital loss;
- b) where possible, to provide income sufficient to meet the individual client's or trust's ongoing needs, and
- c) for clients or trusts with long term investment horizons, the potential for conservative capital appreciation over time.

Investment Structure

The Public Trustee Branch has delegated primary responsibility for the investment of client and trust assets to the Treasury Division of the Department of Finance in the Government of New Brunswick. The Public Trustee Branch has entered into this partnership with the Treasury Division to secure the most efficient and cost effective investment management services possible for its clients and trusts.

Clients' cash assets will be allocated into one of three investment options, including:

Public Trustee Branch Bank Account

Operated through the Royal Bank of Canada, this trust account is managed by the Public Trustee Branch. The account is used to maintain a sufficient cash balance to meet clients' short term needs for a period up to 12 months. Interest earned, by each individual client, from this Bank Account is based upon the client's proportional share of the accounts total assets.

Money Market Fund

This fund is managed by the Treasury Division of the Department of Finance. The objective of this fund is to provide ongoing investment income while maintaining liquidity and preservation of capital. The fund is comprised of a portfolio of Government of Canada and Provincial treasury bills.

Bond Fund

This fund is managed by the Treasury Division of the Department of Finance. The objective of this fund is to provide ongoing investment income while obtaining enhanced long-term returns, maintaining liquidity and preservation of capital. The fund is comprised of a portfolio of Government of Canada and Provincial bonds and provincial treasury bills.

Interest earned from the Money Market and Bond Fund is calculated and paid monthly based upon the client's proportional share of each funds' total assets.

Communication Strategy

Community awareness of the Office of the Public Trustee remains an issue because the program is relatively new. One of the ways the Public Trustee is attempting to overcome this challenge is by speaking to complimentary service providers and potential referral sources regarding the services provided by the Public Trustee Branch.

Five professional and community groups were given presentations, in various locations throughout the province during the 2010/2011 fiscal year.

Presentations during the 2010/2011 fiscal year

Place of presentation	Date	# in attendance	Attendees
Dr. Everett Chalmers Hospital – Fredericton	May 12, 2011	12	Physicians, Doctor of Ethics, Executive Directors, Administrative Directors, Vice President of Clinical Services
Dr. Everett Chalmers Hospital – Health & Aging - Fredericton	May 20, 2011	12	Clinical Administrative Directors of the Health and Aging Program of various zones (SJ, Moncton, Miramichi and Fredericton); Director of Nursing Professional Practice of Fredericton and several geriatricians.
Southampton House	May 25, 2011	7	Board members (5) and Social Workers (2)
New Brunswick Association for Community Living	May 25, 2011	11	10 members from Parent's Union Network and one NBACL worker
Excellent in Aging Care Symposium	September 28, 2011		

Website

The Office of the Public Trustee maintains a website, accessed from the Justice and Consumer Affairs site on the provincial government of New Brunswick public website. This website defines the mandate, outlines the services offered, and answers frequently asked questions (FAQs). The Initial Inquiry form can be located on the site. In addition, this website is used to attempt to locate the heirs of deceased clients where the details known about family are thought to be inadequate.

Future Plans

The Public Trustee is working to expand the number of clients served by the program.

The Public Trustee is working to identify recommended legislative change, including the *Public Trustee Act* and the *Family Services Act* in an effort to facilitate improved client service.

The Public Trustee is developing performance measures to assist the Public Trustee in determining success in carrying out its obligations.

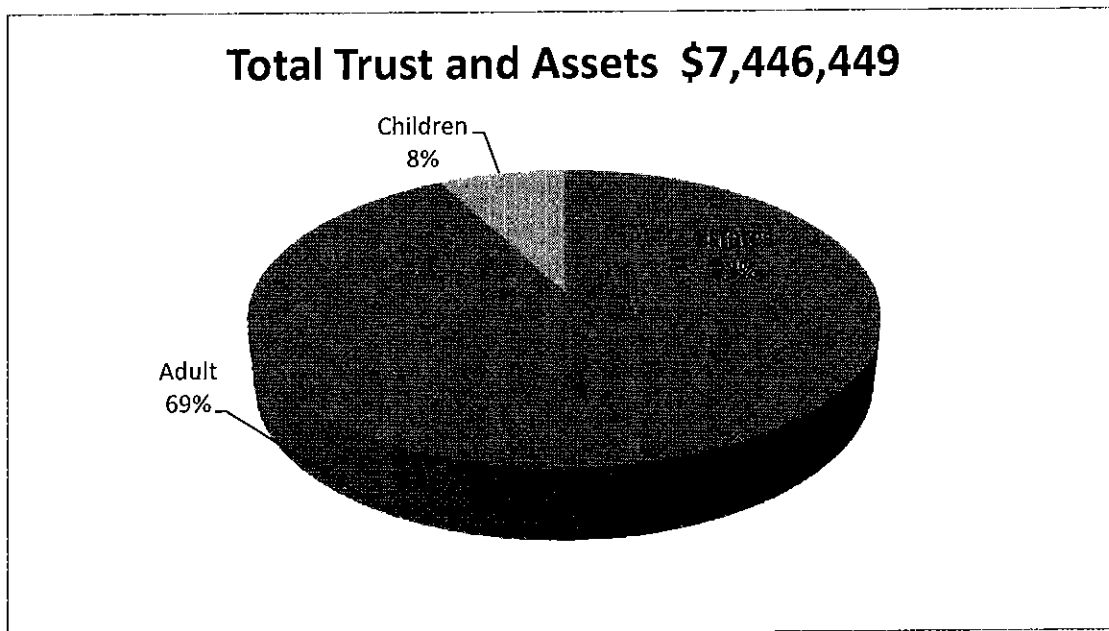
The Public Trustee is developing comparative data measures to monitor clients' growth and other related issues.

The Public Trustee is continuing to work in collaboration with the IM&T Division to improve the Public Trustee Branch's software.

The Public Trustee is continuing to work to strengthen relationships with professional groups and community organizations.

Service Report

The Public Trustee Branch operates with a high level of accounting, legal and professional expertise, which is necessary for the management of estates and trusts. At year end, the Public Trustee was accountable for 295 clients. The total value of trusts and assets administered by the Public Trustee at the end of fiscal year 2010-2011 was \$7,446,449.



The Public Trustee supports 3 main client groups (adults, children and the estates of individuals deceased). Branch staff recognizes the need to identify and respond to the unique needs of every individual client. A care plan is established as part of the intake process and is reviewed annually to ensure client needs continue to be met.

March 31, 2011			March 31, 2010		
	Client Numbers	Value of Trusts and Assets \$		Client Numbers	Value of Trusts and Assets \$
Deceased Estates	84	1,699,047	Deceased Estates	95	395,337
Children's Trust	24	568,311	Children's Trust	26	600,227
Adult Clients	118	5,179,091	Adult Clients	107	3,243,764
Awaiting authority to act	69	0	Awaiting authority to act	49	0
Totals	295	7,446,449	Totals	277	4,239,328

Fees

The fees charged are defined by the General Regulation as provided for under the *Public Trustee Act*. Each client's ability to pay the fees is individually assessed.

In the 2010-2011 fiscal year, the fees collected from clients for services provided were \$156,023.

Not all clients are expected to have the means pay the accumulated Public Trustee fees in full. An analysis of each client's financial situation is undertaken as soon as the Public Trustee has authority to act. As part of this analysis, a determination is made regarding the percentage of fees, if any, that can be collected from the individual. The determination is reassessed periodically to establish if the individual's financial situation has changed.

Organizational Profile

The Public Trustee Office has a legal team, a financial team and a guardianship team. The teams work together to provide the best service possible to the client.

Legal Team:

The legal team is instrumental in obtaining the proper authority for the Public Trustee to act on behalf of clients. They also work with the Financial and Guardianship teams to identify active clients in need of legal representation and take the necessary action on behalf of those clients, to facilitate the sale of real property or to issue a complaint on behalf of an individual client, or upon discovery of financial abuse.

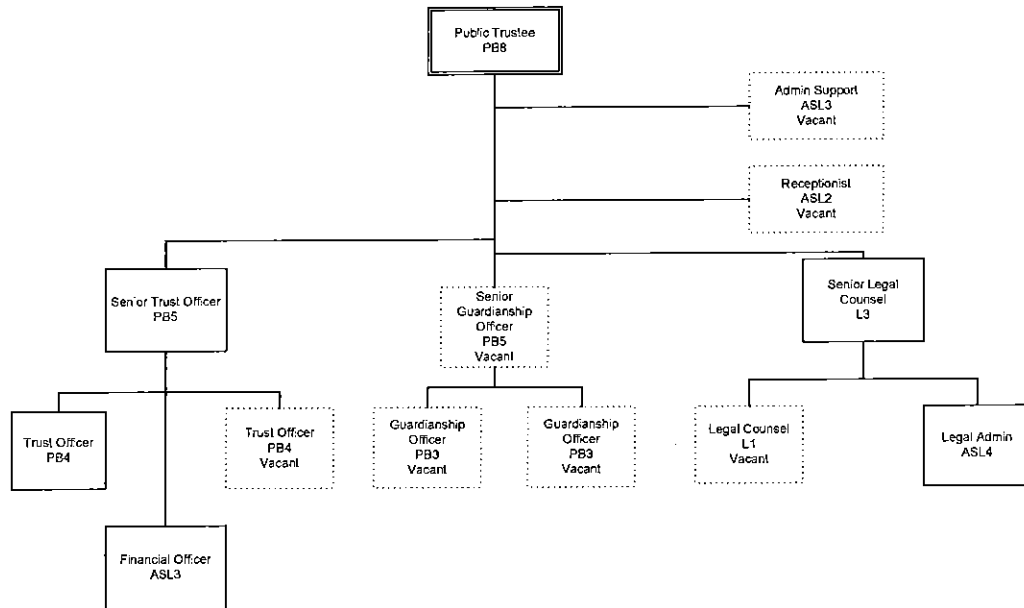
Financial Team:

The financial team is responsible to provide financial management for all clients, estates and trusts; to ensure all client property is inspected and secured; to liaise with family members, real estate agents and so on; to pay all clients' ongoing expenses from the clients' trust; to ensure clients receive all benefits they are entitled to. The Financial team works with the Guardianship and Legal teams to make financial provision for personal care or comfort items that may improve the quality of life of an individual client.

Guardianship Team:

The guardianship team provides personal and health care oversight, making decisions about the day to day care of clients. The Guardianship team work with other government departments and care facilities create and review client care plans and then works with the Financial and Legal teams to facilitate the best care possible for each client.

Organizational Chart



Note: One of the Guardianship Officer (PB3) positions and the Receptionist (ASL2) position are to be eliminated effective April 1, 2011

Financial Report

The financial statements on the following pages provide an account of the financial activities of the Public Trustee of New Brunswick for the fiscal year ending March 31st, 2011.



AUDITOR GENERAL OF NEW BRUNSWICK

INDEPENDENT AUDITOR'S REPORT

To the Minister of Justice
And the Public Trustee

I have audited the accompanying financial statements of the trusts administered by the Public Trustee, which comprise the statement of financial position as at March 31, 2011, the statement of operations and changes in net assets for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian generally accepted accounting principles, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

Basis for Qualified Opinion

In common with many trust funds, it is not possible to verify by audit procedure that all the assets of any given trust or income earned on trust assets came under the administration of or were recorded by the Public Trustee. Accordingly, my verification of trust assets was limited to the amounts recorded in the records of the Public Trustee. Therefore I was not able to determine whether any adjustments might be necessary to revenues, excess of revenues over expenses, assets and net assets.

Qualified Opinion

In my opinion, except for the possible effects of the matter described in the Basis for Qualified Opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the trusts administered by the Public Trustee as at March 31, 2011, and the results of its operations and changes in its net assets for the year then ended in accordance with Canadian generally accepted accounting principles.

Janice Leahy, CA
Deputy Auditor General

Fredericton, N.B.
June 27, 2012

Justice and Consumer Affairs

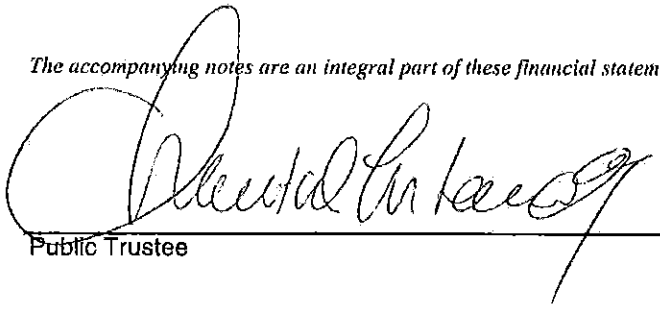
Public Trustee Branch

Financial Statements for Trusts Administered
As of March 31, 2011

**Public Trustee
Province of New Brunswick
Trusts Administered
Statement of Financial Position
As at March 31, 2011**

	2011 \$	2010 \$
Assets		
Current Assets:		
PT Bank Account (note 4)	3,554,469	2,894,982
Other Investments (note 7)	3,656,492	1,500,602
Real Property (note 2(d))	544,050	398,200
Prepaid Funeral	73,110	
Interest Receivable	3,376	715
Other Assets (note 2(e))	1	1
	<u>7,831,498</u>	<u>4,794,500</u>
Liabilities		
Accounts Payable	83,659	430,771
Client Debt	301,390	124,401
	<u>385,049</u>	<u>555,172</u>
Net Assets Held in Trust	<u>7,446,449</u>	<u>4,239,328</u>
	<u>7,831,498</u>	<u>4,794,500</u>

The accompanying notes are an integral part of these financial statements


Public Trustee

**Public Trustee
Province of New Brunswick
Trusts Administered
Statement of Operations and Change in Net Assets
For the Year Ended March 31, 2011**

	2011 \$	2010 \$
Revenues		
Pensions, benefits and settlements	1,716,390	996,686
Assets acquired upon appointment	3,580,975	1,086,921
Business income	500	5,498
Real property	112,497	577,450
Interest and dividend income	5,640	61,460
Other	8,565	18,737
	<u>5,424,567</u>	<u>2,746,752</u>
Expenses		
Cash distributions paid to clients and beneficiaries	(517,986)	(128,802)
Assets released to clients and beneficiaries	(62,250)	-
Amounts paid for client care and maintenance (note 8)	(1,273,034)	(758,920)
Client business expenses	-	(350)
Client asset maintenance	(94,354)	(52,218)
Management Fees (note 6)	(156,023)	(73,478)
Professional services paid (note 9)	(105,235)	(133,280)
Taxes paid on behalf of clients	(74,592)	(18,166)
Other	-	(966)
	<u>(2,283,474)</u>	<u>(1,166,180)</u>
Excess of revenues over expenses before realized and unrealized gains/losses	3,141,093	1,580,572
Realized gain or loss	19,728	(1,013)
Unrealized gain	46,300	40,136
	<u>66,028</u>	<u>39,123</u>
Excess of revenues over expenses	3,207,121	1,619,695
Net assets held in trust - beginning of the year	4,239,328	2,619,633
Net assets held in trust - end of the year	<u>7,446,449</u>	<u>4,239,328</u>

The accompanying notes are an integral part of these financial statements

**Public Trustee Branch
Province of New Brunswick
Trusts Administered
Notes to Financial Statements
For the Year Ended March 31, 2011**

1- Reporting Entity

The Public Trustee ("PT") operates under the *Public Trustee Act* and other provincial statutes to protect the legal and financial interests of persons incapable of managing their own affairs; to administer the estates of deceased and missing persons and to protect the legal interests of incompetent persons.

These statements reflect the financial position and activity for the trusts administered by the PT.

2- Summary of Significant Accounting Policies

a) Basis of Accounting

Management has prepared these financial statements in accordance with Canadian generally accepted accounting principles.

b) Revenue Recognition

On initial recognition, assets and liabilities are recorded at fair value on the effective date the PT commences administration of the asset or liability, which is the date of death for estate administration, the date of PT appointment for trust administration or the date that the estate or trust assumed beneficial ownership for assets and liabilities acquired after PT appointment.

Investment income is recognized as earned. Pensions, benefits and settlements are recorded as they become known to the PT.

c) Financial Instruments

The PT is required to designate its financial instruments into the following five categories: (i) held for trading, (ii) held-to-maturity, (iii) loans and receivables or (iv) other financial liabilities. Financial instruments classified as held-for-trading are subsequently measured at fair value and any change between the fair value and cost of investments at the beginning and end of each year is reflected in the statement of operations. All other financial instruments are measured at amortized cost using the effective interest method.

Cash, and other investments are classified as held-for-trading and are reported at fair market value, which is determined according to published prices in the active market, or appraisal values, where applicable. Other receivables and client

debt are classified as loans and receivables, which are reported at amortized cost. Accounts payable and accrued liabilities are classified as other financial liabilities which are carried at amortized cost.

Purchases and sales of these financial instruments are recognized at the settlement date.

d) Real Property

Real property is initially recorded at fair market value as determined by professional appraisals or the Service New Brunswick property assessment in cases where appraisals are not available. In subsequent years, real property is valued at the lower of its initial recorded amount or its fair market value.

e) Other assets

Other assets which include jewellery, collectibles, vehicles, and other tangible assets are recorded for these financial statements at an aggregate nominal value of \$1, as valuation of these assets is not readily determinable.

f) Use of Estimates

The preparation of financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect reported amounts of assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reported period. Actual results could differ from management's best estimates, as additional information becomes available in the future. Significant estimates in these statements relate to the completeness of client debt.

g) For fiscal years beginning on or after January 1, 2011, government organizations are required to determine which accounting framework to adopt for financial statement reporting purposes based on guidance provided by the Canadian Institute of Chartered Accountants (CICA). The PT has not determined which accounting standards it will follow, however management is currently reviewing options for future adoption. Although the full scope of the changes has not been determined by the PT, it is anticipated that adoption of new accounting standards will result in changes to the presentation of these financial statements.

3- Financial Risk Management

As a Trustee, the PT is responsible for managing the assets owned by each client under its authority. The PT must exercise the care, skill, diligence and judgment of a prudent investor for its clients.

Under Section 11 of the *Public Trustee Act*, the PT is permitted to create common funds within the trust fund account. The PT has established three

common funds called the PT bank account; the money market fund; and the bond fund. The PT bank account is a business bank account and is used for day to day receipts and disbursements of all clients. The money market fund and the bond fund hold investments which are appropriate for clients with longer term investment horizons.

Under Section 12 of the *Public Trustee Act*, the PT is permitted to make separate investments for clients if the money is subject to an express trust or direction for investment or if it is, for any other reason, in the best interests of the client to do so. Other investments and securities include separate investment portfolios and registered plans, which are established or maintained for clients according to their investment profile. The three common funds are managed by the Treasury Branch within the Department of Finance of the Government of New Brunswick. Other investments are managed by private investment management firms.

Price risk, currency risk, interest rate risk and credit risk exposure is mitigated through the liquidation of investments held as other investments and the transfer of the proceeds to the PT bank account or in some years the PT bond fund or the PT money market fund. Other investments are subject to these risks until the transfer is made. Sale and transfers are made as soon as is prudently possible. In some cases this may take several years to complete.

Liquidity risk is the risk that a client account is unable to meet its financial obligations as they come due. OPT minimizes this risk by ensuring that client accounts hold sufficient cash funds to meet current liabilities and expenses.

4- PT Bank Account

Operated through the Royal Bank of Canada, this trust account is managed by the PT. The account is used to maintain a sufficient cash balance to meet clients' short term needs for a period up to 12 months.

Interest earned from the PT bank account is allocated based upon the client's proportional share of the account's total assets.

5- Money Market Fund

The objective of this investment strategy is to provide ongoing investment income while maintaining liquidity and preservation of capital. Investments will focus on the purchase of Government of Canada and Provincial Treasury Bills and Canadian Federal or Provincial Bonds, all with a maturity date of less than one year.

Interest earned from the PT money market fund is allocated based upon the client's proportional share of the account's total assets.

New term investments were not purchased during the year as the rate of return on the PT bank account was higher than the expected rate of return on term investments.

6- Management Fees paid to the Office of the Public Trustee

Fees are paid to the PT for services provided by the Public Trustee in accordance with the *Public Trustee Fees Regulation* as provided for under the *Public Trustee Act*.

7- Other Investments

	2011	2010
	\$	\$
Investment accounts	2,874,738	1,303,963
Registered plans	200,131	59,839
Bank accounts	<u>581,623</u>	<u>136,800</u>
	3,656,492	1,500,602

Other investments are the financial assets of recently appointed clients. Due to numerous and individual client investments, it is impractical to reflect the aggregate rate of return on these investments.

8. Payments for Client Care and Maintenance

Client care and maintenance costs represent goods and services purchased for clients and for personal living expenses, including payments to care facilities.

9. Professional Services

Professional services are payments on behalf of clients for services such as accounting; legal; investment management; custodial; funeral; and property management.

10. Statement of Cash Flows

A statement of cash flows has not been prepared as the required information is readily apparent from the other financial statements.