



The Law
Society
OF TASMANIA

ANNUAL REPORT

2004 – 2005

**To be Presented at the
Annual General Meeting
of the
Law Society of Tasmania
on
Friday 14 October 2005 at 4.00 pm**

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A E Nicholson

Notes:

1. The President is an *ex officio* member of all Law Society Committees.
2. The Legal Ombudsman is entitled to attend those parts of Council and Investigations Committee meetings dealing with conduct complaints arising under Part X of the Legal Profession Act 1993.

The Society's Nominees on Other Bodies

Board of Legal Education

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A B Walker

Road Safety Consultative Committee

W M Griffiths

Law Council of Australia Access to Justice Committee

M B Bartlett
S J N Brown

Legal Aid Commission

M B Bartlett
S J N Brown
M Brett

Council of Law Reporting

M J Crisp

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M L Bessell
C N Dockray
R W Pearce
K A M Pitt QC [Chairman]
M J Temple-Smith
J R Upcher
C P Webster

Centre for Legal Studies Ltd

P A Dixon [Chairman]

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AC RFD ED
The Hon Justice E Crawford
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Professor K Warner
Martyn Hagan [Secretary]

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M Otlowski
K M McQueeney
T G Bugg
Martyn Hagan

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Vice-President, Law Society of Tasmania
Chairman, Solicitors' Trust
President, Tasmanian Bar Association
Nominee, Attorney-General
Nominee, Attorney-General
Nominee, Law Society of Tasmania
Secretary

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Association of Tasmania**

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C R Higgins [Vice-President]
P J Ashworth [Secretary]
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A E Cowarn,
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J F Matthews
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Solicitors’ Trust

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P Kuzis

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of Tasmania**

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B Linacre [Medical Vice-Pres]
K L Baumeler [Legal Vice-Pres]
G L Johnston [Treasurer]
B Linacre [Medical Secretary]
M Otlowski [Legal Secretary]

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R W L Turner
J Isles
R Pargiter

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C P Webster
M A Ryan

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A E Barrenger [Vice-Pres S]
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C E Trueman [Treasurer]
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L E Connelly
F G Di Giovanni
T M Eaton
P Fitzgerald
M G Foster
C J Gregg
P M Mason

**PRESIDENT'S REPORT TO THE ANNUAL GENERAL MEETING OF THE
LAW SOCIETY OF TASMANIA 2005**

At the time I commenced my term as President of the Society, debate with the Attorney-General over the Legal Profession Amendment Bill had culminated in the Upper House rejecting the Bill in the form passed by the Lower House. That resulted in the Attorney-General withdrawing the Bill.

You will recall that the sticking points were the issue of practising certificates and in particular which entity would issue them, the power to make rules as well as the power to conduct trust account inspections. The Society took the view that those functions should remain with it to help safeguard the independence of the legal profession from the executive branch of government. The Attorney-General in particular took the view that a new Legal Profession Board, to be set up by the amended legislation, should be the entity issuing practising certificates. Agreement was reached however to the extent that the Society would retain the rule making power and the power to conduct trust account inspections.

By the end of the Parliamentary debate, a sufficient number of Upper House members had accepted the Society's position as the correct one. Notwithstanding that outcome, the Society has always been committed to continuing to working with the Attorney-General and her Department in bringing about necessary reforms of the Legal Profession. That dialogue is continuing and, despite the fact that the Legal Profession Amendment Bill has been withdrawn, work is now being undertaken on the preparation of draft legislation which will bring into effect the model laws as agreed by the Standing Committee of Attorneys-General. I remain optimistic that that legislation can be successfully brought into effect on the basis of a compromise between the position adopted by the Society and that adopted by the Attorney-General with regard to the core issues of practising certificates.

During my term as President the Society has been heavily involved in opposition to much of the Family Violence legislation. Ultimately however that legislation was passed by both Houses of Parliament and came into effect on 30 March 2005. Experience since the commencement of that legislation has been mixed, to say the least. In particular the present Chief Justice criticised the bail provisions of the legislation as well as apparent policies that had been formulated with respect to the availability of safety audit assessments to people charged with family violence offences when making bail applications. In His Honour's view the policy that denied those people access to that information was a denial of natural justice. Despite those comments and representations by me, the Attorney-General has confirmed she does not intend to conduct a review of the legislation at present on the basis that it has not been operating for a sufficient time to properly assess its practical effect.

I maintain the view that aspects of the legislation purport to reverse the onus of proof that exists in criminal matters and that it is therefore unjust. I also agree that the policy in relation to the safety audit material is a denial of natural justice. It is my fervent hope that the unfairness in this system will become more and more apparent prompting a review and amendment of the legislation.

I am happy to report that during my term the Society negotiated a three year extension to the contract of its current Executive Director Martyn Hagan. The enthusiasm and efficiency which Martyn and his staff bring to the Society's operations are a great benefit. Martyn is continuing to lift the profile of the Society and ensuring that it plays its proper role in so many issues where it is a stakeholder.

Largely due to the initiative shown by Martyn, the Society has now almost completed the task of renovating the first and second floors of 28 Murray Street. Those of you who had seen those premises before renovations commenced would have seen the sorry state that they were in and would have appreciated the necessity for something to be done. I am also happy to report the Society has successfully negotiated a lease with a number of barristers who will operate their new Chambers from the premises. It is particularly good to see the Society providing much needed premises for members of our profession.

In July of this year the Council of the Law Society held a retreat at St Helens in order to discuss future roles for the Society. Whilst the mechanics are still to be worked out at Council level, an important result was the agreement to provide a support service for practitioners in receipt of conduct complaints. The service will take the form of the Society funding the cost of independent legal advice to the practitioner in formulating a response to a complaint to ensure that all aspects of the complaint are comprehensively dealt with and the practitioner has the benefit of advice from experienced counsel. Obviously the role cannot go beyond that stage of a complaint. Should it be resolved that the practitioner is to be prosecuted in relation to the matter of complaint then it will be for the practitioner to then obtain his or her own legal advice.

My term as President has been hectic but it seems to have ended almost as soon as it began. It has indeed been an honour for me to lead the Society for the past 12 months and I thank you for that opportunity. I wish the incoming President all the best in that role

Daniel Zeeman
President

**TREASURER'S REPORT TO THE ANNUAL GENERAL MEETING OF
THE LAW SOCIETY OF TASMANIA 2005**

It will be seen from the attached figures that the Society has this year again effectively made what is a modest profit.

The Society continues to attend to disciplinary matters despite its oft stated wish that it be relieved from that duty; apart from anything else disciplinary matters make budgeting for the Society very difficult because of the numerous uncertainties, incapable by definition of being forecast!

The Society has been accused by the Attorney of surviving only by living off its capital.

Perhaps the Attorney was pleased not to expect that the Society would manage to continue to perform its statutory duties in view of the fact that it has now not for more than five years received any income from an excess in the Solicitor's Trust.

Perhaps however the Attorney had overlooked in that regard the fact that that exigency was brought about by the actions of a very small percentage of the legal profession in this State and that it is hardly cause to appear irritated by the profession at large.

In addition, the Attorney may have noticed that the Society has continued to balance its books without any increase in the cost of a Practising Certificate since 2000 despite an effective increase in operational costs generally since then, recorded by the ABS at about 25%.

The Society has coped partly by continued belt tightening but also from the large expenditure of time donated to the Society by numerous members of the profession. Those persons continue to give selflessly for the advantage of the administration of justice in this State and to maintain the provision of the moderating voice of an experienced and elected professional body.

The result has been that the efforts of the profession over the last 12 months have maintained the provision by the Society of its public benefit tasks, this result having been achieved without increasing those fees which may impact upon the cost of the provision of legal services.

I commend to you the audited accounts attached to this report. I ask however that practitioners concern themselves not so much in respect of the prospect of some limited external control of the profession whether of the frame work suggested by the Society or not, but in the significant increase in the costs of practice which may be brought about unless reform is painstakingly considered in respect of all of its ramifications.

W M Griffiths
Hon. Treasurer

The Tasmanian Legal Profession

As at 19 August 2005

Firms

Principal Practitioners	Interstate	South	North	North West	Total
12	0	1	0	0	1
11	0	1	0	0	1
10	0	2	0	0	1
9	0	0	0	0	0
8	0	1	0	0	1
7	0	1	0	0	1
6	0	0	0	0	0
5	0	1	3	0	4
4	0	0	1	1	2
3	0	3	2	2	7
2	0	13	4	5	22
1	1	53	12	18	83
Total	1	76	22	26	125

Legal Practitioners in Private Practice

Partners in firms*		98	33	20	151
Sole Practitioners	1	53	12	18	83
Employed Practitioners		152	38	26	216
Community Legal Services		12	2	1	15
Independent Barristers*		24	5		29
Total		339	90	65	494

* Includes 9 Queen's Counsel and Senior Counsel

Associate Members of the Law Society of Tasmania

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**THE LAW SOCIETY OF TASMANIA
STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2005**

	Note	2005 \$	2004 \$
CURRENT ASSETS			
Cash	2	140,932	98,940
Investments	3	1,632,144	1,654,164
Receivables	4	216,141	245,428
		1,989,217	1,998,532
TOTAL CURRENT ASSETS			

NON-CURRENT ASSETS			
Property, Furniture and Equipment	5	1,246,438	1,188,010
		1,246,438	1,188,010
TOTAL NON-CURRENT ASSETS			

TOTAL ASSETS		3,235,655	3,186,542

CURRENT LIABILITIES			
Accounts Payable	6	381,381	376,837
Provisions	7	248,063	209,546
		629,444	586,383
TOTAL LIABILITES			

NET ASSETS		2,606,211	2,600,159

SOCIETY'S FUNDS			
Reserves	8	43,843	43,843
Accumulated Funds		2,562,368	2,556,316
		2,606,211	2,600,159

The accompanying notes form part of this Financial Report

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2005**

	Note	2005 \$	2004 \$
Revenue from Ordinary Activities		2,540,296	2,601,818
Other Revenue	5(c)	-	213,000
Depreciation Expense		(25,821)	(24,584)
Salaries and Employee Benefits		(281,622)	(227,599)
Other Expenses from Ordinary Activities		(2,226,801)	(2,324,314)
PROFIT FROM ORDINARY ACTIVITIES		6,052	238,321

The accompanying notes form part of this Financial Report

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF INCOME
FOR THE YEAR ENDED 30 JUNE 2005**

	2005	2004
	\$	\$
INCOME		
Administration Fees – Solicitors’ Trust	13,955	9,668
Administration Fees - Other	1,350	-
Advertising	1,115	-
Brochure Distribution	965	2,000
Capitation Fees	36,072	36,148
Certificate of Fitness	2,795	2,317
Continuing Legal Education	27,879	25,398
Disciplinary Action – Costs Recovered	26,312	94,376
Hire of Council Room and Staffordshire House	2,290	1,110
Interest Received	112,687	116,283
Membership Benefits	4,548	12,370
Practising Certificate Fees	389,002	381,957
Professional Indemnity Insurance Premiums and Fees	1,873,142	1,871,660
Revaluation Land & Buildings	-	213,000
Sales – Forms	2,948	4,873
Sponsorship	37,000	35,000
Subscriptions	7,237	7,656
Sundry Income	999	1,002
	-----	-----
TOTAL INCOME	2,540,296	2,814,818
	-----	-----

The accompanying notes form part of this Financial Report

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF EXPENDITURE
FOR THE YEAR ENDED 30 JUNE 2005**

	2005	2004
	\$	\$
EXPENDITURE		
Advertising and Public Relations	1,121	1,113
Audit and Accounting Fees	11,285	12,808
Bad Debts	19,008	1,662
Bank and Merchant Charges	2,189	1,786
Capitation Fees Law Council	36,737	34,518
Computer Supplies and Services	7,391	5,974
Consulting Fees	23,705	61,945
Contribution Professional Legal Training Program	-	1,000
Depreciation - Equipment	11,696	10,584
Depreciation – Buildings	14,125	14,000
Honoraria	46,550	41,130
Insurance	10,828	14,730
Lease Payments - Photocopier	5,427	5,099
Light and Power	10,559	6,832
Meetings, Functions, Travel and Accommodation	45,293	29,114
Membership Benefits	2,880	11,313
Printing, Postage and Stationery	11,821	12,632
Professional Development	9,940	35,144
Professional Fees - Disciplinary Actions	128,877	196,238
Professional Indemnity Insurance Paid – Firms	1,760,176	1,762,700
Professional Indemnity Insurance – Society	17,275	16,807
Publications – Legal Forms and Handbooks	1,945	2,752
Rates and Taxes	23,950	22,391
Repairs, Maintenance and Cleaning	14,182	15,977
Salaries	253,475	199,571
Security and Fire Alarms	6,201	7,243
Subscriptions	804	1,847
Sundry Expenses	4,225	3,102
Superannuation	28,147	28,028
Telephone and Web Site Expenses	24,432	18,457
	-----	-----
TOTAL EXPENDITURE	2,534,244	2,576,497
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The accompanying notes form part of this Financial Report

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2005**

	Notes	2005 \$	2004 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts from Members, Clients and Others		2,456,643	2,409,176
Payments to Suppliers, Employees and Others		(2,462,920)	(3,517,138)
Interest Received – Net		110,498	114,497
		-----	-----
NET CASH INFLOW FROM OPERATING ACTIVITIES	9	104,221	(993,465)
		-----	-----
CASH FLOW FROM INVESTING ACTIVITIES			
Payments for Property, Plant and Equipment		(84,249)	(56,435)
Purchase of Term Deposits		22,020	(24,935)
		-----	-----
NET CASH OUTFLOW FROM INVESTING ACTIVITIES		(62,229)	(81,370)
		-----	-----
Net Increase/(Decrease) in Cash Held		41,992	(1,074,835)
Cash at Beginning of the Financial Year		98,940	1,173,775
		-----	-----
CASH AT THE END OF THE FINANCIAL YEAR	9	140,932	98,940
		-----	-----

The accompanying notes form part of this Financial Report

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2005**

NOTE 1: STATEMENT OF ACCOUNTING POLICIES

- (a) This financial report is a special purpose report which has been prepared specifically for distribution to members in accordance with the Law Society By-Laws 1994 made under the Legal Profession Act 1993. The Council has determined that the Society is not a reporting entity.

The Financial report has been prepared in accordance with the following Australian Accounting Standards:

AAS4	Depreciation
AAS5	Materiality
AAS8	Events Occurring After Reporting Date
AAS21	Acquisition of Assets

No other applicable Accounting Standards, Urgent Issues Group Consensus Views or other authoritative pronouncements of the Australian Accounting Standards Board have been applied.

The financial report is prepared on an accrual basis from the records of the Society. It is based on historical costs and does not take into account changing money values or, except where specifically stated, current values of non-current assets.

The following specific policies that are consistent with prior periods unless stated otherwise have been applied in the preparation of this financial report.

(b) Property, Furniture and Equipment

Property

Properties are included at valuation less provision for depreciation (excluding land content). Valuations have been determined from independent advice. These revaluations take no account of potential capital gains tax. Net revaluation increments, which arise, are transferred to the asset revaluation reserve, apart from those reversing previous decrements, which were charged against operating profit. Net revaluation decrements apart from those reversing previous increments are charged against operating profit.

Furniture and Equipment

Furniture and equipment is included at cost. Assets are depreciated over their estimated useful lives commencing from the time the asset is ready for use.

(c) Comparative Figures

When required by accounting standards, comparative figures have been adjusted to conform to changes in presentation for the current financial year.

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2005**

d) Impact of Adopting Australian Equivalents to IFRS

The Law Society is in the process of transitioning its accounting policies and financial reporting from current Australian Accounting Standards (AGAAP) to Australian equivalents of International Financial Reporting Standards (AIFRS) which will be applicable for the year ended 30 June 2006. In 2005, Management has considered the key areas in which the entity would be impacted by the transition to AIFRS.

Management have determined that there are no material changes expected on adoption of AIFRS as at the date of transition and 30 June 2005 and on net profit for the year then ended. The assessment is based on Management's best estimate of the quantitative impact of the changes as at the date of preparing the 30 June 2005 financial report.

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2005**

	2005	2004
	\$	\$
NOTE 2: CASH		
The cash assets held by the Society are as follows :		
At Banks	140,641	98,649
On Hand	291	291
	-----	-----
	140,932	98,940
	-----	-----

NOTE 3: INVESTMENTS

Perpetual Trustees –Members Professional Development Fund	1,331,742	1,323,463
Perpetual Trustees – Society Funds	300,402	330,701
	-----	-----
	1,632,144	1,654,164
	-----	-----

NOTE 4: RECEIVABLES

Amounts due to the Society are as follows:

Trade Debtors	37,026	83,693
Other Debtors	167,207	152,915
GST Refund	7,306	-
Wine – Membership Benefits	4,602	8,820
	-----	-----
	216,141	245,428
	-----	-----

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2005**

	2005	2004
	\$	\$
NOTE 5: PROPERTY, FURNITURE and EQUIPMENT		
(a) Land and Buildings		
Land – At Fair Value	550,000	550,000
Buildings – At Fair Value	645,328	565,000
Less: Accumulated Depreciation	(14,125)	
	-----	-----
Total Land and Buildings	1,181,203	1,115,000
	-----	-----
Furniture and Equipment		
At Cost	349,544	345,623
Less: Accumulated Depreciation	(284,309)	(272,613)
	-----	-----
Total Furniture and Equipment	65,235	73,010
	-----	-----
Total Property, Furniture and Equipment	1,246,438	1,188,010
	-----	-----
 (b) Land & Buildings – at Independent Valuation		
28 Murray St, Hobart		
Land – Opening Balance	360,000	220,000
Revaluation Increment	-	140,000
	-----	-----
	360,000	360,000
	-----	-----
Building – Opening Balance	330,000	331,500
Add Improvements	80,328	
Depreciation Expense	(8,250)	(8,500)
Net Revaluation Increment	-	7,000
	-----	-----
	402,078	330,000
	-----	-----

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2005**

NOTE 5: PROPERTY, FURNITURE and EQUIPMENT cont.	2005	2004
(b) Land & Buildings – at Independent Valuation		
56A Charles St, Launceston		
Land – Opening Balance	190,000	150,000
Revaluation Increment	-	40,000
	190,000	190,000
Building – Opening Balance	235,000	214,500
Depreciation Expense	(5,875)	(5,500)
Net Revaluation Increment	-	26,000
	229,125	235,000

Valuations – the fair values of land and buildings have been determined by reference to independent valuations as at the 30th June 2004. 28 Murray Street was valued by Mr A Pitt a Certified Practising Valuer of Saunders & Pitt. 56A Charles Street was valued by Mr A K Cubbins a Certified Practising Valuer of Harrison Cubbins Pty Ltd

(c) The total revaluation increment in 2004 of \$213,000 was taken to revenue in accordance with AASB 1041 – Revaluation of Non-Current Assets as it partly reversed revaluation decrements against Land & Buildings of \$1,190,660 that had previously been expensed.

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2005**

	2005	2004
	\$	\$
NOTE 6: CURRENT ACCOUNTS PAYABLE		
Trade Creditors	7,007	11,712
Other Creditors and Accruals	21,290	18,510
Solicitors' Trust S.105 / S.76(13)	158,929	143,769
Subscriptions Received in Advance	2,836	2,750
Practising Certificate Fees Received in Advance	187,801	188,140
Grant – Law Foundation (Web Development)	3,518	11,956
	381,381	376,837
NOTE 7: PROVISIONS		
Provision has been made for the following purposes:		
Employee Provisions		
Provision for Annual Leave	17,715	14,156
Provision for Long Service Leave	7,632	7,027
	25,347	21,183
Other Provisions		
Provision for Professional Fees - Disciplinary Action	71,000	40,000
Provision Payment to Integrated Library	151,716	148,363
	222,716	188,363
Total Provisions	248,063	209,546
NOTE 8: SOCIETY'S FUNDS RESERVES		
Capital Profits Reserve	43,843	43,843

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2005**

2005 **2004**
\$ \$

NOTE 9: CASH FLOW INFORMATION

(a) Reconciliation of Cash

For the purpose of this Statement of Cash Flows, cash includes:

(i) Cash on hand and deposits at call with financial institutions;

Cash at the end of the year is shown in the Statement of Financial Position as:

Cash on Hand	291	291
Cash at Bank	140,641	98,649
	140,932	98,940

(b) Reconciliation of Operating Profit after Income Tax to Net Cash Inflow (Outflow) from Operating Activities

Operating Profit after Income Tax	6,052	238,321
Non Cash Items		
Depreciation	25,821	24,584
Revaluation Land & Buildings	-	(213,000)
Changes in Assets and Liabilities		
(Increase) Decrease in Receivables	29,287	(83,284)
Increase (Decrease) in Payables	4,544	(40,248)
Increase (Decrease) in Provisions	38,517	(919,838)
Net Cash Inflow (Outflow) from Operating Activities	104,221	(993,465)

NOTE 10: CONTINGENT LIABILITIES

There are possible claims against the Society, the aggregate amount of which cannot be accurately assessed. Where some loss is probable, appropriate provisions have been made.



Wise Lord & Ferguson

Chartered Accountants
Representative of Ernst & Young in Tasmania
ABN 23 563 132 864

advice to advantage

INDEPENDENT AUDIT REPORT

To the members of The Law Society of Tasmania

Scope

We have audited the attached special purpose financial report comprising the Statement of Financial Position, Statement of Financial Performance, Statement of Income, Statement of Expenditure, Statement of Cash Flows and Notes to the financial statements, of the Law Society for the year ended 30 June 2005. The Law Society of Tasmania is responsible for the financial report and has determined that the accounting policies used are consistent with the financial reporting requirements of the organisation and are appropriate to meet the needs of members. We have conducted an independent audit of the financial report in order to express an opinion on it to the members of The Law Society of Tasmania. No opinion is expressed as to whether the accounting policies used are appropriate to the needs of members.

The financial report has been prepared for distribution to the members for the purpose of fulfilling the Society's financial reporting requirements under The Law Society of Tasmania By-Laws. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the members, or for any purpose other than that for which it was prepared.

Our audit has been conducted in accordance with Australian Auditing Standards. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report and the evaluation of significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with the accounting policies described in Note 1 to the financial statements. These policies do not require the application of all Accounting Standards and other mandatory professional reporting requirements in Australia.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In our opinion, the financial report presents fairly in accordance with the accounting policies described in Note 1 to the financial statements, the financial position of The Law Society of Tasmania as at 30 June 2005 and its financial performance for the year then ended.

H J GIBSON
PARTNER

D J McCARTHY
PARTNER

WISE LORD & FERGUSON
CHARTERED ACCOUNTANTS

160 Collins Street
HOBART TAS 7000
Dated:

**ANNUAL REPORT OF THE DISCIPLINARY TRIBUNAL ESTABLISHED
UNDER THE LEGAL PROFESSION
ACT 1993**

This report is provided pursuant to s.71 of the Legal Profession Act 1993 (*“the Act”*). Two matters that were heard in July 2004 were reported as Practitioner A and Practitioner B in the Annual Report of 2004. Two other applications were received by the Tribunal during the report period with one being part heard and the other remaining to be heard.

The following matters were heard and determined:-

PRACTITIONER A

The Practitioner was found guilty of unprofessional conduct in the carriage of a family law matter. It was found that the Practitioner failed to obtain an expert accountant’s report which was necessary for the proper conduct of his client’s case such failure resulting in three adjournments by the Family Court of the case. The Family Court made orders that the Practitioner’s client pay the costs of the adjournments and that the practitioner indemnify the client for those costs. In addition when the client engaged a new solicitor the practitioner failed to prepare a bill of costs and deliver the file to the new solicitor within a reasonable time.

The Practitioner was reprimanded by the Tribunal and ordered to pay a fine of \$1,500.00 and the costs of the Council of the Society including costs incurred in investigating the complaint.

PRACTITIONER B

The matter of complaint was that the Practitioner contravened the provisions of Rule 12 of the Rules of Practice 1994. The Tribunal found that the Law Society has the onus of proving that the Practitioner was not satisfied on reasonable grounds of the matters set out in Rule 12(2). It found that the statements by the Practitioner fell short of proving that fact and there was no other evidence relied upon by the Society in support of its complaint. The complaint was dismissed.

PRACTITIONER C

The Practitioner was found guilty of unprofessional conduct in that he failed to pursue with reasonable speed and care a client’s cause of action arising from an injury suffered by him during the course of his work. The Tribunal found that there had been two significant periods of delay and inattention to the file the first for a period of approximately seventeen months and the second for a period of two years.

The Practitioner was reprimanded and ordered to pay a fine of \$4,000.00 and the Law Society’s costs of the application.

DATED: 15 July 2005