



The Law
Society
OF TASMANIA

ANNUAL REPORT

2007 – 2008

**To be Presented at the
Annual General Meeting
of the
Law Society of Tasmania
on
17 October 2008**

THE LAW SOCIETY COUNCIL 2007 – 2008

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M D Schyvens

Vice-President

L O Rheinberger

Hon Treasurer

W M Griffiths

Council

K L Baumeler	[S]	T J McGuire	[NW]
S P Bishop	[N]	A E Nicholson	[NW]
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C A Cunningham	[S]	L O Rheinberger*	[S]
W M Griffiths*	[N]	M D Schyvens*	[S]
G L Jones*	[N]	K J Stanton	[N]
F V Moore	[N]	L S Topfer*	[NW]
P L Jackson*	[S]	D F M Zeeman*	[S]

Executive Members*

Executive Director

M Hagan

Director - Law Council of Australia

C A Cunningham

Committees 2007 – 2008

Regional Committees

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P J Lebski [Secretary]
S P Bishop
M Brett
S J N Brown
J L Byrne
D P Cordell
R J Dalglish
B R Doolan
C N Dockray
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P L Jackson [Convenor]

Litigious Costs Standing Committee

W M Griffiths [Convenor]

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M D Schyvens [Chairman]
K L Baumeler
G B Bradfield
C A Cunningham
P L Jackson
N R Readett
L O Rheinberger
D F M Zeeman

North-West

L S Topfer [Chairwoman]
A E Nicholson [Secretary]
C S Church

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K L Baumeler [Convenor]

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J B Walker [Convenor]
W J Friend

Membership Services

M D Schyvens [Convenor]

Public Relations Committee:

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M M Fernando

C F McKenzie

V A J Mitchell

H V E Schnierer

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M F Daly

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D H Polden

N Reaburn

L S Topfer

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P A Kimber [Chairman]

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A P Laning

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J A Munnings

M J C Pawson

N R Reaburn

M D Schyvens

T J Tierney

J R Upcher

T J Whyte

A L Wiss

Employment & Equal Opportunities Committee

A R Mills [Chairwoman]

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L K Mackey

A C Milliss

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P V Manser [Chairman]

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C A Cunningham

P L Jackson

N R Readett

L O Rheinberger

D F M Zeeman

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J Moore [Secretary]
M Harper
N Munting
R Grech
S Nicholson
L Taylor
S Rodrigues
P Butler
E White
A Wells
E Skalidis
K Smith
M Eddington
T McKenna

Northern Committee

J E Higgins [President]
A M Cohen
A M Gardner

North-West Committee

L J Edwards
C Henderson
A P Mihal
A E Nicholson

Representative on National Young Lawyers Committee

L Taylor

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 Representatives on Other Bodies

Board of Legal Education

G L Jones
A B Walker

Road Safety Consultative Committee

W M Griffiths

Law Council of Australia Access to Justice Committee

S J N Brown

Legal Aid Commission

S J N Brown
M Brett

Council of Law Reporting

M J Crisp

Associated Bodies

Disciplinary Tribunal

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B A Baker
M L Bessell
F G Di Giovanni
C N Dockray
M J Temple-Smith
J R Upcher

Centre for Legal Studies Ltd

P A Dixon [Chairman] [part-year]
T G Bugg [Chairman] [part-year]
Directors:
The Hon Justice A Blow [part-year]
P A Bowen [part-year]
The Hon Justice E Crawford [part-year]
W M Griffiths [part-year]
M S Schyvens [part-year]
Professor K Warner
M Hagan [Company Secretary]

The Law Foundation of Tasmania

M D Schyvens
L O Rheinberger
M J Crisp
D R Fairley
L K Mackey
D Nicol
N R Readett
M Hagan

President, Law Society of Tasmania
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

Tasmanian Women Lawyers Inc.

M A Ryan [President]

B F E Rheinberger [Secretary]

L Nuccitelli [Treasurer]

P J Ikedife

Barbara Baker

M Ballard

L Howroyd

M A Nettlefold

C Henderson

L E Peacock

A R Mills *ex officio*

Family Law Practitioners'

Association

A F FitzGerald [President]

R M Murray [Vice-President N]

A Nicholson [Vice-President N-W]

A Grant [Secretary]

C J Gregg [Treasurer]

M Foster

B Baker

E Gelston

L Peacock

C Fowler

A Boot

A Kent

T Eaton

J Higgins

P Fitzgerald

M Ryan

M Harper

Solicitors' Trust

M J Crisp [Chairman]

J Doyle

P Kuzis

President's Report to the Annual General Meeting of the Law Society of Tasmania 2008

The past year has not only been an exceedingly busy period for the Society but also a period of great change, with greater change to come.

The major focus of the Society during this period has been moving towards the commencement of the *Legal Profession Act 2007* and the new *Rules of Practice*. At the time of writing it would appear the commencement of the new Act is imminent. The Society has run education sessions across the State to ensure that all members of the profession have had the opportunity to become aware of the most significant changes which will affect us all.

The most significant change will be that conduct complaints against legal practitioners will be dealt with by the newly established Legal Profession Board and not the Society. This will allow the Society to become more truly member focussed than it has in the past because a great deal of time and resources have previously been directed towards disciplinary matters. Upon commencement of the new regime the Society will establish a support mechanism for practitioners to provide advice to those in receipt of complaints.

This period has also seen a number of significant changes in senior legal positions within the State, including the appointments of a new Chief Justice, Chief Justice Crawford, new Supreme Court Judge, Justice Porter and a new Solicitor General, Mr Leigh Sealy SC to name but a few. I should also not forget to mention in the same period we have had no less than three Attorneys General.

Controversy surrounding legal appointments has been a major topic this year and the Society has endeavoured to engage in comment with the broader community to assist in the debate of this topic. To this end, the Society conducted a forum in August focussing on the issue of whether some form of anti-corruption commission was warranted in the State, and if so, with what powers should it be provided. The forum was very well attended and hopefully will have a significant impact upon the final policy to be adopted by the Government.

The forthcoming period will most likely be a challenging and positive period for the Society as it adapts to its new roles free of the burden of having to discipline the profession. I would strongly encourage members who may previously have been keen to have an involvement with the Society, whether as a member of a Committee or the Council itself, but have otherwise been deterred given the Society's involvement with discipline, to now act upon that prior interest to enrich the Society in this new era.

I thank the Society and the Council for allowing me to undertake the role of President during 2007/2008 which whilst challenging, has also been thoroughly rewarding. One thing that certainly became clear to me during the period was the significant contribution the Society makes, not only to the legal profession but to the Tasmanian community generally whilst operating with miniscule staffing levels in comparison with other States. Accordingly, I wish to express my appreciation to the staff and in particular Martyn Hagan who continues to safely steer the Society through this period of change.

M D Schyvens
President

Treasurer's Report to the Annual General Meeting of the Law Society of Tasmania 2008

The income of the Society for the year ended 30 June 2008 shows a decrease, when compared with the income received by the Society last financial year, of approximately \$75,000.00.

The major contributors to this reduction are a decrease in net interest received as a result of timing issues, the payment of interest to the Solicitors' Guarantee Fund, and the reduction of approximately \$25,000.00 in the costs recovered in respect of disciplinary action.

Our expenses this year have increased by approximately 11% compared with the year ended June 2007. Again the larger contributors to this increase include professional fees paid in respect of disciplinary action, an increase in insurance premiums although also arising mainly from a timing issue and increases in salaries and honorariums.

The apparent increases in accountancy and consulting fees arise from those items having been previously included as salaries and remuneration.

Overall, the results are satisfactory and particularly so given that there has been an enormous amount of work undertaken by the Society in the finalising of the various requirements of the new legislation. The Society has been very well served indeed by many members of the Council who have donated enormous amounts of time and effort to the work required. Certainly however the largest contribution of work done beyond the call of duty is in relation to the effort expended by the Executive Director.

The foregoing figures and comparisons are based upon the premise that the Society has continued to function for yet another year with its principal source of income being practising certificate fees which have not been increased for a period that is now approaching 10 years, and without receiving the benefit of payments from the Guarantee Fund surplus, a disadvantage with which the Society has had to deal now for almost the same period of time.

Whilst the comparisons are useful, the Society in the last financial year did indeed receive a distribution from the fund in the sum of \$245,000.00 and thus has recorded an overall profit for the year and indeed the best result in that regard achieved for some considerable time.

The Society has continued to meet administrative and accounting costs provided to the Centre for Legal Studies and the Law Foundation in an amount calculated as being only a little less than \$20,000.00 during the last twelve months.

We now patiently await the introduction of the new legislation and with it the opportunity for the Society to expand the existing framework of benefits to its members and to pursue initiatives which have been prepared in anticipation of the bringing to an end our disciplinary functions.

W M Griffiths
Honorary Treasurer

**The Private Legal Profession in Tasmania
As at 19 September 2008**

Legal practitioners in private practice	South	North	North West	Total
Partners				
11	1	0	0	
9	2	0	0	
8	2	0	0	
7	1	0	0	
5	0	1	0	
4	3	1	1	
3	1	3	1	
2	11	3	8	
Total partners	89	24	23	136
Total sole principals	58	12	15	85
Total principals (includes 3 Senior Counsels)	147	36	38	221
Employed practitioners	140	43	23	206
Community legal services	12	2	2	16
Corporate Practising Certificate	5	0	2	7
Total practitioners	304	81	65	450
Firms				
Total partnerships	21	8	10	39
Sole principals	58	12	15	85
Legal practitioner corporations	2	4	1	7
Total	81	24	26	131
Barristers in private practice				
Queen's and Senior Counsel	8			8
Junior Counsel	24	4	3	31
Total	32	4	3	39
Associate members				97

**THE LAW SOCIETY OF TASMANIA
INCOME STATEMENT
FOR THE YEAR ENDED 30 JUNE 2008**

	Notes	2008	2007
		\$	\$
Revenue	11	1,056,573	884,209
Expenses from Ordinary Activities	11	(974,759)	(878,681)
NET PROFIT/(LOSS)		<u>81,814</u>	<u>5,528</u>
TOTAL CHANGES IN EQUITY		<u>81,814</u>	<u>5,528</u>

The accompanying notes form part of these financial statements.

**THE LAW SOCIETY OF TASMANIA
BALANCE SHEET
AS AT 30 JUNE 2008**

	Notes	2008 \$	2007 \$
Current Assets			
Cash assets	2	410,817	819,211
Receivables	3	72,061	552,632
Inventories	4	10,200	12,210
Other	5	2,710,082	2,207,166
TOTAL CURRENT ASSETS		3,203,160	3,591,219
Non Current Assets			
Property, plant and equipment	6	1,622,158	1,596,046
TOTAL NON-CURRENT ASSETS		1,622,158	1,596,046
TOTAL ASSETS		4,825,318	5,187,265
Current Liabilities			
Payables		186,034	2,060,004
Current tax liabilities		112,076	(4,440)
Provisions		313,984	279,193
Other		1,531,421	252,519
TOTAL CURRENT LIABILITIES		2,143,515	2,587,276
TOTAL LIABILITIES		2,143,575	2,587,276
NET ASSETS		2,681,803	2,599,989
Members' Funds			
Reserves		43,843	43,843
Accumulated Society Funds		2,556,146	2,550,618
Annual Surplus		81,814	5,528
TOTAL MEMBERS' FUND		2,681,803	2,599,989

The accompanying notes form part of these financial statements.

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2008**

	Notes	2008	2007
		\$	\$
Cash Flow from Operating Activities			
Receipts from customers		1,433,262	2,565,591
Payments to suppliers and employees		(1,420,503)	(1,190,485)
Interest received		82,644	130,254
Interest and other costs of finance		(2,268)	(2,336)
Net cash provided by (used in) operating activities (Note 10)		<u>93,135</u>	<u>1,530,024</u>
Net increase/(decrease) in cash held		93,135	1,503,989
Cash at the beginning of the year		3,017,568	1,514,544
Cash at the end of the year (Note 10)		<u>3,111,703</u>	<u>3,017,568</u>

The accompanying notes form part of these financial statements.

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF CHANGES IN EQUITY
FOR THE YEAR ENDED 30 JUNE 2008**

	Retained Earnings
	\$
Opening Balance 1 July 2006	<u>254,461</u>
Profit for the year ended 30 June 2006	5,528
Balance as at 30 June 2007	<u>2,599,989</u>
Profit for the year ended 30 June 2007	81,814
Balance as at 30 June 2008	<u>2,681,803</u>

The accompanying notes form part of these financial statements.

**THE LAW SOCIETY OF TASMANIA
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2008**

NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

(a) Basis of Preparation

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

The financial report has been prepared in accordance with the requirements of the following Australian Accounting Standards:

AASB 1031:	Materiality
AASB 110:	Events after the Balance Sheet Date

The Financial Report has been prepared on an accruals 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.

(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 revaluations increments, which arise, are transferred to the asset revaluation reserve, apart from those reversing previous decrements, which were charged to operating profit. Net revaluation decrements, apart from those reversing previous increments are charged to operating profit.

Furniture and Equipment

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

Depreciation

The depreciable amount of all fixed assets, including buildings, is depreciated on a straight line basis over the asset's useful life to the Society 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.

(d) Income Tax

The provision for income tax is not necessary as the Society is exempt from income tax.

The accompanying notes form part of these financial statements.

**THE LAW SOCIETY OF TASMANIA
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2008**

**NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES
(Continued)**

(e) Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of the amount of GST except:

- Where the GST incurred on a purchase of goods and services is not recoverable from the taxation authority, in which case the GST is recognised as part of the cost of acquisition of the asset or as part of the expense item as applicable; and
- Receivables and payables are stated with the amount of GST included

The Net amount of GST recoverable from, or payable to, the taxation authority is included as part of receivables or payables in the Balance Sheet.

(f) Employee Benefits

Provision is made for the society's liability for employee benefits arising from services rendered by employees to balance date.

**THE LAW SOCIETY OF TASMANIA
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2008**

NOTE 2: CASH	2008	2007
	\$	\$
Bank accounts:		
- Westpac cheque account	255,372	655,838
Solicitors' Trust holding account – CBA	155,222	162,949
Other cash items:		
- Cash on hand	223	424
	<u>410,817</u>	<u>819,211</u>

NOTE 3: RECEIVABLES

Sundry debtors	37,061	552,632
Sponsorship due	35,000	-
	<u>72,061</u>	<u>552,632</u>

NOTE 4: INVENTORIES

Book stock at cost – Lawless Harvest	10,200	12,210
	<u>10,200</u>	<u>12,210</u>

NOTE 5: OTHER ASSETS

Short term deposits – Perpetual Trustees	1,240,056	1,175,219
Short term deposits – Perpetual Trustees Society Funds	1,439,830	1,023,138
Prepaid insurance	10,195	8,809
	<u>2,710,082</u>	<u>2,207,166</u>

The accompanying notes form part of these financial statements.

**THE LAW SOCIETY OF TASMANIA
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2008**

NOTE 6: PROPERTY PLANT AND EQUIPMENT	2008	2007
Plant and equipment:		
- At cost	464,997	447,091
- (Less) accumulated depreciation	(349,927)	(325,034)
(a) Land – At fair value		
28 Murray Street, Hobart	360,000	360,000
56A Charles Street, Launceston	190,000	190,000
(b) Buildings – At fair value		
28 Murray Street, Hobart	330,000	330,000
28 Murray Street, Hobart – Improvements	422,167	370,219
56A Charles Street, Launceston	235,000	235,000
(Less) Accumulated depreciation	(50,907)	(39,290)
TOTAL LAND AND BUILDINGS	1,486,260	1,445,929
Motor vehicles:		
- At cost	32,142	32,142
- (Less) Accumulated depreciation	(11,314)	(4,082)
	20,828	26,060
	1,622,158	1,596,046

(a) Valuations – The fair value of land and buildings have been determined by reference to independent valuations as at 30/06/2004.

(b) Improvements are included at cost. Assets are depreciated over their estimated useful lives commencing from the time the asset is ready for use.

The accompanying notes form part of these financial statements.

**THE LAW SOCIETY OF TASMANIA
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2008**

NOTE 7: PAYABLES	2008	2007
Unsecured:		
- Sundry creditors	28,069	12,695
- Solicitors' Trust	157,965	410,949
- QBE for professional indemnity insurance	-	1,636,360
	<hr/> 186,034 <hr/>	<hr/> 2,060,004 <hr/>

NOTE 8: PROVISIONS

Current

Employee entitlements – annual and long service leave	45,645	37,589
Provision for library services	215,339	206,604
Provision for disciplinary costs	53,000	35,000
	<hr/> 313,984 <hr/>	<hr/> 279,193 <hr/>

NOTE 9: OTHER LIABILITIES

Current

Membership fees in advance	11,178	8,024
CLE payments in advance	3,762	421
Practising certificates in advance	192,544	189,668
PII premium in advance	1,287,373	49,920
Rent in advance	4,308	-
Sundry	5,467	486
Accrued expenses	26,789	4,000
	<hr/> 1,531,421 <hr/>	<hr/> 252,519 <hr/>

The accompanying notes form part of these financial statements.

**THE LAW SOCIETY OF TASMANIA
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2008**

NOTE 10: CASH FLOW INFORMATION

(a) Reconciliation of Cash

For the purposes of the statement of cash flows, cash includes cash on hand and in banks and investments in money market instruments, net of outstanding bank overdrafts.

	2008	2007
	\$	\$
Westpac cheque account	255,372	656,838
Solicitors' Trust holding account – CBA	155,222	162,949
Cash on hand	223	424
Perpetual Trustees – Members PD Fund	1,240,056	1,175,219
Perpetual Trustees – Society Funds	1,459,830	1,023,138
	3,111,703	3,017,568

(b) Reconciliation of Cash Flow from Operations with Net Profit

Operating profit/(loss)	81,834	5,528
Depreciation	43,742	35,372
Changes in assets and liabilities net of effects of purchases and disposals of controlled entities.	(69,854)	(67,751)
(Increase)/decrease in trade and term debtors	452,175	(364,980)
(Increase)/decrease in finished goods	2,010	(12,210)
(Increase)/decrease in prepayments	(1,386)	(8,809)
(Increase)/decrease in trade creditors and accruals	(1,620,985)	1,582,609
(Increase)/decrease in other creditors	1,471,157	298,312
(Increase)/decrease in employee entitlements	8,056	23,223
(Increase)/decrease in sundry provisions	(273,613)	11,730
Net cash provided by operating activities	93,136	1,503,024

The accompanying notes form part of these financial statements.

**THE LAW SOCIETY OF TASMANIA
INCOME AND EXPENDITURE STATEMENT
FOR THE YEAR ENDED 30 JUNE 2008**

NOTE 11:

	2008	2007
	\$	\$
Revenue		
Insurance recoveries	-	2,282
Interest received	82,644	130,254
Administration fees	10,234	10,837
Advertising	14,080	10,456
Certificate of fitness	2,082	2,210
Continuing legal education	25,076	26,422
Dinners and functions	19,570	20,830
Disciplinary action – costs recovered	20,104	46,332
Guarantee fund distribution	254,000	-
Hire of council rooms	6,444	4,211
Membership benefits	8,650	9,005
Practising certificate fees	384,706	387,761
Professional indemnity insurance funding	123,270	130,101
Sponsorship	46,000	41,264
Subscriptions	17,905	14,211
Sundry income	1,458	1,533
Rent received	49,350	46,500
TOTAL	1,056,576	884,209

The accompanying notes form part of these financial statements.

**THE LAW SOCIETY OF TASMANIA
INCOME AND EXPENDITURE STATEMENT
FOR THE YEAR ENDED 30 JUNE 2008**

	2008	2007
	\$	\$
Expenses		
Accountancy fees	12,974	2,146
Audit fees	5,500	6,500
Advertising and public relations	520	3,377
Bad debts	2,097	1,050
Bank fees and charges	2,268	2,336
Computer supplies and services	12,178	14,243
Consulting fees	16,973	8,665
Depreciation	43,742	35,372
Honorarium	68,287	46,550
Insurance	20,087	12,404
Lease payments	4,976	4,976
Library review	1,486	3,012
Light and power	12,504	9,373
Meetings, travel and accommodation, professional development	41,704	34,606
Membership benefits, dinners and functions	54,374	51,046
Motor vehicle expenses	5,784	14,545
Printing and stationery	44,800	40,191
Professional fees – disciplinary action	176,226	162,637
Rates and taxes	25,266	24,006
Repairs and cleaning	30,491	42,385
Salaries and remuneration	270,293	283,327
Security and fire alarms	12,057	9,284
Staff training	1,334	600
Subscriptions	2,288	1,410
Sundry expenses	9,044	5,096
Superannuation	73,349	33,814
Telephone, video conferencing and web expenses	24,157	25,730
	974,759	878,681
TOTAL EXPENSES		

The accompanying notes form part of these financial statements.

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 2008 and its financial performance for the year then ended.



D J McCARTHY
PARTNER



WISE LORD & FERGUSON
CHARTERED ACCOUNTANTS

160 Collins Street
HOBART TAS 7000
Dated: 6.10.08

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*”).

Five applications have been received in the report period and are awaiting hearing

Two matters were heard in the previous report period and the following decisions handed down in the report period

Practitioner A

The Practitioner was found guilty of unprofessional conduct and professional misconduct in the carriage of an estate matter. It was found that the Practitioner:

- Was guilty of unprofessional conduct because of a breach of the obligation of candour in responses to the Law Society by failing to raise matters that were later relied on in proceedings before the Tribunal. It was found that whilst the matters that were not raised were exculpatory in nature they were highly material to the investigation;
- Was guilty of professional misconduct by rendering an account to the estate when a no win/no fee agreement was in place.

The Practitioner was

- reprimanded and fined \$1,000.00 on the finding of unprofessional conduct
- reprimanded and fined \$8,000.00 on the finding of professional misconduct
- ordered to repay to the estate the sum of \$10,949.34
- ordered to pay the Society’s costs of the application including the costs incurred by the Council of the Law Society in investigation of the complaint.

Practitioner B

The Practitioner was found guilty of delay in a family law matter and was fined \$1,500.00 and ordered to pay the costs of the Society including the costs of investigation.

Robert Pearce
Chairman