



Australian Government  
CALDB

Companies Auditors and  
Liquidators Disciplinary Board

**Annual Report**

For the year ended **30 June 2008**

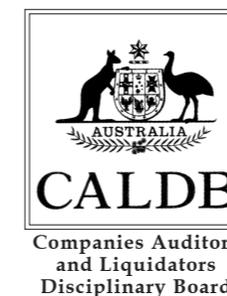
**Companies Auditors and  
Liquidators  
Disciplinary Board**

Annual Report  
for the year ended 30 June 2008

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14th October 2008

The Hon. Wayne Swan, MP  
Treasurer  
Parliament House  
CANBERRA ACT 2600

Dear Treasurer

I am pleased to present the Board's Annual Report for the year ended 30 June 2008 in accordance with section 214 of the *Australian Securities and Investments Commission Act, 2001*.

Subsection 214(1) of that Act requires the Board to prepare a report describing its operations during the year and to give a copy of the report to the Minister as soon as practicable after 30 June and before 31 October, each year.

Subsection 214(2) provides that the Minister shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after he receives a copy of the report.

Yours sincerely

A handwritten signature in black ink that reads 'Donald Magarey'. The signature is written in a cursive, flowing style.

Donald Magarey  
Chairman

## Overview

In the reporting year to 30 June 2008 the following were the highlights:

- Changes to the *Corporations Act 2001* affecting the Board's operations were enacted and became law from 1 January 2008. The main effect of these changes was to enable the Board to take such steps as it considers reasonable and appropriate to publicise a decision to exercise its powers under section 1292 of the Corporations Act and the reasons for the decision. The Board may make the decision and reasons for the decision available on the internet. Further changes formalised the Board's practice of holding pre hearing conferences and dealt with some procedural matters.
- As a result of proceedings at a hearing held during the year, the Board applied to the Federal Court of Australia for orders under paragraph 219(7)(b) of the *Australian Securities and Investments Commission Act 2001* ('ASIC Act') relating to Mr Richard Albarran. The application arose out of a refusal by Mr Albarran to answer questions at a hearing of a Panel of the Board in relation to confidential disciplinary proceedings against another person. Paragraph 219(7)(b) of the ASIC Act provides that a person appearing as a witness at a hearing must not refuse or fail to answer a question that he or she is required to answer by the Panel Chairperson unless the person has a reasonable excuse. The Court was satisfied that Mr Albarran, without reasonable excuse, failed to answer questions and ordered that Mr Albarran pay the sum of \$20,000 by way of penalty or fine and that Mr Albarran pay the costs of the proceeding.
- Generally, contested hearings are becoming more time consuming as the issues involved in these matters become more complex. Some matters have been the subject of ongoing appeals to the Administrative Appeals Tribunal ('AAT') or to the Federal Court of Australia. Some appeals are still current and the Board is restricted by orders from publishing any details.
- The Board's website continues to make access to information about the Board and its functions more readily available. The website will include copies of decisions where they are made available under the new publicity provisions. The website may be accessed at [www.caldb.gov.au](http://www.caldb.gov.au).
- The Board has a continuing program of contested conduct cases. However, there were only three matters, which remained to be completed at 30 June. All of these matters have been heard and the final decision has since been issued in one of them. During the reporting year five new applications were received for administrative matters and no new applications were received for conduct matters. Since the end of the reporting year five new applications were received in respect of administrative matters and no new applications have been received for conduct matters.

## Role of the Board

The Board is an independent statutory body established by Part 11 of the ASIC Act. The Minister responsible for the Board is the Commonwealth Treasurer.

The Board has an important role in the Australian economy, along with several other bodies including the Australian Securities and Investments Commission ('ASIC'), the Australian Prudential Regulation Authority ('APRA'), the Financial Reporting Council and various professional associations, in the regulation of auditors and liquidators.

The competence and independence of auditors are vital to the reliability of audited information concerning corporations and other business entities. This in turn underlies the confidence of investors and creditors in those entities and in the securities and other financial markets in which they operate.

Market perceptions, particularly of companies and of the business environment, are also greatly influenced by the effectiveness and reliability of liquidators in their various roles in administration of companies in financial difficulties, in maximising the returns to creditors of failed companies, in ensuring early payment of recoverable moneys and in identifying and reporting deficient conduct by company officers.

In Australia, the Board's role makes a significant contribution to a positive market perception of companies and other entities. The Board's responsibilities pursuant to the Act are intended to provide an incentive to registered auditors and liquidators to maintain high professional standards. The Board also has a public protective and educative role by virtue of its jurisdiction to cancel or suspend an auditor's or liquidator's registration.

## Constitution

The Board consists of the following:

- (a) Chairperson;
- (b) Deputy Chairperson;
- (c) three members selected by the Minister from a panel of seven nominated by the Board of the Institute of Chartered Accountants in Australia ('ICAA members');
- (d) three members selected by the Minister from a panel of seven nominated by the Board of CPA Australia ('CPA Australia members'); and
- (e) six business members selected by the Minister.

The Chairperson and the Deputy Chairperson must each be enrolled as a barrister, as a solicitor, or as a barrister and solicitor or as a legal practitioner of the High Court, any Federal Court or the Supreme Court of a State or Territory and must have been so enrolled for a period of at least five years. ICAA members and CPA Australia members are collectively referred to as '*accounting members*'. Business members represent the business community and have qualifications, knowledge or experience in business or commerce, the administration of companies, financial markets, financial products and services, economics or law.

All appointments are made by the Minister and are part-time appointments. Appointments are for a period of no longer than three years. The appointees are eligible for re-appointment.

## Functions

The Board is required by the Act to determine whether a registered auditor or registered liquidator has contravened provisions of the Corporations Act, has failed to carry out their duties and functions adequately and properly, is not a fit and proper person to remain registered, is subject to disqualification or is otherwise ineligible to remain registered. If the Board determines any of these matters to be established then the Board must decide whether to make any and, if so, what orders.

## Applications to the Board

Applications to the Board may be made by either ASIC or APRA. In addition, where the registration of a person is suspended, the Board may, on an application by the person or of its own motion, by order, terminate the suspension.

The Board categorises the matters brought before it as *administrative matters* or *conduct matters*. The categorisation has been adopted by the Board as a procedural policy and will be reviewed from time to time.

The Board categorises as administrative matters those matters which arise from applications pursuant to the following provisions of the Act:

1292(1)(a)(i)	failing to lodge annual statement under section 1287A (auditor)
1292(1)(a)(ii)	ceasing to be resident in Australia (auditor)
1292(2)(a)(i)	failing to lodge triennial statement under section 1288 (liquidator)
1292(2)(a)(ii)	ceasing to be resident in Australia (liquidator)
1292(3)(a)(i)	failing to lodge a statement under section 1288(5) (liquidator of a specified body corporate)
1292(3)(a)(ii)	ceasing to be resident in Australia (liquidator of a specified body corporate)
1292(7)(a)	becoming disqualified from managing corporations under Part 2D.6 (auditor or liquidator)
1292(7)(b)	becoming incapable because of mental infirmity of managing affairs (auditor or liquidator)

The Board categorises as conduct matters those matters which arise from applications pursuant to the following provisions of the Act:

1292(1)(a)(ia)	contravening section 324DB by playing a significant role in an audit without being eligible to do so (auditor)
1292(1)(a)(ia)	failing to comply with a condition of registration (auditor)
1292(1)(b)(i)	not performing any audit work for five years and as a result ceasing to have the necessary practical experience (auditor)
1292(1)(b)(ii)	not performing any significant audit work for five years and as a result ceasing to have the necessary practical experience (auditor)
1292(1)(d)(i)	failing to carry out the duties of an auditor (auditor)
1292(1)(d)(ii)	failing to carry out the duties or functions required by an Australian law to be carried out by a registered auditor (auditor)
1292(1)(d)	not being a fit and proper person to remain registered as an auditor (auditor)
1292(2)(d)(i)	failing to carry out the duties of a liquidator (liquidator)
1292(2)(d)(ii)	failing to carry out the duties or functions required by an Australian law to be carried out by a registered liquidator (liquidator)
1292(2)(d)	not being a fit and proper person to remain registered as a liquidator (liquidator)
1292(3)(d)	failing to carry out the duties of a liquidator of a body corporate or otherwise not being a fit and proper person to remain registered as a liquidator of that corporation (liquidator of a specified body corporate)

In general the Board has power to cancel or suspend the registration of a registered auditor or a registered liquidator, if any of these grounds has been established to the satisfaction of the Board. If a ground is established under paragraph 1292(7)(a) or (b) then the Board has no discretion, it must cancel the registration of the practitioner concerned.

In relation to conduct matters under paragraphs 1292(1)(d), (2)(d) or (3)(d) the Board has additional powers under subsection 1292(9) to admonish, reprimand or require undertakings. These powers may be exercised in addition to or instead of the powers to cancel or suspend registration.

## Registrar

The administrative business and operations of the Board are conducted by its Registrar, Mr Gary Hoare, who was formerly an audit partner with KPMG.

## Operations

The Board's office is at Level 16, 60 Margaret Street, Sydney, as is the Board's principal hearing room. Hearings are also held, as needed, at other locations around Australia, and occasionally by telephone or videolink. It is the policy of the Board that a hearing will normally be held in the capital city of the State or Territory of residence of the Respondent. The application of this policy may be varied in individual cases.

Procedures have been adopted by the Board and are contained in its *Manuals of Practice and Procedure*. There are two manuals, one for conduct matters and one for administrative matters. The manuals set out the procedures to be followed in relation to the filing and exchange of documents and other material prior to a hearing and the procedures for pre-hearing conferences and for hearings.

The Board has also issued a Costs Practice Note and Mediation Guidelines and a pro forma Mediation Agreement.

The Manuals of Practice and Procedure, the Costs Practice Note, the Mediation Guidelines and the draft Mediation Agreement are provided to all parties involved in proceedings before the Board. All these documents are also on the Board's website and are available on request to interested persons generally. All are reviewed and updated from time to time.

## Pre-hearing conferences

The Board encourages the parties in conduct matters, to meet and negotiate to refine and reduce the matters in dispute prior to a hearing. To assist this process and

maximise its effectiveness, the Chairperson conducts a pre-hearing conference that encourages contact between the parties as early as possible.

The aim is to reduce the length of the hearing and the overall costs of the proceedings. The Board's pre-hearing procedures are under constant review in order to ensure that pre-hearing procedures are as effective and efficient as possible and result in savings in costs and time for all parties.

Telephone conferencing is normally used for pre-hearing conferences unless it is considered not to be practicable or desirable in any particular case. The parties are encouraged by the Board to meet each other in person to discuss their respective contentions and determine common ground.

The benefits which flow from these procedures include shortening of the length of time it takes to resolve matters and in some cases, agreement on acceptable outcomes. Agreed terms of order resulting from discussions between the parties are referred in draft to the Board. The Board does not participate in any settlement discussions or negotiations between the parties and retains the right to determine the appropriate order.

The pre-hearing conference is also used as a means of agreeing on a timetable for finalisation and exchange of documentation and evidence, for resolving preliminary matters and for fixing a hearing date.

The passing of the *Corporations Amendment (Insolvency) Act 2007* now gives statutory backing to the power of the Chairperson to conduct pre-hearing conferences. The new provision gives power to the Chairperson, at a pre-hearing conference, to fix a hearing date and to give directions about the timing of the filing of evidence and submissions and about the procedure to be followed generally at or in connection with the hearing.

## Mediation

The Board encourages resolution of areas of dispute by mediation. This may be by an external mediator agreed upon by the parties or may be by a Board member (who does not thereafter have any role in relation to that application nor communicate with the Board concerning the mediation or the application generally).

In both the negotiation and the mediation processes the Board stresses to the parties that the proceedings before the Board are statutory disciplinary hearings and, whilst the parties may develop a form of acceptable draft order, it still remains a matter for the Board to make a determination in accordance with its statutory function and to arrive at appropriate orders.

## Panels

Hearings are conducted and decisions are made by a Panel of the Board rather than by the full Board. The Chairperson determines the size of the Panel (three persons or five persons) and the members of the Board who are to constitute the Panel to conduct a particular hearing. That Panel will then hold a hearing or hearings make a determination and make any decisions in relation to that particular application.

A Panel will normally consist of five persons and must include the Chairperson or Deputy Chairperson as Chairperson of the Panel. The Panel will also normally include, an ICAA member, a CPA Australia member and two business members. On certain occasions (such as hearing administrative matters), the Chairperson may consider it appropriate to constitute a Panel with three members, in which case the members would normally be the Chairperson (or Deputy Chairperson), one accounting member and one business member.

## Hearings

All matters referred to the Board (unless withdrawn) must proceed to a hearing, at which a Panel will make a determination and orders. A Panel may adjourn the hearing to enable it to consider and formulate its reasons for a determination or its orders. Hearings are required to be held in private unless a public hearing is requested by a person who is entitled to be given an opportunity to appear at the hearing (other than ASIC and APRA).

For contested conduct matters, a Panel will usually hold a hearing with all members and parties physically present. In other matters, a Panel may arrange hearings by videolink with one or more members or parties in different locations. Legal representation is permitted at all hearings, for all parties. Parties may also represent themselves.

## Panel decisions

In relation to each application, the Panel makes a determination as to whether or not it is satisfied that the contentions raised in the application have been established and gives the parties a written determination which sets out the Panel's conclusions (with reasons) on each of the contentions. In the event that any of the contentions has been determined to be established, the Panel will proceed to make a decision whether or not to exercise any of the Board's powers under section 1292 or whether or not it is required to make an order under subsection 1292(7) and, for that purpose, may hold a final hearing and deliver a separate decision. At that hearing, the parties will have an opportunity to make submissions in the questions of sanctions, publicity and costs.

## Publicity

Pursuant to subsection 1296(1), written notice of a decision by a Panel to exercise the Board's powers under section 1292 and the reasons for it must be given to the practitioner concerned. Pursuant to subsection 1296(2) written notice of a decision by a Panel to refuse to exercise the Board's powers under section 1292 must be given to the practitioner concerned. A copy of any such notice must be lodged with ASIC.

The notice of decision is available for inspection at ASIC except when the Panel has decided to refuse to exercise the Board's powers under section 1292 or has decided that it is not required to make an order under subsection 1292(7) (see subparagraph 1274(2)(a)(iii)).

Where the Panel has decided to exercise any of the Board's powers under section 1292 or has decided that it is required to make an order under subsection 1292(7), the Board is required pursuant to subsection 1296(1) to publish in the Commonwealth Gazette a notice setting out the decision. By arrangement with the Institute of Chartered Accountants in Australia ('ICAA'), CPA Australia, National Institute of Accountants, Insolvency Practitioners Association of Australia ('IPAA') and the Tax Agents Registration Board, copies of the notices published in the Commonwealth Gazette are provided to those bodies of which the practitioner is a member.

In addition, as a result of the passing of the *Corporations Amendment (Insolvency) Act 2007*, if the Panel decides to exercise any of the Board's powers under section 1292, the Board may take such steps as it considers reasonable and appropriate to publicise that decision and the reasons for that decision. This will include the power to post the decision and the reasons on the Board's website.

Decisions gazetted by the Board during the reporting year are set out at the conclusion of this report. Some decisions of the Board are subject to restrictions on publication.

## Costs

At the end of a hearing a Panel may make an order for costs, and when the Panel makes such an order, the Board refers the parties to its Costs Practice Note.

A Panel may also order payment by a party of all or part of the Board's costs of and incidental to a hearing.

## Review of Board decisions

A review of any decision made under section 1292 may be sought before the AAT by ASIC or by APRA or by any person whose interests are affected by the decision.

A person who is aggrieved by a Board decision may also apply to the Federal Court of Australia under the provisions of the *Administrative Decisions (Judicial Review) Act 1977* for an order of review in respect of a decision.

Generally, reviews before the AAT are re-hearings of the application while those by the Federal Court of Australia are concerned with a review of questions of law arising out of the proceedings before the Board.

When a decision of the Board is under review the Board will often be restricted from publishing any notice of decision. Such restriction may be sought by either of the parties and is often sought to avoid prejudice to a Respondent who may later be successful in having a decision of the Board reversed or altered.

## Board membership

Board members during the reporting year were as follows:

Name	Role	Term expires/expired
Donald Magarey	Chairperson	31 May 2009
David Castle	Deputy Chairperson	31 May 2009
Patrick Burroughs	Accounting member ICAA	31 August 2010
Philip Jefferson	Accounting member ICAA	5 October 2008
Jeffrey Knott	Accounting member CPA Australia	5 October 2008
Brian Morris	Accounting member CPA Australia	20 October 2009
David Olifent	Accounting member ICAA	20 October 2009
Patrick Ponting	Accounting member CPA Australia	20 October 2009
David Barnett	Business member	31 August 2010
Tom Bostock	Business member	31 August 2010
Geoff Brayshaw AM	Business member	31 August 2010
John Keeves	Business member	31 August 2010
Professor Ian Ramsay	Business member	31 August 2010
Simon Stretton	Business member	31 August 2010

### Donald Magarey

Donald Magarey is a solicitor and was formerly a partner of Blake Dawson for 36 years specialising in corporate law and commercial transactions. Donald has previously been chairperson of the Corporations Committee of the Law Council of Australia, a member of the Corporations and Securities Panel, a member of the Companies and Securities Law Review Committee and chairperson of the Social Security Appeals Tribunal.

### David Castle

David Castle is a solicitor and was previously a partner of Dibbs Abbott Stillman, specialising in business law. He is the chairperson of the Tax Agents Board of NSW.

He practised in business, revenue, commercial and company law for over 40 years and has extensive experience in disciplinary and conduct areas of the Law Society of NSW, the Migration Agents Registration Authority, the Australian Stock Exchange and the Tax Agents Board of NSW. He is a qualified and experienced mediator and a costs assessor appointed by the Supreme Court of New South Wales.

#### **Patrick Burroughs**

Patrick Burroughs is a chartered accountant and company director. He was a senior partner of KPMG, based in Melbourne and held various responsibilities during his career with that firm. These included major listed client responsibilities as well as firm management responsibilities. At the time of his retirement from the firm he was head of its Financial Services practice. During his career with that firm he served as a member of various external bodies, including committees of the ICAA and the Reserve Bank of Australia. He is currently a director of a number of companies operating in both the not-for-profit and for-profit sectors of the economy.

#### **Philip Jefferson**

Philip Jefferson is a Chartered Accountant, Official Liquidator and a Trustee in Bankruptcy who has been practising as an insolvency practitioner for over 30 years. He is a former partner of PricewaterhouseCoopers, and of Horwath. He currently is a consultant to PKF. He has extensive experience involving both corporate and personal insolvency and reconstruction. He is an active committee member of the Queensland branch of the IPAA, being vice president of that branch and is in charge of the education portfolio for current and new members. He is also a member of the ICAA Advisory Group.

#### **Jeffrey Knott**

Jeffrey Knott was formerly an Assurance Services Partner of Deloitte. Jeffrey has been a partner in Chartered Accounting practices for the past 25 years specialising in audit but also involved in tax and accounting issues. Jeffrey's audit assignments have included public and private companies operating in manufacturing, retail, media and service related industries. Several of those companies have had overseas reporting obligations, particularly in Europe and the US and included reporting under Sarbanes Oxley. He also has had significant experience in the audits of NGO's both in Australia and overseas. Jeffrey is a former member of the Australian Auditing and Assurance Standards Board and a former member of the Australian Urgent Issues Group, which was part of the Australian Accounting Standards Board. He was formerly the Chair of CPA Australia Financial Reporting and Governance Centre of Excellence.

#### **Brian Morris**

Brian Morris is a senior partner of Adelaide accounting firm Edwards Marshall & Co where he specialises in forensic accounting and assurance services. He is also a qualified mediator and member of the Institute of Arbitrators and Mediators of

Australia. He has been a member of the Urgent Issues Group, has been an Australian representative to the International Accounting Standards Committee, a member of the Auditing Standards Board and has chaired the National Technical Standards Committee of CPA Australia.

#### **David Olifent**

David Olifent is a Chartered Accountant and was formerly a partner of PricewaterhouseCoopers for 22 years specialising in insolvency and business re-construction. He now acts as a consultant and director. He has been a member of both state and national committees of the IPAA and the South Australian regional liaison committee to the Australian Securities and Investment Commission.

#### **Patrick Ponting**

Patrick Ponting is a CPA and Auditor and is in practice on his own account on the Gold Coast. He was National President of CPA Australia in 1999-2000 and has been involved in the disciplinary processes of that body for 15 years including 3 years as chairperson of the Discipline Committee in Queensland. He has chaired the CPA Professional Standards Committee and Public Practice Committee and was a member of the accounting profession's Joint Task Force on Audit Independence.

#### **David Barnett**

David Barnett is the Manager, Issuers (Sydney), ASX Market Supervision with ASX Limited. He has a Bachelor of Commerce (Accounting) and is a member of CPA Australia.

#### **Tom Bostock**

Tom Bostock is a special counsel to Gadens Lawyers specialising in corporate law. He was a partner of Mallesons Stephen Jaques from 1970 until 2004. He is a Fellow of the Australian Institute of Company Directors and is a member of the Institute's Law Committee. He was also chairperson, and remains a member, of the Companies and Business Organisations Committee of the Law Institute of Victoria and was a member of the Legal Committee of the Companies and Securities Advisory Committee.

#### **Geoff Brayshaw**

Geoff Brayshaw is a Chartered Accountant and company director. He has spent 35 years in the accounting profession and was a former audit partner and managing partner of the Perth practice of BDO Kendalls retiring from public practice in 2005. He now has a number of directorship roles including non-executive director and Chairperson of the audit committee of each of Fortescue Metals Group Limited, Poseidon Nickel Limited and Fortron Insurance Group Limited, and board member of the Small Business Development Corporation in Western Australia. He was formerly Chairperson of Gumala Investments Pty Ltd, an aboriginal corporation trustee company. He was National President of the Institute of Chartered Accountants in Australia for 2002 and was made a Member of the Order of Australia in 2007.

### John Keeves

John Keeves is a partner in the law firm Johnson Winter & Slattery, with offices in Sydney, Melbourne, Adelaide and Perth, specialising in mergers and acquisitions, corporate and securities law and corporate governance. He is a member of the Takeovers Panel, the immediate past chairperson of the Corporations Committee of the Law Council of Australia and a former member of the Executive of the Business Law Section of the Law Council, a Senior Fellow and former Director of the Financial Services Institute of Australasia (Finsia) (formerly the Securities Institute of Australia), as well as a member of the Australian Institute of Company Directors, Banking and Financial Services Law Association and AMPLA.

### Ian Ramsay

Ian Ramsay is the Harold Ford Professor of Commercial Law in the Faculty of Law at the University of Melbourne where he is Director of the Centre for Corporate Law and Securities Regulation. He is a member of the Takeovers Panel, the National Law Committee of the Australian Institute of Company Directors, the Corporations Committee of the Law Council of Australia and the Audit Quality Review Board. He was head of the Federal Government inquiry on auditor independence and a member of the International Federation of Accountants taskforce on rebuilding confidence in financial reporting. He has practised law with firms in New York and Sydney.

### Simon Stretton

Simon Stretton is Crown Solicitor for the State of South Australia and a member of the Corporations and Markets Advisory Committee. Formerly an ASIC Regional Commissioner, General Counsel to the NSW Independent Commission Against Corruption, and Chairperson of the SA Law Society's Commerce Corporations and Taxation Committee, he has also had an extensive corporations, general insolvency and commercial litigation practice at the Independent Bar and spent several years as probity auditor of a range of major Government projects.

## Financial statements

The Board is allocated funding by Treasury through ASIC's budget. The Board's expenses are, apart from some fixed overhead expenses, largely a function of the workload, which varies in accordance with the number and complexity of applications received.

The Board's expenditure for this and the previous financial year, as audited in the accounts of ASIC, consisted of:

	2006/07	2007/08
	\$	\$
Administrative expenses:	426,041	479,459
Travel and accommodation including allowances	129,864	84,250
Salaries and members' fees:	619,263	724,925
<b>Total:</b>	<b>1,175,168</b>	<b>1,288,634</b>

The increase in the Board's administrative expenses during the reporting year was mainly a result of the legal costs incurred by the Board in relation to the application to the Federal Court of Australia for orders under paragraph 219(7)(b) of the ASIC Act in respect of Mr Richard Albarran who refused to answer questions at a hearing of a Panel of the Board. The Federal Court of Australia issued the order, which required Mr Albarran to pay \$20,000 by way of a penalty or fine and pay costs including those of the Board on an indemnity basis. Payment of those costs has not yet been received. Savings in a number of areas have offset some of this increase. The location and number of the Board's hearings resulted in a reduction in the Board's expenses in relation to travel and accommodation during the current year. The increase in salaries and members' fees takes account of a slight reduction in the number of hearing days and an increase in activity related to matters being dealt with by the Board during the current year together with salary and members' fees rate increases. It also reflects the involvement of Board members in the above-mentioned application in respect of Mr Albarran and the review of changes in legislation affecting the Board's obligations. Members of the Board are remunerated in accordance with rates determined by the Commonwealth Remuneration Tribunal.

## Activities

The following tables have been compiled from the records of the Board.

### Matters before the Board during the report year

#### Auditors

	Conduct	Administrative
Uncompleted matters at 1/7/07	2	-
New applications	-	5
Matters withdrawn	-	-
Matters dealt with — orders issued	-	-1
Uncompleted matters at 30/6/08	2	4
Comprising:	-	-
Hearings scheduled to be held after 30/6/08	-	4

## Matters before the Board during the report year

### Liquidators

	Conduct	Administrative
Uncompleted matters at 1/7/07	1	-
New applications	-	-
Matters withdrawn	-	-
Matters dealt with — orders issued	-	-
Uncompleted matters at 30/6/08	1	-
Comprising:	-	-
Hearings held/orders made subsequent to 30/6/08, now subject to an application to the AAT for a review	1	-

### Hearing days during the report year

The time of Board members is substantially involved in the preparation for and the hearing of matters and the preparation of determinations and decisions (each with reasons) in relation to those matters. As matters can extend over the end of a financial year the table below is presented to give the users of this report an understanding of the number of days in which Board members were involved in hearings.

Activity	Auditors 2008	Auditors 2007	Liquidators 2008	Liquidators 2007
Hearing days	85 man days	23 man days	10 man days	104 man days

In addition to formal hearing days, members of the Board are involved in preparation for hearings including travel to hearing venues, review and analysis of evidence, preparation and review of determinations and subsequent decisions and orders. In respect of each application that goes to a contested hearing, the Chairperson of the relevant Panel plays the principal role in drafting the determination and any orders, together with the supporting reasons for each. In addition, the Board Chairperson is responsible for conducting pre-hearing conferences relating to all matters before the Board and is also involved in the general affairs of the Board. The Chairperson and Deputy Chairperson were also involved in preparation for the application for orders under paragraph 219(7)(b) of the ASIC Act in respect of Mr Richard Albarran mentioned above as well as reviews of the Board's obligations arising out of recent changes to legislation affecting the Board.

### Results by nature of sanction

Results of application	03/04	04/05	05/06	06/07	07/08
Registration cancelled	2	4	1	4	1
Registration suspended	4	6	1	2	1
Admonition	-	1	-	-	-
Reprimand	1	3	1	4	-
Undertakings required to be given	5	9	2	5	-
Dismissed	-	-	-	-	-
Withdrawn by ASIC	15	26	11	10	-

### Notes

1. Undertakings required to be given may be in addition to other orders.
2. The results shown are after review or appeal and include orders by consent.
3. The results shown do not include cases still subject to review or appeal where publication has been stayed by order.

## Status of reviews of Board decisions

### Vanda Russell Gould

On 21 December 2004, the Board ordered that Mr Gould's registration as a liquidator be suspended for a period of three months pursuant to paragraph 1292(2)(d) of the Corporations Act and that certain undertakings be given pursuant to subsection 1292(9). Mr Gould sought a review of the Board's decision in the AAT under the *Administrative Appeals Tribunal Act 1975* ('AAT Act').

At the reporting date, Mr Gould's application to the Tribunal remained outstanding.

### Boushra Kaddis Gadallah

On 4 August 2005, the Board ordered that Mr Gadallah's registration as a liquidator be suspended for a period of six months pursuant to paragraph 1292(1)(d) of the Corporations Act and that certain undertakings be given pursuant to paragraph 1292(9). Mr Gadallah sought a review of the Board's decision in the AAT under the AAT Act.

During the year Mr Gadallah withdrew his application to the Tribunal.

### Joseph Sleiman

On 12 September 2006, the Board ordered that Mr Sleiman's registration as a liquidator be cancelled pursuant to paragraph 1292(2)(d) of the Corporations Act. Mr Sleiman sought a review of the Board's decision in the AAT under the AAT Act.

During the year, Mr Sleiman's application to the Tribunal was rejected.

### Richard Albarran

On 3 May 2006 the Board ordered that Mr Albarran's registration as a liquidator be suspended for a period of nine months pursuant to paragraph 1292(2)(d) of the Corporations Act. Mr Albarran sought a review of the Board's decision in the AAT under the AAT Act. The decision of the Board was stayed until the substantive application was heard and determined by the Tribunal. In addition the operation or implementation of any decision of the Board to publish the order was stayed until the substantive application was heard and determined by the Tribunal.

During the year Mr Albarran withdrew his application to the Tribunal.

## Other reviews

A Respondent in relation to an order issued by the Board during the year ended 30 June 2007 has sought a review of the Board's decision in the AAT under the AAT Act. The decision of the Board has been stayed until the substantive application is heard and determined by the Tribunal. In addition the operation or implementation of any decision of the Board to publish the order has been stayed until the substantive application is heard and determined by the Tribunal.

The matter remains outstanding.

## FOI and section 13 AD(JR) Act requests

The Board did not receive any applications for information under the *Freedom of Information Act 1982* nor any requests for reasons pursuant to section 13 of the *Administrative Decisions (Judicial Review) Act 1977* during the year.

## Contact officer

The contact officer for this annual report is

The Registrar  
Mr Gary Hoare  
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Facsimile (02) 9911 2975  
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## Decisions Gazetted year ended 30 June 2008

Corporations Law  
PARAGRAPH 1296(1)(c)  
NOTICE OF DECISION

At a hearing held on 3 May 2006 pursuant to section 1294 of the Corporations Act ('Act'), the Companies Auditors and Liquidators Disciplinary Board ('Board') being satisfied, on an application by the Australian Securities and Investments Commission ('Applicant') for **Richard ALBARRAN** ('Respondent'), a registered Liquidator, to be dealt with under paragraph 1292(2)(d) of the Law in relation to the administration of Formula Engineering Pty Limited that the Respondent has failed to carry out or perform adequately and properly the duties and functions required by an Australian law to be carried out or performed by a registered Liquidator, by order suspended the Respondent's registration as a Liquidator for nine months.

The Board further ordered pursuant to section 223 of the *Australian Securities and Investments Commission Act 2001* that the Respondent pay 60 per cent of ASIC's costs.

Dated: 21 December 2007  
**Gary K Hoare**  
Registrar

Corporations Law  
PARAGRAPH 1296(1)(c)  
NOTICE OF DECISION

At a hearing held on 11 March 2008 pursuant to section 1294 of the Corporations Act ('Act'), the Companies Auditors and Liquidators Disciplinary Board ('Board') was satisfied, on an application by the Australian Securities and Investments Commission ('Applicant') for **Ross Edward HELLYER** ('Respondent'), a registered Auditor, to be dealt with under section 1292 of the Act, that the Respondent had contravened section 1287A of the Act. On 18 March 2008 the Panel ordered that the Respondent's registration as an auditor be cancelled with effect 30 days after the order takes effect.

Pursuant to section 223 of the *Australian Securities and Investments Commission Act 2001* the Panel ordered that the Respondent pay the Applicant's costs in the sum of one thousand dollars (\$1,000) within 30 days after this order takes effect.

Dated: 1 April 2008  
**Gary Hoare**  
**Registrar**



Companies Auditors and  
Liquidators Disciplinary Board

**Annual Report**

For the year ended **30 June 2008**