

Settlement Agents Supervisory Board

Annual Report 2004-05



Settlement Agents Supervisory Board Annual Report 2004-2005

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Statement of Compliance

HON JOHN KOBELKE MLA
MINISTER FOR CONSUMER AND EMPLOYMENT PROTECTION

In accordance with section 66 of the *Financial Administration and Audit Act 1985*, we hereby submit for your information and presentation to Parliament the Annual Report of the Settlement Agents Supervisory Board for the year ending 30 June 2005.

The Report has been prepared in accordance with the provisions of the *Financial Administration and Audit Act 1985*.



Judith Pinczuk
Acting Chair



Eva Skira
Member

Dated: 30 August 2005

Report from the Chair

As Chair of the Settlement Agents Supervisory Board I am pleased to present its annual report for the year ended 30 June 2005.

The last 12 months have seen a major change for all regulatory bodies, with the State Administrative Tribunal ("SAT") coming into operation on 1 January 2005. There was a six-month transition period, during which the Board finalised disciplinary matters which had been commenced before 1 January 2005 but not completed. That period is now finished. The Board continues to investigate complaints against agents and, where appropriate, institutes and maintains disciplinary proceedings before the SAT. The SAT has exclusive jurisdiction to determine disciplinary matters regarding agents. It also has power to review certain Board decisions.

The Board has had to adapt to the changed regulatory environment brought about by the creation of an external body determining disciplinary matters. It has developed policies and updated procedures relating to bringing disciplinary proceedings before the SAT. This is a continuing process as the Board adjusts to the new procedures introduced by the SAT.

Where appropriate the Board prefers to take a proactive approach to its obligations under the *Settlement Agents Act 1981*. The most significant achievement in this respect is its continuing proactive compliance program, which is a joint initiative with the Real Estate and Business Agents Supervisory Board and has now been running for five years. This year the Boards conducted an external functional review of the program to evaluate its relevance and effectiveness. The Board is pleased to report that the review found the program to be well received by the industry, and remains worthwhile. Several very useful recommendations for improvement were made, which the Board will consider implementing as soon as possible. As part of its education and awareness strategy, the Board continues to provide educational seminars for industry members and the public. These seminars are consistently well attended and successful. They would not be as successful without the substantial time devoted to them by the industry members, Ms Valerie Haskins and Ms Judith Pinczuk, the Principal Proactive Compliance Officer, Ms Sharon Officer and her team, and guest speakers. The Board is examining other strategies to increase its assistance to both industry and the public through its education and awareness strategies.

One such strategy relates to the importance for industry participants to keep their skills and knowledge up-to-date. With this in mind, the Board commenced industry consultation regarding compulsory continuing professional development ("CPD"). A discussion paper was distributed to all settlement agents and other interested people to determine the level of support for the compulsory CPD. The closing date for submissions falls within the next reporting period, and further consideration will be given to compulsory CPD after the responses have been reviewed.

The Board administers a Fidelity Guarantee Fund (the "Fund") to reimburse people who have suffered financial loss or loss of property due to the criminal or fraudulent action of a settlement agent in the course of their business. The importance of the Fund was highlighted in 2004-2005, when the licensee of Brulee Pty Ltd (trading as L.J.W. Settlements) was found to be unlawfully withdrawing and misappropriating clients' stamp duty payments, paid into its trust account, which should have then been paid to The Office of State Revenue ("OSR"). The Board worked with the OSR, and committed significant

resources to identify more than 140 clients of the agency entitled to make a claim against the Fund. The scale of the misappropriation will see the Board continue to be occupied next year with matters arising from the closure of this agency. This defalcation has caused the Board to review both the size of the Fidelity Guarantee Fund and the means of collection and remittance of Stamp Duty by settlement agents. These matters will be examined in detail and reported to the Minister.

There is some uncertainty about the role and functions of the Board in the coming year. This is due to the expected implementation of the recommendations contained in the *Final Report on the Review of Boards and Committees in the Consumer & Employment Protection Portfolio*. When the Draft Consultation Report was released, in a joint response with the Real Estate and Business Agents Supervisory Board, the Board expressed concern about the recommended model of advisory Boards and departmental regulation. The Board remains concerned about the effect of some of the recommendations, and is informing the Minister of these concerns.

Another area of concern is the current level of remuneration for Board members proposed by the Department of Premier and Cabinet. The Board is of the view that members should be remunerated at a level that is fair and reasonable. The current proposal is disappointing, and in my view may not serve to retain or attract suitable members. The Board remains hopeful that this situation will be resolved satisfactorily next financial year.

In closing I acknowledge the continued assistance provided by all Board Members and their deputies, Board Officers, and staff of the Real Estate Branch of the Department of Consumer and Employment Protection. I also acknowledge the valuable contribution made by the Australian Institute of Conveyancers, and the Independent Settlement Agents Association.

The year, like others, has had its share of problems. The achievements of the Board have only been possible due to the consistently reliable efforts provided by everyone involved.



David Taylor
Chair

Dated: 31 August 2005

SECTION ONE

About SASB

Our Organisation

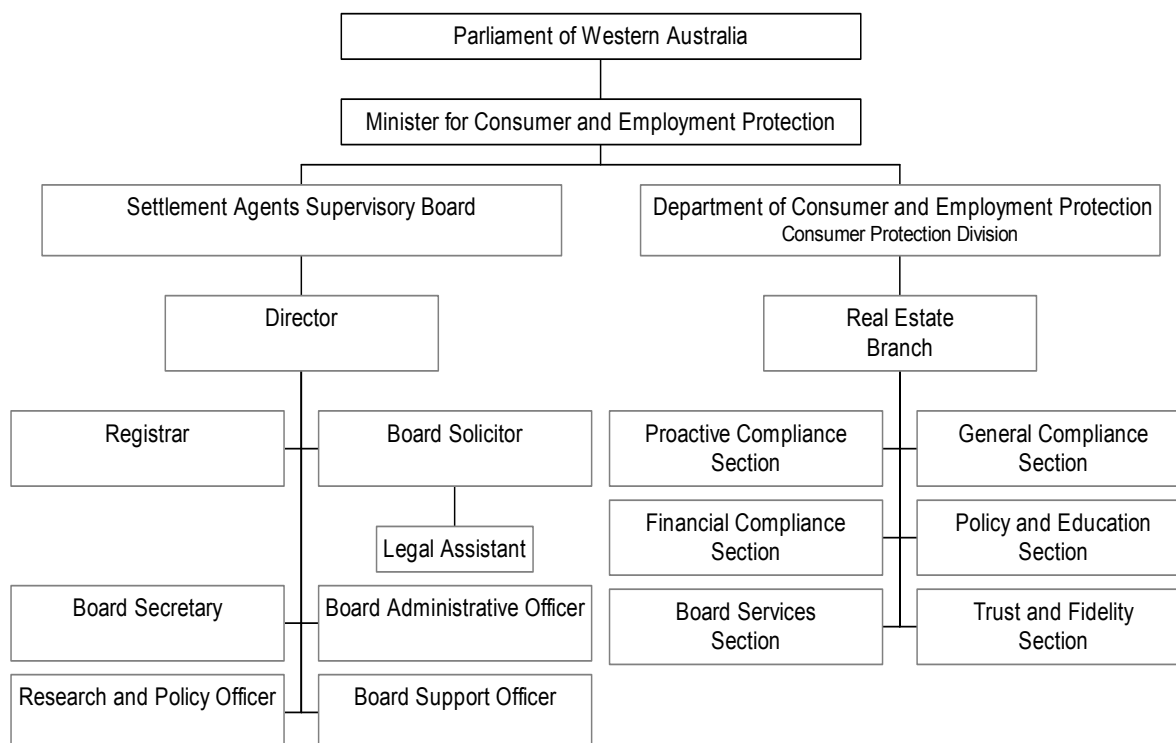
Who we are

The Settlement Agents Supervisory Board ("SASB") is an independent statutory authority established under the *Settlement Agents Act 1981* ("the Act") to regulate people who conduct settlement transactions. SASB administers the Act, its Regulations and the *Settlement Agents Code of Conduct 1982* ("the Code of Conduct").

Section 5 of the Act states:

- (1) *For the purposes of this Act there shall be a board to be known as the "Settlement Agents Supervisory Board".*
- (2) *The Board --*
- (a) *shall be a body corporate with perpetual succession and a common seal;*
 - (b) *shall be the licensing and supervisory authority for the purposes of this Act; and*
 - (c) *shall have the powers, duties, and functions, conferred, imposed, or prescribed by or under this Act.*

SASB Organisational Chart



Our Goal

That the people of Western Australia have confidence in the settlement industry.

SASB seeks to achieve this desired goal:

[t]hrough discharging its statutory function under the Settlement Agents Act 1981 (the Act), of regulating the settlement industry, by providing a consistently efficient and effective service.

SASB provides four broad categories of services in pursuit of its goal:

Licensing

Involves the quality control of people seeking to enter the settlement industry for the first time and of those already licensed in that industry.

Compliance

Ensures that licensed settlement agents comply with the relevant legislation and financial reporting requirements.

Education and Awareness

Aims to encourage awareness of settlement 'best practice' through activities such as proactive visits, seminars and publications.

Fidelity Guarantee Fund

Centres on the assessment of reimbursement claims from consumers who have suffered financial loss during a settlement transaction due to the criminal or fraudulent conduct of a licensed settlement agent or their staff.

Section Two of this report provides information about activities conducted within these areas. Section Three contains information on the assessment of these services, on the basis of quantity, quality, timeliness and cost.

Our Business

SASB is accountable to the Minister for Consumer and Employment Protection, and has the following functions under the Act:

- administer the licensing scheme for settlement agents;
- conduct and promote education and advisory services;
- conduct investigations into complaints about the conduct of settlement agents;
- bring and maintain disciplinary procedures/against agents in the State Administrative Tribunal for appropriate cases;
- administer the Fidelity Guarantee Fund, which reimburses people who have lost money through the criminal or fraudulent actions of a licensed settlement agent or one of their employees, during a real estate settlement transaction;
- recommend amendments to the Act and Regulations; and
- advise the Minister for Consumer and Employment Protection on the administration of the Act.

Board Structure

The five members of SASB are appointed by the Governor of Western Australia. Each member is appointed according to different criteria to ensure a variety of skills and experience are represented. According to section 6 of the Act, the composition of SASB is as follows:

- Chair:** must be a person who is not a licensed agent [section 6 (1)(a)];
- Member (1):** must be a person who is not a licensed agent but who is a legal practitioner [section 6 (1)(b)];
- Member (2):** must be a person who is not a licensed agent but is experienced in commercial practice [section 6 (1)(c)];
- Member (3):** must be a licensed agent who is elected by licensed agents to the position [section 6 (1)(d)]; and
- Member (4):** must be a licensed agent who is elected by licensed agents to the position [section 6 (1)(e)].

Members may hold office for up to four years and are eligible for re-election or reappointment. The Minister appoints a returning officer each election of an elective member. The Governor may appoint as deputy of a member, a person who has the prescribed qualifications of that member.

SASB Members



Mr David Taylor (Chairperson)

Mr Taylor specialises in commercial law, providing advice and litigation assistance in most areas of property, contract and business law. Mr Taylor operates his own law firm.



Ms Mirina Muir (Legal Practitioner Member)

Ms Muir is a University of NSW law graduate. She has extensive experience not only as a lawyer but also as a past member of the Board of the Queen's Trust. She is currently working for the law firm, Blake Dawson Waldron.

Deputy: Mr Steven Phillips



Ms Eva Skira (Commercial Member)

Ms Skira has acquired wide experience in the commercial, government and not-for-profit sectors over many years. She has served on a number of boards and executive committees and continues to do so. Ms Skira is a Fellow of both the Australian Institute of Company Directors and the Securities Institute of Australia.

Deputy: Mr Nicholas Hosking



Ms Valerie Haskins (Elected Member)

Ms Haskins commenced work in the settlement profession in 1977 with Agency Settlements, an agency owned by Justin Seward Pty Ltd (now known as Knight Frank). She managed Agency Settlements for approximately three years before moving to Strand Settlements. In November 1986, Ms Haskins established her own settlement agency, Haskins Settlements.

Deputy: Mr Dominic Loiacono



Ms Judith Pinczuk (Elected Member)

Judith is a licensed settlement agent elected by settlement agents as one of two settlement industry representatives on SASB.

Deputy: Ms Janice Urqhart

Our People

SASB employs eight staff directly. The Director, Board Solicitor, Legal Assistant, Board Administrative Officer and Board Support Officer are employed in a joint funding arrangement with the Real Estate and Business Agents Supervisory Board. The Registrar, Board Secretary, and Research and Policy Officer are employed solely by SASB.

Role of Key SASB Staff

Director

As Chief Officer of the Board, the Director is responsible for providing advice to it on its day-to-day operations, and for ensuring policies and strategies for regulating the real estate industry are implemented and monitored.

The Director manages the financial and human resources; oversees legal services; assists with planning and strategic issues; represents the Board in negotiating, monitoring, and reporting on contracts with external providers, including the Service Delivery Agreement ("SDA") with the Department of Consumer and Employment Protection ("DOCEP").

The Director assists the Board to comply with all legislation relevant to its statutory obligations.

Board Solicitor

The Board Solicitor has responsibility for managing legal services for SASB. This includes providing advice to the Board, and investigations, on the interpretation and application of legislation administered by the Board and relevant to Board matters, the conduct proceedings before the Board, the SAT, and courts.

The Board Solicitor also briefs external counsel to provide advice in legal representations where necessary.

Registrar

The Registrar may of his own motion, or at the direction of the Board, make any investigation or inquiry considered necessary or expedient for the purpose of determining any application or other matter before the Board.

The Registrar may grant or renew a certificate of registration. The Registrar also conducts and promotes education, and provides an advisory service to industry members and the general public on behalf of the Board.

Service Delivery Agreement

SASB contracts DOCEP to provide services under a SDA. The services provided under the SDA enable SASB to carry out its functions. The SDA sets out the services and performance measures that are in accordance with government output based management requirements.

Corporate Governance

Legislation and Statutory Reporting Compliance

In performing its functions, SASB complies with the following statutes:

- *Settlement Agents Act 1981*;
- *State Records Act 2000*;
- *Public Sector Management Act 1994*;
- *State Supply Commission Act 1991*;
- *Occupational Safety and Health Act 1984*;
- *Equal Opportunity Act 1984*;
- *Disabilities Services Act 1993*;
- *Financial Administration and Audit Act 1985*;
- *Freedom of Information Act 1992*;
- *Public Interest Disclosure Act 2003*; and the
- *Electoral Act 1907*.

Expenditure incurred within Section 175ZE of the Electoral Act 1907

Under the *Electoral Act 1907*, government agencies are required to report annually on certain types of expenditure. This information relating to SASB is published in DOCEP's 2004-2005 Annual Report.

Public Sector Standards in Human Resource Management

SASB is required to comply with the *Public Sector Standards in Human Resource Management* and the *Western Australian Public Sector Code of Ethics* in its dealings with staff. During 2004-2005, SASB received no applications for breaches of the standards. In addition, SASB:

- received no workers' compensation claims;
- did not re-deploy any of its staff;
- has not terminated any positions; and
- was not involved in any industrial disputes.

SASB has developed a *Code of Conduct for Members* based on the Government's guidelines for people holding board positions in the public sector. SASB members are required to perform their duties impartially and not be influenced by vested interests of industry parties.

SASB notes that the *Financial Administration and Audit Act 1985* places a responsibility on its members to ensure efficient and effective operations, to maintain confidentiality and ensure compliance with statutory and legal requirements.

The *Code of Conduct for Members* states that SASB will prepare and retain minutes of meetings and ensure proper procedures are observed for the documentation of decisions. Members and officers of SASB are required to maintain confidentiality and not divulge information that is confidential or sensitive, or make public statements about SASB matters unless authorised.

Disability Services Plan

SASB acknowledges and supports the principles applicable to people with disabilities stated in Schedule One of the *Disability Services Act 1993*. SASB's Disability Services Plan aims to ensure that people with disabilities, their families and carers can readily access its services.

Freedom of Information Requests

The *Freedom of Information Act 1992* allows members of the public to lodge requests for copies of documents relating to SASB and its operations. SASB endeavours to make its operations transparent and accessible. In the year 2004-2005, SASB received no requests for information under the freedom of information legislation.

People wishing to lodge a Freedom of Information application with SASB are advised to contact DOCEP's Freedom of Information Coordinator on 9282 0777. DOCEP provides an administrative function to SASB in relation to Freedom of Information matters. All requests for information under the *Freedom of Information Act 1992* must be submitted in writing and addressed to:

Freedom of Information Coordinator
Department of Consumer and Employment Protection
Locked Bag 14
Cloisters Square
Perth WA 6850

Better Planning: Better Services

Better Planning: Better Services ("BPBS") is a Western Australian Government initiative intended to improve the quality of life of all Western Australians. Agencies are required to address their contributions to this planning framework in their annual reports. The following strategic outcomes are relevant to SASB and are discussed in the appropriate parts of this report:

- A positive difference to the lives of people with disabilities, their families and carers (Corporate Governance: Disability Services Plan, page 14)
- A trading system that protects consumers and encourages small business growth (Output 2: Compliance, page 23)
- Fair pricing for regional residents and businesses (Contact Details, page 59)
- Coordinated, integrated, high quality service delivery to the community (Performance Indicators, page 34)
- An efficient Government sector that provides value for money service delivery (Performance Indicators, page 34)
- Reduced 'red tape' and compliance costs (Performance Indicators, page 34)

SASB carries out its licensing and compliance functions using services and resources provided by DOCEP under the terms of a SDA (see page 12). DOCEP provides SASB with a range of services, some of which come under the obligatory reporting requirements. Please refer to these activities in DOCEP's 2004-2005 Annual Report for information relating to cultural diversity and language services outcomes, youth outcomes, waste paper recycling, energy conservation, sustainability, and corruption prevention.

Summary of 2004-2005

Board and Other Proceedings

- SASB sat on 8 matters (directions hearings, full hearings, or hearings for penalties and costs);
- SASB convened for 1 Fidelity Guarantee Fund claim;
- SASB convened for 3 Fit and Proper licensing hearings;
- 7 interviews for licensing applications were conducted in the board room between 1 July 2004 and 31 December 2004,
- 1 interview (recorded) for a licensing application was conducted in the hearing room between 1 January 2005 and 30 June 2005;
- SASB convened for 14 board meetings;
- 4 matters were transferred from SASB to SAT;
- SASB lodged 3 new applications to bring disciplinary proceedings before SAT;

On 1 January 2005, the SAT came into operation. The introduction of SAT resulted in changes to SASB's role in relation to disciplinary proceedings. (For further information on the function of SAT and the changes to SASB's role, see page 18.)

Achievements

In 2004-2005 SASB was able to achieve the following outcomes:

- 83 applications for new licences processed;
- 154 applications for triennial certificate renewal processed;
- 63 new investigations assessed and acknowledged;
- 35 trust fund investigations completed;
- 36 investigations into qualified audits completed;
- 16 new claims against the Fidelity Guarantee Fund lodged and acknowledged;
- 151 proactive compliance visits made to settlement agencies across WA;
- 10 education seminars conducted for agents on various topics covering different requirements of the Act and the Code of Conduct; and
- 3 Homebuyer Seminars for the general public conducted in collaboration with the Real Estate and Business Agents Supervisory Board.

Industry Seminars

SASB conducted ten education seminars for settlement agents focusing on legislation and compliance issues. The number of seminars delivered has doubled from 2003-2004. Feedback from attendees at these seminars indicated that they were considered informative and worthwhile. Topics covered by these seminars include:

- risk management;
- trust account reconciliation;
- basic settlement procedures; and
- annual audit reports.

In addition, SASB approved a policy in March 2005, requiring all applicants granted a real estate or business settlement agent's licence and triennial certificate to attend a trust account seminar within six months of their licence being granted. (For further information on trust account training, see page 18.)

Homebuyer Seminars

In a joint initiative with the Real Estate and Business Agents Supervisory Board, SASB delivered three homebuyer seminars free of charge for consumers. The seminars were conducted in Perth, Geraldton and Albany, with a total of 265 people attending. Each seminar provided an overview of the processes of buying real estate. The topics covered at the seminars included: property valuation, obtaining finance, types of grants available, and offer and acceptance contracts.

State Administrative Tribunal

The SAT commenced operation 1 January 2005, and has jurisdiction to review certain SASB decisions, and to determine disciplinary matters regarding agents. There was a six-month transition period during which SASB continued to determine disciplinary matters that had commenced before 1 January 2005 but had not been completed.

SASB has had to adapt to the changed regulatory environment brought about by the creation of an external body determining disciplinary matters. It has developed and updated policies and procedures relating to bringing disciplinary proceedings before the SAT. This is a continuing process. In particular, the SAT requires SASB to attend compulsory conferences and mediation of proceedings, including disciplinary matters.

The SAT has now been in operation for six months. While SASB recognises there are many advantages in mediated resolutions of disputes, it is not yet convinced that mediation or compulsory conferences will result in consistency of decision making in like cases. It is also concerned that the confidential nature of mediation, which can also extend to orders made, conflicts with that of a regulator that publicises all decisions for the benefit of complainants and the industry.

Professional Development – CPD and Trust Account Training

People applying for a settlement agents licence must first demonstrate to SASB that they satisfy the educational requirements of the Act. Once granted a licence, agents are not required to continue their professional development.

SASB would like to see the current reactive compliance based system of regulation change to an increasingly proactive one with a focus on education. Therefore, a priority in 2004-2005 was to undertake strategies to improve the skills and knowledge of agents.

The first initiative taken this year was in March 2005, when SASB approved a policy that requires newly licensed agents to attend a trust account seminar within six months of being granted their licence. The two-hour Trust Account seminars are held quarterly and address trust accounting issues that inexperienced agents may find unfamiliar, including: account balancing; unclaimed money and long outstanding cheques; *bona fide* control requirements; and auditing guidelines and procedures.

A second initiative undertaken was to commence a compulsory continuing professional development program (“CPD”). One way of achieving an increase in industry skills and knowledge is linking CPD to the renewal of a triennial certificate.

The merits of introducing CPD are being considered by SASB, and it released a discussion paper in June 2005 to assess the level of industry support. The closing date for submissions is in August 2005.

Brulee Pty Ltd

In June 2004, through information provided by the Office of State Revenue (“OSR”), SASB became aware that Brulee Pty Ltd trading as LJW Settlements had, while using a system of collecting stamp duty endorsed by the OSR, collected money from clients for stamp duty and failed to remit it. This remained undetected by the OSR for 18 months. The Board interviewed the licensee director and person in control of the agency, Ms Susan Pollard, who admitted misappropriating the money. SASB obtained orders in the District Court of WA suspending the company from carrying on business as a settlement agent, restraining any dealings on the agency’s accounts, authorising the Board to appoint a supervisor, and to take possession of any money in the agency accounts.

On 28 September 2004, SASB held an inquiry into the conduct of the company and Ms Pollard. At the inquiry, Ms Pollard admitted to unlawfully withdrawing and misappropriating money from the agency trust account. SASB cancelled the licences and triennial certificates of the company and Ms Pollard, and permanently disqualified them.

During the year, SASB has worked with the OSR, the supervisor and forensic auditor to identify clients of the agency who may be entitled to claim against the Fidelity Guarantee Fund. To date 140 potential claimants have been identified, with an estimated one million dollars having been misappropriated. This has required significant resources being committed by the Board. The scale of the misappropriation will see SASB continuing to be occupied into the next financial year with matters arising from the closure of this agency.

Licence Applications – recording proceedings

Applicants seeking a licence have regularly been asked to attend an interview with the SASB where further information is required to satisfy the Board that they meet the requirements of the Act.

SASB has previously held interviews with applicants in the board room, and although substantial minutes are taken for the board records these have not been captured on audio-recording equipment. Following judicial comment in the District Court of Western Australia in an unrelated matter, the Board improved the process and now conducts interviews in the hearing room, where interviews are recorded on audio tape. This change in process means that a transcript is now available when needed for review purposes.

Revenue Online

Part of the role of a settlement agent is to ensure that the required stamp duty payable on the transfer of land is collected or paid to the OSR. The OSR has been operating a system, which enabled settlement agents to stamp transfer documents then remit the money collected each month. This system has its flaws, as SASB discovered, through the defalcation committed in the Brulee matter, and the OSR has subsequently developed, and is implementing, a new system, Revenue Online (“ROL”). This new system will enable agents to perform stamping on-line.

The previous system is being phased out. SASB and the OSR have had preliminary discussion about how ROL will operate, and how settlement agents will use the new system. Next year, SASB will be looking into developing best practice guidelines for settlement agents and auditors of agents trust accounts for using ROL, while also ensuring compliance with the Act.

Review of Proactive Compliance Program

SASB and the Real Estate and Business Agents Supervisory Board jointly engaged a consultant to review the Proactive Compliance Program, which has been running since 1999. The review was conducted during December 2004 to April 2005.

The review concluded that while the program is operating effectively in accordance with the way it was originally established, a number of areas could be improved. These included developing a more risk assessment based approach so that higher risk agents are visited more frequently, using technology more to improve efficiency, increasing the level of education on Board policies, and encouraging agents to review their own practices through self-assessment. SASB will consider implementing recommendations where appropriate.

SECTION TWO

Report on Outputs

Output 1 Licensing

Strategic Objectives

SASB aims to deliver effectively and consistently on the following licensing objectives:

- administer the scheme of licensing established under the Act;
- assess the fitness² of persons entering the industry and of those applying to renew their triennial certificates; and
- audit the computer databases to ensure the accuracy of the information that is recorded.

Performance

In 2004-2005 SASB was able to achieve the following outcomes:

- 83 applications for new settlement agent licences processed;
- 154 applications for triennial certificate renewal processed;
- 100% of applications acknowledged within 8 days of receipt;
- 98% of new licence applicants advised of the outcome of their application within 8 days of a SASB decision; and
- 100% of agents applying to renew their triennial certificate advised of the outcome of their application within 8 days of a SASB decision.

Overview

All settlement agents require a licence as well as a current triennial certificate in order to carry out business as a settlement agent in Western Australia. The licence issued by SASB is continuous, while the triennial certificate must be renewed every three years.

SASB reviews licence applications to ensure that only suitably qualified people enter the industry as settlement agents. Uniform minimum standards of competency are set that aim to create high standards of practice and behaviour in the industry.

Settlement Agent Fees

The fee for a new licence application includes a once only contribution to the Fidelity Guarantee Fund of \$483. The fee for renewal of a triennial certificate is \$447 for individuals, partnerships and corporate bodies.

² The Act stipulates that to hold an agents licence [section 27(1)(b)] the successful applicant must be "...a person of good character and repute and a fit and proper person" to be involved with the business of any agency. SASB considers a number of factors in reviewing the character, repute and suitability of an applicant.

Holding Fee

Agents who wish to continue to hold a licence but do not want to carry on business may do so by paying a holding fee of \$150. This puts their licence on hold for a period of three years. At the end of the financial year, 131 real estate settlement agents and 7 business settlement agents had their licence on hold.

Increase in Fees

SASB approved increases in licence and registration fees and endorsed the Regulations being amended accordingly. This has been forwarded to DOCEP to seek approval from the Minister. SASB will conduct an annual review of licence and registration fees, and in accordance with government policy, set the fee over the next three years to achieve full cost recovery.

Licensing Kit

SASB produces a licensing kit that provides information for new licence holders. The kit contains information on setting up a trust account, auditing guidelines and an agent's obligation to notify SASB of particular changes, such as a change of address. Information is also provided on how agents may obtain additional training to update their skills and knowledge. The licensing kit also supplies information for agents from other states and territories of Australia who are seeking a Western Australian licence under the *Mutual Recognition (Western Australia) Act 2001*.

Output 2 Compliance

Strategic Objectives

In 2004-2005, SASB strived to meet the following compliance objectives effectively and consistently:

- settlement agents comply with the requirements of the Act and the Code of Conduct;
- the settlement industry delivers ethical and professional services;
- prompt action is taken against settlement agents who fail to comply with the requirements of the Act and the Code of Conduct;
- complaints are investigated promptly and dealt with by SASB in a timely manner; and
- audit reports are received on time and are not qualified.

Performance

In 2004-2005 SASB was able to achieve the following outcomes:

- 60 investigations initiated;
- 66 investigations completed (on average 17.3 weeks);
- 95% of investigations acknowledged within eight days (on average 2.8 days);
- 97% of investigations commenced within 14 days (on average 6.2 days);
- 35 investigations into qualified audit reports initiated;
- 36 investigations into qualified audit reports completed (on average 21.1 weeks);
- 100% of qualified audit report investigations commenced within 14 days (on average 1 day);
- 24 trust account investigations initiated;
- 35 trust account investigations completed (on average 13.2 weeks); and
- 100% of trust account investigations commenced within 14 days (on average 3.3 days).

Overview

SASB inspectors have powers of investigation, which they may exercise for the purpose of determining whether a settlement agent is complying with the requirements of the Act, the Code of Conduct and any conditions of their licence. These powers of investigation may also be used to determine whether any other cause exists to render an agent unfit to hold a licence.

SASB's Registrar directs each investigation process. Where there is sufficient evidence, the Registrar makes recommendations to the Board that a matter be brought before the SAT alleging that there is proper cause for disciplinary action.

The total number of new investigations commenced into the conduct of settlement agents in 2004-2005 was 63, compared to 73 in the previous reporting period.

Financial Compliance

The Act sets out how agents are to maintain their trust account records. Agents are required to appoint an auditor of their trust accounts at the time of obtaining their licence. The Act requires the auditor to submit to SASB, by 30 September each year, an audit report of the agent's trust accounts. SASB treats all qualified audit reports as a priority issue.

During 2004-2005, SASB initiated 35 investigations into qualified audit reports compared to 30 from the previous reporting period. In addition, 24 trust account investigations were initiated in 2004-2005 compared to 33 from the previous reporting period. This decrease can be attributed to a change in board policy, whereby negligible overdrawn amounts no longer prompt a trust account investigation.

There are four ways for non-compliance with the trust account provisions to come to the attention of SASB, besides a qualified audit, and an investigation commenced. First, during an investigation into general compliance issues the investigator may identify potential breaches relating to the trust accounts. Second, complaints may be received directly relating to an agent's operation of their trust account. Third, from a proactive visit. Fourth, financial institutions are required under the Act to notify SASB when a trust account becomes overdrawn. This financial year 21 notifications were received.

Output 3 Education and Awareness

Strategic Objectives

In 2004-2005, SASB endeavoured to meet the following education and awareness objectives effectively and consistently:

- conduct visits to settlement agencies and provide education seminars to assist agents to comply with the Act;
- provide a counter and telephone information service to consumers and industry;
- conduct seminars for home buyers;
- support and fund education programs for consumers and for the professional development of agents; and
- develop educational material, including brochures and guides, for distribution to consumers and industry.

Performance

In 2004-2005 SASB was able to achieve the following outcomes:

- 151 proactive compliance visits of settlement agencies across Western Australia;
- 10 education seminars delivered for agents on various topics covering different requirements of the Act and the Code of Conduct; and
- 3 homebuyer seminars conducted in collaboration with the Real Estate and Business Agents Supervisory Board.

Overview

Proactive Compliance

SASB conducts a Proactive Compliance Program that is unique in Australia. The purpose of the program is to promote and improve the level of compliance and ethical standards in the settlement industry. SASB's proactive compliance officers visit agencies to provide advice and examine the level of adherence to legislative requirements. Participation by agents is voluntary. This financial year, SASB conducted 151 proactive visits to agencies, a 62% increase from the 93 conducted in the last financial year.

Proactive compliance visits are carried out in accordance with a standard process, which includes looking at:

- employment records are examined and matched with SASB Register;
- remitting stamp duty on transactions when self-assessment of stamp duty has occurred;
- trust account receipts conform to the Act;
- agents exercise control over the issue and signing of trust cheques;
- the correct timing of the drawing of the agent's fees;

- the agency has up-to-date copies of legislative requirements; and
- the agent in *bona fide* control is proficient in performing bank reconciliations.

Where deficiencies are identified, practical advice and guidance is given on how the agency may correct the problem, and comply with the requirements of the Act. The majority of feedback obtained from agents who have participated in the program indicates that the proactive compliance visits were helpful and informative.

SASB has recently completed a functional review of its Proactive Compliance Program. This review was conducted by an external consultant and will be used to ensure that it continues to meet the educational needs of the industry, and is being delivered in accordance with board policies and objectives appropriate to the current market. (For further information on this review, see page 19.)

Trust Account Training for New Licensees

During 2004-2005, SASB introduced a requirement on all new applicants granted a real estate and/or business settlement agent licence and triennial certificate. All new licensees are now required to attend a trust account seminar within six months of their licence being approved. (For further information on trust account training, see page 18.)

Information Services

DOCEP provides SASB with call centre services. In 2004-2005, the Call Centre received 5,082 telephone enquiries from the public seeking information on settlement matters. Of the telephone enquiries received, 80% were answered within 40 seconds. Main areas of enquiry relate to matters such as settlement delay, fees, disbursements and utilities, and conflict of interest.

In addition, SASB's counter service in 2004-2005 received 64 enquiries on settlement matters. Of these enquiries, 84% were handled within six minutes.

Education Advisory Committee

The role of the Education Advisory Committee is to advise SASB on education initiatives and priorities. The Committee is comprised of the following members:

- Ms Valerie Haskins – SASB Member;
- Mr Geoff Couper – SASB Registrar;
- Mr John Jasiak - Technical and Further Education ("TAFE");
- Ms Koo Lloyd-Kane - Australian Institute of Conveyancers WA; and
- Ms Janet Griffiths - Independent Settlement Agents Association.

During 2003-2004, the Committee developed a framework of seven core competencies as part of a new Diploma course for settlement agents. The objective was to provide a long-term approach to the formal education of future settlement agent licensees. These changes to the prescribed educational qualifications were facilitated by an amendment to the *Settlement Agents Regulations 1982*. Transitional arrangements included in the amended regulations provide that people who have successfully completed certain discontinued courses have until 1 July 2006, to apply to SASB for a settlement agents licence.

Settlement Agents News

To provide information to settlement industry members and stakeholders, SASB produces a quarterly newsletter, titled the *Settlement Agents News*. The newsletter includes information on industry practice issues, case studies from SASB inquiries and legislative amendments. It is mailed to all licensees and stakeholders, and can also be downloaded from SASB's website.

Website

SASB's website at www.sasb.wa.gov.au is a significant resource, assisting it to carry out its statutory functions. The website contains a range of information for consumers and industry members. It provides downloadable copies of all SASB publications; decisions arising out of disciplinary inquiries; information on services available through SASB; and access to electronic copies of settlement legislation. New material continues to be added to the website on a regular basis. In addition, SASB's website has a searchable *Index of Articles* from the *Settlement Agent News*, which lists topics; descriptions; references to legislation; and links to published articles.

SASB will be engaging a consultant in the next financial year to review the website with the aim of improving its information content, speed and ease of use. New online features being considered include: lodgment of complaints, a listing of all licensed agents and allowing agents to view their licensing details.

Settlement Agents Supervisory Board Trust Account Handbook

SASB has produced this booklet to assist agents to establish and maintain a trust account recording system that complies with the Act. This booklet also makes a number of recommendations that, while not prescribed by the Act, are considered by SASB to be best practice in maintaining trust accounts.

Audit Guidelines

These guidelines are aimed at auditors who audit settlement agents' trust accounts and outline the bookkeeping and other requirements of the Act. Settlement agents will also find them a useful overview of the trust account requirements.

Complaint Handling Guidelines

As part of a proactive strategy to improve the awareness of effective complaint handling procedures, SASB produces a publication, in conjunction with the Real Estate and Business Agents Supervisory Board, titled *Complaint Handling Guidelines for the Settlement and Real Estate Industries*.

This publication was revised in April 2005 and presents general recommendations that are considered essential for the internal management of complaints. The publication provides guidance to agencies developing or reviewing their internal complaint handling procedures and sets out the steps required to implement a complaint handling procedure to ensure complainants are dealt with in a fair and courteous manner.

Conveyancing Guide

SASB continues to produce the *Conveyancing Guide: A Guide for Licensed Settlement Agents in Western Australia*. This is a joint educational initiative with the Australian Institute of Conveyancers (Western Australia Division Inc.). The Guide encourages best practice in the settlement industry.

Consumer Publications

SASB funds the production of three fact sheets, which provide important information to both consumers and industry members on topical issues relevant to real estate property settlement transactions. These publications are:

- *Property Settlement;*
- *Licensing of Settlement Agents;* and
- *Choosing a Settlement Agent.*

To ensure that all information is current, two fact sheets (*Property Settlement* and *Licensing of Settlement Agents*) were revised in 2004-2005. The third fact sheet, (*Choosing a Settlement Agent*) will be reviewed in December 2005.

Output 4 Fidelity Guarantee Fund

Strategic Objectives

The Fidelity Guarantee Fund ("Fidelity Fund") provides reimbursement to people who may have lost money through the criminal or fraudulent actions of a licensed settlement agent or one of their employees in the course of a settlement transaction.

Performance

In 2004-2005 SASB was able to achieve the following outcomes:

- 16 claims lodged against the Fidelity Fund;
- 2 Fidelity Fund claims finalised (one allowed and one withdrawn);
- 99% of claims acknowledged within eight days; and
- 100% of claim assessments commenced within fourteen days.

Overview

The Fidelity Fund is administered by SASB. The money in the Fidelity Fund is comprised of interest earned on agents' trust accounts, and money from a once-only payment made by agents and sales representatives at the time they are first licensed or registered. The Fidelity Fund is kept at Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial and Administration Audit Act 1985*. Money standing to the credit of the Fidelity Fund is invested with Treasury, and income derived from this is credited to the Fidelity Fund.

The criteria for making a claim are:

- the applicant has suffered financial loss or loss of property;
- the loss was due to the defalcation (which includes criminal or fraudulent conduct) of a licensed settlement agent or their employee;
- the agent is licensed; and
- the loss occurred in relation to a settlement transaction.

Fidelity Fund Claims Lodged:

	2001-2002	2002-2003	2003-2004	2004-2005
Number of Claims	1	1	1	16

There were 16 claims lodged against the Fidelity Fund in 2004-2005, a significant increase from all previous years. This increase is a result of 14 claims being lodged in relation to the Brulee matter. (For further information on this matter, see page 18.) A further 126 potential claims against the Fidelity Fund have been identified in relation to this matter. SASB has commenced writing to former Brulee clients to advise that they may be entitled to lodge a claim against the Fidelity Fund.

A new form and information bulletin has been introduced by SASB to assist potential claimants complete and lodge a claim against the Fidelity Fund. The form is designed to expedite the processing of claims due to the increased information now required by the Board from potential claimants. The information bulletin explains briefly what must be done when making a claim for reimbursement.

SECTION THREE

Performance Indicators



AUDITOR GENERAL

INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

SETTLEMENT AGENTS SUPERVISORY BOARD PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2005

Audit Opinion

In my opinion, the key effectiveness and efficiency performance indicators of the Settlement Agents Supervisory Board are relevant and appropriate to help users assess the Board's performance and fairly represent the indicated performance for the year ended 30 June 2005.

Scope

The Board's Role

The Board is responsible for developing and maintaining proper records and systems for preparing performance indicators.

The performance indicators consist of key indicators of effectiveness and efficiency.

Summary of my Role

As required by the Financial Administration and Audit Act 1985, I have independently audited the performance indicators to express an opinion on them. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the performance indicators is error free, nor does it examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the performance indicators.

D D R PEARSON
AUDITOR GENERAL
31 August 2005

Certification of Performance Indicators

We hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Settlement Agents Supervisory Board's performance, and fairly represent the performance of the Settlement Agents Supervisory Board for the financial year ended 30 June 2005.



Judith Pinczuk
Acting Chair



Eva Skira
Member

Dated: 30 August 2005

Performance Indicators

STATUTORY ROLE OF THE BOARD

The Board acts in the public interest as the supervisory authority for settlement agents in Western Australia. The statutory function required of the Board is to regulate the manner in which settlement agents conduct themselves when entering into or assisting in settlement transactions.

OUTCOME

At the highest level, the outcome of the Board is that:

The people of Western Australia, both the industry and the public, have confidence in the settlement industry.

EFFECTIVENESS INDICATOR

The extent to which settlement agents comply with the requirements of the Settlement Agents Act 1981 in relation to the management of their trust accounts.

The Board aims to positively influence the behaviour of industry participants through effective compliance activities. The extent to which the people of Western Australia can be confident that the real estate and business broking industry operates in accordance with regulatory requirements is assessed by the level of compliance relating to the management of trust accounts.

The Board's experience is that the extent of compliance in respect to trust accounts is the best single test providing a reliable indication of the extent to which agents are generally complying with the requirements of the *Settlement Agents Act 1981*. Breaches in relation to the management of trust accounts usually indicate other problems or breaches that may be occurring within an agency.

An independent auditor, who has conducted an examination of an agents trust account management, provides an audit opinion. An unqualified opinion is issued when the auditor feels the agent's trust accounts are, and have been during the period of the audit, kept in order. One aim of independent scrutiny is to provide a level of confidence regarding the management of the trust accounts. Therefore, the extent to which settlement agents submit unqualified audit opinions is an indication of the degree of confidence that can be held in the industry.

Measure

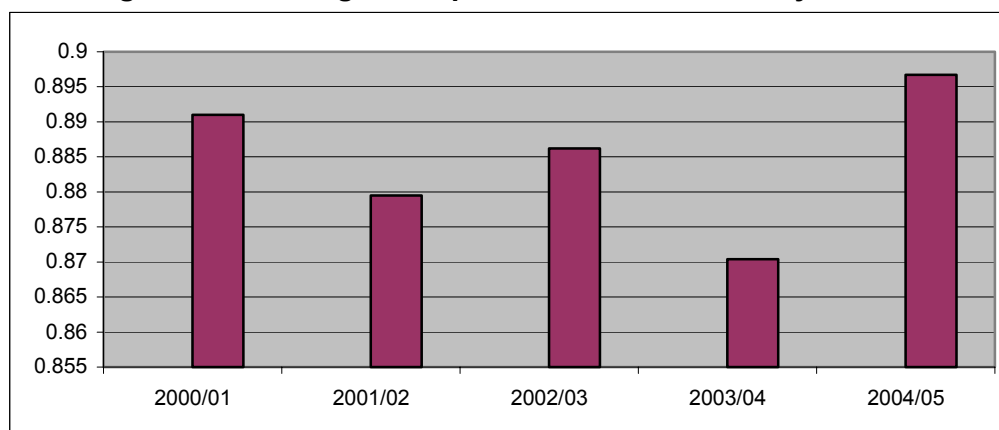
The proportion of settlement agents that submit an unqualified audit or a statutory declaration.

$$\frac{\text{No. of agents submitting an unqualified audit report} + \text{No. of agents submitting a statutory declaration}}{\text{Total no. of agents}}$$

Data

	2000/01	2001/02	2002/03	2003/04	2004/05
Audit Reports - Not Qualified	208	229	231	229	240
Audit Reports - Qualified	34	45	39	45	38
Statutory Declarations	112	114	96	100	90
No Report	5	2	3	4	0
Total agents	359	390	369	378	368
% of agents submitting unqualified audit or statutory declaration	89.1	87.95	88.62	87.04	89.67

% of agents submitting an unqualified audit or statutory declaration



Notes to the Indicator

Agents are required by the Act to conduct financial transactions on behalf of their principals (clients) through a trust account. If a licensed agent (individual) conducts no transactions then the agent must submit a statutory declaration confirming this. A licensed agent (individual) may work for a company and it is then the company's trust accounts that are audited.

The Board places significant reliance on audit reports to ensure that agents maintain their trust accounts in accordance with the statutory requirements. Since 2001/02 the Board has maintained a 'no tolerance' policy towards agents who fail to comply with the trust account auditing provisions of the Act. Where appropriate, the Board will commence proceedings before the State Administrative Tribunal alleging that there is proper cause for disciplinary action regarding an agent's conduct. Where it is found that there is proper cause for disciplinary action against the agent then sanctions may be imposed, which include a reprimand, a fine, suspension or cancellation of the agent's licence.

This year there are 10 fewer active agents, with 11 more unqualified audits and seven fewer qualified audits. The proportion of settlement agents submitting unqualified audits or statutory declarations has increased marginally this year with a 2.27% shift, from 87.04% to 89.67%, or approximately 7 agents.

Although the Board is concerned about the number of audits which are qualified, it believes that to some extent this is a result of auditors becoming increasingly aware of the expectations of the Board regarding auditing agents trust accounts and more audits are being qualified for minor matters. This increased awareness can be attributed to the education program and industry seminars run by the Board, and the publication of the Trust Account Manual for Auditors.

KEY OUTPUT

The key 'output' or service provided by the Board is **regulation** of the settlement industry through the discharge of the Board's statutory functions.

The Board undertakes a range of activities to ensure both agents and the public are aware of their rights and responsibilities, licences settlement agents, takes action to ensure compliance with the Act, hears complaints and administers the Fidelity Guarantee Fund.

EFFICIENCY INDICATOR

The average cost per licensed agent, of regulating the settlement industry.

The Board provides a range of services/outputs aimed to ensure that settlement agents comply with the requirements of the Act. This indicator measures the efficiency with which the Board achieves this.

Measure

Total cost of regulating the industry divided by the number of active licensed agents in Western Australia.

Data

	2000/01	2001/02	2002/03	2003/04	2004/05
Annual Cost*	\$1 078 368	\$1 313 865	\$1 593 368	\$1 752 982	\$1 767 611
Active Licensed Agents	359	390	369	378	368
	\$3003.81	\$3368.88	\$4318.07	\$4637.51	\$4803.29

* Note: The annual cost of regulating the settlement industry has been calculated using the total annual expenditure of the Board less Fidelity Guarantee Fund payments made in that financial year. Fidelity Guarantee Fund payments have been excluded as these payments relate to the reimbursement of losses that were incurred by the defalcation of a licensed settlement agent in previous financial years and therefore do not reflect on the true annual cost of regulating the settlement industry.



Notes to the indicator

The efficiency indicator is based on the cost of delivering the output per each active licensed settlement agent. In the 2004/05 financial year a total of \$1 767 611 was expended on regulating an industry with 368 active licensed agents.

The average cost per agent of regulating the settlement industry, like the average cost per capita, has increased steadily since July 1999. This increase can be attributed to the continued introduction of initiatives aimed at improving services and meeting the increasing demands and expectations of both consumers and the industry. This year on top of the continuing improvements, the most significant event increasing the cost of delivering services was the defalcation by Brulee Pty Ltd trading as LJW Settlements. The defalcation by the agent resulted in the Board having to spend significant resources on investigating the conduct, the appointment of a supervisor and a forensic auditor, and assessment of claims.

SECTION FOUR

Financial Statements



AUDITOR GENERAL

INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

SETTLEMENT AGENTS SUPERVISORY BOARD FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2005

Audit Opinion

In my opinion,

- (i) the controls exercised by the Settlement Agents Supervisory Board provide reasonable assurance that the receipt, expenditure and investment of moneys, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (ii) the financial statements are based on proper accounts and present fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions, the financial position of the Board at 30 June 2005 and its financial performance and cash flows for the year ended on that date.

Scope

The Board's Role

The Board is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing the financial statements, and complying with the Financial Administration and Audit Act 1985 (the Act) and other relevant written law.

The financial statements consist of the Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and the Notes to the Financial Statements.

Summary of my Role

As required by the Act, I have independently audited the accounts and financial statements to express an opinion on the controls and financial statements. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the financial statements is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements.

D D R PEARSON
AUDITOR GENERAL
31 August 2005

Certification of Financial Statements

The accompanying financial statements of the Settlement Agents Supervisory Board have been prepared in accordance with the provisions of the *Financial Administration and Audit Act 1985* from proper accounts and records and to present fairly the financial transactions for the year ending 30 June 2005 and the financial position at 30 June 2005.

At the date of signing, we are not aware of any circumstances, which would render the particulars included in the financial statements misleading or inaccurate



Judith Pinczuk
Acting Chair



Eva Skira
Member



Carolyn Allanson
Principal Accounting Officer

Dated: 30 August 2005

Financial Statements

SETTLEMENT AGENTS SUPERVISORY BOARD

Statement of Financial Performance for the year ended 30 June 2005

REVENUE	Note	2004/05 \$	2003/04 \$
Revenue from Ordinary Activities			
<i>Revenue from operating activities</i>			
Agents trust account interest income		4,347,219	3,674,665
Licence income	3	68,970	66,708
Contributions to the Fidelity Guarantee Fund		32,600	37,650
Fines and costs		22,442	34,990
Other revenues from ordinary activities	4	334	422
<i>Revenue from non operating activities</i>			
Bank and investment interest	2	1,019,696	811,172
Total Revenues from Ordinary Activities		5,491,261	4,625,607
EXPENSES			
Expenses from Ordinary Activities			
Employee expenses	5	300,670	374,848
Communications costs		3,920	4,200
Legal fees		57,810	134,690
Board fees		34,276	44,175
Services and contracts	6	1,313,737	1,146,752
Consumables and maintenance	7	6,393	10,068
Depreciation	8	28,392	31,886
Expenses from Ordinary Activities Before Grants and Payments		1,745,198	1,746,619
Grants and payments			
Education Grants	9	30,371	6,364
Fidelity guarantee payments	11	184,700	0
Total Expenses from Ordinary Activities		1,960,269	1,752,983
NET PROFIT		3,530,992	2,872,624

The Statement of Financial Performance should be read in conjunction with the accompanying notes.

SETTLEMENT AGENTS SUPERVISORY BOARD
Statement of Financial Position as at 30 June 2005

Current Assets	Note	2004/05	2003/04
		\$	\$
Cash assets	13	8,835,278	6,904,306
Restricted cash assets	13	12,086,211	10,662,257
Accrued agents trust account interest income		427,028	329,675
Accrued investment interest		88,779	71,012
Receivables	14	2,014	7,250
Total Current Assets		21,439,310	17,974,500
Non-Current Assets			
Computers and Equipment	19	19,851	4,784
REMIS Software	19	20,963	45,327
Total Non-Current Assets		40,814	50,111
Total Assets		21,480,124	18,024,611
Current Liabilities			
Payables	15	50,189	98,166
Provisions for fidelity guarantee claims	10	0	13,110
Other liabilities (Revenue received in advance)	3	59,507	56,169
Provisions	20	37,604	31,331
Total Current Liabilities		147,300	198,776
Non Current Liabilities			
Other liabilities (Revenue received in advance)	3	46,221	45,674
Provisions	20	13,191	37,741
Total Non Current Liabilities		59,412	83,415
Total Liabilities		206,712	282,191
NET ASSETS		21,273,412	17,742,420
Equity			
Retained profits	22	21,273,412	17,742,420
TOTAL EQUITY		21,273,412	17,742,420

The Statement of Financial Position should be read in conjunction with the accompanying notes.

SETTLEMENT AGENTS SUPERVISORY BOARD**Statement of Cash Flows for the year ended 30 June 2005**

CASH FLOWS FROM OPERATING ACTIVITIES	Note	2004/05	2003/04
		\$	\$
Receipts			
Agents trust account interest received		4,249,866	3,679,240
Bank and investment interest received		1,001,929	798,907
Receipt from clients		71,477	105,348
Contributions paid into the Fidelity Guarantee Fund		32,600	37,650
GST receipts from ATO		29,390	20,697
Payments			
Payments to suppliers of goods and services		(1,776,982)	(1,781,863)
Payments from Fidelity Guarantee Fund		(184,700)	0
Payments for education programs		(30,371)	(6,364)
GST payments on purchases		(19,188)	(22,761)
Net Cash Provided by/(used in) Operating Activities	18	3,374,021	2,830,854
CASH FLOWS FROM INVESTING ACTIVITIES			
Payments for non current assets		(19,095)	0
Net Cash Provided by/(used in) Investing Activities		(19,095)	0
Net Increase in Cash Held		3,354,926	2,830,854
Cash assets at the beginning of the financial year		17,566,563	14,735,709
Cash assets at the end of the financial year	13	20,921,489	17,566,563

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

1. Significant Accounting Policies

The following accounting policies have been adopted in the preparation of the financial statements. Unless otherwise stated, these policies are consistent with those adopted in the preceding year.

(a) General statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and Urgent Issues Group (UIG) Consensus Views as applied by the Treasurer's Instructions. Several of these are modified by the Treasurer's Instructions to vary the application, disclosure, format and wording. The Financial Administration and Audit Act and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and UIG Consensus Views. The modifications are intended to fulfil the requirements of general application to the public sector, together with the need for greater disclosure and also to satisfy accountability requirements.

If any such modification has a material or significant financial effect upon the reported results, details of that modification and where practicable, the resulting financial effect is disclosed in individual notes to these financial statements.

The statements have been prepared on the accrual basis of accounting using the historical cost convention, except for certain assets and liabilities, which as noted, are measured at fair value.

(b) Revenue Recognition

Revenue from the sale of goods and disposal of other assets and the rendering of services, is recognised when control of the goods or other assets or delivery of the services has passed to the customer.

(c) Acquisition of assets

The cost method of accounting is used for all acquisitions of assets. Cost is measured as the fair value of the assets given up or liabilities undertaken at the date of acquisition plus incidental costs directly attributable to the acquisition.

Assets costing less than \$1,000 are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

(d) Depreciation of non-current assets

All non-current assets having a limited useful life are systematically depreciated over their estimated useful lives in a manner, which reflects the consumption of their future economic benefits.

Depreciation is calculated on the straight line basis, using rates, which are reviewed annually. Expected useful lives for each class of depreciable asset are:

Computers & Equipment	3 years
REMIS Software	5 years
All assets are stated at cost.	

(e) Cash

For the purpose of the Statement of Cash Flows, cash includes cash assets and restricted cash assets. These include short term deposits that are readily convertible to cash on hand and are subject to insignificant risk of changes in value.

(e) Computer Software

Significant costs associated with the acquisition or development of computer software are capitalised and amortised on a straight line basis over the periods of the expected benefit. In the case of REMIS five years. Costs in relation to the Boards web site are charged to expenses in the period in which they are incurred.

(f) Employee benefits

Annual leave

This benefit is recognised at the reporting date in respect to employees' services up to that date and is measured at the nominal amounts expected to be paid when the liabilities are settled.

Long service leave

The liability for long service leave expected to be settled within 12 months of the reporting date is recognised in the provisions for employee benefits, and is measured at the nominal amounts expected to be paid when the liability is settled.

The liability for long service leave expected to be settled more than 12 months from the reporting date is recognised in the provisions for employee benefits and is measured at the present value of expected future payments to be made in respect of services provided by employees up to the reporting date. Consideration is given, when assessing expected future payments, to expected future wage and salary levels including relevant on costs, experience of employee departures and periods of service.

Expected future payments are discounted using market yields at the reporting date on national government bonds with terms to maturity and currency that match, as closely as possible, the estimated future cash outflows.

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

Leave benefits for staff services procured from the Dept of Consumer & Employment Protection by the Board under a service delivery agreement are recognised in the Department's financial statements.

This method of measurement of the liability is consistent with the requirements of Australian Accounting Standard AASB 1028, "Employee Benefits".

Superannuation

Staff may contribute to the Pension Scheme, a defined benefits pension scheme now closed to new members, or to the Gold State Superannuation Scheme, a defined benefit lump sum scheme now also closed to new members. All staff who do not contribute to either of these schemes become non-contributory members of the West State Superannuation Scheme, an accumulation fund. The Board contributes to this accumulation fund in compliance with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. All of these schemes are administered by the Government Employees Superannuation Board (GESB).

The liabilities for superannuation charges under the Gold State Superannuation Scheme and West State Superannuation Scheme are extinguished by payment of employer contributions to the GESB.

The note disclosure required by paragraph 6.10 of AASB 1028 (being the employer's share of the difference between employees' accrued superannuation benefits and the attributable net market value of plan assets) has not been provided. State scheme deficiencies are recognised by the State in its whole of government reporting. The GESB's records are not structured to provide the information for the Board. Accordingly, deriving the information for the Board is impractical under current arrangements, and thus any benefits thereof would be exceeded by the cost of obtaining the information.

Employee benefit on-costs

Employee benefit on costs are recognised and included in employee benefit liabilities and costs when the employee benefits to which they relate are recognised as liabilities and expenses.

Accrued Salaries

Accrued salaries represent the amount due to staff but unpaid at the end of the financial year, as the end of the last pay period for that financial year does not coincide with the end of the financial year. These are included as part of the payables (note 15). The Board considers the carrying amount approximates net fair value.

(g) Revenue

Proceeds from triennial licensing fees are allocated over 36 months from the month of receipt. The portion of licensing fees which are related to the current year are recognised as revenue. The remainder of the proceeds is recognised as Revenue received in advance.

Contributions from agents to the Fidelity Guarantee Fund are recognised as revenue in the year of receipt. These are levied by the Board if it is of the opinion funds are not sufficient to cover pecuniary loss of property by reason of any defalcation by a licensee.

Proceeds from other sources are recognised as revenue when received.

Bank and investment interest revenues are recognised as they are accrued.

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

(h) Receivables

Receivables are recognised at the amounts receivable as they are due for settlement no more than 30 days from the date of recognition.

(i) Investments

Investments are brought to account at the lower of cost and recoverable amount. Interest revenues are recognised as they are accrued.

(j) Accounts payable and accrued expenses

Payables, including accruals not yet billed, are recognised when the Board becomes obliged to make future payments as the result of a purchase of assets or services. Payables are generally settled within 30 days.

(k) Net fair value of financial assets and liabilities

The carrying amount of financial assets and financial liabilities recorded in the financial statements are not materially different from their net fair values, determined in accordance with the accounting policies disclosed in these notes.

(l) Comparative figures

Comparative figures are, where appropriate, reclassified so as to be comparable with the figures in the current financial year.

(m) Rounding of amounts

Unless otherwise shown amounts in the financial statements have been rounded to the nearest dollar.

2. Bank and investment interest

The interest revenue of the Board is comprised of:

	2004/05	2003/04
	\$	\$
Interest from Treasury	982,400	776,767
Interest on call accounts	37,296	34,405
Total interest income	1,019,696	811,172

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

3. Licence income

Proceeds from triennial licensing fees are allocated over 36 months from the month of receipt.

Fees relating to the current financial year are recognised as revenue. The balance of the fees are credited into Revenue received in advance accounts.

Analysis of the fees is as follows:

	2004/05	2003/04
	\$	\$
Revenue received in advance opening balance (current)	56,169	49,894
Revenue received in advance opening balance (non current)	45,674	36,855
Cash received during the year (less refunds)	72,855	81,802
Total receipts received	174,698	168,551
Revenue recognised during the year	68,970	66,708
Revenue received in advance	105,728	101,843
Held in		
Revenue received in advance account (current)	59,507	56,169
Revenue received in advance account (non current)	46,221	45,674
Total	105,728	101,843

4. Other revenues from ordinary activities

Other revenues consists of:

	2004/05	2003/04
	\$	\$
Copy of register	0	144
Copy of license	40	30
Miscellaneous income	213	170
Contribution to insurance	81	78
Total	334	422

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

5. Employee expenses

The Board procures services from the Dept of Consumer & Employment Protection under a service delivery agreement. The current arrangements which started in the 1999/2000 financial year is for an all inclusive fixed fee. The salary figure below represents only the salary of employees directly employed by the Board.

	2004/05	2003/04
	\$	\$
Salary	250,677	258,341
Change in annual leave	(3,669)	7,690
Change in long service leave	(14,608)	11,974
Superannuation	17,862	18,494
Total staff salary costs	250,262	296,499
Staff related expenses	50,408	78,349
Total staff costs	300,670	374,848

Staff related expenses include accommodation, training, workers compensation, vehicle, FBT and parking.

6. Services and contracts

Services contracts consists of:

	2004/05	2003/04
	\$	\$
Audit fees	14,000	13,000
Bank charges	952	698
Consultants and contractors fees	105	390
Hire charges	3,234	0
Board members insurance	10,567	9,978
Professional services	138,191	32,313
Advertising	2,350	1,414
Printing	3,691	9,930
Miscellaneous	1,740	4,937
Website subscription	0	578
Service Delivery Agreement	1,138,907	1,073,514
Total	1,313,737	1,146,752

The Service delivery agreement costs cover the procurement of services from the Department of Consumer & Employment Protection. The current agreement is for a fixed fee which is reviewed annually.

7. Consumables and maintenance

	2004/05	2003/04
	\$	\$
Stationery	1,209	3,144
Sundry consumables	3,163	3,926
Sundry assets costing under \$1000	1,172	1,593
Repair and maintenance	849	1,405
Total	6,393	10,068

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

8. Depreciation

Depreciation charges for the year consist of:

	2004/05	2003/04
	\$	\$
Computers and equipment	4,028	7,452
REMIS Software	24,364	24,434
Total	28,392	31,886

9. Educational grants

The Board made educational grants amounting to **\$30,371** during the year (\$6,364 for 2003/04).

Grants were made to the following for the provision of training courses:

	2004/05	2003/04
	\$	\$
Australian Institute of Conveyancers	0	4,546
TAFE WA	30,371	1,818
Total	30,371	6,364

10. Provisions for fidelity guarantee claims.

The position of the provision for fidelity guarantee account at the financial year end date is as follows:

	2004/05	2003/04
	\$	\$
Opening balance	13,110	14,882
Payment from provision account	(13,110)	(1,772)
Closing balance	0	13,110

The opening balance of the provision for fidelity claims is a residual balance of provisions left over from previous years. As at 30 June 2005 the Principal Financial Compliance Officer has not deemed any outstanding claims can be reliably assessed.

Outstanding claims against the Fidelity Guarantee Fund are disclosed as contingent liabilities.

11. Fidelity guarantee payments

A total of \$197,810 was approved by the Board to be paid out for fidelity guarantee payments during the year (\$0 in 2003/04). \$13,110 of this was offset against a provision account (see note 10). Outstanding claims against the fidelity guarantee fund are disclosed as contingent liabilities (see note 12).

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

12. Contingent liabilities

In addition to the liabilities incorporated in the financial statements the Board is aware of 150 claims (5 as at 30/6/2004) against the Fidelity Guarantee Fund totalling \$2.1m (\$2.9m as at 30/6/04) for which no liability has been admitted by the Board.

13. Cash assets

Cash resources held in the Fidelity Guarantee Fund are deemed to be restricted as the application of these resources are governed by the provisions of the Settlement Agents Act 1981.

As at balance sheet date the cash balances in the various bank accounts administered by the Board are as follows:

	2004/05	2003/04
	\$	\$
Education and General Purpose Fund	294,778	163,806
Fidelity Guarantee Fund (Restricted)	196,211	72,257
Board Interest Account	500	500
Total cash at bank	491,489	236,563

	2004/05	2003/04
	\$	\$
Cash held at Treasury		
Education and General Purpose Fund	8,540,000	6,740,000
Fidelity Guarantee Fund (Restricted)	11,890,000	10,590,000
Total cash held in term deposit	20,430,000	17,330,000
Total Cash	20,921,489	17,566,563

Cash Assets	8,835,278	6,904,306
Restricted Cash Assets	12,086,211	10,662,257
Total Cash	20,921,489	17,566,563

14. Receivables

Accounts receivable represents monies due from:

	2004/05	2003/04
	\$	\$
Accounts Receivable	1,000	0
GST Recoverable	1,014	7,250
Total	2,014	7,250

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

15. Payables

	2004/05	2003/04
	\$	\$
Service delivery agreement with the Dept of Consumer & Employment Protection	0	7,075
Audit fees	14,000	13,000
Reimbursement to Dept of Consumer & Employment Protection	32,113	61,140
Salaries	0	3,418
Miscellaneous creditors	4,076	13,533
Total	50,189	98,166

16. Remuneration of Members of the Accountable Authority and Senior Officers

Remuneration of Members of the Accountable Authority

The number of members of the Accountable Authority whose total of fees, salaries, superannuation and other benefits for the financial year, fall within the following bands:

	2004/05	2003/04
\$0 - \$10,000	9	9
\$10,001 - \$20,000	0	1
Total remuneration of members of the accountable authority is:	43,308	49,869

Remuneration of Senior Officers

The number of senior officers other than senior officers reported as members of the Accountable Authority whose total of fees, salaries, superannuation and other benefits for the financial year, fall within the following bands are:

	2004/05	2003/04
\$20,001 - \$30,000	1	1
Total remuneration of senior officers is	29,912	26,801

The Board procures services from the Dept of Consumer & Employment Protection. The number of senior officers providing these services is included in the annual report of the Department.

17. Remuneration of Auditor

The amount payable to the Office of the Auditor General of Western Australia for auditing the accounts for the financial year is \$14,000 (\$13,000 for 2003/04).

Apart from the audit the Board did not procure other services from the Office of the Auditor General of Western Australia.

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

18. Reconciliation of net profit to net cash flows provided/(used in) operating activities

	2004/05	2003/04
	\$	\$
Net Profit as per Statement of Finance Performance	3,530,992	2,872,624
Non-cash items		
Depreciation	28,392	31,886
(Increase)/decrease in assets		
Accrued interest	(115,120)	(7,690)
Accrued receivables	5,236	8,831
Increase/(decrease) in liabilities		
Payables	(47,977)	(107,783)
Current provisions		
Fidelity claims	(13,110)	(1,772)
Employee benefits	(18,277)	19,664
Revenue received in advance, current liabilities	3,338	6,275
Revenue received in advance, non current liabilities	547	8,819
Non current provisions		
Net cash provided by/(used in) operating activities	3,374,021	2,830,854

19. Property Plant & Equipment

	2004/05	2003/04
	\$	\$
Computers and Equipment at Cost	62,289	43,194
Accumulated Depreciation	(42,438)	(38,410)
	19,851	4,784
REMIS Software at Cost	121,838	121,838
Accumulated Depreciation	(100,875)	(76,511)
	20,963	45,327
Total Property, Plant & Equipment	40,814	50,111

Reconciliations

Reconciliations of the carrying amount of property, plant and equipment at the beginning and end of the current and previous financial year are set out below.

	2004/05
	\$
Computers and Equipment	
Carrying amount at start of year	4,784
Additions	19,095
Disposals	0
Accumulated depreciation on disposals	0
Depreciation expense	(4,028)
Carrying amount at end of year	19,851

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

Note 19 continued

REMIS Software

Carrying amount at start of year	45,327
Additions	0
Disposals	0
Accumulated depreciation on disposals	0
Depreciation expense	(24,364)
Carrying amount at end of year	<u>20,963</u>

Total Property, Plant & Equipment	<u>40,814</u>
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20. Provisions

Employee Benefits

	2004/05	2003/04
	\$	\$
Current Liabilities		
Annual Leave	9,850	12,767
Long Service Leave	23,261	13,865
Other employee benefits	<u>4,493</u>	<u>4,699</u>
	37,604	31,331
Non Current Liabilities		
Long Service Leave	12,326	35,000
Other employee benefits	<u>865</u>	<u>2,741</u>
	13,191	37,741

The settlement of annual and long service leave liabilities gives rise to the payment of employment on costs including superannuation and workers compensation premiums. The liability for such on costs is included here. The associated expense is included under employee expenses at note 5.

The Board considers the carrying amount of employee benefits approximates the net fair value.

21. Segment (Service) Information

The service provided by the Board is '**Regulation**' or '**regulatory services**'.

As there is only one service for the Board there is no separate reporting under services as required by Treasurers Instruction 1101.

22. Retained Profits

	2004/05	2003/04
	\$	\$
Opening balance	17,742,420	14,869,796
Net Profit	3,530,992	2,872,624
Total Equity	<u>21,273,412</u>	<u>17,742,420</u>

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

23. The Impact of Adopting International Accounting Standards

Australia is adopting Australian equivalents to International Financial Reporting Standards (AIFRS) for reporting periods beginning on or after 1 January 2005. The Board will adopt these standards for the first time for the year ending 30 June 2006.

AASB 1047 *'Disclosing the Impacts of Adopting Australian Equivalents to International Financial Reporting Standards'* requires disclosure of any known or reliable estimable information about the impacts on the financial statements had they been prepared using AIFRSs.

The information provided below discloses the main areas impacted due to the effects of adopting AIFRS. The Board has determined the quantitative impacts using the best estimates available at the time of preparing the 30 June 2005 financial statements.

These amounts may change in circumstances where the accounting standards and/or interpretations applicable to the first AIFRS financial statements are amended or revised.

(a) Reconciliation of total equity as presented under previous AGAAP to that under AIFRS.

	30-Jun-2005	30-Jun-2004
Total equity under previous AGAAP	21,273,412	17,742,420
Adjustments to accumulated surplus		
Increase in provisions (1)	(866)	0
Total equity under AIFRS	<u>21,272,546</u>	<u>17,742,420</u>

Other Impacts

AASB 138 *Intangible Assets*. This standard requires computer software not integral to the operation of hardware be classified as intangible assets.

In this respect the carrying cost of the REMIS system which is currently held under property, plant and equipment (\$20,963) will be required to be reclassified as an intangible asset.

This is only a re-classification of an asset and has no impact of the financial position of the Board.

(b) Reconciliation of surplus for the period as presented under previous AGAAP to that under AIFRS.

	30-Jun-2005
Net Profit for the period under previous AGAAP	3,530,992
Increase salary due to increase in provisions (1)	(866)
Net profit for the period under AIFRS	<u>3,530,126</u>

(1) AASB1028 *Employee Benefits*. This standard will be replaced by AAS119 *Employee Benefits* under the new standards.

Due to a slight change in methodology of calculating employee benefits under AASB119 the annual leave liability will increase by \$866. This increase in liabilities will result in a corresponding increase in expenses for the period.

(c) Statement of Cash Flows

No material impacts are expected from adopting AIFRS with respect to the Statement of Cash Flows.

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

24. Financial Instruments

(a) Interest Rate Risk Exposure

The following table details the Boards exposure to interest rate risk as at the reporting date:

	Weighted average effective rate		Floating interest		Fixed interest 1 year or less		Non interest bearing		Total as per the Statement of Financial Position	
	2004/05	2003/04	2004/05	2003/04	2004/05	2003/04	2004/05	2003/04	2004/05	2003/04
Financial Assets			\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Cash assets	5.47%	5.17%	8,835	6,904					8,835	6,904
Restricted cash assets	5.47%	5.17%	12,086	10,662					12,086	10,662
Accrued interest							516	401	516	401
Receivables							2	7	2	7
Total financial assets			20,921	17,566	0	0	518	408	21,439	17,974
Financial Liabilities										
Payables							50	98	50	98
Provisions							51	69	51	69
Revenue received in advance							106	102	106	102
Total financial liabilities			0	0	0	0	207	269	207	269
Net financial assets										
			20,921	17,566	0	0	311	139	21,232	17,705

(b) Credit Risk Exposure

The carrying amount of financial assets recorded in the financial statements, net of any provisions for losses, represents the Authority's maximum exposure to credit risk without taking account of the value of any collateral or other security obtained.

(c) Net Fair Value

The carrying amount of financial assets and financial liabilities recorded in the financial statements are not materially different from their net fair values.

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

25. Explanatory Statement

a) Significant variations between actual revenues and expenditures for the financial year and those for the immediately preceding financial year

Details and reasons for significant variations between actual results with the corresponding items of the preceding year are detailed below.

Significant variations are considered to be those greater than 10% and \$50,000.

	2004/2005 Actual \$	2003/2004 Actual \$	Variation 04/05 to 03/04 \$
Revenues			
Agents trust account interest income	4,347,219	3,674,665	672,554
Bank and investment interest	1,019,696	811,172	208,524
Expenses from Ordinary Activities			
Employee expenses	300,670	374,848	-74,178
Legal fees	57,810	134,690	-76,880
Services and contracts	1,313,737	1,146,752	166,985
Fidelity guarantee payments	184,700	0	184,700

Agents trust account interest income

Higher level of activity, interest rates and higher prices in the industry than the preceding year resulted in a higher level of trust account interest being received compared with the previous year.

Bank and investment interest

An increase in trust account interest revenue resulted in higher levels of deposits with Treasury and the banks combined with higher interest rates has resulted in higher levels of income for this item.

Employee expenses

Employee expenses are lower than the preceding year due to a combination of reduced salary costs associated with leave liability being lowered and accommodation costs being included in the Service Delivery Agreement with DOCEP.

Legal fees

Legal expenses are lower than the preceding year as considerable costs were incurred in that year on a large fidelity case.

Services and contracts

Considerable expenses incurred in 2004/05 on professional services associated with a large fidelity case has resulted in services and contract expenses being considerably higher than incurred during 2003/04.

Fidelity guarantee payments

A number of claims were approved by the Board for payment during the year. No claims were processed in 2003/04. Due to the nature of these payments they may vary considerably between years.

SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2005

25. Explanatory Statement (continued)

b) Significant variations between estimates and actual results for the financial year

Details and reasons for significant variations between these estimates and actual results are detailed below.

Significant variations are considered to be those greater than 10% and \$50,000.

	2004/2005 Actual \$	2004/2005 Budget \$	Variation 04/05 to budget \$
Expenses from Ordinary Activities			
Legal	57,810	206,000	-148,190
Fidelity Guarantee Payments	184,700	795,000	-610,300
Legal			

The budget allowed for an increase in legal costs associated with a fidelity case. Costs to the full extent allowed for did not eventuate and other costs allowed under legal costs were classified (correctly) under Services and Contracts.

Fidelity Guarantee Payments

Allowance was made and included in the budget for the Board to make determinations in respect to one case. However, the estimated number of claims processed against the Fidelity Fund for this case were not actioned. It is expected that the remaining claims will be processed in the 2005/06 financial year.

Contact Details

SASB services can be accessed from any DOCEP office located in Perth, Albany, Bunbury, Geraldton, Kalgoorlie or Karratha.

The full contact details for SASB are:

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