



Australian Government
CALDB

Companies Auditors and
Liquidators Disciplinary Board

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Liquidators Disciplinary Board

Annual Report
For the year ended **30 June 2013**

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Companies Auditors and Liquidators Disciplinary Board

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for the year ending 30 June 2013

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Companies Auditors
and Liquidators
Disciplinary Board

2 October 2013

The Hon. Joe Hockey 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 2013 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

Howard Insall SC
Chairperson

Overview

During the reporting year:

- After a number of years during which no significant applications were brought to the Companies Auditors and Liquidators Disciplinary Board ('CALDB'), five new applications were received (1 administrative matter and 4 conduct matters).
- CALDB has implemented its revised and streamlined procedures in relation to these new applications.
- Three new members were appointed to CALDB: Ms Judith Downes and Mr David Sauer (Accounting members) and Ms Karen O'Flynn (Business member).
- Messrs Robert Ferguson, Bruce Gleeson and Eric Passaris were reappointed as accounting members.
- Mr David Castle was the Acting Deputy Chairperson for a period of three months. On 6 August 2013 (post the reporting year) Ms Maria McCrossin was appointed Deputy Chairperson of CALDB.
- We thank Mr Castle for his contribution to CALDB and welcome the new members and look forward to their participation in CALDB business.
- CALDB was informed by the Australian Securities and Investments Commission ('ASIC') of a review of the cost of providing support to CALDB, including through relocating the Board within ASIC's premises. Section 11(2) the *Australian Securities and Investments Commission Act 2001* ('ASIC Act') provides that ASIC's functions include the function of providing such staff and support facilities to CALDB as are necessary or desirable for the performance of its functions and powers. CALDB believes that the need for the Board to be, and be seen to be, independent is vital to the performance of its functions. CALDB looks forward to a continued support in a way which facilitates this outcome.

Overall, CALDB has sought to do everything possible on its part to provide a fair, expeditious and cost-effective outcome in the proceedings brought before it. A robust, effective and reliable regulatory framework for ensuring that designated standards applicable to auditors and liquidators are consistently met, underpins the confidence of investors and creditors in Australian companies and capital markets. The independent disciplinary role played by CALDB is a key aspect of that framework. CALDB continues to strive to fulfil that role properly and effectively.

Role of the CALDB

CALDB is an independent statutory body established under Part 11 of the ASIC Act with the powers and functions provided in Part 9.2 of the *Corporations Act 2001* ('Corporations Act'). The Minister responsible for CALDB is the Treasurer ('The Minister').

CALDB, along with several other bodies, including ASIC, the Australian Prudential Regulation Authority ('APRA'), the Financial Reporting Council and various professional associations, plays an important role for the Australian economy in the regulation of auditors and liquidators.

The primary role of CALDB is to act as an expert disciplinary tribunal to consider applications for the cancellation or suspension of the registration of auditors or liquidators under the provisions of the Corporations Act. CALDB has no power to instigate applications. Applications are brought to CALDB by ASIC or APRA.

On an application brought before it in relation to a registered auditor or registered liquidator, CALDB may impose sanctions if satisfied of particular matters, including that the auditor or liquidator:

- has failed to carry out his or her duties or functions adequately and properly;
- is not a fit and proper person to remain registered; or
- has contravened certain provisions of the Corporations Act.

If CALDB determines any of these matters to be established, it may impose sanctions including orders for cancellation or suspension of the registration of auditor or liquidator.

The responsibilities conferred on CALDB by the Corporations Act are intended to provide an incentive to registered auditors and liquidators to maintain high professional standards. CALDB's jurisdiction to cancel or suspend an auditor's or liquidator's registration also has a public protective and educative role.

As a wholly independent body made up of part time professionals and business members, CALDB is able to fulfil the essential function of an independent and impartial tribunal, capable of ensuring that natural justice is accorded to parties appearing before it.

As a tribunal whose procedures are designed to avoid technicality and delay, CALDB has the ability to facilitate the expeditious and cost-effective resolution of matters. Moreover, as an expert tribunal with the ability to assess applications by reference to its own expert knowledge of professional standards, CALDB is in a unique position to

deal with matters without the necessity for time consuming and costly expert evidence, necessary in other tribunals or courts.

The decisions of the Board are important in identifying and upholding professional standards and applying them to particular fact situations, and they form an important aspect of the educative function of the Board.

Constitution of CALDB and current Board membership

The ASIC Act provides that the CALDB consists of the following:

- (a) a Chairperson;
- (b) a Deputy Chairperson;
- (c) six accounting members selected by the Minister; and
- (d) 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. Accounting members are required to be a resident of Australia and a member of a professional accounting body or any other body prescribed by regulation. 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.

Details of Board members during the reporting year:

Name	Role	Term expires/expired
Howard Insall SC	Chairperson	30 November 2013
David Castle	Acting Deputy Chairperson	14 March 2013
Judith Downes	Accounting member	14 December 2015
Robert Ferguson	Accounting member	28 January 2016
George Georges	Accounting member	30 November 2013
Bruce Gleeson	Accounting member	28 January 2016
David Sauer	Accounting member	14 December 2015
Eric Passaris	Accounting member	28 January 2016
David Barnett	Business member	30 November 2013

Name	Role	Term expires/expired
Tom Bostock	Business member	30 November 2013
Geoff Brayshaw AM	Business member	30 November 2013
John Keeves	Business member	30 November 2013
Karen O'Flynn	Business member	14 December 2015
Professor Ian Ramsay	Business member	30 November 2013

Howard Insall SC

Howard Insall is a barrister practising at the New South Wales bar. He was called to the bar in 1981 and was appointed senior counsel in 2001. He practises in the field of commercial/equity with particular emphasis on corporations and insolvency law. He has appeared in a number of major cases involving significant corporate collapses and the duties of directors and auditors, and is an author of the Winding Up chapter in the Butterworths Corporations Service.

Maria McCrossin¹

Maria McCrossin is a lawyer with extensive financial services, capital markets and commercial litigation experience. She has held senior roles in private legal practice (Clayton Utz) and within the commercial sector (AMP, ASX, ANZ). Maria is a Fellow of the Australian Institute of Company Directors and a current member of the ChiX Australia Compliance Panel.

David Castle²

David Castle is a solicitor and was previously a partner of Dibbs Barker, specialising in business law. He was formerly chair of the Tax Agents Board of New South Wales. He is a member of the Law Society of New South Wales business law committee and business law specialisation committee. He has practised 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 ASX and the Tax Agents Board of New South Wales. He is a qualified and experienced mediator.

Judith Downes

Judith Downes is a non-executive director with extensive experience in senior finance roles in listed Australian companies, including as chief financial officer. She is a past member of the IFRS Advisory Council and the AASB. Judith is a Fellow of the ICAA, CPA, and AICD, and has an honorary appointment as Fellow at the University of Melbourne.

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- ¹ Appointed Deputy Chairperson on 6 August 2013, outside the reporting year.
 - ² Appointed Acting Deputy Chairperson for a period of three months.

Robert Ferguson

Robert is a Chartered Accountant, Official Liquidator and Registered Trustee in Bankruptcy, specialising in insolvency practice. Robert's experience includes being an insolvency partner with both PricewaterhouseCoopers and Deloitte for 18 years after which he established his own specialist firm. Robert has more than 30 years experience in insolvency practice, is a member of the Insolvency Practitioners Association of Australia (IPAA) and former State Chair and National Board member of that organisation.

George Georges

George Georges is a partner of Ferrier Hodgson in Melbourne. George has over 20 years experience specialising in corporate recovery assignments. He is a Chartered Accountant, a member of the Institute of Public Accountants (IPA) and the IPAA as well as being a Fellow of the Financial Services Institute of Australia (FINSIA).

Bruce Gleeson

Bruce Gleeson is a principal at Jones Partners Chartered Accountants, a specialist insolvency and business recovery firm. He is a Chartered Accountant, a member of CPA Australia and the IPAA. Bruce has in excess of 15 years corporate and personal insolvency experience and is an Official Liquidator and a Registered Trustee in Bankruptcy. He has recently been on the NSW State Council of the Institute of Chartered Accountants (ICAA), being the Chair in 2010, as well as being the 2010 Junior Vice President of the Western Sydney Business Connection. Bruce has also held roles in commerce (with James Hardie and AMP) to broaden his experience.

David Sauer

David Sauer is a Chartered Accountant and Registered Company Auditor, specialising in professional standards – financial reporting, assurance and ethics. He provides professional education for accountants and independent advice on the application of standards in transactions, commercial disputes and regulatory compliance. He has worked in public practice since 1983 and now assists mid-tier and smaller accounting firms to develop and monitor their quality assurance and audit policies and procedures. David was a member of the Institute of Public Accountants' Legislation and Standards Committee from 2000 to 2009.

Eric Passaris

Eric Passaris is a partner with Grant Thornton in Melbourne and has specialised in audit and assurance services for over 25 years. Eric is a registered company auditor and a member of ICAA and CPA Australia. He is a member of CPA Australia's Disciplinary Committee and is called upon to provide expert evidence in auditor/accountant professional negligence cases for legal proceedings, commercial disputes, insurance claims and disciplinary proceedings.

David Barnett

David Barnett is the General Manager, Listings, Australian Stock Exchange (ASX) Compliance with ASX Limited. The Listing's unit plays a key role in monitoring and enforcing compliance with ASX Listing Rules and with ASX Operating Rules. He has been with ASX for 18 years, and has been a senior liaison point for ASX on many of Australia's most significant transactions for listed entities and Initial Public Offerings. He has a Bachelor of Commerce (Accounting) and is a member of CPA Australia.

Tom Bostock

Tom Bostock was a partner of Mallesons Stephen Jaques from 1970 until 2004, and from 2005 until 2010 a special counsel to Gadens Lawyers, specialising in corporate law. He is a Fellow of the Australian Institute of Company Directors (AICD) and is a member of that Institute's Law Committee. He was also Chairperson, and remains a member, of the Corporate Law 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, 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 Avea Insurance Limited, and a former 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 ICAA in Australia for 2002 and was made a Member of the Order of Australia in 2007.

John Keeves

John Keeves is a partner and Head of Transactional and Advisory Practice Group at law firm Johnson Winter & Slattery, specialising in mergers and acquisitions, corporate and securities law and corporate governance. He is a member of the Takeovers Panel, a former chairperson of the Corporations Committee of the Law Council of Australia and a member of the Executive of the Business Law Section of the Law Council, a Senior Fellow and former Director and Life Member of FINSIA, as well as a member of the AICD, Banking and Financial Services Law Association, AVCAL and AMPLA.

Karen O'Flynn

Karen O'Flynn is a Partner of Clayton Utz and the national leader of that firm's restructuring and insolvency practice group. Karen is a member of the Clayton Utz board and a Vice-Chair of the Insolvency Section of the International Bar Association.

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 Corporations Committee of the Law Council of Australia and the Corporations and Markets Advisory Committee. He was Head of the Federal Government inquiry on auditor independence, a member of the International Federation of Accountants taskforce on rebuilding confidence in financial reporting, a member of the Audit Quality Review Board, a member of the Takeovers Panel and a member of the National Law Committee of the Australian Institute of Company Directors. He has practised law with firms in New York and Sydney.

Applications received by CALDB in the reporting year

Five new applications were received during the reporting year. As noted, this is in contrast to recent experience, where few applications of significance have been brought before the Board. The number of applications brought before the Board by ASIC dropped off significantly in 2008. The Board is unaware of the reasons underlying this pattern of activity.

CALDB has implemented its revised procedures in relation to the new matters and has attempted to set matters down for the earliest appropriate hearing dates. CALDB has sought to minimise the reliance on expert evidence and as noted, is in a unique position to adopt this course as it possesses specialist expertise permitting it to assess applications by reference to its own knowledge of professional standards.

As the new matters only came to CALDB part way through the reporting year, the outcomes are largely not reflected in this year's report.

The tables below provide a summary of the status of the matters before CALDB during the reporting year:

Matters before CALDB during the reporting year

Auditors

	Conduct	Administrative
Uncompleted matters at 1/7/12	-	-
New Applications	-	1
Matters withdrawn	-	-
Matters Dealt with – Orders issued	-	1
Uncompleted matters at 30/6/13	-	-

The new administrative application was heard and determined in April 2013. One further conduct application in relation to an auditor was received shortly after 30 June 2013.

Liquidators

	Conduct	Administrative
Uncompleted matters at 1/7/12	-	-
New Applications	4	1
Matters Withdrawn		-1
Matters dealt with – orders issued	-	-
Uncompleted matters at 30/6/13	4	-

The first of the new conduct applications was heard in May 2013 and a decision was issued in July 2013. The second was heard in July 2013 and a decision is pending. The other two new conduct applications were only lodged with CALDB in June 2013 and are to be heard later this year.

Hearing days during the reporting year

As matters can extend over the end of a financial year, the overview in the table below provides data on the number of days in which Board members were engaged in actual hearing days.

Activity	Auditors 2013	Auditors 2012	Liquidators 2013	Liquidators 2012
Hearing days	3 man days	0 man days	30 man days	0 man days

In addition to attendance for formal hearing days, CALDB members 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 proceeds 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 CALDB and is also involved in the general affairs of CALDB.

Results by nature of sanction

The table below records the results of matters before CALDB during the reporting year by nature of sanction. As already stated, the outcomes of the new matters brought to CALDB during the reporting year are largely not yet reflected in this year's report.

Results of application	08/09	09/10	10/11	11/12	12/13
Registration cancelled	6	1	-	1	1
Registration suspended	2	2	-	-	-
Admonition	-	-	-	-	-
Reprimand	-	-	-	-	-
Undertakings required to be given	2	2	-	-	-
Dismissed	1	-	-	-	-
Withdrawn by ASIC	8	-	-	-	-

CALDB procedures with respect to applications

As noted above, applications to CALDB may be made by either ASIC or APRA.

Provisions of the Corporations Act and ASIC Act prescribe the essential procedures. These provide, importantly, that CALDB is required to provide a respondent with the opportunity to appear at a hearing held by CALDB and to make submissions to and adduce evidence before CALDB in relation to a matter. Hearings are conducted by a panel of board members.

More detailed procedures adopted by CALDB are contained in its *Manuals of Practice and Procedure*. There is a manual for conduct matters and a manual for administrative matters. The manuals set out 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. CALDB 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 CALDB. These documents are available on the CALDB website and are reviewed and updated from time to time.

CALDB categorises the matters brought before it as **administrative matters** or **conduct matters**. The categorisation has been adopted by CALDB as a procedural policy and will be reviewed from time to time. In general terms, administrative matters involve less complexity and are less time consuming than conduct matters.

CALDB categorises as administrative matters those matters that arise from applications pursuant to the following provisions of the Corporations Act:

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

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

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

If a ground is established under paragraph 1292(7)(a) or (b) then CALDB has no discretion but to cancel the registration of the practitioner concerned.

In relation to conduct matters under paragraphs 1292(1)(d), (2)(d) or (3)(d), CALDB 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.

Where the registration of a person has been suspended, CALDB may, on an application by the person or of its own motion, by order under s 1295, terminate the suspension.

Section 1294A of the Corporations Act provides that the Chairperson may if he considers that it would assist the conduct of the hearing, convene one or more pre-hearing conferences with the parties. The Chairman uses the pre hearing conferences to:

- fix a hearing date

- give directions about the timing of the filing of evidence and submissions; and
- give directions about the procedure to be followed generally at or in connection with the hearing.

The Chairman also uses the pre hearing conferences to:

- encourage contact between the parties as early as possible;.
- refine and reduce the matters in dispute to reduce the length of the hearing and overall costs of the proceedings; and
- resolve any preliminary matters.

CALDB's pre-hearing procedures are continually reviewed to ensure that they remain effective and efficient so as to minimise costs and time for all parties.

Should the parties reach consensus regarding an acceptable outcome they can refer draft agreed terms of order to the CALDB panel. CALDB does not participate in any settlement discussions or negotiations between the parties and retains the right to determine the appropriate orders.

Panel of CALDB members to hear and determine matters.

Hearings are conducted and decisions are made by a panel of members of CALDB ('Panel').

The ASIC Act requires the Chairperson to determine those members of the Board who are to constitute the Panel to conduct a particular hearing.

A Panel must include the Chairperson or Deputy Chairperson as Chairperson of the Panel. Generally, a Panel is constituted by five members - two accounting members and two business members. The Chairperson may consider it appropriate to convene a Panel with three members, in which case one accounting and one business member would be selected.

Matters are heard by a duly constituted Panel which will make a determination and decisions as necessary in relation to a particular application.

All matters referred to CALDB (unless subsequently withdrawn by ASIC) must proceed to a hearing following which the Panel will make a determination and 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, the Panel may arrange hearings by video link or telephone link with one or more members or parties in different locations. The ASIC Act permits legal representation at all hearings, for all parties. Parties may also represent themselves.

The Panel must determine whether or not it is satisfied that the contentions raised in the application have been established. The Panel provides the parties with a written determination which sets out the Panel's conclusions (with reasons) on each of the contentions.

If a contention is determined to be established, the Panel will decide whether or not to exercise any of CALDB's powers under section 1292 of the Corporations Act and/or whether or not it is required to make an order under subsection 1292(7). For that purpose, the Panel may hold a final hearing before delivering its decision.

At any final hearing, the parties will have an opportunity to present relevant evidence and make submissions on the questions of sanctions, publicity and costs.

Publication of CALDB decisions

Pursuant to subsection 1296(1) of the Corporations Act, written notice of a decision by a Panel to exercise CALDB's powers under section 1292 and the reasons for the decision must be provided to the practitioner concerned. Pursuant to subsection 1296(2), written notice of a decision by a Panel to refuse to exercise CALDB's powers under section 1292 or a decision that it is not required to make an order under subsection 1292(7) in relation to a person, 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 CALDB'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 CALDB's powers under section 1292 or has decided that it is required to make an order under subsection 1292(7), CALDB 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, CPA Australia, National Institute of Accountants, Insolvency Practitioners Association of

Australia and the Tax Agents Registration Board, copies of notices published in the Commonwealth Gazette are provided to those bodies of which the practitioner is a member.

In addition, if the Panel decides to exercise any of CALDB's powers under section 1292, it 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 CALDB website. CALDB generally takes the view that it is appropriate to publish its decisions on the CALDB website as this provides transparency of its decisions and processes as well as contributing to the public educative role played by CALDB.

Costs orders by CALDB

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

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

Review of CALDB decisions

A review of any decision made under section 1292 of the Corporations Act 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 decision of CALDB 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 CALDB.

When a CALDB decision 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.

Registrar and operations

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

CALDB is located at Level 16, 60 Margaret Street, Sydney, where CALDB's principal hearing room is located.

Hearings are also held, as needed, at other locations around Australia, and occasionally by telephone or video link. It is the policy of CALDB 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.

CALDB Financial statements for reporting year

CALDB is allocated funding by the Federal Government through ASIC's budget. CALDB'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.

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

	2012/13	2011/12
	\$	\$
Administrative expenses	205,039	176,361
Travel and accommodation including allowances	34,111	8,693
Salaries and members' fees	403,131	280,883
Total:	642,281	465,937

The location and an increased number of hearings resulted in an increase in expenses in relation to travel and accommodation during the current year. The increase in salaries and members' fees is a result of an increase in hearing days for matters being dealt with by CALDB during the reporting year. These amounts are below the levels of previous years, when the number of applications before CALDB was greater. Members of CALDB are remunerated in accordance with rates determined by the Commonwealth Remuneration Tribunal. It is expected that costs in the 2014 reporting year will rise due to the significant increase in matters filed with CALDB.

Reviews current in reporting year

As already stated above, pursuant to section 11 of the ASIC Act, ASIC has the function of providing such staff and support facilities to CALDB as are necessary or desirable for the performance and exercise by CALDB of its functions and powers. CALDB has been informed that ASIC is in the process of reviewing the cost of its support to CALDB. Amongst other things, the review seeks to identify the potential to reduce costs including through relocating the Board within ASIC's premises. The independence of CALDB as a disciplinary board charged with making determinations on relevant applications brought before it is a cardinal aspect of the proper performance of its functions. Likewise the independent role of CALDB in exercising jurisdiction under section 1292 following investigation and application by ASIC itself in respect of relevant matters assures the right of respondents to due process and enshrines the appropriate separation between investigation and enforcement of regulatory issues and the ultimate decision maker. CALDB looks forward to continued support from ASIC so as to facilitate this requirement.

FOI and section 13 AD(JR) Act requests

CALDB did not receive any applications for information under the *Freedom of Information Act 1982* or 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
GPO Box 3731
SYDNEY NSW 2001
Phone (02) 9911 2970
Facsimile (02) 9911 2975
Email: gary.hoare@caldb.gov.au
Website: www.caldb.gov.au

Decisions Gazetted year ended 30 June 2013

Corporations Act 2001
SECTION 1296(1)(c)
NOTICE OF DECISION³

At a hearing held on 3 April 2013 pursuant to section 1294 of the Corporations Act 2001 ("Act"), a Panel of the Companies Auditors and Liquidators Disciplinary Board decided that it was satisfied, on an application by the Australian Securities and Investments Commission for **Joseph MANGRAVITI** ("Respondent"), a registered auditor, to be dealt with under section 1292 of the Act, that the Respondent was disqualified from managing corporations under Part 2D.6 of the Act and as a result the Board must cancel the Respondent's registration in accordance with section 1292(7) of the Act. The Panel ordered that the Respondent's registration as an auditor be cancelled.

Dated: 12 April 2013

Gary K Hoare
Registrar

-
- ³ This was an application to the Board under s 1292(7), which relates to persons disqualified from managing corporations. The Board has no discretion under s 1292(7) in relation to a person disqualified and must cancel registration. The Board cancelled the Respondent's registration because he was disqualified at the time of the Board hearing on 3 April 2013. After the orders of the Board were made and gazetted, the Respondent ceased to be a person disqualified (on 23 May 2013). On that basis, on 25 July 2013, ASIC consented to the AAT overturning the decision of the Board.