



# The Nominal Defendant

(Australian Capital Territory)

2007  
ANNUAL  
REPORT

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## The Nominal Defendant (A.C.T.)

GPO Box 1285  
CANBERRA CITY ACT 2601  
Ph 02 6240 4703

Mr Jon Stanhope MLA  
Treasurer  
ACT Legislative Assembly  
GPO Box 1020  
CANBERRA ACT 2600

Dear Treasurer

In accordance with Section 216 of the Road Transport (General) Act 1999, I present you with my report for the year ended 31 December 2007.

Yours sincerely



D R Maxwell  
The Nominal Defendant (ACT)  
14 April 2008

**THE NOMINAL DEFENDANT**  
**ANNUAL REPORT FOR THE YEAR ENDED**  
**31 DECEMBER 2007**

## INTRODUCTION

The Nominal Defendant acts as the object of claims for damages for personal injuries arising from the use of any motor vehicle in the A.C.T. which is not insured against third party personal injuries claims, and damages where a person injured is unable to identify the driver and vehicle at fault; and recovers from uninsured drivers at fault, sums paid out by the Nominal Defendant.

The Nominal Defendant is required under the Road Transport (General) Act 1999 to report annually to the relevant Minister of the A.C.T. .

## FUNDING

As stipulated in the Act, the Nominal Defendant's funds are provided directly by the authorised insurers, and by the recognised self insurers in the A.C.T - the Commonwealth of Australia and the Government of the Australian Capital Territory. The amount required by the Nominal Defendant to settle claims is apportioned on each occasion among the authorised insurers and the recognised self insurers in the A.C.T. having regard to the amount of third party premium income received during the year in which the accident occurred. The contribution of the self insurers is assessed on a notional basis having regard to the numbers and types of vehicles which each self insurer operated in the A.C.T. during the relevant years.

## CLAIMS NOTIFIED

51 claims were notified and commenced against the Nominal Defendant during the year.

## OUTSTANDING CLAIMS

There remained in all 91 claims current against the Nominal Defendant as at 31 December 2007 with a combined total estimated liability of \$10,114,939.51. Claims resulting from the use of an uninsured vehicle accounted for approximately 69% of these.

Accident Year	Claims Open	Estimated Liability
1997	1	\$728,652.79
2001	1	\$247,077.06
2003	4	\$589,912.00
2004	7	\$950,525.07
2005	20	\$3,061,616.44
2006	24	\$1,915,536.22
2007	34	\$2,621,619.93

## UNINSURED MOTOR VEHICLE

Where the Nominal Defendant has made payments on a claim involving an uninsured motor vehicle, attempts are made to recover the cost of those payments from the owner or driver concerned. Although the financial resources of all uninsured drivers are investigated, in the majority of cases formal recovery action would be useless due to the disappearance of the uninsured driver or the inability to pay.

## FINANCE

The attached Receipts and Payments sections provide, under appropriate headings, details of all moneys received and moneys paid out.

Moneys received by the Nominal Defendant during the year amounted to **\$2,488,132.69**. The sum of **\$2,399,426.76** was derived from levies made on authorised insurers, the Commonwealth Government of Australia and the Government of the Australian Capital Territory in accordance with the procedures outlined in Section 183 of the Road Transport (General) Act 1999.

A request for a levy is lodged by the Nominal Defendant with the ACT Department of Treasury. The department then applies the requirements of the Act to determine the amount payable by each of the authorised insurers, the Commonwealth of Australia and the Government of the Australian Capital Territory.

A total of **\$54,239.90** was recovered from uninsured owners or drivers in reimbursement for settlements arranged by the Nominal Defendant and **\$31,105.92** was recovered from Authorised Insurers, **\$3,360.11** was received by way of bank interest and these payments were treated as recoveries. Total recoveries received were **\$88,705.93**. This amount is broken down by year of claim as follows:

Accident Year	Recoveries
1989	\$275.00
1992	\$2,100.00
1993	\$2,460.00
1994	\$1,400.00
1996	\$680.00
1998	\$2,250.00
2000	\$2,500.00
2001	\$900.00
2002	\$35,000.00
2003	\$98.20
2004	\$1,183.45
2005	\$3,450.00
2006	\$1,943.25
ACT Insurance Authority Levy Payment (2005) – received 10/11/06 and banked 2007	\$31,105.92
Bank Interest	\$3,360.11

The total amount paid out by the Nominal Defendant was \$2,488,498.37 of which \$1,538,836.33 was for damages.

#### **BANK ACCOUNT**

As at 15 March 2007 the reconciled credit balance of the Nominal Defendant's Business Management Account was \$386,973.06 and the account was closed.

#### **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The Nominal Defendant is not a reporting entity because it is unlikely that users exist who are unable to command the preparation of reports tailored so as to satisfy, specifically, all of their information needs.

This is a special purpose financial report that has been prepared for the sole purpose of complying with the Road Transport (General) Act 1999 requirements to report annually to the relevant Minister of the A.C.T. This report must not be used for any other purpose.

As the Nominal Defendant is not a reporting entity it has not applied Australian Accounting Standards in the preparation of this financial report, but has applied generally accepted accounting principles. These have been outlined below:

a) Revenue

Revenue is recognised when received.

b) Expenses

Expenses are recognised when paid.

## **FREEDOM OF INFORMATION (FOI) STATEMENT**

This statement is correct at 31 December 2007 and is included in this report as a requirement under the Freedom of Information Laws Amendment Act 1986.

## **ESTABLISHMENT**

The Nominal Defendant was established under the Motor Traffic Act 1936.

## **ORGANISATION**

The Nominal Defendant is an office held by one person who is responsible to the Minister.

## **FUNCTIONS**

See "Introduction".

## **POWERS**

The Nominal Defendant has full powers of negotiation or litigation in connection with claims.

## **ARRANGEMENTS FOR OUTSIDE PARTICIPATION**

Any person or body may make representations to the Minister.

## **CATEGORIES OF DOCUMENTS**

Files containing correspondence and other relevant documents relating to individual claims made against the Nominal Defendant, both past and present; files containing correspondence with government agencies; statistics relating to claims made against the Nominal Defendant, kept on files; files relating to the Freedom of Information Act and requests made under that Act; files containing internal memoranda and documents relating to the Nominal Defendant Advisory Committee; files relating to levies upon authorised Third Party Insurers and the Commonwealth of Australia and the Government of the Australian Capital Territory.

## **FOI PROCEDURES AND INITIAL CONTACT POINTS**

General enquiries concerning access to documents of the Nominal Defendant and relating to the Freedom of Information Act, and requests made under the Freedom of Information Act should be directed to the Nominal Defendant, 92 Northbourne Avenue, Braddon, A.C.T. 2601, telephone (02) 6240 4702 or by writing to GPO Box 1285, Canberra, A.C.T. 2601.

**STATEMENT OF RECEIPTS AND PAYMENTS FOR THE YEAR ENDED  
31 DECEMBER 2007**

<b>RECEIPTS</b>	
Levies from authorised insurers, the Commonwealth and the A.C.T. Government	\$2,399,426.76
Recoveries from authorised insurers	\$31,105.92
Recoveries from uninsured owners	\$54,239.90
Interest earned from National Australia Bank account	\$3,360.11
<b>Total Receipts</b>	<b>\$2,488,132.69</b>

<b>PAYMENTS</b>	
Hospital, medical, ambulance, rehab.	\$225,060.17
Medical reports incurred by Nominal Defendant	\$35,433.81
Legal Costs incl Recovery files:	
Plaintiffs	\$324,075.34
Nominal Defendant	\$342,811.56
Investigation fees, Police Reports	\$22,241.16
Nominal Defendant's administration costs	*
Government taxes and bank fees	\$40.00
General damages	\$1,538,836.33
<b>Total Payments</b>	<b>\$2,488,498.37</b>

\* All administration costs were met by NRMA Insurance.

Brett Wells Trading as

# Sleigh PEC

Chartered  
Accountants



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Hardwick Cres, Holt ACT

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Facsimile: 02 6254 5767

## Nominal Defendant

### Independent Audit Report to the Treasurer

#### Scope

We have audited the attached Statement of Receipts and Payments for the year ended 31 December 2007. This statement shows total receipts of \$2,488,132.69 and total payments of \$2,488,498.37. The Nominal Defendant is responsible for the preparation and presentation of the Statement of Receipts and Payments and the information contained therein, and had determined that the accounting policies used as described in note 1 are in accordance with the requirements of the Road Transport (General) Act 1999. We have conducted an independent audit of the Statement of Receipts and Payments in order to express an opinion as to whether the accounting policies used are appropriate to the needs of the Treasurer.

The Statement of Receipts and Payments has been prepared for the purpose of fulfilling the requirement of the Road Transport (General) Act 1999. We disclaim any assumption of responsibility for any reliance on this audit report or on the Statement of Receipts and Payments to which it relates to any person other than the Treasurer, or for any purpose other than that for which it is prepared.

Our audit has been conducted in accordance with Australian Auditing Standards. Our procedures included examination, on a test basis, of evidence supporting the amounts in the Statement of Receipts and Payments. These procedures have been prepared in accordance to form an opinion as to whether, in all material aspects, the Statement of Receipts and Payments has been recorded in accordance with the requirements of the Road Transport (General) Act 1999 and in accordance with records of the Nominal Defendant. The Statement of Receipts and Payments has been prepared using the cash basis of accounting whereby revenue is recorded when it is received, expenses are recorded when they are paid, and no assets or liabilities other than cash and bank balances, are recorded. This basis of accounting is considered by the Nominal Defendant to be appropriate for the purpose of accounting for his activities in accordance with the requirements of the Road Transport (General) Act 1999. The audit opinion in this report has been formed on the above basis.

#### Audit Opinion

In our opinion, the Statement of Receipts and Payments for the year ended 31 December 2007 presents fairly in accordance with the cash basis of accounting as described in Note 1, the receipts and payments of the Nominal Defendant and the cash and bank balances of the Nominal Defendant as at that Date.

Sleigh PEC

Brett Wells  
Partner

Canberra  
gmk April 2008

Nominal Defendant Audit report

Registered Tax Agent, Business Management Advice, Accounting Systems, Financial Statements,  
Superannuation Funds, Bookkeeping, and Company Secretarial Services