



Parliament of  
South Australia

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**INTERIM REPORT**

**OF THE**

**SELECT COMMITTEE**

**ON**

**ALLEGEDLY UNLAWFUL PRACTICES  
RAISED IN THE AUDITOR-GENERAL'S  
REPORT, 2003-2004**

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*Laid on the Table of the Legislative Council and ordered to be printed on 1 December 2009*

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**Third Session, Fifty-First Parliament 2008-2009**

**LEGISLATIVE COUNCIL OF SOUTH AUSTRALIA**  
**SELECT COMMITTEE ON ALLEGEDLY UNLAWFUL PRACTICES RAISED IN**  
**THE AUDITOR-GENERAL'S REPORT, 2003-2004**

**INTERIM REPORT**

On 10 November 2004, a Select Committee of the Legislative Council was appointed to investigate and report upon issues relating to allegedly unlawful practices raised by the Auditor-General in his Annual Report, 2003-2004, and, in particular:

- (a) all issues related to the operation of the Crown Solicitor's Trust Account and the \$5 million "interagency loan" between the Department for Administrative and Information Services and the Department for Water, Land and Biodiversity Conservation;
- (b) whether the practices were in fact unlawful;
- (c) the extent to which these practices have been used in other Departments;
- (d) issues of natural justice surrounding the treatment of Ms Kate Lennon;
- (e) why agencies were unable to meet statutory reporting deadlines;
- (f) suggestions as to how the management of unspent funds should be approached in the future; and
- (g) all other related matters.

That Committee began hearing evidence soon after its appointment and held 15 meetings from its appointment to the calling of the State Election held in March 2006, having heard evidence from 15 witnesses. The Committee sought and received a significant volume of documents from relevant portfolio areas relating to the operation of the Crown Solicitor's Trust Account. The Committee was unable to complete the tasks assigned to it and did not table an interim or final report.

On 7 June 2006 the Legislative Council of the 51<sup>st</sup> Parliament resolved to re-establish the Select Committee with the same terms of reference. The evidence presented to the former Committee was tabled in the Legislative Council and referred to the new Committee.

The membership of this Committee is as follows:

The Hon B V Finnigan, MLC (Chairperson)  
The Hon J A Darley, MLC (Appointed 21 November 2007)  
The Hon R I Lucas, MLC  
The Hon D W Ridgway, MLC  
The Hon R P Wortley, MLC  
The Hon N Xenophon, MLC (Resigned 15 October 2007)

The Committee continued to hear evidence and receive submissions during the 51<sup>st</sup> Parliament, with five additional submissions being received and four witnesses giving evidence.

Persons presenting evidence to the Committees to date are contained in *Appendix A*.

*Appendix B* contains the names of individuals making written submissions.

In view of the volume and value of the evidence presented to the Select Committee and the pending closure of the 51<sup>st</sup> Parliament, the Committee has resolved to Table this interim Report together with the further evidence received since its appointment. The Committee's decision is due, in part, to it being unlikely to finalise deliberations and table a Final Report before the next State Election to be held on Saturday, 20 March 2010.

Importantly, the Committee also notes that legal action concerning matters pertinent to its terms of reference is proceeding and believes it is prudent at this point to not table a final report while that action has not concluded.

Notwithstanding, the Committee resolved it was in the public interest to table evidence received and this Interim Report.

The Hon B V Finnigan, MLC  
Chairperson  
26 November 2009

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**SELECT COMMITTEE ON  
ALLEGEDLY UNLAWFUL PRACTICES RAISED IN THE AUDITOR-GENERAL'S  
ANNUAL REPORT, 2003-2004**

**SCHEDULE OF WITNESSES**

***50<sup>th</sup> Parliament***

Administrative and Information Services, Department of

Mr Leith Brokensha, Manager, Financial Services, Support Services

Mr Barry Miller Executive Director, State Procurement and Business Development

Attorney-General's Department

Ms Debra Contala, Acting Director, Strategic and Financial Services Unit, Justice Portfolio  
Services Division

Mr Andrew Swanson, Acting Manager, Business and Financial Services

Mr Jerome Maguire, Director, Strategic Business and Contract Management

Mr Rex Mathews, Fund Manager, Justice Portfolio Division

Auditor-General

Mr Ken MacPherson, together with

Mr Simon Marsh, Director of Audits, Auditor-General's Department

Emery Roger, Commission Secretary, Motor Accident Commission

Lennon, Ms Kate

McCarthy, Mr Martin

Former Finance Manager, Crown Solicitor's Office, Attorney-General's Department

Pennifold, Mr Kym, Executive Consultant, Office of the Commissioner for Public Employment

Trade and Economic Development, Department of

Ms Angela Allison, Director, Corporate Services

Mr Paul Noon, Chief Finance Officer,

Treasury and Finance, Department of

Mr Ray Bown, Principal Policy Officer, Policy Analysis

Walter, Mr Mike, former Crown Solicitor

***51<sup>st</sup> Parliament***

Auditor-General

Mr Ken MacPherson, together with

Mr Simon Marsh, Director of Audits, Auditor-General's Department

Mr Salvatore Bianco, Director of Audits, Field Operations, Auditor-General's  
Department

Mr Mark Johns, State Coroner (former CEO, Auditor-General's Department)

**SELECT COMMITTEE ON  
ALLEGEDLY UNLAWFUL PRACTICES RAISED IN THE AUDITOR-GENERAL'S  
ANNUAL REPORT, 2003-2004**

**SCHEDULE OF PERSONS MAKING SUBMISSIONS**

***50<sup>th</sup> Parliament***

Administrative Services, Minister for, The Hon Michael Wright MP  
 Allison, Ms Angela, Director Corporate Services, Department of Trade and Economic Development  
 Attorney-General, The Hon Michael Atkinson MP  
 Auditor-General, Mr K I MacPherson  
 Bown, Mr Ray, Principal policy Officer, Department of Treasury and Finance  
 Cossey, Bill  
 Contala, Ms Debra, Acting Director, Strategic and Financial Services, Attorney-General's Department  
 Environment and Conservation, Minister for, The Hon John Hill, MP  
 Families and Communities, Minister for, The Hon Jay Weatherill, MP  
 Hankin, Mr John, Partner, Thomson Playford  
 Health, Minister for, The Hon Lea Stevens, MP  
 Johns, Mr Mark, Chief Executive Attorney-General's Department & Department of Justice  
 Lennon, Ms Kate  
 McCarthy, Mr Martin, Former Finance Manager, Business & Financial Services Unit, Attorney-  
 General's Dept  
 Maguire, Mr Jerome, Acting Chief Executive, Attorney-General's Department and Department of  
 Justice  
 Matthews, Mr Rex, Fund Manager, Attorney-General's Department  
 Noon, Mr Paul, Chief Finance Officer, Department of Trade and Economic Development  
 Pennifold, Mr Kym  
 Police, Minister for the Hon Kevin Foley, MP  
 South Australia Police  
     Malcolm Hyde, Commissioner of Police  
     John White, Acting Commissioner of Police  
 Swanson, Mr Andrew, A/Manager, Business and Financial Services, Attorney-General's Department  
 Walter, Mike

***51<sup>st</sup> Parliament***

Auditor-General, Mr K I MacPherson  
 Johns, Mr Mark, State Coroner  
 Minister for Police, The Hon P Holloway, MLC  
 South Australia Police, Malcolm Hyde, Commissioner of Police