



**House of Assembly - Auditor General's report
Consumer Affairs
22nd November 2006**

Mrs PENFOLD: I note on page 160 that \$38.1 million is held in the agents indemnity fund. Can the minister advise what the income was in the last financial year for the agents indemnity fund? At the bottom of page 160 it states:
... cash and investments of \$31.8 million held in the agents indemnity fund to provide compensation for persons who have suffered financial loss as a result of fiduciary default of a land agent or conveyancer and cash totalling \$17.6 million. . .

I was just interested in these trust funds that are held under the control of the Office of Consumer and Business Affairs.

The Hon. J.M. RANKINE: I am sorry, we do not know that offhand. We will get that information for the honourable member.

Mrs PENFOLD: Can the minister also advise the amount of interest received in the last financial year on the agents indemnity fund, that is, the whole of the fund?

The Hon. J.M. RANKINE: We will get that information for the honourable member.

Mrs PENFOLD: Can the minister advise whether the interest stays in the fund? If not, what happens to it?

The Hon. J.M. RANKINE: Yes; it stays in the fund.

Mrs PENFOLD: Can the minister advise whether any of the agents indemnity fund was used by OCBA to investigate compliance conciliation disputes and disciplinary proceedings, or for any reason other than to provide compensation for persons who suffered financial loss as a result of fiduciary default of a land agent or a conveyancer?

The Hon. J.M. RANKINE: I am advised that administrative expenses are taken from the fund.

Mrs PENFOLD: Perhaps the minister could advise what types of administrative expenses are taken from that real estate fund.

The Hon. J.M. RANKINE: It is mainly salaries to administer the fund, but also expenses directly incurred in administering the fund.

Mrs PENFOLD: Can the minister advise how much money was used to provide compensation over the past 12 months?

The Hon. J.M. RANKINE: I am advised that \$13.5 million was taken from the fund to compensate those people involved in the Growden's claim, but we do not have the specific detail of the other small claims. The commissioner will get that information for me to pass on to the honourable member.

Mrs PENFOLD: What is the minister doing to ensure that people who are likely to cause payment from the fund such as Growden's clients for whom the lower part was charged are contributors to the fund, that is, those who might call on it at a later date?

The CHAIR: What is the reference, member for Flinders?

Mrs PENFOLD: It is all to do with that same fund and the reference at the bottom of page 160.

The Hon. J.M. RANKINE: All real estate trust accounts contribute to the fund. The interest from the trust accounts of real estate agents is what goes into the fund. So all real estate agents are contributors, in effect.

Mrs PENFOLD: Could the minister explain how the Growden's case was not covered by that trust account? What I am concerned about is that there will be other anomalies which I believe did not contribute to that fund and which

may be calling upon the fund in the future. Has something been done to close that loophole, because that was a one-off law to deal with Growden's but it could happen again?

The Hon. J.M. RANKINE: My advice is that there is a long answer and a short answer. I will try to give the short answer. Growden's was a finance broker, not a real estate agent. Previously there had been a fund for finance brokers but that had been closed down. The honourable member would recall that we had to change legislation to allow the clients of Growden's to make a claim on a trust fund that, in effect, was about real estate as opposed to financial brokerage.

Mrs PENFOLD: What has been put in place to ensure that the same thing does not happen again?

The Hon. J.M. RANKINE: There is currently a national project involving all ministers for consumer affairs in relation to finance brokers, so we are hoping that in the not too distant future we will have at least harmonised legislation around Australia to control finance brokers.

The CHAIR: Member for Flinders, we are drawing a very, very long bow here: can the honourable member focus her questions on the issues raised by the Auditor-General's Report rather than anything that is mentioned in it?

Mrs PENFOLD: My next question might be out of order, then. Will the minister advise me where I can find in the Auditor-General's Report the Second-Hand Vehicles Compensation Fund, because I cannot find it anywhere, yet I know there is a fund that is under the jurisdiction of the minister. I cannot locate it in the book, no matter where I look.

The Hon. J.M. RANKINE: It is not reported in here other than that on page 192 there is one line that mentions the Second-Hand Vehicles Compensation Fund and says that the fund has an estimated contingent obligation to pay \$35 000 related to current and expected claims against the fund.

Mrs PENFOLD: I have similar concerns about this trust fund. Who administers this fund and is the fund audited by the Auditor-General?

The Hon. J.M. RANKINE: It is administered by the Office of Consumer and Business Affairs and yes, it is audited by the Auditor-General.

Mrs PENFOLD: How much money is in the fund?

The Hon. J.M. RANKINE: \$3.4 million.

Mrs PENFOLD: How much interest was received, does it stay in the fund and, if not, where does it go?

The Hon. J.M. RANKINE: Same deal: it stays in the fund.

Mrs PENFOLD: May I have the amount of interest that was received?

The Hon. J.M. RANKINE: No, but we will take it on notice.

Mrs PENFOLD: Can the minister advise whether Bob Moran was a contributor to this fund?

The Hon. J.M. RANKINE: He and his companies were contributors to the fund.

The CHAIR: I will listen very carefully how far you are going here, member for Flinders.

Mrs PENFOLD: I am very interested in knowing. How much did Bob Moran's activities cause to be paid out last year and also in previous years from this fund?

The Hon. J.M. RANKINE: The advice I have is that there were 14 consumers who made complaints against the Second-Hand Vehicle Dealers Fund for moneys said to be owing to them in respect of vehicles placed on consignment with Austwide Vehicle Negotiators Pty Limited and GTR Auto Pty Limited, which I understand are Bob Moran's companies. These claims have been processed and the total payment from the fund was \$176 892.45. There are a further five consumers who have not lodged claims with the Magistrates Court. I understand that the potential claims from those five people could total just over \$22 500, and payments can be made from the fund only on order of the Magistrates Court.

The CHAIR: We are being very generous with our bows, member for Flinders. How targeted can you be this time?

Mrs PENFOLD: What is the minister doing to prevent dodgy operators from exploiting the Second-Hand Vehicles Compensation Fund, which is costing legitimate operators and their clients thousands of dollars every year?

The CHAIR: That is not an appropriate question.

The Hon. J.M. RANKINE: We are reviewing the Second-Hand Vehicle Dealers Act, and we hope that the

honourable member will support the legislative changes when we bring them in.

Mrs PENFOLD: I think I might.

The CHAIR: We would like some questions that do relate to the Auditor-General's Report.

Mrs PENFOLD: Can the minister advise what process is in place to deal with interstate complaints that relate to funds such as these that I have been mentioning, the real estate one and the motor vehicles one? When a complaint comes from an interstate customer through to our OCBA, do we pay out funds?

The CHAIR: Does the honourable member have reference where this matter was raised by the Auditor-General? If she does not, then this is not appropriate to the Auditor-General's questioning. However, the minister is continuing to be very generous and may care to answer.

The Hon. J.M. RANKINE: I understand that, as long as the operator is based here in South Australia, those claims are considered.

Mrs PENFOLD: Has OCBA reduced any of its areas of responsibility over the last 12 months and what are they, and what was the reduction in costs that resulted?

The Hon. J.M. RANKINE: I am very clearly advised that that is a no.

Mrs PENFOLD: Has OCBA increased any of their areas of responsibility over the last 12 months; what are they, and what was the increase in costs that resulted?

The Hon. J.M. RANKINE: That question is a bit detailed and I will have to ask you to—

The CHAIR: Member for Flinders, the last series of questions you have asked are estimates questions, not Auditor-General's questions. The minister does not need to take it on notice, although if she wants to she can.

The Hon. J.M. RANKINE: Give me a written question on notice.

Mrs PENFOLD: I will do that.