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23 February 2011

Mr Robert E Kennedy
NT Office Status of Family
P O Box 988
PALMERSTON NT 0831

Dear Mr Kennedy,

I refer to your letter dated 15 January 2011, which was received by this tribunal (the **SSAT**) on 16 February 2011, in relation to the SSAT's conduct of reviews of decisions made by a delegate of the Child Support Registrar pursuant to the child support legislation.

As I understand your letter, you complain of the qualifications of members of the SSAT; their treatment of depreciation in considering the "income, property and financial resources" of a party to a child support review; and the making of orders prohibiting the parties from disclosing information in the documents given to them by the Child Support Agency or information obtained in the course of the hearing.

Starting with the qualifications of members of the SSAT, most of the members are lawyers. However, the membership of the SSAT also includes persons with other professional qualifications. The SSAT is usually (if not always) constituted for the conduct of a child support review, in which one of the parties is self-employed, by members with legal and accountancy qualifications.

I have ascertained from the SSAT's records that you represented a party at a hearing by the SSAT, on 28 January 2011, of an application for review of a determination made by a delegate of the Child Support Registrar to depart from the provisions of the *Child Support (Registration and Collection) Act 1988* relating to administrative assessment of child support (**change of assessment review**). The qualifications of the members who constituted the SSAT for that review included a Master of Laws (Merit), Master of Business (and recent presidency of the WA Division of CPA Australia), Bachelor of Applied Science (social work) and a Graduate Diploma in Business Administration.

Your own qualifications are not disclosed in your letter and appear not to have been disclosed to the SSAT in the course of the recent hearing. However, the SSAT considered your submissions as to the interpretation of the *Child Support (Assessment) Act 1989* and provided reasons why it considered that your interpretation was incorrect. A party who is

dissatisfied with a decision of the SSAT has a right of appeal, to a court having jurisdiction, on a question of law.

The SSAT considers in a change of assessment review (as it did in the recent review in which you represented a party) whether a depreciation expense should be added back to the income of the subject business in light of the evidence and of case law (which is essentially reflected in the relevant part of the Guide used by the Child Support Agency in its administration of the child support legislation).

Non-disclosure orders are made, pursuant to ss 96(2), 98 and 103Q of the *Child Support (Registration and Collection) Act 1988*, to protect the privacy of the parties. Such orders do not prevent a party from making a complaint about the conduct of a review to the SSAT. Complaints are duly considered, including listening to the recording of a hearing if necessary, and responded to by a Senior Member (or Principal Member should a Senior Member have sat on the review). However, a complaint cannot lead to a change in a decision of the SSAT. Only a court with jurisdiction can set aside or vary a decision of the SSAT.

The secrecy provisions of the child support legislation prevent the SSAT from publishing its decisions and reasons for decision. Subsection 16(2AA) of the *Child Support (Registration and Collection) Act 1988* permits the SSAT to communicate its reasons for decision to the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs. However, s 16(2AB) of that Act permits the Secretary to publish the SSAT's reasons for a decision if the publication does not identify a party to the proceedings by any particulars.

The high volume of SSAT decisions and the extent of work involved, in removing every particular which might identify a party, means that only a selection of the SSAT's decisions under the child support legislation are published on AustLII. Nevertheless, the number of decisions published on AustLII since 2007 illustrates the way in which the SSAT undertakes the task entrusted to it by the child support legislation.

Yours sincerely



Jane Macdonnell
Principal Member