



**Cayman Islands
Anti-Corruption Commission**
Integrity is non-negotiable

Annual Report
1 July, 2012 – 30 June, 2013



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Statement from the Chairman

This year saw the first prosecution and conviction following an investigation by the Anti-Corruption Commission. Importantly, as this conviction demonstrated, corruption can exist at any level. The successful conviction underscored the serious nature of the charges, as well as the continued determination of the RCIPS, the ACC and the DPP's office to vigorously investigate and prosecute those who misuse their position in public office for corrupt purposes. As this process continues, however, we have to be patient, persistent, and creative in our efforts to address the problem. In this regard, owning the problem of corruption requires a commitment by a cross-section of the community – including emerging political leaders, entrepreneurs, public servants, teachers, parents, and students – to stand with the ACC against corruption. We all have an important role to play in securing prosperity for the current generation and beyond.

Corruption is neither unique nor intrinsic to the Cayman Islands. Countries around the world continue to encounter this problem in one form or another. As such, the ACC is engaged in an on-going battle against corruption with all intentions being to overcome it through a combination of law enforcement and public education. Working with intelligence and case evidence gathered throughout the reporting period by the Anti-corruption Unit, it is clear that the scope of corruption (including its underpinning drivers) is complex and diverse. The roots of corruption, as is often said, are deep.

With that in mind, the Commission continues to look to the community for support. We look to you to do your part – you can help by reporting corruption, providing evidence, statements and other information to support claims of corruption and by being willing to take a stand against those who stand behind corrupt practices and behaviours. We, for our part, as Commission members will continue to bring all of our efforts, to identify, investigate and prosecute those who break the law and misuse their position.

David Baines
Chairman, Anti-Corruption Commission

Section One

The Anti-Corruption Commission Islands (“ACC”)

1.1 ACC Membership

In accordance with the Anti-Corruption law (2008), the Commission consists of the Commissioner of Police, the Complaints Commissioner, and the Auditor General, and two additional members appointed by His Excellency the Governor, namely Sir Peter Allen and Mr. Leonard Ebanks.

1.2 Role

The Anti-Corruption Commission (ACC) was created in accordance with Section 3 of Cayman's Anti-Corruption Law (2008) which came into effect on 1 January 2010 and the Commission is responsible for the administration of the said law.

1.3 Powers, duties and functions

The ACL establishes the ACC and sets out its powers, duties and functions. Section 3 states:

- (1) There is established for the purposes of this Law a body to be known as the Anti-Corruption Commission and the Commission is the anti-corruption authority of the Cayman Islands.
- (2) The Commission is responsible for the administration of this Law and has the powers, duties and functions set out in this Law.
- (3) The provisions of the Schedule shall have effect as to the constitution of the Commission and otherwise in relation thereto.”

Section 4 sets out the powers duties and functions of the ACC as follows:

- (a) Receive and consider any report of the commission of a corruption offence and, subject to this Law, investigate such report;
- (b) Receive and (as permitted) request, analyse and disseminate disclosures of any information -
 - (i) Concerning corruption offences under this Law or suspected offences; or
 - (ii) Required by any law in order to counter corruption;
- (c) Detect and investigate -
 - (i) Any suspected offence under this Law;
 - (ii) Any suspected attempt to commit an offence under this Law;
 - (iii) Any suspected conspiracy to commit any offence under this Law; and
 - (iv) Do anything else that it is required or authorised to do under this Law or any other law or which is necessary to do for achieving the purpose of this law.

The ACC is then permitted by the remainder of the section to do a number of things pursuant to the above including matters relating to the freezing of assets and the receiving and requesting of information, including from overseas anti-corruption agencies.

The ACC has a further duty, under section 4(2) (d), to retain a record of all information and agreements obtained or made in relation to the section for a minimum of five years.

Applications in relation to restraining assets etc. are stated to be required to be made by “the Commission” upon permission being granted by the Grand Court. Applications will be dealt with separately as part of the protocols.

1.4 Control, Oversight, and Policy Directions

The Governor has the power to give directions to the Commission with respect to policy followed in the performance of its functions in matters that concern the public interest. He is also responsible for:-

- (a) the general oversight of the anti-corruption policy of the Government;
- (b) overseeing and inspecting the work of the Commission;
- (c) reviewing annual reports submitted by the Commission;
- (d) promoting effective collaboration between regulators and law enforcement agencies; and
- (e) monitoring interaction and co-operation with overseas anticorruption authorities.

The Governor, in his discretion, may give to the Commission directions as to the policy to be followed in the exercise and performance of its functions in relation to matters appearing to the Governor to concern the public interest and the Commission shall give effect to any such directions.

The ACC is permitted, by virtue of section 28(1), to issue guidelines setting out:

- (a) the forms and procedures for making a report of a corruption offence; and
- (b) the operational procedures in connection with disclosures made to the Commission under this law.

The ACC is obliged by virtue of section 28(2) to review and amend any guidelines it issues under the above sub-section. The guidelines are to be made available for inspection by the public under sub-section (3).

1.5 Main Responsibilities

- Receiving reports of alleged corruption;
- Considering such reports;
- Investigating such reports;
- Receiving, requesting, analysing and disseminating information relating to suspected corruption or to counter corruption;
- Detecting and investigating corruption offences under the ACL;
- Assisting with overseas investigations;
- Freezing assets and confiscating proceeds of corruption offences;
- Recording all information generated by the above activities;
- Reporting annually to the Governor; and
- Issuing and reviewing guidelines for the making of reports and for disclosures made under the ACL.

Section Two

Breaches of the Law

2.1 General Overview

The Commission receives reports of alleged breaches as identified in the legislation through direct communication to members of the Commission; requests for mutual assistance from overseas; and those reported directly to the Police or other law enforcement agencies, either overtly or covertly. In each case the allegation will be fully recorded and a decision taken as to what, if any, further investigation or action is appropriate. Each allegation is assessed on its own merits, however consideration is given as to whether the issue constitutes a breach of the legislation; and if so, is the matter in the public interest to investigate and / or prosecute. No prosecution is undertaken without the express authority of the Director of Public Prosecutions in accordance with the Anti-Corruption Law (2008) Part 2, Section 7 (as amended by the Director of Public Prosecutions (Miscellaneous Amendments) Law, 2012).

Any alleged breach occurring prior to the commencement of the Law and not forming an on-going sequence would be investigated and prosecuted, if appropriate, under the existing legislation available at the time.

2.2 Corruption Offences in the Cayman Islands

Corruption can be described as abusing a position of trust to gain an undue advantage. Corruption, therefore, means that decisions are not taken for public benefit, but rather to serve private interests.

Corrupt behaviour can be defined as follows:

- A Public Officer (PO) or Member of the Legislative Assembly (MLA) uses, or tries to use, knowledge, power or resources which they have gained as a result of their position for personal gain or for the advantage of others ;
- A PO or MLA uses, or attempts to use, their position to interfere with justice, to commit an offence or to prevent an offence being detected or punished;
- A PO or MLA acts dishonestly or unfairly, or breaches the trust of the public;
- A member of the public influences, or tries to influence, a PO, MLA or foreign PO or foreign equivalent of an MLA to use his or her position in a way that is dishonest, unfair or breaches public trust.

In accordance with sections 10 to 25 of the Anti-Corruption Law of the Cayman Islands the Anti-Corruption Commission may receive reports of allegations of the 16 offences detailed in 2.3 below.

2.3 Offences under Part 3 of the Anti-Corruption Law (2008)

- **Bribery of public officers and members of the Legislative Assembly**
 - directly or indirectly-

- (a) solicits;
- (b) accepts or obtains; or
- (c) agrees to accept or obtain,

for himself or any other person, any loan, reward, advantage or other benefit with intent-

- (a) to interfere with the administration of justice;
- (b) to procure or facilitate the commission of an offence; or
- (c) to protect from detection or punishment a person who has committed or who intends to commit an offence,

- Gives or offers any loan, reward, advantage or other benefit, with intent that the public officer should do anything mentioned above.

- **Frauds on the Government**

- Demands, accepts, offers or agrees to accept a loan, reward, advantage or other benefit for cooperation, assistance, exercise of influence etc. in connection with the transaction of business relating to the Government.
- Pays a commission or reward or confers an advantage or benefit on a member of the Legislative Assembly or a public officer of a government entity or to any member of the family of a member of the Legislative Assembly or a public officer, unless he has the consent in writing of the Chief Officer of the government entity.
- Demands, accepts or offers or agrees to accept from a person who has dealings with the Government a loan, reward, advantage or other benefit directly or indirectly, by himself or through a member of his family or through any one for his benefit, unless he has the consent in writing of the Chief Officer of the government entity that employs him or of which he is an official.

- **Breach of trust by public officer or by a member of the Legislative Assembly**

- In connection with the duties of a public office, commits fraud or a breach of trust;
- Liable on conviction to imprisonment for a term of five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person.

- **Selling or Purchasing Office**

- Sell or agrees to sell an appointment to or a resignation from a public office, or a consent to any such appointment or resignation, or
- Purchase or give a loan, reward, advantage or other benefit for the purchase of any such appointment, resignation or consent, or agrees or promises to do so.

- **Influencing or negotiating appointments or dealing in offices**

- Receives, agrees to receive, gives or procures to be given, directly or indirectly, a

- loan, reward, advantage or other benefit as consideration for cooperation, assistance or exercise of influence to secure the appointment of any other person to a public office;
- Solicits, recommends or negotiates an appointment to or resignation from a public office, in expectation of a direct or indirect loan, reward, advantage or other benefit
- **False claims by Public Officers**
 - Knowingly make false claims on accounting statements or returns relating to money payable to himself or any other person for services, delivery of goods, etc.
 - **Abuse of Office**
 - Doing or directing to be done, in abuse of the authority of a public office, any arbitrary act prejudicial to the rights of another person.
 - **False certificates by public officers or by members of the Legislative Assembly**
 - Knowingly giving a false certificate when authorised or required by law to give such a certificate wherein the rights of any person may be prejudicially affected.
 - **Conflict of Interest**
 - Direct or indirect interests in deals with companies, partnerships or other undertaking relating to:
 - (a) the public officer;
 - (b) the member of the Legislative Assembly; or
 - (c) a member of the family or an associate of either the public officer or member of the Legislative Assembly,
 - The public officer, the member of the Legislative Assembly, the member of the family or the associate holds more than ten per cent of the total issued share capital or of the total equity participation in such company, partnership or other undertaking,
 - Personal interest in a decision which a government entity, of which the public officer or the member of the Legislative Assembly is a member, director or employee, is to take,
 - Shall forthwith disclose, in writing, to the government entity the nature of that personal interest.
 - **Failure of a public officer and member of the Legislative Assembly to whom a bribe is offered to report such offerings**
 - A public officer or MLA to whom any loan, reward, advantage or other benefit is given, promised or offered, in contravention of the Anti-Corruption Law, shall

report such to the ACC or any RCIPS police constable together with the name, if known, of the person who gave, promised, or offered such load, reward, advantage or other benefit to him.

- A public officer or MLA who has reasonable cause, to believe that another public officer or MLA has solicited, obtained, or agreed to accept or obtain any loan, reward, advantage or other benefit, in contravention of the Anti-Corruption Law, shall report the name of the public officer or MLA to the ACC or any RCIPS police constable.

- **Secret Commissions**

- gives, offers or agrees to give or offer to an agent any loan, reward, advantage or other benefit relating to the affairs or business of his principal or for favour or disfavour to any person with relation to the affairs or business of his principal; or
- being an agent, demands, accepts or offers or agrees to accept from any person any loan, reward, advantage or other benefit relating to the affairs or business of his principal or for showing favour or disfavour to any person with relation to the affairs or business of his principal; or

- **Bribing a Foreign Public Officer**

- Obtain or retain an advantage in the course of business, directly or indirectly promises, gives, offers or agrees to give or offer a loan, reward, advantage, or benefit of any kind to a foreign public officer for his benefit or for the benefit of another person or to person for the benefit of a foreign public officer-
 - (a) as consideration for an act or omission by the foreign public officer in connection with the performance of the officer's duties or functions; or
 - (b) to induce the foreign public officer to use his position to influence any acts or decisions of the foreign country or public international organisation for which the officer performs duties or functions.

- **False Statements to the ACC**

- Makes or causes any other person to make false or misleading statements to the ACC or to a police constable.
- Makes an initial statement to the ACC or RCIPS, and then wilfully makes a subsequent inconsistent statement to the ACC or RCIPS.

- **Inchoate Offences**

- Unless expressly provided otherwise the following are offences under this Law-
 - (a) an attempt, conspiracy or incitement to commit an offence under this Law; and

(b) aiding, abetting, counselling or procuring the commission of an offence under this Law.

- **Contractor subscribing to election fund**

- A person who, in order to obtain or retain a contract with the Government, or as a term of any such contract, whether express or implied, directly or indirectly subscribes or gives, or agrees to subscribe or give, to any person any loan, reward, advantage or other benefit-
 - (a) for the purpose of promoting the election of a candidate or a class or party of candidates to the Legislative Assembly; or
 - (b) with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in the Legislative Assembly, commits an offence.
- A person who commits an offence under this section is liable on conviction on indictment to imprisonment for a term of ten years.

- **Facilitation payments**

- For the purpose of section 22 (Bribing a Public Officer), a payment is not a loan, reward, advantage or other benefit to obtain or retain an advantage in the course of business, if -
 - (a) the value of the payment is small;
 - (b) it is made to expedite or secure the performance by a foreign public officer of any act of a routine nature that is part of the foreign public officer's duties or functions, including-
 - i. the issuance of a permit, licence or other document to qualify a person to do business;
 - ii. the processing of official documents, such as visas and work permits;
 - iii. the provision of services normally offered to the public, such as mail pick-up and delivery, telecommunication services and power and water supply; and
 - iv. the provision of services normally provided as required, such as police protection, loading and unloading of cargo, the protection of perishable products or commodities from deterioration or the scheduling of inspections related to contract performance or transit of goods; and
 - (c) as soon as practicable after the payment and the act of a routine nature performed by the foreign public officer occurred, the person made a record of the payment and the act and either the following applies-

- i. the person has retained that record at all relevant times; or
 - ii. that record has been lost or destroyed because of the actions of another person over whom the first-mentioned person had no control, or because of a non-human act or event over which the first-mentioned person had no control, and the first-mentioned person could not reasonably be expected to have guarded against the bringing about of that loss or that destruction.
- For the purposes of this Law, an "act of a routine nature" does not include a decision to award new business or to continue business with a particular party, including a decision on the terms of that business, or encouraging another person to make any such decision.
- A report under this section shall set out-
 - (a) the value of the payment concerned;
 - (b) particulars of the act of a routine nature that was sought to be expedited or secured by the payment;
 - (c) the date or dates on which the payment was made and on which the act of a routine nature occurred;
 - (d) the identity of the relevant foreign public official; and
 - (e) the signature of the person who has made the report or some other means of verifying the person's identity.

It is noted that some of these offences can only be committed by a public officer (PO) or a member of the Legislative Assembly (MLA) while others can be committed by any member of the public.

Section Three

Reporting Corruption

3.1 Making a Report

If you believe that there has been an act of corruption, the ACC asks that you complete and submit the reporting form found in the appendices section of this document. Matters should be reported to the ACC whenever there is a reasonable suspicion that any form of the above conduct has occurred; as soon as is reasonably practicable after the behaviour has occurred or been discovered.

If a matter is urgent, i.e. urgent action is required to correct the results of the behaviour or there is a risk of continued corrupt behaviour or that damage will be done to a person or organisation if the matter is not dealt with quickly, this should be made clear on the report.

Reports may be made to the ACC in the following ways:

- a. Directly to an individual member of the ACC;
- b. Via the Confidential Reporting Line;
- c. Directly to the Commissions Secretariat Manager or any supporting staff; or
- d. Directly to the ACU.

Any person who has knowledge of alleged corruption and/or fraudulent activities is urged to report such information in detail to the Anti-Corruption Commission through any of the established mediums found below.

The ACC will accept all information either anonymously or with identification of the person making the report, if he/she so wishes. The ACC will make every effort to protect the confidentiality of information provided and identity of those providing that information.

The ACC will encourage a caller, if the information is to be taken in a live situation, to identify his or her self as it may be necessary in the future to seek additional information or clarification of information received. This information also allows the Commission to be able to provide the respondent with updates on the investigation.

It should be noted that the process for receiving complaints is not restricted to the ACC; information may be provided to any Police Officer of the Royal Cayman Islands Police Service. If such a disclosure of corruption is made to a Police Officer this information will be reported to the Anti-Corruption Commission through the Commissioner of Police within a period of 7 days from the time of first receipt. On receipt of the information from the Police Officer, the Commissioner of Police, as Chairperson of the ACC, shall inform the ACC at the next Commission meeting or any time prior to the next ACC meeting.

3.2 Duty to Report

As it relates to the Anti-Corruption Law (2008) individuals should be aware of the principles that guide the performance of public officers in the conduct of their duties. Public officers may incur criminal liability for corruption as follows:

- **Those directly involved:** An individual who is directly involved in committing a corruption offence in accordance with the Anti-Corruption Law (2008) may be liable for the offence.
- **Those indirectly involved:** An individual may be liable for a corruption offence where he/she is indirectly involved in committing the offence.
- **Failure to act:** An individual may be liable for a corruption offence even where he/she was not directly involved in committing the offence, but was willfully blind to it.
- **Aiding and abetting:** An individual may also be liable for aiding and abetting where he has aided or assisted in the committing of the offence.

3.3 Accessibility of the Anti-Corruption Commission

The ACC may be contacted through the Secretariat in the following ways:

Phone: 244-3685

Fax: 945-8649

Website: www.anticorruptioncommission.ky

E-mail: info@anticorruptioncommission.ky

Mailing Address: P.O. Box 391 KY1-1106

Physical Address: 1st Floor Cayman Corporate Centre

FOI requests: foi.cos@gov.ky.

★ Confidential Reporting Line ★

345.928.1747

Section Four

Completed Anti-Corruption Investigations

INDICTMENT 85/11

Patricia Webster, an employee of the Royal Cayman Islands Police Service (RCIPS), was the first person to be convicted at Grand Court following an investigation by the Anti-Corruption Commission.

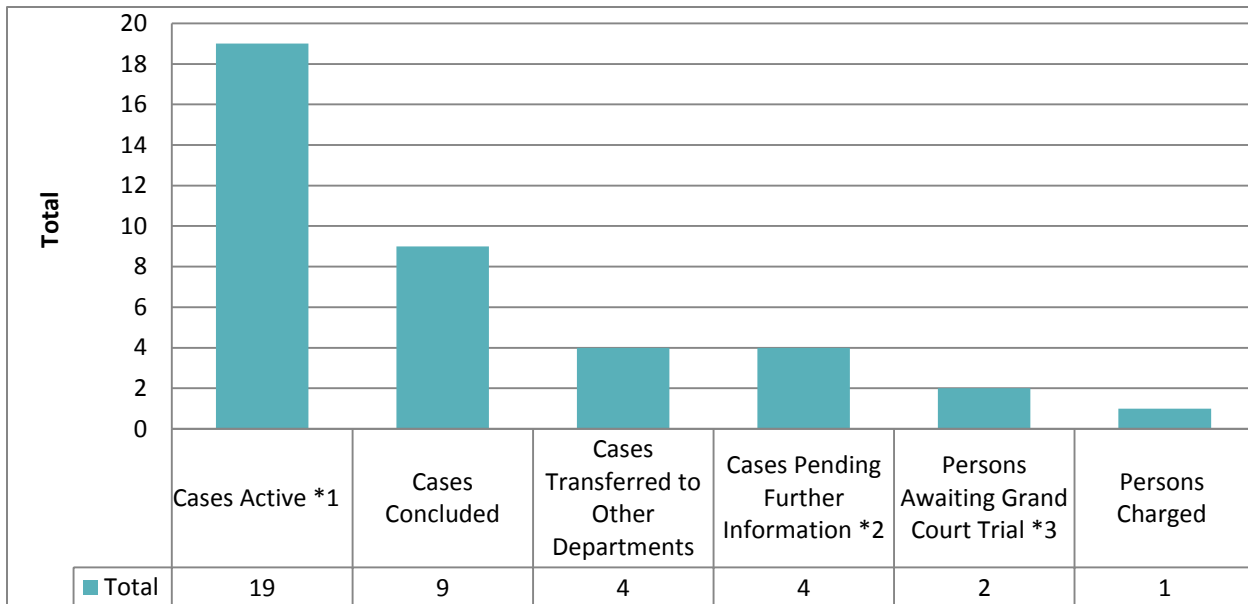
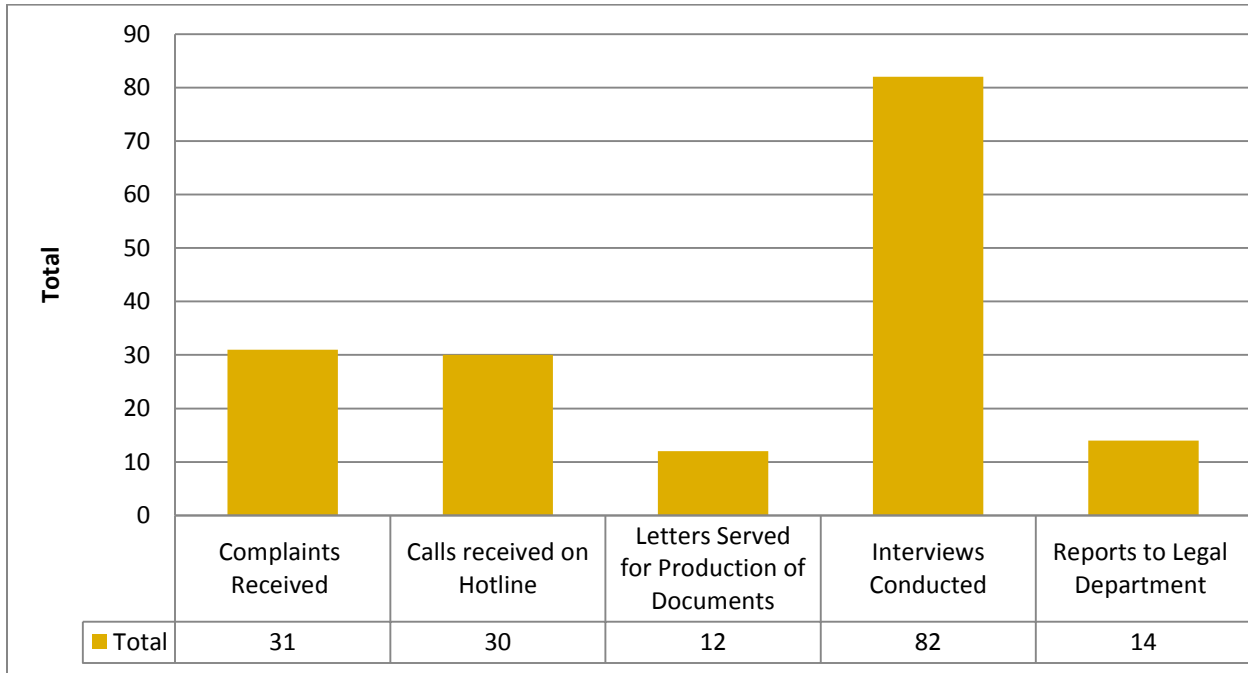
Webster was a civilian RCIPS employee based at George Town police station. She was charged in October 2011 following an investigation into her misuse of police and immigration data systems.

The charges were that she willfully misconducted herself in abuse of the public trust by making extensive searches of the confidential police database and soliciting information from the immigration database, otherwise than in accordance with her authorised duties, in order to 1) ascertain whether an individual was the subject of a criminal investigation; and 2) obtain the personal telephone number of a second individual and passing that number on to a third party.

Webster was sentenced by Justice Quin on 16 May, 2013 to 9 months imprisonment wholly suspended for 12 months on each count of misconduct. The sentences will run concurrently.

She was placed on required leave beginning in September 2011. Following her conviction steps were taken, in line with agreed Public Service Management Law policies, to terminate her employment with the RCIPS.

Section Five 2012-2013 Corruption Statistics



*1 Includes 3 cases from 2011 / 2012 reporting period

*2 Includes 2 cases from 2011/ 2012 reporting period

*3 Includes 1 case from 2011 / 2012 reporting period

Section Six

Public Relations and Education

6.1 ACC Website

The Commission continues to maintain its website - www.anticorruptioncommission.ky – in order to increase public awareness as to the work of the ACC. Members of the public can access information on the functions and powers of the Commission, meeting minutes, reports, and more. During the reporting period the Commission expanded its website to include information on external resources, information on completed cases, general statistics, and resources aimed at engaging for youth with regard to anti-corruption awareness. The goal was to provide the public with more information on the activities of the Commission.

6.2 ACC Quarterly Newsletters

The Commission continues to distribute its newsletter – Focus – on a quarterly basis. The aim of Focus is to inform the community on emerging trends in the area of corruption and offer best practices with regards to identifying, managing, and preventing corruption risks. Additionally, the newsletter features general information on the topic of corruption as a means by which to raise awareness across all sectors of the community and assist persons to better understand the dynamics that drive corruption.

Since its launch, Focus has provided readers with information pertaining to conflicts of interests; gifts, benefits, and bribery; procurement; secret commissions; joint ventures; breach of trust; and abuse of office. In addition, each publication discusses elements of the main concept area in relation to the associated risk with insight into management and strategic risk mitigation techniques. All publications are available online at the Commission’s website.

6.3 International Anti-Corruption Day

9 December, 2012 was the second time that the Cayman Islands has marked International Anti-Corruption Day. International Anti-Corruption Day is a unique opportunity for all of us to think about the devastating impact corruption has on so many lives. Corruption is one of the most talked about problems in the world – it is also one of the greatest threats our societies face today. The Commission encourages other organisations, institutions, and individuals to assist in raising awareness of corruption and the fight against it as part of a broader commitment to social responsibility.

6.4 Corruption Forum – University College of the Cayman Islands

Professor Trevor Munroe helped UCCI launch the first of its Distinguished Public Lecture Series, which took place on the UCCI campus in November 2012. Notably, since 2011, Mr. Munroe has been executive director of Jamaica’s National Integrity Action Limited, a not for profit NGO dedicated to the building of integrity and the combat of corruption in Jamaica on a non-partisan basis. Prior to this he directed the National Integrity Action Forum a coalition of leaders of public

sector anti-corruption agencies. In 2012, Mr. Munroe was appointed an individual member of Transparency International, the only such person from the Caribbean, one among 27 in the world.

Representatives from the Commission attended the forum and look forward to more opportunities in which awareness of corruption in public forums can be discussed with qualified and experienced authorities on the subject matter.

6.5 Elections Education Campaign

Leading up to the 2013 General Elections the ACC engaged in a partnership with the Elections Office to heighten public awareness as it related to corruption offences including vote-buying. To this end the partnership released various educational advertisements. Additionally, a Facebook page (www.facebook.com/electionsoffice) was set up and maintained with frequent press releases and general commentary in support of promoting democracy and reducing the occurrence of corrupt acts. The Commission believes that opportunities to partner with other government departments and private companies provides a necessary approach to the fight against corruption and welcomes any such opportunity.

6.6 Anti-Corruption Training Opportunities

Neither ACC members nor ACU investigators were able to take advantage of any training opportunities during the reporting period due to a lack of funding. While the Commission makes every effort to remain aware of educational opportunities, the factor of limited financial support directly impedes its ability to attend critical training courses. The Commission is keen to garner increased financial support in aid of helping its members and support team to remain current with respect to anti-corruption research, theories, best practices, and networking opportunities with counterparts in other jurisdictions.

6.7 Good Governance Lunch and Learn Presentation to Civil Service

The Commission participated in a presentation during a week-long series of talks organised by the Commissions Secretariat to raise awareness amongst the civil service of key issues related to governance in the lead-up to the General Election on 22 May, 2013. The Chairman of the ACC, Mr. David Baines conducted a presentation on behalf of the Commission wherein the theme was “Corruption: a global challenge with broad local implications”. Mr. Baines discussed the dynamics of corruption, examined its complexity, and generally discussed the unique implications for public officers as private citizens and civil servants.

6.8 Deputy Governor’s Office Online Training Programme for Civil Service

The Deputy Governor’s Office has recently embarked on developing an online training course centred on raising awareness and sensitivity of civil servants as it relates to the Anti-Corruption Law (2008), the impacts of corruption, and the responsibilities of public officers. The Commission fully supports such measures to expand the knowledge of public officers with respect to understanding the far-reaching and negative effects imposed by all forms of corruption. Additionally, the

Commission encourages frequent, approachable, and interactive initiatives within the civil service aimed at developing the capacity of public officers to be aware of, and act in accordance with, the Public Servants Code of Conduct and the Anti-Corruption Law.

Section Seven Moving Forward

The Commission firmly believes that good governance is a cornerstone of sustainable social and economic development; while corruption, on the other hand, stifles societal development. With regard to corruption specifically, research indicates that high levels of corruption generally worsen the prospects for development. In turn, underlying political and social structures, incentives, and possibly also norms, explain why corruption emerges in its various forms and is persistent to the detriment of social and economic growth. Notably, poor governance is not a result of ignorance, but rather of the ways in which power is allocated, monitored, and accounted for.

As the Commission continues to move forward, it becomes more apparent that anti-corruption interventions require increasingly complex approaches marked by the capacity to conceive, plan, collaborate, assess, and implement if we are to continue achieving progress. From this perspective the ACC will continue to actively do their part to receive and investigate allegations of corruption in line with the Anti-Corruption Law (2008). In combination with the Commission's efforts, however, the ACC calls on public authorities to demonstrate their stance against corruption by taking a committed interest in the implementation of strategies including greater internal controls, staff training, and the building-up of an organisational culture marked by professionalism, integrity, and ethically-sound decision-making.



Dated this 11th day of July, 2013.

Mr. David Baines (Chairman)

Miss Nicola Williams

Sir Peter Allen

Mr. Alastair Swarbrick

Mr. Leonard Ebanks

Appendix 1

General Information

What is Corruption?

- Corruption means abusing a position of trust to gain an undue advantage. This involves the conduct of both sides; that of the person who abuses their position of trust as well as that of the person who seeks to gain an undue advantage by this abuse.
- Corruption occurs in relation to public officials and private parties.

What is the impact of corruption?

- Corruption undermines democracy and the rule of law;
- leads to human rights violations;
- distorts markets;
- erodes quality of life; and
- allows organized crime, terrorism and other threats to human security to flourish.

Purpose of the Anti-Corruption Law (2008)

- A law to repeal the provisions of the penal code relating to corrupt practices;
- give effect to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 1997; and to the United Nations Convention against Corruption

Administration of the Anti-Corruption Law

- The ACC is responsible for the Administration of the Law
- The ACC has broad powers including:
 - investigate suspected and alleged corrupt conduct in conjunction with RCIPS (ACU);
 - recommend prosecution if necessary;
 - liaise with overseas anti-corruption authorities;
 - obtain search warrants and court orders to freeze the assets of those suspects of committing corruption offences.
- The ACC is Comprised of:
 - The Commissioner of Police (Chair)
 - The Complaints Commissioner
 - The Auditor General
 - Two other persons, appointed by the Governor; each of whom shall be retired judges of the Grand Court or Court of Appeal; retired police officers; retired justices of the peace or magistrates; or retired attorneys-at-law.

The Role of Governor under the Law

- the general oversight of the anti-corruption policy of the Government;
- overseeing and inspecting the work of the Commission;
- reviewing annual reports submitted by the Commission under section 9;
- promoting effective collaboration between regulators and law enforcement agencies; and
- monitoring interaction and co-operation with overseas anti-corruption authorities.
- The Governor, in his discretion, may give to the Commission directions as to the policy to be followed in the exercise and performance of its functions in relation to matters appearing to the Governor to concern the public interest and the Commission shall give effect to any such directions.

Definition of “Chief Officer” under the law

- “Chief Officer” means-
 - (a) in the case of a Ministry, the Permanent Secretary (Chief Officer) of that Ministry;
 - (b) Portfolio of Internal and External Affairs → public officer in the Portfolio as may be designated by the Governor;
 - (c) Portfolio of Legal Affairs → public officer in the Portfolio as may be designated by the Governor;
 - (d) Portfolio of Finance and Economic Developments → public officer as may be designated by the Governor; and
 - (e) Portfolio of the Civil Service → public officer as may be designated by the Governor;
 - (f) Statutory Authority or a Government Company → the person appointed as Chief Officer (by whatever name called) by the board of that authority or company;
 - (g) Audit Office → the Auditor-General;
 - (h) Judicial Administration → the Court Administrator or such other suitable person as may be designated by the Chief Justice;
 - (i) Office of the Complaints Commissioner → the Complaints Commissioner.

Definition of “Public Office” and “Public Officer” under the law means-

- “Public Office” means –
Subject to the next following definition, an office of emolument in the public service
- “Public Officer” means –
 - (a) a person holding public office whether temporarily or permanently by appointment, or by the operation of any law;
 - (b) a judge, a magistrate, an arbitrator, an umpire, an assessor, a member of a jury or a referee in any proceeding or matter with the sanction of any court or in pursuance of any law;
 - (c) a Justice of the Peace; and
 - (d) a member of any statutory body, a tribunal or a commission of inquiry in pursuance

of any law; but does not include a member of the Legislative Assembly;

Duty of a Public Officer

1. A public officer or a member of the Legislative Assembly to whom Legislative Assembly to any loan, reward, advantage or other benefit is given, promised, or offered, in whom a bribe is offered, contravention of any provision of this Law shall report to the Commission or a etc. constable such loan, reward, advantage or other benefit together with the name, if known, of the person who gave, promised or offered such loan, reward, advantage or other benefit to him.

A person who fails to comply commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years or to both.

2. A person from whom any loan, reward, advantage or other benefit has been solicited or obtained, or an attempt has been made to obtain such loan, reward, advantage or other benefit, in contravention of any provision of this Law shall, at the earliest opportunity thereafter, report such soliciting or obtaining of, or attempt to obtain, the loan, reward, advantage or other benefit together with the full and true description and, if known, the name of the person who solicited, or obtained, or attempted to obtain, the loan, reward, advantage or other benefit from him to the Commission or to a constable.

A person who fails, without reasonable excuse, to comply commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of two years or to both.

3. A public officer or a member of the Legislative Assembly who has reasonable cause to believe that another public officer or a member of the Legislative Assembly has-
 - (a) solicited;
 - (b) accepted or obtained; or
 - (c) agreed to accept or obtain;

any loan, reward, advantage or other benefit in contravention of any provision of this Law, shall report such belief to the Commission or a constable and shall provide the name, if known, of the person who gave, promised or offered such loan, reward, advantage or other benefit to the public officer or the member of the Legislative Assembly.

A person who fails, without reasonable excuse, to comply commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of two years or to both.

4. A person who commits an act of victimisation against a person who has made a disclosure under in relation to the duties of a public officer as outlined above commits an offence and is liable on summary conviction to imprisonment for a term of two years.

In this section, “victimisation” means an act-

- (a) which causes injury, damage or loss;
- (b) of intimidation or harassment;

- (c) of discrimination, disadvantage or adverse treatment in relation to a person's employment; or
- (d) amounting to threats of reprisals.

Definition of “member of a family”, in relation to a person, means-

- a spouse of the person;
- a brother or sister of the person (including half and step-brother or half and step-sister);
- a brother or sister of the spouse of the person (including half and step brother or half and step-sister);
- any child of the person (including adopted and step-child);
- any parent or grandparent of the person (including step and adopted parent and grandparent);
- an aunt or uncle of the person; and
- niece or nephew of the person;

Prosecution for Offences

- Proceedings for a corruption offence must have the consent of the Director of Public Prosecutions.

Criteria for Committing an Offence

- A person does not commit a corruption offence unless-
 - (a) the conduct constituting the alleged offence occurs-
 - wholly or partly in the Islands; or
 - wholly or partly on board a Caymanian aircraft or a Caymanian ship;or
 - (b) the conduct constituting the alleged offence occurs wholly outside the Islands and-
 - (c) at the time of the alleged offence, the person is –
 - a person having Caymanian status in accordance with the Immigration Law (2007 Revision); or
 - a resident of the Islands; or
 - a body corporate incorporated by or under a law of the Islands.

Appendix 2 Members' Biographies

Membership of the Anti-Corruption Commission

In accordance with the law, the Commission consists of the Commissioner of Police, the Complaints Commissioner, and the Auditor General, and two additional members appointed His Excellency the Governor. Currently, the members are as follows:

Mr. David Baines, Commissioner of Police (Chairman - Ex-Officio Member)



Mr. Baines joined Lancashire Constabulary in 1976, rising to the rank of Chief Inspector before moving through promotion to Greater Manchester Police (GMP). During his tenure with GMP, Commissioner Baines served in various posts including; Head of Corporate Performance with responsibility for raising standards throughout the force; Divisional Commander for Oldham; and Divisional Commander for Salford. After completing the Strategic Command Course, Commissioner Baines was appointed Assistant Chief Constable in the Cheshire Constabulary, where he held control of Operations Support. Mr. Baines took up the Post of RCIPS Commissioner of Police in 2009. Commissioner Baines holds a Master's Degree from the University of Cambridge where he studied International Relations.

Sir Peter Allen



Sir Peter Allen has been a permanent resident of Cayman for the past 20 years, served for eight years in the British Royal Artillery before joining Uganda's British Colonial Police, where he served for eight years as Assistant Superintendent. Following this, Sir Peter taught at the Uganda Law School, eventually serving as the school's principal. In 1970 Sir Peter became the Uganda Judiciary's Chief Magistrate and was later appointed as judge. In 1985, Sir Peter was appointed Chief Justice of Uganda. He was knighted in the New Year's Honours of 1987 before he retired to Grand Cayman, where he has acted several times as a judge and chaired two commissions of inquiry.

Mr. Leonard N. Ebanks



Mr. Leonard N. Ebanks had a distinguished banking career spanning 40 years, retiring in 2004. During his career he held senior banking positions in Jamaica, St. Lucia and the Cayman Islands, and served as President and Chief Executive Officer of Fidelity Bank (Cayman) Ltd. for over 23 years. Mr. Ebanks has served on numerous government boards, including as chairman of Cayman Airways Ltd and The National Housing Development Trust. In May 2001 he became one of three Constitutional Review Commissioners. Presently, he is a trustee of the Public Service Pensions Board, serving as a member on the Human Resources and Investment committees, and Chairman of the Audit Committee. He was appointed as a Justice of the Peace in

1987 and has served as president of the Association. Prior to his appointment to the Anti-Corruption Commission, he sat regularly on the Juvenile Court Bench and also served in the Youth and Summary Court. Mr. Ebanks was awarded an Order of the British Empire (OBE) for his service to the Cayman Islands.

Mr. Alastair Swarbrick, Auditor General (Ex-Officio Member)



Mr. Swarbrick took up the post of Auditor General in July 2010 and is responsible for the independent audit of government and its related entities.

Mr Swarbrick has over 20 years of experience in public auditing. He began his career in the Scottish Office before moving to the Accounts Commission for Scotland where he completed his professional accountancy training in 1996, becoming a member of the Chartered Institute of Public Finance and Accountancy. Mr Swarbrick subsequently moved to the UK National Audit Office in London taking on various roles before returning to Scotland to work for Audit Scotland as a Senior Audit Manager, leading the audit of the Scottish Government, as well as a number of its agencies and health service bodies. Following promotion to Assistant Director of Audit, aside from his audit management responsibilities, he also led the Business Improvement Unit and was responsible for developing and managing projects to improve the way that Audit Scotland delivered its work. Mr. Swarbrick obtained his Master of Arts, Honours Degree in Economics at the University of Dundee and was awarded the Bowie Memorial Prize for the Most Distinguished Student in Economics.

Ms Nicola Williams, Complaints Commissioner (Ex-Officio Member)



Ms Williams heads Cayman's only independent authority for tackling complaints against the public sector with a jurisdiction that covers government entities and statutory authorities. She also sits as a part-time Crown Court judge in the UK, having been appointed to the judiciary of England and Wales in October 2009. She is also Vice-President of the Caribbean Ombudsman's Association (CAROA). Until March 2009, she was one of 15 commissioners with the UK's Independent Police Complaints Commission whereby she investigated, mediated and resolved complaints about police misconduct, ranging from swearing and improper investigations to brutality and deaths in custody, including terrorism cases. She also has 16 years of experience as a barrister in private practice, has worked on several public inquiries and served for three years as a Board Member with the UK's Police Complaints Authority. She is also a Fellow of the RSA (Royal Society for the encouragement of Arts, Manufactures and Commerce) and a former Chair of the BBC Regional Advisory Committee for London.

Appendix 3 Reporting Form

**All information and sources of information will be treated confidentially.
Section 37 of the Anti-Corruption Law protects informers who disclose information
to the Anti-Corruption Commission.**

Part A – About you (OPTIONAL INFORMATION)

1. Name: Mr/Mrs/Miss/Ms: _____
2. Physical Address: _____
3. Mailing Address: P.O. Box _____ Postal Code: KY - _____
4. Contact numbers: Work: _____ Cell: _____ Home: _____
5. Email: _____

Part B – Your complaint

Who are you complaining about (if known)?

1. Name: _____
2. Position: _____
3. Name of organisation: _____
4. Physical Address: _____
5. Mailing Address: P.O. Box _____ Postal Code: KY - _____
6. Contact numbers: Work: _____ Cell: _____ Home: _____
7. Email: _____

What are you complaining about?

Describe in detail the events that you want to make a report about. We need to know:

- What happened?
- When?
- Who was there?
- How did you become aware of this matter e.g. were you there, did someone tell you about it?
- When did you become aware of this matter?
- Why do you say that what happened was corrupt or wrong?

Part C – Further information

Are you making this report on behalf of someone else? YES NO

If yes, how and when did you become aware of the incident?

Do you have any documents or other evidence in your possession which supports your report? If so, please describe and attach.

If you believe there is evidence which would support your report which is not in your possession please describe this evidence, how you are aware of it, where it is held and by whom.

Are there any other people who are aware of this matter and may be able to assist the ACC in investigating it? If so, who are they and how may they be contacted?

What do you want to happen as a result of making this report?

Have you reported this matter to any other person or agency? If so, to whom or to which agency? What was the outcome? Please attach any relevant correspondence.

Have you tried to resolve this matter in any other way? If yes, please give details and attach any relevant documents.

Are you willing for the ACC to contact you further regarding this matter? If so, how would you like the ACC to do this?

- Telephone Cell _____ Work _____ Home _____
- Mail P.O. Box _____ Postal Code: KY - _____
- E-mail _____
- Other _____

DECLARATION:

I understand that under the Anti-Corruption Law (2008)-

Where a person makes or causes any other person to make to the Commissioner or to a constable, in the course of the Commissioner or such constable exercising any power conferred by this Law, any statement which to the knowledge of the person making the statement, or causing the statement to be made-

- (a) is false, or intended to mislead; or
- (b) is not consistent with any other statement previously made by such person to any other person having authority or power under any law, or otherwise, to receive, or require to be made, such other statement regardless whether or not the person making the statement is under any legal or other obligation to tell the truth, he commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of three years or to both.

I hereby declare that the above information and relevant supporting documentation is accurate to the best of my knowledge and is provided in good faith.

Signature: _____

Date: _____

Remember:

- sign and date this document; and
- attach copies of any relevant documents.

Send your completed form to:
Manager, Commissions Secretariat
P.O. Box 391
Grand Cayman
CAYMAN ISLANDS KY1-1106
info@anticorruptioncommission.ky

Official Use Only

Case Reference Number: _____

Date and Time Received: _____

Name of Secretariat Representative: _____

Date Placed on the ACC Agenda: _____

Complaint Accepted and Investigated: Yes No