



Cayman Islands
Anti-Corruption Commission
Integrity is non-negotiable



Annual Report
1 July 2015 – 30 June 2016

Table of Contents

Section One – The Anti-Corruption Commission Islands (“the Commission”)	3
1.1 Commission Membership	3
1.2 Role	3
1.3 Powers, duties and functions	3
1.4 Control, Oversight, and Policy Directions	4
1.5 Main Responsibilities	4
Section Two – Breaches of the Law	5
2.1 General Overview	5
2.2 Corruption Offences in the Cayman Islands	5
2.3 Offences under Part 3 of the Anti-Corruption Law (2008)	5
Section Three – Reporting Corruption	11
3.1 Making a Report	11
3.2 Duty to Report	12
3.3 Accessibility of the Anti-Corruption Commission	12
Section Four – 2015-2016 Corruption Statistics	13
Section Five – Topical Issues	15
5.1 Anti-Corruption (Amendment) Law 2016	15
5.2 Budget, Staffing and Resources	15
5.3 Extension of the OECD Convention on Combating Bribery	15
5.4 Public Relations and Education	15
5.4.1 Commission Website	15
5.4.2 Interview with Cayman 27	16
5.5 Anti-Corruption Unit Training/Liaison Opportunities	16
5.5.1 – Second Annual Commonwealth Caribbean Association of Integrity Commissions and Anti-Corruption Bodies Conference	16
5.5.2 – Ninth Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities	16
5.5.3 – COTS Anti-Corruption Workshop	16
Section Six – Completed Anti-Corruption Investigations	17
Section Seven – Moving Forward	18
Appendix 1 – General Information	19
Appendix 2 - Members’ Biographies	24
Appendix 3 – Reporting Form	28

Statement from the Chairman

From the successful completion of a protracted and complex criminal investigation by the Anti-Corruption Unit, resulting in a conviction, to the successful passage of the Anti-Corruption (Amendment) Law 2016, the Anti-Corruption Commission (“the Commission”) reached a number of milestones during this reporting period, 1 July 2015 – 30 June 2016.

Corruption continues to be prevalent in our society, as it does in the rest of the world. Those public officials who choose to act in a corrupt manner affect each one of us, in ways far beyond what we can even quantify. The reputational damage and financial implications that the behaviours of these persons inflict on our islands and our people act as a hindrance to the development and betterment of our islands. They cause havoc on our democracy and rule of law.

With the successful passage of the Anti-Corruption (Amendment) Law 2016, our elected officials have shown that they remain committed to providing the necessary legislation to assist the Commission to enhance its operation and independence. In addition, the Commission has been encouraged by the willingness of a small number of individuals who have taken the stance and stepped forward to play their part in stamping out corruption.

As the outgoing Chairman of the Commission I would like to take this opportunity to thank the members of the Commission and Unit for their hard work and dedication to the fight against corruption. As Acting Commissioner of Police, and in my substantive role as Deputy Commissioner of Police, I will continue to support the Commission in its future endeavours, and know my fellow Commission Members will do the same.

Anthony Ennis
Chairman, Anti-Corruption Commission

Section One – The Anti-Corruption Commission Islands (“the Commission”)

1.1 Commission Membership

In accordance with the Anti-Corruption Law (2014 Revision) (“the Law”), the Commission currently consists of the Commissioner of Police, the Complaints Commissioner, and the Auditor General, and two additional members appointed by Her Excellency the Governor.

1.2 Role

The Commission was created in accordance with Section 3 of the Law 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 Law establishes the Commission 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 Commission 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 Commission 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 Commission 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. She 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 her 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 Commission 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 Commission 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 Law;
- 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 Law.

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 Law 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 Law of the Cayman Islands the 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 (2014 Revision) and the Anti-Corruption (Amendment) Law 2016.

- **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**
 - Where a government entity proposes to deal with a company, partnership or other undertaking in which -
 - (a) a public officer of the entity;
 - (b) a member of the Legislative Assembly; or
 - (c) a member of the family, or an associate, of any person specified in paragraphs (a) or (b),
has a direct, indirect or beneficial interest in such company, partnership or undertaking;
or
 - (d) any person specified in paragraphs (a), (b) or (c) 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,
the public officer or the member of the Legislative Assembly shall forthwith disclose, in writing, to that government entity, the nature of such interest.
 - Where in relation to a government entity -
 - (a) a public officer of the entity;
 - (b) a member of the Legislative Assembly; or
 - (c) a member of the family, or an associate, of either the public officer or the member of the Legislative Assembly,
has a personal interest in a decision which the government entity is to take, that public officer or member of the Legislative Assembly shall forthwith disclose, in writing, to the government entity, the nature of that personal interest.

- A public officer or member of the Legislative Assembly who fails to disclose an interest in accordance with subsection (1) or (2) and who votes or otherwise takes part in proceedings or decisions of the government entity relating to such interest commits an offence and is liable on conviction on indictment to imprisonment for a term of five years.
- **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 Commission or any RCIPS police constable together with the name, if known, of the person who gave, promised, or offered such loan, 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 Commission 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 Commission**
 - Makes or causes any other person to make false or misleading statements to the Commission or to a police constable.
 - Makes an initial statement to the Commission or RCIPS, and then wilfully makes a subsequent inconsistent statement to the Commission 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 Commission asks that you complete and submit the reporting form found in the appendices section of this document. Matters should be reported to the Commission 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 Commission in the following ways:

- a. Directly to an individual member of the Commission;
- 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 Commission will accept all information either anonymously or with identification of the person making the report, if he/she so wishes. The Commission will make every effort to protect the confidentiality of information provided and identity of those providing that information.

The Commission will encourage a caller, if the information is to be taken in a live situation, to identify his or her self as it is 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 Commission; 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 Commission, shall inform the Commission at the next Commission meeting or any time prior to the next Commission meeting.

3.2 Duty to Report

As it relates to the Law, 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 Law 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 Commission 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

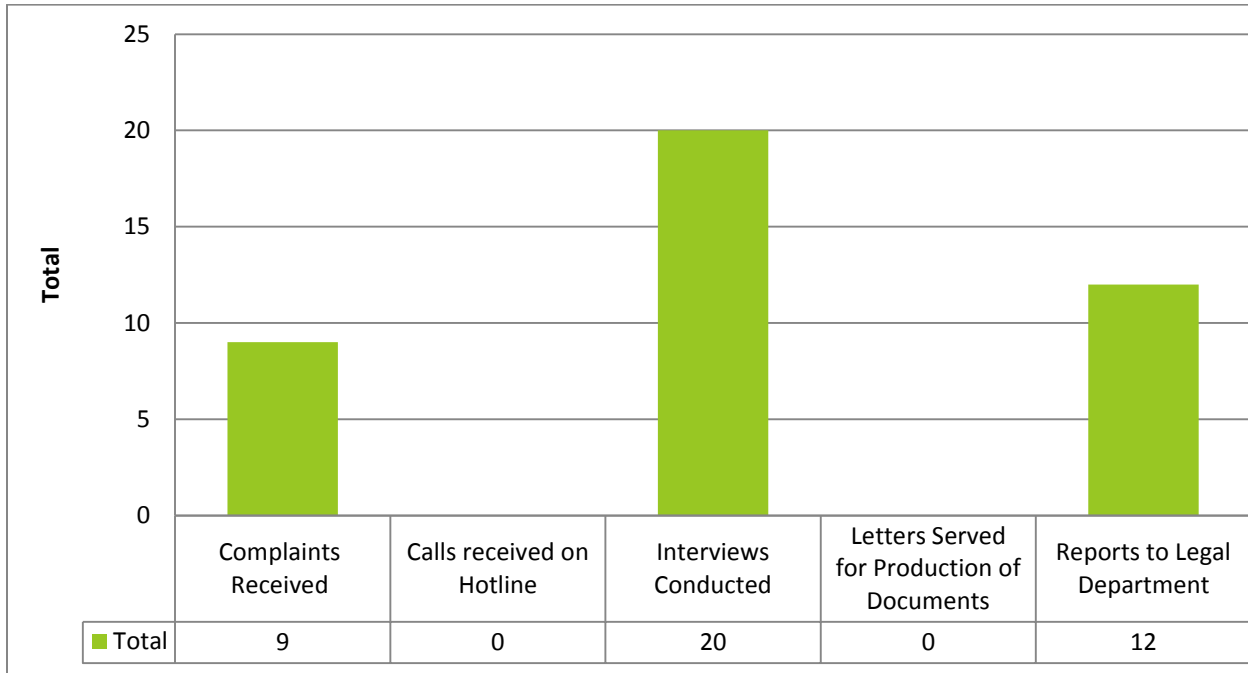
Physical Address: 2nd Floor Artemis House, #67 Fort Street

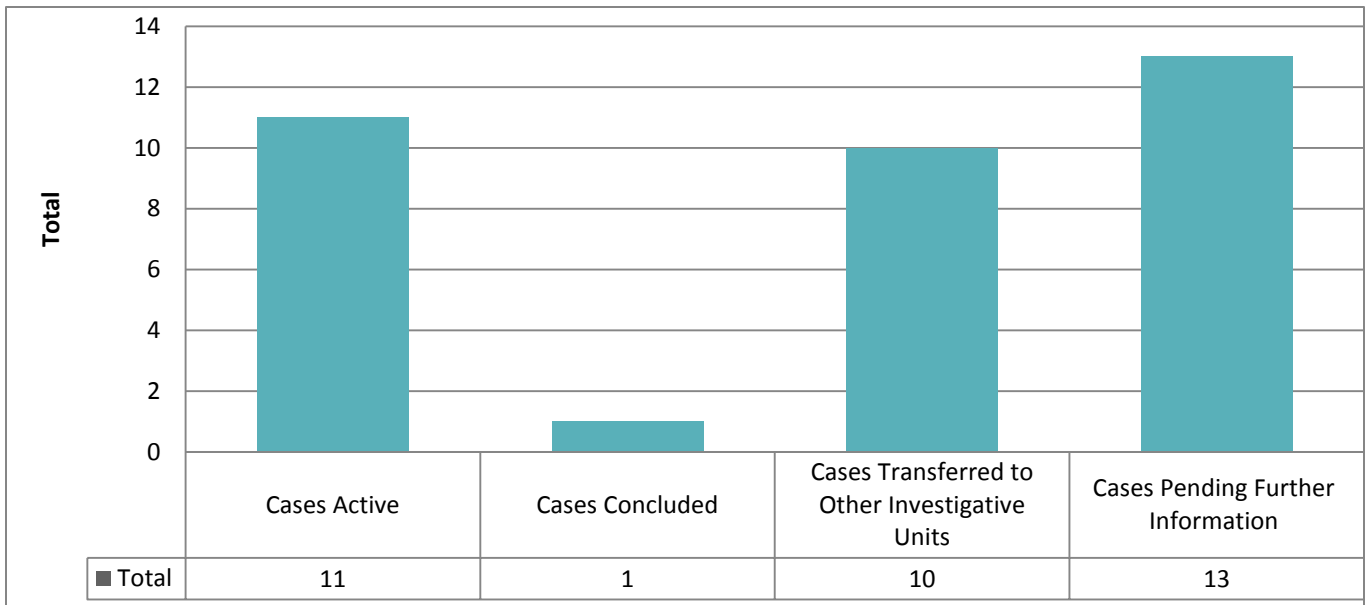
FOI requests: foi.cos@gov.ky

★ Confidential Reporting Line ★

345.928.1747

Section Four – 2015-2016 Corruption Statistics





Section Five – Topical Issues

5.1 Anti-Corruption (Amendment) Law 2016

The Anti-Corruption (Amendment) Law 2016 was passed by the Legislative Assembly on 6 May 2016 in order to enhance the operation and independence of the Anti-Corruption Commission. The amendments included the clarification, inclusivity, and expansion of various definitions in order to allow for a clearer understanding of those persons who should be subject to the Law and those functions which are considered public duties.

Further amendments included the repealing of the current provisions prescribing the composition of the Anti-Corruption Commission broadening the categories from which members may be chosen and removing the ability for public officers to be appointed to the Commission. The Commission will, however, be given the ability to invite the Auditor General or the Commissioner of Police (as non-voting members) to attend any meeting of the Commission and to participate in such meeting or provide information to the Commission on the areas of their work which relate to anti-corruption matters.

Other amendments included the provision of independent investigators who will have the same powers (including the powers of arrest for all corruption offences and any offence reasonably suspected to be related to such corruption offences) and immunities of constables but shall not carry firearms.

5.2 Budget, Staffing and Resources

The Anti-Corruption Commission continues to require an injection of funding in order to meet the demands of its workload. During the reporting year the Manager received permission from the Head of the Civil Service to recruit and fill the two Investigator posts. The open recruitment drive was successful and the new staff will take up their posts during the next reporting period. In addition, the Manager is currently working on creating a post of a Trainee Investigator which will be reserved for Caymanian applicants only. It is hoped that the Manager will be given additional funds and necessary permissions in the next budget year in order to create additional posts to facilitate succession planning in the Anti-Corruption Unit.

5.3 Extension of the OECD Convention on Combating Bribery

The Attorney General again asked the Foreign and Commonwealth Office to extend the Convention to the Cayman Islands. The Secretariat provided a brief summary detailing the Commission's involvement with civil society since Cayman's last report in 2012.

5.4 Public Relations and Education

5.4.1 Commission Website

The Commission continues to maintain its website – www.anticorruptioncommission.ky – in order to increase public awareness as to the work of the Commission. In addition, the Secretariat

has recently undertaken a procurement exercise and awarded a contract to a local firm to redesign and upgrade the existing site. Whilst members of the public can currently access information on the functions and powers of the Commission, meeting minutes, reports, information on external resources, information on completed cases, general statistics, and resources aimed at engaging for youth with regard to anti-corruption awareness; they will also in the future be able to submit complaints directly through the website.

5.4.2 Interview with Cayman 27

The Chairman agreed to a request to attend the Cayman 27 Studios on 23 February 2016 in order to discuss corruption and the work of the Commission.

5.5 Anti-Corruption Unit Training/Liaison Opportunities

5.5.1 – Second Annual Commonwealth Caribbean Association of Integrity Commissions and Anti-Corruption Bodies Conference

The Commission was invited to the Second Annual Commonwealth Caribbean Association of Integrity Commissions and Anti-Corruption Bodies Conference held in Trinidad in February 2016. It was agreed that a legal representative would be best suited to attend the Conference given that the Senior Investigator attended the Inaugural Conference only eight months prior. Unfortunately due to demanding work schedules, this was not possible. The Commission will again consider sending appropriate representatives to the next conference when dates are announced.

5.5.2 – Ninth Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities

The Commission was invited to the Ninth Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities held in China from 10 – 13th May 2016. Unfortunately no members were available to attend this conference.

5.5.3 – COTS Anti-Corruption Workshop

The Senior Investigator of the ACU, together with a representative from the Financial Crimes Unit, on attachment to ACU, attended the 2016 Anti-Corruption Workshop held in Miami in April 2016. The Workshop was facilitated by the NCA International Corruption Unit. The purpose of the Workshop was to exchange best practise and to develop effective working relationships and points of contacts between the various Caribbean Anti-Corruption Commissions.

Section Six – Completed Anti-Corruption Investigations

INDICTMENT 49/15

Following his arrest on 28 August 2014 a jury of his peers found Mr. Canover Watson, a 45 year old businessman from the Prospect area, guilty on 4 February 2016, of the following five counts:

1. Two counts of Conspiracy to Defraud contrary to Common Law;
2. One count of Conflict of Interest contrary to sections 19(2) and 19(3) Anti-Corruption Law 2008;
3. One count of Fraud on the Government contrary to section 11(1)(c) Anti-Corruption Law 2008; and
4. One count of Breach of Trust contrary to section 13 Anti-Corruption Law, 2008.

Mr. Watson was found not guilty of one count of Transferring Criminal Property contrary to section 133(1)(d) of the Proceeds of Crime Law (2008 Revision).

The charges relate to Mr. Watson's involvement in the CarePay Scheme whilst he served as Chairman of the Health Services Board between 1st August 2010 and 31st December 2013.

The investigation in this case was performed by members of the Anti-Corruption Unit of the Commission with assistance from Officers of the RCIPS.

On 5 February 2016 Justice Michael Mettyear sentenced Mr. Watson to a custodial sentence of seven years, having commended the Investigatory Team for their hard work and dedication.

Section Seven – Moving Forward

The 2016-2017 Reporting Year will bring with it numerous changes to the Anti-Corruption Commission in the Cayman Islands.

With the introduction of a new composition, the Commission will undoubtedly work towards solidifying its independence and strengthening its resolve in the fight against corruption in the Cayman Islands.

The outgoing Commission Members wish the very best to the soon to be appointed new Members and reiterate our commitment to and support of this very important work.

Dated this 12th day of August 2016.



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 Law

- 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 Law

- The Commission is responsible for the Administration of the Law
- The Commission has broad powers including:
 - investigate suspected and alleged corrupt conduct;
 - 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 Commission is currently 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 the 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 her 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 “Government Entity” under the law

- “Government Entity” includes a ministry, portfolio, the Cabinet Office, Office of the Director of Public Prosecutions, the Office of the Complaints Commissioner, the Office of the Information Commissioner, the Audit Office, the Legislative Assembly, a statutory body, statutory authority and a government company.

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” includes –
 - (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, a mediator, 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;
- (d) a member or employee of a statutory tribunal or commission of inquiry;
- (e) a member, director or employee of a government company or statutory authority;
- (f) a member, director or employee of a not for profit association controlled by the government; and
- (g) a person appointed, selected or otherwise engaged to perform a public function.

Definition of “Public Function” under the law

- “Public Function” may include any activity performed a single time or continually, whether or not payment is received therefor, which is carried out by -
 - (a) a person for, or on behalf of or under the direction of a government entity; or
 - (b) a body, whether a government entity or a private body, providing services to the public.

Duty of a Public Officer

1. A public officer or a member of the Legislative Assembly to whom 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 Her Excellency the Governor. Currently, the members are as follows:

Mr. David Baines, OBE – 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. He was appointed as an officer of the Order of the British Empire (OBE) by Her Majesty Queen Elizabeth in January 2014. Mr. Baines departed his post effective 31 May 2016 at which time Deputy Commissioner Anthony Ennis became the Acting Commissioner and Chairman.

Mr. Anthony Ennis, CPM – Acting Commissioner of Police (Chairman - Ex-Officio Member)



Mr. Ennis began his policing career in 1981 with the Cayman Islands Police Force as it was then known until the title 'Royal' was bestowed on it in 1983 by Her Majesty the Queen during her royal visit to the Cayman Islands. During his tenure, he has served in various branches of the service, including on the Sister Islands. In addition to his role or lead in operational policing, he previously managed the Service's Personnel and Finance Department, including preparing its annual budget and played a key role in the civilianisation of the two portfolio functions thus releasing policing officers to operational policing. He was also involved in other areas of the public sector reforms during the 90's that saw other non-policing functions devolved to other public sector bodies or civilianised, including the Vehicle Licensing Department. He has served on the front line of significant operational events that had a national significance or impact, most notably the Northward Prison Riots of 1999 and the devastation caused by Hurricane Ivan in 2004. Mr. Ennis has received numerous professional commendations during his police career, including the Colonial Police Medal for meritorious service that recognised his contributions during Hurricane Ivan. He has attended countless professional

training courses and centres, including the prestigious FBI National Academy for law enforcement officers where he was awarded a post-graduate diploma in Criminal Justice Education from the University of Virginia and the Defence Academy of the United Kingdom. He also undertook training at the Drug Enforcement Administration training institute. Mr. Ennis holds a Bachelor of Law degree from the University of Liverpool, the CI Attorney-at-Law qualifying certificate from the Legal Advisory Council and was awarded the Council of the Cayman Islands Chamber of Commerce's award for scholarly achievements in the final examination results at the CI Law School. Additionally, Mr. Ennis holds a Master of Science degree from the University of Portsmouth in Human Resource Management. He is a graduate member of the FBINA and the Charter Institute of Professional Development (CIPD), UK. Mr. Ennis was promoted to Assistant Commissioner of Police in 2003 and to his current position of Deputy Commissioner of Police in 2005.

Mr. W. Norman Bodden, OBE



Mr. Bodden is the former Managing Director of Bodden Corporate Services and a Director of Bodden & Bodden, Attorneys at Law. A successful Caymanian businessman and politician during his twelve years tenure as a Member of the Legislative Assembly, Mr. Bodden was responsible for amongst other statutes, introducing and guiding the Labour Law 1987 through the Legislative Assembly. He was also a member of the Cayman Islands Government during the 1984 to 1992 period that witnessed many useful and successful amendments to the Companies Law of the Cayman Islands for the international business community. Among his many professional achievements Mr Bodden was Managing Director of Cayman Airways from 1968 to 1980, a Member of the Immigration Board 1972 to 1978, Chairman of the Immigration Board 1978 to 1979, an Elected Member of the Legislative Assembly 1980 to 1992, Managing Director of Cayman Travel Services 1980 to 1998, a Member of the Cayman Islands Executive Council responsible for Tourism, Aviation & Trade 1984 to 1992. Mr. Bodden was appointed as Deputy Chairman to the Cayman Airways Board of Directors in 2013. He was awarded the Order of the British Empire (OBE) medal and is an appointed Notary Public and Justice of the Peace since 1989. He was appointed to the Commission effective 1 December 2015.

Mrs. Bridgette Von Gerhardt, Acting Complaints Commissioner (Ex-Officio Member)



Mrs. Bridgette Lazzari-von Gerhardt is the last remaining member of the original three (3) member team which established the Office of the Complaints Commissioner (OCC) under the leadership of Dr. John Epp, who was Cayman's first Complaints Commissioner. Mrs. Lazzari-von Gerhardt has been with the OCC for over 7 ½ years, with the Office having celebrated its 10th year anniversary in July 2014. Mrs. Lazzari-von Gerhardt has contributed to the development of the OCC over the years having first began her career with the OCC in the position of Executive Assistant. In June 2012, she was promoted to the post of Administrative & Investigative Officer, and in January 2015 she was appointed as Acting Complaints Commissioner. Prior to joining the Office of the Complaints Commissioner, Mrs. Lazzari-von

Gerhardt spent 13 years living with her family in South America, where she was actively involved in Missionary work. Mrs. Lazzari-von Gerhardt's professional expertise includes over 20 years of experience working in the accounting and administration fields. She is a qualified Legal Secretary, Paralegal and a member of the Chartered Institute of Legal Executives in London, having previously served as Secretary to the Cayman Islands Branch. She has successfully completed studies in Ethics and Global Leadership, and has also attended Anti-Corruption Training by the International Anti-Corruption Academy (IACA) in relation to Procurement and Integrity. Presently, she is completing a Certificate in Human Resource Management from the University of Portsmouth in the United Kingdom, and in October will commence a Master of Science Degree in Human Resource Management (HRM).

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. Mr. Swarbrick resigned from his post effective 31 September 2015 at which time Mr. Garnet Harrison became the Acting Auditor General.

Mr. Garnet Harrison, Acting Auditor General (Ex-Officio Member)



Mr. Harrison joined the Office of the Auditor General in February 2001 as an Audit Manager and moved to the post of Deputy Auditor General in July 2006. In his role he provides oversight to the corporate affairs and operations of the Office by ensuring that the Office's strategic plan, goals and objectives are achieved. He also manages the financial audits that are contracted out to audit firms. In 2009 Mr. Harrison also became the Freedom of Information Manager responsible for developing and managing procedures and systems that enable the Office to respond efficiently and effectively to freedom of information requests. He has over 22 years of public audit experience across a variety of sectors. Prior to coming to the Cayman Islands, Mr. Harrison worked in the Office of the Provincial Auditor of Saskatchewan in Canada for 8 years, where he completed his professional accountancy training as

a Chartered Accountant in 1997. He also has a Bachelor of Administration degree with a major in accounting from the University of Regina. While in Saskatchewan, he managed an audit portfolio that included many health service bodies and the Legislative Assembly/Executive Council audit. Mr. Harrison is currently a member of the Cayman Islands Society of Professional Accountants and the Chartered Professional Accountants Saskatchewan.

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?

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 Commission 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 Commission to contact you further regarding this matter? If so, how would you like the Commission 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 Commission Agenda: _____
Complaint Accepted and Investigated: Yes No