

COMMISSION FOR THE

PREVENTION

OF

CORRUPTION

ANNUAL REPORT

2008/2009
2008/2009

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Executive Summary

The Commission for the Prevention of Corruption was established under the Corruption (Prevention) Act 2000 and its first members appointed with effect from May 1, 2001.

The Commission met ten (10) times during the 2008-2009 financial year.

The objective of the Commission is the reduction and prevention of corruption in the Public Sector.

Annually the Commission requires Public Sector Agencies to provide an update of Public Servants required to file Statutory Declaration of Assets Liabilities and Income. The responses suggest that as of December 2008, twenty three thousand four hundred and forty-seven (23,447) Declarations were to be received by the Commission.

The Commission discontinued its exception with regards to the filing of Statutory Declarations by members of the Jamaica Defence Force based on the on-going review of the duties they undertake.

The Commission is in receipt of its seventh (7th) set of Declarations with eleven thousand nine hundred (11,900) Declarations received for period ending December 31, 2008, a compliance rate of fifty-one percent (51%).

Arising from the failure of Public Servants to file declarations, the Commission referred a total of eighteen thousand three hundred and twenty-five (18,325) Public Servants to the Director of Public Prosecutions. Eleven (11) Public Servants have been fined in the Court and 42 had their charges withdrawn by the Director of Public Prosecutions.

The Commission wishes to highlight its concern in relation to the small number of delinquents being brought before the court as well as the number of delinquents who have had the charges withdrawn. The Commission is of the view that stricter enforcement of penalties against delinquents would serve as a strong deterrent.

The Commission enters all declarations received to a database designed to facilitate the manipulation of the data furnished on the Statutory Declaration of Assets and Liabilities received from Public Servants and has completed the entry of data for the period ending December 31, 2007 and is in the process of making entries for the period ending December 2008.

A sample of one hundred and thirty-three (133) cases was chosen for analysis based on the Commission's selection criteria. Of that number one hundred and

five (105) cases have been referred for internal investigations and eight (8) cases closed as no further action was deemed necessary. Twenty (20) cases are still being assessed.

The Commission is also undertaking the investigation of One hundred and thirty-seven (137) cases requiring interviews and obtaining statements from several Public Sector agencies and individuals to verify the accuracy of declarations furnished by Public Servants. Recommendations have been forwarded to the Director of Public Prosecutions in respect of four (4) persons allegedly involving breaches of the Corruption Prevention Act. Two (2) cases were closed by the Commission as adequate information and explanations were received for the discrepancies identified.

The Director of Public Prosecutions (DPP) has initiated action in Court in respect of one (1) case for the offence of Illicit Enrichment.

The Commission has proposed amendments to the Act in its Reports for 2003, 2004, 2005, 2006, and 2007. The Commission has attended sittings of a Joint Select Committee of the Houses of Parliament and has defended its recommendations. The non-implementation of these proposed amendments continues to weaken the Commission in its pursuit of achieving a reduction in corruption.

The Commission in this report is restating all its previous recommendations in relation to the following:

1. Definition of Spouse- consequent on the passage of the Family Property (Rights of Spouses) Act, 2003 and its definition of a spouse.
2. The Corruption (Prevention) Act be amended by the insertion of subsection (d) in Section 4 as follows:

‘and thereafter on the 31st day of December in each year or at such intervals as the Commission may direct.’
This amendment will require that declarations are filed annually by Public Servants.
3. Function and Powers of the Commission- authorising it to inspect and make copies of all records and documents of Government Departments and Agencies, including the Revenue Services
4. Specified Posts - several Public Sector Agencies have undergone reform since the inception of the Act necessitating

revision of the holders of posts required to file Statutory Declarations.

5. Applicability of the Corruption (Prevention) Act to all members of The Judiciary.
6. Statutory Declarations-
 - (i) To give the Commission power to impose a penalty for late filing
 - (ii) Amend the form at Section 2 to remove the words “in excess of five hundred thousand dollars”.
 - (iii) The form of Statutory Declaration as set out in the Second Schedule of the Act be amended at section 1 to add the words “ or any other document as indicated by the Commission”.
7. The Commission recommended an increase of the income threshold for filing Declarations from Two Million Dollars (2,000,000) to Three Million Dollars (\$3,000,000).
8. The Commission is of the view that Public Sector Officers and employees should not engage in work which creates a conflict of interest with their official duties and sanctions should be provided for such activity.

Preface

The Commission for the Prevention of Corruption was established under the Corruption (Prevention) Act 2000 and its first members appointed with effect from May 1, 2001. The members recruited staff and engaged in the drafting of Regulations which came into effect January 31, 2003.

The Commission consists of five (5) Members:

- (a) The Auditor General
- (b) Four (4) other persons (referred to as appointed members) appointed by the Governor General after consultation with the Prime Minister and the Leader of the Opposition from the following categories of persons:
 - (i) Members of the Privy Council
 - (ii) Retired Judges of Appeal and Retired Judges of the Supreme Court
 - (iii) Persons who, in the opinion of the Governor General, are of high integrity and are able to exercise competence, diligence and sound judgment in fulfilling their responsibilities under the Act.

The Members for the period under review were:

- The Honourable Mr. Justice Chester Orr (Retired) C.D., J.P. – Chairman
- Mr. William Chin See, C.D., Q.C. (tenure ended April 30,2008)
- Mrs. Rosemarie Vernon, C.D., MSc., B.A.(tenure ended April 30, 2008)
- The Honorable Mr. Adrian Strachan, O.J., C.D., J.P., F.C.C.A., F.C.A., Appointed May 1,2008
- The Very Reverend Canon the Honourable Weeville M. Gordon, Custos Rotulorum, O.J., C.D., J.P., M.Div.
- Mr. Justice Wesley James (Retired)
- Mrs. Pamela Monroe-Ellis F.C.C.A.,F.C.A.,C.I S.A.

Meetings of the Commission

The Commission met ten (10) times during the 2007/2008 financial year.

Names of Members	Meetings Attended	Absent
Mr. Justice Chester Orr	9	1 (with excuse)
Mr. Adrian Strachan	7	Appointed 1/5/08
Mr. William. K. Chin See	1	Tenure ended
Mrs. Rosemarie Vernon	1	Tenure ended
The Very Rev. Canon Weeville Gordon	10	-
Mr Justice Wesley James	8	1(with excuse)
Mrs Pamela Monroe Ellis	7	2(with excuse)

The tenure of all the appointed Members expired on April 30, 2008, in accordance with the period stipulated under the First Schedule of the Act and Mr. Justice Wesley James and Mrs. Pamela Monroe-Ellis Auditor General were appointed to the Commission with effect from May 1, 2009.

The Secretariat of the Commission

The Commission, for the period under review, had an approved staff complement of twenty-one (21) which includes the Secretary/Manager, two (2) Secretaries, four (4) Financial Analysts, four (4) Investigators, one (1) Manager, Finance and Administration, one (1) accounting clerk, one (1) Records Officer, five (5) Data Entry Officers and one (1) each Office Attendant and Driver. In accordance with the Cabinet Office directive the fees and salaries of members of the Commission and senior staff are as indicated in Appendix 1 and Appendix 2 respectively.

The Commission's office is as indicated below:

**Commission for the Prevention of Corruption
45-47 Barbados Avenue,
Kingston 5**

Telephone: 968-6227/960-0470

Fax: 960-5617

Email: corruptionprevention@yahoo.com

Statutory Declarations

The objective of the Commission is the reduction of corruption in the Public Sector.

The Act provides the following functions of the Commission:

1. To receive and keep on record Statutory Declarations furnished by Public Servants pursuant to the Act;
2. To examine such Statutory Declarations and to request from a Public Servant any information relevant to a Statutory Declaration made by him, which in its opinion would assist in its examination;
3. To make such independent enquiries and investigations relating to a Statutory Declaration as it thinks necessary;
4. To receive and investigate any complaint regarding an act of corruption;
5. To conduct an investigation into an act of corruption on its own initiative, if satisfied that there are reasonable grounds for such investigation.

Statutory Declarations are required from Public Servants whose total emoluments are Two Million Dollars (\$2,000,000) and above and those categories indicated in Part 1 and 2 of the Regulations issued under the Act.

Arising from the receipt of information from Government Ministries, Departments, Companies, Statutory Bodies, and Local Government Agencies, it was ascertained that Declarations were to be received as follows (See Table 1 below):

Table 1

Date	Expected Declarations	
January 31, 2003	14,705	Revised
December 31, 2003	14,705	Revised
December 31, 2004	17,228	Revised
December 31, 2005	14,104	Revised
December 31, 2006	15,409	Revised
December 31, 2007	20,684	Revised
December 31, 2008	23,447	

The Corruption (Prevention) Act, 2000 states that for a Statutory Declaration to be in compliance with the Act, it must be filed within (3) three months following the date to which it relates. Up to the date of this report, declarations were received as indicated in the following table (See Table 2):

Table 2

Declaration Period	Expected No. of Declarations	No. of Declarations Received	Outstanding Declarations	Outstanding
January 31, 2003	14,705	12,783	1,922	13%
December 31, 2003	14,705	10,891	3,814	26%
December 31, 2004	17,228	12,700	4,528	26%
December 31, 2005	14,104	8,903	5,201	37%
December 31, 2006	15,409	8,865	6,544	42%
December 31, 2007	20,684	12,281	8,403	41%
December 31, 2008	23,447	11,900	11,547	49%
TOTAL	120,282	78,323	41,959	

As can be seen there is high incidence of outstanding declarations with that for the year under review being forty-nine percent (49%).

These results were further disaggregated by Agencies as indicated in the table 4 below:

Table 3

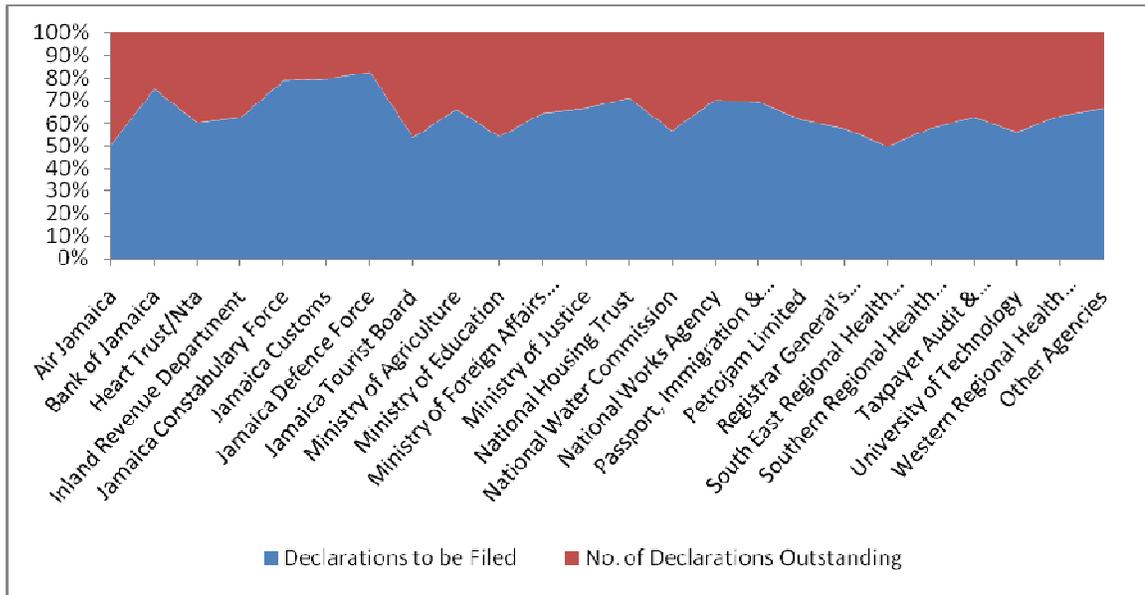
Declaration Summary (Agencies)	Declarations to be Filed	No. of Declarations Outstanding	No. of Persons with Outstanding Declarations
Air Jamaica	1538	1500	600
Bank of Jamaica	1093	364	191
Heart Trust/NTA	863	575	336
Inland Revenue Department	3154	1895	566
Jamaica Constabulary Force	64038	17152	10586
Jamaica Customs	5355	1389	926
Jamaica Defence Force	17655	3731	3083
Jamaica Tourist Board	397	345	161
Ministry of Agriculture	365	187	115
Ministry of Education	1651	1415	1185
Ministry of Foreign Affairs And Foreign Trade	581	322	133
Ministry of Justice	871	438	169
National Housing Trust	901	367	223
National Water Commission	441	339	158
National Works Agency	1097	467	169
Passport, Immigration & Citizenship Agency	942	415	196
Petrojam Limited	327	206	120
Registrar General's Department	758	559	312
South East Regional Health Authority	450	456	130
Southern Regional Health Authority	554	406	180
Taxpayer Audit & Assessment Department	3015	1817	809
University of Technology	1415	1109	466
Western Regional Health Authority	401	234	136
Other Agencies	12420	6271	3209
Total	120282	41959	24159

As can be seen from the table, Agencies indicated in Red have the highest rates of delinquent Declarants. The category 'Other Agencies' represents an amalgamation of several small reporting Agencies.

Chart 1- Status of Declarations by Agencies

The Chart depicts declarations filed by Agency alongside the outstanding amount

Status of Declarations by Agencies



The Commission once again wishes to highlight the continued tendency of many Public Servants to breach the Legislation and is urging that its recommendation made in its 2005 Report, that the Corruption (Prevention) Act, 2000 be amended to give powers to the Commission to impose a penalty for the late filing of Statutory Declarations be enacted.

The Commission on an ongoing basis continues to report the delinquencies to the Director of Public Prosecutions and, to date a total of 18,325 such referrals were made. This has resulted in Eleven (11) declarants to date being fined and charges against forty-two (42) declarants being withdrawn by the Director of Public Prosecutions (See Table 4).

During the year under review, the Director of Public Prosecutions brought twenty two (22) cases before the Court resulting in fines being imposed on two (2) public servants for failure to submit the Statutory Declarations by the due date. The remainder had their charges withdrawn by the Director of Public Prosecutions. The Commission wishes to highlight its concerns in relation to the small number of declarants being brought before the courts, as well as the Director of Public Prosecutions (DPP) withdrawal of charges in several instances which in its view frustrates the efforts of the Commission to reduce Corruption. (See table 4)

Table 4

Cases Referred to the Director of Public Prosecutions			
	Delinquent Declarants Reported to DPP	Delinquent Declarants Fined	Cases Withdrawn by DPP
Bank of Jamaica	84		
Bureau of Standards Jamaica	48	1	2
Civil Aviation Authority	44		
Inland Revenue Department	553		2
Jamaica Constabulary Force	8,843	1	16
Jamaica Customs	930		6
Jamaica Defence Force	2,672		2
Jamaica Tourist Board	107		
Kingston & St. Andrew Corporation	50		
Ministry of Agriculture	52		
Ministry Of Foreign Affairs And Foreign Trade	144		
Ministry of Health	87		2
Ministry of Justice	89		
National Housing Trust	173		
National Land Agency	49	1	
National Works Agency	160		1
North-East Regional Health Authority	28	4	
Taxpayer Audit & Assessment Department	526		1
Western Regional Health Authority	78		
Other Agencies	3,608	4	10
Total	18,325	11	42

Chart 2: Cases Referred to the Director of Public Prosecutions.

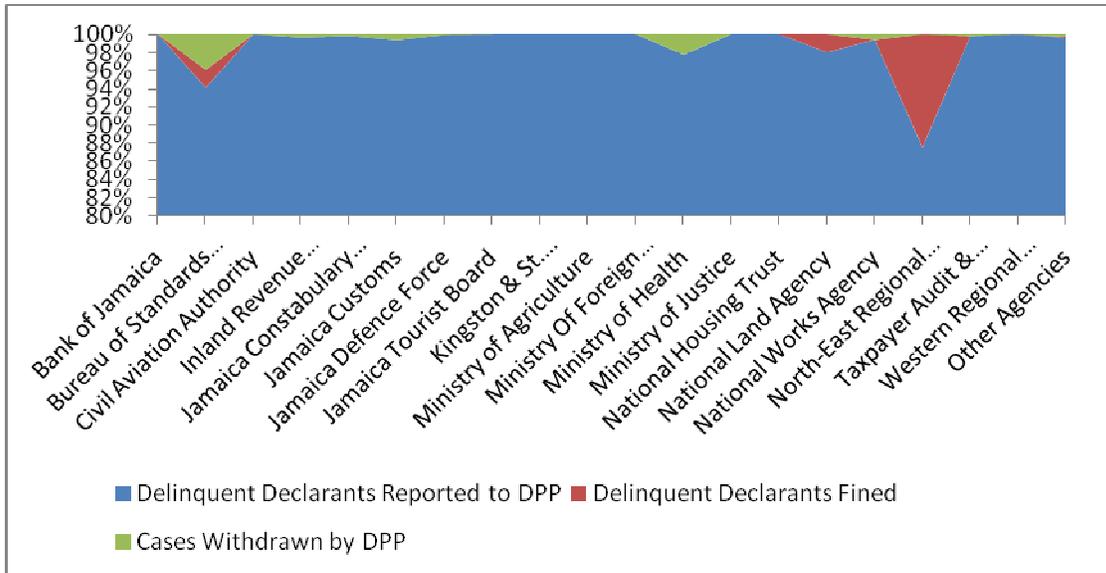


Chart 2

Gives a pictorial representation of the cases referred to the DPP and the nature of the action undertaken.

Update of Database

The Commission annually makes the request of Public Sector Agencies for an update of persons required to file the Statutory Declaration of Assets, Liabilities and Income and has received responses from One hundred and forty-eight (148) Ministries and Agencies of the One Hundred and Seventy-five (175) entities written to in December 2008. The Commission is in contact with the 27 twenty-seven agencies who have not responded to date with a view to receiving the necessary correspondence.

Analysis of Declarations Filed

The Commission maintains a database comprising all the information supplied by declarants on their Statutory Declarations and has completed making entries of data received for the period ending December 31, 2007 and is in the process of making entries for the period ending December 2008.

The year under review saw a continuation of the analysis of declarations filed by declarants employed by agencies. The agencies include the Jamaica Customs Department, the Jamaica Constabulary Force and the Financial Investigations Division.

A total of 113 cases were examined. 105 of these cases have been referred for internal investigations and 8 were closed and no further action recommended.

These figures indicate that 93% of the cases examined had material issues warranting further investigation. (See Tables 5-7 and Chart 3)

Table 5

Analysis of Declarations Filed

No. of Agencies examined	24
No. of cases forwarded for investigation	105
No. of cases with no further action taken at this time	8
Cases to be carried forward to next financial year	20
Total cases examined	133

Most issues centered on non-disclosure. A breakdown of the breaches found as per analyses is as follows:

- Acquisition of assets with no tangible evidence of financing/funding.
- Non-declaration of assets e.g. properties, motor vehicles etc.
- Large deposits in financial institutions/alternative investment schemes not supported by declared income.
- Asset disposal being undeclared.
- Non-declaration of business interests/income.
- Insufficient information being submitted on declarations.

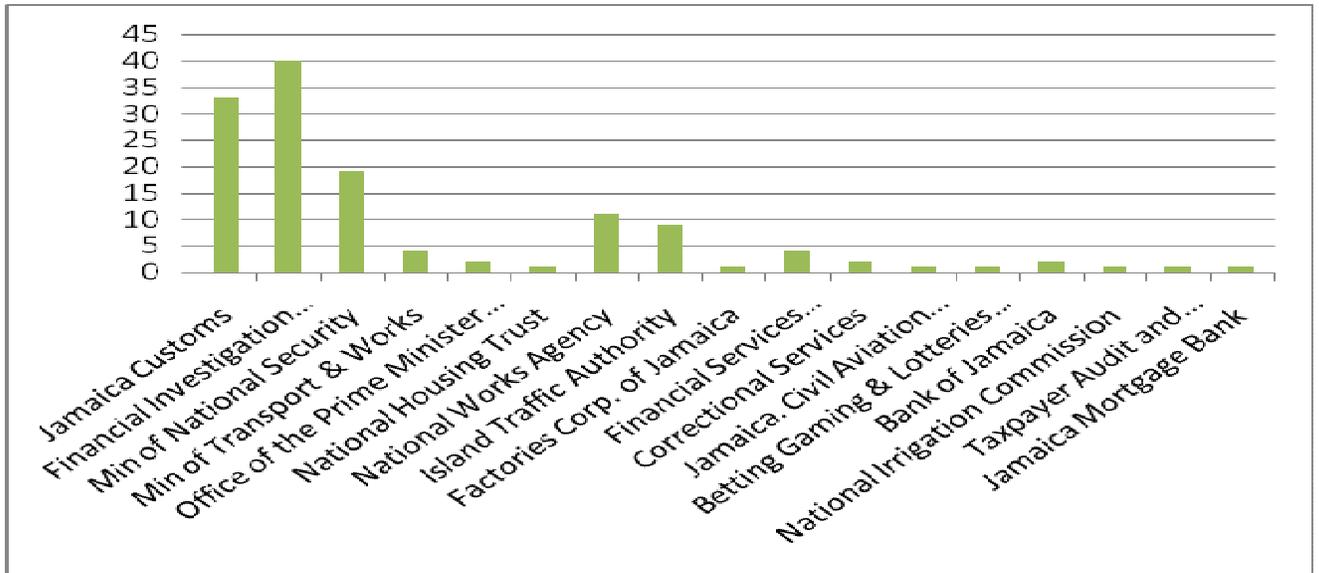
Table 6

Agency	Cases Analyzed	Percentage of total cases
Jamaica Constabulary Force	17	15%
Jamaica Customs Department	33	29%
Financial Investigations Division	40	36%
Other Agencies	23	20%

Table 7

Total Cases Examined	
Jamaica Customs	33
Financial Investigation Division (FID)	40
Min of National Security	19
Min of Transport & Works	4
Office of the Prime Minister (OPM)	2
National Housing Trust	1
National Works Agency	11
Island Traffic Authority	9
Factories Corp. of Jamaica	1
Financial Services Commission (FSC)	4
Correctional Services	2
Jamaica. Civil Aviation Authority	1
Betting Gaming & Lotteries Commission	1
Bank of Jamaica	2
National Irrigation Commission	1
Taxpayer Audit and Assessment Department	1
Jamaica Mortgage Bank	1
	133

Chart 3



Investigation of Declarations

During the period under review the Commission had a total of One Hundred and Thirty- Seven (137) cases in progress. Arising from investigations two (2) cases have been closed by the Commission as sufficient explanations have been offered for discrepancies indicated (See Table 8).

Four cases to date have been referred to the Director of Public Prosecutions. The Director of Public Prosecutions has ruled in respect of one (1) case that the Declarant is to be charged for the offence of Illicit enrichment contrary to Section 14 (5)(a) and 14 (5) (b) of the Corruption Prevention Act, the remainder await a ruling by the Director of Public Prosecutions (Table 8 refers).

The Commission after reviewing the facts and after consultations with the Director of Public Prosecution in relation to a complaint brought by a member of the public has forwarded the relevant file directly to The Commissioner of Police as the issues indicated are outside of the remit of the Commission. (See Table 8)

Several of the cases investigated revealed instances in which public servants were being compromised by conflict of interest situations. The Commission in its earlier report recommended that the Corruption (Prevention) Act be amended to impose sanctions in these situations.

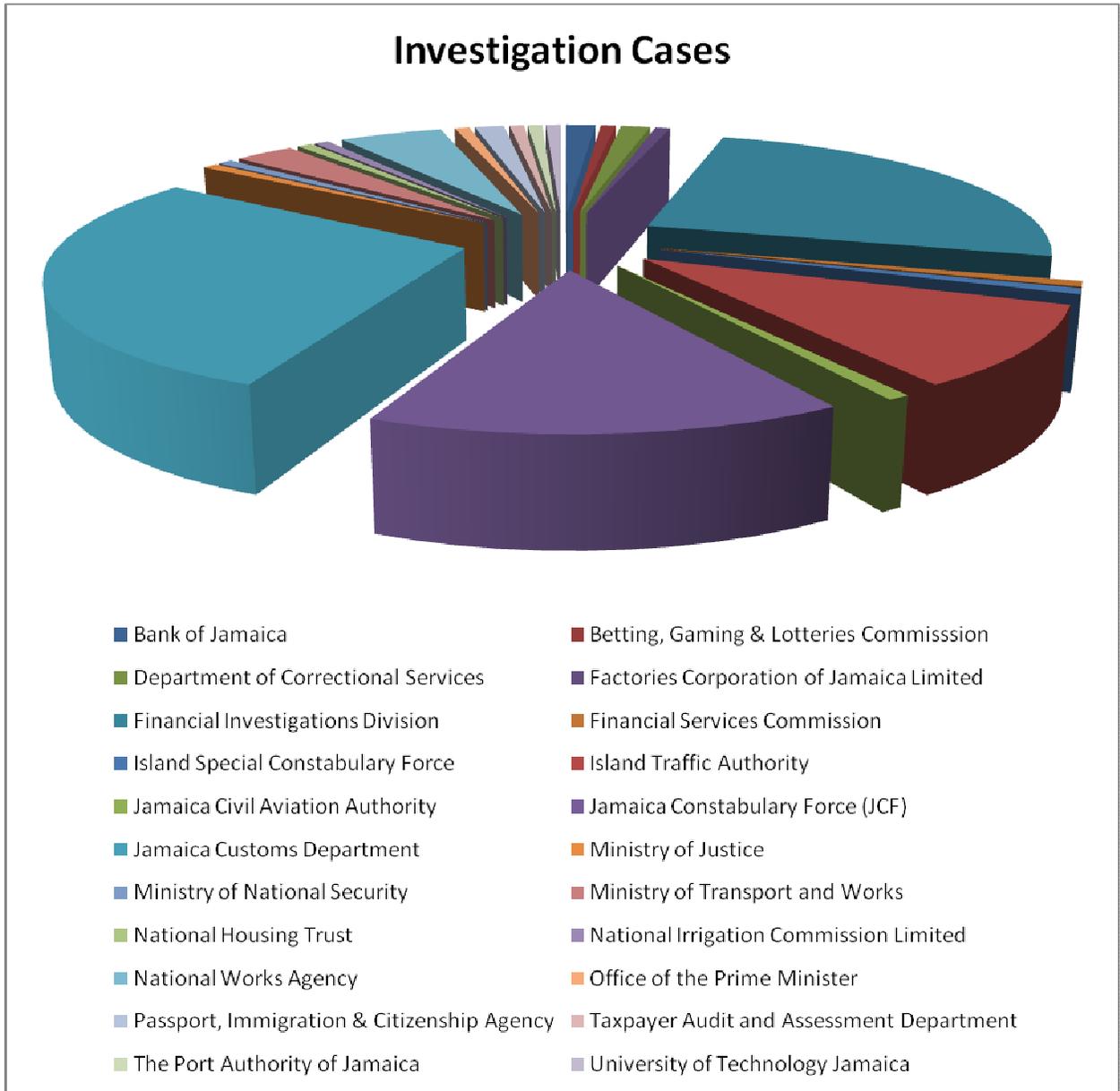
The Commission wishes to record its appreciation to the Agencies that it has had to interact with in an effort to obtain much needed information to bring cases to a satisfactory conclusion and reiterates its desire to have legislative access to desired records as stated in its 2003 Annual Report.

Table 8

Commission for the Prevention of Corruption					
Investigation Case Portfolio					
Source of Case		Investigation Cases	Cases Closed No further Action	Cases Referred to DPP	Cases Referred to JCF
Internal	Bank of Jamaica	2			
Internal	Betting, Gaming & Lotteries Commission	1			
Internal	Department of Correctional Services	2			
Internal	Factories Corporation of Jamaica Limited	1			
Internal	Financial Investigations Division	34			
Internal	Financial Services Commission	1			
Internal	Island Special Constabulary Force	1			
Internal	Island Traffic Authority	14	1		
Internal	Jamaica Civil Aviation Authority	1			
Internal /Public Complaint	Jamaica Constabulary Force (JCF)	20		*1	*1
Internal	Jamaica Customs Department	39		2	
Internal	Ministry of Justice	1			
Internal	Ministry of National Security	1			
Internal	Ministry of Transport and Works	4			
Internal	National Housing Trust	1			
Internal	National Irrigation Commission Limited	1			
Internal	National Works Agency	7	1	1	
Internal	Office of the Prime Minister	1			
Internal	Passport, Immigration & Citizenship Agency	2			
Internal	Taxpayer Audit and Assessment Department	1			
Internal	The Port Authority of Jamaica	1			
Internal	University of Technology Jamaica	1			
	Total	137	2	4	1
* 2 Cases initiated by public complaint					

The chart below pictorially represents the investigation cases in progress by Agency.

Chart 4



Legislative Issues

The Commission has proposed amendments to the Act in its Reports for the year 2003, 2004, 2005, 2006, and 2007. The Commission has attended sittings of a Joint Select Committee of the Houses of Parliament and has defended its recommendations. The non-implementation of these proposed amendments continues to weaken the Commission in its pursuit of achieving a reduction in corruption.

The Commission in this report is restating all its previous recommendations:

- (a) Definition of Spouse:- **That the Corruption (Prevention) Act 2000 be amended and the definition of Spouse as contained in the Family Property (Rights of Spouses) Act, 2003 be adopted for the purposes of the Act.**

The Act when it was passed defined "Spouse" to mean husband or wife under the Marriage Act. As a consequence assets may be placed in the name of an unmarried spouse to avoid disclosure thus defeating the purpose of the Act.

- (b) Late Filing of Statutory Declarations - **That the Corruption Prevention Act be amended to give power to the Commission to impose a penalty for the late filing of the Statutory Declaration.**

Section 5 (7) of The Corruption (Prevention) Act, 2000 sets out the time frame in which statutory declarations are to be filed.

Section 15 (2) of The Act details sanctions for those declarants, who fail without reasonable cause to furnish a statutory declaration. The required amendment will serve as a deterrent to those declarants who are persistently late in the filing of their declarations. The Commission notes that such a provision for a penalty exists in other jurisdictions.

- (c) Issue arising from Amendment to the Corruption(Prevention) Act- **That Section 4 of The Corruption (Prevention) Act be amended by the insertion of subsection (d) as follows: and thereafter on the 31st day of December in each year or at such intervals as the Commission may direct.**

Section 4(5) of the Corruption (Prevention) Act prescribes the times at which statutory declarations should be furnished to the Commission. A similar provision in the original Act was deleted by the Corruption (Prevention) Act, 2002 but this provision was inserted with amendments in the regulations. [See The Corruption (Prevention) Regulations section 3 (3)]

The Commission is of the view that this Regulation is Ultra Vires the Act. The Commission has had to issue notice in the Gazette requiring Statutory Declarations as at December 31, 2003.

- (d) Function and Powers of The Commission- **A provision be inserted in The Act to authorise the Commission and its agents to inspect and make copies of all records and documents of Government Departments and Agencies including the Revenue Services.**

Section 5(2) of the Act gives the Commission power to summon witnesses, require the production of documents and to do all such things as it considers necessary or expedient for the purpose of carrying out its functions. The Commission is however aware that some available information is bound by confidentiality requirements.

This provision is necessary to assist in the investigation of corruption in circumstances where the relevant information is not contained in public records.

- (e) Specified Posts - The Commission after reviewing the Organisational Structures of the Agencies and Departments that are required to file the Statutory Declaration of Assets, Liabilities and Income has observed that some of these Agencies/Departments have undergone extensive restructuring including abolition of posts, merger and establishment of others. In view of these developments the following amendments to Parts 1 and 2 of the Regulations to the Act are now necessary.

(1) **The Customs Department**

Repeal the existing and replace with the following:

- All Holders of the series TA 1-9
- Accounting Officers AC 1-2
- AT 1-3
- PA 1-4
- Directors/Managers SEG 2-3
- Boatmen and Warehousemen LMOTS 1-3
- Records/Clerical Officers RIM 1-3
- Secretaries (Operations) SS 2-4

(2) **The Inland Revenue Department.**

Repeal the existing and replace with the following:

- ❑ Cashiers
- ❑ Compliance Officers
- ❑ Collector of Taxes
- ❑ Assistant Commissioner-Compliance
- ❑ Collections Officer
- ❑ Manager Stores
- ❑ Manager Payment Processing
- ❑ Manager Compliance
- ❑ Manager Office Services
- ❑ Director Maintenance & Facilities

(3) **The Ministry of Transport and Works**

Several of its functions now fall under the auspices of the National Works Agency and many posts have been reclassified and now fall under the National Works Agency.

(3a) **Amend by removing the following posts.**

Ministry of Transport and Works

- ❑ Assistant Superintendent
- ❑ Works Overseer 2
- ❑ Chief Project Officer
- ❑ Senior Superintendent
- ❑ Superintendent
- ❑ Works Overseer 3
- ❑ Quantity Surveyor Technician

(3b) **Amend to include:**

National Works Agency

- Regional Manager
- Project Manager
- Parish Manager
- Asst Parish Manager
- Flood Control Officer
- Flood Control Supervisor
- Construction Manager
- Building Officer
- Resident Engineer
- Site Supervisor
- Quantity Surveyor Technician
- Clerks of Works
- Site Control Officer
- Project Officer

(4a) **Amend the posts to include from.**

Revenue Protection Department

- Senior Investigator
- Investigator
- Intelligence Officer
- Tax Auditor 3

Further amend Financial Investigative Division to include:

(4b) Financial Investigative Division

- All members of the Financial Crimes Unit

- (f) Applicability of the Corruption (Prevention) Act to all members of the Judiciary.

The Solicitor General has advised that the Chief Justice, The President of the Court of Appeal and Resident Magistrates fall within the provisions of the Corruption Prevention Act but other Judges do not. The distinction lies in the fact that the Chief Justice, The President of the Court of Appeal and Resident Magistrates perform administrative functions and the other Judges do not. This is an anomalous situation.

The Commission recommends that the Act be amended either:

- a) to specifically include all judges as public servants; or**
- b) to specifically exclude all judges as public servants.**

- (g) Specified Posts - **That Part 1 of the Schedule to the Regulations of the Corruption Prevention Act be amended by adding the words “except members of the Jamaica Defence Force Reserves” after the words “All members of the Jamaica Defence Force”.**

The Commission has been advised that members of the Jamaica Defence Force Reserves do not receive payment for their services and are unlikely to be the subject of graft. It is therefore recommended that these persons should not be required to furnish statutory declarations.

- (g) Statutory Declarations –**The form of Statutory Declaration of Assets, Liabilities and Income as set out in the Second Schedule of the Act be amended at Section 2 to remove the words “in excess of five hundred thousand dollars”.**

The form currently requires the declaration of cash in excess of five hundred thousand dollars held other than in a bank. The Commission remains concerned that the declarants may seek to exploit this provision by maintaining multiple accounts with balances of less than five hundred thousand dollars in financial institutions other than banks.

- (h) Late Filing of Statutory declarations - **That the Corruption Prevention Act be amended to give power to the Commission to impose a penalty for the late filing of the Statutory Declaration.**

The Commission initially made this recommendation in its 2003 report and wishes to further highlight:-

- i. The Commission is likely to be chaired by a retired Judge who has vast experience in the principles and practices of sentencing offenders.
 - ii. Granting Jurisdiction to the Commission to deal with this offence reduces the workload on the DPP and on the Resident Magistrate both of whom are already overburdened.
There is ample precedent for such authority to the Commission to hear and determine issues and impose penalties, vide:-
 - (a) The Racing Commission Act
 - (b) Betting Gaming and Lotteries Act
- (j) Statutory Declarations – The form of Statutory Declaration of Assets, Liabilities and Income as set out in the Second Schedule of the Act be amended at section 1 to add the words “*or any other document as indicated by the Commission*”.

The Statutory Declaration currently requires the declarants to furnish Bank Statements and/or letters from the bank confirming balances. The Commission is cognizant of the significant cost to declarants in complying with the legislation and that other methods of confirming balances now exist e.g. Automated Transaction Machine (ATM) slips and Electronic Banking Statements (e-banking). This provision will allow the Commission to examine and approve whatever option is available to the declarant in complying with the requirements of the Act and will reduce the cost to the declarants.

- (k) Section 3 of the Regulations to the Corruption (Prevention) Act states “the Statutory Declaration required by Section 4(1) of the Act shall not be furnished by a Public Servant who is in receipt of total emoluments of less than Two Million Dollars per annum.”

Since the passage of this Legislation, Public Sector Salaries have been reviewed.

The Commission is proposing that the threshold be increased to Three Million Dollars (\$3,000,000).

- (l) Investigations by the Commission have revealed instances of declarants having engaged in work which caused a conflict of interest with their official duties. It is recommended that legislation be enacted to prohibit and provide sanctions for such activity.
- (m) Section 17 of The First Schedule of The Corruption (Prevention) Act, 2000 indicates the mode of remuneration of the Members.

Members were appointed in May 2001 and the Ministry of Finance and Planning gave interim approval for payment to be made to the Members pending approval by Parliament. Approval was subsequently granted for payment which exceeded the interim payment.

Correspondence from the Ministry of Finance indicated that approval was effective from January 2003.

Despite the efforts of the Commission in having this situation corrected, the matter has remained unresolved. The net effect of this is that members have not received their total emoluments with an amount of One Million Eight Hundred and Sixty-Five Thousand Dollars (\$1,865,000) outstanding for the period May 1, 2001 – December 31, 2002.



Signed:

**Mr. Justice Chester Orr (Retired) C.D., J.P.
Chairman- Commission for the Prevention of Corruption**

Independent auditors' report

To the Members of Commission for the Prevention of Corruption

Report on the Financial Statements

We have audited the accompanying financial statements of the Commission for the Prevention of Corruption, which comprise the balance sheet as at March 31, 2009, and the income statement, statement of changes in equity and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory notes.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

...../cont'd

Barrett & Company

Chartered Accountants

B&B Education Centre
15 Carlton Crescent
Kingston 10, Jamaica W.I.
Tel: (876) 929-6878;
929-7662; 960-8602

Independent auditors' report (cont'd)

To the Members of Commission for the Prevention of Corruption

Auditors' Responsibility (cont'd)

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements give a true and fair view of the financial position of the Commission as at March 31, 2009, and of the Commission's financial performance, changes in equity and cash flows for the year then ended in accordance with International Financial Reporting Standards.

Report on additional requirements of the Government of Jamaica Public Sector Procurement Procedures.

We have obtained all the information and explanations which, to the best of our knowledge and belief, were necessary for the purposes of our audit. In our opinion, proper accounting records have been maintained, and the financial statements are in agreement with the accounting records. The financial statements give information required by the Corruption (Prevention) Act 2000 and comply with the requirements of the Government of Jamaica Public Sector Procurement Procedures.

November 3, 2009
Kingston, Jamaica



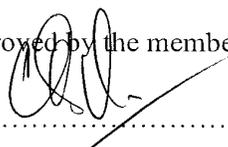
Chartered Accountants

COMMISSION FOR THE PREVENTION OF CORRUPTION
BALANCE SHEET

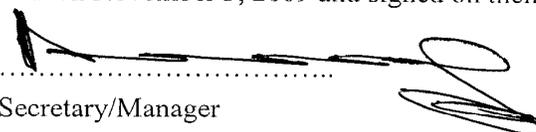
MARCH 31, 2009

ASSETS	NOTE	2009 \$	2008 \$
Furniture and Equipment	6	2,288,500	2,485,899
Long-term receivables	15	947,475	675,865
Total Non-current assets		3,235,975	3,161,764
Prepayments	16	20,000	20,000
Taxation recoverable	17	49,483	16,380
Receivables- current portion	15	221,940	203,340
Cash and cash equivalents	4	5,069,874	3,970,858
Total Current Assets		5,361,297	4,210,578
Total Assets		<u>8,597,272</u>	<u>7,372,342</u>
LIABILITIES			
Payables	5	15,485,190	9,956,961
Total Current Liabilities		<u>15,485,190</u>	<u>9,956,961</u>
RESERVES			
Deferred credit	20	45,445	252,675
Accumulated fund		(6,933,363)	(2,837,294)
Total Reserves		<u>(6,887,918)</u>	<u>(2,584,619)</u>
Total Liabilities and Reserves		<u>8,597,272</u>	<u>7,372,342</u>

Approved by the members of the Commission on November 3, 2009 and signed on their behalf by:



 Chairman



 Secretary/Manager

COMMISSION FOR THE PREVENTION OF CORRUPTION
STATEMENT OF CHANGES IN RESERVES

PAGE 4

YEAR ENDED MARCH 31, 2009

	Deferred Credit \$	Accumulated Fund \$	Total \$
Balance as at March 31, 2007	459,905	(4,375,889)	(3,915,984)
Transfers	(207,230)	207,230	-
Surplus for the year	-	1,331,365	1,331,365
Balance as at March 31, 2008	252,675	(2,837,294)	(2,584,619)
Transfers	(207,230)	207,230	-
Deficit for the year	-	(4,303,299)	(4,303,299)
Balance as at March 31, 2009	45,445	(6,933,363)	(6,887,918)

COMMISSION FOR THE PREVENTION OF CORRUPTION
INCOME STATEMENT

YEAR ENDED MARCH 31, 2009

	NOTE	2009 \$	2008 \$
Income	(2d &7)	<u>47,019,412</u>	<u>37,784,521</u>
Administrative expenses	10	<u>(50,332,218)</u>	<u>(35,493,746)</u>
Other expense	12	<u>(990,493)</u>	<u>(959,410)</u>
(Deficit)Surplus for the year		<u><u>(4,303,299)</u></u>	<u><u>1,331,365</u></u>

COMMISSION FOR THE PREVENTION OF CORRUPTION
STATEMENT OF CASH FLOWS
 YEAR ENDED MARCH 31, 2009

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SOURCES (USES) OF CASH	2009	2008
OPERATING ACTIVITIES	\$	\$
(Deficit)Surplus for the year	(4,303,299)	1,331,365
Item not affecting cash		
Depreciation	990,493	959,410
	(3,312,806)	2,290,775
Changes in non-cash working capital components		
Prepayments	-	52,650
Payables	5,528,229	1,147,608
Taxation recoverable	(33,103)	(16,380)
Long-term receivables	(271,610)	(675,865)
Current portion of long term receivables	(18,600)	(203,340)
	5,204,916	304,673
Cash provided by operating activities	1,892,110	2,595,448
INVESTMENT ACTIVITIES		
Additions to fixed assets	(793,094)	(977,503)
Increase in net cash and cash equivalent	1,099,016	1,617,945
Net cash and cash equivalent at the beginning of the year	3,970,858	2,352,913
Net cash and cash equivalent at the end of the year	<u>5,069,874</u>	<u>3,970,858</u>

1. **Identification and Activities**

The Commission for the Prevention of Corruption is a body established under the Corruption (Prevention) Act 2000. The Commission is domiciled in Jamaica with offices located at 45 - 47 Barbados Avenue Kingston 5.

The functions of the Commission are as follows:

- (i) to receive and keep on record statutory declarations furnished by public servants pursuant to the Act.
- (ii) to examine such statutory declarations and to request from a public servant any information relevant to a statutory declaration made by him, which in its opinion would assist it in its examination;
- (iii) to make such independent enquiries and investigations relating to a statutory declaration as it thinks necessary
- (iv) to receive and investigate any complaint regarding an act of corruption
- (v) to conduct an investigation into an act of corruption on its own initiative, if it is satisfied that there are reasonable grounds for such investigation.

These financial statements are stated in Jamaican dollars.

2. **Basis of Preparation and Summary of Significant Accounting Policies**

(a) **Basis of Preparation**

These financial statements have been prepared in accordance with International Financial Reporting Standards (IFRS), as issued by the International Accounting Standard Board (IASB).

(b) **Critical judgments and sources of estimation uncertainty.**

The preparation of financial statements in accordance with International Financial Reporting Standards requires management to make estimates and assumptions that affect the amounts and related disclosures reported in the financial statements. These estimates are based on historical experience and management's best knowledge of current events and actions. Actual results may differ from these estimates and assumptions.

The main source of estimation relates to estimation in the useful life of equipment. There are no significant judgments that management has made in the process of applying the accounting policies and that have a significant effect on the amounts recognised in the financial statements.

2. **Basis of Preparation and Summary of Significant Accounting Policies (Cont'd)**

(b) Critical judgments and sources of estimation uncertainty. (Cont'd)

In addition, there are no significant sources of uncertainty at balance sheet date, that have a significant risk of causing a material adjustment of the carrying amounts of assets and liabilities within the next financial year.

The significant accounting policies that have been used in the preparation of the financial statements are summarised below and have been consistently applied for all the years presented.

The financial statements have been prepared using the measurement bases specified by IFRS for each type of asset, liability, income and expense. The measurement bases are more fully described in the accounting policies below:

(c) Equipment

(i) Equipment is carried at cost less accumulated depreciation.

(ii) Depreciation is charged on assets from the date of acquisition.

Depreciation is provided on the straight line basis at such rates as will write off the cost of the assets over the period of their expected useful lives. The rates are as follows:

Furniture, fixtures, equipment, computers	10-25%
Motor vehicles	20%

(d) Revenue Recognition

Revenue comprises recurrent subvention received from the Government of Jamaica and interest income. Government subvention is recognised when received and interest income is recognised when due based on contractual agreements in effect.

(e) Cash and Cash Equivalents

Cash and cash equivalents consist of cash on hand, deposits held on call with banks and other short-term highly liquid investments with original maturity dates of three (3) months or less.

2. **Basis of Preparation and Summary of Significant Accounting Policies (Cont'd)**

(f) Payables

Payables are classified as financial liabilities measured at amortised cost. Initially they are recognised at the original invoice amount (which represents fair value) and subsequently measured at amortised cost.

(g) Financial Instruments

A financial instrument is any contract that gives rise to both a financial asset of one enterprise and a financial liability or equity instrument of another enterprise. Financial instruments are recognised in the Commission's balance sheet when it has become a party to the contractual provisions of the instruments.

The financial instruments carried in the balance sheet are cash and cash equivalents and payables. The particular recognition methods adopted are disclosed in the respective accounting policies association with each item.

(h) Reserves

Accumulated fund includes all current and prior period results as disclosed in the Income Statement.

3. **Adoption of New and Revised Accounting Standards**

Certain interpretations and amendments to existing standards have been published that became effective during the current financial year. The Commission has assessed the relevance of all such new interpretations and amendments and has adopted those that are applicable to its operations.

There was no impact on opening reserves as at April 1, 2008, from the adoption of these standards and interpretations.

4. **Cash and Cash Equivalents**

	2009	2008
	\$	\$
Cash	4,537	4,587
Bank current account	2,687,202	2,396,886
Bank savings account	2,378,135	1,569,385
	<u>5,069,874</u>	<u>3,970,858</u>

5. **Payables and Accruals**

	2009	2008
	\$	\$
Telephone and electricity charges	122,992	136,161
Audit fee accrued	180,000	160,000
Consultancy and professional fees	115,000	115,000
Advertising, postage etc	-	4,824
Pension contributions	6,030,616	3,335,717
Vacation leave	3,670,417	3,525,459
Gratuity	1,834,518	401,856
Repairs	5,963	-
Rental	762,374	-
Training & tuition fee refund	329,412	-
Travelling allowance	568,898	412,944
Arrears - commissioners fee	1,865,000	1,865,000
	<u>15,485,190</u>	<u>9,956,961</u>

COMMISSION FOR THE PREVENTION OF CORRUPTION
 NOTES TO THE FINANCIAL STATEMENTS

6. Furniture & Equipment Comprise:

	Furniture fixtures \$	Office equipment \$	Computer \$	Motor vehicles \$	Totals \$
Carrying amount at					
March 31, 2007	1,006,255	286,450	852,502	322,599	2,467,806
Additions	278,413	121,950	577,140	-	977,503
Depreciation for the Year	(176,480)	(164,936)	(493,918)	(124,076)	(959,410)
Carrying amount at					
March 31, 2008	1,108,188	243,464	935,724	198,523	2,485,899
Additions	93,915	405,948	293,231	-	793,094
Depreciation for the Year	(185,871)	(211,523)	(469,023)	(124,076)	(990,493)
Carrying amount at					
March 31, 2009	1,016,232	437,889	759,932	74,447	2,288,500

	Furniture fixtures \$	Office equipment \$	Computer \$	Motor vehicles \$	Totals \$
Gross carrying amount	1,486,398	702,732	2,049,273	992,611	5,231,014
Accumulated depreciator	(480,143)	(416,282)	(1,196,771)	(670,012)	(2,763,208)
Carrying amount at					
March 31, 2007	1,006,255	286,450	852,502	322,599	2,467,806
Gross carrying amount	1,764,811	824,682	2,626,413	992,611	6,208,517
Accumulated depreciator	(656,623)	(581,218)	(1,690,689)	(794,088)	(3,722,618)
Carrying amount at					
March 31, 2008	1,108,188	243,464	935,724	198,523	2,485,899
Gross carrying amount	1,858,726	1,230,630	2,919,644	992,611	7,001,611
Accumulated depreciator	(842,494)	(792,741)	(2,159,712)	(918,164)	(4,713,111)
Carrying amount at					
March 31, 2009	1,016,232	437,889	759,932	74,447	2,288,500

COMMISSION FOR THE PREVENTION OF CORRUPTION
 NOTES TO THE FINANCIAL STATEMENTS

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7. **Income**

	2009	2008
	\$	\$
GOJ subvention received	46,887,000	37,719,000
Interest income	<u>132,412</u>	<u>65,521</u>
	<u>47,019,412</u>	<u>37,784,521</u>

8. **Net Surplus for the year**

Net Surplus for the year is stated after charging /(crediting):

	2009	2008
	\$	\$
Executive remuneration	7,532,230	5,933,109
Auditors' remuneration	180,000	160,000
Interest income	(132,412)	(65,521)
Honorarium - members	2,245,000	2,280,000
Depreciation	<u>990,493</u>	<u>959,410</u>

9. **Taxation**

The Commission is exempt from Income Tax. Under the General Consumption Tax Act, it is entitled to acquire goods and service at a zero rate of tax.

10. **Expenses by Nature**

Total administrative and other operating expenses

	2009	2008
	\$	\$
Employee Benefits (note 11)	37,171,482	24,135,996
Office and parking lot rental	6,909,842	5,808,394
Utilities (note 18)	2,178,053	1,859,672
Auditors remuneration	180,000	160,000
Honorarium - Commissioners	2,245,000	2,280,000
Purchase of other goods and service (note 18)	1,647,841	1,249,684
	<u>50,332,218</u>	<u>35,493,746</u>

11. **Employee Benefits**

	2009	2008
	\$	\$
Salaries	25,075,179	18,016,480
Contributions to NIS, NHT & Ed. Tax	1,763,517	1,175,443
Travelling allowance	4,674,692	2,878,640
Pension and gratuity	4,926,721	2,034,533
Training & tuition fee refunds	731,373	30,900
	<u>37,171,482</u>	<u>24,135,996</u>

Included in employee benefits is the remuneration of key management personnel amounting to \$7,532,230 (2008 \$5,933,109).

12. **Other Expense**

	2009	2008
	\$	\$
Depreciation	<u>990,493</u>	<u>959,410</u>

13. **Financial Risk Management Policies**

The Commission is exposed to a variety of financial risks in respect of its financial instruments: interest rate risk, credit risk, liquidity risk and cash flow interest rate risk. The Commission seeks to manage these risks by close monitoring of each class of its financial instruments as follows:

(a) Market risk

(i) Interest rate risk

Interest rate risk is the risk that the value of the financial instrument will fluctuate due to changes in market interest rates. The Commission's cash and cash equivalents are subject to interest rate risk. However, the Commission attempts to manage this risk by monitoring its interest-bearing instruments closely and procuring the most advantageous rates under contracts with interest rates that are fixed for the life of the contract where possible. The Commission faces interest rate risk in respect of the savings account as interest rate is not fixed but is subject to fluctuation based on prevailing market rate. (see note 4)

Its current account balance does not bear interest, as it does not have overdraft facilities.

(ii) Currency risk

Currency risk is the risk that the value of a financial instrument will fluctuate due to changes in foreign exchange rates.

The commission faces no currency risk as none of its financial instruments in transactions are denominated in a foreign currency.

(iii) Other price risk

Other price risk is the risk that the value of the financial instrument will fluctuate as a result of changes in market prices, whether those changes are caused by factors specific to individual instrument or its issuer or factors affecting all instruments traded in the market. The Commission's financial instruments are substantially independent of changes in the market prices as they are short-term in nature.

(c) Credit risk

Credit risk is the risk that one party to a financial contract will fail to discharge its obligations and cause the other party to incur a financial loss.

The Commission faces credit risk in respect of its bank balances, which are held with licensed financial institutions considered to be stable.

13. **Financial Risk Management Policies (Cont'd)**

Credit risk (Cont'd)

The Commission manages its credit risk by a policy which requires that investments be made principally in liquid securities and only with counter parties that management believes does not offer any significant credit risk. Management does not expect any counter parties to fail to meet its obligations and considers the credit quality of its bank balances to be good. The maximum credit risk faced by the Commission is the total of bank balances reflected in these financial statements.

(d) Liquidity risk

Liquidity risk is the risk that the Commission will encounter difficulty in raising funds to meet its commitments associated with financial instruments. The Commission manages its liquidity risk liquidity risk by maintaining an appropriate level of resources in liquid or near liquid form.

At balance sheet date financial liabilities of the Commission are due within (3) months. However its current liabilities exceeded liquid and near liquid assets by \$10,415,316 (2008 - \$5,986,103).

14. **Capital Management**

The Commission obtains budgetary support from the Government of Jamaica to carry out its mandate. If there is a surplus on its operations, then it will strengthen its future continuity. However, the Commission expects that it will continue to receive government subvention to support its operations.

The Commission is not subject to any externally imposed capital requirements.

15. **Long-Term Receivable**

	2009	2008
	\$	\$
Motor vehicle revolving loan	1,169,415	879,205
Less repayable within 12 months	<u>221,940</u>	<u>203,340</u>
Long-term portion	<u><u>947,475</u></u>	<u><u>675,865</u></u>

In May 2007 the Commission established a motor vehicle revolving loan scheme to assist travelling officers to purchase reliable motor vehicles to be used in the performance of their official duties.

Guidelines for administering the loan include in part:

- (a) loans for new vehicles should not exceed \$800,000 and loans for used vehicles should not exceed \$500,000.
- (b) the loan should be interest-free
- (c) loans should be repaid over a seven (7) year period for new vehicles and six (6) years for used vehicles
- (d) no employee should be given a loan to purchase a motor vehicle under five years, that is, only one (1) loan in a five (5) year period.
- (e) The motor vehicle purchased should not exceed five (5) years.
- (f) All loans should be recovered by salary deduction.

16. **Prepayment**

	2009	2008
	\$	\$
Deposit - petrol and stamps	20,000	20,000
Deposit on equipment	<u>-</u>	<u>52,650</u>
	<u><u>20,000</u></u>	<u><u>72,650</u></u>

17. **Taxation Recoverable**

This represents income tax deducted from interest income.

COMMISSION FOR THE PREVENTION OF CORRUPTION
 NOTES TO THE FINANCIAL STATEMENTS

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18. **Other Goods and Services**

	2009	2008
	\$	\$
Repairs & maintenance	71,146	126,366
Motor vehicle expenses	496,757	271,767
Bank charges	18,011	50,229
Advertising	135,934	178,812
Printing, stationery & photocopying	322,720	274,456
Office & sundry supplies	603,273	348,054
	<u>1,647,841</u>	<u>1,249,684</u>

19. **Utilities**

	2009	2008
	\$	\$
Electricity	1,932,577	1,634,839
Telephone & internet services	245,476	224,833
	<u>2,178,053</u>	<u>1,859,672</u>

20. **Deferred Credit**

This represents grant received to acquire fixed assets. Transfers equivalent to depreciation charged on these assets are made annually to the accumulated fund.

DIRECTORS COMPENSATION

Appendix 1

COMMISSION FOR THE PREVENTION OF CORRUPTION

Position of Director	Fees (\$)	Motor Vehicle Upkeep/Travelling or Value of Assigned Motor Vehicle (\$)	Honoraria (\$)	All Other Compensation including Non-Cash Benefits as applicable (\$)	Total (\$)
Chairman	600,000				600,000
Member	420,000				420,000
Member	420,000				420,000
Member	420,000				420,000
Member	420,000				420,000
					2,280,000

Notes

1. Where a non-cash benefit is received (e.g. government housing), the value of that benefit shall be quantified and stated in the appropriate column above.

SENIOR EXECUTIVE COMPENSATION

Appendix 2

COMMISSION FOR THE PREVENTION OF CORRUPTION

Position of Senior Executive	Year	Salary (\$)	Gratuity or Performance Incentive (\$)	Travelling Allowance or Value of Assigned Motor Vehicle (\$)	Pension or Other Retirement Benefits (\$)	Other Allowances (\$)	Non-Cash Benefit (\$)	Total (\$)
GMG/SEGS	2009	3,233,464		796,500				4,029,964
FMG/PA3	2009	2,424,501		420,000				2,844,501
FMG/PA3	2009	1,952,428		420,000				2,372,428
								9,246,893

Notes

1. Where contractual obligations and allowances are stated in a foreign currency, the sum in that stated currency must be clearly provided and not the Jamaican equivalent.
2. Other Allowances (including laundry, entertainment, housing, utility, etc.)
3. Where a non-cash benefit is received (e.g. government housing), the value of that benefit shall be quantified and stated in the appropriate column above.