



Investigation Report into concerns that, Mr. Donovan Guy, a Councillor employed to the St. Catherine Municipal Corporation, failed to file his Statutory Declarations with the Commission for the years 2019, 2020, 2021 and 2022.



This Publication until tabled in Parliament shall be confidential.

Section 55 and 56 of the Integrity Commission Act states:

"(4) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(5) For the purposes of the Defamation Act, any report made by the Commission under this Act and any fair and accurate comment thereon shall be deemed to be privileged.

56.—(1) Subject to section 42(3)(b), every person having an official duty under this Act, or being employed or otherwise concerned in the administration of this Act (hereinafter called a concerned person) shall regard and deal with as secret and confidential, all information, Statutory Declarations, government contracts, prescribed licences and all other matters relating to any matter before the Commission, except that no disclosure made by the Commission or other concerned person in the proceedings for an offence under this Act or under the Perjury Act, by virtue of section 17(2) of that Act, shall be deemed inconsistent with any duty imposed by this subsection.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents, or information obtained under this Act continues to apply to a person despite the person having ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every concerned person who is required under subsection (1) to deal with matters specified therein as secret and confidential who at any time communicates or attempts to communicate any such information, declaration, letter and other document or thing referred to in subsection (1) disclosed to him in the execution of any of the provisions of this Act to any person—

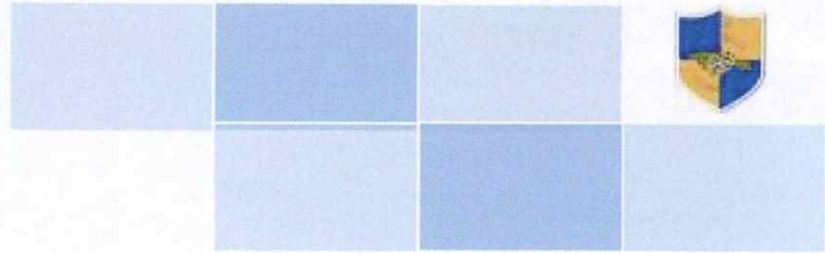
(a) other than a person to whom he is authorized under this Act to communicate it; or

(b) otherwise than for the purpose of this Act,

commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

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## Chapter 1 – Summary of Investigation and Findings

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- 1.1 This investigation report by the Director of Investigation (hereinafter the DI) is in relation to concerns that **Mr. Donovan Guy**, Councillor employed to the St. Catherine Municipal Corporation, failed without reasonable cause to file his statutory declarations with the Integrity Commission (hereinafter the Commission), for the years 2019, 2020, 2021 and 2022.
- 1.2 It was found that Mr. Donovan Guy, was required to file the referenced statutory declarations with the Commission, at the material time, and having failed to do so, contravened **Section 43** of *the Integrity Commission Act* (hereinafter *ICA*).



## Chapter 2 – Background

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### 2.1 Why was this investigation conducted?

- 2.1.1 This investigation was commenced based on a referral, dated October 10, 2024, by the Director of Information and Complaints of the Commission. The referral indicated that Mr. Donovan Guy, is in breach of the **ICA**, by virtue of his failure to file his statutory declarations with the Commission for the years 2019, 2020, 2021 and 2022.

### 2.2 Jurisdiction and decision to investigate

- 2.2.1 **Section 33** of the **ICA** empowers the DI to investigate non-compliance with the said Act by public officials. Consistent with the foregoing provision, the DI determined that an investigation was warranted, based on the nature of the alleged conduct.

### 2.3 The Investigation

- 2.3.1 During the investigation, officers of the Investigation Division pursued the following lines of enquiry/actions:

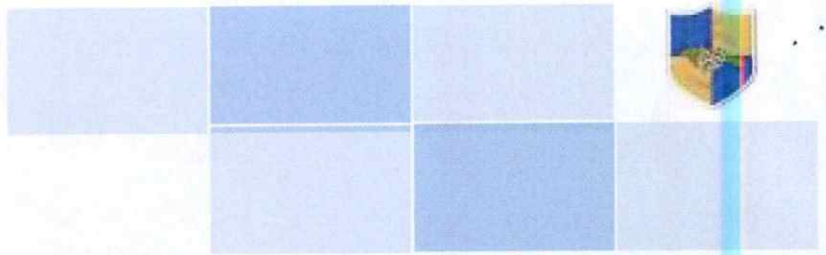
a) obtained information and witness statements from the responsible officers at:

(i) St. Catherine Municipal Corporation;

(ii) Tax Administration Jamaica; and

(iii) Information and Complaints Division of the Commission.

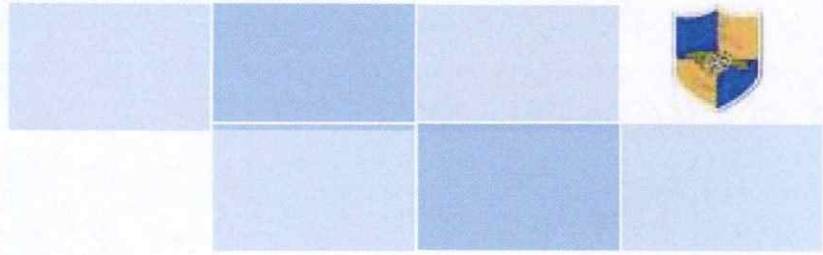




b) reviewed the information and statements collected and prepared the case file and report.

## **2.4 Who is the concerned public official pertinent to this Investigation?**

2.4.1 Mr. Donovan Guy, employed to the St. Catherine Municipal Corporation, and the sitting Councillor for the Twickenham Park Division within the constituency of St. Catherine Eastern, is the concerned public official.



## Chapter 3 – Terms of Reference

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3.1 The DI sought to establish the following in respect of the declarant, whether:

- (a) he had a legal obligation to file statutory declarations with the Commission for the years 2019, 2020, 2021 and 2022 and, if so, whether that obligation was discharged;
- (b) his non-compliance constitutes an offence under the **ICA**; and
- (c) recommendations ought to be made to the Director of Corruption Prosecution.



## Chapter 4 – The Law, Evidence and Discussion of Findings

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### 4.1 The Obligation to File

- 4.1.1 **Section 2** of the **ICA** defines a public official, as, inter alia, a person employed to a public body. A public body, among other things, refer to a Municipality or Municipal Corporation.
- 4.1.2 Under **section 39** of the **ICA**, a public official has a legal obligation to file statutory declarations with the Commission
- 4.1.3 The referenced obligation can be established by proving that, at the material time, Mr. Guy: (1) was a public official; and (2) is in receipt of the qualifying emoluments or occupied a post published in the Gazette by the Commission requiring the occupant(s) thereof to file statutory declarations with the Commission.
- 4.1.4 A witness statement obtained from the duly authorized officer at the St. Catherine Municipal Corporation indicates that, at the material time, Mr. Guy was the Councillor of the Twickenham Park Division in the constituency of St. Catherine Eastern, and employed to the St. Catherine Municipal Corporation.
- 4.1.5 The germane Gazettes published by the Commission require Local Government Councillors to file statutory declarations with the Commission.





Mr. Guy was, therefore, required to file statutory declarations with the Commission for the years identified above.

## **4.2 Discharge of obligation**

4.2.1 Having established Mr. Guy's obligation to file statutory declarations with the Commission, it is necessary, further to determine whether said obligation was discharged.

4.2.2 Under **section 43(1)(a)** of the **ICA**, a person who fails to file a statutory declaration by the due date with the Commission without reasonable cause, commits an offence.

4.2.3 The evidence provided by Declarations Manager at the Information and Complaints Division of the Commission, revealed that Mr. Guy failed to file the required statutory declarations with the Commission for the periods in question.

## **4.3 Is the Failure to file a Statutory Declaration an Offence under the ICA?**

4.3.1 As indicated above, the failure of a declarant, without reasonable cause to submit a statutory declaration to the Commission by the due date is an offence under **section 43(1)(a)** of the **ICA**.



## 4.4 Discharge of Liability

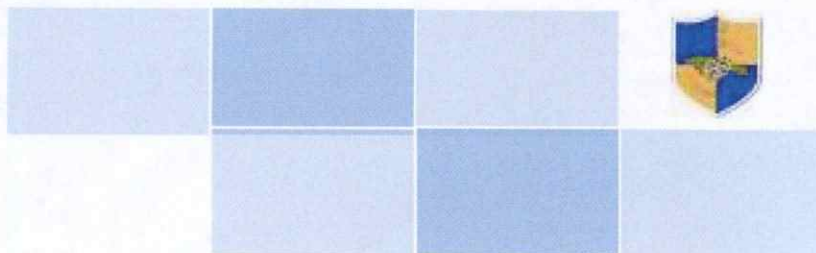
4.4.1 **Section 43(3)** of the *ICA* provides as follows:

*“(3) The Director of Information and Complaints may, with the approval of the Director of Corruption Prosecution, serve upon to a person referred to in subsection (1)(a) (failure without reasonable cause to submit a statutory declaration) or subsection (1) (b), (failure without reasonable cause to provide information) who appears to the Director of Corruption Prosecution to have committed an offence under that subsection, a notice in writing in the prescribed form offering that person the opportunity to discharge any liability to conviction of that offence by payment of a fixed penalty in the amount of two hundred and fifty thousand dollars and by submitting the statutory declaration or required information to the Director of Information and Complaints.”*

4.4.2 Consistent with the foregoing provision, the Director of Information and Complaints sought the approval of the Director of Corruption Prosecution for Mr. Guy to be given the opportunity to discharge his liability pursuant to **Section 43(3)** of the *ICA*. Approval was granted by the Director of Corruption Prosecution on July 26, 2023.

4.4.3 A Notice to discharge liability (hereinafter **section 43(3)** Notice) was served on Mr. Guy on September 14, 2023, wherein he was given twenty-one (21) calendar days to pay the fixed penalty to the Tax Administration Jamaica





(hereinafter TAJ), and submit the outstanding statutory declarations to the Commission. Checks made with the information and Complaints Division revealed that, on November 21, 2023, Mr. Guy submitted the outstanding statutory declarations, however, he failed to pay the fixed penalty of \$250,000.00.

- 4.4.4 Further, and as it relates to the foregoing, the DI is in possession of a Certificate of Non-payment of Fixed Penalty from TAJ, which was submitted to the Commission on November 30, 2023. The referenced Certificate confirms that Mr. Guy did not pay the fixed penalty specified in the Commission's **section 43(3)** Notice.





## 4.5 Discussion of Findings

- 4.5.1 During the course of the investigation into the allegations against Mr. Guy, all reasonable lines of enquiry were explored, evidential material was gathered and the statements of witnesses deemed necessary were collected.
- 4.5.2 The overarching objective of the Commission's investigation was to determine whether there is merit in the allegation that Mr. Guy failed to file the referenced statutory declaration as required under the **ICA**.
- 4.5.3 For an offence to be committed under section **43(1)(a)** of the **ICA**, it must be proved that: (1) the officer concerned is required to file statutory declarations under the **ICA**; (2) the obligation to file was not discharged; and (3) no reasonable cause was advanced, justifying the concerned officer's failure to comply with the requirement to file.
- 4.5.4 In arriving at a position in the instant matter, the DI directed his mind to the following findings of fact:
- (a) Mr. Guy by virtue of his position as a Councillor, had a legal obligation, at the material time, to file statutory declarations with the commission.
  - (b) Having failed to file statutory declarations with the Commission for the years 2019, 2020, 2021 and 2022, Mr. Guy was given an



opportunity to discharge his liability by paying a fixed penalty and submitting the required statutory declarations. Notwithstanding, Mr. Guy's compliance was partial, that is, he only submitted the required statutory declarations but failed to pay the fixed penalty. Liability cannot, therefore, on this basis be said to have been discharged.

Based on the foregoing, the DI finds in the circumstances of this case, that a referral to the Director of Corruption Prosecution is justifiable.



## Chapter 5 – Conclusions and Recommendations

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5.1 This chapter sets out the conclusions and the recommendations of the DI.

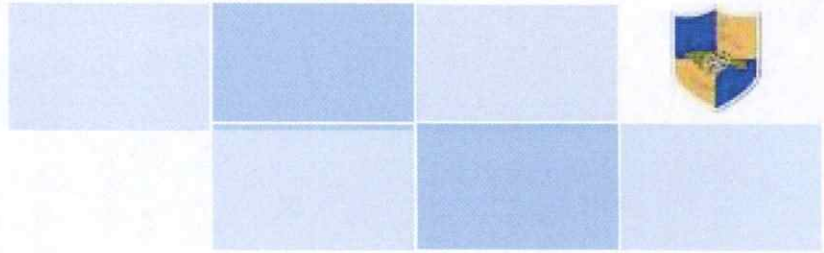
### 5.2 Conclusions

5.2.1 The DI concludes that Mr. Guy, was by virtue of being a public official, legally obligated to file statutory declarations with the Commission for the years 2019, 2020, 2021 and 2022.

5.2.2 The DI concludes that Mr. Guy failed to submit the requisite statutory declarations to the Commission, by the due date, and that he provided no reasonable cause for his failure to do so.

5.2.3 The DI concludes that Mr. Guy was given an opportunity to discharge liability by paying the fixed penalty and submitting the outstanding statutory declarations. The DI further concludes that Mr. Guy only complied with the latter obligation, therefore, he failed to discharge his liability consistent with **Section 43(3)** of the **ICA**.





### 5.3 Recommendations

- 5.3.1 The Director of Investigation recommends that this report be referred to the Director of Corruption Prosecution for consideration.

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Kevon A. Stephenson, J.P.  
Director of Investigation

January 14, 2025  
Date