



Investigation Report into concerns that, Mr. Javaughn Davis, an employee of the Kingston & St. Andrew Municipal Corporation (KSAMC) failed to submit his Statutory Declarations to the Integrity Commission for the years, 2019, 2020 and 2021, in breach of the Integrity Commission Act.

INTEGRITY COMMISSION
JULY 2023



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 his 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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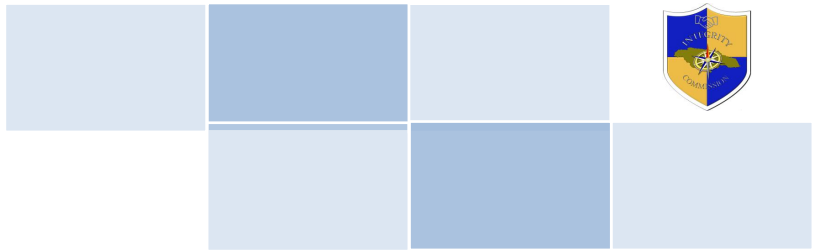


Table of Contents

Chapter 1 – Summary of Investigation and Findings.....	4
Chapter 2 – Background.....	5
Chapter 3 – Terms of Reference.....	7
Chapter 4 – The Law, Evidence and Discussion of Findings.....	8
4.4 The Consequences of a Failure to File Statutory Declarations	10
4.5 The Commission's Efforts Towards Ensuring Compliance	10
4.6 Discussion of Findings.....	11
Chapter 5 – Conclusions and Recommendations.....	13
5.2 Conclusions.....	13
5.3 Recommendations.....	14
APPENDICES	15
Appendix 1: Sections 2(1), 39(1), 41(2)(b), 43(1)(a) of the Integrity Commission Act...	16



Chapter 1 – Summary of Investigation and Findings

- 1.1 This investigation report by the Director of Investigation (DI) is in relation to concerns that **Mr. Javaughn Davis**, an employee of the Kingston and St. Andrew Municipal Corporation (KSAMC), failed without reasonable cause to file Statutory Declarations with the Integrity Commission (hereinafter the Commission), for the years 2019, 2020 and 2021.
- 1.2 It was found that Mr. Javaughn Davis, 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 the **ICA**).



Chapter 2 – Background

2.1 Why was this investigation conducted?

2.1.1 This investigation was commenced based on a referral by the Director of Information and Complaints (DoIC), on behalf of the Commissioners, Integrity Commission. The referral indicated that Mr. Javaughn Davis, is in breach of the **ICA**, by virtue of his failure to file his Statutory Declarations with the Commission for the years 2019, 2020 and 2021.

2.2 Jurisdiction and decision to investigate

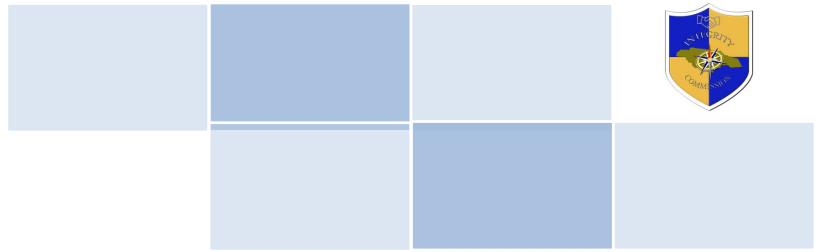
2.2.1 Section 33 of the **ICA** empowers the DI to investigate non-compliance with the Act by public officials. Consistent with the foregoing provision, the DI determined that an investigation was warranted based on the nature of the alleged conduct.

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) Kingston and St. Andrew Municipal Corporation (KSAMC); and
- (ii) Information and Complaints Division of the Integrity 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. Javaughn Davis, an employee of KSAMC is the concerned public official.



Chapter 3 – Terms of Reference

- 3.1 The DI sought to establish the following in respect of the declarant, Mr. Davis, whether:
- a) He had a legal obligation to file Statutory Declarations with the Commission for the years 2019, 2020 and 2021, 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

4.1 The overarching objective of the Commission's investigation was to determine whether there is merit in the concern that Mr. Davis failed to file the referenced Statutory Declarations as required under the **ICA**. The relevant provisions of law are as follows:

4.1.1 **Section 2 of the ICA:**

Section 2 of the **ICA** defines a public official as, *inter alia*, a person who is employed to a Municipality or Municipal Corporation.

4.1.2 **Section 41(2)(b) of the ICA:**

The captioned provision stipulates that Statutory Declarations should be submitted to the Commission, by public officials required to do so by way of publication in the Gazette.

4.1.3 **Section 43 (1)(a) of the ICA:**

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.

See Sections 2, 41(2)(b) and 43(1)(a) of the Integrity Commission Act at appendix 1.



4.2 The obligation to file Statutory Declarations

- 4.2.1 Under the ICA, a person who is a public official has a legal obligation to file Statutory Declarations. See Sections 39 of the ICA at appendix 1.
- 4.2.2 The referenced obligation can be established by proving that, at the material time, Mr. Davis: (1) was a public official; and (2) was in receipt of the qualifying emoluments or occupies a post published in the Gazette by the Commission requiring the occupant(s) thereof to file the referenced Statutory Declarations.
- 4.2.3 The investigation covered the periods 2019, 2020 and 2021. A witness statement obtained from the duly authorized officers at the KSAMC indicates that Mr. Davis, was employed to that entity, in the capacity of Municipal Police since April 18, 2019. During the relevant filing periods, holders of the post, Municipal Police, were, by virtue of Gazette publication, required to file Statutory Declarations with the Commission.
- 4.2.4 The KSAMC is a Municipal Corporation. Employees of KSAMC are therefore public officials in accordance with Section 2 of the ICA.

4.3 Discharge of obligation

- 4.3.1 Having established Mr. Davis' obligation to file Statutory Declarations with the Commission, it is further necessary to determine whether said obligation was discharged. The evidence provided by System Support



Officer at the Information and Complaints Division, Integrity Commission disclosed that Mr. Davis failed to file the required Statutory Declarations with the Commission for the years in question.

4.4 The Consequences of a Failure to File Statutory Declarations

4.4.1 The failure without reasonable cause, to submit a Statutory Declaration to the Commission, where there is an obligation to do so, is an offence under **Section 43 (1)(a) of the ICA.**

4.5 The Commission's Efforts Towards Ensuring Compliance

4.5.1 Section 41 (6) provides as follows:

"Where a person who is required to do so, fails to file a declaration within the time specified under subsection (4), the Commission may issue a notice, in writing, to the person requiring the person to file the declaration, within thirty days from the date of the notice"

4.5.2 On August 8, 2022, by way of 'notice in writing' Mr. Davis was informed by the Commission of his obligation to file the required Statutory Declarations and requested to provide the referenced Declarations within 30 days. On August 8, 2022, Mr. Davis signed acknowledging receipt of the referenced notice.

4.5.3 Notwithstanding the foregoing, the evidence of the duly authorized officer within the Information and Complaints Division, indicates that Mr. Davis did



not act on the opportunity provided to him to submit the outstanding Statutory Declarations nor did he provide a response or reasonable cause for his failure so to do.

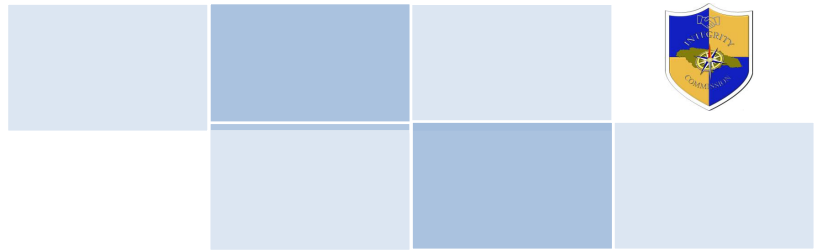
4.5.4 The evidence of the of the duly authorized officer at the Information and Complaints Division, shows that the Commission made several efforts to inform declarants of their obligation to file their Statutory Declarations and the likely consequences of their failure to discharge said obligation. To this end, *inter alia*, publications were made in the media, the Gazette and over the internet.

4.6 Discussion of Findings

4.6.1 During the investigation into the allegations against Mr. Davis, the DI followed all reasonable lines of enquiry, gathered evidential material and collected/recorded the statements of witnesses deemed necessary.

4.6.2 The issue before the DI is whether Mr. Davis, by his failure to submit Statutory Declarations to the Commission, for the years 2019, 2020 and 2021 contravened the ICA; more particularly, section 43(1)(a). To prove an offense under the foregoing provision, it is necessary to establish the following:

(a) That Mr. Davis had an obligation file Statutory Declarations with the Commission, for the years 2019, 2020 and 2021;



(b) That Mr. Davis failed to discharge his obligation to file the referenced Statutory declarations; and

(c) That Mr. Davis has provided no reasonable cause for his failure to comply with the legal requirement to submit, to the Commission, the requisite documents as outlined above.

4.6.3 Further, the DI highlight here, that in coming to a conclusion in respect of the instant matter, due consideration was given to the fact that the declarant, Mr. Davis was given a second opportunity to submit the outstanding Statutory Declarations, by way of a notice in writing. As has been established, Mr. Davis did not avail himself of the opportunity afforded to him to comply.

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



Chapter 5 – Conclusions and Recommendations

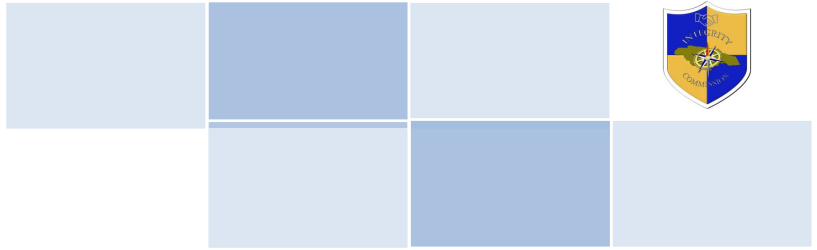
5.1 This chapter sets out the conclusions and the recommendations of the DI.

5.2 Conclusions

5.2.1 The DI concludes that Mr. Davis, was by virtue of being employed to a Municipal Corporation and being a person, required under the relevant Gazette publication to file Statutory Declarations with the Commission, legally obligated so to do for the years 2019, 2020 and 2021.

5.2.2 The DI concludes that Mr. Davis failed to submit the requisite Statutory Declarations to the Commission and that he has provided no reasonable cause for his failure to discharge his legal obligation.

5.2.3 The DI concludes that Mr. Davis' failure to file the referenced Statutory Declarations contravened **Section 43(1)(a) of the ICA.**

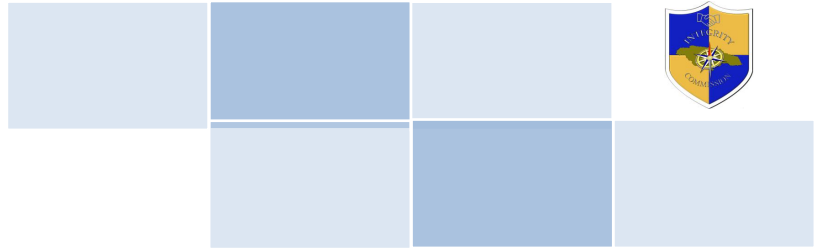


5.3 Recommendations

- 5.3.1 The Director of Investigation recommends that this report be referred to the Director of Corruption Prosecution for consideration.
- 5.3.2 Notwithstanding the foregoing the DI recommends that Mr. Davis submits the outstanding Statutory Declarations to the Director of Information and Complaints.

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

July 19, 2023
Date



APPENDICES



Appendix 1: Sections 2(1), 39(1), 41(2)(b), 43(1)(a) of the Integrity Commission Act

Section 2 (1) of the Integrity Commission Act:

“public official” means any person

(b) any person who is employed to a public body; and

Section 39 (1) of the Integrity Commission Act:

“Subject to the provisions of this Act, every person who, on or after the appointed day, is a parliamentarian or public official, shall submit to the Director of Information and Complaints, a statutory declaration of his assets and liabilities and his income in the form set out in the Third Schedule.”

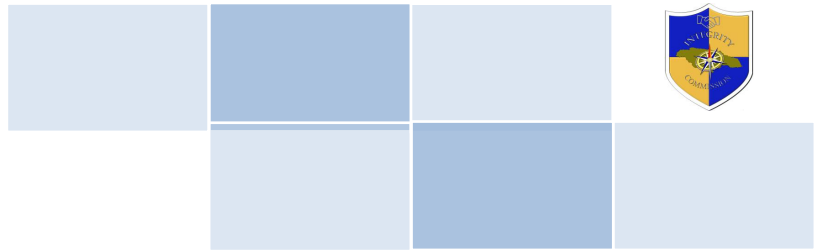
Section 41(2)(b) of the Integrity Commission Act:

“The Commission, acting upon the recommendation of the Director of Information and Complaints, may

(b) by notice published in the Gazette, require such categories of public officials as are specified in the notice, to submit a statutory declaration within the period so specified.”

Section 43(1)(a) of the Integrity Commission Act:

“(1) Any person who-



(a) fails, without reasonable cause, to submit a statutory declaration which he is required to submit in accordance with the provisions of this part; ...

commits an offence, and shall on summary conviction in a Parish Court to a fine not exceeding five hundred thousand dollars, or to a term of imprisonment not exceeding six months and the court may make an order mandating the person to comply with the requirements in respect of which the offence was committed."