



**INVESTIGATION INTO THE
FAILURE OF AN EMPLOYEE
OF SERHA TO FILE STATUTORY
DECLARATIONS WITH THE
COMMISSION**

**INTEGRITY COMMISSION
OCTOBER 2021**



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,

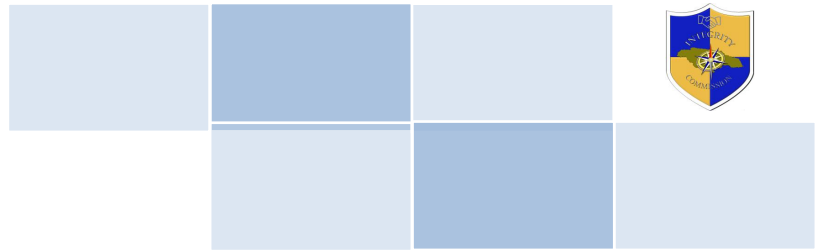
commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

Integrity Commission
1st Floor, PIOJ Building
16 Oxford Road
P.O. BOX 540
Kingston 5
Telephone: 876-929-6460/876-929-8560/876-929-6466
Fax: 876-929-7335



Table of Contents

| | |
|---|----|
| Table of Contents..... | 3 |
| 1. Summary of Investigation and Findings..... | 5 |
| 1.8 Findings..... | 6 |
| 1.9 Recommendation..... | 6 |
| 2. Chapter 1 – Background..... | 7 |
| 2.2 How did this investigation come about? | 7 |
| 2.3 Jurisdiction and decision to investigate | 7 |
| 2.4 The Investigation..... | 8 |
| 2.5 <i>Who is the Individual Pertinent to the Investigation?</i> | 9 |
| 3. Chapter 2 – Terms of Reference..... | 10 |
| 4. Chapter 3 – The Law, Evidence and the Discussion of the Findings | 12 |
| 4.2.1 The Law | 12 |
| 4.3 The Evidence | 14 |
| 4.3.1 Is the concerned public officer a public servant as described under Section 2(1) of the Corruption Prevention Act? | 14 |
| 4.3.2 Is the concerned public officer in receipt of the qualifying emoluments as prescribed under Section 3(1) of the Corruption Prevention Regulation, 2003, occupies a post listed under Part I or Part II of the said Regulations or was written to under Section 4(5A)(a) of the Corruption Prevention Act and requested to file the statutory declarations?..... | 14 |
| 4.3.3 Did the concerned public officer fail to file a statutory declaration as required under Section 4(1) of the Corruption Prevention Act? | 15 |
| 4.3.4 Was the concerned public officer notified of his failure to file the required statutory declarations and warned of consequential penalties? | 17 |
| 4.3.5 Does the concerned public officer's failure to file the required statutory declarations constitute an offence under the Act? | 17 |



| | | |
|--|---|----|
| 4.3.6 | Did the concerned public officer have a lawful explanation or excuse for his failure to file the statutory declaration? | 18 |
| 4.4 | Discussion of the Findings..... | 18 |
| 5. | Chapter 4 – Conclusion and Recommendations..... | 20 |
| 5.2 | Conclusion | 20 |
| 5.3 | Recommendations | 21 |
| 6. | Chapter 5 – Corruption Prevention Initiatives | 22 |
| APPENDICES | | 23 |
| Appendix 1: Copy of the Notice of Delinquency | | 24 |
| Appendix 2: Response from SERHA with Signature Sheets..... | | 25 |
| Appendix 3: Signature Sheet with signed Acknowledgement of receiving Notice..... | | 26 |
| Appendix 4: Sections 47 & 63 of the Integrity Commission Act..... | | 27 |

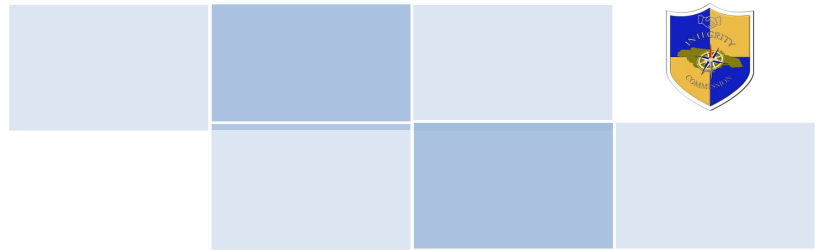


1. Summary of Investigation and Findings

- 1.1 This investigation by the Director of Investigation concerned the allegation that Mr. Renaire Bender, an employee of South East Regional Health Authority (SERHA) failed to file with the Commission, statutory declarations for the periods ending December 31, 2016 to December 31, 2017.
- 1.2 Under **Section 4(1) and 3(1) of the Corruption Prevention Act** and the **Corruption Prevention Regulation, 2003** respectively, public servants who are in receipt of emoluments of two million dollars or more are required to file a statutory declaration with the Commission.
- 1.3 The evidence provided by SERHA showed that Mr. Renaire Bender is a public servant and that he is in receipt of emoluments in excess of the threshold of two million dollars.
- 1.4 The evidence provided by the System Support Officer who has responsibility for the daily receipt of the statutory declarations at the Commission showed that Mr. Renaire Bender was delinquent in that he failed to file the required statutory declarations for the periods outlined.

Table 1: Outstanding Declarations

| Declaration Period | Declaration Due | Declaration Filed | Outstanding Declaration |
|---------------------------|------------------------|--------------------------|--------------------------------|
| December 31, 2016 | March 31, 2017 | Nil | December 31, 2016 |
| December 31, 2017 | March 31, 2018 | Nil | December 31, 2017 |



1.5 The concerned public officer was notified and given 30 days to file the outstanding declarations. He acknowledged receipt of the notice however; he failed to comply within the time specified in the notice. This was confirmed by the evidence provided by the Director of Information and Complaints. A copy of the notice and the signed acknowledgement is shown at appendices 1 - 3 below.

1.6 The failure to file a statutory declaration is an offence under Section **15(2)(a) of the Corruption Prevention Act.**

1.7 The concerned public officer has provided no lawful justification or excuse for his failure to file the required statutory declarations.

1.8 Findings

1.8.1 The Director of Investigation has reasonable grounds to conclude based on the foregoing, that the concerned public officer is in breach of **Section 15(2)(a) of the Corruption Prevention Act** for the periods specified in table 1 above.

1.9 Recommendation

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



2. Chapter 1 – Background

2.1 This chapter sets out the background information concerning the investigation, the jurisdiction and the decision to investigate, the scope of the investigation and provides a profile of the individual pertinent to the investigation.

2.2 How did this investigation come about?

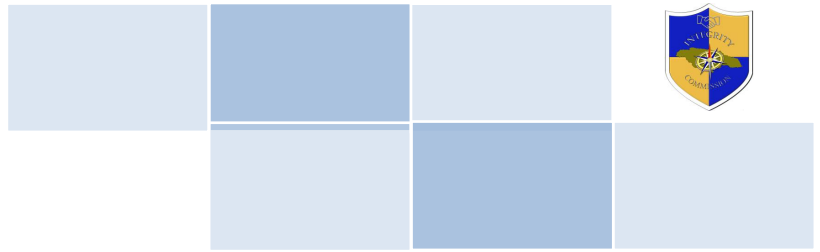
2.2.1 The investigation into the concerned public officer's originated from a referral by Director of Information and Complaints. The complaint alleges that the concerned public officer had failed to file statutory declarations for the periods ending December 31, 2016 to December 31, 2017, in compliance with **Section 4(1) of the Corruption Prevention Act**.

2.3 Jurisdiction and decision to investigate

2.3.1 Under **Section 33(1)(a) of the said Act**

“(1) The Director of Investigation shall-

(a) without prejudice to the provisions of any other enactment, and subject to any general or specific direction of the Commission, investigate, in the manner specified by or under this Act, any allegation that involves or may involve an act of corruption or any allegation relating to non-compliance with the provisions of this Act.”



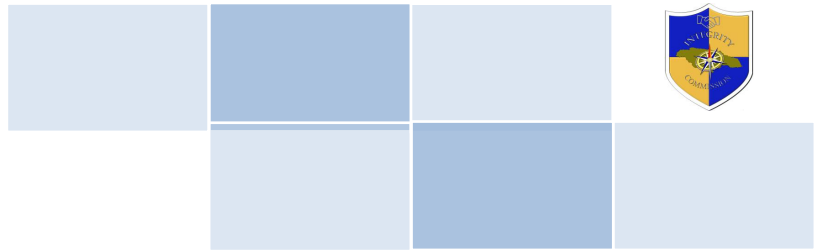
2.3.2 The Director of Investigation deemed that an investigation was warranted under **Section 47 of the Act.** See **Section 47 of the Integrity Commission Act** captioned at appendix 4.

2.3.3 Section 63 empowers the Director of Investigation to continue investigations initiated by the legacy Commission for the Prevention of Corruption. See **Section 63 of the Integrity Commission Act** captioned at appendix 4.

2.4 The Investigation

2.4.1 During the course of the investigation, Officers of the Investigation Division under the authority of the Director of Investigation pursued the following lines of enquiry:

- a) obtained information and witness statements from the responsible officers at:
 - (i) South East Regional Health Authority; and
 - (i) Information and Complaints Division of the Integrity Commission;
- b) reviewed the information and statements collected and prepared the case file and report.



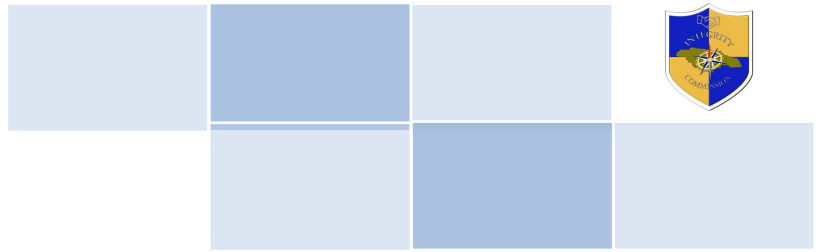
2.5 *Who is the Individual Pertinent to the Investigation?*

2.5.1 Mr. Renaire Bender was considered pertinent to the investigation. Mr. Bender is employed to SERHA. He was in their employment during the investigation period December 31, 2016 to December 31, 2017.



3. Chapter 2 – Terms of Reference

- 3.1 This chapter sets out the scope of the investigation and the issues that were explored.
- 3.2 In conducting the investigation, the Director of Investigation sought to establish whether:
- a) the concerned public officer is a public servant as set out under **Section 2(1) of the Corruption Prevention Act**;
 - b) the concerned public officer was in receipt of the qualifying emoluments as prescribed under **Section 3(1) of the Corruption Prevention Regulation (2003)**, occupies a post that is listed in **Part I or Part II of the said Regulations** or was written to under **Section 4(5A)(a) of the Corruption Prevention Act** and requested to file the statutory declarations;
 - c) the concerned public officer failed to file the required statutory declarations as prescribed under **Section 4(1) of the Corruption Prevention Act** and **Section 3(1) of the Corruption Prevention Regulation (2003)**;
 - d) the concerned public officer was notified of his failure and warned of consequences;



- e) the concerned public officer's failure to file the required statutory declarations constitutes an offence under the Act;
- f) the concerned public officer has a lawful justification or excuse for his failure to file;
- g) recommendations ought to be made to the Director of Corruption Prosecution; and
- h) recommendations ought to be made in respect of any act of corruption and/or anti-corruption initiatives.



4. Chapter 3 – The Law, Evidence and the Discussion of the Findings

4.1 This chapter sets out the relevant laws in respect of the investigation, the evidence gathered and the discussion of the findings.

4.2.1 The Law

4.2.1 The object of the Commission's investigation was to determine whether there is merit in the allegation that Mr. Renaire Bender failed to file the required statutory declarations. The legal implications of the foregoing are described under **Section 4(1) and 3(1) of the Corruption Prevention Act and Corruption Prevention Regulation (2003)** respectively, which states:

Section 4(1) of the Corruption Prevention Act:

“every person who, on or after the appointed day, is a public servant shall subject to subsection (2), (3) and 4), furnish to the Commission a statutory declaration of his assets and liability and his income in the form set out as form A in the Second schedule.”

Subsection 3 states:

“Subsection (1) shall not apply to a public servant –

(a) Who is in receipt of total emoluments less than the prescribed amount.”



Section 3(1) of the Corruption Prevention Regulation (2003):

“Subject to paragraph (2), 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.”

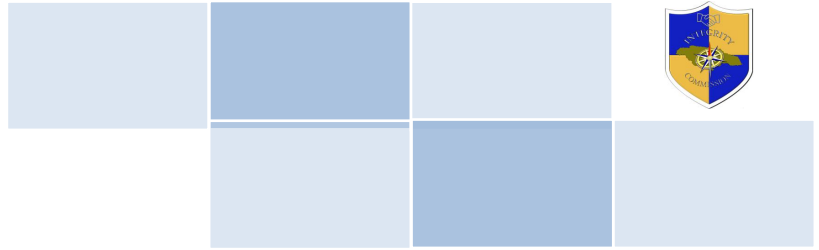
The penalty for the failure to file a statutory declaration under Section 15(2) is:

Section 15(2) of the Corruption Prevention Act:

“Any person who –

(a) Fails, without reasonable cause, to furnish to the Commission a statutory declaration which he is required to furnish in accordance with the provisions of this Act;

commits an offence, and shall on summary conviction in a Resident Magistrate’s Court be liable to a fine not exceeding two hundred thousand dollars, or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.”



4.3 The Evidence

4.3.1 Is the concerned public officer a public servant as described under Section 2(1) of the Corruption Prevention Act?

4.3.1.1 The concerned public officer was employed at SERHA during the period October 20, 2015 to present. This was established in the evidence provided by the Director of Human Resource and Industrial Relations at SERHA. The concerned public officer therefore falls within the definition of a “public servant” under **Section 2(1) of the Corruption Prevention Act**.

4.3.2 Is the concerned public officer in receipt of the qualifying emoluments as prescribed under Section 3(1) of the Corruption Prevention Regulation, 2003, occupies a post listed under Part I or Part II of the said Regulations or was written to under Section 4(5A)(a) of the Corruption Prevention Act and requested to file the statutory declarations?

4.3.2.1 The concerned public officer was in receipt of the qualifying emoluments of \$2 million or above as prescribed under **Section 3(1) of the Corruption Prevention Regulation** during the period of concern. This was established in the evidence provided by the Director of Human Resource and Industrial Relations at SERHA as shown below:



Table 2: Total Emoluments

| Period | Emoluments |
|-------------------|-------------------|
| December 31, 2016 | \$2,915,735.82 |
| December 31, 2017 | \$2,868,088.76 |

4.3.2.2 The concerned public officer was therefore required to file the statutory declarations for these periods.

4.3.3 Did the concerned public officer fail to file a statutory declaration as required under Section 4(1) of the Corruption Prevention Act?

4.3.3.1 The procedure for identifying a declarant who has not filed a statutory declaration begins with the Director of information and Complaints writing the heads of all Ministries, Departments and Agencies and requesting a list of those persons who qualify to file the statutory declarations. When the referred lists are received, the information is entered into a database, which provides the list of prospective declarants. Mr. Bender's name appeared on this list for the periods ending December 31, 2016 to December 31, 2017.

4.3.3.2 The Commission through the media, internet, seminars and various other forms of communication informed declarants of their obligation and the deadline for the filing of statutory declarations. The evidence provided by the Director of Information and Complaints showed publications as outlined below:



Table 3: Publication in Respect of the Statutory Declarations

| TYPE OF PUBLICATION | DATE OF PUBLICATION | DECLARATION PERIOD ENDING |
|---------------------|---------------------|---------------------------|
| The Jamaica Gazette | December 1, 2016 | December 31, 2016 |
| The Sunday Gleaner | March 12, 2017 | December 31, 2016 |
| The Sunday Gleaner | March 19, 2017 | December 31, 2016 |
| The Sunday Gleaner | March 26, 2017 | December 31, 2016 |
| The Sunday Observer | March 12, 2017 | December 31, 2016 |
| The Sunday Observer | March 19, 2017 | December 31, 2016 |
| The Sunday Observer | March 26, 2017 | December 31, 2016 |
| The Jamaica Gazette | December 1, 2017 | December 31, 2017 |
| The Sunday Gleaner | March 11, 2018 | December 31, 2017 |
| The Sunday Gleaner | March 18, 2018 | December 31, 2017 |
| The Sunday Gleaner | March 25, 2018 | December 31, 2017 |
| The Sunday Observer | March 11, 2018 | December 31, 2017 |
| The Sunday Observer | March 18, 2018 | December 31, 2017 |
| The Sunday Observer | March 25, 2018 | December 31, 2017 |

4.3.3.3 When the statutory declarations are filed they are also entered into a database. This enables the Commission to generate a list of those persons who have not complied with their statutory obligations under **Section 4(1) of the Corruption Prevention Act.**



4.3.3.4 The evidence provided by the System Support Officer who has responsible for the daily receipt of the statutory declarations at the Commission showed that Mr. Renaire Bender had not filed the required statutory declarations as outlined below:

Table 4: Outstanding Declarations

| Declaration Period | Declaration Due | Declaration Filed | Outstanding Declaration |
|---------------------------|------------------------|--------------------------|--------------------------------|
| December 31, 2016 | March 31, 2017 | Nil | December 31, 2016 |
| December 31, 2017 | March 31, 2018 | Nil | December 31, 2017 |

4.3.4 Was the concerned public officer notified of his failure to file the required statutory declarations and warned of consequential penalties?

4.3.4.1 The concerned public officer was notified and given 30 days to file the outstanding declarations. Mr. Bender acknowledged receipt of the notice however; he failed to comply within the time specified in the notice. This was confirmed by the evidence provided by the Director of Information and Complaints. A copy of the notice and the signed acknowledgement is shown at appendices 1 - 3 below.

4.3.5 Does the concerned public officer's failure to file the required statutory declarations constitute an offence under the Act?

4.3.5.1 The failure to file a statutory declaration is an offence under **Section 15(2)(a) of the Corruption Prevention Act**, which states:



“Any person who –

(b) Fails, without reasonable cause, to furnish to the Commission a statutory declaration which he is required to furnish in accordance with the provisions of this Act;

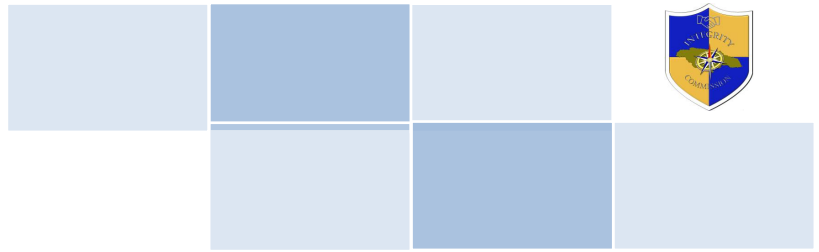
commits an offence, and shall on summary conviction in a Resident Magistrate’s Court be liable to a fine not exceeding two hundred thousand dollars, or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.”

4.3.6 Did the concerned public officer have a lawful explanation or excuse for his failure to file the statutory declaration?

4.3.6.1 The concerned public officer has provided no lawful justification or excuse for his failure to file the required statutory declarations.

4.4 Discussion of the Findings

4.4.1 During the course of the investigation into the allegations against the concerned public officer, the Director of Investigation followed all reasonable lines of enquiry, gathered evidential material and collected/recorded the statements of witnesses deemed necessary. Upon analyzing the evidential materials collected, the Director of investigation is satisfied that there is evidence to support the allegation that the concerned public officer failed to file the required statutory declarations with the Commission.



4.4.2 Based upon the evidence set out in this chapter, the Director of Investigation finds reasonable grounds to believe that the following have been established:

- a) The concerned public officer was a public servant as described under **Section 2(1) of the Corruption Prevention Act**;
- b) The concerned public officer was in receipt of the qualifying amount of two million dollars (\$2,000,000) or above and was therefore required to file statutory declarations;
- c) The concerned public officer failed to file the required statutory declarations;
- d) The concerned public officer was notified of his failure to file the required statutory declarations and warned of the consequences should he fail to file the said statutory declarations;
- e) The concerned public officer's failure to file the required statutory declaration constitutes an offence under **Section 15(2)(a) of the Corruption Prevention Act**; and
- f) The concerned public officer has provided no lawful justification or excuse for his failure to file the required statutory declarations.



5. Chapter 4 – Conclusion and Recommendations

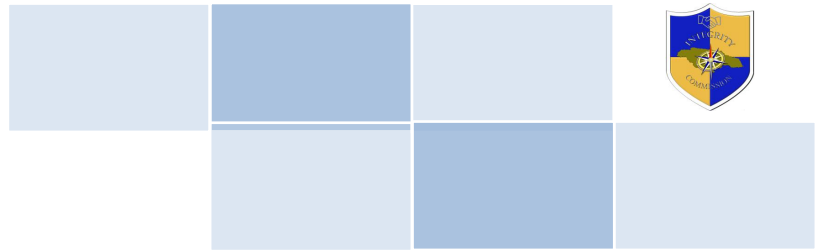
5.1 This chapter sets out the conclusions drawn from the investigation and the recommendations made to improve compliance with the law.

5.2 Conclusion

5.2.1 This investigation was initiated to examine the allegation that Mr. Renaire Bender, an officer employed to SERHA failed to file with the Commission, the statutory declarations as required under **Section 4(1) and 3(1) of the Corruption Prevention Act and Corruption Prevention Regulation (2003)** respectively.

5.2.2 The evidence provided by the Director of Human Resource and Industrial Relations at SERHA, proves that Mr. Renaire Bender was a public servant as defined under **Section 2(1) of the Corruption Prevention Act**. Mr. Renaire Bender is also in receipt of emoluments in excess of Two Million Dollars and is therefore required to file the respective statutory declarations. The evidence also showed that he has failed to make the required submissions, even after being notified of his failure to file and given time to comply.

5.2.3 Based upon the foregoing, the Director of Investigation concludes that the concerned public officer has failed to file his statutory declarations under **Section 15(2)(a) of the Corruption Prevention Act** for the periods specified in table 4 of this report.

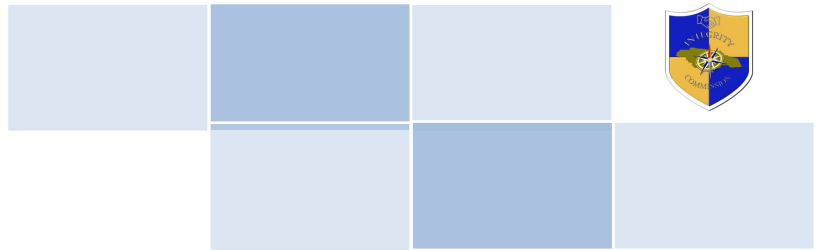


5.2.4 The Director of Investigation concludes that Mr. Renaire Bender's failure to file a statutory declaration constitutes a breach of **Section 15(2)(a) of the Corruption Prevention Act.**

5.2.5 The Director of Investigation further concludes that the concerned public officer herein has provided no lawful justification or excuse for his failure to file the required statutory declarations.

5.3 Recommendations

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



6. Chapter 5 – Corruption Prevention Initiatives

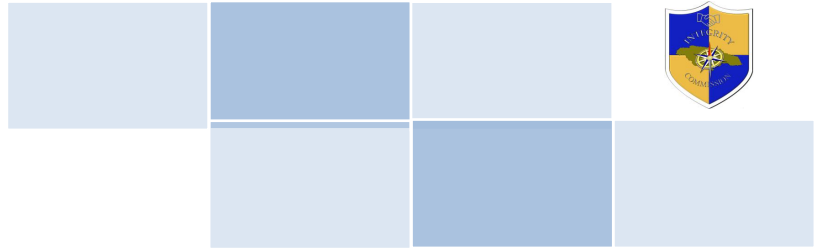
- 6.1 This chapter examines recommendations that could improve the compliance with the law.
- 6.2 Public entities should ensure that the public officers provide, annually, proof that they are compliant with the law in respect of filing their statutory declarations. Public Bodies and the Office of the Services Commission should be engaged to ensure that compliance with **the Integrity Commission Act** becomes a requirement for employment and continued employment in the public service.

A handwritten signature in blue ink, appearing to read 'K. Stephenson', written over a horizontal line.

Kevon A. Stephenson, J.P
Director of Investigation

November 5, 2021

Date



APPENDICES



Appendix 1: Copy of the Notice of Delinquency



INTEGRITY COMMISSION

77 FLETON
45-47 HARBOURSIDE, A FLETON, CHRISTCHURCH 4
P.O. BOX 175, KANARUA RD, LAMBTON
TEL: 03 378 0000 FAX: 03 378 0017

18/4

Ref: No. 18/180

18/12/2018

To: Susan Banks
South East Regional Health Authority
23 Devonport Drive
Christchurch

Dear Dr. Banks:

Re: Statutory Declaration of Assets, Liabilities and Income

The Integrity Commission Act, 2017 requires certain public servants to file a Statutory Declaration of Assets, Liabilities and Income as specified in the Integrity Commission Act, 2017, and the Rules made under the Act.

The records indicate that you have not complied with the Director of Information and Compliance who reports that you have not filed a return.

| PERIOD | STATUS |
|-------------------|----------------|
| January 15, 2001 | Not Applicable |
| December 15, 2001 | Not Applicable |
| December 15, 2002 | Not Applicable |
| December 15, 2003 | Not Applicable |
| December 15, 2004 | Not Applicable |
| December 15, 2005 | Not Applicable |
| December 15, 2006 | Not Applicable |
| December 15, 2007 | Not Applicable |
| December 15, 2008 | Not Applicable |
| December 15, 2009 | Not Applicable |
| December 15, 2010 | Not Applicable |
| December 15, 2011 | Not Applicable |
| December 15, 2012 | Not Applicable |
| December 15, 2013 | Not Applicable |
| December 15, 2014 | Not Applicable |
| December 15, 2015 | Not Applicable |
| December 15, 2016 | OUTSTANDING |
| December 15, 2017 | OUTSTANDING |


Notice is given to you, as a public servant, that you are required to file a return for the periods of 12 months ending 15/12/2017 and 15/12/2018. Failure to do so is an offence under the Integrity Commission Act, 2017.

The Hon. Dr. Justice (Hon. J. S. Kariri-Harawa, CJP)
Chairman

Information: 03 378 0000 Fax: 03 378 0017 Email: info@integrity.govt.nz Website: www.integrity.govt.nz




Appendix 2: Response from SERHA with Signature Sheets



South East Regional Health Authority

Regional Office
 The Towers, 2nd Floor, 28 Dominica Drive, Kingston 5
 Voice: (876) 754-3439 Fax: (876) 829-8818, Email: info@serha.gov.jm
 Website: www.serha.gov.jm E-mail: email@serha.gov.jm



2019, July 11

RECEIVED

15 JUL 2019

INTEGRITY COMMISSION

Mrs Joy A. Powell
 Director of Information and Complaints (Acting)
 Integrity Commission
 45-47 Barbados Avenue
 Kingston 5

Dear Miss Powell

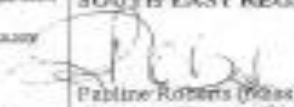
This serves to acknowledge receipt of a letter from the Integrity Commission dated May 24, 2019 with sealed envelopes that were addressed to staff members who are required to file their Statutory Declaration in compliance with the Integrity Act 2017.

The letters were arranged by Hospitals and Health Facilities and distributed accordingly.

The following are enclosed as requested:

| | |
|--|---|
| Signature Sheets | Staff members of the Kingston Public Hospital |
| " | Staff members of the Victoria Jubilee Hospital |
| " | Staff members of the Regional Office |
| " | Staff Members of the Saint Thomas Health Department |
| Letters being returned for staff members who separated | A spreadsheet is enclosed with the envelopes. |

Yours truly,
SOUTH EAST REGIONAL HEALTH AUTHORITY



Pauline Roberts (P.O. Box)
 Director, Human Resource Management & Industrial Relations

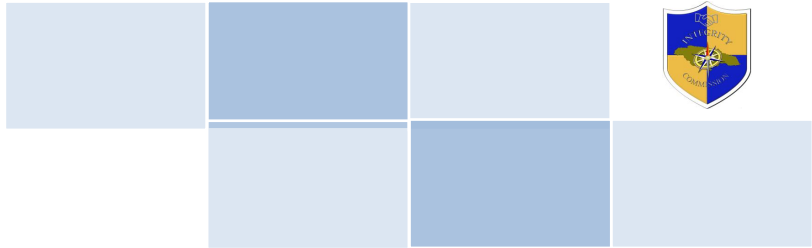
St. Catherine Health Department: (876) 463-3554-2262 Fax: 876 42000 email: info@serha.gov.jm

St. Elizabeth Hospital: 206-2341 Fax: 882-4142 email: info@serha.gov.jm

Princess Margaret Hospital: 862-3266-4162 Fax: 784-4163 email: info@serha.gov.jm

St. Thomas Health Department: 724-18265-3115 Fax: 793-4452 email: info@serha.gov.jm

Board of Directors: Mr. Warwick Charles-Chalmers (Chairman); Mr. Maureen Colding (Regional Director); Dr. Doreen Byrnes (Regional Technical Director); Mrs. Colleen Wright (CEO Adj. & P.V.M.); Dr. Nadine Rhoads (Senior Medical Officer); Mr. Peter Smith, Mr. Alfonso Johnson, Mrs. Kelly Smith, Mrs. Shirley Gibson, Mr. Willie Brown, Mrs. Lisa A. Coates Lewis, Mr. Peter Jones, Dr. Karen Weldon-Gay.

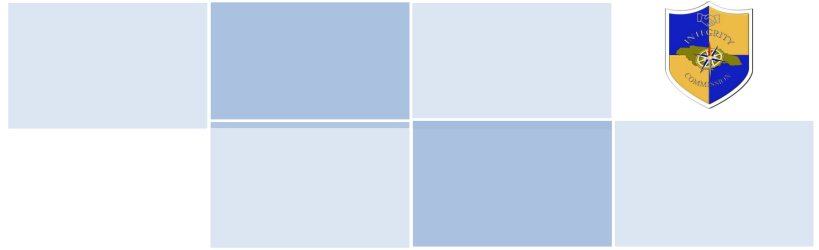


Appendix 3: Signature Sheet with signed Acknowledgement of receiving Notice

SOUTH EAST REGIONAL HEALTH AUTHORITY
SERHA

| NUMBER | TRN | DATE | SIGNATURE | REMARKS / JOB TITLE |
|--------|-----------|---------|-----------|---------------------|
| 1 | 116681926 | 10/1/19 | | |
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(1) (2) (3)



Appendix 4: Sections 47 & 63 of the Integrity Commission Act

Section 47 of the Act:

47.—(1) *The Director of Investigation, shall upon receipt of a matter pursuant to section 46, examine the matter in order to determine whether or not an investigation in relation to the matter is warranted.*

(2) *The Director of Investigation shall, in determining whether to investigate a matter that has been referred to him, consider—*

(a) *the seriousness of the conduct to which the matter relates;*

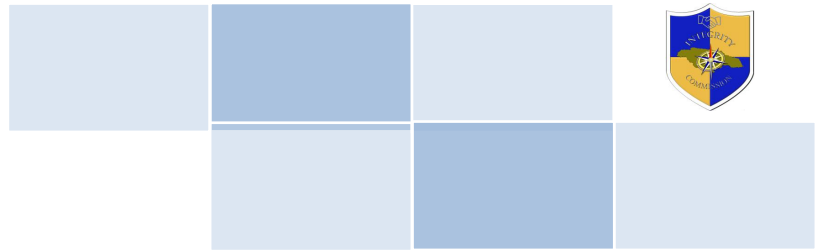
(b) *whether or not the matter is frivolous or vexatious;*

whether or not the conduct to which the matter relates is or has been the subject of an investigation or other action by any other authority under any other enactment.

whether or not the conduct to which the matter relates is or has been the subject of an investigation or other action by any other authority under any other enactment.”

Section 63 of the Integrity Commission Act

“63.—(1) Notwithstanding the amendment or repeal of an Act under this Part, as from the appointed day any legal proceedings or claim pending immediately before the appointed day, which, before the appointed day, were brought, continued or enforced by or against any of the respective Commissions, shall be brought,



continued or enforced by or against the Commission in the same manner as they would have been brought, continued or enforced before the appointed day.

(2) The Commission established under this Act may—

(a) commence or assume any investigation, swear any information or commence or conduct any prosecution in respect of an offence committed, or alleged to be committed before the appointed day under a provision of either of the amended Acts that has been amended or repealed by this Act, or under the repealed Act, and each such amended or repealed provision and the repealed Act shall be deemed to remain in full force and effect, for the purposes of any such investigation, information and prosecution as it had been immediately before the appointed day; or

(b) continue or do any act, thing or investigation which was pending before the appointed day.

(3) The Court shall, in respect of any proceedings instituted following any investigation under subsection (2), have all the powers that it could exercise pursuant to the amended Acts and the repealed Act as if they remain in full force and effect.”