



**THE INTEGRITY COMMISSION
OF THE
COMMONWEALTH OF DOMINICA**

THIRD ANNUAL REPORT

Year ended August 31, 2011

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1 CHAIRMAN'S LETTER OF TRANSMITTAL

October 24, 2011

Hon. Ian Douglas
Minister for Legal Affairs
Ministry of Legal Affairs
Government Headquarters

Dear Sir,

ANNUAL REPORT OF COMMISSION TO PARLIAMENT

The Integrity Commission of the Commonwealth of Dominica submits the Annual Report to the Minister on its activities for the period ending 31st August, 2011 to be tabled in the House of Assembly within three months of its reception in accordance with Section 48 (1) and (2) of the Integrity in Public Office Act 2003, No.6 of 2003.

This is the third annual report of the first Commission appointed for a three year term commencing 2nd September 2008. The activities of this Commission included:

- a) The timely submission of comprehensive Annual Reports to Parliament on its activities in the performance of the prescribed functions as required by section 48 of the Act;
- b) Several recommendations to the Government designed to strengthen the legislation in order to effectively realize the purpose of establishing probity, integrity and accountability in public life in the light of the Commission's experience in the administration of the Act during this term;
- c) The making of rules of procedure under section 58 of the Act entitled the Integrity Commission Rules of Procedure, 2011 which was delivered through the Ministry of Legal Affairs for publication in the Official Gazette in August 2011;
- d) The conducting of seminars for all persons in public life on the functions of the Commission with special emphasis on the provisions dealing with the disclosure of financial affairs and the filing of declarations, annually and otherwise, *in accordance with the Act*;
- e) The holding of public education programmes by press publications and the giving of talks to public and private sector organizations, trade unions and senior public officers; and
- f) The submission to the Minister for Finance and the Minister for Legal Affairs of proposals for the restructuring of the Commission with recommendations for strengthening its staffing and organization for the efficient discharge of its functions under the Act.

Given the reasons and underlying purpose for the Integrity in Public Office Act, 2003, it is regrettable that during the life of this Commission the Minister for Legal Affairs and the Minister for

Finance were unable to attend to the pressing concerns raised and to the several recommendations put forward for the more efficient and effective functioning of the Commission. These included:

- a. Amendments to the First and Second Schedules to the Act by subsidiary legislation made by the Minister for Legal Affairs and amendments to the Act;
- b. The non-applicability of some existing public service regulations, procedures, circulars and policy decisions to the Commission in the performance of its autonomous functions under the Act; and
- c. The failure to respond on the part of the Attorney General and the Ministry of Legal Affairs in the submission of an application to the court by way of case stated for the determination of the question whether travel by the Chairman (or Commissioners) on the business of the Commission in the exercise of its functions under the Act is subject to prior approval of the Prime Minister in addition to compliance with the procedures for approval, financial control and accountability of expenses under the Finance (Administration) Act 1994, No. 4 of 1994 and section 52 of the Act of 2003.

The submission of the Commission's annual report to Parliament provides the opportunity for Parliament *itself* to exercise its oversight jurisdiction under the doctrine of ministerial responsibility which is a central feature of our Westminster model Constitution. The first and second reports of the Commission were laid in Parliament on the 4th February, 2010 and 17th March, 2011 respectively. At meetings of Parliament held subsequently there has been scant reference to any of the Reports either in questions, motions, statements or speeches before the House of Assembly. This is regrettable. Under our Constitution, Parliament is authorized to play a continuing role in ensuring that the purposes of the Act are given full effect and in holding the responsible Ministers to account for the proper provisioning of the Commission.

In my address on the establishment of the Commission on September 2nd, 2008 I had assured His Excellency the President and the people of Dominica that "the Integrity Commission, under my chairmanship, will approach its important statutory functions with the highest level of professionalism and diligence; with robust independence, impartiality and fairness ... and without fear or favour," and that in the performance of the prescribed functions "we will not be swayed by partisan – interests, public clamour or fear of criticism".

The criticisms, both personal and institutional, during this term have been strident, uninformed, unreasonable and unrelenting. However, I am satisfied that notwithstanding the deficiencies in the Act and the serious staff constraints this promise has been fulfilled. As evidenced in our annual reports, and otherwise, this Commission has performed its duties and functions with impartiality and independence in accordance with the applicable principles of public law and the best practice of such oversight bodies in the Commonwealth Caribbean and elsewhere. By its firm but evenhanded administration of the provisions of the Act, in the 2011 reporting year a 96% compliance rate has been achieved in respect of the filing of declarations *in accordance with the Act* by persons in public life. Indeed, all persons in public life can be persuaded or compelled to obey the law.

In the address mentioned above I had commended the appointed authorities for the assiduity with which they undertook their responsibilities in the appointment of the members of this

Commission. Here the appointing authorities got it right. I must therefore thank the President, the Prime Minister, the Leader of the Opposition, the Institute of Chartered Accountants of Dominica and the Dominica Bar Association for giving us this opportunity for further public service to the people of the Commonwealth of Dominica as the first Commission under the Act of 2003.

Yours very sincerely

Julian N. Johnson

Chairman

2. **INTRODUCTION**

2.1 **Prayer**

We stand before you, Holy Spirit
Conscious of our imperfections
but aware that we gather in your name.

Come to us, remain with us
Enlighten our hearts and give us light and strength
So that all our decisions may be
Just and fair and in accordance with our Oath of Office.

Guide us by your wisdom,
Support us by your power, for you are God,
Sharing the glory of Father and Son.

You desire justice for all:
Enable us to uphold the rights of others,
Do not allow us to be misled by ignorance
or corrupted by fear or favour.
Unite us to yourself in the bond of love
and keep us faithful to all that is true. Amen.

2.2 **Vision**

To foster the development of a nation free of corruption and governed by persons in public life who are imbued with the highest standard of integrity.

2.3 **Mission**

The Integrity Commission will promote integrity in governance by providing effective oversight of the administration of public functions in order to encourage transparency in transactions, and maintain legal compliance by persons in public life and other public officials so that public institutions will be free of corruption, and so that the highest standards of honesty, equity and fairness will be observed in the use of public resources and in the distribution of benefits for the welfare of the people of our nation.

3. INTEGRITY IN PUBLIC OFFICE ACT, 2003

3.1 Statutory Authority

The Integrity Commission is governed by the Integrity in Public Office Act 2003, No. 6 of 2003 which came into operation on September 1, 2008.

3.2 Application and Scope of the Act

The Integrity in Public Office Act 2003 applies to all persons in public life, that is, persons holding any office or position set out in Part I of the First Schedule to the Act or persons acting continuously for not less than six months in any office set out in Part II of the First Schedule. The list of persons in public life as at December 31, 2010 is shown in Appendix 1.

3.3 Functions

The functions of the Commission are specified in section 9 of the Act as follows:
"The Commission shall -

- (a) to receive, examine and retain all declarations filed with it under [this] Act;*
- (b) make such inquiries as it considers necessary in order to verify the accuracy of any declarations filed under [this] Act;*
- (c) without prejudice to the provisions of any other enactment, inquire into any allegations of bribery or act of corruption under this Act;*
- (d) receive and investigate complaints regarding non-compliance with any provision of this Act; and*
- (e) perform such other functions as is required under this Act."*

4. INTEGRITY COMMISSION

4.1 Members

At the date of this report, members of the Commission were:

Chairman:	Julian N. Johnson
Members:	Alick Lazare
	Wendell A. Lawrence
	Davidson A. Bruney
	Anthony P. La Ronde
	Gerald Smith
	Henry G. Dyer

The Act stipulates that the term of office of a Commissioner is three (3) years. Accordingly, the first term of the Chairman, Mr. Johnson and Commissioners Lazare and Smith which began on September 2, 2008, ends on August 31, 2011. Full profiles of the members of the Commission are given at Appendix 2.

4.2 Changes in Membership

From September 2010 to March 2011, the Commission comprised Julian Johnson (Chairman), Alick Lazare, Wendell Lawrence, George Williams, Sir Brian Alleyne, Patricia Inglis and Gerald Smith (Members). The membership changed due to the resignation of Sir Brian Alleyne, Patricia Inglis and George Williams. Table 1 refers.

Members who resigned	Resignation Dates	New members	Appointment dates of new members
Sir Brian Alleyne	March 10, 2011	Henry Dyer	April 12, 2011
Patricia Inglis	March 15, 2011	Davidson Bruney	April 7, 2011
George Williams	May 31, 2011	Anthony P. La Ronde	July 4, 2011

Table 1: Changes in membership of the Commission

On the 2nd day of March 2011, Minister Charles Savarin, Member of the Cabinet and the House of Assembly, wrote through his Attorney to the President stating that Sir Brian Alleyne's public statements, published letters in the Chronicle and his attendance at manifestly political meetings that were also attended by known political activists would convey to any reasonable bystander, strong, reasonable grounds to suspect or believe that Sir Brian may well be biased against him and members of the Cabinet and ought not to continue to be a member of the Commission. Mr. Savarin also indicated that Sir Brian through his acquisition of citizenship of St. Vincent and the Grenadines may be disqualified as a member of the Commission under section 5(b) of the Act.

Sir Brian resigned from the Commission effective March 10, 2011. In his resignation letter he responded to the allegations raised by the Minister, noting that under section 35(3)(b) of the Constitution of the Commonwealth of Dominica, a Commonwealth citizen is not disqualified from being a Senator and member of the House of Assembly of Dominica. He also asserted his right as a citizen to hold and express the opinions that he had published in his letters to the Chronicle, to attend meetings of political parties or any organization or to associate with the persons mentioned in the letter.

Sir Brian noted that his resignation was in the interest of the continued effective operation of the Commission and so that persons in public life may not feel oppressed by his membership on the Commission. Sir Brian commended the seriousness, professionalism, devotion and integrity with which the Chairman and all members – past and present, have attended to the business of the Commission.

In response to Sir Brian's resignation, the Integrity Commission issued a press statement, noting that Sir Brian brought to bear an independent and impartial mind to the performance of his functions under the Act, including the examination of probity, integrity and accountability issues that fell to be considered by the Commission concerning persons in public life, singly or collectively.

The Commission also noted that its members are not forbidden by their membership from exercising their fundamental right of expression and association, and their democratic right to participate in public debate on national issues including comment on the policies and programmes of the Government of Dominica. Members of the Integrity Commission are aware that in exercising these rights, they shall always observe prudence and the proper degree of constraint having regard to the purpose of the Integrity in Public Office Act and its secrecy and confidentiality provisions, the rules of natural justice and the jurisdiction of the Commission as an independent and impartial statutory authority with oversight duties over persons in public life including Members of the House of Assembly.

Commissioner Patricia Inglis resigned from the Commission effective March 15, 2011. She gave no reasons for her resignation. On March 28, 2011, Commissioner George Williams proceeded on extended medical leave and resigned for health reasons effective May 31, 2011.

These vacancies were filled by the April 7th appointment of Davidson Bruney, on the advice of the Leader of the Opposition, the April 12th appointment of Henry Dyer on the recommendation of the Dominica Bar Association and the July 4th appointment of Anthony P. La Ronde, on the advice of the Leader of the Opposition.

On April 13, 2011, the Commission received notice of Civil suit No. 110 of 2011 filed between Ambrose George and Hector Spags John, Leader of the Opposition, the Attorney General as the representative of the President and the Integrity Commission, objecting to and challenging the nomination and appointment of Mr. Bruney to the Commission.

Suit No. 110 sought leave for Minister George to apply for judicial review of the appointment of Mr. Bruney to the Commission.

On May 26, 2011, the Court of Appeal of the Eastern Caribbean Supreme Court issued an interlocutory injunction in the matter of Ambrose George v Hector Spags John, the Attorney General and the Integrity Commission (Civil Appeal No. 15 of 2011) restraining the Commission from holding any meetings with Mr. Bruney or from divulging any confidential information to him in respect of any matter involving Ambrose George and any other member of the Cabinet of the Commonwealth of Dominica pending the hearing of the appeals in this matter.

In compliance with that order, effective May 26, 2011, Commissioner Bruney has excused himself from every meeting where matters involving Ambrose George and other members of Cabinet were addressed.

4.3 Meetings of the Commission

The Commission held forty-two (42) meetings during the year. Attendance at these meetings is shown in Table 2:

Commissioners	Applicable number of meetings	Number attended	Reasons for Absence
Julian N. Johnson	42	42	-
Alick Lazare	42	42	-
Wendell Lawrence	42	42	-
Davidson Bruney	18	*18	-
Anthony P. La Ronde	6	6	-
Gerald Smith	42	41	Out of state
Henry Dyer	17	12	Out of state
Brian Alleyne	20	17	Out of state; Personal
Patricia Inglis	21	20	Personal
George Williams	29	20	Out of state; Illness

Table 2: Attendance at Commission meetings 2010/2011

*Though the Commissioner was present, he excused himself during discussions involving members of Cabinet.

4.4 Organization

The following table shows the structure of the Commission and the main functions of its three Committees:

Integrity Commission		
Rules Committee	Finance & Administration Committee	Education Committee
The formulation, monitoring and review of rules governing the operations of the Commission.	<ul style="list-style-type: none"> •The analysis of declarations of persons in public life; •Review of the administration of the secretariat. 	The development and implementation of education programmes on the Act and contingent issues for persons in public life and the wider public;

Table 3: Committees of the Commission

For the reporting year, membership of the three Committees of the Commission was as shown in Table 4:

Chairman	Other Members
Rules Julian N. Johnson	George Williams (up to May 31, 2011) Brian Alleyne (up to March 10, 2011) Henry Dyer (effective April 12, 2011) Anthony P. La Ronde (effective July 4, 2011)
Finance & Administration Alick Lazare	Wendell Lawrence Gerald Smith Patricia Inglis (up to March 15, 2011) Davidson Bruney (effective April 7, 2011)
Education Wendell Lawrence	Brian Alleyne (up to March 10, 2011) Patricia Inglis (up to March 15, 2011) George Williams (up to May 31, 2011) Davidson Bruney (effective April 7, 2011) Henry Dyer (effective April 12, 2011)

Table 4: Members/Meetings of Committees of the Commission

4.5 Meetings of Committees

4.5.1 Rules Committee

The Rules Committee held three (3) meetings during the year. Attendance at these meetings was as shown below at Table 5:

Members	No. of meetings attended	No. of meetings absent
Julian N. Johnson	3	0
George Williams (up to May 31)	2	1
Sir Brian Alleyne (up to Mar. 10)	2	1
Henry Dyer (from April 12)	1	NA
Anthony P. La Ronde (from July 4)	NA	NA

Table 5: Attendance of the Rules Committee

4.5.2 Finance & Administration Committee

The Finance & Administration Committee held thirty-one (31) meetings during the year. Attendance at these meetings was as shown below at Table 6:

Members	No. of meetings attended	No. of meetings absent
Alick Lazare	32	0
Wendell Lawrence	32	0
Patricia Inglis (up to Mar. 15)	11	3
Gerald Smith	31	1
Davidson Bruney (from April 7)	12	NA

Table 6: Attendance of the Finance & Administration Committee

4.5.3 Education Committee

The Education Committee held five (5) meetings during the year. Attendance at these meetings was as shown below at Table 7:

Members	No. of meetings attended	No. of meetings absent
Wendell Lawrence	5	5
George Williams (up to May 30)	3	1
Patricia Inglis (up to Mar. 15)	4	1
Brian Alleyne (up to Mar. 10)	3	1
Davidson Bruney from April 7)	1	0
Henry Dyer (from from April 12)	1	0

Table 7: Attendance of the Education Committee

4.6 Staff

For the year under review, the Commission operated with a staff complement of five as follows:

- Secretary: Helen Ambo
- Research Assistant: Palestrina Rolle George
- Executive Officer: Cheryl Roberts (Acting)
- Junior Clerk: Alicia Adrien (Temporary)
- Messenger: Nigel Joseph (Temporary)

Figure 1 sets out the existing staff structure:

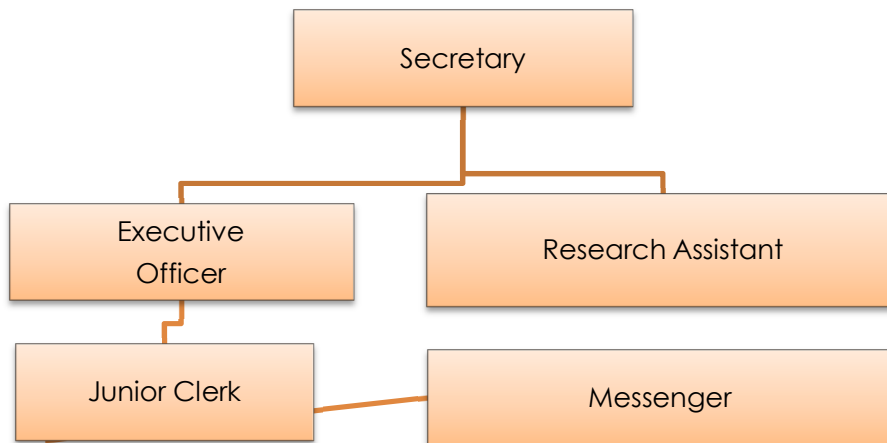


Figure 1: Organization of Staff of the Commission

4.7 Staff Training

Over the period, September 20 to October 8, 2010, Research Assistant, Mrs. Palestrina Rolle George attended a three-week training programme on “Accountability in Government” in Washington D C, United States of America. The training was facilitated by the United States Government.

During her visit, the Research Assistant was privileged to meet representatives of a number of agencies and discuss with them the roles and responsibilities of managers and employees and how the development of ethical standards at organization level contributes to greater accountability nation-wide. The entire training focused on the perception of the adoption of good ethical standards and morals not as obligations, but as a way of life.

4.8 Proposals for Restructuring

The Commission continued to experience constraints in capacity to undertake technical/forensic investigations and has sought training and technical assistance to enhance the skills available on its staff. The long-term solution is to restructure the organization as recommended in its submission to government.

In that regard, the Commission undertook a comprehensive review of its organization and staffing and made the following recommendations to government:

1. Membership of the Commission should be reduced from seven to five by reducing the number of persons to be nominated by the Prime Minister and the Leader of the Opposition from two each to one each under section 4(1)(b) and (c) of the Act. In making this recommendation, the Commission had regard to the sizes of Commissions in other Caribbean countries where their sizes ranged from three to five.
2. Staff of the Commission should change as follows:
 - a. The post of Secretary be abolished and a new post of Registrar be provided to advise the Commission and manage its operations;
 - b. The post of Research Assistant be abolished and replaced with two new posts of Financial Analyst and Investigator;
 - c. The post of Executive Officer be upgraded to Senior Executive Officer and assigned both secretarial and administrative functions;

Full details on the restructuring proposals are at Appendix 4.

The new staff structure being proposed by the Commission is shown below at figure 2.

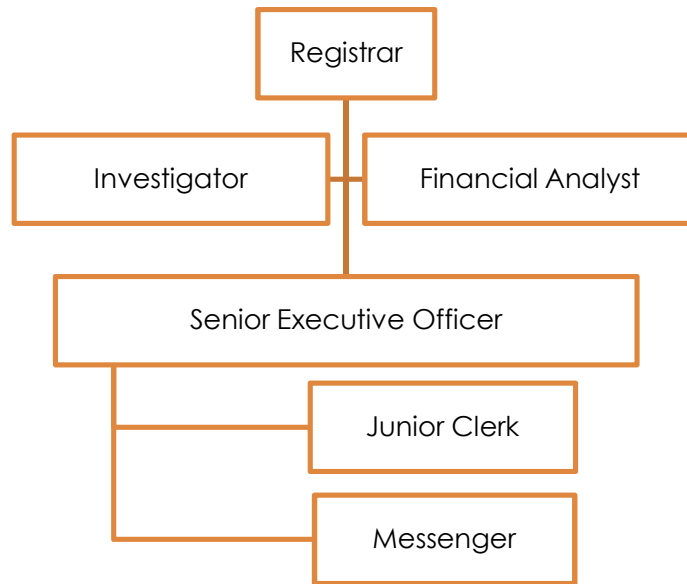


Figure 2: Proposed Staff Structure of the Commission

5. ADMINISTRATION AND OPERATIONS

5.1 Work Plan

The main activities comprising the Commission's work plan for the year included:

- Maintenance of an accurate and up to date list of persons holding positions or offices in the First Schedule to the Act (Parts I and II);
- Receipt and securing of all declarations and complaints made under the Act;
- Examination of declarations made to it under section 14 of the Act in order to verify their accuracy and completeness;
- Investigation of allegations of bribery or corruption, and complaints regarding non-compliance made to it;
- Holding of enquiries and commissioning tribunals and audits as may be necessary from time to time;
- Responding promptly to complaints made to it under section 31 of the Act and to report such of its findings as may be required by the Act;
- Preparation and submission to the Minister of an annual report on its activities as required by section 48 of the Act;
- Development and implementation of a programme of public education on the provisions of the Act, including information to persons in public life on their duties/obligations under the Act.

5.2 Activities and Decisions

5.2.1 List of Persons in public life

According to the Act 'person in public life' means "(a) a person holding any office or position set out in Part I of the First Schedule to the Act; or (b) a person acting continuously for a period of not less than six months in any office set out in Part II of the First Schedule to this Act."

In order to ensure a comprehensive and correct listing of persons in public life, the Commission has instituted the following measures:

- ministries of government are to state the appointing authority and current designation of chief executives of statutory boards;
- confirmation of appointments of chairmen of statutory boards;
- confirmation of departmental lists of persons in public life;
- notification of public officials appointed under section 86 of the Constitution.

For the year under review, the Commission recorded a total of one hundred and fifty-nine (159) persons in public life who were required to file declarations according to the Act. The distribution of these persons according to the offices set out in the First Schedule to the Act is shown at Table 8. The list of persons occupying these offices is set out in Appendix 1.

Offices	No. of persons
Advisor/Assistant to the PM/Minister	3
Assistant Superintendent of Prisons	1
Chairman of a public institution	35
Chief Technical Officer	21
Chief Fire Officer	1
Deputy Chief Fire Officer	1
General Manager of a public institution	7
Gazetted Police Officer	12
Managing Director of a public institution	16
Member of the House of Assembly	21
Minister of Government	20
Parliamentary Secretary	5
Permanent Secretary	14
Speaker of the House of Assembly	1
Superintendent of Prisons	1

Table 8: Persons in public life – Distribution by Office

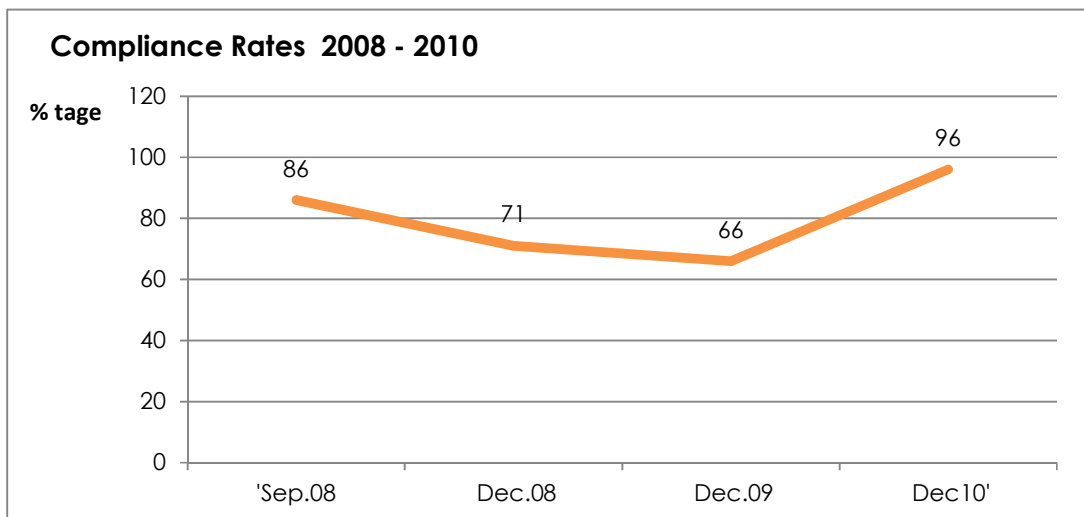
The Commission continued to grapple with the issue of ambiguity in the list of offices of persons in public life as noted in the First Schedule to the Act, particularly as regards the office of 'Chief Technical Officer', and recommended that the list should be amended for greater clarity.

The Commission notes that a number of Senior Administrative Officers are being appointed under section 86 of the Constitution, though the Commission has been advised by the Chief Personnel Officer that they are not considered deputy heads of departments in the Public Service of Dominica. Requests to the appropriate authorities for a definitive explanation of this issue have not been responded to. The Commission has brought to the attention of Government that a number of senior heads of important revenue collection divisions of Government should be included in the list of offices of persons in public life.

5.2.2 Receipt and Examination of Declarations

In section 14, the Act provides for persons in public life to file, on or before March 31, declaration in Form 2 with the Commission setting out:- offices, income/assets/liabilities, assets of spouse, children or relative traceable to the income of the person in public life and gifts made exceeding one thousand dollars (EC\$1,000).

The Commission reports 96% compliance rate regarding the filing of declarations for 2010, and commends persons in public life for complying with the Act in that regard. Two persons filed late and five persons failed to file. Figure 3 sets out a linear graph of compliance rates for 2008 to 2010.



The table below (Table 9) compares the progressive movement of filing declarations with the Commission from the period of first filing to December 2010.

	September 2008	December 2008	December 2009	December 2010
No. of persons in public life listed	119	136	147	159
No. of persons who filed by due date	103	96	98	152
Percentage Compliance	86	71	66	96
No. of persons who did not file by date given (filed late)	8	15	33	2
No. of persons who failed to file	8	25	13	4

Table 9: Filing of declarations - 2008 to 2010

During the year, in pursuance with section 15, ten persons were interviewed to obtain further particulars relating to their financial affairs. In addition sixty-nine (69) queries were sent out for information and explanations relevant to declarations made in pursuance of section 14(2). Of these, eight (8) remain outstanding.

The Commission has carefully considered a number of difficulties experienced by persons in public life in complying with sections 14 and 16 of the Act and has made the following improvements in its procedures:

- a) declarations may be submitted by e-mail (and online) when the Commission's website is fully operational;
- b) persons resident abroad may, by properly executed and registered power of attorney, have their declarations submitted on their behalf by any other person resident in Dominica;
- c) supporting documents will only be requested where further particulars are required under section 14 or 15 of the Act;
- d) more detailed instructions will be provided in its Guidelines as to the relevant date for filing and such other matters.

5.2.3 Breaches in respect of financial disclosure

Section 22 of the Act speaks to the failure to file declarations in accordance with the Act including Form 2 in the Third Schedule and stipulates that the Commission may: (a) publish that fact in the Gazette, and (b) send a report to the Director of Public Prosecutions (DPP) for further action.

For the reporting period, a number of matters concerning breaches of the Act for the previous reporting year (2009) were taken at the Magistrate's Court. Out of the forty-six (46) matters that had been reported to the DPP, twenty-one (21) persons in public life were charged for failure to file declarations in accordance with the Act. The other matters were discontinued at the discretion of the DPP. Most of the matters were rescheduled to later dates in 2011 on requests made by the persons in public life and their Attorneys, and some matters were deferred because the DPP and his Assistant were engaged at the High Court.

One matter was heard at the Magistrate's Court on May 5, 2011. The defendant represented himself. The case was dismissed since, according to the Chief Magistrate who presided over the hearing, the defendant had 'reasonable cause' to file after the due date under section 27 of the Act. The defendant reported to the court, (with supporting documents to that effect) that he had been gravely ill, and had travelled to the neighbouring islands for medical attention.

With respect to the breaches for the year ended December 31, 2010, the names of the six persons who defaulted – that is failed to in accordance with the Act - were published in the Official Gazette of Thursday, May 26, 2011 and the report sent to the Director of Public Prosecutions on August 22, 2011. The list of names as published in the Gazette is at Appendix 4.

5.2.4 Gifts

During the year four persons in public life declared in Form 4, seven gifts received by them. The Commission reviewed these submissions and decided that two of the gifts were trivial and the other gifts were not intended to be a motive or reward for doing or abstaining from doing anything in the course of the performance of their official functions. The persons were allowed to retain the gifts.

One person in public life disclosed in his declaration that he had received a gift that he had placed in his office. The Commission advised that he must report the gift in accordance with section 35 of the Act.

5.2.5 Code of Conduct

By letter dated November 5th 2010 Mr. Lennox Linton made a complaint to the Commission under section 31 of the Integrity in Public Office Act 2003 against Prime Minister Roosevelt Skerrit, a person in public life. Mr. Linton alleged that:

- (i) the Prime Minister was in breach of section 47(1) of the Act of 2003 by virtue of his possession of unaccounted property, namely eight Ocean Front villas at Guillette, Savanne Paille, with an estimated market value of over eight (8) million EC dollars which could not be explained by his legal income;
- (ii) in order to finance his ownership interest in the said villas which he could not afford on his legal income, the Prime Minister accepted 'gifts, benefits or advantages' in contravention of item 1 (c) of the Code of Conduct; and

(iii) on account of his chairmanship of the Cabinet Meeting on October 9th, 2007 Prime Minister Roosevelt Skerit granted a full suite of concessions to Blaircourt Property Development Limited for the construction of the villas at Guillette, allegedly breaching item 1 (e) of the Code of Conduct since he had used his official influence to secure concessions for a business venture in which he supposedly had an ownership interest.

In accordance with section 32(3) of the Act, the Commission held a hearing on the matter on June 16, 2011 to give the complainant a reasonable opportunity of being heard.

In summary, the Commission held that:

- i. the complaint concerning section 47(1) of the Act was rejected since it was outwith the Code of Conduct and not within the Commission's jurisdiction for the reason that section 47(1) is an offence-creating provision that can only be dealt with by the court. It is only where the Director of Public Prosecutions has instituted and successfully undertaken criminal proceedings against a person in public life that he can be said to have been "found to be in possession of property or pecuniary resources" contrary to the section. The system of our jurisprudence when a person is accused of a criminal offence is accusatorial not inquisitorial. And it is the function of a court of competent jurisdiction to find guilt, and not that of the Integrity Commission;
- ii. the complaint concerning Rule 1(c) of the Code of Conduct could not be proceeded with because it was unparticularized, and not supported by the content of the evidence given; and
- iii. as regards the complaint that Prime Minister Roosevelt Skerit as Chairman of the Cabinet used his official influence to secure concessions for a business venture in which he was alleged to have an ownership interest (i.e. Blaircourt Property Development Ltd.), an investigation was necessary to ascertain whether the Prime Minister had committed a breach of the provision of Rule 1(e) of the Code of Conduct and an inquiry would be held into the matter.

The full text of the Commission's decision on the matter is at Appendix 6.

By letter dated August 16, 2011, Mr. Alick Lawrence wrote to the Commission seeking a review of its decision concerning breach of Rule 1(e) of the Code of Conduct on the following grounds:

- (i) that Mr. Roosevelt Skerit "*was not afforded an opportunity to make representation or comment prior to the Commission's decision*" to investigate Lennox Linton's complaint under Rule 1(e) of the Code of Conduct in breach of the law;
- (ii) "*that wherever necessary to give effect to fairness or prevent unfairness, the law will imply some right to make representations or comment whether*

in writing or orally;" and that "this ought to be the case as the publication by the Commission of a decision to investigate will inevitably have adverse impact and consequences on a person's reputation";

- (iii) that this decision of the Commission was based on a complaint that contained no material particulars or evidence; and
- (iv) that the publication by the Commission of its decision will inevitably have an adverse impact and consequence on the reputation of persons in public life.

By the letter dated August 29th 2011, the Commission informed Mr. Lawrence that the Commission's decision that investigation was necessary to ascertain whether Prime Minister Roosevelt Skerit had committed a breach of Rule 1(e) of the Code of Conduct complied with the provisions of the Act and the fair procedure rules applicable at the preliminary stage of these proceedings; that Prime Minister Roosevelt Skerit would have the fullest opportunity to adequately address the complaint at the inquiry stage under section 33 of the Act; that the decision was not made public by the Commission - it was authorized to be conveyed only to the complainant Lennox Linton and to Prime Minister Roosevelt Skerit; and that the Commission was not in a position to prevent dissemination by the persons to whom the decision was given.

On August 8, 2011, the Commission received a letter from a person in public life, making reference to the publication of his position in the Second Annual Report. The person in public life alluded to his part in a matter involving the 2008 purchase of garbage bins by the Office of the Prime Minister, and requested copies of the letter and emails by the complainant in the matter pursuant to section 32 of the Act. The Commission informed him that since the complaint did not satisfy section 31 of the Act, there was no examination or decision by the Commission under section 32.

5.3 Annual Report 2009/2010

In accordance with section 48 of the Act, the Second Annual Report for the year ending 31st August, 2010 was submitted to the Minister for Legal Affairs by letter of transmittal dated 11th November, 2010. The report was laid in Parliament on March 17, 2011.

5.4 Education

For the year, the Commission held education sessions with:

- (a) the executive of the Dominica Association of Teachers on March 15, 2011;
- (b) the executive of the Dominica Employers Federation on March 23, 2011;
- (c) senior public officers on May 11, 16 and 20, 2011;

- (d) the Executive of the Waterfront and Allied Workers Union on July 13, 2011.

Much interest in the Act and the work of the Commission was generated at those sessions and the general feedback pointed to the value of the education exercises. A number of issues were raised and some queries will be incorporated into the Frequently Asked Questions Handbook.

5.5 Procedures of the Commission - Rules and Manual

During the reporting year, the Commission engaged the services of Consultant Legislative Drafter, Elue John Charles, for the preparation of Rules of Procedure of the Commission under section 58 of the Act. On July 14, 2011, the Commission made the Integrity Commission Rules of Procedure 2011 and forwarded the same for publication in the Official Gazette through the Ministry of Legal Affairs.

The Rules include provisions dealing with Meetings; Complaints, Investigations and Inquiries and General and Miscellaneous Provisions.

In addition, the Commission produced a Manual of Procedure which outlines a step by step procedure for receiving, registering, securing and examining declarations filed by persons in public life and for other matters related thereto.

5.6 Independence and Autonomy

For the financial year 2010/2011, the Commission was not able to utilize funds allocated for official travel on the business of the Commission because of an outstanding matter regarding the travel of the Chairman in January 2010. The Second Annual Report cited section 13 of the Act and noted that certain administrative practices intended for public officers and government departments are being extended to the Commission contrary to the provision of section 13. The Second Annual Report had also noted that there had been no response from the Executive in that regard.

In seeking closure to the matter, the Commission met and discussed it, (along with other matters) with the Minister for Legal Affairs and the Attorney General on March 2, 2011. The Commission invited the cooperation of the Ministry in the determination of the issue, through the submission of an application to the court by way of case stated, whether travel by Commissioners on the business of the Commission is properly subject to prior approval of the Prime Minister. There was no response from the Minister of Legal Affairs or the Attorney General on the matter. The Permanent Secretary of the Ministry of Legal Affairs also indicated that she was unable to sanction payment based on the circumstances and in the absence of a policy directive from the Ministry of Finance.

Commissioners decided to contribute towards the costs of the Chairman's travel from personal funds.

In June 2011, the Chairman, with the approval of the Commission again incurred expenses to travel on the business of the Commission to attend a Conference in St. Lucia. Refund of these expenses from votes of the Commission have not been made because of the absence of approval for travel from the Ministry of Finance on the "Approval for Travel" Form.

5.7 Amendments to the Act

On Wednesday, April 2, 2011, the Commission met with the Minister for Legal Affairs and the Attorney General to review the Commission's suggested amendments to the Act which had been previously submitted to Government in earlier correspondence, namely letters of September 30, 2008, October 10, 2008, September 4, 2009 and May 11, 2010.

More recently, in response to a request from the Prime Minister for contribution towards the preparation of a white paper for public consultation, consolidated recommendations for amendments were submitted to Government. The submission, dated July 1, 2011, is at Appendix 7.

5.8 Other Oversight Institutions

During the year, the Commission met with a number of heads of other oversight institutions in an effort to network with these organizations, and to discuss possible areas for cooperation.

The Commission met the various heads as follows:

December 02, 2010	Mr. Ronald Lander – Head, Financial Intelligence Unit Mr. Irving Williams – Comptroller, Inland Revenue Division
December 16, 2010	Mr. Cyril Carrette – Ag. Chief of Police Mr. Gene Pestaina – Director of Public Prosecutions
January 27, 2011	Dr. Damien Dublin – Chairman, Public Service Commission
April 28, 2011	Mr. Clarence Christian - Director of Audit

All the discussions were very cordial and served to establish working relationships with the various institutions.

5.9 Library

The Commission maintains a library of reference books to assist its work. Relevant updates are done, particularly with the assistance of the Commonwealth Secretariat and the International Law Book Facility.

The Commission has a collection of texts, reports and reference tools such as legal dictionaries, reports, statutes, digest and forms and precedents on various subjects of the Law which enhance the Commission's collection making it thorough and comprehensive, though small.

The Library is available for use by all persons in public life, the media, and other interested persons having regard to the confidentiality requirements of the Office.

On 31st April, 2010 the cataloguing, classifying and proper arrangement of the Commission's library was brought up to standard according to the Moys Classification Scheme.

5.10 Website

With the assistance of the Information Communication and Technology (ICT) unit of the Establishment Department, the Commission has commenced work on developing a Website. The site is expected to be operational by September 2011.

5.11 Regional developments

Over the period June 7 – 9, 2011, the Chairman of the Commission was invited to attend a seminar in St. Lucia on 'Understanding the roles and functions of public and private sectors in promoting good governance'. The main facilitator at the seminar was Dr. Roger Koranteng, Governance Advisor at the Commonwealth Secretariat.

In his presentation to the seminar, Chairman, Mr. Julian Johnson, highlighted the vision, mission, mandate, programme and challenges facing the Commission, and told the gathering that the way forward for the Commissions lay in the appointment of adequately trained personnel, the strengthening of integrity and anti-corruption laws and continuous training for staff and Commissioners.

At the seminar, Chairmen of the Integrity Commissions of St. Lucia, Trinidad and Tobago and Dominica discussed the possibility of the establishment of a Caribbean Association of Integrity Commissions which would be supported by the Commonwealth Secretariat. The Association would be a forum for the development of best practice, networking and to consider the harmonization of integrity legislation which would include provisions governing:

- i. jurisdiction;

- ii. independence;
- iii. adequate resources - human and material (high quality professional staff in the fields of law, forensic accountancy, and corruption investigation skills) under the control of the Commission;
- iv. tenure security of members;
- v. Commission to report directly to Parliament; and
- vi. Whistleblower protection.

The Chairman was asked to be part of a Committee to facilitate the establishment of the Association.

The Commission continues to keep abreast with the activities of sister organizations. While these organizations are founded on the same basic principles and to the same end, there are differences in legislation and in structure. By way of information, the following table (Table 10) compares the size and structure of integrity organizations in the Region.

Country/Commission	Members of Staff	No. of persons in public life	Size of Commission
Antigua – Integrity Commission	2	300	3
Trinidad – Integrity Commission	48	1200	5
Jamaica – Commission for the Prevention of Corruption	25	26,000	5
St. Lucia – Integrity Commission	1	165	5
Dominica – Integrity Commission	5	159	7
Bahamas – Public Disclosure Commission	3	NA	3

Table 10: Comparison of the basic structures of regional Commissions

5.12 Budget and Finance

The office of the Commission is run on funds provided by Government, and in that regard, is subject to the Finance (Administration) Act.

In an effort to further ensure all necessary checks and balances with regard to its expenditure, the Commission developed a financial policy that allows as follows:

- a yearly work/activity programme, which sets out in detail the several projects and activities that will be undertaken from budget funds;
- a monthly disbursement programme that projects all major procurement during the month; and
- monthly performance reports.

The 2010/2011 approved budget was six hundred and fifty-three thousand, nine hundred and ninety-eight dollars (EC\$653,998). It did not include allocations for utility arrangements since these were met by the Government departments responsible for utilities and for rent which is managed by the Ministry of Legal Affairs.

The following table (Table 11) compares budgetary and actual figures for 2010/2011 and actual figures for 2009/2010. The variance noted in the area of Personal Emoluments represents savings accrued when positions on staff and the Commission were vacant. The variance in the area of Professional and Consultancy represents virements to that head to meet unforeseen expenditure for legal services.

Expenditure Head	Actual 2010/2011	Budgeted 2010/2011	Actual 2009/2010
Personal emoluments (PE)	483,734	525,229	376,340
Wages	290	14,000	0
Hosting and entertainment	1,283	1,500	0
Allowances	39,614	41,370	32,377
International travel	1,068	16,500	65
Supplies and materials	17,610	19,000	19,072
Training	0	0	0
Rewards and Incentives	0	0	0
Utilities	0	0	0
Rental of Assets	0	0	41,400
Maintenance & Operations	4,994	6,900	853
Professional & consultancy	25,750	15,000	10,000
Insurance	1,110	1,500	1,110
Sundry	9,336	9,000	11,481
Machinery and equipment	3,290	4,000	0
Total	588,079	653,999	492,698

Table 11: Integrity Commission – Approved Estimates to 2012

5.13 Condolence

The Commission noted with profound regret the passing of Professor Ralph Carnegie who it had the privilege of consulting in 2009 and whose advice had assisted in its deliberations. Professor Carnegie passed on January 7, 2011. The Commission extended condolences to Professor Carnegie's family and the staff of the Caribbean Law Institute.

6. ACKNOWLEDGEMENTS

The Commission acknowledges with gratitude the assistance of a number of persons and institutions that have assisted in its work for the year under review. Thanks are extended to:

- The Government and Integrity Commission of St. Lucia
- Unites States Embassy
- Attorney at Law, Kevin Williams
- Consultant Legislative Drafter, Elue John Charles
- Director of Public Prosecutions
- Director of Audit
- Chief Personnel Officer
- Head of the Financial Intelligence Unit
- Honourable Attorney General
- Honourable Minister for Legal Affairs
- Chief of Police (Ag.)
- Comptroller of Inland Revenue
- Chairman of the Public Service Commission
- Executive of the Dominica Association of Teachers
- Executive of the Dominica Association of Industry and Commerce
- Executive of the Waterfront and Allied Workers Union
- Executive of the Dominica Employers Federation
- Staff of the Commission.

SIGNED:

.....
JULIAN N. JOHNSON - CHAIRMAN

.....
ALICK LAZARE – MEMBER

.....
WENDELL LAWRENCE – MEMBER

.....
DAVIDSON BRUNEY – MEMBER

.....
ANTHONY P. LA RONDE – MEMBER

.....
GERALD SMITH – MEMBER

.....
HENRY DYER – MEMBER

APPENDICES

Appendix 1: List of persons in public life as at December 31, 2010**Advisors/Assistant**

1	Fagan, Mandra	Special Assistant to the Prime Minister (Past)
2	Lambert, Edward	Advisor, Prime Minister
3	Maynard, Charles	Advisor, CARICOM and OECS Support Unit

Chairman of a Public Institution

1	Aird, Gerry	Chairman, DASPA (Past)
2	Alleyne, Sir Brian	Chairman, Education Appeals Board (Past)
3	Bardouille, Larry	Chairman, DOWASCO
4	Birmingham, Marvlyn	Chairman, Mental Health Review Board
5	Brumant, Heskeith	Chairman, Investment Committee, DSS
6	Burnette-Biscombe, Anthony	Chairman, Bureau of Standards
7	Burton, Gerald	Chairman, Customs Appeals Board & Electoral Comm.
8	Carl, Duncan	Chairman, Independent Regulatory Commission (Past)
9	Dublin, Damian	Chairman, Public Service Commission
10	Fevrier, Willie	Chairman, Education Trust Fund
11	George, Margaret	Chairman, DEXIA
12	Grell, Gerald	Chairman, Dominica State College
13	Jno. Charles, Vanoulst	Chairman, Police Service Commission
14	John, Clem	Chairman, Prison Visiting Justices Committee
15	Johnson, Julian N	Chairman, Integrity Commission
16	Jolly, Aurelius	Chairman, D.B.S
17	Joseph, Francis	Chairman, Council of Early Childhood Education
18	Joseph, Hubert (Micky)	Chairman, Social Security
19	Lambert, Eleanor	Chairman, Food and Nutrition Council
20	Lawrence, Angela	Chairman, General Nursing Council
21	Le Blanc, Anthony	Chairman, Board of Engineering
22	Leevy, Tara	Chairman, Hospital and Health Care Facilities (Past)
23	Munroe, Ian	Chairman, Dominica Broadcasting Service
24	Nassief, Yvor	Chairman, Invest Dominica
25	Pemberton, Patrick	Chairman, Public Works Corporation
26	Prevost, Joan	Chairman, Public Service Board of Appeal
27	Shillingford, Dorian	Chairman, Medical Board
28	Shillingford-Tonge, Juliette	Chairman, Development and Planning Corporation
29	Southwell, Dermott	Chairman, DASPA
30	Sylvester, Ambrose	Chairman, AID Bank
31	Tavenier, Gloria	Chairman, Public Works Corporation (Past)
32	Thomas, Errol	Chairman, Advisory Council on Misuse of Drugs
33	Thomas, Felix	Chairman, Housing Loans Board
34	Williams, Eliud	Chairman, Independent Regulatory Commission
35	Winston, Curtis	Chairman, NTRC

Chief Technical Officer

1	Blackmoore, Donille	President's Secretary
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2	Corbette, Charles	Development Officer
3	Edwards, Annie	Senior Physical Planner
4	Ferrol, Eleanor	Secretary, Public Service Commission
5	Fontaine, John	Local Government Commissioner
6	Henderson, Edward	Chief Technical Officer, Tourism
7	Hyacinth, Steve	Chief Education Officer and Chairman, Accreditation Board
8	Johnson, Dr. David	Chief Medical Officer
9	Johnson, Kendall	Chief Technical Officer, Public Works
10	Jules, Deidre	Clerk House of Assembly (A.G) (Past)
11	Lawrence, Raymond	Chief Cultural Officer
12	Leblanc, Mathew	Labour Commissioner
13	Magloire, Andrew	Chief Fisheries Officer
14	Phillip, Alex	Clerk, House of Assembly (Past)
15	Roberts, Claudine	Local Government Commissioner (Ag.)
16	Rolle, Kelvin	Chief Physical Planner (Past)
17	Rolle, Maria	Clerk House of Assembly (A.G) (Past)
18	Scotland-Andrew, Mayna	Chief Protocol Officer
19	Williams, Merina	Chief Elections Officer
20	Williams, Valencia	Hospital Services Co-ordinator
21	Xavier, Rupert Boniface	Chief Environmental Health Officer

Fire Officers

1	Dupuis, Josiah	Chief Fire officer
2	Eusebe, Jones	Deputy Chief Fire Officer

General Manager of a Public Institution

1	Bardouille, Benoit	General Manager, DASPA
2	Dailey, Julius	General Manager, Public Works Corporation
3	Ettinoffe, Bernard	General Manager, DOWASCO
4	Scotland, Anthony	General Manager, Solid Waste Management
5	Thomas, Gregoire	General Manager, DEXIA
6	Thomas, Kingsley	General Manager, AID Bank
7	Warrington, Mariette	General Manager, Dominica Broadcasting Service

Gazetted Police Officers

1	Albert, Patrickson	Asst. Superintendent of Police
2	Alexander, Yvonne	Asst. Superintendent of Police
3	Andrew, David	Asst. Superintendent of Police
4	Carbon, Daniel	Asst. Superintendent of Police
5	Carrette, Cyril	Commissioner of Police (Ag) & Chairman Transport Board
6	David, John	Asst. Superintendent of Police
7	Defoe, Antoine	Asst. Superintendent of Police
8	George, Nicholas	Superintendent of Police
9	Irish, Ainsworth	Asst. Superintendent of Police
10	Jno.Baptiste, Hobbs	Deputy Commissioner of Police
11	Lestrade, Mathias	Commissioner of Police (Past)
12	Severin, Duke	Superintendent of Police

Managing Director of a Public Institution

1	Allport, Richard	Director of Agriculture
2	Bannis, Jacinta	Director, Drug Prevention Unit
3	Benjamin, Griffin	Director, Primary Health Care (Past)
4	Blanc, Ruby	Hospital Medical Director (Ag)
5	Browne, Rosie	Director, Women's Bureau
6	Burton, Minchinton	Director of Forestry
7	Bynoe, Brian Vernon	Director of Surveys (Past)
8	Cadette, Sylvester	Director of Telecommunications
9	Douglas, Eisenhower	Director of Trade
10	Jean-Jacques-Thomas, Janice	Director, Social Security
11	John, Steve	Director, Bureau of Standards
12	Lestrade Marcus	Director of Surveys
13	Letang, Rhoda	Executive Director, Invest Dominica
14	Magloire-Akpa, Sonia	Director, Political Affairs
15	Monell, Al	Director, Financial Services Unit
16	Piper, Colin	Director, Discover Dominica

Member of the House of Assembly

1	Baptiste, Dayton	Senator
2	Baron-Royer, Francine	Attorney General (Past)
3	Bazil, Ezekiel	Senator
4	Browne, Abraham	Member of House of Assembly (Past)
5	Carbon, Peter	Member of House of Assembly (Past)
6	Charles, Norris	Member of House of Assembly
7	Esprit, Nicholls	Senator (Past)
8	Green, Ronald	Senator
9	Isidore, Ronald	Senator
10	James, Edison	Member of House of Assembly
11	Jean-Jacques, Tammy	Senator
12	John, Hector	Member of House of Assembly
13	Martin, Sam	Parliamentary Representative of Soufriere
14	Nicholas, Marcel	Senator (Past)
15	Peter, Levi	Attorney General
16	Prevost, Norris	Member of House of Assembly
17	Royer, Bentley	Senator
18	Sanford, Claudius	Senator
19	Toulon, Ronald	Member of House of Assembly
20	Williams, Earl	Member of House of Assembly (Past)
21	Williams, Sabina	Member of House of Assembly (Past)

Minister of Government

1	Austrie, Reginald	Minister for Communications and Housing
2	Bannis- Roberts, Loreen	Minister for Community Development (Past)
3	Bernard, Alvin	Minister of State in the Ministry of Foreign Affairs

4	Blackmoore, Rayburn	Minister for Public Works, Energy and Ports
5	Charles, Justina	Minister for Culture, Youth and Sports
6	Darroux, Kenneth	Minister for Environment & Natural Resources
7	Douglas, Ian	Minister for Tourism and Legal Affairs
8	Fabien, John	Minister for Health (Past)
9	George, Ambrose	Minister for Information, Telecommunication and Constit. Empow.
10	Graneau, Ashton	Minister for Carib Affairs
11	Graneau, Kelly	Minister for Carib Affairs (Past)
12	Henderson, Vince	Minister for Foreign Affairs (Past)
13	McIntyre, Colin	Minister for Trade
14	Savarin, Charles	Minister for National Security
15	Shillingford, Gloria	Minister for Social Services, Community Development & Gender Affairs
16	Skerrit, Roosevelt	Prime Minister and Minister for Finance
17	St. Jean, Petter	Minister for Education
18	Timothy, Julius	Minister for Health
19	Walter, Matthew	Minister for Agriculture
20	Williams, Sonia	Minister for Education (Past)
Parliamentary Secretary		
1	Baron, Urban	Parliamentary Secretary (Past)
2	Darroux, Kelvar	Parliamentary Secretary in the Office of the Prime Minister
3	Drigo, Johnson	Parliamentary Secretary in the Ministry of Public Works
4	Pinard, Ian	Parliamentary Secretary (Past)
5	Stephenson, Ivor	Parliamentary Secretary in the Ministry of Housing & Lands
Permanent Secretary (PS)		
1	Celaire, Rhoda	PS, Communications and Housing
2	Allport, Ruth	PS, Community Development
3	Bellot, Claudia	PS, Agriculture
4	Bruno, Nicholas	PS, National Security
5	Carrette, Samuel	PS, Agriculture
6	Edwards, Irma	Chief Personnel Officer
7	Edwards, Rosemund	Financial Secretary
8	Ferrol, Steve	PS, Foreign Affairs and Trade
9	Gregoire, Felix	Secretary to Cabinet
10	Lafond, Jennifer	PS, Education & Chairman Student Loan Advisory Committee
11	Letang, Davis	PS, Health & Chairman, Solid Waste Management
12	Philbert, Vincent	PS, Public Utilities & Chairman, Airport Development (Past)
13	Thomas, Esther	PS, Tourism and Legal Affairs
14	Blackmoore, Lucien	PS, Public Works, Energy and Ports
Prison Officers		
1	Charter, Algernon	Superintendent of Prisons
2	Blanc, Denis	Assistant Superintendent of Prisons
Speaker of the House of Assembly		
1	Boyd-Knights, Alix	Speaker, House of Assembly

Appendix 2:**Profiles of Members of the Integrity Commission****CHAIRMAN - JULIAN N. JOHNSON**

Julian N. Johnson, a Barrister-at-Law, Solicitor, Mediator of the Eastern Caribbean Supreme Court and Notary Public, has held acting appointments in the office of Registrar General of the Supreme Court in Dominica and in the British Virgin Islands. He was called to the Bar in Dominica and Tortola, British Virgin Islands in 1988. He entered the public service in September 1964, was appointed a Permanent Secretary in 1979 and held the offices of Chief Personnel Officer and of Secretary to the Cabinet and Head of the Public Service for 13 years before his retirement in August 2004. He has also served as a part-time tutor in Political Science in the Department of Government at the University of the West Indies on all three campuses and in Constitutional and Administrative Law at the School of Continuing Education, U.W.I. Dominica in 1990-1991.

His forty years experience in public service spans a spectrum of diplomacy (attending with Prime Ministers and Ministers at regional and international meetings and conferences in the major bilateral and multilateral fora) public management, teaching and human resource development, consumer protection supplies control and disaster management, legal consultancy and research in constitutional and administrative law, including the jurisdiction and functions of the major oversight institutions of the Constitution. He served as Dominica's representative on the Executive Board of UNESCO from April 2004 to October 2005 and as Chairman of the National Telecommunications Regulatory Commission (NTRC) from April 2004 to August 2008, Chairman of the Public Service Board of Appeal (April 2005 – April 2008) and Chairman of the Business Environment Task Force (2005 - 2006). In June 2010, Mr. Johnson was appointed Honorary Consul of the Republic of Finland to the Commonwealth of Dominica.

He holds a Bachelor of Science degree in Economics (Hons) UWI, Jamaica, (1970), a Certificate in Multi-Lateral Diplomacy from the United National Institute for Training Research (UNITAR), New York, Geneva and Vienna, (1980), a Bachelor of Laws (LLB) U.W.I, Barbados, (1985) and a Certificate in Legal Education from Hugh Wooding Law School, Trinidad & Tobago(1987).

He has written several papers including "Constitution Review in St. Vincent and the Grenadines – Some Point to Consider" (May 2003), "Legal Imperatives for Managers" (1999) "Constitutional Democracy: Responsible Government" (2000) and "The Doctrine of Ministerial Responsibility and the Position and Functions of a Permanent Secretary in Dominica" (U.W.I. Cave Hill 1985).

In November 2002 he was awarded the Sisserou Award of Honour for meritorious public service to the Commonwealth of Dominica.

MEMBER - ALICK LAZARE

Alick Lazare has more than fifty years experience in public sector management in the Caribbean. He has held senior positions in the service of the Government of Dominica, including that of Financial Secretary and Fiscal Advisor, and has, since retirement in 1994, served as a consultant in public finance and management within the Caribbean.

He is a senior member of the civil service fraternity in the OECS with considerable experience concerning how economic management works in the region. As a consultant and advisor he has provided support to a number of regional and international institutions (including the Caribbean Development Bank, the Eastern Caribbean Central Bank, The World Bank, International Monetary Fund, UNDP, CIDA and USAID) in various aspects of public sector reform and economic management.

A major part of his work in the region supported reforms in public sector financial management policies and legislation, with particular emphasis on transparency and accountability in the transacting of public sector business. His work in reforming public finance legislation has been widely recognized.

In November, 1981 He was awarded the Sisserou Award of Honour for meritorious public service to the Commonwealth of Dominica.

MEMBER - WENDELL ALPHONSUS LAWRENCE

Wendell Alphonsus Lawrence was born at Pottersville, Dominica, in 1936. He was a 1954 Island Scholar and holds a Bachelor's degree in Civil Engineering (1959) from McGill University and a Diploma in Public Administration (1964) from the University of the West Indies. He served as a civil engineer in the Public Works Department from 1959 resigning as its Chief Technical Officer in 1975. He then went to the Caribbean Development Bank in Barbados where he worked from 1975 retiring as its Deputy Director, Productive Sector Division in 1998. He returned to Dominica that same year and became very involved in Church activity and various projects. He was made a member of the Integrity Commission in May 2009 for a three-year period. He was awarded the Order of the British Empire (OBE) in 1973.

MEMBER - DAVIDSON BRUNEY

Davidson A. Bruney is a graduate of the University of the West Indies. He is the holder of a Bachelors Degree in Physics, Mathematics and Computer Science. He has lectured/taught at several institutions in Dominica including the Dominica Grammar School, the Dominica State College, and the Orion Academy. He has also done short stints at the Wesley High School and the St. Mary's Academy.

Mr Bruney is also a Computer Consultant specialising in Application Software including software relating to Computer Aided Design and Draughting, Desktop Publishing, Website Design and e-Learning.

He has been very much involved in media work particularly in publishing. He served as Senior Information Officer with the Government of Dominica for the period 1995 to 1999.

MEMBER - ANTHONY P. LA RONDE

Anthony P. La Ronde, Barrister at Law, Solicitor and Notary Public was called to the Bar of the Eastern Caribbean Supreme Court (Dominica) in 1985.

He holds a B.A. General and B.A. Honours in History from the University of Waterloo, with a minor in Political Science. He read law at the University of the West Indies, Cave Hill Campus, Barbados and was awarded the LLB. Thereafter he obtained the Legal Education Certificate from the Hugh Wooding Law School in Trinidad and Tobago. Mr. La Ronde pursued post graduate studies at the University of the West Indies, Cave Hill Campus, Barbados. He holds an advanced Diploma in legislative drafting.

From 1971 to 2002 Mr. La Ronde worked in the public service of the Commonwealth of Dominica first as a teacher at the primary and high school levels and thereafter as a Barrister at law and Solicitor.

Mr. La Ronde has been a Teaching Assistant in History at the University of Waterloo and a Tutor in Law at the University of the West Indies - Cave Hill Campus and in Political Science at the St Augustine Campus in Trinidad. He lectured in Law at the University of Guyana.

As a Barrister at Law and Solicitor he held the positions, on full establishment, as a State Attorney, Parliamentary Draftsman, Chief Parliamentary Draftsman and Attorney General in the Commonwealth of Dominica. As the Attorney General he was a Member of Parliament and the Cabinet of the Commonwealth of Dominica from 1995 to 2002. He also held temporary appointments as Magistrate, Registrar General of the Supreme Court and Director of Public Prosecutions.

From 2003 he was a Senior Draftsperson - Legal Consultant at the CARICOM Secretariat in Georgetown, Guyana. From 2005 to 2009 he was the Officer in Charge/Director of the CARICOM Legislative Drafting Facility at the Secretariat.

Mr. La Ronde holds five specialist Practice Diplomas from the International Bar Association and the College of Law of England and Wales. The Specialist Practice Diplomas are in the following areas:

- International Business Organizations
- International Mergers and Acquisitions
- International Joint Ventures
- International Arbitration
- International Competition Law

Consequently he was made a FELLOW of the International Bar Association on the 18th day of October, 2007.

Mr. La Ronde has been involved in numerous regional and international negotiations. As a legal practitioner he has appeared before the Magistrate's Court, the High Court, the Court of Appeal and the Caribbean Court of Justice.

MEMBER - GERALD SMITH

Gerald Smith was born on January 24, 1940 and is practicing accountant. He obtained training in this field from his studies at British technical colleges from 1971 to 1976 and from his employment in the Dominica civil service from 1961 to 1986 when he retired as an accountant and practiced accounting privately from 1986 to present. He is a member of the Institute of Chartered Accountants of the Eastern Caribbean (D/ca Branch) from 2007. He served as a Member on the Income Tax Appeal Commission for five years (1995 to 200). He is married with two children.

MEMBER - HENRY DYER

Henry George Dyer, L.L.B. (HONS) C.L.E, S.A.H. born on the 27th day of January 1939, in the town of Roseau, in the Parish of St. George, in the Commonwealth of Dominica.

Mr. Dyer attended the Dominica Grammar School, and Ryerson Institute (now Ryerson University) of Toronto, Canada, where he graduated with a Certificate in Business Administration, in 1965.

In 1973, he graduated with a L.L.B (HONS) Degree from the Law Faculty of University of the West Indies, and in 1975, he graduated with a Legal education Certificate at the Sir Hugh Wooding Law School in Trinidad and Tobago.

He was the Minister of Communication and Works and Tourism, in the Government of Dominica from 1980-1983. He held the Post of Vice President of the Dominica Bar Association and Vice Chairman of the Human Rights Institute of the International Bar Association.

He held the posts of Attorney General of Dominica and Minister of Labour and Immigration, Registrar of the Supreme Court in Dominica and Senior Crown Counsel in the Attorney General Chambers in Barbados, Director of Public Prosecutions Dominica. He was Chairman of the Planning Appeals Board in Dominica, Deputy Chairman of the Dominica Social Security Board and Deputy Chairman of the Dominica Water Authority.

He held the post of President of the Roseau Co-operative Credit Union for 4 years. He was also a Director of the O.E.C.S. Home Mortgage Bank in St. Kitts.

He was inducted into the WHO's WHO Historical Society of the U.S.A. for his Professional Accomplishment for the period 2001-2001. He received the 2nd highest Award, the Sisserou Award of Honour in Dominica.

He was inducted in the Order of the International Ambassadors at the 2010 World Forum at St. John's College Cambridge England where he received a Gold Medal. He delivered a paper on the need for the *De-Linking of Dominica from the Privy Council*, which was organized by the American Biographical Institute and the International Biographical Centre, England.

He has represented Dominica and the Cava Hill Campus of the University of the West Indies in both Football and Cricket and was Captain of the Commonwealth Cricket Club of Toronto, Canada, Captain of both Cricket and Football of the Blackburn Sports Club of Roseau, Dominica.

MEMBER - MRS. PATRICIA INGLIS (up to March 15, 2011)

Mrs. Patricia Inglis established the first French Bank in the English Speaking Caribbean in 1978 and served as the General Manager from 1978 to 1998. Besides her wide experience in Banking she has served on numerous boards and institutions in the Commonwealth of Dominica. She also served as President of the Dominica Association of Industry and Commerce for a period of eight years.

She was appointed Honorary French Consul to the Commonwealth of Dominica in 1997 and served in that category for ten years.

Mrs. Inglis currently serves as a Commissioner in the Integrity Commission, Commonwealth of Dominica. With over thirty years of experience at a senior level Mrs. Inglis provides services to clients in the area of commercial banking operations, management services and other operational requirements.

MEMBER - MR. GEORGE WILLIAMS (Up to May 30, 2011)

George E. Williams brings to the Integrity Commission more than fifty (50) years of public service at the local, regional and international levels. Following a brief period (1962 -1963) as an assistant lecturer in a London Polytechnic he joined the economics staff of the Commonwealth Secretariat and worked on a range of Commonwealth economic issues. Later he became the first Executive Secretary of the Regional Development Agency of the then West Indies (Associated States) and Barbados which had been established in 1968 under the sponsorship of the United Kingdom, United States of America, Canada and the World Bank to promote economic development and co-operation in the sub-region as part of the efforts to bring the Windwards and Leewards to self-government, following the collapse of the West Indies Federation. He played a lead role in the establishment of the East Caribbean Common Market, now part of the OECS, and was its first Executive Secretary. In that capacity he participated in much of the technical work and inter-governmental consultations and negotiations leading to the establishment of the various regional organizations and institutions that are now features of the regional integration process in the Caribbean.

He joined the United Nations Conference on Trade and Development (UNCTAD) in 1979, serving first as an economic adviser in West Africa (Sierra Leon, Liberia, and Guinea) where he promoted economic corporation among these countries and between them and other African countries. In 1982 he joined the UNCTAD staff at the headquarters in Geneva, Switzerland, first as a senior trade analyst and, two years later, as an Inter-regional Adviser on trade expansion and economic corporation among developing countries, including advice and assistance to these countries in their negotiations with developed countries, especially in the World Trade Organization (WTO).

He retired from the United Nations in 1995 and a year later was appointed Dominica's High Commissioner in London and Non-Resident Ambassador to a number of European countries; Permanent Representative to UNESCO in Paris and Permanent delegate to WTO in Geneva. He retired from public office in 2002.

MEMBER - SIR BRIAN ALLEYNE (Up to March 10, 2011)

Sir Brian Alleyne was admitted to the English Bar at Lincoln's Inn, London, on 10th November 1966, and to the Dominica Bar in January 1967. He was elevated to the rank of Senior Counsel in March 1991. He served as a Senator and Attorney General of Dominica during the term of the interim government from June 1979 to January 1980, and again from 1985 to 1990.

Sir Brian practiced as a barrister at law in Dominica from 1966 until his elevation to the bench of the Eastern Caribbean Supreme Court in July 1996. His practice covered areas of civil, criminal, constitutional and human rights law, and he was also a member of various public and private sector boards. He frequently contributed to public discourse through newspaper articles and speeches, panel discussions and public debates.

He was the Member of Parliament for the Mahaut constituency from June 1980 until June 1996, when he resigned to take up his judicial appointment. He was also very active in Church ministry, particularly through the Marriage and Engaged Encounter movements for many years until his departure from Dominica in July 1996. While in government he held several ministerial appointments and represented Dominica at many international conferences, including the General Assemblies of the United Nations and the Organization of American States.

He was a member of the Executive Committee of the Commonwealth Parliamentary Association for the Caribbean, Americas and Atlantic Region. He served as Leader of the Opposition in the Parliament of Dominica, and was a member of the Commonwealth Observer Group at the first multi-party elections in 1995 in Tanzania. He was the Political Leader of the Dominica Freedom Party in 1995/1996.

Sir Brian served as a High Court Judge in Grenada from 1996 to 2002, and in St. Vincent and the Grenadines until August 2003, when he was appointed to the Court of Appeal. He served as acting Chief Justice of the Eastern Caribbean Supreme Court from March 2005 until his retirement from the bench in April 2008, at which time he returned home to Dominica.

While at the Bar Sir Brian was active in the local Bar Association as well as in the Organization of Commonwealth Caribbean Bar Associations. He was also a director of the Caribbean Human Rights and Legal Aid Company, and spent much of his professional time on *pro bono* work. He is married with three adult children

Appendix 3:

Restructuring the Integrity Commission

1.0 BACKGROUND

The Integrity Commission began operations on 2nd. September, 2008.

As prescribed in section 4 of the Act, the Commission comprised of seven members as follows:

Mr. Julian Johnson	Chairman
Sir Brian Alleyne	
Mrs. Patricia Inglis	
Mr. Wendell Lawrence	
Mr. Alick Lazare	
Mr. Gerald Smith	
Mr. George Williams	

Three committees were established for the purpose of carrying out the functions of the Commission:

- The Rules Committee has responsibility to keep under review the legal framework within which the Commission is mandated to operate, and to develop rules and procedures for performing its functions.
- The Finance and Administration (F&A) Committee has responsibility to oversee the administration of the Commission (including the selection of senior staff and the management of the annual budget), as well as to conduct preliminary examination of all declarations filed and to make recommendations to the Commission.
- The Education Committee has responsibility for organizing public education programmes with the aim of informing the public on matters relating to the work of the Commission, the importance of integrity and probity in public life, and the role that civil society must play in this regard.

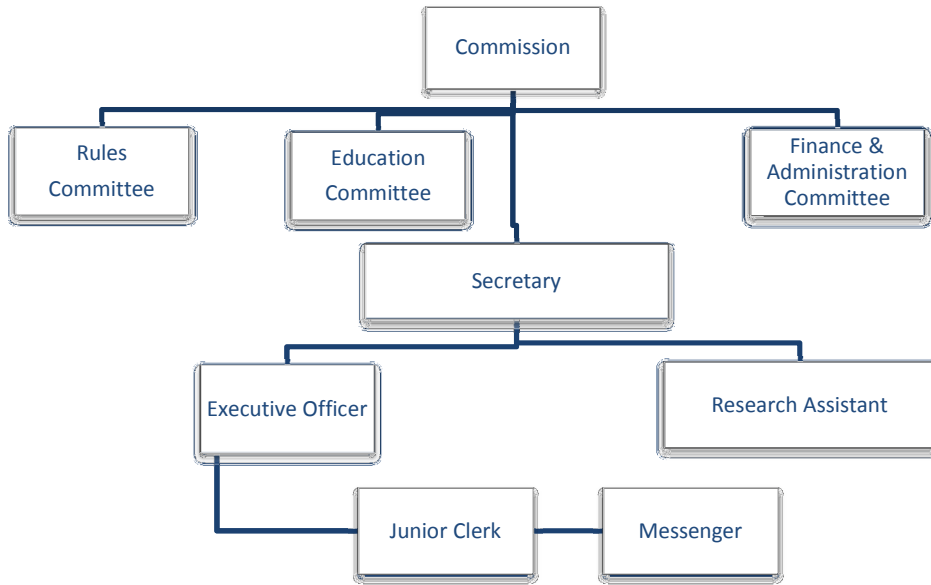
The Commission was organized with an establishment of five as follows:

	<u>Grade</u>
Secretary	E
Research Assistant	F
Executive Officer	(14-12)
Junior Clerk	(28-18)
Messenger	(31-22)

The Commission's staff structure was designed on the presumption that the functions of the Secretary as detailed at section 12 of the Act encompassed the full range of the activities implicit in the several provisions of the Act.

The Rules and the Education Committees are supported directly by the Secretary, and the F&A Committee is supported by the Research Assistant.

Figure 1 shows the organization structure of the Commission.



2.0 REVIEW OF THE ORGANIZATION

The Commission experienced major difficulties in carrying out its functions, especially the more technical aspects of following legal processes, financial analysis and investigative research. These difficulties arose partly from delays in responding to recommendations made by the Commission for the appointment of staff and partly from the unavailability of candidates with the required skills and qualifications. This led to the Commission reporting at the end of its second year of operation as follows:

Staff recruitment continues to be an area of difficulty due to the requirement that the staff be public officers. This means that in accordance with section 85 of the Constitution they must be appointed by the PSC. In a small operation the size of the Commission's staffing positions cannot remain vacant without there being serious negative impacts on overall efficiency. Yet PSC procedures inevitably result in long delays in filling posts even after the Commission has forwarded candidates for appointment after they have been interviewed and otherwise vetted by the Commission. In a few cases by the time an offer of appointment was made the candidate was no longer available. In one case an acting appointment was made after the substantive holder of the post was already back from leave.

Furthermore in order to fulfill its statutory functions the Commission is expected, indeed required, to perform investigative work. Under section 53 the Commission is empowered to request the Assistance of the Commissioner of police in connection with the performance of its functions, and the Commissioner of Police "shall provide or ensure the provision of such assistance". The Commission is of the view that it should be provided with investigative capabilities of its own or budgetary resources to engage such services when needed, and at its sole discretion.

For the reasons stated above the Commission considers that the Act should be amended to provide that the staff of the Commission should be appointed and removed by the President on the advice of the Commission (section 70 of the Constitution) or that these powers be given to the Commission itself. In this latter case the Establishment and Personnel Department in consultation with the Commission could set in advance the composition of the Commission's staff and the remuneration payable to holders of the various staff positions, leaving to the Commission to recruit manage and exercise disciplinary control over staff. This would help to guarantee the independence of the organization by making the process of appointment of staff free from political considerations.

The Commission is of the view that in order to give full effect to Parliament's intention spelt out in sections 49(1) and 13 of the Act, the Commission should be given the responsibility to appoint or employ and exercise disciplinary control over the staff necessary for the discharge of its functions, in accordance with the budget approved by Parliament.

The Commission considers therefore, that the Act should be amended to provide that the staff of the Commission should be appointed and removed by the President on the advice of the Commission (Section 70 of the Constitution) or that these powers be given to the Commission itself. For example, under the Jamaica Corruption (Prevention) Act 2000, the Commission is empowered to appoint or employ such officers and employees necessary for the proper carrying out of its functions under the Act of 2000.

The Commission experienced considerable difficulties in recruiting an appropriate officer to this office at the end of Mrs. Alex Phillip's appointment as the first Secretary on June 9, 2009. An appointment in the person of Ms. Helen Ambo was finally achieved only on 1st August 2010, fourteen (14) months after the departure of Mrs. Phillip.

Section 12 of the Act provides for the appointment of a Secretary with duties to include attendance at meetings of the Commission, recording of minutes of each meeting in proper form and generally performing duties connected with the work of the Commission. In reality, the Secretary is expected to perform the functions of chief executive officer of the Commission and to be responsible for the supervision of all staff as well as the management of all functions of the Commission, under the direction of the Chairman.

After the first two years of operation it became quite evident that the organization and staffing of the Commission was inadequate to carry out efficiently the full range of functions and responsibilities assigned to it under the Act. An organization review was carried out to identify deficiencies that affect the work of the Commission.

The full scope of the functions and activities as set out in section 9 and in various sections of the Act have been identified, allocated to organizational categories, and are shown at Appendix 2. It was evident that the statutory duties assigned by section 12 of the Act to the Secretary, and the general duties assigned to support staff as given in the current job descriptions at Appendix 1, did not sufficiently address the full scope of the functions of the Commission. In the circumstances, some of the more vital areas of its operations had to be carried out directly by members of the Commission.

A Country Procurement Assessment Report published by the World Bank (Report No. 30975-DM) dated June, 2003 recommended as follows:

*Art. 49 of the Act requires that the Commission has adequate staff to carry out its assigned responsibilities. It is critical that **high level professional staff with legal and auditing background and familiarity with procurement be hired and adequately paid**. As it is unlikely that local staff with significant skills and experience can be identified, it is essential that the new staff receive substantial training on administrative and enforcement of ethical systems including appropriate forensic auditing and other investigative techniques. (Emphasis added)*

3.0 ANALYSIS AND RECOMMENDATIONS

The Commission

In its report for financial year ending 31st. August 2009, the Commission recommended as follows:

The Commission established by section 4 of the IPO Act 2003 consists of seven persons, a Chairman and six other members, of which two are appointed on the advice of the Prime Minister and two on the advice of the Opposition.

The Commission is of the view that the Commission in Dominica should consist of five persons, a Chairman and four other members, and that the IPO Act 2003 should be amended by substituting "one" for "two" before "members" in section 4(1)(b) and (c).

In Trinidad & Tobago and Jamaica the Commissions consist of five members (including the Chairman) appointed by the Head of State after consultation with the Prime Minister and the Leader of the Opposition. (Four appointed members in the case of Jamaica as the Auditor General is an ex-officio member).

In St. Lucia the Commission consists of a Chairperson "and not less than two or more than four other members". All are appointed by the Governor General on the advice of the Prime Minister who is required to consult with the Leader of the Opposition before tendering any advice to the Governor General.

In Antigua the Commission consists of a Chairman and two other members appointed by the Governor General acting in his own discretion.

Staff

Given the important oversight and quasi-judicial functions that the Act imposes on the Commission, it is vital that its structure and organization be adequate to provide for the work that it has to do. The work of the Commission requires a high level of support in legal analysis, research and writing both in substantive and procedural matters as well as careful preparation for and scheduling of hearings, tribunals and enquiries.

Members of the Commission should not be involved in executive or administrative work, but should be free to exercise proper evaluation of matters brought before them including financial disclosure, and complaints and other matters that require enquiry, investigation or inquiry. The executive and administrative structure and organization must be such as would provide optimal support to the Commission in its work. This requires "high level professional staff" of the right quality and technical skills.

An analysis of the full scope of the functions and activities of the Commission as given in the Act, and as shown in Appendix 2, indicates that the predominant skills required of a chief executive in the context of the Commission's work is primarily that of legal application and the ability to follow legal processes. The management functions attaching to the position of chief executive, though obviously important, are not as critically so as the legal support required at that level. For this reason, the head of the organization should be an official with primarily legal training who can serve as Registrar to properly manage the legal processes that is implicit in every aspect of the Commission's work.

A large and critical part of the Commission's work involves investigative research, financial analysis, and forensic investigation. Ideally, these three activities require different skills and should be separated and assigned to officials with the appropriate qualifications. However, the experience and workload over the past two years suggest that there may not be enough work at present to engage three separate persons full-time. The following options may be considered:

- a) Providing for all skills in anticipation of growth in the Commission's work.
- b) Outsourcing the services of a forensic investigator as and when required.

The first option represents the optimal resource need for the Commission to operate at the full scope and extent of its responsibilities over time. However, taking into account the present workload and the experience over the past two years, it is recommended that forensic investigation services should be out-sourced as and when needed.

Investigative research involves tracking information from various external sources to validate information reported or supplied to the Commission as well as making searches for documentary and other evidence with respect to matters brought before the Commission. The duties of Investigator are detailed in the job description for the post.

Among the key activities of the Financial Analyst is the maintenance of a data base to enable the Commission to track changes in the financial status of each person in public life and financial analyses to identify changes that occur from year to year and the cash flow results from such changes. The duties of the position of Financial Analyst are shown in the job description for the post.

The duties attaching to the position of Secretary are as set out in section 12 of the Act. It is the Commission's view that these duties can be satisfactorily carried out by an officer at the level of Senior Executive Officer. An analysis of these duties indicates that the predominant skills required in this case are secretarial and administrative.

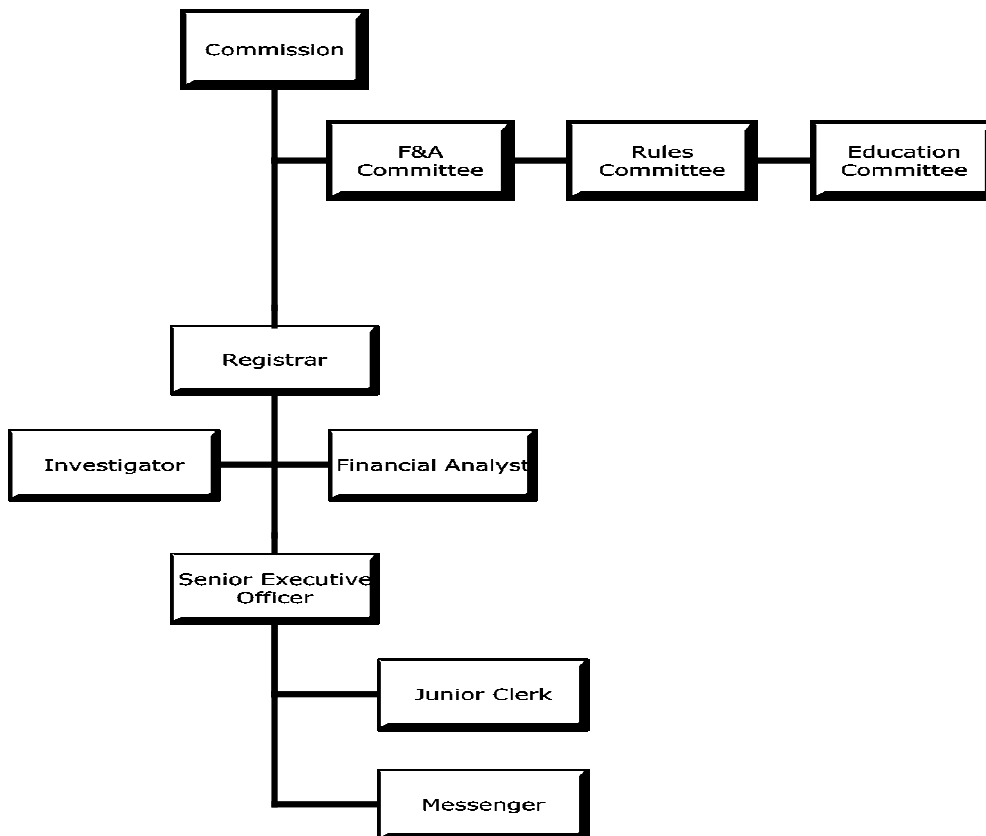
Other secretarial duties presently assigned to the Executive Officer including the maintenance of the Library, data input and updating, security of filing information and client assistance should be merged with the duties assigned to the new position of Senior Executive Officer.

A clerical officer and a messenger comprising support staff are assigned correspondence preparation, storage, retrieval and dispatch as well as housekeeping functions. Basic civil service entry qualifications are required for the position of clerical officer, and, for the messenger, basic literacy skills.

It is recommended as follows:

1. Membership of the Commission be reduced to five including the Chairman;
2. The posts of Secretary be abolished and a new post of Registrar be provided to advise the Commission and manage its operations;
3. The post of Research Assistant be abolished and replaced with two new posts of Financial Analyst and Investigator;
4. The post of Executive Officer be upgraded to Senior Executive Officer and assigned both secretarial and administrative functions;
5. The Integrity in Public Office Act and other applicable laws be amended to give effect to 1 and 2 above.

A revised organization chart is shown below:



Staff and Grades:

	<u>Grade</u>
Registrar	C
Financial Analyst	E
Investigator	E
Senior Executive Officer	6
Junior Clerk	28
Messenger	29

4.0 COST-BENEFIT ANALYSIS

The deterrent effect of the work of oversight institutions has not been empirically measured and very scant direct and empirical data have been derived from evaluation of the benefits that accrue from their work. Nonetheless, there is a sufficient body of literature which has assessed the effect and cost of corruption on national wealth that could form the basis for measuring the potential gains from the work of such institutions. In a recent study, the IMF estimated the average cost of corruption to national economies at 0.5 per cent of GDP.

The following cost/benefit analysis assumes that the deterrent effect of the work of the Integrity Commission could potentially reduce or prevent the incurrence of such cost in the medium to long term even if the incidence of corruption in Dominica may not be of major proportion at the present time. This translates to potential annual saving of \$5.5 million in the national economy.

		Present Cost	Estimated New Cost	Additional Cost
Emoluments of Commission		356,400	260,400	(96,000)
Registrar	C		77,870*	77,870*
Secretary	E	72,584*		(72,594)
Research Assistant	F	70,288*		(70,288)
Financial Analyst	E		72,594*	72,594*
Investigator	E		72,594*	72,594*
Forensic Investigator (to be outsourced)			20,000	20,000
Senior Executive Officer	6		42,249	42,249
Executive Officer	14	35,559		(35,559)
Junior Clerk	28	18,510	18,510	
Messenger	29	16,074	16,074	
Total and additional cost of emoluments		569,425	580,291	10,866
Other costs		84,574	132,400	
Total Costs		653,999	712,691	
Potential benefit from deterrent effect			5,500,000	

*Includes social security and travelling allowance. Social security also included in emoluments of support staff.

5.0 IMPLEMENTING AND SEQUENCING CHANGES

The implementation of the proposed changes must be sequenced to follow the timing of legislative changes. The principal changes concern the reduction in the size of the Commission, the abolition of the post of Secretary to be replaced by the new post of Registrar, and the abolition of the post of Research Assistant to be replaced by the two new positions of Financial Analyst and Investigator. The Act specifies that the Commission must consist of seven members, and therefore, section 4 must be amended in order for it to be reduced to five members.

The Secretary, as designated in the Act, has statutory responsibilities under section 12 which cannot be altered except through an amendment of the Act. That section of the Act should be amended to replace the office of Secretary by that of Registrar and to broaden the duties and responsibilities assigned consistent with the proposed revised job description for the efficient discharge of the Commission's functions.

Other changes proposed do not require amendments to the Act, but early action should be taken to

- a) Obtain approval of the Establishment and Personnel Department and other relevant agencies;
- b) Identify present staff members who have the aptitude for training in the required skills.

As recommended in the World Bank Country Procurement Assessment Report referred to earlier, "it is essential that the new staff receive substantial training on administrative and enforcement of ethical systems including appropriate forensic auditing and other investigative techniques." In this regard, present staff members who have the aptitude, especially in the fields of financial analysis and investigative techniques, should be given the opportunity for training in those necessary disciplines.

It is, therefore recommended that

- 1. early action be taken to amend sections 4 and 12 of the Act to accommodate the organizational changes proposed;**
- 2. training be provided for training new staff or present staff with the appropriate aptitude.**

Appendix 4:

List of persons in public life who failed to file declarations by March 31, 2011

INTEGRITY IN PUBLIC OFFICE ACT 2003, NO. 6 OF 2003:
FAILURE TO FILE DECLARATION BY 31st MARCH 2011

<u>NAME</u>	<u>OFFICE OR POSITION</u>
Earl Williams	Member, House of Assembly (Past)
Carl Duncan	Chairman, Independent Regulatory Commission (Past)
Algernon Charter	Superintendent of Prisons
Gloria Gerardette Tavernier	Chairman, Public Works Corporation (Past)
Sabina Anna Williams	Member, House of Assembly (Past)
Tara Leevy	Chairman, Hospital & Health Care Services Board (Past)

Appendix 5:

Decision of the Commission regarding Complaint No. 1/2010/2011

INTEGRITY IN PUBLIC OFFICE ACT, 2003:
COMPLAINT TO THE COMMISSION
BY MR. LENNOX LINTON CONCERNING BREACHES
OF THE CODE OF CONDUCT
BY PRIME MINISTER ROOSEVELT SKERRIT

DECISION

THE COMPLAINT

By letter dated November 5th, 2010 addressed to the Chairman Mr. Lennox Linton made a complaint to the Commission under section 31 of the Integrity in Public Office Act 2003 in which he stated as follows:

“Dear Sir,

RE: Breach of Code of Conduct by a Person in Public Life

This complaint is presented to the Integrity Commission pursuant to section 31 of the Integrity in Public Office Act number 6 of 2003 which states as follows:

“A person who has reasonable grounds to believe that any person in public life has breached any provision of the Code of Conduct may make a complaint in writing to the Commission...”

Particulars of the breach

The Act cited above provides in its Second Schedule a Code of Conduct which includes the following directives to persons in public life:

“A person in public life shall not –

(c) For himself or for anyone else accept any gifts, benefit or advantage from any one, except personal gift from a relative or friend, or personal gifts given otherwise that as a motive or reward for doing or forbearing to do anything in the performance of his officials functions or causing any other person from doing or forbearing to do anything

(e) Use his official influence in support of any scheme or in furtherance of any contract or proposed contract or other matter in regard to which he has an interest

Prime Minister Roosevelt Skerit a person in public life within the meaning of the Integrity in Public Office Act number 6 of 2003, is in breach of section 47(1) of the act by virtue of his possession of unaccounted property, namely 8 ocean front villas at Guillette, Savanne Paille with an estimated market value of over 8 million EC dollars which cannot be explained by his legal income.

47(1) "A person in public life who is found to be in possession of property or pecuniary resource disproportionate to his legitimate sources of income commits an offence and is liable on summary conviction, to a fine of two thousand dollars and imprisonment for a term of two years and to forfeiture of the assets so found".

I contend that in order to finance his ownership interest in these villas which he could not afford on his legal income, the Prime Minister accepted "gifts, benefits or advantages" in contravention of item c) of the Code of Conduct. The source of these "gifts, benefits or advantages" is clearly a matter for the Integrity Commission to investigate pursuant to the specific responsibility conferred by section 47(2) of the Act:

"Where a person who is or was a person in public life, or any other person on his behalf, is suspected to be in possession of property or pecuniary resource disproportionate to his legitimate sources of income, the Commission shall conduct an inquiry into the source of income of the person".

I also contend that specifically on account of his chairmanship of the Cabinet Meeting on October 9th, 2007 which granted a full suite of concessions to Blaircourt Property Development Limited for the construction of the villas at Guillette, the Prime Minister breached item e) of the Code of Conduct by using his official influence to secure concessions for a business venture in which he had an ownership interest.

The Prime Minister used the corporate cloak of Blaircourt Property Development and a number of persons engaged to serve him, to hide the truth of his ownership of the property and thereby prevent the Integrity Commission from taking appropriate action as required by law

The particulars of the ownership interest are contained in evidence indicating that in 2007 the Prime Minister requested, approved and paid for the architectural designs of the villas which were constructed and furnished by persons working for and on his behalf between January 2008 and December 2009.

In this regard, the Commission is urged to give very careful consideration to the following:

1. On May 28th, 2007, Supriya Singh, the Guyanese Interior Designer, copied the Prime Minister (Roosevelt.skerrit@gmail.com) on an email she sent to the Prime Minister's advisor Hartley Henry about her initial work for Roosevelt Skerrit on the ground in Dominica. According to Singh, the purpose of the email was to keep the Prime Minister and Henry in the loop on the conclusion of architect Orrin Hinds and herself that the "terrain is most suited to a series of Ocean Front Villas" and the they were trying to create a total of 12 to 16 rental units.
2. On July 12th, 2007 Mr. Skerrit received from Hartley Henry an email with the heading "**Ocean Front Project Dominica W.I.**" The email was forwarded to Mr. Henry by Supriya Singh who had received it earlier on the same day July 12th, 2007 from California Architect Cynthia Asis-Leif. Attached to that email were invoices for the Ocean Front

Project, the agreement and scope of works for the Ocean Front Project and the list of services to be rendered by the firm of Asis-Leif Designs.

In that July 12th 2007 email, forwarded to Mr. Skerit by Henry, he said: "Hi Chief, please review and let's discuss"

Mr. Skerit replied the same day to Henry copied to Singh and Asis-Leif: "Hello all, I received the various documents and I am in total agreement. Please proceed accordingly."

For the avoidance of any doubt, the documents attached to the email in question were the invoices, agreement and scope of works for the Ocean Front Project submitted by Cynthia Asis-Leif along with the list of services her company was prepared to provide.

3. On July 28th, 2007 Mr. Skerit sent an email to Supriya Singh, Hartley Henry and others asking to be advised "where are we on the faculty apartments" or Ocean Front Villas. Miss Singh responded to Mr. Skerit on the very same day with an update on the Ocean Front Project.

4. On November 6th, 2007, Supriya Singh sent an email to Hartley Henry requesting payment for her services on the villas from Roosevelt Skerit:

*"I need to be paid the initial down payment of 35% of US\$58,000 which is what I propose to charge him for the work I am doing on this project. I will attach the contract in a separate email. **I have addressed the contract to you so as not to put his name on any paperwork... Please ask Skerit to pay me the advance through the bank but I need at least 1,000 U-S now in Dominica**".*

5. On November 6th, 2007 Supriya Singh sent an email to Hartley Henry with the contract for the Ocean Front Villas:

*"Here is **the contract for the Ocean Front Villas**, I have not given this Skerit as yet... I wanted you to review it first. I have completed as far as completing the Interior Bills of Quantity... so it is justifiable to request on advance at this stage. Please advise as soon as you can after consulting with Skerit".*

6. On December 10th, 2007, Supriya Singh sent an email to Dinesh Singh at Guyana Furniture Manufacturing indicating Prime Minister "has to start the villas in January (2008)".

7. On August 21st, 2008, Mr., Skerit received an email from Supriya Singh in which she disclosed that Renneth Alexis, Eddie Simon (building contractor) and herself "cannot bring the villas into the original time frame we gave you". She said further "Eddie and Alexis are capable, but I know we gave you certain commitments which I am not sure we can honor, so I would like to have a full assessment with Alexia, Isidore and yourself present".

Miss Singh also indicated in that email to Mr. Skerit that she had purchased the tiles for the villas.

8. In September 2009, allegations that Skerit owns front villas at Savanne Paille surface in the media. Renneth Alexis rushed to the media with claims that the villas belong to him. Supriya Singh sent an email to Skerit advising him about 1) outstanding payments due to her for services rendered at his Vielle Case residence and the Ocean Front Villas and 2) other loose ends that need to be tied up on both projects

9. On October 1st, 2009 Mr., Skerit received an email from Hartley Henry with the subject "Wire Transfer Info" the purpose of which was to arrange payment for materials purchased for the villas by Platinum Services in Barbados.

Notwithstanding Mr. Skerit's only fleeting denial of ownership in an election campaign statement in December 2009 and the claims by Renneth Alexis that he is sole owner, the record of transactions in the design and construction of the villas, indicate that the one individual who consistently exercised the authority and responsibility of owner was Prime Minister Roosevelt Skerit.

Such personal ownership authority and responsibility for a private multi-million dollars undertaking are inconsistent with Prime Minister's legal income as a person in public life committed to conducting himself according to the provisions of the Integrity in Public Office Act number 6 of 2003.

Accordingly he must be held accountable for possession of unaccounted property pursuant to Section 47(1) of the IPO Act and for the related breaches of its Code of Conduct as specified in this complaint.

Particulars of the subject of this complaint

Part 1 of the First Schedule of the Integrity in Public Office Act –*Offices Respecting Persons in Public Life* – list **Member of the House of Assembly and Minister of Government** at items 10 and 11 respectively.

Roosevelt Skerit is a person in Public Life by virtue of the fact that he has been a Member of the House of Assembly and a Minister of Government since February 2000.

He has served as Prime Minister and Minister of Finance since January, 2004.

Evidence to be produced

- Email correspondence between Roosevelt Skerit, Hartley Henry, Supriya Singh, Cynthia Asis-Lief and others during the period May 2007 to April 2010
- Invoices, contract and other documents pertaining to the sourcing of architectural plans, labour, construction material, finishing material and furnishings for the villas

- Bank account information and wire transfer instructions for the payment of suppliers of goods and services for the villas
- Incorporation documents and corporate records of Blaircourt Property Development Limited
- Land purchase documents in the name of Blaircourt Property Development Limited
- Professional valuation of the Savanne Paille Villas
- The Prime Minister's legal income since he entered parliament in 2000
- A schedule of unexplained payments amounting to millions of dollars made in respect of the villas at Savanne Paille before Blaircourt Property Development and/or its sole director Mr. Renneth Alexis secured the first loan for the property in December 2008
- Testimony of Renneth Alexis in the Magistrate's Court District G about his alleged ownership of Blaircourt Property Development Limited and the Savanne Paille Villas
- Radio interviews with Supriya Singh
- Email correspondence between Lennox Linton and Supriya Singh about the Ownership of the villas at Savanne Paille
- Email correspondence between Trevor Johnson and Cynthia Asis-leif about her architectural designs for the villas at Savanne Paille
- Undercover interview with Cynthia Asis-leif
- Statements by Anthony Astaphan confirming that Cynthia Asis-Lief prepared architectural plans for the Prime Minister
- Statements by Anthony Astaphan confirming that Supriya Singh wrote the Emails attributed to her in this complaint and is therefore in a position to know "what the real facts are"
- Expert opinion from information Technology Specialist Burgess Xavier on the authenticity of the emails between Roosevelt Skerit, Supriya Singh, Hartley Henry and others relied on in support of the claim the Mr. Skerit is the owner of the villas at Savanne Paille

Should the Commission deem consideration of any or all of these of evidence necessary, they will be made available on request.

I anticipate your kind co-operation in giving this matter the fair, honest and urgent attention it deserves in the public interest.

Sincerely,
Lennox Linton

EXAMINATION OF COMPLAINT

At its meeting of November 18, 2010, the Commission noted the complaint and decided that Mr. Linton should provide the evidence that he had referred to in his letter of November 5, 2010. On December 22, 2010, Mr. Linton submitted to the Commission an “Evidence Bundle” comprising twenty-eight (28) chapters of copies of documents related to the alleged breaches.

The Commission considered the complaint at meetings held in February and March, 2011. In the middle of March, 2011 the composition of the Commission changed with the resignation of Sir Brian Alleyne and Mrs. Patricia Inglis. These members were replaced by the appointment of Mr. Davidson Bruney on the advice of the Leader of the Opposition and Mr. Henry Dyer on the advice of the Dominica Bar Association.

The new members, therefore, were given the opportunity to fully consider the complaint and the “Evidence Bundle” and input their views/comments into the decision making process. This, therefore, delayed the proceedings of the Commission in this matter.

The Commission as reestablished therefore continued its examination of the complaint at meetings on May 5th and May 26th, 2011 and came to the provisional conclusions which were conveyed to Mr. Linton by letter dated 31st May 2011.

The letter reads as follows:

“Dear Sir,

INTEGRITY IN PUBLIC OFFICE ACT, 2003:
RE BREACH OF CODE OF CONDUCT
BY ROOSEVELT SKERRIT, A PERSON IN PUBLIC LIFE

Further to my letter dated January 24, 2011, I am directed by the Commission to refer to your November 5th 2010 letter alleging that Roosevelt Skerrit, a person in public life, has breached rules 1(c) and 1(e) of the Code of Conduct in the Second Schedule to the Act and section 47(1) of the Act, and to the ‘Evidence Bundle’ that you submitted to the Commission on December 22, 2010.

In the letter of November 5th 2010 you made a complaint to the Commission pursuant to section 31 of the Act that Roosevelt Skerrit, the Prime Minister of Dominica breached the provisions of the Code of Conduct specified in the Second Schedule to the Act.

You went on to state that:

- (a) (i) “[the] Prime Minister is in breach of section 47(1) of that Act [Integrity in Public Office Act, 2003] by virtue of his possession of unaccounted property, namely eight Ocean Front villas at Guillette, Savanne Paille, with an estimated market value of over 8 million EC dollars which cannot be explained by his legal income,” (letter - page 2);

(iii) “in order to finance his ownership interest in these villas which he could not afford on his legal income, the Prime Minister accepted ‘gifts, benefits or advantages’ in contravention of item (c) of the Code of Conduct. The source of these gifts, benefits or advantages is clearly a matter for the Integrity Commission to investigate pursuant to the specific responsibility conferred by section 47(2) of the Act,” (letter - page 2);

(iii) “on account of his chairmanship of the Cabinet Meeting on October 9th, 2007 which granted a full suite of concessions to Blaircourt Property Development Limited for the construction of the villas at Guillette, the Prime Minister breached item (e) of the Code of Conduct by using his official influence to secure concessions for a business venture in which he had an ownership interest,” (letter - page 2); and

(b) Roosevelt Skerit is a person in public life by virtue of the fact that he has been a member of the House of Assembly and a Minister of Government listed as items 10 and 11 of Part I of the First Schedule to the Act.

By letter dated December 22, 2010, you supplied an ‘Evidence Bundle’ to the Commission comprising copies of the following:

1. Matters for Consideration
2. Original Complaint dated November 5, 2010
3. Skerit’s 400 Thousand Dollar House
4. Dateline Villas
5. Trinrico Steel and M&R Trading
6. Mckenzie Mitchell vs. M&R Trading
7. AID Bank Loan (2007) for Picard Apartments
8. Incorporation Documents – Blaircourt Property Development
9. Purchase of Cecil Lockhart’s 1.25 acre parcel at Guillette
10. FCIB Loan re Picard Apartments
11. Supriyah Singh Emails – Villa Design
12. Skerit vs. Matt/Times
13. The Savarin Family Caveat
14. Cabinet Grants Concessions to Blaircourt
15. Supriyah Singh Emails – Design Contracts
16. Purchase of Rufus Savarin’s 1.493 acre parcel at Guillette
17. Supriyah Singh Emails – Progress Reports
18. Supriyah Singh Emails – Completion Date Set Back
19. FCIB Loan for the Ocean Front Villas
20. Villa Ownership hits the Media
21. Supriyah Singh Emails – Tying up Loose Ends
22. In Defense of Alexis/Skerit
23. Alexis Faces Criminal Charges
24. Supriyah Singh Emails – The Ungrateful Ending
25. Trevor Johnson & Architect Cynthia Asis-Leif
26. Dismissing the Myth of Doctored Emails
27. The Cynthia Asis-Leif Interview
28. The Supriyah Singh Interview

The Commission has examined the complaint together with the 'Evidence Bundle' and has the following concerns:

- i. under Rule 1(e) of the Code of Conduct, the issue of want of jurisdiction because the date on which Prime Minister Roosevelt Skerit as Chairman of the Cabinet is alleged to have used his official influence to secure concessions for Blaircourt Property Development i.e. October 9, 2007, is a date prior to the coming into force of the Act on September 1, 2008;
- ii. under section 47(1), since it is not within the Commission's jurisdiction for the reason that section 47(1) is an offence-creating provision that can only be dealt with by the court; and
- iii. under Rule 1(c) of the Code of Conduct, because it is unparticularized, and not supported by the content of the Evidence Bundle.

In accordance with section 32(3) of the Act, the Commission wishes to give you the opportunity of being heard, in writing (or at an oral hearing if you prefer) to address its concerns and on your complaint generally.

Please let me have your reply by June 09, 2011 as to whether you wish to make a written submission or whether you prefer an oral hearing so that suitable arrangements may be made.

Sincerely,

Sgd. Helen E. Ambo (Ms.)
SECRETARY

THE HEARING ON JUNE 16, 2011

Mr. Linton elected for an oral hearing which was held at the Commission's office on June 16, 2011. At the hearing, Mr. Linton stated as follows:

Re concern (1) – under Rule 1 (e) of the Code of Conduct:

"I want to observe that like the grant of concessions by Cabinet, you have the purchase of the lands on which the villas are located; the completion of architectural designs for the villas; the engagement of a construction team for the villas; the purchase of construction materials for the villas; and the commencement of construction at the villas which all preceded the date on which the Act came into force. I am not sure whether the Commission is suggesting that it is not legally empowered to look into the ownership of assets that are disproportionate to the legal income of a person in public like because the process of acquisition of those assets, even though it continued after the IPO came into force, began prior to the commencement of the Act. If that is what the Commission is suggesting, I respectfully beg to disagree.

The paragraph says there that it seems to me that the Commission appears to be suggesting that it is not legally empowered to look into the ownership of assets that are disproportionate to the legal income of a person in public life because the process of acquisition of those assets, even though that process continued after the IPO Act came into force, began prior to the commencement of the Act. I disagree with that.

The matter of the Chairman of the Cabinet of Ministers utilizing the position to confer on himself a financial benefit amounts, at the very least, to misbehaviour in public office which was an integrity concern, indeed a prosecutable matter, long before the Integrity in Public Office Act came into existence. In other words, whether before or after the commencement of the Act, such behaviour – prosecutable in law – has always been and remains contrary to the letter and spirit of integrity in public office with which the Integrity in Public Office Commission should be duly concerned.

Nonetheless, having said that, the Commission may wish to make its own inquiries into the extension of the October 2007 concessions granted to Blaircourt after the commencement of the IPO Act. In this regard, kindly be advised of the following disclosure in the Official Gazette of Thursday, October 21, 2010 at page 419:

‘Cabinet advised approval that a license granting concessions to Blaircourt Property Development Ltd. under the Hotels Aid Act, Chapter 85:04 of the Laws of the Commonwealth of Dominica for the extension of concessions for a period of (6) months to complete the construction and furnishings of the villa apartments in Guillet.’

Concern (ii) – under section 47(1) of the Act:

Mr. Linton read subsections (1) to (4) of section 47 of the Act, and continued as follows:

“Pursuant to section 9(d) of the Act, the Commission is required to ‘receive and investigate complaints regarding non-compliance with any provision of this Act.’

Further, given the offence-creating provision at section 47(1) and the related follow-up subsections (2) to (4), I submit that the Commission cannot properly conclude that it has no investigative or other responsibilities with respect to the criminal offence of “Possession of Unaccounted Property”.

It is clear to me that 47(2) mandates the Commission to a specific investigative role with respect to the criminal offence outlined in 47(1). Section 47(3) goes on to expect the responsibilities of the Commission to include reporting the findings of its investigations to the DPP and the President. And 47(4) authorises the DPP to move the court if and only if he/she is satisfied that the Commission’s report has presented a basis for prosecution of the offence.

While I agree that it is the court’s responsibility to determine whether the offence of Unaccounted Property has been committed, the Commission cannot avoid its responsibility for the initial investigations - triggered by suspicion – provided for at 47(2) which precede the presentation of the matter before the court.

My complaint dated 5th November 2010 and the supporting evidence bundle contain enough evidence to ground a suspicion that the person in public life complained about has offended the provisions of 47(1) which, therefore, opens the door to an Integrity in Public Office Commission investigation pursuant to section 47(2)."

Concern (iii) – under Rule 1(e) of the Act:

Mr. Linton noted:

"I want to refer to 1(c) as it appears in the Code. It says:

'A person in public life shall not – for himself or for anyone else accept any gifts, benefit or advantage from any one, except personal gift from a relative or friend, or personal gifts given otherwise than as a motive or reward from doing or forbearing to do anything in the performance of his official functions or causing any other person from doing or forbearing to do anything.'

Now, Mr. Chairman, gentlemen of the Commission, the intention of the complaint dated 5th November 2010, was to honour what I consider to be a citizen's duty to be as helpful as possible to the Commission in resolving a matter of very serious public interest. Accordingly, I went as far as it was humanly possible for me to go with no Freedom of Information Act to rely on and no public resources to finance investigative work for this noble public purpose.

I did not expect that the evidence bundle presented would be the be all and end all of the Commission's consideration of the various aspects of the complaint. Rather, I felt it would be treated as a useful starting point for the Commission's own comprehensive probe.

The totality of the evidence presented supports a reasonable inference that since the legal income of the person in public life is insufficient to afford the assets in question, then there could well be a violation of Rule 1(c) in terms of the unlawful acceptance of gifts, benefits or advantages through which the assets could be acquired. If the evidence suggests that the assets could not be acquired with legal income, then clearly, the Commission cannot shirk its responsibility to investigate alleged Code of Conduct violations arising out of this potential illegality because of insufficient specificity in the evidential foundation provided by the complainant.

It is for the Commission, an investigative body by law, to do its own investigation and decide, as opposed to relying exclusively on the content of complaints and/or supporting evidence presented, to ascertain whether any provision of the Act has been breached.

My complaint of November 5, 2010 is not by any means a judgment inviting the Commission to pick apart its unavoidable imperfections. It is a citizen's request to investigate possible violations of the IPO Act. I, therefore, ask the Commission to be ever mindful of its functions as provided at section 9 of the Act which states, in part:

'The Commission shall –

- (c) without prejudice to the provisions of any other enactment, inquire into any allegations of bribery or act of corruption under this Act;*
- (d) receive and investigate complaints regarding non-compliance with any provision of this Act; and*
- (e) perform such other functions as is required under this Act."*

In response to questions from the Commission, Mr. Linton added the following:

"I think this work that the Commission is mandated to do is going to serve a public purpose if the Commission is able to engage with the people of Dominica. I am a private citizen, I have certain concerns and I feel from time to time, as the situation merit it, I will come to the Commission. I do not think I have the money to pay legal counsel to represent me before the Commission because I simply have no resources for that.

The Commission is better able to choose or the Commission has the resources by way of a budget, it can retain counsel or it can ask for legal opinions and so on because there are resources available to pay for that.

I hope we get to the point where at some point somebody sees the necessity of having legal advice available to ordinary citizens who want to come to the Commission and who will need the 'i's' dotted and the 'ts' crossed on their submission from a legal point of view. The Commission does have that available to it or can have it available to it if it so desires quite apart from the fact that the Commission is comprised or on the Commission is included legal minds by way of a representative of the Bar Association and the Chairman himself who is supposed to have a legal background. ... the Government or the Commission may want to look at some arrangements through which persons wanting to make submissions to the Commission who need legal assistance can have it provided to them. I would not be paying for legal assistance to come before the Commission".

He further stated:

"...You see, it is one thing for us to say Blaircourt is the owner, which it is because the property is in its name. I had the opportunity of sitting down in the Magistrate's court in Portsmouth and listening to the supposed Director and sole owner of Blaircourt property testify as to the ownership of Blaircourt and to me his command of the information related to a company you own lock, stock and barrel, you spent millions of dollars on a development project, was not impressive at all and that is in evidence as well.

I provided for you there some of what came out of the court with respect to his ownership claim of the villas. It is interesting because commissions of this nature have to be mindful of the games that are played when people are up to doing things that are illegal; the fact that in circumstances like that you have people who front for each other. What do you do in those circumstances? When you get to the front and the front tells you, well, it is mine, is that where it ends? Which is why the Commission has the power to investigate and there is no question given the correspondence that went on around the time that this was being developed; that the person in public life being complained about behaved, at the very least, as though he was the owner of the property. There was a lot of public discussion about it; since that public discussion a lot of things may have happened; a lot

of new arrangements may have come into play such as what secret agreement lies where, I don't know. But someone has to explain why over this extended period of time did you, based on the evidence in the emails behave as though you were the owner.

There is something else. The lady who wrote a lot of the emails and who was interviewed by a senior counsel to set the record straight about the emails because it was his representation to the public that the emails were taken out of context; that the emails were doctored; that the emails were cut and paste; and here is a senior counsel with more than twenty years standing at the bar, interviewing someone who is bring clarity on this matter and at no point in the interview does he take any one of the emails that could have been taken out of context, put it to the lady being interviewed to ask her, well, on such and such a date you were alleged to have written this, did you, in fact, write that. Not one email in the entire interview was put to the lady who was denying that Mr. Skerrit was the owner, in fact, ... Alexis when the documents available to her showed she never even requested any money from Mr. Alexis; the only person she requested money from was Roosevelt Skerrit. This too is not just - I hope it is in the bundle. There is some written correspondence with her signature where she is taking responsibility for villa purchases but she told us in the interview that she had nothing to do with the villa, all she did was she bought some tiles."

THE LAW

It is convenient to set out in detail the relevant provisions of the Act.

Sections 30 -34 of the Act provide:

- "30.** (1) *Every person in public life shall observe the body of rules known as the Code of Conduct, specified in the Second Schedule.*
- (2) *A person in public life who is in breach of the Code of Conduct commits an offence, and is liable, on summary conviction, to a fine of ten thousand dollars or to imprisonment for a term of one year or to both such fine and imprisonment.*
- 31.** (1) *A person who has reasonable grounds to believe that any person in public life has breached any provision of the Code of Conduct may make a complaint in writing to the Commission stating –*
- a) the particulars of the breach;*
 - b) the particulars, as far as they are known, of the person against whom the complaint is made;*
 - c) the nature of the evidence that the complainant proposes to produce in respect of the complainant.*
 - d) such other particulars as may be prescribed in Regulations made by the Minister" (No such Regulations have been made by the Minister for Legal Affairs).*
- 32.** (1) *Where a complaint has been sent to the Commission under section 31, the Commission, after examining the complaint, may reject the complaint if the Commission is of the opinion that –*

- (a) *the complaint is frivolous; or*
(b) *it does not pertain to a matter the Commission is empowered to deal with under this Act.*
- (2) *Where the Commission rejects a complaint, the person against whom the complaint was lodged shall have the right to institute legal proceedings against the complainant; but it shall be a defence that the complaint was not made maliciously, frivolously or in bad faith.*
- (3) *No complaint shall be rejected by the Commission without giving the complainant a reasonable opportunity of being heard.*
- 33.** (1) *Where upon examination of a complaint made under section 31, or otherwise, the Commission is of the view that investigation is necessary to ascertain whether any person in public life commits a breach of any provision of the Code of Conduct it shall inquire into the matter.*
- (2) *The sittings of the Commission to take evidence or hear arguments in the course of any inquiry under subsection (1) shall be held in private.*
- (3) *The complainant and the person in public life against whom any inquiry is held under this section are entitled to notice of the proceedings of the inquiry and to be represented in the inquiry either personally or by an attorney-at-law.*
- 34.** (1) *On the conclusion of any inquiry under section 33, the Commission shall submit a report to the Director of Public Prosecutions and the President.*
- (2) *Where the Director of Public Prosecutions is satisfied, on the examination of the report referred to in subsection (1) and other relevant evidence, that any person in public life ought to be prosecuted for an offence under section 30, he shall institute and undertake criminal proceedings against the person in public life.”.....*

Paragraphs (c) and (e) of Rule 1 of the Code of Conduct, specified in the Second Schedule to the Act and referred to in section 30 provide as follows:

“1. A person in public life shall not:

- (c) *for himself or for anyone else accept any gifts, benefit or advantage from any one, except personal gift from a relative or friend, or personal gifts given otherwise than as a motive or reward for doing or forbearing to do anything in the performance of his official functions or causing any other person from doing or forbearing to do anything;*

- (e) *use his official influence in support of any scheme or in furtherance of any contract or proposed contract or other matter in regard to which he has an interest;*

Section 9 (d) provides that the Commission "*shall receive and investigate complaints regarding non-compliance with any provisions of this Act*".

Section 47 enacts:

- "(1). A person in public life who is found to be in possession of property or pecuniary resource disproportionate to his legitimate sources of income commits an offence and is liable on summary conviction, to a fine of two thousand dollars and imprisonment for a term of two years, and to forfeiture of the assets so found.*
- (2). Where a person, who is or was a person in public life, or any other person on his behalf, is suspected to be in possession of property or pecuniary resource disproportionate to his legitimate sources of income, the Commission shall conduct an inquiry into the source of income of the person.*
- (3) On conclusion of any inquiry under subsection (2), the Commission shall submit a report to the Director of Public Prosecutions and the President.*
- (4) Where the Director of Public Prosecutions is satisfied, on examination of the report referred to in subsection (3) and any other relevant evidence, that a person who is or was a person in public life ought to be prosecuted for an offence under this section, he shall institute and undertake criminal proceedings against the person in public life."*

Section 3 provides that the Act applies to every person in public life. As a Minister of Government, Prime Minister Roosevelt Skerit is a person in public life within the meaning of section 2(1) of the Act. The Act, therefore, applies to Prime Minister Roosevelt Skerit from the date of its entry into force on the 1st day of September 2008.

Section 55 of the Act provides: "*In any proceedings commenced on the allegations made by a person against a person in public life the burden of proof shall be on the person making such allegations.*"

The functions and powers of the Commission concerning the Code of Conduct are clearly spelt out in the Act. The procedures prescribed by Parliament under sections 30-34 and the evidential burden in section 55 must be complied with. And, indeed, the procedural standards applicable in accordance with established principles of public law must be observed. Section 9(d) with section 47 also falls to be considered.

At its meetings on 23rd and 30th June 2011 the Commission further considered the complaint and the submissions of Mr. Linton and concluded as follows:

1. COMPLAINT OF BREACH OF CODE OF CONDUCT

(i) Re Rule 1(c):

The complaint under section 31 of breach of the provision of rule 1(c) of the Code of Conduct must contain the following elements:

- (i) the name of the person in public life who has breached the Code;
- (ii) particulars of the gifts, benefits or advantages accepted from any one by the person in public life for himself or for anyone else;
- (iii) the nature of the evidence to be produced in respect of the alleged breach.

While the complaint concerning rule 1(c) clearly satisfies (i) above it does not satisfy (ii) or (iii). Nowhere in the letter of 5th November, 2010 or in the "Evidence Bundle" is there any reference to the gifts, benefits or advantages accepted by the person in public life from any one for himself or for anyone else.

Apart from the allegation that the person in public life accepted gifts, benefits or advantages there is no indication of what these gifts, benefits or advantages are or of the person from whom they were accepted by the person in public life for himself or for anyone else. Instead the complainant states that "the source of these gifts, benefits or advantages is clearly a matter for the Integrity Commission to investigate under section 47(2)." Section 55 of the Act, however, places the burden of proof on the complainant in any proceedings commenced on any allegation made by him against a person in public life. And this is the case here.

In reply to the Commission's concern on this point Lennox Linton at the hearing submitted:

"I did not expect that the evidence bundle presented would be the be all and end all of the Commission's consideration of the various aspects of the complaint. Rather, I felt it would be treated as a useful starting point for the Commission's own comprehensive probe.

The totality of the evidence presented supports a reasonable inference that since the legal income of the person in public life is insufficient to afford the assets in question, then there could well be a violation of Rule 1(c) in terms of the unlawful acceptance of gifts, benefits or advantages through which the assets could be acquired. If the evidence suggests that the assets could not be acquired with legal income, then clearly, the Commission cannot shirk its responsibility to investigate alleged Code of Conduct violations arising out of this potential illegality because of insufficient specificity in the evidential foundation provided by the complainant.

It is for the Commission, an investigative body by law, to do its own investigation and decide, as opposed to relying exclusively on the content of complaints and/or supporting evidence presented, to ascertain whether any provision of the Act has been breached."

Mr. Linton, in his written and oral submissions, has not provided particulars to satisfy the statutory requirement and therefore for that reason the complaint cannot be proceeded with.

(ii) Re Rule 1(e)

The complaint under section 31 of breach of the provision of rule 1(e) of the Code of Conduct must contain the following elements:

- (1) the name of the person in public life who has breached that Code;

- (2) particulars of the use by that person of official influence in support of a scheme or furtherance of a contract or proposed contract or other matter in regard to which he has an interest;
- (3) the nature of the evidence that he proposes to produce in respect of the alleged breach.

The "Evidence Bundle" submitted by Lennox Linton exhibited a copy of the Cabinet Decision taken on 9th October, 2007 which granted concessions to Blaircourt Property Development for luxury rental Villas at Guillette under the Fiscal Incentives Act and the Value Added Tax Act. That decision predated the coming into operation of the Act of 2003. So, even if the person in public life did use his official influence *at that time* to secure concessions for a business venture in which he had an ownership interest he could not have breached rule 1(e) of the Code of Conduct which came into force on the 1st day of September 2008.

Mr. Linton, however, at the June 16th hearing drew the Commission's attention to the Dominica Official Gazette of October 21, 2010 at page 419 which published that the Cabinet approved the extension of concessions to Blaircourt Property Development Ltd. He submitted that these concessions were granted since the Act of 2003 entered into force. The Official Gazette Notice stated, in part: "*Cabinet advised approval that a license granting concessions to Blaircourt Property Development Ltd. under the Hotels Aid Act, Chapter 85:04 of the Laws of the Commonwealth of Dominica for the extension of concessions for a period of (6) months to complete the construction and furnishings of the villa apartments in Guillet.*".

The Commission's provisional view of want of jurisdiction for the reason stated in its letter of 31st May 2011 does not appear to be maintainable. Therefore, the Commission is of the view that the complaint that Prime Minister Roosevelt Skerit as Chairman of the Cabinet used his official influence to secure concessions for a business venture in which he is alleged to have an ownership interest (i.e. Blaircourt Property Development Ltd.) should be investigated to ascertain whether a breach of the provision of rule 1(e) of the Code of Conduct has been committed and that the provisions of section 33 of the Act shall apply.

2. COMPLAINT OF POSSESSION OF UNACCOUNTED PROPERTY

Lennox Linton has also complained to the Commission that Prime Minister Roosevelt Skerit, "is in breach of section 47(1) of the Act by virtue of his possession of unaccounted property, namely 8 Ocean Front Villas at Guillette, Savanne Paille, with an estimated market value of over 8 million EC dollars which cannot be explained by his legal income."

This complaint though purported to be made under the provisions of section 31 of the Act, refers to matters which Parliament has not included in the body of rules specified in the Second Schedule to the Act, known as the Code of Conduct.

Part IV (sections 30 to 34) of the Act contains specific enactment relating to the Code of Conduct and prescribes procedures for dealing with any such complaint. The possession of unaccounted property is not contained in the Code of Conduct. The complaint regarding the non-compliance with section 47 of the Act does not, therefore, fall to be received, examined and investigated under the complaint procedures prescribed under Part IV of the Act, for these are Code of Conduct specific.

Section 9 of the Act contains a general enactment relating to the functions of the Commission as regards the whole subject matter of the statute. Under section 9(d) the Commission is required to “receive and investigate complaints regarding non-compliance with any provisions of the Act.” Section 9(d) read along with section 55 limits the Commission to acting on a complaint from an identifiable person upon whom is placed the burden of proof of the allegations made by him. Action by the Commission under section 9(d) falls within the meaning of “proceedings” under section 55.

Part VII (section 47) contains specific enactment dealing with the possession of unaccounted property. But here the Commission's duty to conduct inquiry is restricted to cases where the Commission *itself* suspects possession of unaccounted property. Section 47(1) deals with the elements of the crime of possession of unaccounted property and the penal sanctions for the contravention of the prohibited conduct. It is only where the Director of Public Prosecutions has instituted and successfully undertaken criminal proceedings against a person in public life that he can be said to have been “found to be in possession of property or pecuniary resources” contrary to the section. The system of our jurisprudence when a person is accused of a criminal offence is accusatorial not inquisitorial. Under our constitution a person is presumed innocent until he is proved guilty or has pleaded guilty. And it is the function of a court of competent jurisdiction to find guilt, and not that of the Integrity Commission.

The Commission's provisional view on the allegation of breach of section 47(1) is sustained and this complaint is hereby rejected.

CONCLUSION

In summary, the Commission holds that:

- iv. the complaint concerning section 47(1) of the Act is rejected since it is outwith the Code of Conduct and not within the Commission's jurisdiction for the reason that section 47(1) is an offence-creating provision that can only be dealt with by the court. It is only where the Director of Public Prosecutions has instituted and successfully undertaken criminal proceedings against a person in public life that he can be said to have been “found to be in possession of property or pecuniary resources” contrary to the section. The system of our jurisprudence when a person is accused of a criminal offence is accusatorial not inquisitorial. And it is the function of a court of competent jurisdiction to find guilt, and not that of the Integrity Commission;
- v. the complaint concerning Rule 1(c) of the Code of Conduct cannot be proceeded with because it is unparticularized, and not supported by the content of the “Evidence Bundle”; and
- vi. as regards the complaint that Prime Minister Roosevelt Skerit as Chairman of the Cabinet used his official influence to secure concessions for a business venture in which he is alleged to have an ownership interest (i.e. Blaircourt Property Development Ltd.) the Commission is of the view that investigation is necessary to ascertain whether Prime Minister Roosevelt Skerit has committed a breach of the provision of Rule 1(e) of the Code of Conduct and an inquiry shall be held into the matter.

Dated this day of July, 2011

Sgd.

.....
JULIAN N. JOHNSON
CHAIRMAN

Sgd.

.....
ALICK LAZARE
MEMBER

Sgd.

.....
WENDELL LAWRENCE
MEMBER

Sgd.

.....
GERALD SMITH
MEMBER

[On May 26, 2011, the Court of Appeal of the Eastern Caribbean Supreme Court issued an interlocutory injunction in the matter of Ambrose George v Hector Spags John, the Attorney General and the Integrity Commission (Civil Appeal No. 15 of 2011) restraining the Commission from holding any meetings with Mr. Bruney or from divulging any confidential information to him in respect of any matter involving Ambrose George and any other member of the Cabinet of the Commonwealth of Dominica pending the hearing of the appeals in this matter. In compliance with that order Commissioner Bruney has not attended meetings of the Commission on this matter from that date.

Commissioner Dyer attended meetings of the Commission on this matter but he has been out of Dominica from June 22, 2011. His absence from meetings of the Commission during the period June 22nd – August 4th, 2011 has been approved by the President under section 7(a) of the Act]

Appendix 6:

Consolidated suggestions for amendments to the Act and to the Commission**SUGGESTED AMENDMENTS TO THE INTEGRITY IN PUBLIC OFFICE ACT, 2003 AND TO THE STRUCTURE AND ADMINISTRATION OF THE COMMISSION****1. OFFICES OF PERSONS IN PUBLIC LIFE [SECTIONS 2(1), 3 & FIRST SCHEDULE]**

The Commission is of the view that the lists of offices respecting persons in public life as currently pertain in Parts I and II of the First Schedule to the Act note entries that are vague and open to interpretation. A comprehensive listing, making individual note of specific offices would better serve the purposes of the Act. The following amendments to that section are suggested:

- a. Delete the term “*Chief Technical Officer*” from the list of persons in public life in the First Schedule to the Act and in section 2(1).
- b. Include the following offices in Part I of the First Schedule to the Act:
 - Accountant General
 - Comptroller of Inland Revenue
 - Comptroller of Customs
 - Chief of Police
 - Deputy Chief of Police
 - Heads of Diplomatic Missions of Dominica accredited to any country or any international organizations;
 - Chairmen of Village Councils or local government authority;
- c. Delete the following offices from the First Schedule:
 - Superintendent of Prisons
 - Assistant Superintendent of Prisons
 - Chief Fire officer
 - Gazetted Police Officers;
- d. The office of “*Secretary to the Cabinet*” should be separately listed in the First Schedule to the IPO Act 2003 and should not be included in the definition of “*Permanent Secretary*”. The office of Secretary to the Cabinet is established under Section 69 of the Constitution.

[Please note that the St. Lucia Integrity in Public Office Act 2004 and the Grenada Integrity in Public Life Act, 2007 include the offices of ‘Director of Audit’ and ‘Director of Public Prosecutions’ as offices of persons in public life.]

2. COMPOSITION/SIZE OF THE COMMISSION [SECTION 4]

The Commission established by Section 4 of the IPO Act 2003 consists of seven persons, a Chairman and six (6) other members, of which two are appointed on the advice of the Prime Minister and two on the advice of the Leader of the Opposition.

- a. The Commission is of the view that the Commission in Dominica should consist of **five** members, a Chairman and four other members, and that the IPO Act 2003 should be amended by substituting “one” for “two” before “members” in section 4(1)(b) and (c).

- i. (In Trinidad & Tobago and Jamaica the Commissions consist of five members (including the Chairman) appointed by the Head of State after consultation with the Prime Minister and the Leader of the Opposition (Four appointed members in the case of Jamaica as the Auditor General is an ex officio member.)
 - ii. In St Lucia the Commission consists of a Chairperson “*and not less than two or more than four other members.*” All are appointed by the Governor General on the advice of the Prime Minister who is required to consult with the Leader of the Opposition before tendering any advice to the Governor General.
 - iii. In Antigua the Commission consists of a Chairman and two other members appointed by the Governor General acting in his own discretion.)
- b. Section 5(a), a person “*exercising a public function*” should be defined. (See Section 2(c) of the Trinidad & Tobago Integrity in Public Life Act, 2000, Section 2 of the Antigua Integrity in Public Life Act, 2004; and Section 2 of the Jamaica Corruption (Prevention) Act, 2000.)
- c. Regarding the disqualification of members, the Commission forwards for inclusion the following from the Antigua legislation:
- i. Section 5(b) of *Antigua's Integrity in Public Life Act 2004* which deals with disqualification of members to be included in *Dominica's Integrity in Public Office Act 2003*.
Section 5(b) of *Antigua's Integrity in Public Life Act 2004* provides:-
“5.- A person shall not be appointed a member of the Commission if he - (b) is a person in public life other than as a member of the Commission;”
 - ii. Section 5(b) should, however, be amended to read “*is a person in public life other than as Chairman of the Commission,*” as members of the Commission in *Dominica* are not “*persons in public life.*”

3. FUNCTIONS OF THE COMMISSION [SECTION 9]

One of the major deficiencies identified which seriously affects the work of the Commission is the constraints placed on the ability of the Commission to act of its own volition to inquire into allegations of bribery and corruption and complaints regarding non-compliance with the Act. This is in sharp contrast to the powers given to the Integrity Commission in Trinidad and Tobago.

- a. The Trinidad and Tobago integrity legislation provides, materially, as follows:
 - i. The Commission recommends that the *Integrity in Public Office Act 2003* should include provisions similar to Sections 33 & 34 of the *Trinidad and Tobago Integrity in Public Life Act, 2000 No. 83 of 2000*. Sections 33 and 34 of *Trinidad and Tobago's Integrity in Public Life Act 2000* provide:-

“33. *The Commission-*

- a) *may on its own initiative or*

- b) shall upon the complaint of any member of the public, consider and enquire into alleged breaches of the Act or any allegations of corrupt or dishonest conduct.

34. (1) In carrying out its function under section 33 the Commission may-
- a) authorize an investigating officer to conduct an enquiry into any alleged or suspected offence;
 - b) require any person in writing' to produce, within a specified time, all books, records, accounts, reports, data, stored electronically or otherwise, or any other documents relating to the functions of any public or private body;
 - c) require any person, within a specified time, to provide any information or to answer any question which the Commission considers necessary in connection with any enquiry or investigation which the Commission is empowered to conduct under this Act;
 - d) require that any facts, matters or documents relating to the allegations or breach, be verified or otherwise ascertained by oral examination of the person making the complaint;
 - e) cause any witness to be summoned and examined upon oath.

(2) Where, in the course of any enquiry the Commission is satisfied that there is a need to further expedite its investigations, it may exercise the following powers:

- a) require any person to furnish a statement in writing-
 - i. enumerating all movable or immovable property belonging to or possessed by him in Trinidad and Tobago or elsewhere, or held in trust for him, and specifying the date on which each such property was acquired and the consideration paid therefore, and explaining whether it was acquired by way of purchase, gift, inheritance or otherwise;
 - ii. specifying any monies or other property acquired in Trinidad and Tobago or elsewhere or sent out of Trinidad and Tobago by him or on his behalf during a specified period;
- b) require any person to furnish, notwithstanding the provisions of any other written law to the contrary, all information in his possession relating to the affairs of any suspected person being investigated and to produce or furnish any document or true copy of any document relating to the person under investigation and which is in the possession or under the control of the person required to furnish the information;
- c) require the manager of any bank, or financial institution, in addition to furnishing information specified in paragraph (b), to furnish any information or certified copies, of the accounts or the statement of accounts at the bank or financial institution of any person being investigated.

(3) A person who fails or refuses to disclose any such information or to produce any such documents, commits an offence and is liable to a fine of one hundred and fifty thousand dollars and imprisonment for a term of three years.

(4) Any person who knowingly misleads the Commission, or an investigating officer of the Commission, by giving false information, commits an offence and is liable on conviction to a fine of two hundred and fifty thousand dollars and imprisonment for a term of five years.

(5) Where after the conduct of an investigation, the Commission is satisfied that there are reasonable grounds for suspecting that an offence has been committed, it shall make a report to the Director of Public Prosecutions who may take such action as he thinks appropriate.”

The Commission also recommends that it be provided with power similar to the provisions of sections 33 and 34 of the Trinidad and Tobago Act of 2000.

It is further recommended that provisions similar to section 37 of the Trinidad and Tobago Act be incorporated in our statute. Section 37 of the Trinidad and Tobago Act states: “The Commission may on its own initiative consider any matter with respect to the duty or obligation of a person under this Act, where in its opinion it is in the public interest to do so”.

- b. The reference to **section 17** in section 11(2) of the Act is erroneous. It should be **section 7**.

4. STAFF OF THE COMMISSION [SECTIONS 12 & 49]

The Commission’s experience in the discharge of its functions under the Act over the past years has forcefully revealed that comprehensive investigations into the financial affairs of persons in public life require high level management staff and professional staff in the field of forensic and investigative accountancy.

A Country Procurement Assessment Report published by the World Bank (Report No. 30975-DM) dated June, 2003 recommended as follows:

*Art. 49 of the Act requires that the Commission has adequate staff to carry out its assigned responsibilities. It is critical that **high level professional staff with legal and auditing background and familiarity with procurement be hired and adequately paid**. As it is unlikely that local staff with significant skills and experience can be identified, it is essential that the new staff receive substantial training on administrative and enforcement of ethical systems including appropriate forensic auditing and other investigative techniques.*

(Emphasis added)

The Commission makes the following recommendations re the staffing of the secretariat:

- a. In sections 12 and 49, the Commission should be empowered to appoint or employ, on such terms and conditions as it thinks fit officers and employees as it thinks necessary for the proper carrying out of its functions under the Act. Staff should not be limited to ‘public officers’ appointed by the ‘Public Service

- Commission' under section 85 of the Constitution. (See First Schedule to the Jamaica Corruption (Prevention) Act, 2000, Section 13 – copy attached herewith)
- b. Section 12(e) of the *Antigua Integrity in Public Life Act 2004* gives the Commission the authority to appoint where necessary auditors to examine and verify declarations. This is not included under section 9 of the IPO Act 2003.
 - i. Section 12(e) of the *Antigua Integrity in Public Life Act 2004* provides:-

"12(1) - The functions of the Commission shall be... (e) to appoint where necessary Auditors to examine and verify the accuracy of the declarations filed under the Act or complaints of financial irregularities arising from a breach of the Code of Conduct specified in the Second Schedule."
 - ii. *The Integrity in Public Office Act 2003* should be amended to include section 12(e) of the *Antigua Integrity in Public Life Act 2004* with the addition of a further provision that the Commission "may engage such other services as may be necessary in the performance of its functions under the Act."
 - c. that the post of Secretary be abolished and that the office of chief executive of the Commission be designed Registrar whose primary functions should be to advise the Commission and manage its operations, and that the Act of 2003 and other applicable laws be amended to give effect to this recommendation.

5. TRUST PROPERTY [SECTION 17]

The Commission is of the view that the section of the Act dealing with Trust property does not make adequate provision to satisfy queries of persons in public life who would hold such trusts or be trustees. The Commission recommends as follows:

- a. Section 17 of the Act be amended to reflect the following:

"Notwithstanding the provisions of any other law where a person in public life holds property in trust for any other person in public life he shall so state in his declaration."
- b. Also consider Section 18(1) of the *Antigua Integrity in Public Life Act 2004* which provides:-

"18(1) - Where a person in public life holds property in trust for another person he shall so state in his declaration but shall not be required to disclose the terms of the trust."
- c. Section 19(1) and (2) and Form 2 in the Third Schedule should capture the assets placed in a blind trust by a person in Public Life in terms of:
 - i. the amount
 - ii. the description of the assets placed in that trust and
 - iii. the date of so doing.

[Please see the revised Form 2 of the Third Schedule to the Act – attached herewith]

6. FILING OF DECLARATIONS [SECTION 22]

- a. That Form 2 in the Third Schedule to the IPO Act 2003 be amended to incorporate the detailed information contained in the Trinidad & Tobago *"The Integrity in Public Life (Prescribed Forms) Regulations 2003"* Legal Notice No. 216 of 12th December

2003 and Form 2 – Declaration of income, Assets and Liabilities – in the Third Schedule to the St. Lucia Integrity in Public Life Act 2004; (attached herewith)

- b. That section 16 of the IPO Act 2003, dealing with the filing of declarations, should be amended to provide that **the Commission may in any particular case, for good cause, extend the time for the filing of a declaration for a period not exceeding three months**, and
- c. That section 22 of the Act, dealing with the failure to file a declaration, be amended to empower the Commission to make an ex parte application to the High Court for an order directing such person to comply with the Act along the lines of the Trinidad & Tobago Integrity in Public Life Act, 2000.

Section 11 of the Trinidad & Tobago Act provides, materially, as follows:

“(7) The Commission may at any time after the publication referred to in section (6), make an ex parte application to the High Court for an order directing such person to comply with the Act and the Court may in addition to making such an order, impose such conditions as it thinks fit;

(8) A person who fails to comply with the directions of the Court, commits an offence and is liable to conviction to a fine of one hundred and fifty thousand dollars.”

- d. The Commission notes an inconsistency between the reference to filing period as stated in the declarative statement in Form 2 of the Third Schedule to the Act (*income during a period of twelve months*) and that of sec. 16(6) (*income year which means calendar year*) which needs to be reviewed.
- e. Section 16(6) of the Act needs to be amended as follows: ‘*for the purpose of **section 16(1)** income year means a calendar year*’.
- f. At section 14(c), change ‘*wife*’ to ‘*spouse*’.
- g. Section 22 of the Act should be amended to include references to sections 14(3), 15, 16 and 17. The section should read: ‘*to furnish particulars under section 14(3), section 15, section 16 and section 17, the Commission shall...*’
- h. In section 15, the reference should be to **sections 9(b)** and **17**. Section 15 should read: ‘*as it considers necessary for the purposes of section 9(b) or section 17*’.

7. GIFTS [SECTION 35]

The Act makes it unlawful for a person in public life to accept a gift as a reward for any official act done by him or as an inducement for any official act to be done. Exceptions are made in respect of gifts or rewards from a foreign dignitary on the occasion of an official visit where there is reasonable ground to believe that refusal of the gift or reward may offend the dignitary. Regarding this section, the Commission recommends that:

- a. Section 35(4) “*trivial*” should be defined. The value referred to in section 14(1) (d) may be used;
- b. Section 35(4) (b) and Section 35(5) (a) are inconsistent.

8. ANNUAL REPORT TO THE MINISTER [SECTION 48]

There is need for an amendment to the Act that would ensure the tabling of the Annual Report of the Commission in the House of Assembly in timely fashion. A provision similar to section 83(5) of the Constitution which authorizes the Director of Audit to transmit copies of his report directly to the Speaker of the House of Assembly if the Minister fails to lay it in Parliament is recommended. The Commission also recommends as follows:

- a. Section 48(1) substitute "*three months*" for "*two months*" in line 2.
- b. Section 48(3) substitute "*three months*" for "*one month*" in line 2 and "*the Minister*" for "*Parliament*" in line 4.

9. COMPLAINTS TO THE COMMISSION GENERALLY

- a. It is recommended that provisions similar to sections 32 and 33 of the *St Lucia Integrity in Public Life Act 2004* should be included in the *Integrity in Public Office Act 2003*.

Sections 32 and 33 of the *St Lucia Integrity in Public Life Act 2004* provide:-

"32.- (1) Any person who has reasonable grounds to believe that a person in public life-

- a) is in breach of a provision of this Act;
- b) has committed an act of corruption

may make a complaint in writing to the Commission.

(2) The complaint shall state-

- a) the particulars of the breach or act of corruption;
- b) the particulars, as far as they are known, of the person against whom the complaint is made;
- c) the nature of the evidence that the complaint proposes to produce in respect of the complaint; and
- d) such other particulars as may be prescribed in regulations made by the Minister.

(3) A complaint to the Commission under this section may be presented in person, or may be sent by registered post to the Chairperson of the Integrity Commission.

- b. Protection of persons making complaints

33.- (1) Pursuant to section 32, where a person makes a complaint to the Commission.-

- a) in good faith;
- b) reasonably believing that the complaint made and any allegations contained in it are substantially true, and in the circumstances it is reasonable for him or her to make the complaint,
- c) he or she shall not be liable to any form of reprisal or any suit whether civil or criminal.

(2) The provisions of subsection (1) shall not apply where it is shown that the complaint was made contrary to paragraphs (a) and (b) and that in the circumstances it is frivolous."

- c. Section 32 of the Act of 2003 should expressly provide that the person in public life against whom the complaint was lodged should be informed, at that stage, of the complaint made against him/her.

- d. Section 34(1) should delete "*and the President*". We can advance no good reason for submitting a report to the President at this stage. Delete similar references in Section 47(3) and Section 47(5).
- e. Section 34(3) delete marginal note "*Form 4 Third Schedule.*"
- f. Section 46 of *Grenada's Integrity in Public Life Act 2007*, appropriately amended, should be included in the *Integrity in Public Office Act 2003*, to replace section 34(1) of the Act.

Section 46 of the *Grenada Integrity in Public Life Act 2007* provides:-

"46.- (1) Where pursuant to an investigation conducted pursuant to section 45, the Commission finds that a person in public life breaches a provision of the Code of Conduct, the Commission shall send a report of its findings, for appropriate action-

- a. *in the case of the President of the Senate and of the Speaker of the House of Representatives, to the Governor-General;*
- b. *in the case of a Senator, to the President of the Senate;*
- c. *in the case of a member of the House of Representatives, to the Speaker of the House of Representatives;*
- d. *in the case of a person appointed by the Public Service Commission, to that Commission;*
- e. *in the case of a person appointed by the Judicial Legal and Services Commission to that Commission; or*
- f. *in the case of a person appointed to hold office in a statutory body, to the person or authority having power to appoint that person.*

(2) Notwithstanding the provisions of subsection (1) where the Commission has reason to believe that the evidence before it may constitute a criminal offence, it shall forward a copy of its findings to the Director of Public Prosecutions."

- g. The Section 47(2) provision read along with section 2(2) of the Act needs to be broadened by the inclusion of '*assets and liabilities*' after income

10. CODE OF CONDUCT [SECOND SCHEDULE TO THE ACT - RE SECTIONS 30 – 34]

- a. Second Schedule: Paragraph 1(h) read along with Paragraph 3 appears too restrictive.
- b. Paragraph 1(d) substitute "*resolved*" for "*reserved*" in line 6.
- c. Paragraph 1(i) "*any other person*" should be deleted and replaced by "*any other person in public life*" for consistency with the purpose of the Act.
- d. Paragraph 3 – "*Fifty thousand dollars in any one year*" appears quite small.

11. BRIBERY AND CORRUPTION [SECTIONS 37 – 46]

- a. Section 37 “*Prescribed officer*” as defined broadens the jurisdiction of the Act away from “*person in public life*” to include all police and public officers or employees or members of a public body. See, in particular, Section 38(1) & (2), 39(1) & (2).

12. WHISTLEBLOWER PROVISION AND SECTION 55(1) AND (2) OF THE ACT

The absence of protection for whistleblowers as is provided for in some jurisdictions can serve to act as an impediment to the work of the Commission. Whistle blowing provisions are especially important in small communities where the influence of the government in the day-to-day life of individuals is often all-pervasive.

The Commission is of the view that section 55 of the Integrity in Public Office Act 2003 does not appear to be compliant with Article III (8) of the OAS Convention which seeks to protect complainants who make in good faith reports of acts of corruption.

ARTICLE III of the Inter-American Convention Against Corruption provides: “... *the States Parties agree to consider the applicability of measures within their own institutional systems to create, maintain and strengthen: ... [8] Systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities , in accordance with their Constitutions and the basic principles of their domestic legal systems.*”

13. MISCELLANEOUS OTHER RECOMMENDATIONS

- a. Fourth Schedule: add “*Commissioner of Oath or Chairman of the Integrity Commission.*”
- b. Section 56, the reference to Section 11 in line 2 is incorrect. Section 11 creates no offence.
- c. Section 59(a) (ii) the reference to Section 30 in line 2 is incorrect. The proper reference is Section 31 (d).
- d. ‘Arrangements of Sections’: there is no clause in the Act ‘**Amendment of Schedules**’ as provided for in the Arrangement section - No. 58. This has skewed the numbering, indicating a final clause 60, when in actuality the final clause is **59**.

14. RE THE ORGANIZATION STRUCTURE OF THE COMMISSION

Given the important oversight and quasi-judicial functions that the Act imposes on the Commission, it is vital that its structure and organization be adequate to provide for the work that it has to do. The work of the Commission requires a high level of support in legal analysis, research and writing both in substantive and procedural matters as well as careful preparation for and scheduling of hearings, tribunals and enquiries.

Members of the Commission should not be involved in executive or administrative work, but should be free to exercise proper evaluation of matters brought before them including financial disclosure, and complaints and other matters that require enquiry, investigation or inquiry. The executive and administrative structure and organization must be such as would provide optimal support to the Commission in its work. This requires “high level

professional staff" of the right quality and technical skills. Accordingly, in addition to the recommendations regarding the post of Secretary, the Commission recommends:

- a. the abolition of the post of Research Assistant and the creation of two posts: **Investigator** and **Financial Analyst**; and
- b. upgrading of the existing post of **Executive Officer** to **Senior Executive Officer**.

**Further Recommendations for amendments to the Act
Taken from Minutes of the Integrity Commission (2010/11)**

September 30, 2010

Recommend the following amendments to the list of persons in public life: (i) that certain positions – e.g.: Chairman, Mercy Committee; Chairman, Education Appeals Board – should be removed from the list of persons in public life; and (ii) that Chairmen of local government authorities may be considered for the inclusion on the list.

December 02, 2010

There is need for amendment of the Act of 2003 to ensure that the Integrity Commission has access to information from third party institutions as may be required to properly examine the declarations of persons in public life;

January 13, 2010

The meeting discussed the need for an amendment to the Act that would ensure its tabling in timely fashion. Should the Minister not submit the Report to Parliament within the time prescribed by the Act, then the provision should be made for forwarding the same to the Speaker of the House of Assembly.