



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

**SECOND ANNUAL REPORT
YEAR ENDING AUGUST 31, 2010**

INTEGRITY COMMISSION

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1.0 CHAIRMAN'S LETTER OF TRANSMITTAL

November 11, 2010

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 during its second year of operation 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.

I feel constrained, with some diffidence, to restate here that notwithstanding the mandatory imperative by Parliament under section 49 of the Act that the Commission "*shall be provided with a staff adequate for the prompt and efficient discharge of its functions under the Act*" and the timeous recommendations made for the filling of the office of Secretary, the Commission was compelled to function without a substantive holder in that office (either by contractual appointment on terms approved by the Cabinet or otherwise) for more than thirteen (13) months during the period June 9, 2009 to July 31, 2010. This posed severe constraints on the expeditious carrying out of the work of the Commission given the small size of the staff

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complement. By section 12(1) of the Act, Parliament also mandated that *“there shall be a Secretary to the Commission”* who is required to perform the section 12(2) duties under the Act.

In a memorandum submitted to you within one month of its establishment, in recommendations made in the First Annual Report and in further communications during this year, the Commission drew to your attention the need to amend the First Schedule and the Third Schedule Form 2 to the Act in order to reduce vagueness or ambiguity in the statutory definition of the offices of persons in public life and make more comprehensive the list of these offices, and to make Form 2 more user-friendly. Several recommendations for amendments to the Act, including provisions to empower the Commission to extend for good cause the deadline for the filing of declarations, were also made. The Commission’s letter to you of 11th May 2010 contains additional recommendations for textual amendments to the Act under the sections dealing with, inter alia, trust property, the functions of the Commission and its inability to investigate of its own volition and the protection of complainants who make in good faith reports of acts of corruption to the Commission. Up to the time of this Report no Regulations have been made by the Minister for amendments to the Schedules, nor has the Commission been informed of any draft legislation to amend the Act to take into consideration its recommendations or otherwise. I again urge that the Commission’s recommendations be given due consideration.

During this year, the Commission also felt obliged to write to the Minister for Legal Affairs and to the Minister for Finance on administrative actions, circulars and decisions that the Commission

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considers to be impermissible intrusions in the exercise of its functions as an independent statutory authority established by Parliament.

The Commission as an emanation of the State is properly part of “*the business of the Government*” within the meaning of the Constitution assignable to a Minister and therefore the Minister with the portfolio so assigned has responsibility to Parliament for its general administration subject to the Commission’s autonomous functions, and the Minister for Finance has the responsibilities for financial resources spelt out in section 52 of the Act and other applicable laws. The true intendment of the constitutional provision is that ministerial responsibility must be exercised in such a manner that the inference may not be drawn that the ministries are seeking to interfere with the field of the statutory independence of the Commission. No responses have been received by the Commission to its letters to the Ministers on the issues raised.

The Commission’s experience in the discharge of its sections 9(a) and 14 functions under the Act over the past two years has forcefully revealed that comprehensive investigations into the financial affairs of persons in public life require high level professional staff in the field of forensic and investigative accountancy. A request for the provision of such staff will be made to you shortly.

The Commission is continuously seeking to contribute to the promotion of probity, integrity and accountability in public life in the Commonwealth of Dominica within the parameters set by Parliament and invites the cooperation of all relevant constitutional authorities in this regard.

This annual report covers the activities of the Commission during the period 1st September 2009 to 31st August 2010, except that matters

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begun during that period but concluded shortly thereafter are also included.

Yours very sincerely,

Julian N. Johnson
Chairman

2.0 INTEGRITY COMMISSION'S 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.

3.0 VISION STATEMENT

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.

4.0 MISSION STATEMENT

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.

5.0 INTEGRITY IN PUBLIC OFFICE ACT, 2003

5.1 Statutory Authority

The Integrity in Public Office Act 2003, No. 6 of 2003, was passed in the Parliament of the Commonwealth of Dominica on the 30th day of April, 2003, was assented to by His Excellency the President on the 29th day of May, 2003 and was published in the Official Gazette on the 5th day of June, 2003.

Section 1(2) of the Act provides that the Act shall come into operation on such day as the President may, by Order published in the Gazette, appoint. The Integrity in Public Office (Commencement) Order, 2008, SRO No. 24 of 2008 appointing the 1st September, 2008 as the day on which the Act should come into force, was published in the Official Gazette on the 14th August, 2008. The Commission was appointed on the 2nd September 2008 and the Commissioners took their oaths on that day.

5.2 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 or persons acting continuously for not less than six months in any office set out in Part II of the First Schedule. These include members of the House of Assembly, permanent secretaries, some senior public and police officers, advisers to ministers, chairmen, General Managers and Managing Directors of public institutions and Chief Technical Officers in the public service.

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According to the interpretation clause (section 2), Chief Technical Officer *“includes the Chief Physical Planner and any Director or head of department or deputy head of department however described in a Government Ministry or Department”*. In the process of deciding on the list of persons who fell within that office, the Commission consulted with the Chief Personnel Officer, Establishment, Personnel and Training Department and the Secretary to the Public Service Commission. Based on the advice received as to which offices were considered Deputy Heads of Department in the public service and the appointing authority to these offices, the Commission included Senior Administrative Officers, Administrative Officers and Assistant Secretaries as positions falling within the office of ‘Chief Technical Officer’ under the Act. In considering an objection raised by an officer holding the office of Senior Administrative Officer, the Commission reviewed its decision concerning the offices falling within the definition of ‘Chief Technical Officer’. Based on this review, the Commission removed the offices of Senior Administrative Officer, Administrative Officer and Assistant Secretary from the list of persons in public life. See Appendix I for the list of persons in public life.

The Commission also decided to exclude the office of the Executive Director, National Telecommunications Regulatory Commission (NTRC) from the list of persons in public life since the office held by him was not designated ‘Managing Director’ or ‘General Manager’ as listed in the First Schedule to the Act.

Apologies were extended to holders of those offices who had already declared or did not declare and were published in the Official Gazette. Notices of apology to the persons affected are attached at Appendix II.

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The Commission is of the view that the list of offices of persons in public life needs to be amended to remove those public officers and others who serve on Boards and Commissions whose roles and functions do not justify their being subject to the level of scrutiny required by the Act. In addition to its recommendations already made for amendments to the list of persons in public life, the Commission is also of the view that consideration should be given to the inclusion of Chairmen of local authorities to the list. These changes only require an amendment to the First Schedule to the Act by the Minister for Legal Affairs.

6.0 THE COMMISSION AND ITS FUNCTIONS

6.1 Membership

Section 4(1) of the Act provides for the Integrity Commission to comprise:

- a) A Chairman, who shall be a former Judge of the High Court, an attorney-at-law of fifteen years standing at the Bar or a former Chief Magistrate;
- b) Two members appointed by the President on the advice of the Prime Minister;
- c) Two members appointed by the President on the advice of the Leader of the Opposition;
- d) A chartered or certified accountant appointed by the President on the recommendation of the Institute of Chartered Accountants of Dominica or like body however described;
- e) An attorney-at-law appointed by the President on the recommendation of the Dominica Bar Association.

The Prime Minister is required to consult with the Leader of the Opposition before tendering advice to the President on the appointment of the Chairman. Members appointed under subsections (1) (b) and (c) shall be persons of high public standing and reputation for personal integrity.

Section 5 of the Act stipulates that a person shall not be qualified to be appointed as a member of the Commission if that person:

- a) is a person in public life or is otherwise exercising a public function;
- b) would otherwise be disqualified to be a member of the House of Assembly;

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- c) has, at any time during three years immediately preceding the date of appointment, been a public officer; or
- d) has, at any time during five years immediately preceding the date of appointment, held office in a political party.

The Integrity Commission of Dominica comprises:

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

There were no changes in membership over the reporting period. Appendix III shows professional profiles of the members of the Commission.

6.2 Functions

Section 9 of the Act sets out the functions of the Commission as follows:

- a) receive, examine and retain all declarations filed with it under the Act;
- b) make such enquiries as it considers necessary in order to verify or determine the accuracy of any declarations filed under the Act;
- c) without prejudice to the provisions of any other enactment, inquire into any allegation of bribery or act of corruption under the Act;
- d) receive and investigate complaints regarding non-compliance

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- with any provision of the Act; and
- e) perform such other functions as is required under the Act.

The Commission is responsible to ensure that persons in public life comply with the obligation in section 14 of the Act to file declarations setting out their offices, incomes, assets (including the assets of their spouses, children or relatives which have been acquired through or traceable to their incomes) and liabilities, and gifts made by them in excess of one thousand dollars. For the purposes of a declaration, the income, assets and liabilities of a person in public life include the income, assets and liabilities held or incurred by any other person as his agent or acting on his behalf. Declarations are required to be filed in accordance with Form 2 in the Third Schedule and within the times prescribed in section 16 of the Act.

In monitoring compliance with sections 14 and 15 the Commission is required to examine every declaration filed with it, and request from declarants any information or explanation or further particulars which it considers necessary in order to verify or determine the accuracy of every declaration. The Commission shall publish a certificate in respect of a person in public life when it is satisfied that a declaration is fully made. It is also empowered to hold formal inquiry into the accuracy or fullness of declarations filed with it or into the sources of income of persons in public life when it suspects possession of unaccounted property. It is also required to gazette cases of non-compliance and refer matters that are in breach of any of the provisions of the Act to the Director of Public Prosecutions for further action.

Section 17 of the Act provides: *“Where a person in public life holds money or other property in trust for another person, he shall so state in his declaration”*. In recognition of legal professional privilege, the Commission decided that persons in public life who are members of the legal profession, must, in order to comply with the Act, file only a statement of the total amounts held in trust accounts at the relevant dates without disclosing the names of the beneficiaries.

Under Part V, the Commission is also required to investigate gifts accepted by persons in public life.

One of the most important functions of the Commission, under section 32 of the Act, is to receive and examine complaints made to it concerning breaches of the Code of Conduct as set out in the Second Schedule. The Code prohibits conduct which tends to create conflict between the person in public life’s private interests and his public duties.

Provision is made for the Commission to inquire into any allegation of bribery or corruption under Part VI of the Act.

6.3 Declaration of Financial Affairs

Section 14 of the Act requires that

“1) every person in public life shall file a declaration with the Commission setting out –

- a) his office or offices;*
- b) his income, assets and liabilities;*
- c) the assets of his wife, children or relative acquired through or traceable to his income; and*
- d) gifts made by him in value exceeding one thousand dollars.*

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2) the declaration shall be in Form 2 of the Third Schedule.”

Form 2 of the Third Schedule had been found deficient both in content and design. The layout of information headings did not follow a rational sequence and the space provided for inputting information is inadequate. The Commission issued an expanded Form 2 allowing more space to furnish more details, and explanatory notes for completing the Form. Recommendations have been made to the Minister for amending Form 2.

The staff of the Commission provided support to those persons requiring assistance in completing their declarations.

Table 1 provides data on declarations filed and examined during the reporting period 2009 - 2010.

Activities	2009/10	2008/09
No. of persons in public life listed	147	136
No. of persons who filed	134	111
No. of persons who did not file	13	25
No. of declarations certified	92	78
No. of declarations filed in error	10	38
No. of queries sent out	33	58
No. of queries answered	26	51
No. of persons gazetted for not filing	13	25
No. of persons gazetted for late filing	33	15
No. of cases reported to DPP for not filing	13	25
No. of cases reported to DPP for late filing	33	15

Table 1: Data on Declarations

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Further public education is needed to promote more widespread understanding of the statutory powers of the Commission, the obligations of persons in public life as regards financial disclosure and the role that civil society can play.

With respect to persons who had failed to file declarations and who had filed late for the income year 2008, the DPP determined that due to the statutory limitation of six months in respect of summary offences, prosecution was statute-barred. This statutory limitation became applicable due to delayed submission by the Commission on account of staff and administrative constraints.

During the year under review, a number of persons failed to file declarations or failed to respond to requests for further particulars. The names of these persons were published in the Official Gazette and reported to the Director for Public Prosecution. The lists of these persons are shown at Appendix IV.

In respect of the current reporting period, the Commission redoubled its efforts to expedite the examination of declarations and the early submission of reports to the DPP and publication in the Official Gazette within a time frame that enabled the DPP to take action in his discretion. The DPP has decided to prosecute twenty-six (26) persons in public life for non-compliance with the Act.

In this connection, mention must be made of the reaction of the Speaker of the House of Assembly who objected strongly using the public media to denounce the Commissioners for submitting her name to the DPP. The Commission must draw attention to the need for senior public officials to exercise restraint in their public utterances

about the work of the Commission which could have the effect of undermining the Commission's credibility.

The Commission is in the process of completing a Manual of Procedure with respect to the filing and processing of declarations.

6.4 Confidentiality and Security of Declarations

Under section 20 of the Act Parliament has imposed the duty on the Commission to maintain the confidentiality of the declarations and information received from persons in public life. Unauthorized disclosure of any declaration filed with the Commission is unlawful and an offence under the Act punishable by fine and imprisonment. The prosecution of any such person falls within the constitutional functions of the Director of Public Prosecutions and, by virtue of section 56 of the Act, his consent is required for the prosecution of such an offence.

The members of the Commission, the staff and every person performing any function in the service of the Commission are required to treat all declarations, or information relating to such declarations, as secret and confidential and shall not disclose or communicate to any unauthorised person or allow any such person to have access to any such declaration or information. The Commission and staff have all sworn to secrecy in accordance with the Oath of Secrecy in the Fourth Schedule to the Act.

The Commission has taken seriously its confidentiality obligations. It has taken appropriate steps to ensure that the declarations filed with it under the Act do not come into the hands of unauthorized persons within the meaning of the Act. Express terms have been included in

the service contract of employees forbidding disclosure and providing for termination of contract for breach of this term. In addition, section 21 of the Act prescribes that any person who contravenes the secrecy and confidentiality provisions of the Act commits an offence and is liable to a fine of ten thousand dollars and imprisonment on summary conviction.

In the year under review, two declarants questioned the authority of the Secretary in addressing queries to them. The Commission made it clear that the Secretary was acting on its behalf and with its authority.

6.5 Gifts

The Act declares that it is 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. This reflects the well-established prohibition of bribery in respect of performance or non-performance of public duties. 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.

Gifts may also be accepted from community organizations on social occasions when the gift or reward represents the work or achievement of the community organization, as well as gifts given on occasions such as marriage, retirement or transfer, or similar social or celebratory occasions. It is implied that such exempted gifts must not be intended or perceived as bribes, but must be given simply in the context of the social occasion and for no improper motive. For that

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reason a person in public life receiving a gift on such occasions must make a report to the Commission in the prescribed form within thirty (30) days of the receipt of the gift. The Commission then holds an inquiry, and if it finds that the gift was given to the person in public life personally, and that the gift was trivial or, if not trivial, it was not intended to be a motive or reward for doing or abstaining from doing anything, or causing any other person to do or not to do anything in the course of the performance of official functions (a bribe), the Commission shall allow the person in public life to keep the gift. The person in public life is entitled to be given notice of the inquiry, and to be represented at the inquiry, either in person or by an attorney-at-law.

Where the Commission finds that the gift was given as a state gift, or that, even if given personally, the gift was not trivial or was intended as a bribe, the Commission must direct the person in public life in writing to deliver the gift to the Financial Secretary within not more than 30 days. The person in public life must comply with the Commission's direction within the time specified. The gift is treated as a gift to the State.

It is an offence for the person in public life to make a report which is incomplete or false in any material particular or not to comply with a direction to deliver the gift to the Financial Secretary. The offence attracts a fine equal in value to the value of the gift or \$7,500.00, whichever is greater, and to imprisonment for 3 months.

In the period under review, the Commission dealt with one such case, in which the person in public life reported the receipt of a non-trivial gift, and complied with the Commission's directive to deliver the gift to the Financial Secretary.

6.6 Independence and Autonomy

Given its statutory purpose and oversight responsibilities, Parliament specifically provided for the independence and autonomy of the Commission and enacted under section 13 that: "*The Commission shall in the exercise of its functions under this Act not be subject to the control or direction of any person or authority.*" The meaning and import of this provision are similar to the constitutional provisions securing the independence of autonomous functionaries and institutions under the Constitution, for example, the Director of Audit (sections 83 and 89 of the Constitution) the Director of Public Prosecutions (section 88 of the Constitution) and the Electoral Commission (section 56 of the Constitution). This implies freedom from political direction and control in the exercise of its functions. Parliament thought it a necessary requirement of the Act in order that the Commission could perform its statutory duties impartially and effectively.

The Executive has an important role to play in furthering the objectives of the Act. Section 49 mandates that the Commission shall be provided with staff adequate for the prompt and efficient discharge of its functions. Section 52 stipulates that the expenses of the Commission should be a charge on the Consolidated Fund, but its

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estimates of expenditure must be submitted to the Minister for Finance for approval, while section 48 requires the Commission to make an annual report to the Minister for Legal Affairs which report shall be tabled in Parliament no later than three months after its receipt. Also, section 59 mandates the Minister to make Regulations in respect of some areas of the Act *“generally for the effective implementation of the provisions of this Act.”* No such Regulations have been made.

There are however, certain administrative rules and practices intended for public officers and government departments which are being extended to the Commission contrary to the intention of section 13 of the Act. In one case the Chairman was required to travel abroad on urgent and extremely sensitive business of the Commission. Due to the immediacy of the matter, the Commission agreed that the Chairman should travel using his own funds and receive reimbursement on his return. On the submission of a claim, reimbursement was denied on the grounds that the prior approval of the Prime Minister on a standard **Application for Travel** form had not been obtained. The form required the Chairman to give full particulars of the purpose of the mission abroad including its expected outcome. The extension of such administrative rules to the Commission is clearly incompatible with the provision of section 13 of the Act, and the Commission has so informed the Minister for Finance. No response has been received from the Minister.

6.7 Possession of Unaccounted Property

There has been much discussion in the country, and even criticism of the Commission, for its perceived failure to act in response to allegations of corruption made in the media against persons in public life. In this connection mention is often made of the provisions of section 47(2) of the Act which speaks of suspicion concerning the possession of unaccounted property.

Section 47(2) of the Act provides that where a person in public life, or any other person on his behalf, is suspected to be in possession of property or pecuniary resources disproportionate to his legitimate sources of income, the Commission shall conduct an inquiry into the source of income of the person.

In applying this provision, the Commission must be guided by the authoritative pronouncements which have been made in relation to the word 'suspicion' in a statutory context. In any attempt to act on suspicion, the Commission must be guided by the authoritative dictum which has been given by the courts. In **Darren Miller v. Commissioner of Police**, the Eastern Caribbean Court of Appeal had to consider "*whether there was sufficient evidence to support reasonable suspicion.*" The learned Chief Justice (Saunders C. J (Ag.) as he then was, now a Justice of the Caribbean Court of Justice) declared that "*It was vital to the case for the prosecution that, before Miller could be called upon to render an account, there should be cogent evidence giving rise to a reasonable suspicion that the money found was stolen*

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or unlawfully obtained. ... The test is objective.” It would be unwise for the Commission to ignore such authoritative statements of the law. The Commission continues to keep these concerns under consideration.

It is necessary to record that acting on e-mails received from an anonymous source – forumcitizens@yahoo.com – the Commission posed several questions to a person in public life concerning the allegations made in these emails. Contact by email was also sought to be made with forumcitizens@yahoo.com but there was no reply.

The person in public life by his solicitors informed the Commission that he had *“no interest whatsoever as alleged or at all”* in the named property and objected to the Commission’s questions on several grounds. After further deliberations, including the consideration of independent legal advice, the Commission informed the person in public life that it would not be treating the communication from forumcitizens@yahoo.com as a complaint which triggers those of the Commission’s functions under the Act which require a complaint.

The examination and the decision of the Commission in this matter raised several issues relating to the powers of the Commission under the existing provisions of the Act of 2003 on its true construction. For example, the function of the Commission under section 9(d) of the Act is to *“receive and investigate complaints regarding non-compliance with any provision of this Act”*. The Commission under this provision

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is not empowered to act on the basis of anonymous complaints. Section 9(d) read with section 55(1) limit the power of the Commission to acting on a complaint from an identifiable person. This is buttressed by the strong common law presumption that a person accused is entitled to confront those who testify against the accused. (c.f. R. v Davis [2008] UKHL 36).

Complaints to the Commission against a person in public life for non-compliance with the Act must therefore be made by a person who must discharge the burden of proof in any proceedings commenced by the Commission on the allegations made by him. Allegations of breaches of the Act to the Commission must be made by a person, within the meaning of the Act, i.e., by a natural person or “*a public body, company, partnership, trust, association or body of persons whether corporate or incorporate*”, but not by an anonymous source or entity (Interpretation and General Clauses Act, Chap. 3:01; Laws of Dominica, section 3).

Furthermore, Parliament has not empowered the Commission to act on its own initiative to investigate allegations of breaches of the Act. Under Section 47(2) the Commission has a duty to inquire into the source of income of a person in public life if it suspects that person or any other person acting on his behalf to be in possession of unaccounted property. An anonymous complaint or media speculation, however, cannot properly form the basis of such suspicion by virtue of section 55 (1) of the Act.

6.8 Inability to act of its own volition

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. The Trinidad and Tobago integrity legislation provides, materially, as follows: “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,*” and “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;

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(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; or

(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

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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 Integrity in Public Life (Amendment) Act, 2000 – Trinidad and Tobago].

As our legislation now stands, except in respect of its functions under section 9(b) of the Act, the Commission’s power to act is severely circumscribed. Experience however shows that in small societies complaint from the public should not be the main means by which persons in public life could be called to account.

Additionally, section 32(2) of the Act tends to discourage persons coming forward with legitimate complaints. Two complaints made to the Commission in 2008 may be illustrative of this point. In both cases, decisions handed down by the Commission in respect to these complaints made under section 31 of the Act drew attention to

the legal implications to the complainant if the complaint is considered defamatory. Drawing attention to this provision of the Act may have had the unintended consequence of dissuading people who may have legitimate grounds from making complaints. Furthermore, section 55(2) and (3) may be construed as elevating to the status of a criminal offence punishable by a fine, and even imprisonment, the tort of defamation which is ordinarily a civil matter attracting damages in the civil courts. Apart from the two complaints which the Commission received when it was first established in September 2008 there have been no other complaints from the public which comply with the terms of the Act. These limitations raise questions as to whether the Act may not be tilted too far in favour of persons in public life. The Commission has recommended to the Minister for Legal Affairs 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 state: *“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”*.

6.9 Code of Conduct

Section 30 of the Act mandates every person in public life to *“observe the body of rules known as the Code of Conduct, specified in the*

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Second Schedule.” Section 31 provides for “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.”

Under section 31 Parliament has prescribed that any such complaint must contain the following:

- (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 complaint; and
- (d) such other particulars as may be prescribed in Regulations made by the Minister.

A letter dated August 17, 2010, from a member of the public addressed to the Commission contained the following allegations: *“I bring to your attention for necessary legal action the theft of over one hundred and ninety-three thousand dollars from the Treasury of the Commonwealth of Dominica through the 2008 purchase of garbage bins from Logistical Supply Solutions Inc. This act of theft has resulted in breaches of sections (a), (c), (d), (e) and (i) of the Code of Conduct of the Integrity in Public Office Act, number 6 of 2003. I contend that in the purchase of the garbage bins by the Office of the Prime Minister, some person or persons dishonestly obtained money belonging to the state by deception.”*

The Prime Minister, the Minister for Trade, the Financial Secretary, the Secretary to the Cabinet and the Director of Audit were named as the public officials who were alleged to be involved in and

knowledgeable about the transactions that facilitated the act of theft. The letter was accompanied by copies of emails and a letter purported to be exchanged between the vendor of the bins and the persons in public life that were said to be involved in and knowledgeable of those transactions.

In examining the letter the issue whether it constituted a complaint under section 31 of the Act fell to be considered by the Commission.

The Commission decided that the letter of August 17, 2010 does not contain the prescribed requirements which constitute a complaint that satisfies section 31 of the Act for the following reasons:

- (a) While the letter does allege breaches of the Code of Conduct, section 31 (a) of the Act requires that there be stated particulars (details) of the alleged breaches of the Code of Conduct and no such particulars are contained therein. Similarly, section 31(b) requires that there be stated particulars of the person against whom the complaint is made and again no such particulars are contained therein. Having failed to satisfy the requirements of section 31 (a) and (b) there is no basis to consider the documents submitted with the letter for compliance with section 31 (c).
- (b) Theft is a criminal offence under the Theft Act constituted by the dishonest appropriation of property belonging to another with the intention of permanently depriving the owner of it. (Section 3 of the Theft Act, Chap. 10:33, Laws of Dominica, 1990 Revised Edition). However, theft is not an offence which the Commission is empowered to deal with under the Act.
- (c) The office of the Director of Audit is not included in the list of

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offices respecting persons in public life in the First Schedule to the Act and therefore section 30 of the Act does not apply to him. [First Schedule to the Public Service Act, Chap 23:01 as amended by Public Service (Schedules) (Amendment) Order, 2009, S.R.O. No.1 of 2009 (Gazetted 5th February, 2009) and sections 83 & 89 of the Constitution, Chap.1:01 and Appendix II of the First Annual Report, Integrity Commission of Dominica, 30th September 2009].

The Commission has informed the author of the letter accordingly. If the Commission receives a complaint which complies with the requirements of the Act as set out above, the Commission shall examine the matter and take such action as prescribed.

A crucial area that the Code seeks to address is conflict of interest which occurs when the private interests of a person in public life clash or even coincide with his duties. It gives rise to ethical issues which may be actual, potential or apparent.

During the year under review, the Commission again drew the attention of a person in public life to a situation reported in his declaration which could generate conflict of interest. While there was no evidence of actual conflict of interest the Commission continued to be concerned that the potential for conflict of interest was sufficiently grave and should be avoided.

Civil society and institutions including churches, professional bodies, trade unions, and crucially, the media, have an important role to play in familiarizing themselves with and encouraging compliance with the high principles contained in the Code and inculcating in society a culture of integrity and probity in public life.

Public attitude is important in buttressing the legislation in order to force persons in public life to observe high standards of behaviour contained in the Code. Transparency International has observed: *“Questions of law can ultimately be resolved by the courts. Matters of ethics are, by definition, unable to be resolved by resort to rules of law”*.

The Commission’s effectiveness can be enhanced by working in harmony with other oversight institutions which have roles in fostering the maintenance and sustainability of all elements comprising ethical governance. These institutions include the Public Accounts Committee of the House of Assembly, the Office of the Director of Audit, and the various Service Commissions. All these institutions should work together in cultivating a culture in which integrity and probity in public life are the norm, so that behaviour that falls short of this norm is rejected by society at large.

6.10 Bribery and Corruption

During the year no allegations were received by the Commission under this part of the Act.

Corruption and fraud are clearly recognized as abhorrent, and the highest legal authority has described bribery as *“an evil practice which threatens the foundation of any civilized society”* (A.G. v Reid (1994) 1 A.C.344, HL). These conclusions are reflected in sections 9(c) and Part VI of the Act where provision is made for the Commission to

inquire into any allegation of bribery or act of corruption made under the Act.

The penalties which the Act prescribes for offenses under these sections of the act include fines, imprisonment (of up to 10 years) and forfeiture of any advantage which may have been received.

The Act discourages the making of false or malicious allegations against persons in public life by stipulating that the burden of proof of any allegation of bribery or corruption lies with the accuser; and the making of such allegations is a criminal offence attracting heavy penalties that could include imprisonment of up to 10 years.

6.11 Accountability in Public Procurement

In its first Annual Report the Commission noted the report of the Director of Audit on the public accounts for 2008 on the issues surrounding the purchase of garbage bins by the office of the Prime Minister. The Director of Audit found: (i) that bins of less intrinsic value than what was contracted for were received by the Office of the Prime Minister; (ii) that the accounting officer in the Office of the Prime Minister should do everything legally possible to ensure that the extraordinary gain of \$557,783.33 realized by the vendor should be refunded to the Consolidated Fund; and (iii) that the Government of Dominica “*did not ‘receive value for money’*” in this transaction. The Commission concurred with the Report’s conclusions on action that needed to be taken in the light of what appeared to be violations of

Financial (Store) Regulations (SRO 23 of 1980) and the Finance (Administration) Act, Chapter 63.01 of the Laws of Dominica.

At the time of compilation of the Commission's second Annual Report the Director of Audit's Report on the public accounts for 2009 was not available but it is assumed that it will contain references to the decisions, if any, by the Public Accounts Committee on the issues and, more especially, the administrative actions which have been taken in compliance with the Finance (Administration) Act for failure to comply with Regulation 262 of the Financial (Stores) Regulations. These provisions place a statutory obligation on Accounting Officers to ensure that proper control and economy are exercised over the purchase of stores, plant, vehicles and equipment, and that the taxpayer receives value for money and the circumstances giving rise to action by the Financial Secretary for failure to observe these Regulations.

6.12 Consultations – Meeting with Prime Minister

At the invitation of the Prime Minister, a delegation from the Integrity Commission met with him at his office on Wednesday, June 23, 2010. In attendance were the Minister for Legal Affairs, the Attorney General and the Financial Secretary. The Commission's delegation comprised the Chairman and Commissioners Lazare and Williams. A number of matters, including amendments to the Act, staffing of the Commission, travel on business of the Commission – refund to the Chairman, were discussed.

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The Chairman referred to earlier correspondence to Government in which the Integrity Commission had made recommendations for amendments to the 2003 Act, namely, letters of 30th September, 2008, 10th October, 2008, 4th September, 2009 and 11th May, 2010 (see Appendix V) in addition to the recommendations contained at Appendix VI of the First Annual Report of 31st August 2009.

The Chairman drew particular attention to the recommended amendments to the First Schedule in order to give clarity and precision to the designation “Chief Technical Officer” and to the Third Schedule Form 2, to make this form more user-friendly and at the same time facilitate scrutiny of declarations by the Commission. These amendments could be made by Regulations made by the Ministry of Legal Affairs. As regards amendments to the Act requiring reference to Parliament the Chairman also drew attention to the Commission’s recommendations for changes to section 16 of the Act dealing with the filing of declarations to give the Commission discretion to extend for a limited period, and for good cause the date for filing a declaration, bearing in mind that there are extenuating circumstances why a person might not be able to file by the due date.

Also discussed was the question of reimbursement to the Chairman of travel expenses incurred, at the request of the Commission, in connection with confidential Commission business. The Chairman reiterated the Commission’s view that the prior approval requested by the Minister of Finance for members of the Commission to travel in the performance of the functions of the Commission constituted an

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unacceptable intrusion on the independence of the Commission under section 13 of the Act. (Letter to the Prime Minister on this matter is at Appendix VI)

In response the Prime Minister indicated that as regards the amendments to the Schedules, Government had agreed to adopt the Commission's recommendations and that an order giving effect to these amendments would be issued within a month. As regards the recommended amendments to the Act, the Prime Minister said that Government had already considered and approved some ninety-eight percent (98%) of those in the Commission's Annual Report 2009, and he took note of the offer of the Integrity Commission to meet with the Cabinet in order to go through all recommendations submitted to Government and provide any explanation and/or clarification that might be needed.

7.0 ADMINISTRATION AND OPERATION

7.1 Organization

Three sub-committees have been organized for the purpose of carrying out the functions of the Commission:

- The Rules Sub-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 members are Julian N. Johnson, Sir Brian Alleyne, and George Williams.
- The Finance and Administration (F&A) Sub-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 members are Alick Lazare, Gerald Smith, Wendell Lawrence and Patricia Inglis. George Williams also attended meetings of the F&A sub-committee and chaired the Interview Panels.
- The Education Sub-Committee has responsibility for organizing the public education programme with the aim of informing the public on matters relating to its operations, the importance of integrity and probity in public life, and the role that civil society must play in this regard. The members are

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Wendell Lawrence, Sir Brian Alleyne, George Williams and Patricia Inglis.

The Rules and the Education Sub-Committees are supported directly by the Secretary, and the F&A Sub-Committee is supported by the Research Assistant. Figure 1 shows the organization structure of the Commission.

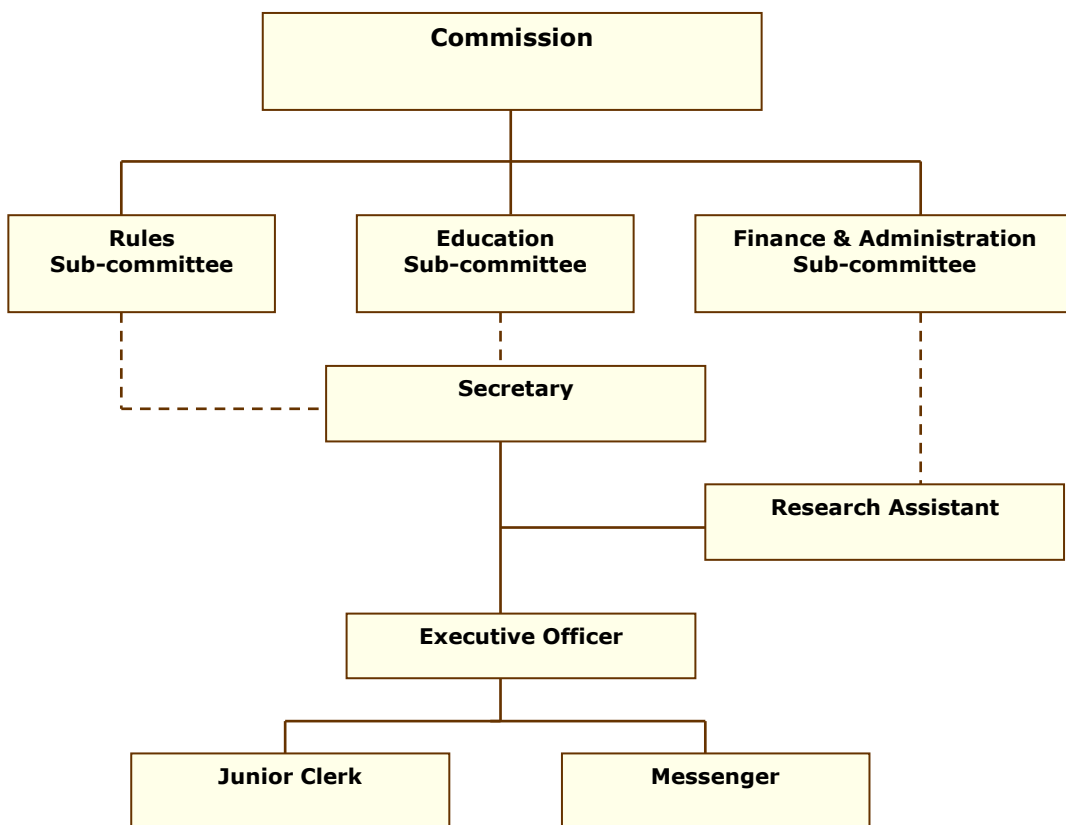


Fig. 1 Organization Structure of the Commission

7.2 Staffing

There are allocations for five members of staff to assist the Commission with the day to day operations of its office. The full

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complement was only achieved from August 1, 2010. Over the reporting period, 1st September 2009 to 31st August 2010, the Commission functioned as noted in Table 2.

Period	Staff
1 st September 2009 - 6 th December 2009	Research Assistant (Secretary Ag.) Temporary Junior Clerk Temporary Messenger
7 th December, 2009 – 31 st July, 2010	Research Assistant (Secretary Ag.) Executive Officer (Ag.) Temporary Junior Clerk Temporary Messenger
1 st August, 2010 – 31 st August, 2010	Secretary Research Assistant Executive Officer (Ag.) Temporary Junior Clerk Temporary Messenger

Table 2: Staff of the Commission over the year under review

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 Public Service Commission (PSC). In a small operation the size of the Commission, 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 recommended candidates

for appointment. In a few cases by the time an offer of appointment was made the candidates were no longer available. In one case an acting appointment was made after the substantive holder of the post had returned to office after having completed vacation leave.

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 as Chief Executive Officer with responsibility for the supervision of all staff as well as the management of all functions of the office.

Due to delays in approving the Commission's recommendations for filling the post, a successor to Mrs. Alex Phillip, the first Secretary, was not appointed until 1st August, 2010, a period of more than thirteen (13) months during which this important position remained vacant. The failure of the appointing authorities to make a timely appointment further exacerbated the situation. During this time the Commission necessarily had to function with the appointment of the Research Assistant, Mrs. George, to act in the position of Secretary in addition to her substantive duties, for which the Commission places on record its appreciation. The Chairman also had to undertake additional executive responsibilities by default.

Subsection (1) of section 50 of the Act provides that a member or the Secretary to the Commission shall not enter upon the duties of his office until he has taken the oath of allegiance, oath of office and oath of secrecy as specified in the Fourth Schedule. Ms. Helen Ambo took the oaths on August 5, 2010.

In order to fulfill its statutory functions the Commission is expected, indeed required to perform investigative work in certain circumstances. 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”*. Nonetheless, the Commission is of the view that in the absence of its own effective means of investigation, it may be unable to perform its intended role, and therefore fail to expose cases of impropriety where they may exist.

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, Personnel and Training 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 it to the Commission to recruit, manage and exercise disciplinary control over staff. An example of such an arrangement can be found in the Jamaica Corruption (Prevention) Act 2000, where 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. This would expedite appointment of suitable staff adequate for the prompt and efficient performance of the Commission’s independent statutory functions.

7.3 Budget and Financial Operations

With regard to the preparation and management of budget and finances for its operations, the Commission remains guided by the

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procedures and rules of the Public Service. Table 1 presents a comparative statement of the financial resources made available to the Commission for the financing of its operations, and highlights the details of the budget.

Expenditure	2010/11	2009/10	2008/09
Personal Emoluments	525,228	556,159	231,274
Wages	14,000	-	-
Hosting and entertainment	1,500	1,500	-
Allowances	41,370	20,371	-
International travel & subsistence	16,500	15,000	-
Utilities	-	480	-
Supplies & materials	19,000	19,800	38,562
Maintenance and operations	6,900	5,400	-
Rental	-	55,200	36,925
Professional & consultancy services	15,000	10,000	-
Insurance	1,500	1,500	-
Sundry Expenses	9,000	9,900	33,454
Machinery & Equipment	4,000	-	-
Total	653,998	695,310	340,214

Table 3: Budget and Financial Operations

7.4 Meetings

The Commission held twenty-eight (28) meetings during the year, including meetings with Mr. Howard Whitton from the Commonwealth Secretariat. Attendance at these meetings is as shown below at Table 4:

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Members	No. Attended	No. Absent	Reasons for Absence
Julian Johnson	28	0	-
Alick Lazare	26	2	Illness
Brian Alleyne	22	6	Out of State
George Williams	23	5	Out of State
Patricia Inglis	28	0	-
Gerald Smith	27	1	Out of State
Wendell Lawrence	26	2	Illness

Table 4: Commission meetings - Attendance

During these meetings the Commission discussed matters pertaining to its operations, including reports from its three sub-committees.

In addition, the following sub-committee meetings were held as shown below at Table 5:

Sub-committee	No. of Meetings held
Finance and Administration	22
Rules	3
Education	6

Table 5: Meetings of Sub-committees

7.5 Library

The Commission maintained a library of reference books that assists it in its work. Relevant updates were done, particularly with the assistance of the Commonwealth Secretariat, as well as the resources of the Commission and the International Law Book Facility.

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

7.6 Technical Assistance

The Commission obtained the services of a short-term consultant, Mr. Howard Whitton, from the Commonwealth Secretariat to examine its procedures and make other recommendations for improvements in the discharge of its functions under the Act.

During his stay from January 25th to February 5th 2010, Mr. Whitton interviewed staff and held discussions with the Education sub-committee and with the Commission. Several of his recommendations have been adopted.

7.7 Public Education

On Friday, March 19, 2010, the Commission held a workshop at the Public Service Training Centre for persons coming newly into public life. All persons in public life were invited; less than twenty (20) of them attended the session. None of the new members of Parliament were in attendance.

The Commission prepared and issued a Handbook dated 18th March 2010 containing answers to frequently asked questions. It was

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apparently well received by the public and featured on a MARPIN 2K4 Television news report.

The Commission's first Annual Report for the year ending 31st August 2009 is available on the Government of Dominica website: www.dominica.gov.dm 'Resources and Publications'.

8.0 Conclusion

The Act sets out in the long title its purpose as *“establishing probity, integrity and accountability in public life and for related matters.”*

The Commission remains conscious of the vital role it is mandated to play in ensuring that persons in public life observe and maintain the highest standard of behaviour in the conduct of the public affairs to which they have been entrusted and which society expects.

During the year, the Commission received no complaints that met the requirements of the Act. This may have been due, at least in part, to a general reluctance on the part of the public to come forward with legitimate complaints for the reasons adduced at section 6.8 of this Report. However, comments and discussions in the media implying violations of the Act by persons in public life grew more intense. There has been a notable focus on public sector behavior and performance that reflect the need to enhance ethical standards so as to buttress and maintain confidence in public institutions. Public trust is at stake, and it is crucial that public officials observe good governance principles and transparency in the conduct of public affairs. It cannot be emphasized too strongly that the behavior of public officials must be able to stand up to the closest public scrutiny, an obligation that may not be fully discharged by simply acting within the law.

Comments made in the media have included criticism of the Commission for its perceived failure to act in response to allegations of wrongdoing by persons in public life. But the Commission is

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obliged to function within the authority given to it by the Act. It can only proceed on the basis of allegations made to it by a person against a person in public life, upon specific complaints made in writing and in compliance with section 31 of the Act, upon information obtained from its examination of declarations of financial affairs filed with it and further particulars furnished relating thereto or on evidence-based suspicion of possession of unaccounted property.

Unless changes are made to the Act made by Parliament to allow greater volition and discretion to the Commission to investigate and act upon allegations made or suspicions raised as is provided for, for example, in sections 33, 34 and 37 of the Trinidad and Tobago Act, the Commission will be unable to respond adequately to public expressions of concern and to specific allegations made by the media and other concerned citizens.

Notwithstanding the limitations contained in the Act, the Commission continues to be sensitive to public concerns about allegations of unethical and corrupt practices in the public sector and has paid careful attention to pronouncements made in the media and information from other sources that came to its attention. The approach that it has taken is to carefully assess the merits of each allegation and, if within its jurisdiction, to determine if investigation is justifiable, bearing in mind the effects of its actions on individuals and the institutions of government as well as the extent of its mandate. But the Commission has had no hesitation whatsoever in using the

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authority given to it under the Act for the protection of the public interest.

The Commission's mandate has been severely put to the test by the force of public expectations; but the same mandate is circumscribed by the following:

- its jurisdiction is restricted to persons in public life as defined in the Act;
- not all wrongdoings or other actions that create public dissatisfaction fall within the ambit of the Act;
- the Commission is not established to replace or duplicate the functions assigned to other oversight institutions;
- enquiry can only proceed on solid and dependable information.

Promoting and upholding integrity in the public sector is not the responsibility exclusively of the Commission. Other oversight authorities and institutions established by the Constitution and ordinary laws must all play their part. They are vested with appropriate powers and duties which have not been superseded by the Integrity in Public Office Act. The effective enforcement of the provisions of the Act and the maintenance of a culture of integrity and probity in public life also require that the public play its part by refusing to tolerate any but the highest standards of behaviour by public officials, bearing in mind that, by definition, matters of ethics cannot be left to the law alone.

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The absence of protection for “whistle-blowers” as is provided for in some jurisdictions adds to the impediments. Unless and until appropriate legislation is enacted to protect from disciplinary proceedings, whistle blowers who blow the whistle on unlawful conduct or conduct which offends the principles of economic justification, cost effectiveness, efficiency, and ethics, this objective of the Integrity in Public Office Act is unlikely to be realized. Whistle blowing provisions are especially important in small communities where the influence of the governments in the day-to-day life of individuals is often all-pervasive.

The Commission urges Government, as a first step to creating the conditions for it to operate more effectively, to give urgent consideration to the recommendations already submitted for amendments to the Act.

9.0 ACKNOWLEDGEMENTS

The Commission acknowledges the following persons and institutions for their contribution to its effective operation over the period under review:

- the Commonwealth Secretariat for the contribution of the Commonwealth Law Bulletin and other reading material to our library, and for facilitating the invaluable assistance of Consultant Howard Whitton;
- Mrs. Palestrina Rolle-George (who acted as Secretary for some thirteen months in addition to her substantive appointment as Research Assistant) and the staff of the Commission for their assistance to the Commission, under trying circumstances, as we sought to fulfill our mandate;
- the security staff, employees of C & S – Cleaning and Security services;
- the Cabinet Secretariat and the Government Printer and his staff;
- the Caribbean Law Institute Centre (per Professor Ralph Carnegie and Professor Winston Anderson); and
- the Librarian, U.W.I Law Library, Cavehill, U.W.I.

INTEGRITY COMMISSION

SIGNED:

.....
JULIAN N. JOHNSON
CHAIRMAN

.....
ALICK LAZARE
MEMBER

.....
WENDELL LAWRENCE
MEMBER

.....
PATRICIA INGLIS
MEMBER

.....
GEORGE E. WILLIAMS
MEMBER

.....
GERALD SMITH
MEMBER

.....
SIR BRIAN ALLEYNE
MEMBER

APPENDICES

APPENDIX I

LIST OF PERSONS IN PUBLIC LIFE

APPENDIX II

NOTICES OF APOLOGY

APPENDIX III

PROFESSIONAL PROFILES OF COMMISSIONERS

APPENDIX IV

LIST OF PERSONS GAZETTED AND SUBMITTED TO
THE DIRECTOR FOR PUBLIC PROSECUTIONS

APPENDIX V

LETTER RE AMENDMENTS TO THE ACT OF 2003

APPENDIX VI

LETTER OF JUNE 17, 2010 TO THE PRIME MINISTER –
TRAVEL ON BUSINESS OF THE COMMISSION

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APPENDIX I: LIST OF PERSONS IN PUBLIC LIFE 2009

Names	Offices/Positions
Aird, Gerry	Chairman, DASPA
Albert, Patrickson	Asst. Superintendent of Police
Alexander, Yvonne	Asst. Superintendent of Police
Alleyne, Sir Brian	Chairman, Education Appeals Board
Allport, Richard	Director of Agriculture
Allport, Ruth	Permanent Secretary
Andrew, David	Asst. Superintendent of Police
Austrie, Reginald	Minister of Government
Bannis- Roberts, Loreen	Minister of Government
Bannis, Jacinta	Director, Drug Prevention Unit
Baptiste, Dayton	Member of the House of Assembly
Bardouille, Benoit	General Manager, DASPA
Bardouille, Larry	Chairman, DOWASCO
Baron, Urban	Parliamentary Secretary
Baron-Royer, Francine	Member of the House of Assembly (Attorney General)
Bellot, Claudia	Permanent Secretary
Benjamin, Griffin	Director, Primary Health Care
Bernard, Alvin	Minister of Government
Blackmore, Donille	President's Secretary
Blackmore, Lucien	Chief Technical Officer
Blackmore, Rayburn	Minister of Government
Blanc, Dennis	Asst. Superintendent of Prisons
Boyd-Knights, Alix	Speaker of the House of Assembly
Browne, Abraham	Member of the House of Assembly

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Browne, Rosie	Director, Women's Bureau
Brumant, Heskeith	Chairman, Investment Committee, DSS
Bruno, Nicholas	Permanent Secretary
Burnette-Biscombe, Anthony	Chairman, Bureau of Standards
Burton, Gerald	Chairman, Customs Appeals Board & Chairman Electoral Commission
Burton, Minchinton	Director of Forestry
Bynoe, Brian Vernon	Director of Surveys
Cadette, Sylvester	Director of Telecommunications
Carbon, Daniel	Asst. Superintendent of Police
Carbon, Peter	Member of the House of Assembly
Carrette, Cyril	Superintendent of Police
Celaire, Rhoda	Permanent Secretary
Charles, Justina	Minister of Government
Charles, Norris	Member of the House of Assembly
Charter, Algernon	Superintendent of Prisons
Corbette, Charles	Development Officer
Dailey, Julius	General Manager, Public Works Corporation
Darroux, Kelvar	Parliamentary Secretary
Darroux, Kenneth	Minister of Government
David, John	Asst. Superintendent of Police
Defoe, Antoine	Asst. Superintendent of Police
Douglas, Eisenhower	Director of Trade
Douglas, Ian	Minister of Government
Drigo, Johnson	Parliamentary Secretary
Dublin, Damian	Chairman, Public Service Commission
Duncan, Carl	Chairman, Independent

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	Regulatory Commission
Dupuis, Josiah	Chief Fire Officer
Edwards, Irma	Chief Personnel Officer
Edwards, Rosemund	Financial Secretary
Esprit, Nicholls	Member of the House of Assembly
Etinoffe, Bernard	General Manager, DOWASCO
Eusebe, Jones	Deputy Chief Fire Officer
Fabien, John	Minister of Government
Fagan, Mandra	Special Assistant to the Prime Minister
Ferrol, Eleanor	Secretary, Public Service Commission
Ferrol, Steve	Permanent Secretary
Fevrier, Willie	Chairman, Education Trust Fund
Fontaine, John	Local Government Commissioner
George, Ambrose	Member of the House of Assembly
George, Margaret	Chairman, DEXIA
George, Nicholas	Superintendent of Police
Graneau, Ashton	Minister of Government
Graneau, Kelly	Minister of Government
Green, Ronald	Member of the House of Assembly
Gregoire, Felix	Secretary to the Cabinet
Grell, Gerald	Chairman, Dominica State College
Henderson, Edward	Chief Technical Officer
Henderson, Vince	Minister of the House of Assembly
Hyacinth, Steve	Chief Education Officer and Chairman, Accreditation Board
Irish, Ainsworth	Asst. Superintendent of Police
James, Edison	Member of the House of Assembly
Jean-Jacques, Tammy	Member of the House of Assembly

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Jean-Jacques-Thomas, Janice	Director, Social Security
Jno. Charles, Vanoulst	Chairman, Police Service Commission
Jno.Baptiste, Hobbs	Deputy Commissioner of Police & Chairman Transport Board
John, Clem	Chairman, Prison Visiting Justices Committee
John, Hector	Member of the House of Assembly
John, Steve	Director, Bureau of Standards
Johnson, Dr. David	Chief Medical Officer
Johnson, Julian N	Chairman, Integrity Commission
Johnson, Kendall	Chief Technical Officer, Public Works
Jolly, Aurelius	Chairman, DBS Board of Directors
Joseph, Francis	Chairman, Council of Early Childhood Education
Joseph, Hubert (Micky)	Chairman, Social Security
Jules, Deidre	Clerk - House of Assembly (Ag.)
Lafond, Jennifer	Permanent Secretary
Lambert, Edward	Advisor, Prime Minister
Lambert, Eleanor	Chairman, Food and Nutrition Council
Lawrence, Angela	Chairman, General Nursing Council
Lawrence, Raymond	Chief Cultural Officer
Leblanc, Anthony	Chairman, Board of Engineering
Leblanc, Mathew	Labour Commissioner
Leevy, Tara	Chairman, Hospital and Health Care Facilities Board
Lestrade, Mathias	Commissioner of Police

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Letang, Davis	Permanent Secretary & Chairman, Solid Waste Management Board
Letang, Rhoda	Executive Director, Invest Dominica
Magloire, Andrew	Chief Fisheries Officer
Magloire-Akpa, Sonia	Director, Political Affairs
Martin, Sam	Member of the House of Assembly
Maynard, Charles	Advisor, CARICOM and OECS Support Unit
McIntyre, Colin	Minister of Government
Monelle, Al	Director, Financial Services Unit
Munroe, Ian	Chairman, DBS Board of Directors
Nassief, Yvor	Chairman, Invest Dominica
Nicholas, Marcel	Member of the House of Assembly
Philbert, Vincent	Permanent Secretary & Chairman, Airport Development Committee
Phillip, Alex	Clerk, House of Assembly
Pinard, Ian	Parliamentary Secretary
Piper, Colin	Director - Discover Dominica
Prevost, Joan	Chairman, Public Service Board of Appeal
Prevost, Norris	Member of the House of Assembly
Rolle, Kelvin	Chief Physical Planner
Royer, Bentley	Member of the House of Assembly
Sanford, Claudius	Member of the House of Assembly
Savarin, Charles	Minister of Government
Scotland, Anthony	General Manager, Solid Waste Management
Scotland-Andrew, Mayna	Chief Protocol Officer
Severin, Duke	Superintendent of Police

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Shillingford, Dorian	Chairman, Medical Board
Shillingford, Gloria	Member of the House of Assembly
Shillingford-Tonge, Juliette	Chairman, Development and Planning Corporation
Skerrit, Roosevelt	Prime Minister
St. Jean, Petter	Parliamentary Secretary
Stephenson, Ivor	Parliamentary Secretary
Sylvester, Ambrose	Chairman, AID Bank
Tavernier, Gloria	Chairman, Public Works Corporation
Thomas, Errol	Chairman, Advisory Council on Misuse of Drugs
Thomas, Esther	Permanent Secretary
Thomas, Felix	Chairman, Housing Loans Board
Thomas, Gregoire	General Manager, DEXIA
Thomas, Kingsley	General Manager, AID Bank
Timothy, Julius	Minister of Government
Toulon, Ronald	Member of the House of Assembly
Walter, Matthew	Minister of Government
Warrington, Mariette	General Manager, Dominica Broadcasting Service
Williams, Earl	Member of the House of Assembly
Williams, Merina	Chief Elections Officer
Williams, Sabina Anna	Member of the House of Assembly
Williams, Sonia	Minister of Government
Williams, Valencia	Hospital Services Coordinator
Winston, Curtis	Chairman, NTRC
Xavier, Rupert Boniface	Chief Environmental Health Officer

APPENDIX II: NOTICES OF APOLOGY

I. INTEGRITY IN PUBLIC OFFICE ACT, 2003, NO. 6 OF 2003: APOLOGY: RE FAILURE TO FILE A DECLARATION BY 31ST MARCH, 2009

The general public is hereby notified that in relation to the notice published in the Official Gazette, Vol. CXXXII, No. 39 dated September 3rd, 2009 concerning Mrs. Josephine Corbette, Senior Administrative Officer, the Integrity Commission attests as follows:

- (i) that the office of Senior Administrative Officer which was held by Mrs. Josephine Corbette during the calendar year 2008 should not have been construed as an office of a person in public life within the meaning of “Chief Technical Officer” in the First Schedule to the Integrity in Public Office Act, 2003; and
- (ii) that Mrs. Josephine Corbette as Senior Administrative Officer was not required to file a declaration with the Commission under section 16 of the Act and therefore she did not fail to file a declaration under the Act for the period ending 31st December 2008, as stated in the Integrity Commission’s Notice of September 3rd 2009, in the Official Gazette, Vol. CXXXII, NO. 39.

The Commission therefore apologizes through this medium to Mrs. Josephine Corbette, Senior Administrative Officer and deeply regrets any embarrassment and/or inconvenience caused to her by the

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publication of her name in the Official Gazette, Vol. CXXXII, No. 39 dated September 03, 2009.

A report has been sent to the Director of Public Prosecutions informing him that Mrs. Josephine Corbette, Senior Administrative Officer was not required to file a declaration under the Act.

**SECRETARY
INTEGRITY COMMISSION**

File: IC 140/02

Date: 5th August, 2010

**II. INTEGRITY IN PUBLIC OFFICE ACT, 2003, NO. 6
OF 2003: APOLOGY: RE NOTICE OF LATE FILING OF
DECLARATION**

The general public is hereby notified that in relation to the notice published in the Official Gazette, Vol. CXXXII, No. 39 dated September 3rd, 2009 concerning Mrs. Jiselle Allport, Senior Administrative Officer, the Integrity Commission attests as follows:

- (i) that the office of Senior Administrative Officer which was held by Mrs. Jiselle Allport during the calendar year 2008 should not have been construed as an office of a person in public life within the meaning of “Chief Technical Officer” in the First Schedule to the Integrity in Public Office Act, 2003; and

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- (ii) that Mrs. Jiselle Allport, as Senior Administrative Officer was not required to file a declaration with the Commission under section 16 of the Act and therefore did not file a late declaration under the Act for the period ending 31st December 2008, as stated in the Integrity Commission's Notice of September 3rd 2009, in the Official Gazette, Vol. CXXXII, NO. 39.

The Commission therefore apologizes through this medium to Mrs. Jiselle Allport, Senior Administrative Officer and deeply regrets any embarrassment and/or inconvenience caused to her by the publication of her name in the Official Gazette, Vol. CXXXII, No. 39 dated September 03, 2009.

A report has been sent to the Director of Public Prosecutions informing him that, Mrs. Jiselle Allport, Senior Administrative Officer was not required to file a declaration under the Act.

**SECRETARY
INTEGRITY COMMISSION**

File: IC 140/02

Date: 5th August, 2010

INTEGRITY COMMISSION

III. INTEGRITY IN PUBLIC OFFICE ACT, 2003, NO. 6 OF 2003: APOLOGY: RE NOTICE OF FAILURE TO FILE A DECLARATION BY 31ST MARCH, 2009

The general public is hereby notified that in relation to the notice published in the Official Gazette, Vol. CXXXII, No. 39 dated September 3rd, 2009 concerning the following persons:

Marcella Powell	Senior Administrative Officer
Ann Lewis	Senior Administrative Officer
Celia Joseph	Senior Administrative Officer
Corinthia Burton	Administrative Officer
Sybil Roberts	Assistant Secretary
Jacqueline Dinnard	Assistant Secretary
Louisa Jno. Baptiste	Assistant Secretary
Magdalene Julien	Assistant Secretary

The Integrity Commission attests that the office of Senior Administrative Officer, Administrative Officer or Assistant Secretary should not have been construed as an office of a person in public life within the meaning of “Chief Technical Officer” in the First Schedule to the Integrity in Public Office Act, 2003.

Consequently the above-mentioned persons were not required to file declarations with the Commission under section 16 of the Act and therefore did not fail to file declarations under the Act for the period ending 31st December 2008, as stated in the Integrity Commission’s Notice of September 3rd 2009, in the Official Gazette, Vol. CXXXII, No. 39.

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The Commission therefore apologizes to:

Marcella Powell	Senior Administrative Officer
Ann Lewis	Senior Administrative Officer
Celia Joseph	Senior Administrative Officer
Corinthia Burton	Administrative Officer
Sybil Roberts	Assistant Secretary
Jacqueline Dinnard	Assistant Secretary
Louisa Jno. Baptiste	Assistant Secretary
Magdalene Julien	Assistant Secretary

through this medium and deeply regrets any embarrassment and/or inconvenience caused by the publication of their names in the Official Gazette, Vol. CXXXII, No. 39 dated September 03, 2009.

A report has been sent to the Director of Public Prosecutions informing him that the above listed officers were not required to file declarations under the Act.

SECRETARY
INTEGRITY COMMISSION

File: IC 140/02

Date: 5th August, 2010

APPENDIX III: PROFESSIONAL PROFILES OF COMMISSION MEMBERS

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. In June 2010, Mr. Johnson was

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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.

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.

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

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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.

MRS. PATRICIA INGLIS

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.

MR. GEORGE WILLIAMS

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 organisations 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 Organisation (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.

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.

SIR BRIAN ALLEYNE

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

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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 Organisation 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.

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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 Organisation 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.

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APPENDIX IV: LIST OF PERSONS WHO WERE GAZETTED AND SENT TO THE DPP FOR FAILURE TO FILE BY 31ST MARCH, 2010

- | | |
|-------------------------|---------------------------------|
| 1. Abraham Browne | 24. Hector John |
| 2. Alix Boyd-Knight | 25. John David |
| 3. Alvin Bernard | 26. John Fabien |
| 4. Andrew Magloire | 27. Juliette Shillingford–Tonge |
| 5. Anthony Leblanc | 28. Kelter Darroux |
| 6. Antoine Defoe | 29. Kelvin Rolle |
| 7. Ashton Graneau | 30. Loreen Bannis-Roberts |
| 8. Aurelius Jolly | 31. Mandra Fagan |
| 9. Bentley Royer | 32. Marcel Nicholas |
| 10. Brian Vernon Bynoe | 33. Marriette Warrington |
| 11. Carl Duncan | 34. Nicholas Esprit |
| 12. Claudius Sanford | 35. Raymond Lawrence |
| 13. Dorian Shillingford | 36. Ronald Green |
| 14. Duke Severin | 37. Ronald Toulon |
| 15. Earl Williams | 38. Sam Martin |
| 16. Edward Lambert | 39. Sonia Magloire-Akpa |
| 17. Eisenhower Douglas | 40. Steve Hyacinth |
| 18. Eleanor Lambert | 41. Sylvester Cadette |
| 19. Francis Joseph | 42. Tammy Jean-Jacques |
| 20. Gerald Burton | 43. Tara Leevy |
| 21. Gerald Grell | 44. Urban Baron |
| 22. Gloria Tavernier | 45. Vince Henderson |
| 23. Griffin Benjamin | 46. Vincent Philbert |

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LIST OF PERSONS GAZETTED AND SENT TO THE DPP FOR FAILURE TO FURNISH FURTHER PARTICULARS

1. Ian Douglas
2. Charles Savarin
3. Ian Pinard
4. Gloria Shillingford
5. Patrickson Albert
6. Alvin Bernard
7. Cyril Carette
8. Johnson Drigo
9. Jones Eusebe
10. Ashton Graneau

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APPENDIX V: LETTER TO THE MINISTER RE AMENDMENTS TO THE IPO ACT, 2003

May 11, 2010

The Hon. Minister for Legal Affairs
Ministry of Tourism & legal Affairs
Kennedy Avenue
Roseau

Dear Hon. Minister,

ADDITIONAL RECOMMENDATIONS FOR AMENDMENTS TO THE INTEGRITY IN PUBLIC OFFICE ACT, 2003, NO.6 OF 2003

Please refer to my letters of 30th September 2008, 10th October 2008, and 4th September, 2009 in which the Integrity Commission submitted recommendations for amendments to the Integrity in Public Office Act, 2003 (copies attached for ease of reference).

The Integrity Commission further recommends the following amendments to the Act for your consideration:

[I] COMPLAINTS TO THE COMMISSION

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**

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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.

Protection of persons making complaint

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,

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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.”

[II] POWERS OF THE COMMISSION TO INVESTIGATE ON ITS OWN INITIATIVE.

The Commission also 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* provides:-

“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;

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(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

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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.”

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[III] FINDINGS OF BREACH- REPORT TO PARLIAMENT, PUBLIC SERVICE COMMISSION AND/OR DPP

Section 46 of *Grenada's Integrity in Public Life Act 2007*, appropriately amended, should be included in the *Integrity in Public Office Act 2003*, and 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

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constitute a criminal office, it shall forward a copy of its findings to the Director of Public Prosecutions.”

[IV] DISQUALIFICATION OF MEMBERS

Section 5(b) of *Antigua’s Integrity in Public Life Act 2004* dealing 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;”

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.”

[V] TRUST PROPERTY

Section 17 of the *Integrity in Public Office Act 2003* to be amended to include 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”.

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.”

[VI] FUNCTIONS OF COMMISSION

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 Integrity in Public Office Act 2003.

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.”

The Integrity in Public Office Act 2003 to include Section 12(e) of the *Antigua Integrity in Public Life Act 2004* and add a further provision that the Commission “may engage such other services as may be necessary in the performance of its functions under the Act.”

[VII] WHISTLE BLOWER - “Whistle Blower” and sections 55(1) and (2) of the Act.

The section 55 provisions of the Integrity in Public Office Act 2003 do 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.

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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."

The Commission would wish to discuss these recommendations with you and the Minister for Finance/or the Cabinet at the earliest convenience.

Yours very sincerely,

JULIAN N. JOHNSON

CHAIRMAN

c.c. Minister for Finance

Permanent Secretary/Ministry of Legal Affairs

**APPENDIX VI: LETTER TO THE PRIME MINISTER – TRAVEL ON
BUSINESS OF THE COMMISSION**

17th June, 2010

Hon. Roosevelt Skerrit
Prime Minister and Minister for Finance
Ministry of Finance, Financial Centre

Dear Sir,

**INTEGRITY IN PUBLIC OFFICE ACT, 2003: TRAVEL ON
BUSINESS OF THE COMMISSION – REFUND TO THE CHAIRMAN**

1. I wrote to you on 1st June, 2010 requesting a meeting to discuss the above matter. There has been no reply to this letter. Meanwhile a letter dated 7th June, 2010 has been received from the Financial Secretary in reply to the Commission's letter of 11th May, 2010. (Copies attached for ease of reference).
2. The Commission considered the letter of 7th June, 2010 at its last meeting and has decided to write to you again to seek your intervention in this matter.
3. At a meeting in January, 2010 the Commission decided that the Chairman should travel overseas using his own funds to hold consultation on urgent and sensitive business of the Commission and that the expenses associated with that mission would be reimbursed later from funds of the Commission.

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4. At a meeting in February, 2010 the Commission decided that in determining the rate to be paid to the Chairman and members of the Commission when travelling out of Dominica on the business of the Commission it would be guided by the Travelling and Subsistence Allowances (Amendment) Regulations, 1995, SRO No. 37 of 1995 and adopt the provisions of Regulation 3(1) (b).

5. The authorities within the Ministry of Finance have refused to allow the release of the funds required to reimburse the travel expenses of the Chairman authorized by the Commission for the purposes of the Integrity in Public Office Act. The refund voucher has been held up at the Treasury.

6. In the letter of 7th June, 2010 the Financial Secretary concluded as follows:
 - (i) It is deemed that anyone travelling on government business is treated as a government official;
 - (ii) Travel on Government business is a charge on the consolidated fund and as such it is necessary that such travel is approved by the Prime Minister;
 - (iii) The Ministry of Finance is required to be guided by any additional instructions that may be issued from time to time by the Prime Minister and Minister for Finance in regard to travel.

7. The following were cited as the authorities for the conclusions arrived at:
 - (i) Travelling and Subsistence Allowances Act, Chap 23:09 of the Laws of Dominica, (1990 Revised Ed.);
 - (ii) Travelling and Subsistence Allowances Regulations S.R.O. No. 37 of 1995;

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- (iii) Letter issued by Minister for Finance in 1986; and
 - (iv) Statement contained in audit manual issued by the Director of Audit.
8. The laws referred to by the Financial Secretary do not support these conclusions nor authorize the additional procedures sort to be imposed on the Commission. Under section 52(1) of the Integrity in Public Office Act all expenses incurred by the Commission for the purpose of the Act are a charge on the Consolidated Fund. The estimates of expenditure, including the travel vote, for the current financial year have been approved by the Minister for Finance under section 52(2) of the Act and appropriated by Parliament in accordance with the Finance (Administration) Act, 1994 SRO, No. 4 of 1994. These laws together with the budget approval procedures and processes, with which the Commission has strictly complied, provide an effective system of financial control and accountability that safeguards the public funds voted to the Commission.
9. Members of the Commission are not public officers within the meaning of the Constitution. [Section 5(c) of the Integrity in Public Office Act disqualifies from membership of the Commission any person who has, at any time during three years immediately preceding the date of appointment, been a public officer.] The Travelling and Subsistence Allowances Act, Chap.23:09 speaks to public officers. The long title to this Act states: "*An Act to authorise the grant of subsistence allowances to public officers when travelling on duty and to make provision for the payment of their transport expenses.*" Section 5(2) of the Act empowers the Minister to make Regulations "regulating the subsistence

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allowance payable to officers" whilst properly travelling and absent from their stations on the public service. And, section 2 of the Act defines "officer" to mean *"every person permanently or temporarily employed in the public service of the State"*.

10. The Public Service Act, Chap. 23:01 also defines "Public Officer" and establishes the "Public Service". The public offices of "Secretary" and "Research Assistant" to the Integrity Commission are included in the First Schedule to the Public Service (Schedules) (Amendment) Order 2010, SRO No. 12 of 2010 as required by section 49(2) of the Integrity in Public Office Act.
11. The offices of Chairman and members of the Commission are not established by the Public Service Act. The further procedures, including the particulars required to be submitted on the standard "Approval for Travel" form for the grant of approval, are inconsistent with the provisions of section 13 of the Integrity in Public Office Act, 2003.
12. Under section 27 of the Finance (Administration) Act the appropriation made by Parliament and the warrant issued for the services of the Integrity Commission shall lapse and cease to have effect at the close of this financial year.
13. The accounting officer of the Integrity Commission charged with the responsibility of the management of the funds of the Commission has fully discharged her duties in accordance with the Finance (Administration) Act and the Integrity in Public Office Act to effect the refund to the Chairman.

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14. The Commission therefore requests, with respect, that you give the necessary directions and instructions to the appropriate official under the Finance (Administration) Act and other applicable laws so that the Chairman of the Integrity Commission shall be reimbursed the travelling expenses and subsistence allowances approved by the Commission for his travel on the business of the Commission since January, 2010; and so that the Commission will not be constrained in the performance of its functions.

15. With the greatest respect, the Commission views this matter as sufficiently important to require your personal attention so that the Chairman can be reimbursed these expenses before the end of the 2009/2010 financial year.

16. Accordingly, the Commission should be grateful, if you would let it have your decision in this matter before the end of the financial year.

Yours very sincerely,

JULIAN N. JOHNSON
CHAIRMAN