

**COMMISSION FOR THE**

**PREVENTION**

**OF**

**CORRUPTION**

**ANNUAL REPORT**

2004  
**2004**



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## **Executive Summary**

The Commission for the Prevention of Corruption was appointed under the Corruption (Prevention) Act 2000, with effect from May 1, 2001 and is headed by a five member Commission assisted by a small staff. The Commission met Eleven (11) times during the last financial year including three (3) meetings for the purpose of dealing with summonses issued by the Commission.

The objective of the Commission is the reduction and prevention of corruption in the Public Sector. An update of the database was requested in November 2004 from Public Sector entities and although all replies have not been forthcoming it was ascertained that Declarations were to be received from sixteen thousand nine hundred and sixty-four (16,964) public servants.

The Commission is in receipt of its third set of declarations with eleven thousand six hundred and seventy-eight (11,678) declarations received as at December 31, 2004 a compliance rate of Sixty-Nine percent (69%).

The Commission since its 2003 report in which it referred (63) public servants to the Director of Public Prosecutions (DPP) has referred a further 271 persons to him for failing to furnish the Statutory Declaration of Assets, Liabilities and Income as at January 31, 2003. Fourteen cases were brought before the Resident Magistrates Court and as at March 31, 2005 4 cases were disposed of when the DPP exercised his discretion and withdrew the charges.

The Commission continues to observe a high incidence of forms being filed without the relevant supporting documents and has manually issued seven thousand three hundred and seventy-four (7,374) letters to declarants in respect of January 31, 2003.

The Commission has commenced analyzing statutory declarations received and has summoned twelve (12) persons to explain discrepancies noted.

The Commission received a further one hundred and twenty-five cases for enquiry bringing the total caseload to one hundred and twenty-seven (127). The Commission wishes to highlight the need for investigators and other support staff which the Ministry of Finance has advised cannot be supported at this time, this has severely hampered the Commission in its work.

The Commission is proposing the following amendments:-

- a) That the Corruption (Prevention ) Act (CPA) be amended either:-  
To include all judges as Public Servants or to exclude all Judges as Public Servants.
  
- b) That Part 1 of the Schedule to the Regulations of the CPA be amended by adding the words “except all members of the Jamaica Defence Force Reserves” after the words “All members of the Jamaica Defence Force.”
  
- c) The Form of Statutory Declaration of Assets Liabilities and Income as set out in the Second Schedule of the Act be amended at section 2 to remove the words “in excess of five hundred thousand dollars”.
  
- d) That the CPA be amended to give power to the Commission to impose a penalty for the late filing of the Statutory Declaration.

# Preface

The Commission for the Prevention of Corruption was appointed under the Corruption (Prevention) Act 2000, with effect from May 1, 2001. Regulations issued under the Act came into effect on January 31, 2003.

The Commission consists of five (5) members:

- (a) The Auditor General
- (b) Four other persons (referred to as appointed members) appointed by the Governor-General after consultation with the Prime Minister and the Leader of the Opposition from the following categories of persons:
  - i. Members of the Privy Council;
  - ii. Retired Judges of Appeal or Retired Judges of the Supreme Court;
  - iii. Persons who, in the opinion of the Governor-General, are persons of high integrity and are able to exercise competence, diligence and sound judgement in fulfilling their responsibilities under this Act.

The members are:

- The Honourable Mr. Justice Chester Orr (Retired) C.D.,Q.C.,  
Chairman
- Mr William K Chin See C.D., Q.C.,
- Mrs Rosemarie Vernon M.Sc., B.A.,
- Mr Adrian Strachan C.D., J.P., F.C.C.A., F.C.A.,-Auditor General,
- The Very Reverend Canon The Honourable Weeville Gordon  
Custos Rotulorum, C.D., J.P., M.Div.

### **Meetings of the Commission**

The Commission met eleven (11) times during the 2004/2005 financial year, including three special meetings for the purpose of dealing with summonses issued by the Commission to Public Servants who had failed to submit required documents accompanying their statutory declarations and finalising the Annual Report for 2003.

<b>Name Of Member</b>	<b>Meetings Attended</b>	<b>Absent</b>
<b>Mr. Justice Chester Orr</b>	<b>10</b>	<b>1 (with excuse)</b>
<b>Mr Adrian Strachan</b>	<b>11</b>	<b>0</b>
<b>Mr. W.K. Chin-See</b>	<b>11</b>	<b>0</b>
<b>Mrs. Rosemarie Vernon</b>	<b>8</b>	<b>3 (with excuse)</b>
<b>The Very Revd Canon Weeville Gordon</b>	<b>10</b>	<b>1 (with excuse)</b>

### **The Commission's Secretariat**

The Commission has a staff complement of 10 which includes the Secretary/Manager, Two (2) Secretaries, Two (2) Financial Analysts (Complement should total three), One (1) Manager Finance and Administration, One (1) Records Officer, One (1) Data Entry Officer, One Office Attendant and One (1) Driver. The Commission has had to hire 5 temporary Data Entry Clerks for data entry.

The Commission wishes to pay tribute to Mr. Trevor Barrett the Commission's first Manager Finance and Administration who passed on in early 2005.

The Commission in the year under review removed its offices to the address below:

**Address:** Commission for the Prevention of Corruption  
45-47 Barbados Avenue  
Kingston 5.

**Telephone:** 968-6227  
960-0470

**Fax:** 960-5617

**E-mail:** [corruptionprevention@yahoo.com](mailto:corruptionprevention@yahoo.com)

### **Statutory Declarations**

The objective of the Commission is the reduction of corruption in the public sector. The Act provides the following functions for the Commission:

1. to receive and keep on record statutory declarations furnished by public servants pursuant to this Act;
2. to examine such statutory declarations and to request from a public servant any information relevant to a statutory declaration made by him, which in its opinion would assist it in its examination;
3. to make such independent and investigations relating to a statutory declaration as it thinks necessary;
4. to receive and investigate any complaint regarding an act of corruption;
5. to conduct an investigation into an act of corruption on its own initiative, if it is satisfied that there are reasonable grounds for such investigation.

Statutory Declarations were required from public servants whose total emoluments were Two Million Dollars and above and those categories indicated in Parts 1 and 2 of the Regulations issued under the Act. Based on the earlier receipt of information from all Government Ministries and

Departments, Statutory Agencies/ Bodies, Parish Councils, Army and Police  
it was ascertained that Declarations were to be received as follows:

<b><u>Dates</u></b>	<b><u>Expected Declarations</u></b>
January 31, 2003	15,536
December 31, 2003	15,536
December 31, 2004	16,964

The Corruption (Prevention) Act 2000 indicates that for a Declaration to be in compliance with the Act, it must be filed with the necessary supporting documents within three (3) months following the date to which it relates. Up to the date of this report declarations were received as indicated below:-

<b>Declaration Period</b>	<b>Expected No. of Declarations</b>	<b>No. of Declarations Received</b>	<b>Outstanding Declarations</b>
January 31,2003	15,536	11,875	3,661
December 31,2003	15,536	10,282	5,254
December 31, 2004	16,964	11,678	5,286

Declaration as at January 31, 2003

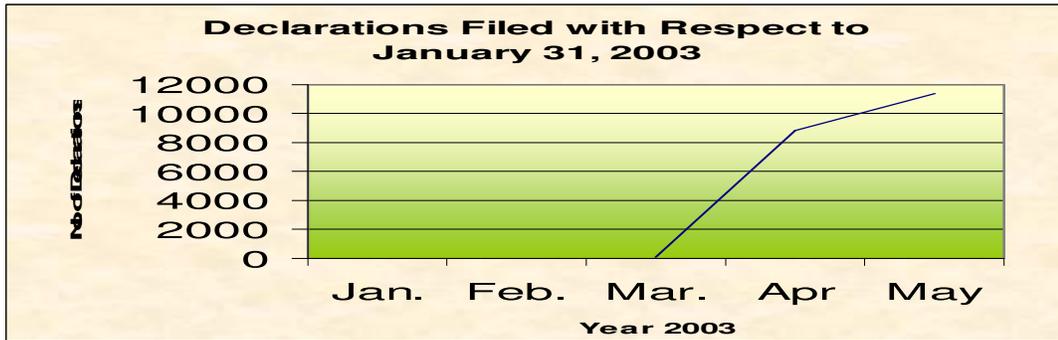


Figure 1

Declaration as at December 31, 2003

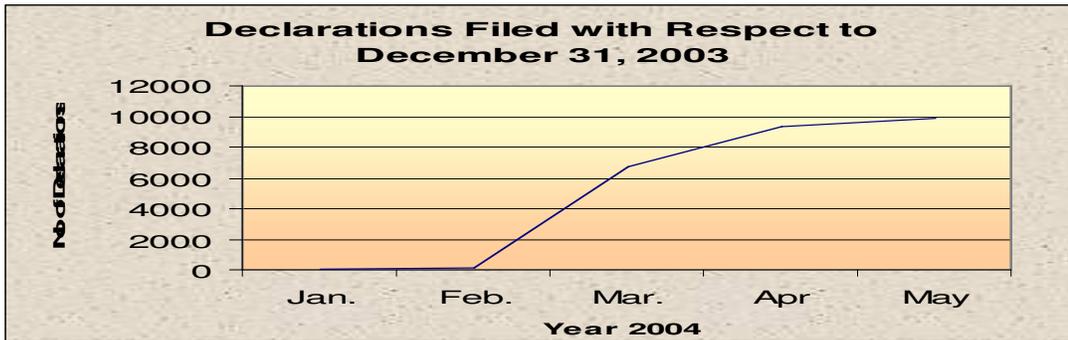


Figure 2

Declaration as at December 31, 2004

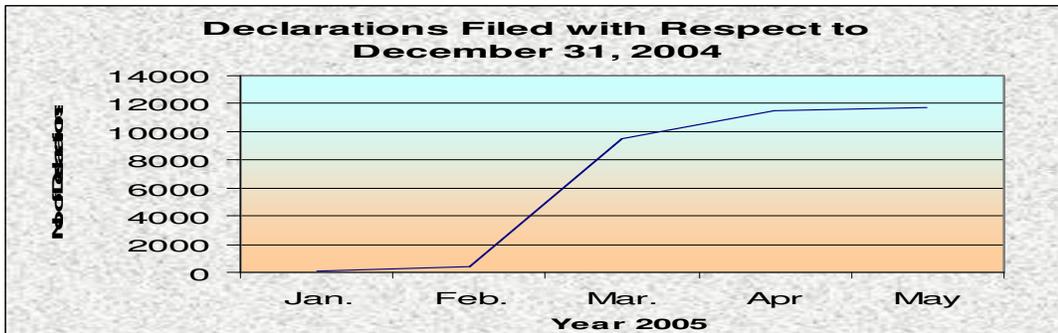


Figure 3

Since its 2003 report in which the Commission referred (63) Sixty-three public servants to the Director of Public Prosecutions (DPP), the Commission has referred a further 271 persons to him for failing to furnish the Statutory Declaration of Assets Liabilities and Income, as at January 31, 2003. Fourteen cases were brought before the Resident Magistrate's Court by the Director of Public Prosecutions and as at March 31, 2005 four (4) cases were disposed of when the DPP exercised his discretion and withdrew the charges after the declarants filed all outstanding declarations .

### **Quality of Declarations**

The Second Schedule to The Corruption (Prevention) Act prescribes the form on which Public Servants are required to make their Declarations, which must be accompanied by bank statement (s) or letter (s) from bank's confirming the balance (s) reported. There still exists a high incidence of forms being filed without the relevant supporting documents as a result of which the Commission manually issued letters to Seven thousand three hundred and seventy-four (7,374) declarants in respect of the January, 2003 declaration date.

The computer system will be utilized in preparing letters for the declaration periods 31/12/03 and 31/12/04 thereby speeding up the process.

### **Update of Database**

The Commission developed its database of declarants from information provided by government entities. An update of the database was requested in November 2004 but up to the date of this report only 77 of 117 entities written to have replied. The Commission will shortly be issuing summonses to those bodies who have not supplied a response.

### **Analysis of Declarations Filed**

The Commission has acquired a software programme with a view to electronically analysing the statutory declarations received. With its limited

staffing the Commission has entered declarations as at January 31, 2003 and December 31, 2003 and work is in progress on declarations as at December 31, 2004, as a consequence of which the Commission has commenced the summoning of declarants to appear to explain discrepancies noted.

Up to the date of this report twelve (12) persons have appeared before the Commission with regard to the filing of their Statutory Declarations.

### **The Investigation Process**

All information supplied to the Commission is secret and confidential and all its employees are required to subscribe to a Declaration of Secrecy before a Justice of the Peace.

### **Investigations Undertaken**

During the period under review the Commission has received a further one hundred and twenty-five (125) cases from various quarters for enquiry bringing the total caseload to one hundred and twenty seven (127). The Commission with its limited staff is in the process of undertaking the required investigations.

Period	New Cases	Disposed of	Balance
2003	6	4	2
2004	125	-	127

The Commission wishes to highlight the need for the necessary Investigators and other support staff, which had previously been requested but which the Ministry of Finance has advised, cannot be supported at this time and this has severely hampered the Commission in its work.

### **Legislative Issues**

The Commission is awaiting the passage of Legislation as a result of the 2003 Report and is proposing the following further amendments:

- (a) Applicability of the Corruption (Prevention) Act to all members of the Judiciary.

The Solicitor General has advised that the Chief Justice, The President of the Court of Appeal and Resident Magistrates fall within the provisions of the Corruption Prevention Act but other judges do not. The distinction lies in the fact that the Chief Justice, The President of the Court of Appeal and Resident Magistrates perform administrative functions and the other judges do not.

This is an anomalous situation.

**The Commission recommends that the Act be amended either:**

- a) **to specifically include all judges as public servants; or**
  - b) **to specifically exclude all judges as public servants.**
- (b) Specified Posts - **That Part 1 of the Schedule to the Regulations of the Corruption Prevention Act be amended by adding the words “except members of the Jamaica Defence Force Reserves” after the words “All members of the Jamaica Defence Force”.**

The Commission is advised that members of the Jamaica Defence Force Reserves do not receive payment for their services and are unlikely to be the subject of graft. It is therefore recommended that these persons should not be required to furnish statutory declarations.

- (c) Statutory Declarations –**The form of Statutory Declaration of Assets, Liabilities and Income as set out in the Second Schedule of the Act be amended at Section 2 to remove the words “in excess of five hundred thousand dollars”.**

The form currently requires the declaration of cash in excess of five hundred thousand dollars held other than in a bank. The Commission is concerned that the declarants may seek to exploit this provision by maintaining multiple accounts with balances of less than five hundred thousand dollars in financial institutions other than banks.

(d) Late Filing of Statutory declarations - **That the Corruption Prevention Act be amended to give power to the Commission to impose a penalty for the late filing of the Statutory Declaration.**

The Commission had made this recommendation in its 2003 report which to date has not been acted on and wishes to highlight:-

- i. The Commission is always likely to be chaired by a retired Judge who has vast experience in the principles and practices of sentencing offenders.
- ii. Granting Jurisdiction to the Commission to deal with this offence reduces the workload on the DPP and on the Resident Magistrate both of whom are already overburdened.
- iii. There is ample precedent for such authority to the Commission to hear and determine issues and impose penalties, vide:-
  - (a) The Racing Commission Act
  - (b) Betting Gaming and Lotteries Act

Signed



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Mr Justice Chester Orr (Retired) C.D., Q.C.,  
Chairman –Commission for the Prevention of Corruption

**Barrett & Company**  
Chartered Accountants

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15 Carlton Crescent  
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**AUDITORS' REPORT**  
**TO THE MEMBERS OF**  
**COMMISSION FOR THE PREVENTION OF CORRUPTION**

We have audited the accompanying balance sheet of the Commission for the Prevention of Corruption as of March 31, 2005, and the related income statement, statements of changes in accumulated fund and cash flows for the year then ended, and have obtained all the information and explanations which we considered necessary. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with International Standards on Auditing. Those Standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, proper accounting records have been kept and the financial statements, which are in agreement therewith, give a true and fair view of the state of the Commission's affairs as at March 31, 2005 and of the results of its operations and its cash flows for the year then ended in accordance with International Financial Reporting Standards.

  
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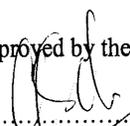
June 14, 2005

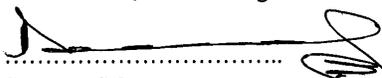
COMMISSION FOR THE PREVENTION OF CORRUPTION  
**BALANCE SHEET**  
 MARCH 31, 2005

PAGE 2

	NOTE	2005 \$	2004 \$
<b>NET ASSETS EMPLOYED</b>			
Non-current assets			
Fixed assets	3	<u>2,592,907</u>	<u>2,785,184</u>
Current Assets			
Receivables and prepayments	4	<u>5,365,997</u>	<u>26,430</u>
Cash and cash equivalents	5	<u>21,942</u>	<u>219,777</u>
		5,387,939	246,207
Current liabilities			
Payables	6	<u>4,419,417</u>	<u>177,745</u>
Net Current Assets		<u>968,522</u>	<u>68,462</u>
		<u>3,561,429</u>	<u>2,853,646</u>
FINANCED BY:			
Deferred credit	7	<u>874,365</u>	<u>1,129,145</u>
Accumulated fund		<u>2,687,064</u>	<u>1,724,501</u>
		<u>3,561,429</u>	<u>2,853,646</u>

Approved by the members of the Commission on June 14, 2005 and signed on their behalf by

  
 .....  
 Chairman

  
 .....  
 Secretary/Manager



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**COMMISSION FOR THE PREVENTION OF CORRUPTION**  
**INCOME AND EXPENDITURE ACCOUNT**  
YEAR ENDED MARCH 31, 2005

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REVENUE	NOTE	2005 \$	2004 \$
Subvention from G.O.J		<u>18,403,000</u>	<u>12,651,926</u>
<b>EXPENSES</b>			
Staff costs	8	9,219,699	6,642,794
Auditors remuneration		110,000	100,000
Other goods & services	9	7,684,003	3,845,234
Depreciation		681,515	484,152
		<u>17,695,217</u>	<u>11,072,180</u>
Surplus for the year		<u><u>707,783</u></u>	<u><u>1,579,746</u></u>



COMMISSION FOR THE PREVENTION OF CORRUPTION  
**STATEMENT OF CASH FLOWS**  
YEAR ENDED MARCH 31, 2005

PAGE 5

SOURCES (USES) OF CASH	2005
OPERATING ACTIVITIES	\$
Surplus for the year	707,783
Items not affecting cash	
Depreciation	681,515
	1,389,298
Changes in non-cash working capital components	
Receivables	(5,339,567)
Payables	4,241,672
	(1,097,895)
Cash provided by operating activities	291,403
INVESTMENT ACTIVITIES	
Additions to fixed assets	(489,238)
Decrease in net cash and cash equivalent	(197,835)
Net cash and cash equivalent at the beginning of the year	219,777
Net cash and cash equivalent at the end of the year	21,942



COMMISSION FOR THE PREVENTION OF CORRUPTION  
NOTES TO THE FINANCIAL STATEMENTS  
YEAR ENDED MARCH 31, 2005

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1. IDENTIFICATION

(a) The Commission for the Prevention of Corruption is a body established under the Corruption (Prevention) Act 2000. The functions of the Commission are as follows

- (i) to receive and keep on record statutory declarations furnished by public servants pursuant to the Act.
- (ii) to examine such statutory declarations and to request from a public servant any information relevant to a statutory declaration made by him, which in its opinion would assist it in its examination;
- (iii) to make such independent enquiries and investigations relating to a statutory declaration as it thinks necessary
- (iv) to receive and investigate any complaint regarding an act of corruption
- (v) to conduct an investigation into an act of corruption on its own initiative, if it is satisfied that there are reasonable grounds for such investigation.

(b) These financial statements are stated in Jamaican dollars.

2. SIGNIFICANT ACCOUNTING POLICIES

(a) Accounting Convention

These financial statements have been prepared in conformity with International Financial Reporting Standards and have been prepared under the historical cost convention.

(b) Basis of preparation

These financial statements have been prepared on the accrual basis of accounting

(c) Use of Estimates

The preparation of financial statements in conformity with International Financial Reporting Standards requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results may differ from those estimates.



COMMISSION FOR THE PREVENTION OF CORRUPTION  
NOTES TO THE FINANCIAL STATEMENTS

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2. SIGNIFICANT ACCOUNTING POLICIES CONT'D

(d) Cash and Cash Equivalents

Cash and equivalents comprise cash in hand and at bank.

(e) Financial Instruments

Financial instruments are included in these financial statements at amounts which approximate their fair value.

Financial instruments carried on the balance sheet include receivables, cash and short term investments, payables and short-term loans and overdrafts.

(f) Taxation

The Commission is exempt from income tax. Under the General Consumption Tax Act, it is entitled to acquire goods and services at a zero rate of tax.

(g) Fixed assets

Fixed assets are recorded at cost and depreciation is calculated on the straight line basis at the following annual rates:

Motor vehicle	20%
Office equipment	20%
Computers	25%
Office furniture	10%

Repairs and maintenance expenses are charged to the income and expenditure account when the expenditure is incurred.

Fixed assets are reviewed for impairment losses whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

(h) Revenue recognition

The Commission receives recurrent subvention from the Government of Jamaica.

(i) Grants

Grants received are deferred where the benefit of the grant is represented by fixed assets. In other cases, the grant is brought to account as revenue for the period in which it is received. Annual transfers, equivalent to depreciation charged on fixed assets funded by the grant are made from the deferred credit to the accumulated surplus account.



COMMISSION FOR THE PREVENTION OF CORRUPTION  
**NOTES TO THE FINANCIAL STATEMENTS**

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2. SIGNIFICANT ACCOUNTING POLICIES CONT'D

(j) Staff Costs

Compensation to officers includes a provision of \$3,278,583 payable to the Accountant General's Department to preserve the pension rights of employees seconded to the Commission.

3. FIXED ASSETS

	Furniture fixtures \$	Office Equipment \$	Computers hardware & software \$	Motor Vehicles \$	Totals \$
Cost					
April 1, 2004	826,197	449,786	1,000,742	992,612	3,269,337
Additions	397,566	48,872	42,800	-	489,238
March 31, 2005	<u>1,223,763</u>	<u>498,658</u>	<u>1,043,542</u>	<u>992,612</u>	<u>3,758,575</u>
Depreciation					
April 1, 2004	82,618	89,958	162,685	148,892	484,153
Charge for the year	122,376	99,732	260,885	198,522	681,515
March 31, 2005	<u>204,994</u>	<u>189,690</u>	<u>423,570</u>	<u>347,414</u>	<u>1,165,668</u>
Net Book Value					
March 31, 2005	<u>1,018,769</u>	<u>308,968</u>	<u>619,972</u>	<u>645,198</u>	<u>2,592,907</u>
March 31, 2004	<u>743,579</u>	<u>359,828</u>	<u>838,057</u>	<u>843,720</u>	<u>2,785,184</u>

4. RECEIVABLES & PREPAYMENTS	2005 \$	2004 \$
Grants receivable	5,339,997	-
Deposit - petrol	6,000	6,000
Deposit - stamps	20,000	20,000
Sundry	-	430
	<u>5,365,997</u>	<u>26,430</u>



COMMISSION FOR THE PREVENTION OF CORRUPTION  
 NOTES TO THE FINANCIAL STATEMENTS

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5. CASH AND CASH EQUIVALENTS

	2005	2004
	\$	\$
Cash in hand	10,000	10,000
Cash at bank	<u>11,942</u>	<u>209,777</u>
	<u>21,942</u>	<u>219,777</u>

6. PAYABLES AND ACCRUALS

	2005	2004
	\$	\$
Pension contributions	3,278,583	-
Accruals-Audit fee	110,000	100,000
Statutory deductions	-	77,745
Telephone	15,834	-
Electricity (estimated)	900,000	-
Payables re equipment	<u>115,000</u>	<u>-</u>
	<u>4,419,417</u>	<u>177,745</u>

7. DEFERRED CREDIT

This represents grant received to acquire fixed assets. Transfers equivalent to depreciation charged on these assets are made annually to the accumulated fund.



COMMISSION FOR THE PREVENTION OF CORRUPTION  
 NOTES TO THE FINANCIAL STATEMENTS

PAGE 10

8.	STAFF COSTS	2005	2004
		\$	\$
	Compensation to officers	8,928,819	6,596,594
	Employer's statutory contributions	<u>290,880</u>	<u>46,200</u>
		<u>9,219,699</u>	<u>6,642,794</u>
9.	OTHER GOODS AND SERVICES	2005	2004
		\$	\$
	Postage & courier	49,125	104,080
	Repairs & maintenance	64,755	64,856
	Motor vehicle expenses	53,159	34,253
	Bank charges	7,510	922
	Travel & subsistence	681,132	837,590
	Printing, stationery & photocopying	161,187	376,370
	Office & sundry supplies	542,269	44,163
	Rental of office space	2,826,028	-
	Rental of parking space	21,610	18,000
	Telephone and internet services	97,228	600,000
	Board members fee	2,280,000	1,765,000
	Electricity	<u>900,000</u>	<u>-</u>
		<u>7,684,003</u>	<u>3,845,234</u>