

**COMMISSION FOR THE**

**PREVENTION**

**OF**

**CORRUPTION**

**ANNUAL REPORT**

2009/2010  
**2009/2010**

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## **Executive Summary**

The Commission for the Prevention of Corruption was established under the Corruption (Prevention) Act 2000 and its first members appointed with effect from May 1, 2001.

The Commission met ten (10) times during the 2009-2010 financial year.

The objective of the Commission is the reduction and prevention of corruption in the Public Sector.

Annually the Commission requires Public Sector Agencies to provide an update of Public Servants required to file Statutory Declaration of Assets Liabilities and Income. The responses suggest that as of December 2009, twenty one thousand one hundred and sixty-six (21,166) Declarations were to be received by the Commission.

As at March 31, 2010 the Commission had received twelve thousand three hundred and forty-two (12,342) Declarations for the period ending December 31, 2009, a compliance rate of fifty-eight percent (58%).

Arising from the failure of Public Servants to file declarations, the Commission has previously referred a total of eighteen thousand three hundred and twenty-five (18,325) individuals to the Director of Public Prosecutions. Since the Commission's inception five hundred and twelve (512) declarants have been acted on by the Director of Public Prosecutions. For the year to which this report relates fifty-one (51) public servants had their cases disposed of in the court with fines being imposed on twenty-eight (28) of them and twenty-three (23) had the charges against them withdrawn by the Director of Public Prosecutions.

The Commission has previously highlighted its concern in relation to the small number of delinquents being brought before the court and continues to work with the Director of Public Prosecutions (DPP) to address these matters. The Commission is of the view that increased penalties against delinquents would serve as a strong deterrent.

The Commission enters all declarations received to a database designed to facilitate the manipulation of the data furnished on the Statutory Declaration of Assets and Liabilities received from Public Servants and has completed the entry of data for the period ending December 31, 2007 and is in the process of making entries for the periods ending December 2008 and 2009.

A sample of one hundred and fifty-three (153) cases was chosen for analysis based on the Commission's selection criteria. Of that number one hundred and fifteen (115) cases were referred for detailed internal investigation and fifteen

(15) cases were closed as no further action was deemed necessary. Twenty-three (23) cases are still being assessed.

The Commission had an inventory reflecting two hundred and eleven (211) cases requiring interviews and obtaining statements from several Public Sector agencies and individuals to verify the accuracy of Statutory Declarations furnished. During the year under review it held eight (8) hearings with public servants and their representatives pursuant to Section 7 (1b) of The Corruption (Prevention) Act 2000.

The Commission has referred to the Director of Public Prosecutions three (3) cases allegedly involving serious breaches of The Corruption (Prevention) Act 2000, while eighteen (18) cases have been closed by the Commission as adequate information and explanations were received for the discrepancies identified. Two (2) cases were referred to the appropriate Services Commission and Heads of Agencies pursuant to Section 12 of The Corruption (Prevention) Act 2000.

The Director of Public Prosecutions (DPP) has commenced action in Court in respect of two (2) cases for the offence of Illicit Enrichment and other breaches of The Corruption (Prevention) Act 2000.

The Very Reverend Canon the Honorable Weeville Gordon tendered his resignation as a member of the Commission effective December 22, 2009. The members wish to record their appreciation for his service as a member and to indicate that up to the date of this report the vacancy arising has not been filled.

The Commission had proposed certain amendments to the Act in its Reports for 2003, 2004, 2005, 2006, and 2007. The Commission has attended sittings of a Joint Select Committee of the Houses of Parliament and has defended its recommendations. The non-implementation of these proposed amendments coupled with the failure to table the Commission's Annual Reports for the years 2007/2008 and 2008/2009 continues to frustrate the Commission in its pursuit of achieving a reduction in corruption.

The Commission in this report is restating all its previous recommendations in relation to the following:

1. Definition of Spouse- consequent on the passage of the Family Property (Rights of Spouses) Act, 2003 and its definition of a spouse.
2. The Corruption (Prevention) Act be amended by the insertion of subsection (d) in Section 4 as follows:

‘and thereafter on the 31<sup>st</sup> day of December in each year or at such intervals as the Commission may direct.’

This amendment will require that declarations are filed annually by Public Servants.

3. Function and Powers of the Commission- authorising it to inspect and make copies of all records and documents of Government Departments and Agencies, including the Revenue Services
4. Specified Posts - several Public Sector Agencies have undergone reform since the inception of the Act necessitating revision of the holders of posts required to file Statutory Declarations.
5. Applicability of the Corruption (Prevention) Act to all members of The Judiciary.
6. Statutory Declarations-
  - (i) To give the Commission power to impose a penalty for late filing
  - (ii) Amend the form at Section 2 to remove the words “in excess of five hundred thousand dollars”.
  - (iii) The form of Statutory Declaration as set out in the Second Schedule of the Act be amended at section 1 to add the words “or any other document as indicated by the Commission”.
7. The Commission recommended an increase of the income threshold for filing Declarations from Two Million Dollars (2,000,000) to Three Million Dollars (\$3,000,000).
8. The Commission is of the view that Public Sector Officers and employees should not engage in work which creates a conflict of interest with their official duties and sanctions should be provided for such activity.

## **Preface**

The Commission for the Prevention of Corruption was established under the Corruption (Prevention) Act 2000 and its first members appointed with effect from May 1, 2001. The members recruited staff and engaged in the drafting of Regulations which came into effect January 31, 2003.

The Commission consists of five (5) Members:

- (a) The Auditor General
- (b) Four (4) 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 and Retired Judges of the Supreme Court
  - (iii) Persons who, in the opinion of the Governor General, are of high integrity and are able to exercise competence, diligence and sound judgment in fulfilling their responsibilities under the Act.

The Members for the period under review were:

- The Honourable Mr. Justice Chester Orr (Retired) C.D., J.P. – Chairman
- The Honorable Mr. Adrian Strachan, O.J., C.D., J.P., F.C.C.A., F.C.A.,
- The Very Reverend Canon the Honourable Weeville M. Gordon, Custos Rotulorum, O.J., C.D., J.P., M.Div.
- Mr. Justice Wesley James (Retired)
- Mrs. Pamela Monroe-Ellis F.C.C.A., F.C.A., C.I S.A.

## Meetings of the Commission

The Commission met ten (10) times during the 2009/2010 financial year.

<b>Names of Members</b>	<b>Meetings Attended</b>	<b>Absent</b>
Mr. Justice Chester Orr	9	1 (with excuse)
Mr. Adrian Strachan	9	1 (with excuse)
The Very Rev. Canon Weeville Gordon	5*	-
Mr. Justice Wesley James	9	1 (with excuse)
Mrs. Pamela Monroe Ellis	7	3 (with excuse)

\*The Very Reverend Canon the Honorable Weeville Gordon tendered his resignation from the Commission effective December 22, 2009. The members wish to record their appreciation for his service as a member and wish him happy retirement.

The Commission held eight (8) hearings with Public Servants and their representatives in an effort to clarify and elicit further information relating to Statutory Declarations filed by them.

The outstanding remuneration of the members has finally been settled with the Ministries of Justice and Finance having secured passage of the appropriate resolution in accordance with Section 17 of the First Schedule to the Corruption (Prevention) Act, 2000.

## The Secretariat of the Commission

The Commission, for the period under review, had an approved staff complement of twenty-one (21) which includes the Secretary/Manager, two (2) Secretaries, four (4) Financial Analysts, four (4) Investigators, one (1) Manager, Finance and Administration, one (1) accounting clerk, one (1) Records Officer, five (5) Data Entry Officers, one (1) Office Attendant and one (1) Driver. In accordance with the Cabinet Office directive the fees and salaries of members of the Commission and senior staff are as indicated in Appendix 1 and Appendix 2 respectively.

The Commission's office is as indicated below:

**Commission for the Prevention of Corruption  
45-47 Barbados Avenue,  
Kingston 5**

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

**Fax:** 960-5617

**Email:** [corruptionprevention@yahoo.com](mailto:corruptionprevention@yahoo.com)

## **Statutory Declarations**

The objective of the Commission is the reduction and prevention of corruption in the Public Sector.

The Act provides the following functions of the Commission:

1. To receive and keep on record Statutory Declarations furnished by Public Servants pursuant to the 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 in its examination;
3. To make such independent enquiries 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 satisfied that there are reasonable grounds for such investigation.

Statutory Declarations are required from Public Servants whose total emoluments are Two Million Dollars (\$2,000,000) and above and those categories indicated in Part 1 and 2 of the Regulations issued under the Act.

Arising from the receipt of information from Government Ministries, Departments, Companies, Statutory Bodies, and Local Government Agencies, it was ascertained that Declarations were to be received as indicated in Table 1 below:



The Corruption (Prevention) Act, 2000 states that for a Statutory Declaration to be in compliance with the Act, it must be filed within (3) three months following the date to which it relates. Up to the date of this report, declarations were received as indicated in the following table (See Table 1):

Table 1

Declaration Period	Expected No. of Declarations	No. of Declarations Received	Outstanding Declarations	Percentage Outstanding
January 31, 2003	14,705	12,791	1,914	13%
December 31, 2003	14,705	10,924	3,781	26%
December 31, 2004	17,228	12,744	4,484	26%
December 31, 2005	14,104	8,980	5,124	36%
December 31, 2006	15,409	8,977	6,432	42%
December 31, 2007	20,684	12,506	8,178	40%
December 31, 2008	23,447	12,675	10,772	46%
December 31, 2009	21,166	12,342	8,824	42%
TOTAL	141,448	91,939	49,509	

As can be seen there is a high incidence of outstanding declarations with that for the year under review being forty-two percent (42%).

These results were further disaggregated by Agencies as indicated in the table 2 below:

Table 2

Agencies	Declarations to be Filed	No. of Declarations Filed	No. of Persons with Outstanding Declarations
Air Jamaica Limited	1,538	73	1,465
Fiscal Services Limited	375	266	109
Heart Trust/National Training Agency	863	554	309
Inland Revenue Department	3,689	1,532	2,157
Jamaica Constabulary Force/Island Special Constabulary Force	74,013	50,998	23,015
Jamaica Customs Department	5,355	4,631	724
Jamaica Defence Force	21,836	15,627	6,209
Jamaica Tourist Board	476	141	335
Ministry Of Agriculture	472	298	174
Ministry Of Education	4,100	301	3,799
Ministry Of Foreign Affairs And Foreign Trade	581	356	225
Ministry Of Health	473	338	135
Ministry Of Justice	871	681	190
National Housing Trust	1,254	951	303
National Water Commission	557	179	378
National Works Agency	1,302	742	560
Office Of The Prime Minister	389	185	204
Petrojam Limited	477	145	332
Port Authority Of Jamaica	516	199	317
Registrar General's Department	758	346	412
South East Regional Health Authority	450	45	405
Southern Regional Health Authority	554	72	482
Taxpayer Audit And Assessment Department	3,015	1,569	1,446
University Of Technology	1,415	298	1,117
Western Regional Health Authority	545	208	337
Other Agencies	15,574	11,204	4,370
<b>Total</b>	<b>141,448</b>	<b>91,939</b>	<b>49,509</b>

As can be seen from the table, Agencies indicated in Red have the highest rates of delinquent Declarants. The category 'Other Agencies' represents an amalgamation of several small reporting Agencies.

The Commission once again wishes to highlight the continued tendency of many Public Servants to breach the Legislation and is urging that its recommendation made in its 2005 Report, that the Corruption (Prevention) Act, 2000 be amended to give powers to the Commission to impose a penalty for the late filing of Statutory Declarations be enacted.

The Commission has previously reported the delinquencies to the Director of Public Prosecutions and to date a total of eighteen thousand three hundred and twenty-five (18,325) names of declarants have been made. This has resulted in thirty-nine (39) declarants to date being fined in excess of four hundred thousand dollars (\$400,000) and charges against (471) declarants being withdrawn by the Director of Public Prosecutions (See Table 3).

During the year under review, the Director of Public Prosecutions brought fifty-one (51) cases before the Court resulting in fines being imposed on twenty-eight (28) public servants for failure to submit the Statutory Declarations by the due date. The remainder totaling twenty-three (23) had their charges withdrawn by the Director of Public Prosecutions (DPP).

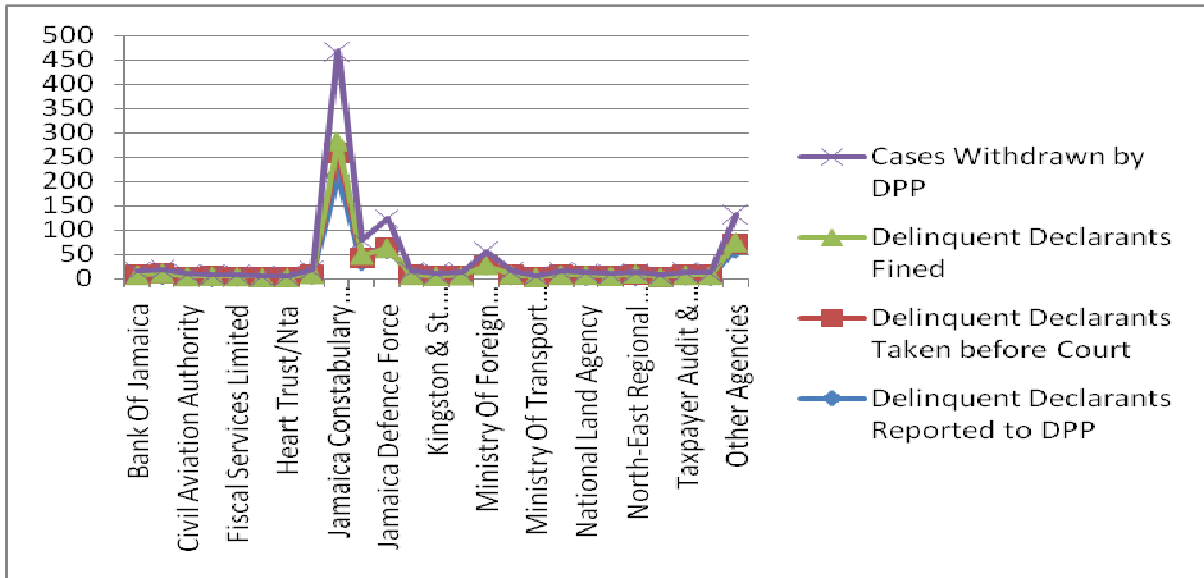
The Commission had previously highlighted its concerns in relation to the small number of delinquents being brought before the courts, as well as the Director of Public Prosecutions (DPP) withdrawal of charges in several instances, which in the Commissions view frustrates its efforts to reduce corruption. The Commission continues to work with the Director of Public Prosecutions (DPP) to address these matters (See table 3).

**Table 3**

	<b>*Delinquent Declarants Reported to DPP</b>	<b>Delinquent Declarants Taken before Court</b>	<b>*Delinquent Declarants Fined</b>	<b>*Cases Withdrawn by DPP</b>
Bank Of Jamaica	8			8
Bureau Of Standards Jamaica	8	3	1	7
Civil Aviation Authority	5			5
Coconut Industry Board	3	3		3
Fiscal Services Limited	4	1		4
Hanover Parish Council	3			3
Heart Trust/National Training Agency	3			3
Inland Revenue Department	8	2		8
Jamaica Constabulary Force	212	46	24	186
Jamaica Customs	36	7	6	30
Jamaica Defence Force	61	2		61
Jamaica Tourist Board	8			8
Kingston & St. Andrew Corporation	6			6
Ministry Of Agriculture	7			7
Ministry Of Foreign Affairs And Foreign Trade	28			28
Ministry Of Health	7	2		7
Ministry Of Transport & Works	3			3
National Housing Trust	8			8
National Land Agency	6	1	1	5
National Works Agency	5	1		5
North-East Regional Health Authority	5	3	3	2
Westmoreland Parish Council	4			4
Taxpayer Audit & Assessment Department	7	1		7
Western Regional Health Authority	5	3		5
Other Agencies	62	9	4	58
	512	84	39	471
*Bench Warrants Issued for 2 Persons				

\* Delinquent declarants reported to the Director of Public Prosecutions (DPP) (512) comprises Delinquent declarants fined (39) and the addition of Cases withdrawn by the DPP (471) and Bench Warrants issued (2).

**Chart 1: Cases Referred to the Director of Public Prosecutions.**



**Chart 1**

Gives a pictorial representation of the cases referred to the DPP and the nature of the action undertaken.

**Update of Database**

The Commission annually makes the request of Public Sector Agencies for an update of persons required to file the Statutory Declaration of Assets, Liabilities and Income and has received responses from one hundred and two (102) Ministries and Agencies of the one hundred and eighty-five (185) entities written to in December 2009. The Commission is in contact with the agencies who have not responded to date with a view to receiving the necessary correspondence.

## **Analysis of Declarations Filed**

The Commission maintains a database comprising all the information supplied by declarants on their Statutory Declarations and has completed making entries of data received for the period ending December 31, 2007 and is in the process of making entries for the period ending December 2008 and 2009.

The year under review saw a continuation of the analysis of declarations filed by declarants employed by agencies. The agencies include the Jamaica Customs Department, the Jamaica Constabulary Force and the Financial Investigations Division.

A total of 153 cases were examined. One Hundred and fifteen (115) of these cases were referred for detailed internal investigation and fifteen (15) were closed and no further action recommended.

These figures indicate that ninety-three percent (93%) of the cases examined had material issues warranting further investigation. (See Tables 4-5 and Chart 2)

**Table 4**

### **Analysis of Declarations Filed**

<b>Total Cases Examined</b>	<b>153</b>
<b>Cases Forwarded for Investigations</b>	<b>115</b>
<b>Cases with no Further Action Taken</b>	<b>15</b>
<b>Cases in Progress</b>	<b>23</b>

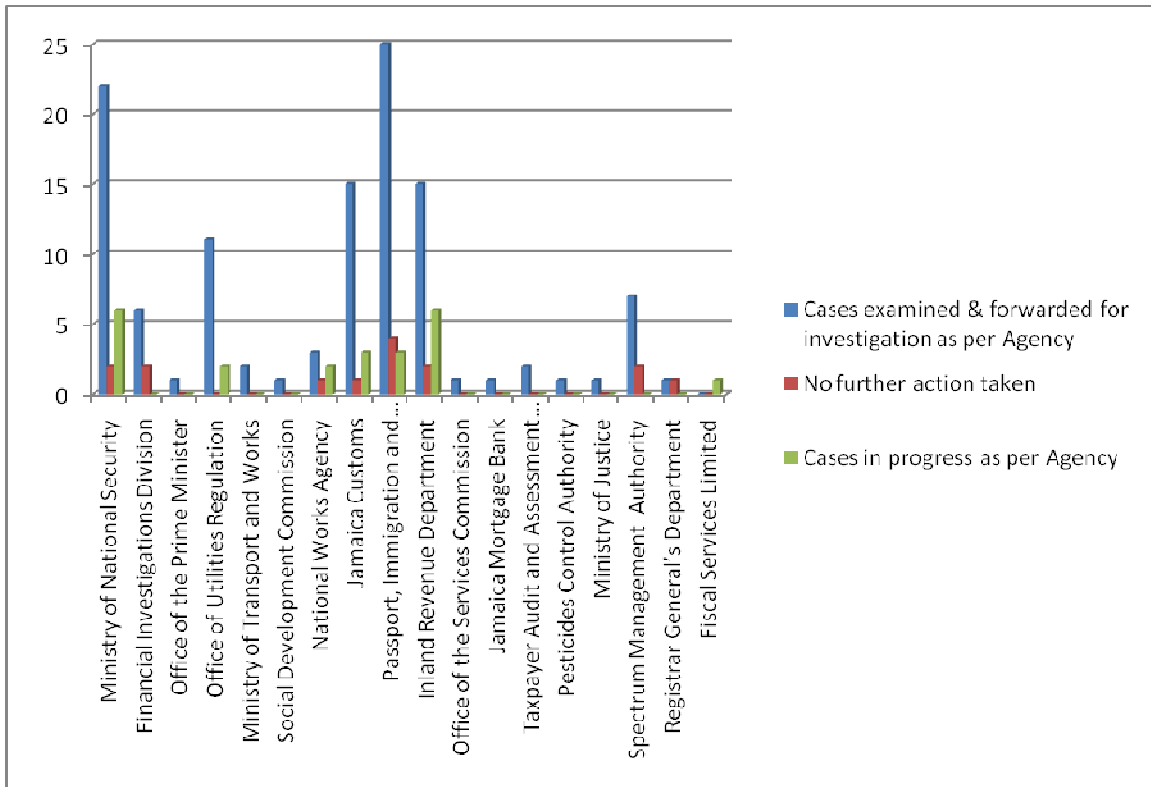
Most issues centered on non-disclosure. A breakdown of the breaches found as per analyses is as follows:

- Acquisition of assets with no tangible evidence of financing/funding.
- Non-declaration of assets e.g. properties, motor vehicles etc.
- Large deposits in financial institutions/alternative investment schemes not supported by declared income.
- Asset disposal (s) being undeclared.
- Non-declaration of business interests/income.
- Insufficient information being submitted on the Statutory Declarations.

**Table 5**

	Cases examined & forwarded for investigation as per Agency	No further action taken	Cases in progress as per Agency	Total as per Agency
Ministry of National Security	22	2	6	30
Financial Investigations Division	6	2	0	8
Office of the Prime Minister	1	0	0	1
Office of Utilities Regulation	11	0	2	13
Ministry of Transport and Works	2	0	0	2
Social Development Commission	1	0	0	1
National Works Agency	3	1	2	6
Jamaica Customs	15	1	3	19
Passport, Immigration and Citizenship Agency	25	4	3	32
Inland Revenue Department	15	2	6	23
Office of the Services Commission	1	0	0	1
Jamaica Mortgage Bank	1	0	0	1
Taxpayer Audit and Assessment Department	2	0	0	2
Pesticides Control Authority	1	0	0	1
Ministry of Justice	1	0	0	1
Spectrum Management Authority	7	2	0	9
Registrar General's Department	1	1	0	2
Fiscal Services Limited	0	0	1	1
<b>Total</b>	<b>115</b>	<b>15</b>	<b>23</b>	<b>153</b>

**Chart 2**



### Investigation of Declarations

During the period under review the Commission had an inventory of two hundred and eleven (211) cases under investigation, an increase of seventy-four (74) from the previous year. Arising from investigations eighteen (18) cases were closed by the Commission as sufficient explanations were offered for the discrepancies indicated (See Table 6).

During the year under review three (3) cases of suspected serious breaches of the Corruption (Prevention) Act 2000 were referred to the Director of Public Prosecutions making a total of seven (7) cases to date. Two (2) of these matters are presently being pursued in the courts by the Director of Public Prosecutions (DPP) and the remainder await her ruling. (Table 6 refers).

Several of the cases investigated revealed instances in which public servants were in receipt of gifts and income from various sources for which adequate documentary evidence was not presented to allow verification.



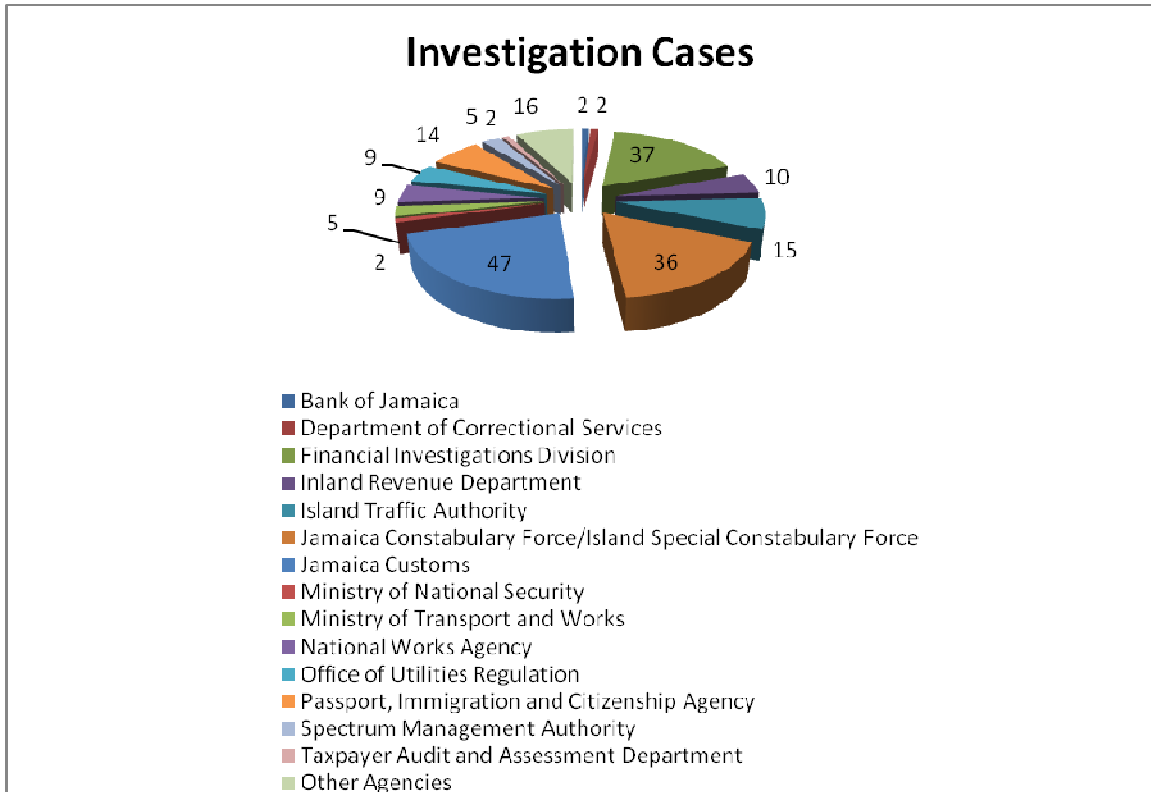
The Commission wishes to further record its appreciation to the Agencies that it has had to interact with in an effort to obtain much needed information to bring cases to a satisfactory conclusion and is awaiting a response from the Minister of Finance to its renewed call to have access to desired records as stated in its 2003 Annual Report.

**Table 6**

	<b>Agencies</b>	<b>Investigation Cases</b>	<b>Cases Closed No further Action</b>	<b>Cases Referred to DPP</b>	<b>Cases Reported to Service Commissions, Boards, Bodies or other Authorities</b>
Internal	Bank of Jamaica	2			
Internal	Department of Correctional Services	2			
Internal	Financial Investigations Division	37	3		
Internal	Inland Revenue Department	10			
Internal	Island Traffic Authority	15	6	1	
Internal / Public Complaint	Jamaica Constabulary Force/Island Special Constabulary Force	36	1	1	1
Internal	Jamaica Customs	47	9	3	1
Internal	Ministry of National Security	2			
Internal	Ministry of Transport and Works	5			
Internal	National Works Agency	9		2	1
Internal	Office of Utilities Regulation	9			
Internal	Passport, Immigration and Citizenship Agency	14			
Internal	Spectrum Management Authority	5			
Internal	Taxpayer Audit and Assessment Department	2			
Internal	Other Agencies	16	1		
		211	20	7	3

The chart below pictorially represents the investigation cases in progress by Agency.

**Chart 3**



## Legislative Issues

The Commission has proposed amendments to the Act in its Reports for the year 2003, 2004, 2005, 2006, and 2007. The Commission has attended sittings of a Joint Select Committee of the Houses of Parliament and has defended its recommendations. The non-implementation of these proposed amendments continues to hamper the Commission in its pursuit of achieving a reduction in corruption.

The Commission in this report is restating all its previous recommendations:

- (a) Definition of Spouse:- **That the Corruption (Prevention) Act 2000 be amended and the definition of Spouse as contained in the Family Property (Rights of Spouses) Act, 2003 be adopted for the purposes of the Act.**

The Act when it was passed defined "Spouse" to mean husband or wife under the Marriage Act. As a consequence assets may be placed in the name of an unmarried spouse to avoid disclosure thus defeating the purpose of the Act.

- (b) 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.**

Section 5 (7) of The Corruption (Prevention) Act, 2000 sets out the time frame in which statutory declarations are to be filed.

Section 15 (2) of The Act details sanctions for those declarants, who fail without reasonable cause to furnish a statutory declaration. The required amendment will serve as a deterrent to those declarants who are persistently late in the filing of their declarations. The Commission notes that such a provision for a penalty exists in other jurisdictions.

- (c) Issue arising from Amendment to the Corruption(Prevention) Act- **That Section 4 of The Corruption (Prevention) Act be amended by the insertion of subsection (d) as follows: and thereafter on the 31<sup>st</sup> day of December in each year or at such intervals as the Commission may direct.**

Section 4(5) of the Corruption (Prevention) Act prescribes the times at which statutory declarations should be furnished to the Commission. A similar provision in the original Act was deleted by the Corruption (Prevention) Act, 2002 but this provision was inserted with amendments in the regulations. [See The Corruption (Prevention) Regulations section 3 (3)]

The Commission is of the view that this Regulation is Ultra Vires the Act. The Commission has had to issue notice in the Gazette requiring Statutory Declarations as at December 31, 2003.

- (d) Function and Powers of The Commission- **A provision be inserted in The Act to authorise the Commission and its agents to inspect and make copies of all records and documents of Government Departments and Agencies including the Revenue Services.**

Section 5(2) of the Act gives the Commission power to summon witnesses, require the production of documents and to do all such things as it considers necessary or expedient for the purpose of carrying out its functions. The Commission is however aware that some available information is bound by confidentiality requirements.

This provision is necessary to assist in the investigation of corruption in circumstances where the relevant information is not contained in public records.

- (e) Specified Posts - The Commission after reviewing the Organisational Structures of the Agencies and Departments that are required to file the Statutory Declaration of Assets, Liabilities and Income has observed that some of these Agencies/Departments have undergone extensive restructuring including abolition of posts, merger and establishment of others. In view of these developments the following amendments to Parts 1 and 2 of the Regulations to the Act are now necessary.

(1) **The Customs Department**

**Repeal the existing and replace with the following:**

- All Holders of the series TA 1-9
- Accounting Officers AC 1-2
- AT 1-3
- PA 1-4
- Directors/Managers SEG 2-3
- Boatmen and Warehousemen LMOTS 1-3
- Records/Clerical Officers RIM 1-3
- Secretaries (Operations) SS 2-4

(2) **The Inland Revenue Department.**

**Repeal the existing and replace with the following:**

- ❑ Cashiers
- ❑ Compliance Officers
- ❑ Collector of Taxes
- ❑ Assistant Commissioner-Compliance
- ❑ Collections Officer
- ❑ Manager Stores
- ❑ Manager Payment Processing
- ❑ Manager Compliance
- ❑ Manager Office Services
- ❑ Director Maintenance & Facilities

(3) **The Ministry of Transport and Works**

Several of its functions now fall under the auspices of the National Works Agency and many posts have been reclassified and now fall under the National Works Agency.

(3a) **Amend by removing the following posts.**

**Ministry of Transport and Works**

- ❑ Assistant Superintendent
- ❑ Works Overseer 2
- ❑ Chief Project Officer
- ❑ Senior Superintendent
- ❑ Superintendent
- ❑ Works Overseer 3
- ❑ Quantity Surveyor Technician

(3b) **Amend to include:**

**National Works Agency**

- Regional Manager
- Project Manager
- Parish Manager
- Asst Parish Manager
- Flood Control Officer
- Flood Control Supervisor
- Construction Manager
- Building Officer
- Resident Engineer
- Site Supervisor
- Quantity Surveyor Technician
- Clerks of Works
- Site Control Officer
- Project Officer

(4a) **Amend the posts to include from.**

**Revenue Protection Department**

- Senior Investigator
- Investigator
- Intelligence Officer
- Tax Auditor 3

**Further amend Financial Investigative Division to include:**

**(4b) Financial Investigative Division**

- All members of the Financial Crimes Unit

- (f) 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.**

- (g) 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 has been 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.

- (g) 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 remains 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.

- (h) 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 initially made this recommendation in its 2003 report and wishes to further highlight:-

- i. The Commission is 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.  
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
- (j) 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 1 to add the words “*or any other document as indicated by the Commission*”.

The Statutory Declaration currently requires the declarants to furnish Bank Statements and/or letters from the bank confirming balances. The Commission is cognizant of the significant cost to declarants in complying with the legislation and that other methods of confirming balances now exist e.g. Automated Transaction Machine (ATM) slips and Electronic Banking Statements (e-banking). This provision will allow the Commission to examine and approve whatever option is available to the declarant in complying with the requirements of the Act and will reduce the cost to the declarants.

- (k) Section 3 of the Regulations to the Corruption (Prevention) Act states “the Statutory Declaration required by Section 4(1) of the Act shall not be furnished by a Public Servant who is in receipt of total emoluments of less than Two Million Dollars per annum.”

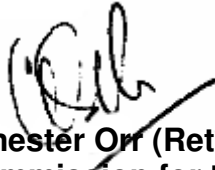
Since the passage of this Legislation, Public Sector Salaries have been reviewed.

The Commission is proposing that the threshold be increased to Three Million Dollars (\$3,000,000).



- (l) Investigations by the Commission have revealed instances of declarants having engaged in work which caused a conflict of interest with their official duties. It is recommended that legislation be enacted to prohibit and provide sanctions for such activity.

Signed:

A handwritten signature in black ink, appearing to be 'C. Orr', written over a horizontal line.

**Mr. Justice Chester Orr (Retired) C.D., J.P.  
Chairman- Commission for the Prevention of Corruption**

## Independent auditors' report

### **To the Members of Commission for the Prevention of Corruption**

#### Report on the Financial Statements

We have audited the accompanying financial statements of the Commission for the Prevention of Corruption, which comprise the statement of financial position as at March 31, 2010, and the statement of comprehensive income, statement of changes in reserves and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory notes.

#### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

#### **Auditors' Responsibility**

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 comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

...../cont\*d

## Independent auditors' report (cont'd)

### **To the Members of Commission for the Prevention of Corruption**

#### *Auditors' Responsibility (cont'd)*

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### **Opinion**

In our opinion, the financial statements give a true and fair view of the financial position of the Commission as at March 31, 2010, and of the Commission's financial performance, changes in reserves and cash flows for the year then ended in accordance with International Financial Reporting Standards.

#### **Report on additional requirements of the Government of Jamaica Public Sector Procurement Procedures.**

We have obtained all the information and explanations which, to the best of our knowledge and belief, were necessary for the purposes of our audit. In our opinion, proper accounting records have been maintained, and the financial statements are in agreement with the accounting records. The financial statements give information required by the Corruption (Prevention) Act 2000 and comply with the requirements of the Government of Jamaica Public Sector Procurement Procedures.

July 30, 2010  
Kingston, Jamaica



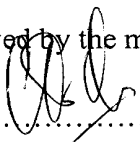
Chartered Accountants

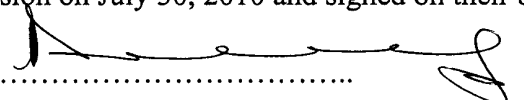
COMMISSION FOR THE PREVENTION OF CORRUPTION  
**STATEMENT OF FINANCIAL POSITION**

MARCH 31, 2010

	NOTE	2010 \$	2009 \$
<b>ASSETS</b>			
Furniture and Equipment	6	1,515,717	2,288,500
Long-term receivables	15	1,190,175	947,475
Total Non-current assets		2,705,892	3,235,975
Prepayments & receivables	16	41,104	20,000
Taxation recoverable	17	90,601	49,483
Receivables- current portion	15	281,300	221,940
Cash and cash equivalents	4	10,638,082	5,069,874
Total Current Assets		11,051,087	5,361,297
Total Assets		<u>13,756,979</u>	<u>8,597,272</u>
<b>LIABILITIES</b>			
Payables	5	15,535,460	15,485,190
Total Current Liabilities		<u>15,535,460</u>	<u>15,485,190</u>
<b>RESERVES</b>			
Deferred credit	20	-	45,445
Accumulated fund		(1,778,481)	(6,933,363)
Total Reserves		<u>(1,778,481)</u>	<u>(6,887,918)</u>
Total Liabilities and Reserves		<u>13,756,979</u>	<u>8,597,272</u>

Approved by the members of the Commission on July 30, 2010 and signed on their behalf by:

  
 .....  
 Chairman

  
 .....  
 Secretary/Manager

COMMISSION FOR THE PREVENTION OF CORRUPTION  
**STATEMENT OF CHANGES IN RESERVES**  
 YEAR ENDED MARCH 31, 2010

	Deferred Credit \$	Accumulated Fund \$	Total \$
Balance as at March 31, 2008	252,675	(2,837,294)	(2,584,619)
Transfers	(207,230)	207,230	-
Surplus for the year	-	(4,303,299)	(4,303,299)
Balance as at March 31, 2009	45,445	(6,933,363)	(6,887,918)
Transfers	(45,445)	45,445	-
Surplus for the year	-	5,109,437	5,109,437
Balance as at March 31, 2010	-	(1,778,481)	(1,778,481)

COMMISSION FOR THE PREVENTION OF CORRUPTION  
**STATEMENT OF COMPREHENSIVE INCOME**

YEAR ENDED MARCH 31, 2010

	NOTE	2010 \$	2009 \$
Income	(2d &7)	<u>58,646,472</u>	<u>47,019,412</u>
Administrative expenses	11	<u>(52,672,671)</u>	<u>(50,332,218)</u>
Other expense	10	<u>(864,364)</u>	<u>(990,493)</u>
Surplus(Deficit) for the year		<u><u>5,109,437</u></u>	<u><u>(4,303,299)</u></u>

COMMISSION FOR THE PREVENTION OF CORRUPTION  
**STATEMENT OF CASH FLOWS**

PAGE 6

YEAR ENDED MARCH 31, 2010

<b>SOURCES (USES) OF CASH</b>	2010	2009
<b>OPERATING ACTIVITIES</b>	\$	\$
Surplus(Deficit) for the year	5,109,437	(4,303,299)
Item not affecting cash		
Depreciation	864,364	990,493
	5,973,801	(3,312,806)
Changes in non-cash working capital components		
Prepayments & receivables	(21,104)	-
Payables	50,270	5,528,229
Taxation recoverable	(41,118)	(33,103)
Long-term receivables	(242,700)	(271,610)
Current portion of long term receivables	(59,360)	(18,600)
	(314,012)	5,204,916
Cash provided by operating activities	5,659,789	1,892,110
<b>INVESTING ACTIVITIES</b>		
Additions to fixed assets	(91,581)	(793,094)
Increase in net cash and cash equivalent	5,568,208	1,099,016
Net cash and cash equivalent at the beginning of the year	5,069,874	3,970,858
Net cash and cash equivalent at the end of the year	<u>10,638,082</u>	<u>5,069,874</u>

1. **Identification and Activities**

The Commission for the Prevention of Corruption is a body established under the Corruption (Prevention) Act 2000. The Commission is domiciled in Jamaica with offices located at 45 - 47 Barbados Avenue Kingston 5.

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.

These financial statements are stated in Jamaican dollars.

2. **Basis of Preparation and Summary of Significant Accounting Policies**

(a) **Basis of Preparation**

These financial statements have been prepared in accordance with International Financial Reporting Standards (IFRS), as issued by the International Accounting Standard Board (IASB).

(b) **Critical judgments and sources of estimation uncertainty.**

The preparation of financial statements in accordance with International Financial Reporting Standards requires management to make estimates and assumptions that affect the amounts and related disclosures reported in the financial statements. These estimates are based on historical experience and management's best knowledge of current events and actions. Actual results may differ from these estimates and assumptions.

The main source of estimation relates to estimation in the useful life of equipment. There are no significant judgments that management has made in the process of applying the accounting policies and that have a significant effect on the amounts recognised in the financial statements.



2. **Basis of Preparation and Summary of Significant Accounting Policies (Cont'd)**

(b) Critical judgments and sources of estimation uncertainty. (Cont'd)

In addition, there are no significant sources of uncertainty at balance sheet date, that have a significant risk of causing a material adjustment of the carrying amounts of assets and liabilities within the next financial year.

The significant accounting policies that have been used in the preparation of the financial statements are summarised below and have been consistently applied for all the years presented.

The financial statements have been prepared using the measurement bases specified by IFRS for each type of asset, liability, income and expense. The measurement bases are more fully described in the accounting policies below:

(c) Equipment

(i) Equipment is carried at cost less accumulated depreciation.

(ii) Depreciation is charged on assets from the date of acquisition.

Depreciation is provided on the straight line basis at such rates as will write off the cost of the assets over the period of their expected useful lives. The rates are as follows:

Furniture, fixtures, equipment, computers	10-25%
Motor vehicles	20%

(d) Revenue Recognition

Revenue comprises recurrent subvention received from the Government of Jamaica and interest income. Government subvention is recognised when received and interest income is recognised when due based on contractual agreements in effect.

(e) Cash and Cash Equivalents

Cash and cash equivalents consist of cash on hand, deposits held on call with banks and other short-term highly liquid investments with original maturity dates of three (3) months or less.

2. **Basis of Preparation and Summary of Significant Accounting Policies (Cont'd)**

(f) Payables

Payables are classified as financial liabilities measured at amortised cost. Initially they are recognised at the original invoice amount ( which represents fair value) and subsequently measured at amortised cost.

(g) Financial Instruments

A financial instrument is any contract that gives rise to both a financial asset of one enterprise and a financial liability or equity instrument of another enterprise. Financial instruments are recognised in the Commission's balance sheet when it has become a party to the contractual provisions of the instruments.

The financial instruments carried in the balance sheet are cash and cash equivalents and payables. The particular recognition methods adopted are disclosed in the respective accounting policies association with each item.

(h) Reserves

Accumulated fund includes all current and prior period results as disclosed in the Income Statement.

3. **Adoption of New and Revised Accounting Standards**

Certain interpretations and amendments to existing standards have been published that became effective during the current financial year. The Commission has assessed the relevance of all such new interpretations and amendments and has adopted those that are applicable to its operations.

There was no impact on opening reserves as at April 1, 2009, from the adoption of these standards and interpretations.

COMMISSION FOR THE PREVENTION OF CORRUPTION  
 NOTES TO THE FINANCIAL STATEMENTS

4. **Cash and Cash Equivalents**

	2010	2009
	\$	\$
Cash	1,017,938	4,537
Bank current account	7,437,565	2,687,202
Bank savings account	<u>2,182,579</u>	<u>2,378,135</u>
	<u>10,638,082</u>	<u>5,069,874</u>

Included in cash is \$1,000,000 representing subvention received on 31/03/2010.  
 This amount was lodged on 01/04/2010.

The cash in the savings account is earmarked for funding revolving car loans.

5. **Payables and Accruals**

	2010	2009
	\$	\$
Telephone and electricity charges	174,744	122,992
Audit fee accrued	220,000	180,000
Consultancy and professional fees	115,000	115,000
Pension contributions	6,765,665	6,030,616
Vacation leave (1-3 years)	3,812,450	3,670,417
Gratuity	1,708,049	1,834,518
Repairs	-	5,963
Rental	-	762,374
Training & tuition fee refund	-	329,412
Travelling allowance	784,552	568,898
Ministry of Justice - overpayment of subventior	90,000	-
Arrears - commissioners fee	<u>1,865,000</u>	<u>1,865,000</u>
	<u>15,535,460</u>	<u>15,485,190</u>

6. Furniture & Equipment Comprise:

	Furniture fixtures \$	Office equipment \$	Computer \$	Motor vehicles \$	Totals \$
Carrying amount at March 31, 2008	1,108,188	243,464	935,724	198,523	2,485,899
Additions	93,915	405,948	293,231	-	793,094
Depreciation for the Year	(185,871)	(211,523)	(469,023)	(124,076)	(990,493)
Carrying amount at March 31, 2009	1,016,232	437,889	759,932	74,447	2,288,500
Additions	72,912	-	18,669	-	91,581
Depreciation for the Year	(193,164)	(123,063)	(473,690)	(74,447)	(864,364)
Carrying amount at March 31, 2010	895,980	314,826	304,911	-	1,515,717

	Furniture fixtures \$	Office equipment \$	Computer \$	Motor vehicles \$	Totals \$
Gross carrying amount	1,764,811	824,682	2,626,413	992,611	6,208,517
Accumulated depreciation	(656,623)	(581,218)	(1,690,689)	(794,088)	(3,722,618)
Carrying amount at March 31, 2008	1,108,188	243,464	935,724	198,523	2,485,899
Gross carrying amount	1,858,726	1,230,630	2,919,644	992,611	7,001,611
Accumulated depreciation	(842,494)	(792,741)	(2,159,712)	(918,164)	(4,713,111)
Carrying amount at March 31, 2009	1,016,232	437,889	759,932	74,447	2,288,500
Gross carrying amount	1,931,638	1,230,630	2,938,313	992,611	7,093,192
Accumulated depreciation	(1,035,658)	(915,804)	(2,633,402)	(992,611)	(5,577,475)
Carrying amount at March 31, 2010	895,980	314,826	304,911	-	1,515,717

7. **Income**

	2010	2009
	\$	\$
GOJ subvention received	58,482,000	46,887,000
Interest income	<u>164,472</u>	<u>132,412</u>
	<u><u>58,646,472</u></u>	<u><u>47,019,412</u></u>

8. **Net Surplus for the year**

Net Surplus for the year is stated after charging /(crediting):

	2010	2009
	\$	\$
Executive compensation	9,255,028	9,168,730
Auditors' remuneration	220,000	180,000
Interest income	(164,472)	(132,412)
Honorarium - members	2,151,290	2,245,000
Depreciation	<u>864,364</u>	<u>990,493</u>

9. **Taxation**

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

10. **Other Expense**

	2010	2009
	\$	\$
Depreciation	<u>864,364</u>	<u>990,493</u>

11. **Expenses by Nature**

Total administrative and other operating expenses

	2010	2009
	\$	\$
Employee Benefits (note 12)	38,887,575	37,171,482
Office and parking lot rental	6,986,548	6,909,842
Utilities (note 19)	2,532,233	2,178,053
Auditors remuneration	220,000	180,000
Honorarium - Commissioners	2,151,290	2,245,000
Purchase of other goods and service (note 18)	1,895,025	1,647,841
	<u>52,672,671</u>	<u>50,332,218</u>

12. **Employee Benefits**

	2010	2009
	\$	\$
Salaries	26,125,209	25,075,179
Contributions to NIS, NHT & Ed. Tax	1,852,562	1,763,517
Travelling allowance	4,967,507	4,674,692
Pension and gratuity	5,880,504	4,926,721
Training & tuition fee refunds	61,793	731,373
	<u>38,887,575</u>	<u>37,171,482</u>

Included in employee benefits is the compensation of senior executives made up as follows:

**Compensation**

	2010	2009
	\$	\$
Salary	7,618,528	7,532,230
Travelling	1,636,500	1,636,500
	<u>9,255,028</u>	<u>9,168,730</u>

13. **Financial Risk Management Policies**

The Commission is exposed to a variety of financial risks in respect of its financial instruments: interest rate risk, credit risk, liquidity risk and cash flow interest rate risk. The Commission seeks to manage these risks by close monitoring of each class of its financial instruments as follows:

(a) Market risk

(i) Interest rate risk

Interest rate risk is the risk that the value of the financial instrument will fluctuate due to changes in market interest rates. The Commission's cash and cash equivalents are subject to interest rate risk. However, the Commission attempts to manage this risk by monitoring its interest-bearing instruments closely and procuring the most advantageous rates under contracts with interest rates that are fixed for the life of the contract where possible. The Commission faces interest rate risk in respect of the savings account as interest rate is not fixed but is subject to fluctuation based on prevailing market rate. ( see note 4)

Its current account balance does not bear interest, as it does not have overdraft facilities.

(ii) Currency risk

Currency risk is the risk that the value of a financial instrument will fluctuate due to changes in foreign exchange rates.

The Commission faces no currency risk as none of its financial instruments in transactions are denominated in a foreign currency.

(iii) Other price risk

Other price risk is the risk that the value of the financial instrument will fluctuate as a result of changes in markets prices, whether those changes are caused by factors specific to individual instrument or its issuer or factors affecting all instruments traded in the market. The Commission's financial instruments are substantially independent of changes in the market prices as they are short-term in nature.

(c) Credit risk

Credit risk is the risk that one party to a financial contract will fail to discharge its obligations and cause the other party to incur a financial loss.

The Commission faces credit risk in respect of its bank balances, which are held with licensed financial institutions considered to be stable.

13. **Financial Risk Management Policies (Cont'd)**

Credit risk (Cont'd)

The Commission manages its credit risk by a policy which requires that investments be made principally in liquid securities and only with counter parties that management believes does not offer any significant credit risk. Management does not expect any counter parties to fail to meet its obligations and considers the credit quality of its bank balances to be good. The maximum credit risk faced by the Commission is the total of bank balances reflected in these financial statements.

(d) Liquidity risk

Liquidity risk is the risk that the Commission will encounter difficulty in raising funds to meet its commitments associated with financial instruments. The Commission manages its liquidity risk by maintaining an appropriate level of resources in liquid or near liquid form.

At balance sheet date financial liabilities of the Commission are due within (3) months. However its current liabilities exceeded liquid and near liquid assets by \$4,905,038 (2009 - \$10,415,316).

14. **Capital Management**

The Commission obtains budgetary support from the Government of Jamaica to carry out its mandate. If there is a surplus on its operations, then it will strengthen its future continuity. However, the Commission expects that it will continue to receive government subvention to support its operations.

The Commission is not subject to any externally imposed capital requirements.



15. **Long-Term Receivable**

	2010	2009
	\$	\$
Motor vehicle revolving loan	1,471,475	1,169,415
Less repayable within 12 months	<u>281,300</u>	<u>221,940</u>
Long-term portion	<u><u>1,190,175</u></u>	<u><u>947,475</u></u>

In May 2007 the Commission established a motor vehicle revolving loan scheme to assist travelling officers to purchase reliable motor vehicles to be used in the performance of their official duties.

Guidelines for administering the loan include in part:

- (a) loans for new vehicles should not exceed \$800,000 and loans for used vehicles should not exceed \$500,000.
- (b) the loan should be interest-free
- (c) loans should be repaid over a seven (7) year period for new vehicles and six (6) years for used vehicles
- (d) no employee should be given a loan to purchase a motor vehicle under five years, that is, only one (1) loan in a five (5) year period.
- (e) The motor vehicle purchased should not exceed five (5) years.
- (f) All loans should be recovered by salary deduction.

16. **Prepayment & Receivables**

	2010	2009
	\$	\$
Deposit -		
Petrol	9,734	10,000
Stamps	7,660	10,000
Overpayment -fee	<u>23,710</u>	<u>-</u>
	<u><u>41,104</u></u>	<u><u>20,000</u></u>

17. **Taxation Recoverable**

This represents income tax deducted from interest income.

18. **Other Goods and Services**

	2010	2009
	\$	\$
Repairs & maintenance	196,347	71,146
Motor vehicle expenses	197,030	496,757
Bank charges	2,798	18,011
Advertising	118,596	135,934
Printing, stationery & photocopying	475,152	322,720
Office & sundry supplies	<u>905,102</u>	<u>603,273</u>
	<u>1,895,025</u>	<u>1,647,841</u>

19. **Utilities**

	2010	2009
	\$	\$
Electricity	2,291,554	1,932,577
Telephone & internet services	<u>240,679</u>	<u>245,476</u>
	<u>2,532,233</u>	<u>2,178,053</u>

20. **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**

**DIRECTORS COMPENSATION - 2009/2010**

Position of Director	Fees (\$)	Motor Vehicle Expenses and Subsistence (\$)	Honoraria (\$)	All Other Compensation including Non-Cash Benefits as applicable (\$)	Total (\$)
Chairman (1)	600,000				600,000
Member (1)	420,000				420,000
Member (1)	420,000				420,000
Member (1)	420,000				420,000
Member (1)	303,710				303,710
5	2,163,710				2,163,710

*Notes*

1. One (1) member resigned as a member of the Commission on December 22, 2009.

## COMMISSION FOR THE PREVENTION OF CORRUPTION

### SENIOR EXECUTIVE COMPENSATION - 2009/2010

Position of Senior Executive	Year	Salary (\$)	Gratuity or Performance Incentive (\$)	Travelling Allowance or Value of Assigned Motor Vehicle (\$)	Pension or Other Retirement Benefits (\$)	Other Allowances (\$)	Non-Cash Benefit (\$)	Total (\$)
GMG/SEG5(1)	2010	3,233,464		796,500				4,029,964
FMG/PA3(1)	2010	2,424,501		420,000		161,631		3,006,132
FMG/PA3(1)	2010	2,001,239		420,000				2,421,239
<b>Total</b>		<b>7,659,204</b>		<b>1,636,500</b>		<b>161,631</b>		<b>9,457,335</b>

**Notes**

1. FMG/PA3 allowance of \$161,631 represents three (3) additional increments due to acquiring a first degree.
2. FMG/PA3 salary of \$2,424,501 represents maximum of grade plus seniority allowance.