



Cayman Islands
Anti-Corruption Commission
Integrity is non-negotiable

Annual Report

1 July, 2013 – 30 June, 2014



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Statement from the Chairman

During our last reporting period (2012-2013) we saw the first prosecution and conviction following an investigation by the Anti-Corruption Commission's (ACC) Investigatory Unit (ACU). However during this reporting period we saw the first prosecution and conviction under the Anti-Corruption Law. This was considered a landmark case and an important step for the ACC.

Corruption continues to exist at various levels in the Cayman Islands and while the statistics are lower than in the previous reporting period the activities of both the ACC and the ACU were no less significant.

Along with the continuation of investigations by the ACU the ACC dedicated a large amount of its time on education and training both locally and internationally. The ACC believes that public education and internal education is an important facet of the Commission. Education contributes to an atmospheric change in attitude to corruption and thereby enables the public to do their part through reporting. It further supports anti-corruption internally by equipping our investigators with the latest tools, research and information on the fight against corruption.

Finally the ACC has also progressed during this reporting period through its electronic resources by securing funds in the 2013-2014 budget in order to purchase a small purpose built server and a case management system for the use by the ACU. The use of these systems will ensure information is kept securely and that the ACU is able to comply with legal disclosure issues as cases proceed to trial

The ACC continues to work diligently to receive, record, assess and investigate allegations of suspected corruption in accordance with the ACL on behalf of the ACC. We also continue to ask the public to do its part by reporting suspected corruption and working with us to gain the evidence needed to secure convictions in such cases.

David Baines
Chairman, Anti-Corruption Commission

Section One

The Anti-Corruption Commission Islands ("ACC")

1.1 ACC Membership

In accordance with the Anti-Corruption law (2008), the Commission consists of the Commissioner of Police, the Complaints Commissioner, and the Auditor General, and two additional members appointed by His Excellency the Governor, namely Sir Peter Allen and Mr. Leonard Ebanks.

1.2 Role

The Anti-Corruption Commission (ACC) was created in accordance with Section 3 of Cayman's Anti-Corruption Law (2008) which came into effect on 1 January 2010 and the Commission is responsible for the administration of the said law.

1.3 Powers, duties and functions

The ACL establishes the ACC and sets out its powers, duties and functions. Section 3 states:

- (1) There is established for the purposes of this Law a body to be known as the Anti-Corruption Commission and the Commission is the anti-corruption authority of the Cayman Islands.
- (2) The Commission is responsible for the administration of this Law and has the powers, duties and functions set out in this Law.
- (3) The provisions of the Schedule shall have effect as to the constitution of the Commission and otherwise in relation thereto."

Section 4 sets out the powers duties and functions of the ACC as follows:

- (a) Receive and consider any report of the commission of a corruption offence and, subject to this Law, investigate such report;
- (b) Receive and (as permitted) request, analyse and disseminate disclosures of any information -
 - (i) Concerning corruption offences under this Law or suspected offences; or
 - (ii) Required by any law in order to counter corruption;
- (c) Detect and investigate -
 - (i) Any suspected offence under this Law;
 - (ii) Any suspected attempt to commit an offence under this Law;
 - (iii) Any suspected conspiracy to commit any offence under this Law; and
 - (iv) Do anything else that it is required or authorised to do under this Law or any other law or which is necessary to do for achieving the purpose of this law.

The ACC is then permitted by the remainder of the section to do a number of things pursuant to the above including matters relating to the freezing of assets and the receiving and requesting of information, including from overseas anti-corruption agencies.

The ACC has a further duty, under section 4(2) (d), to retain a record of all information and agreements obtained or made in relation to the section for a minimum of five years.

Applications in relation to restraining assets etc. are stated to be required to be made by “the Commission” upon permission being granted by the Grand Court. Applications will be dealt with separately as part of the protocols.

1.4 Control, Oversight, and Policy Directions

The Governor has the power to give directions to the Commission with respect to policy followed in the performance of its functions in matters that concern the public interest. He is also responsible for:-

- (a) the general oversight of the anti-corruption policy of the Government;
- (b) overseeing and inspecting the work of the Commission;
- (c) reviewing annual reports submitted by the Commission;
- (d) promoting effective collaboration between regulators and law enforcement agencies; and
- (e) monitoring interaction and co-operation with overseas anticorruption authorities.

The Governor, in his discretion, may give to the Commission directions as to the policy to be followed in the exercise and performance of its functions in relation to matters appearing to the Governor to concern the public interest and the Commission shall give effect to any such directions.

The ACC is permitted, by virtue of section 28(1), to issue guidelines setting out:

- (a) the forms and procedures for making a report of a corruption offence; and
- (b) the operational procedures in connection with disclosures made to the Commission under this law.

The ACC is obliged by virtue of section 28(2) to review and amend any guidelines it issues under the above sub-section. The guidelines are to be made available for inspection by the public under sub-section (3).

1.5 Main Responsibilities

- Receiving reports of alleged corruption;
- Considering such reports;
- Investigating such reports;
- Receiving, requesting, analysing and disseminating information relating to suspected corruption or to counter corruption;
- Detecting and investigating corruption offences under the ACL;
- Assisting with overseas investigations;
- Freezing assets and confiscating proceeds of corruption offences;
- Recording all information generated by the above activities;
- Reporting annually to the Governor; and
- Issuing and reviewing guidelines for the making of reports and for disclosures made under the ACL.

Section Two

Breaches of the Law

2.1 General Overview

The Commission receives reports of alleged breaches as identified in the legislation through direct communication to members of the Commission; requests for mutual assistance from overseas; and those reported directly to the Police or other law enforcement agencies, either overtly or covertly. In each case the allegation will be fully recorded and a decision taken as to what, if any, further investigation or action is appropriate. Each allegation is assessed on its own merits, however consideration is given as to whether the issue constitutes a breach of the legislation; and if so, is the matter in the public interest to investigate and / or prosecute. No prosecution is undertaken without the express authority of the Director of Public Prosecutions in accordance with the Anti-Corruption Law (2008) Part 2, Section 7 (as amended by the Director of Public Prosecutions (Miscellaneous Amendments) Law, 2012).

Any alleged breach occurring prior to the commencement of the Law and not forming an on-going sequence would be investigated and prosecuted, if appropriate, under the existing legislation available at the time.

2.2 Corruption Offences in the Cayman Islands

Corruption can be described as abusing a position of trust to gain an undue advantage. Corruption, therefore, means that decisions are not taken for public benefit, but rather to serve private interests.

Corrupt behaviour can be defined as follows:

- A Public Officer (PO) or Member of the Legislative Assembly (MLA) uses, or tries to use, knowledge, power or resources which they have gained as a result of their position for personal gain or for the advantage of others ;
- A PO or MLA uses, or attempts to use, their position to interfere with justice, to commit an offence or to prevent an offence being detected or punished;
- A PO or MLA acts dishonestly or unfairly, or breaches the trust of the public;
- A member of the public influences, or tries to influence, a PO, MLA or foreign PO or foreign equivalent of an MLA to use his or her position in a way that is dishonest, unfair or breaches public trust.

In accordance with sections 10 to 25 of the Anti-Corruption Law of the Cayman Islands the Anti-Corruption Commission may receive reports of allegations of the 16 offences detailed in 2.3 below.

2.3 Offences under Part 3 of the Anti-Corruption Law (2008)

- **Bribery of public officers and members of the Legislative Assembly**
 - directly or indirectly-

(a) solicits;
(b) accepts or obtains; or
(c) agrees to accept or obtain,
for himself or any other person, any loan, reward, advantage or other benefit with intent-

- (a) to interfere with the administration of justice;
 - (b) to procure or facilitate the commission of an offence; or
 - (c) to protect from detection or punishment a person who has committed or who intends to commit an offence,
- Gives or offers any loan, reward, advantage or other benefit, with intent that the public officer should do anything mentioned above.

- **Frauds on the Government**

- Demands, accepts, offers or agrees to accept a loan, reward, advantage or other benefit for cooperation, assistance, exercise of influence etc. in connection with the transaction of business relating to the Government.
- Pays a commission or reward or confers an advantage or benefit on a member of the Legislative Assembly or a public officer of a government entity or to any member of the family of a member of the Legislative Assembly or a public officer, unless he has the consent in writing of the Chief Officer of the government entity.
- Demands, accepts or offers or agrees to accept from a person who has dealings with the Government a loan, reward, advantage or other benefit directly or indirectly, by himself or through a member of his family or through any one for his benefit, unless he has the consent in writing of the Chief Officer of the government entity that employs him or of which he is an official.

- **Breach of trust by public officer or by a member of the Legislative Assembly**

- In connection with the duties of a public office, commits fraud or a breach of trust;
- Liable on conviction to imprisonment for a term of five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person.

- **Selling or Purchasing Office**

- Sell or agrees to sell an appointment to or a resignation from a public office, or a consent to any such appointment or resignation, or
- Purchase or give a loan, reward, advantage or other benefit for the purchase of any such appointment, resignation or consent, or agrees or promises to do so.

- **Influencing or negotiating appointments or dealing in offices**

- Receives, agrees to receive, gives or procures to be given, directly or indirectly, a

- loan, reward, advantage or other benefit as consideration for cooperation, assistance or exercise of influence to secure the appointment of any other person to a public office;
- Solicits, recommends or negotiates an appointment to or resignation from a public office, in expectation of a direct or indirect loan, reward, advantage or other benefit
- **False claims by Public Officers**
 - Knowingly make false claims on accounting statements or returns relating to money payable to himself or any other person for services, delivery of goods, etc.
 - **Abuse of Office**
 - Doing or directing to be done, in abuse of the authority of a public office, any arbitrary act prejudicial to the rights of another person.
 - **False certificates by public officers or by members of the Legislative Assembly**
 - Knowingly giving a false certificate when authorised or required by law to give such a certificate wherein the rights of any person may be prejudicially affected.
 - **Conflict of Interest**
 - Direct or indirect interests in deals with companies, partnerships or other undertaking relating to:
 - (a) the public officer;
 - (b) the member of the Legislative Assembly; or
 - (c) a member of the family or an associate of either the public officer or member of the Legislative Assembly,
 - The public officer, the member of the Legislative Assembly, the member of the family or the associate holds more than ten per cent of the total issued share capital or of the total equity participation in such company, partnership or other undertaking,
 - Personal interest in a decision which a government entity, of which the public officer or the member of the Legislative Assembly is a member, director or employee, is to take,
 - Shall forthwith disclose, in writing, to the government entity the nature of that personal interest.
 - **Failure of a public officer and member of the Legislative Assembly to whom a bribe is offered to report such offerings**
 - A public officer or MLA to whom any loan, reward, advantage or other benefit is given, promised or offered, in contravention of the Anti-Corruption Law, shall

report such to the ACC or any RCIPS police constable together with the name, if known, of the person who gave, promised, or offered such loan, reward, advantage or other benefit to him.

- A public officer or MLA who has reasonable cause, to believe that another public officer or MLA has solicited, obtained, or agreed to accept or obtain any loan, reward, advantage or other benefit, in contravention of the Anti-Corruption Law, shall report the name of the public officer or MLA to the ACC or any RCIPS police constable.

- **Secret Commissions**

- gives, offers or agrees to give or offer to an agent any loan, reward, advantage or other benefit relating to the affairs or business of his principal or for favour or disfavour to any person with relation to the affairs or business of his principal; or
- being an agent, demands, accepts or offers or agrees to accept from any person any loan, reward, advantage or other benefit relating to the affairs or business of his principal or for showing favour or disfavour to any person with relation to the affairs or business of his principal; or

- **Bribing a Foreign Public Officer**

- Obtain or retain an advantage in the course of business, directly or indirectly promises, gives, offers or agrees to give or offer a loan, reward, advantage, or benefit of any kind to a foreign public officer for his benefit or for the benefit of another person or to person for the benefit of a foreign public officer-
 - (a) as consideration for an act or omission by the foreign public officer in connection with the performance of the officer's duties or functions; or
 - (b) to induce the foreign public officer to use his position to influence any acts or decisions of the foreign country or public international organisation for which the officer performs duties or functions.

- **False Statements to the ACC**

- Makes or causes any other person to make false or misleading statements to the ACC or to a police constable.
- Makes an initial statement to the ACC or RCIPS, and then wilfully makes a subsequent inconsistent statement to the ACC or RCIPS.

- **Inchoate Offences**

- Unless expressly provided otherwise the following are offences under this Law-
 - (a) an attempt, conspiracy or incitement to commit an offence under this Law; and

- (b) aiding, abetting, counselling or procuring the commission of an offence under this Law.

- **Contractor subscribing to election fund**

- A person who, in order to obtain or retain a contract with the Government, or as a term of any such contract, whether express or implied, directly or indirectly subscribes or gives, or agrees to subscribe or give, to any person any loan, reward, advantage or other benefit-
 - (a) for the purpose of promoting the election of a candidate or a class or party of candidates to the Legislative Assembly; or
 - (b) with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in the Legislative Assembly, commits an offence.
- A person who commits an offence under this section is liable on conviction on indictment to imprisonment for a term of ten years.

- **Facilitation payments**

- For the purpose of section 22 (Bribing a Public Officer), a payment is not a loan, reward, advantage or other benefit to obtain or retain an advantage in the course of business, if -
 - (a) the value of the payment is small;
 - (b) it is made to expedite or secure the performance by a foreign public officer of any act of a routine nature that is part of the foreign public officer's duties or functions, including-
 - i. the issuance of a permit, licence or other document to qualify a person to do business;
 - ii. the processing of official documents, such as visas and work permits;
 - iii. the provision of services normally offered to the public, such as mail pick-up and delivery, telecommunication services and power and water supply; and
 - iv. the provision of services normally provided as required, such as police protection, loading and unloading of cargo, the protection of perishable products or commodities from deterioration or the scheduling of inspections related to contract performance or transit of goods; and
 - (c) as soon as practicable after the payment and the act of a routine nature performed by the foreign public officer occurred, the person made a record of the payment and the act and either the following applies-

- i. the person has retained that record at all relevant times; or
 - ii. that record has been lost or destroyed because of the actions of another person over whom the first-mentioned person had no control, or because of a non-human act or event over which the first-mentioned person had no control, and the first-mentioned person could not reasonably be expected to have guarded against the bringing about of that loss or that destruction.
- For the purposes of this Law, an "act of a routine nature" does not include a decision to award new business or to continue business with a particular party, including a decision on the terms of that business, or encouraging another person to make any such decision.
- A report under this section shall set out-
 - (a) the value of the payment concerned;
 - (b) particulars of the act of a routine nature that was sought to be expedited or secured by the payment;
 - (c) the date or dates on which the payment was made and on which the act of a routine nature occurred;
 - (d) the identity of the relevant foreign public official; and
 - (e) the signature of the person who has made the report or some other means of verifying the person's identity.

It is noted that some of these offences can only be committed by a public officer (PO) or a member of the Legislative Assembly (MLA) while others can be committed by any member of the public.

Section Three

Reporting Corruption

3.1 Making a Report

If you believe that there has been an act of corruption, the ACC asks that you complete and submit the reporting form found in the appendices section of this document. Matters should be reported to the ACC whenever there is a reasonable suspicion that any form of the above conduct has occurred; as soon as is reasonably practicable after the behaviour has occurred or been discovered.

If a matter is urgent, i.e. urgent action is required to correct the results of the behaviour or there is a risk of continued corrupt behaviour or that damage will be done to a person or organisation if the matter is not dealt with quickly, this should be made clear on the report.

Reports may be made to the ACC in the following ways:

- a. Directly to an individual member of the ACC;
- b. Via the Confidential Reporting Line;
- c. Directly to the Commissions Secretariat Manager or any supporting staff; or
- d. Directly to the ACU.

Any person who has knowledge of alleged corruption and/or fraudulent activities is urged to report such information in detail to the Anti-Corruption Commission through any of the established mediums found below.

The ACC will accept all information either anonymously or with identification of the person making the report, if he/she so wishes. The ACC will make every effort to protect the confidentiality of information provided and identity of those providing that information.

The ACC will encourage a caller, if the information is to be taken in a live situation, to identify his or her self as it may be necessary in the future to seek additional information or clarification of information received. This information also allows the Commission to be able to provide the respondent with updates on the investigation.

It should be noted that the process for receiving complaints is not restricted to the ACC; information may be provided to any Police Officer of the Royal Cayman Islands Police Service. If such a disclosure of corruption is made to a Police Officer this information will be reported to the Anti-Corruption Commission through the Commissioner of Police within a period of 7 days from the time of first receipt. On receipt of the information from the Police Officer, the Commissioner of Police, as Chairperson of the ACC, shall inform the ACC at the next Commission meeting or any time prior to the next ACC meeting.

3.2 Duty to Report

As it relates to the Anti-Corruption Law (2008) individuals should be aware of the principles that guide the performance of public officers in the conduct of their duties. Public officers may incur criminal liability for corruption as follows:

- **Those directly involved:** An individual who is directly involved in committing a corruption offence in accordance with the Anti-Corruption Law (2008) may be liable for the offence.
- **Those indirectly involved:** An individual may be liable for a corruption offence where he/she is indirectly involved in committing the offence.
- **Failure to act:** An individual may be liable for a corruption offence even where he/she was not directly involved in committing the offence, but was willfully blind to it.
- **Aiding and abetting:** An individual may also be liable for aiding and abetting where he has aided or assisted in the committing of the offence.

3.3 Accessibility of the Anti-Corruption Commission

The ACC may be contacted through the Secretariat in the following ways:

Phone: 244-3685

Fax: 945-8649

Website: www.anticorruptioncommission.ky

E-mail: info@anticorruptioncommission.ky

Mailing Address: P.O. Box 391 KY1-1106

Physical Address: 1st Floor Cayman Corporate Centre

FOI requests: foi.cos@gov.ky

★ Confidential Reporting Line ★

345.928.1747

Section Four

Completed Anti-Corruption Investigations

INDICTMENT 70/12

On 19 June 2014 a jury found Edlin McCarthur Myles guilty of three counts of obtaining property by deception and four counts of obtaining pecuniary advantage by deception. No evidence was offered by the prosecution on the other two charges (one charge of attempting to obtain a pecuniary advantage by deception and one charge of attempting to obtain property by deception) due to the unavailability of the complainant due to health reasons. Mr. Myles was charged in Indictment 70/12 of these offences contrary to sections 247(1) and 248(1) respectively of the Penal Code (2010 Revision).

The charges relate to Mr. Myles dishonestly obtaining cash (totalling \$630) and dishonestly obtaining for himself a pecuniary advantage, namely the opportunity to earn commission on an insurance policy by deception, that is by falsely representing that insurance was needed at that point in time by various individuals in order to secure housing through the National Housing and Development Trust Scheme. The offenses occurred at various times during the time period of 1 January 2011 and 13 December 2011.

Whilst Mr. Myles was not charged with offences under the Anti-Corruption Law the investigation in this case was performed by members of the Anti-Corruption Unit (ACU) of the Anti-Corruption Commission (ACC) with assistance from Officers of the Royal Cayman Islands Police Service (RCIPS).

On 26 June 2014 Justice Alexander Henderson sentenced Mr. Myles to a custodial sentence of six months. Mr. Myles was subsequently granted bail by Justice Richard Williams pending his appeal of both his conviction and sentence to the Cayman Islands Court of Appeal.

INDICTMENT 105/12

On 15 May 2014 a jury found Police Constable (PC) Elvis Kelsey Ebanks guilty of two counts of soliciting a bribe and two counts of breach of trust. PC Ebanks was charged in Indictment 105/12 of these offences contrary to sections 10 and 13 respectively of the Anti-Corruption Law.

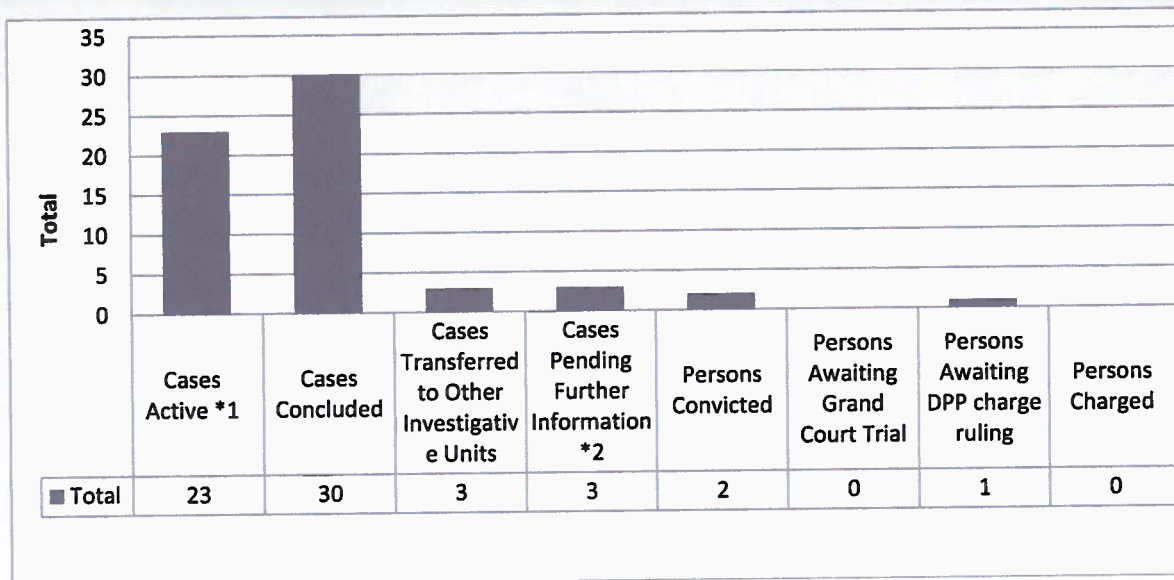
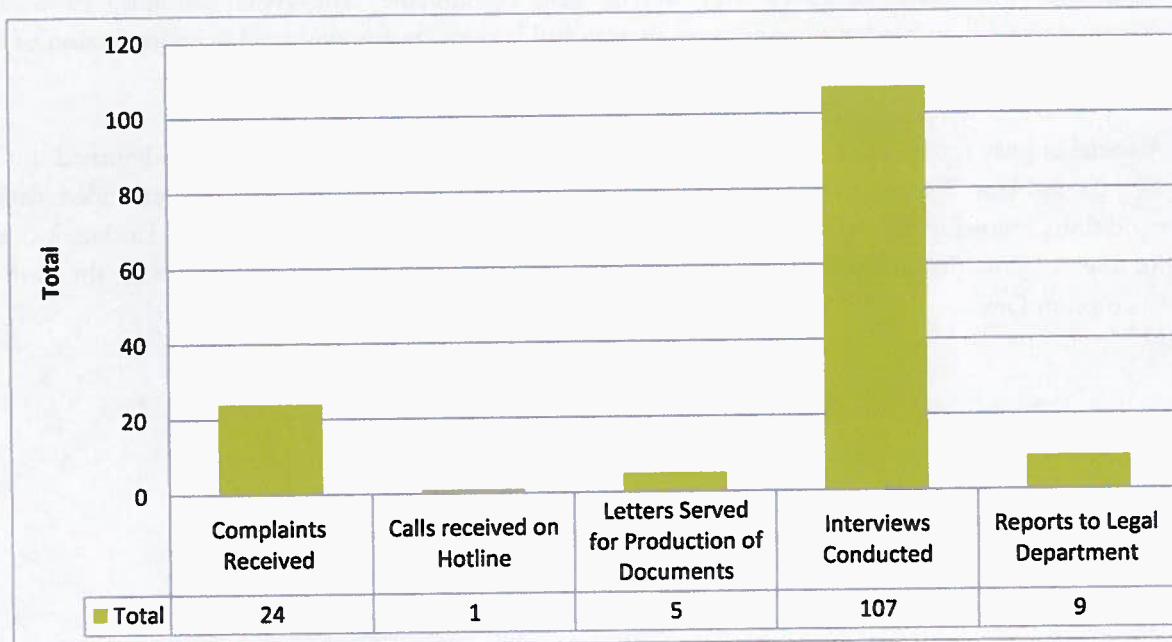
The charges relate to PC Ebanks willfully misconducting himself by soliciting a bribe and breaching public trust during the course of his duties. The duties performed at the time the unlawful actions were committed included the investigation and retrieval of a stolen cell phone from the victim of PC Ebanks' actions at the Autospa in Red Bay on 10 and 14 November 2012. The investigation in this case was performed by members of the Anti-Corruption Unit (ACU) of the Anti-Corruption Commission (ACC) with assistance from Officers of the Royal Cayman Islands Police Service (RCIPS).

Public officials are placed in a position of trust and as such must perform their duties honestly and professionally whilst displaying the highest level of integrity. When public officials fail to act in accordance with these standards they will be held accountable. The ACC continues to work diligently to fulfil its legislative mandate to receive and investigate any report of the commission of a corruption offence as detailed in Part III of the Anti-Corruption Law (2008).

A social inquiry report has been requested by Justice Quin and sentencing has been adjourned until 17 July 2014 at 2:00pm to allow for this to be prepared. PC Ebanks' bail was extended with conditions following the delivery of the judgment. The conviction of PC Ebanks is a landmark one for the ACC in that it is the first case in which a public official was convicted under the Anti-Corruption Law.

Section Five

2013-2014 Corruption Statistics



*1 Includes 3 cases from 2011 / 2012 reporting period and 6 cases from reporting period 2012/2013

*2 Includes 2 cases from 2011/ 2012 reporting period and 1 case from reporting period 2012/2013

Whilst the number of complaints received has gone down from 31 to 24, the ACU were given the task of investigating alleged election infractions during the last reporting period, which accounted of the higher number of complaints received during that period. The general election also accounted for the high number of calls to the confidential reporting line during the last reporting period as this line was the published point of contact for such complaints.

It is apparent that with only one call recorded to the confidential reporting line this year, and that one call being dialled in error, the line is not trusted by the populace. The preferred means of reporting is by far that of a trusted conduit such as a Member of the Legislative Assembly (MLA), a known member of the Royal Cayman Islands Police Service, or other highly regarded individuals in the community.

Much of the work of the investigations during this last reporting period has been on long term protracted investigations which have been complex and time consuming, as evidenced by the higher number of interviews conducted.

The number of cases which have been concluded has increased, although in some cases this was merely a change of status from 'pending' to 'concluded' on the basis that sufficient time had elapsed to indicate that no further information was likely to be gathered.

Whilst no persons have been charged in the last year, a number of requests for rulings have been submitted to the Office of the Director of Public Prosecutions (ODPP) however decisions have been made to not prosecute for a variety of reasons such as a lack of evidence which the ODPP felt would not result in a conviction or complex legal interpretive issues with the Anti-Corruption Law. These complex legal interpretive issues continue to be of concern to the ACC.

Section Six

Public Relations and Education

6.1 ACC Website

The Commission continues to maintain its website - www.anticorruptioncommission.ky – in order to increase public awareness as to the work of the ACC. Members of the public can access information on the functions and powers of the Commission, meeting minutes, reports, information on external resources, information on completed cases, general statistics, and resources aimed at engaging for youth with regard to anti-corruption awareness.

6.2 Corruption Lecture – University College of the Cayman Islands

The University College of the Cayman Islands (UCCI) extended the opportunity for members of the ACC to attend a lecture by the distinguished Baroness Scotland entitled *Anti-Corruption Commissions that work: An examination of successful regimes* on 30 July, 2013. The lecture was the second building block in lectures leading up to the UCCI's 2014 Conference entitled *Towards a Corruption Free Caribbean: Ethics, Values and Morality*.

6.3 Anti-Corruption Unit Training Opportunities

6.3.1 – 2013 International Anti-Corruption Academy

An investigator of the ACU attended the 2013 International Anti-Corruption Academy in Vienna during July 2013. The 2013 Academy was the third annual ten day intensive training programme and hosted a total of seventy-four attendees. Attendance at the training was achieved through a combination of funding from the Siemens Integrity Institute, the Foreign and Commonwealth Office and the Commissions Secretariat. On his return an overview of the components of the training undertaken while at the Academy as well as learning outcomes for the Commission as a whole.

6.3.2 – Australian Public Sector Anti-Corruption Conference

The Chairman of the ACC and senior investigator of the ACU attended the Australian Public Sector Anti-Corruption Conference in November 2013. This was the fourth such conference which consisted of workshops and presentations over a three day period in Australia. This biennial event is conducted to increase the knowledge and skill levels of public sector leaders and managers to effectively counter corrupt conduct within their organisations. It is jointly planned and hosted by the NSW Independent Commission against Corruption (ICAC), the Queensland Crime and Misconduct Commission and the Western Australian Corruption and Crime Commission (CCC). Attendance for both attendees at the conference was achieved through a combination of funding from the Foreign and Commonwealth Office and the Commissions Secretariat.

6.3.3 – Offshore Alert Conference

The Offshore Alert Conference 2014 was held on 5 and 6 April 2014 in Miami. The conference aims to allow attendees “to exchange financial intelligence on offshore finance including the very

latest on tax initiatives, political issues, beneficial ownership registries, financial transparency, and compliance requirements.” An investigator of the ACU attended in order to glean an understanding of corruption from a financial perspective by attending this conference.

6.4 Statutory Authority Board Briefings

The Chairman facilitated a presentation to members of the Cayman Islands Airports Authority, the Health Services Authority, the National Roads Authority and the Port Authority. The presentation included a briefing on the powers, functions and duties of the ACC; as well as discussions surrounding issues such as what is corruption, register of interests, conflict of interests, personal standards, transparency, elements of good governance and financial reporting.

6.5 2014 UCCI Conference: Towards a Corruption Free Caribbean: Ethics, Values and Morality

ACC Member Leonard Ebanks attended and presented on behalf of the Anti-Corruption Commission at the 2014 UCCI Conference at a Plenary Session entitled *Institutions Supporting Democracy in the Quest for a Corruption-Free Cayman Islands*. The Session was Chaired by Former Deputy Governor Donovan Ebanks and other panel members included Jan Liebaers representing the Office of the Information Commissioner, Wil Pineau representing the Constitutional Commission, Alastair Swarbrick representing the Office of the Auditor General, Alistair Walters representing the Human Rights Commission, and Nicola Williams representing the Office of the Complaints Commissioner.

Section Eight Moving Forward

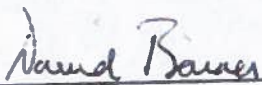
Corruption is a legitimate barrier to effective service delivery and an impediment to economic growth and development. Unfortunately many people are afraid of the repercussions of reporting corruption such as being identified or “branded” which is not farfetched in a small community such as the Cayman Islands. It is therefore crucial that the public is constantly educated and made aware of their ability to report potential corruption to the ACU.

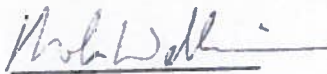
During this reporting period the Commission demonstrated a commitment to ensuring that our investigators and Commission members are well equipped with the most current and diverse academic and technical perspectives on the fight against corruption. It also continued to demonstrate its dedication to education and will continue to accept any opportunity to disseminate information about the role and functions of the ACC and the Anti-Corruption Law (2008).

Finally the ACC would like to reiterate as stated in our previous report that it encourages public authorities to demonstrate their stance against corruption by taking a committed interest in the implementation of strategies including greater internal controls, staff training, and the building-up of an organisational culture marked by professionalism, integrity, and ethically-sound decision-making.

Dated this 8th day of September, 2014.




Mr. David Baines (Chairman)


Miss Nicola Williams


Mr. Alastair Swarbrick


Sir Peter Allen


Mr. Leonard Ebanks

Appendix 1

General Information

What is Corruption?

- Corruption means abusing a position of trust to gain an undue advantage. This involves the conduct of both sides; that of the person who abuses their position of trust as well as that of the person who seeks to gain an undue advantage by this abuse.
- Corruption occurs in relation to public officials and private parties.

What is the impact of corruption?

- Corruption undermines democracy and the rule of law;
- leads to human rights violations;
- distorts markets;
- erodes quality of life; and
- allows organized crime, terrorism and other threats to human security to flourish.

Purpose of the Anti-Corruption Law (2008)

- A law to repeal the provisions of the penal code relating to corrupt practices;
- give effect to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 1997; and to the United Nations Convention against Corruption

Administration of the Anti-Corruption Law

- The ACC is responsible for the Administration of the Law
- The ACC has broad powers including:
 - investigate suspected and alleged corrupt conduct in conjunction with RCIPS (ACU);
 - recommend prosecution if necessary;
 - liaise with overseas anti-corruption authorities;
 - obtain search warrants and court orders to freeze the assets of those suspects of committing corruption offences.
- The ACC is comprised of:
 - The Commissioner of Police (Chair)
 - The Complaints Commissioner
 - The Auditor General
 - Two other persons, appointed by the Governor; each of whom shall be retired judges of the Grand Court or Court of Appeal; retired police officers; retired justices of the peace or magistrates; or retired attorneys-at-law.

The Role of Governor under the Law

- the general oversight of the anti-corruption policy of the Government;
- overseeing and inspecting the work of the Commission;
- reviewing annual reports submitted by the Commission under section 9;
- promoting effective collaboration between regulators and law enforcement agencies; and
- monitoring interaction and co-operation with overseas anti-corruption authorities.
- The Governor, in his discretion, may give to the Commission directions as to the policy to be followed in the exercise and performance of its functions in relation to matters appearing to the Governor to concern the public interest and the Commission shall give effect to any such directions.

Definition of “Chief Officer” under the law

- “Chief Officer” means-
 - (a) in the case of a Ministry, the Permanent Secretary (Chief Officer) of that Ministry;
 - (b) Portfolio of Internal and External Affairs → public officer in the Portfolio as may be designated by the Governor;
 - (c) Portfolio of Legal Affairs → public officer in the Portfolio as may be designated by the Governor;
 - (d) Portfolio of Finance and Economic Developments → public officer as may be designated by the Governor; and
 - (e) Portfolio of the Civil Service → public officer as may be designated by the Governor;
 - (f) Statutory Authority or a Government Company → the person appointed as Chief Officer (by whatever name called) by the board of that authority or company;
 - (g) Audit Office → the Auditor-General;
 - (h) Judicial Administration → the Court Administrator or such other suitable person as may be designated by the Chief Justice;
 - (i) Office of the Complaints Commissioner → the Complaints Commissioner.

Definition of “Public Office” and “Public Officer” under the law means-

- “Public Office” means –
Subject to the next following definition, an office of emolument in the public service
- “Public Officer” means –
 - (a) a person holding public office whether temporarily or permanently by appointment, or by the operation of any law;
 - (b) a judge, a magistrate, an arbitrator, an umpire, an assessor, a member of a jury or a referee in any proceeding or matter with the sanction of any court or in pursuance of any law;
 - (c) a Justice of the Peace; and
 - (d) a member of any statutory body, a tribunal or a commission of inquiry in pursuance

of any law; but does not include a member of the Legislative Assembly;

Duty of a Public Officer

1. A public officer or a member of the Legislative Assembly to whom any loan, reward, advantage or other benefit is given, promised, or offered, in whom a bribe is offered, contravention of any provision of this Law shall report to the Commission or a constable such loan, reward, advantage or other benefit together with the name, if known, of the person who gave, promised or offered such loan, reward, advantage or other benefit to him.

A person who fails to comply commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years or to both.

2. A person from whom any loan, reward, advantage or other benefit has been solicited or obtained, or an attempt has been made to obtain such loan, reward, advantage or other benefit, in contravention of any provision of this Law shall, at the earliest opportunity thereafter, report such soliciting or obtaining of, or attempt to obtain, the loan, reward, advantage or other benefit together with the full and true description and, if known, the name of the person who solicited, or obtained, or attempted to obtain, the loan, reward, advantage or other benefit from him to the Commission or to a constable.

A person who fails, without reasonable excuse, to comply commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of two years or to both.

3. A public officer or a member of the Legislative Assembly who has reasonable cause to believe that another public officer or a member of the Legislative Assembly has-

- (a) solicited;
- (b) accepted or obtained; or
- (c) agreed to accept or obtain;

any loan, reward, advantage or other benefit in contravention of any provision of this Law, shall report such belief to the Commission or a constable and shall provide the name, if known, of the person who gave, promised or offered such loan, reward, advantage or other benefit to the public officer or the member of the Legislative Assembly.

A person who fails, without reasonable excuse, to comply commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of two years or to both.

4. A person who commits an act of victimisation against a person who has made a disclosure under in relation to the duties of a public officer as outlined above commits an offence and is liable on summary conviction to imprisonment for a term of two years.

In this section, "victimisation" means an act-

- (a) which causes injury, damage or loss;
- (b) of intimidation or harassment;

- (c) of discrimination, disadvantage or adverse treatment in relation to a person's employment; or
- (d) amounting to threats of reprisals.

Definition of "member of a family", in relation to a person, means-

- a spouse of the person;
- a brother or sister of the person (including half and step-brother or half and step-sister);
- a brother or sister of the spouse of the person (including half and step brother or half and step-sister);
- any child of the person (including adopted and step-child);
- any parent or grandparent of the person (including step and adopted parent and grandparent);
- an aunt or uncle of the person; and
- niece or nephew of the person;

Prosecution for Offences

- Proceedings for a corruption offence must have the consent of the Director of Public Prosecutions.

Criteria for Committing an Offence

- A person does not commit a corruption offence unless-
 - (a) the conduct constituting the alleged offence occurs-
 - wholly or partly in the Islands; or
 - wholly or partly on board a Caymanian aircraft or a Caymanian ship;
 - or
 - (b) the conduct constituting the alleged offence occurs wholly outside the Islands and-
 - (c) at the time of the alleged offence, the person is –
 - a person having Caymanian status in accordance with the Immigration Law (2007 Revision); or
 - a resident of the Islands; or
 - a body corporate incorporated by or under a law of the Islands.

Appendix 2

Members' Biographies

Membership of the Anti-Corruption Commission

In accordance with the law, the Commission consists of the Commissioner of Police, the Complaints Commissioner, and the Auditor General, and two additional members appointed His Excellency the Governor. Currently, the members are as follows:

Mr. David Baines, Commissioner of Police (Chairman - Ex-Officio Member)



Mr. Baines joined Lancashire Constabulary in 1976, rising to the rank of Chief Inspector before moving through promotion to Greater Manchester Police (GMP). During his tenure with GMP, Commissioner Baines served in various posts including; Head of Corporate Performance with responsibility for raising standards throughout the force; Divisional Commander for Oldham; and Divisional Commander for Salford. After completing the Strategic Command Course, Commissioner Baines was appointed Assistant Chief Constable in the Cheshire Constabulary, where he held control of Operations Support. Mr. Baines took up the Post of RCIPS Commissioner of Police in 2009. Commissioner Baines holds a Master's Degree from the University of Cambridge where he studied International Relations.

Sir Peter Allen



Sir Peter Allen has been a permanent resident of Cayman for the past 20 years, served for eight years in the British Royal Artillery before joining Uganda's British Colonial Police, where he served for eight years as Assistant Superintendent. Following this, Sir Peter taught at the Uganda Law School, eventually serving as the school's principal. In 1970 Sir Peter became the Uganda Judiciary's Chief Magistrate and was later appointed as judge. In 1985, Sir Peter was appointed Chief Justice of Uganda. He was knighted in the New Year's Honours of 1987 before he retired to Grand Cayman, where he has acted several times as a judge and chaired two commissions of inquiry.

Mr. Leonard N. Ebanks



Mr. Leonard N. Ebanks had a distinguished banking career spanning 40 years, retiring in 2004. During his career he held senior banking positions in Jamaica, St. Lucia and the Cayman Islands, and served as President and Chief Executive Officer of Fidelity Bank (Cayman) Ltd. for over 23 years. Mr. Ebanks has served on numerous government boards, including as chairman of Cayman Airways Ltd and The National Housing Development Trust. In May 2001 he became one of three Constitutional Review Commissioners. He is a former trustee of the Public Service Pensions Board, having served as a member on the Human Resources and Investment Committees, and Chairman of the Audit Committee. He was appointed as a Justice of

the Peace in 1987 and has served as President of the Association. Prior to his appointment to the Anti-Corruption Commission, Mr. Ebanks sat regularly on the Juvenile Court Bench and also served in the Youth and Summary Court. He currently serves on the Board of Cayman National Corporation and its Cayman Subsidiaries, Cayman National Bank, Cayman National Trust, Cayman National Fund Services, and Cayman National Securities. Mr. Ebanks was awarded an Order of the British Empire (OBE) for his service to the Cayman Islands.

Mr. Alastair Swarbrick, Auditor General (Ex-Officio Member)



Mr. Swarbrick took up the post of Auditor General in July 2010 and is responsible for the independent audit of government and its related entities. Mr Swarbrick has over 20 years of experience in public auditing. He began his career in the Scottish Office before moving to the Accounts Commission for Scotland where he completed his professional accountancy training in 1996, becoming a member of the Chartered Institute of Public Finance and Accountancy. Mr Swarbrick subsequently moved to the UK National Audit Office in London taking on various roles before returning to Scotland to work for Audit Scotland as a Senior Audit Manager, leading the audit of the Scottish Government, as well as a number of its agencies and health service bodies. Following promotion to Assistant Director of Audit, aside from his audit management responsibilities, he also led the Business Improvement Unit and was responsible for developing and managing projects to improve the way that Audit Scotland delivered its work. Mr. Swarbrick obtained his Master of Arts, Honours Degree in Economics at the University of Dundee and was awarded the Bowie Memorial Prize for the Most Distinguished Student in Economics.

Ms Nicola Williams, Complaints Commissioner (Ex-Officio Member)



Ms Williams heads Cayman's only independent authority for tackling complaints against the public sector with a jurisdiction that covers government entities and statutory authorities. She also sits as a part-time Crown Court judge in the UK, having been appointed to the judiciary of England and Wales in October 2009. She is also Vice-President of the Caribbean Ombudsman's Association (CAROA). Until March 2009, she was one of 15 commissioners with the UK's Independent Police Complaints Commission whereby she investigated, mediated and resolved complaints about police misconduct, ranging from swearing and improper investigations to brutality and deaths in custody, including terrorism cases. She also has 16 years of experience as a barrister in private practice, has worked on several public inquiries and served for three years as a Board Member with the UK's Police Complaints Authority. She is also a Fellow of the RSA (Royal Society for the encouragement of Arts, Manufactures and Commerce) and a former Chair of the BBC Regional Advisory Committee for London.

Appendix 3 Reporting Form

All information and sources of information will be treated confidentially.
Section 37 of the Anti-Corruption Law protects informers who disclose information
to the Anti-Corruption Commission.

Part A – About you (OPTIONAL INFORMATION)

-
1. Name: Mr/Mrs/Miss/Ms: _____
 2. Physical Address: _____
 3. Mailing Address: P.O. Box _____ Postal Code: KY - _____
 4. Contact numbers: Work: _____ Cell: _____ Home: _____
 5. Email: _____

Part B – Your complaint

Who are you complaining about (if known)?

1. Name: _____
2. Position: _____
3. Name of organisation: _____
4. Physical Address: _____
5. Mailing Address: P.O. Box _____ Postal Code: KY - _____
6. Contact numbers: Work: _____ Cell: _____ Home: _____
7. Email: _____

What are you complaining about?

Describe in detail the events that you want to make a report about. We need to know:

- What happened?
- When?
- Who was there?
- How did you become aware of this matter e.g. were you there, did someone tell you about it?
- When did you become aware of this matter?
- Why do you say that what happened was corrupt or wrong?

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page.

Part C – Further information

Are you making this report on behalf of someone else? ☐ YES ☐ NO

If yes, how and when did you become aware of the incident?

Do you have any documents or other evidence in your possession which supports your report? If so, please describe and attach.

If you believe there is evidence which would support your report which is not in your possession please describe this evidence, how you are aware of it, where it is held and by whom.

Are there any other people who are aware of this matter and may be able to assist the ACC in investigating it? If so, who are they and how may they be contacted?

What do you want to happen as a result of making this report?

Have you reported this matter to any other person or agency? If so, to whom or to which agency? What was the outcome? Please attach any relevant correspondence.

Have you tried to resolve this matter in any other way? If yes, please give details and attach any relevant documents.

Are you willing for the ACC to contact you further regarding this matter? If so, how would you like the ACC to do this?

☐ Telephone ☐ Cell _____ ☐ Work _____ ☐ Home _____

☐ Mail P.O. Box _____ Postal Code: KY - _____

☐ E-mail _____

☐ Other _____

DECLARATION:

I understand that under the Anti-Corruption Law (2008)-

Where a person makes or causes any other person to make to the Commissioner or to a constable, in the course of the Commissioner or such constable exercising any power conferred by this Law, any statement which to the knowledge of the person making the statement, or causing the statement to be made-

(a) is false, or intended to mislead; or

(b) is not consistent with any other statement previously made by such person to any other person having authority or power under any law, or otherwise, to receive, or require to be made, such other statement regardless whether or not the person making the statement is under any legal or other obligation to tell the truth, he commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of three years or to both.

I hereby declare that the above information and relevant supporting documentation is accurate to the best of my knowledge and is provided in good faith.

Signature: _____

Date: _____

Remember:

- ☐ sign and date this document; and
- ☐ attach copies of any relevant documents.

Send your completed form to:

Manager, Commissions Secretariat

P.O. Box 391

Grand Cayman

CAYMAN ISLANDS KY1-1106

info@anticorruptioncommission.ky

Official Use Only

Case Reference Number: _____

Date and Time Received: _____

Name of Secretariat Representative: _____

Date Placed on the ACC Agenda: _____

Complaint Accepted and Investigated: Yes No