

Fifth Annual CCAICACB Conference

Topic
Country Presentation – Antigua and Barbuda

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Factors that have restricted the overall operation and management of the Commission

- ✓ Lack of funding
- ✓ Inadequate staffing
- ✓ Ability to discharge its functions as provided by the Act
- ✓ Deficiencies in the Integrity in Public Life Act

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Status of the Antigua and Barbuda Integrity Commission

✓ 2006 to 2014

✓ 2014 to June 2018

- Appointed in October 2014
- Initial effort to jump start the work of the Commission
- Set up database to record information for declarants
- Staffing issues resulting in Commission becoming non-functional in early 2016 until February 2018
- Second appointment in 2018 after two year of inaction and two Commissioners threatening to resign
- 4th Annual Commonwealth Caribbean Association of Integrity Commissions & Anti-Corruption Bodies Conference held in June 2018 in Turks & Caicos
- Prepared draft action plan

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Status of the Antigua and Barbuda Integrity Commission..cont'd

✓ June 2018 to May 2019

- Approved action plan for 2018/19 on June 14, 2018. -[Integrity Commission Action Plan 2018-2019](#)
- Issued first press release on June 15, 2018 to advise the public on (1) the Asot Michael matter and plans to investigate the allegations and (2) to provide an overview of how the Commission will operate going forward in relation to our interaction with stakeholders and the public. [Press Release June 15, 2019](#)
- Initiated an aggressive search to fill the position of Secretary to the Commission, however, the salary being offered was totally inadequate and this completely handicapped the process. In addition, the Commission had no funds and therefore was restricted to the salary being offered by the Government.
- Completed database for all declarations submitted and wrote to all ministries, departments and statutory bodies that are required to submit the names of persons required to file declarations in accordance with the IPL Act
- Retained legal counsel for the purpose of obtaining an opinion on the ability of the Commissioners under subsection 12(1)(d) of the IPL Act to begin an investigation without first receiving a written complaint. [Legal Opinion](#)

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Status of the Antigua and Barbuda Integrity Commission...cont'd

✓ June 2018 to May 2019

- Issued second press release on June 25, 2018 to advise the public that (1) there were grounds for an investigation into the Asot Michael matter (2) that the Government had agreed to provide funds to the Commission, (3) that the Commission had engaged legal counsel to advise the Commission on subsection 12 (1) (b & d) and (4) that based on the advice and opinion of legal counsel, the position of the Commission had changed and that an investigation could only be initiated if a written complaint was received in the proper form. [Press Release June 25, 2018.docx](#)
- Prepared non-compliant listing of persons required to file declarations and anticipated placing first non-compliant listing in the official Gazette in September 2018, however this was not done until May 31, 2019 for a variety of reason.
- Setting up standard weekly, monthly, quarterly and annual reporting guidelines/requirements for the office.
- Prepared proposed amendments to the to the IPL Act dealing specifically with penalties for non compliance with the IPL Act [Proposed amendments to the Integrity in Public Life Act.docx](#)

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Major Events in 2018/2019

- Changed the Commission's interpretation of subsection 12(1)(d).
- Completed database of all ministries, departments, statutory bodies and other persons that are required to submit the names of persons required to file declarations.
- Completed database of all individuals in public life who are required to submit declarations annually.
- Completed initial non-compliant listing of persons who had not filed declarations.
- Completed draft amendments to the penalty provisions in the IPL Act.

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**The functions of the Commission as provided in the Integrity in
Public Life Act (IPLA) are as follows**

Section 12(1)

- (a) to receive and retain all declarations filed with it under this Act;
- (b) to receive and investigate complaints regarding non-compliance with or contravention of any provisions of this Act or the Prevention of Corruption Act, 2004;
- (c) to make inquiries as it considers necessary in order to verify or determine the accuracy of a declaration filed under this Act;
- (d) to conduct investigation into any offence of corruption under the Prevention of Corruption Act, 2004 (PCA) if it is satisfied that there are grounds for an investigation;
- (e) To appoint where necessary Auditors to examine and verify the accuracy of the declarations filed under the Act or complaints of financial irregularities arising from breach of the code of conduct specified in the Second schedule;
- (f) To examine the practices and procedures of Statutory Corporations and Departments of Government to determine whether there are corrupt practices;
- (g) To advise Statutory Corporations and Departments of Government of any change in practice or procedures which may be necessary to eliminate corrupt practices;
- (h) To perform such other functions as is required by this Act.

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Initiating an investigation under the IPLA and PCA

- All complaints under the IPLA must be in writing for any investigation to be initiated
- In regards to the Prevention of Corruption Act the IPLA provides that the Commission can initiate an investigation if it is satisfied that there are grounds for an investigation

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Initiating an investigation under the IPLA and PCA post legal opinion

- All complaints under the IPLA must be in writing for any investigation to be initiated

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Format of Complaints to the Commission

- All complaints to Commission must be in writing and shall include the following:
 - Period within which the breach was committed.
 - Name and addresses of persons involved in the commission of the breach.
 - Evidence to support the complaint including documentary evidence and sworn statements.
 - Such other particulars as may be prescribed by Regulations.

A person who makes a complaint shall not be liable in civil or criminal proceedings provided he proves that the complaint was made in good faith.

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Interpretation of Sub-Section 12(1)(d)

- Legal opinions were obtained on the interpretation of sub-section 12(1)(d) and a request is in the process of being sent to the Attorney General to refer the matter to the Court of Appeal for interpretation pursuant to section 3(1)(b) of The Attorney General's Reference (Constitutional Questions) Act, 2009 (No. 10 of 2009).

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Statistical Data

Declarations by persons in Public Life

	2014	2015	2016	2017
Total known declarants	523	550	568	573
Number of declaration filed	164	177	156	184
Percentage compliance	31%	32%	27%	32%
Number of declarants who have not filed	359	373	408	389
Total number of departments, statutory bodies etc. who have not submitted the names of persons required to file	27			
Total number of department, statutory bodies etc. who have not submitted the names of persons required to file	26			

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Statistical Data - Complaints Filed

Number of complaints submitted	4
Number of investigations started	1
Number of investigations in progress	0
Number of investigation closed for any reason	1
Number of investigations forwarded to the appropriate authority for prosecution	0
Number of convictions	0

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Penalties for Non-compliance

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Existing Penalties

- **Failure to make appropriate disclosures in declarations**
 - ✓ A fine not exceeding \$5,000 or to a term of imprisonment not exceeding 6 months on summary conviction.

- **Actions for failure to file a declaration**
 - ✓ File a report in the Gazette and send a report to appropriate official as documented in section 20(1).

 - ✓ Failure to file a declaration will result in a fine not exceeding \$10,000 or a term of imprisonment not exceeding 12 months on summary conviction.

- **Breach of the Code of Conduct**
 - ✓ A breach of the code of conduct is an offence and is liable on summary conviction to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 3 years of both fine and imprisonment.

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Proposed Penalties

- **Late filing penalty** – A person who fails to file a declaration on or before the date by which the filing is required is liable to a penalty of \$250.
- **Failure to file declarations** – A person who fails to file a declaration is liable to a fine of \$1,000 with an additional of \$25 for each day or part thereof that the failure to file continues.
- **Failure to file complete declarations** – A person who files an incomplete declaration will be liable to a penalty of \$200 plus an additional penalty of \$25 per day or part thereof that the failure continues, if after being notified by the Commission of the deficiency in the declaration in writing.
- **Failure to respond to request for information in a specified timeframe** – A person who fails to respond to a written request from the Commission for information related to a declaration filed will be liable to a fine of \$1,000 plus an additional fine of \$25 for each day that the deficiency continues.

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Proposed Penalties

- **Failure to provide listing of persons who are required to file declarations** – A person who fails to submit the names of persons who are required to file a declaration with the Commission by the due date will be liable to a fine of \$250 plus an additional penalty of \$25 for each day or part thereof that the deficiency continues.

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Other Proposed Amendments

Proposal to require heads to submit names of persons required to file declarations

- All heads of governmental departments, commissions, diplomatic missions, statutory corporations, state institutions, boards deemed to be persons in public life as per schedule 1 of the Act shall provide a list of all persons in the department, commission, mission, corporation, state institution or board to file with the Commission a listing of all persons who are required to file a declaration under this Act by January 31 of each calendar year.

Enforcement Provision

- Any person who is assessed a penalty by the Commission must pay such penalty within 30 days of receiving the notice of assessment of the penalty.
- Where a penalty assessed is not paid within the stipulated period, the Commission shall write to the relevant authority requesting the withholding of the assessed penalties from the wages, salaries or compensation received by the individual.
- the relevant authority shall withhold the assessed penalties from the wages, salary or compensation of the individual and transfer same to the Commission's account.

The End