



**Investigation Report
concerning investigations into
allegations of breaches of the
Corruption Prevention Act by
Dr. Moina Spencer, an
employee of the South East
Regional Health Authority**

**INTEGRITY COMMISSION
MARCH 2023**



This Publication until tabled in Parliament shall be confidential.

Section 55 and 56 of the Integrity Commission Act states:

"(4) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(5) For the purposes of the Defamation Act, any report made by the Commission under this Act and any fair and accurate comment thereon shall be deemed to be privileged.

56.—(1) Subject to section 42(3)(b), every person having an official duty under this Act, or being employed or otherwise concerned in the administration of this Act (hereinafter called a concerned person) shall regard and deal with as secret and confidential, all information, Statutory Declarations, government contracts, prescribed licences and all other matters relating to any matter before the Commission, except that no disclosure made by the Commission or other concerned person in the proceedings for an offence under this Act or under the Perjury Act, by virtue of section 17(2) of that Act, shall be deemed inconsistent with any duty imposed by this subsection.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents, or information obtained under this Act continues to apply to a person despite the person having ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every concerned person who is required under subsection (1) to deal with matters specified therein as secret and confidential who at any time communicates or attempts to communicate any such information, declaration, letter and other document or thing referred to in subsection (1) disclosed to his in the execution of any of the provisions of this Act to any person—

- (a) other than a person to whom he is authorized under this Act to communicate it; or
- (b) otherwise than for the purpose of this Act,

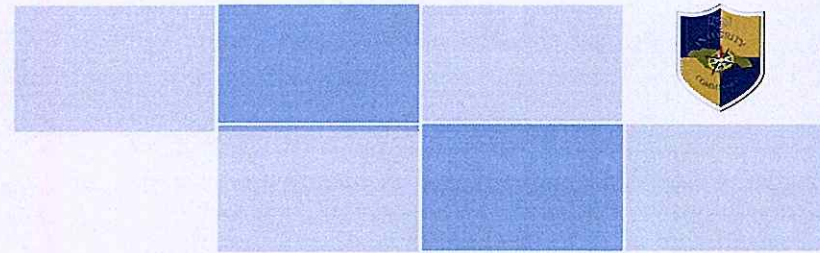
commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

Integrity Commission
1st Floor, PIOJ Building
16 Oxford Road
P.O. BOX 540
Kingston 5
Telephone: 876-929-6460/876-929-8560/876-929-6466
Fax: 876-929-7335



Table of Contents

1.	Chapter 1 – Summary of Investigation and Findings	4
2.	Chapter 2 – Background	5
3.	Chapter 3 – Terms of Reference	7
4.	Chapter 4 – The Law, Evidence and Discussion of Findings	8
4.1	The Law	8
4.2	The Evidence	9
4.3	Discussion of Findings	10
5.	Chapter 5 – Conclusions and Recommendations	12
5.2	Conclusions.....	12
5.3	Recommendations	13
APPENDICES.....		14
Appendix 1: Sections 2(1), 4(1), 15(2) of the Corruption Prevention Act & 3(1) of the Corruption Prevention Regulations.....		15



1. Chapter 1 – Summary of Investigation and Findings

- 1.1 This investigation report by the Director of Investigation (DI) concerns the allegation that **Dr. Moina Spencer**, an employee of the South East Regional Health Authority (SERHA), failed without reasonable cause to file Statutory Declarations with the Commission for the Prevention of Corruption (hereinafter the Commission), for the periods ending December 31, 2016 and December 31, 2017.
- 1.2 It was found that Dr. Moina Spencer, was required to file the Statutory Declarations with the Commission at the material time and having failed to do so committed an offence under Section 15(2)(a) of the Corruption Prevention Act (hereinafter **CPA**).



2. Chapter 2 – Background

2.1 Why was this investigation conducted?

2.1.1 This investigation was commenced based on a referral by the Acting Director of Information and Complaints (DoIC) on behalf of the Commissioners, Integrity Commission. The referral indicated that Dr. Trudy-Ann Spencer, is in breach of the **CPA** by virtue of her failure to file her Statutory Declarations with the Commission for the periods ending December 31, 2016 and December 31, 2017.

2.2 Jurisdiction and decision to investigate

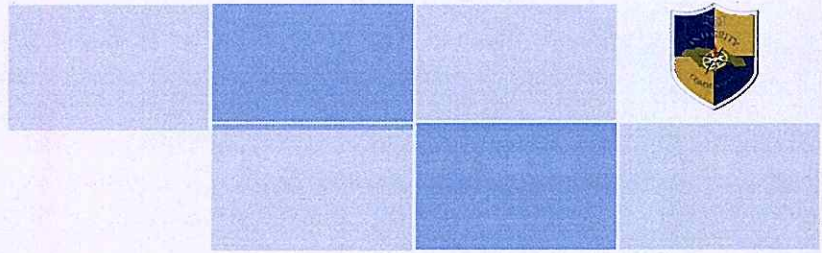
2.2.1 Section 33 of the Integrity Commission Act (hereinafter **ICA**) empowers the DI to investigate non-compliance with the Act by public officials. Consistent with the foregoing provision the DI determined that an investigation was warranted based on the nature of the alleged conduct.

2.3 The Investigation

2.3.1 During the investigation, officers of the Investigation Division pursued the following lines of enquiry/actions:

a) obtained information and witness statements from the responsible officers at:

(i) South East Regional Health Authority (SERHA); and



(ii) Information and Complaints Division of the Integrity Commission;

b) reviewed the information and statements collected and prepared the case file and report.

2.4 Who is the concerned public official pertinent to this Investigation?

2.4.1 Dr. Trudy-Ann Spencer, an employee of SERHA is the concerned public official.



3. Chapter 3 – Terms of Reference

- 3.1 The DI sought to establish the following in respect of the declarant, Dr. Spencer, whether:
- a) She had a legal obligation to file Statutory Declarations with the Commission and, if so, whether that obligation was discharged;
 - b) Her non-compliance constitutes an offence under the Act: and
 - c) Recommendations ought to be made to the Director of Corruption Prosecution.



4. Chapter 4 – The Law, Evidence and Discussion of Findings

4.1 The Law

4.1.1 The overarching objective of the Commission's investigation was to determine whether there is merit in the allegation that Dr. Spencer failed to file the referenced Statutory Declarations as required under the **CPA**. The relevant provisions of law are as follows:

4.1.2 **Section 2 of the CPA:**

Section 2 of the Act defines a public servant as a person employed in the service of a Statutory Body or Authority or a Government Company.

4.1.3 **Section 4 of the CPA:**

This Section requires public officials; who are in receipt of emoluments above the prescribed amount, to submit Statutory Declarations to the Commission outlining their assets, liabilities and income. The prescribed amount is Two Million Dollars (\$2,000,000) – Section 3(1) of the Corruption (Prevention) Regulations, 2003.

4.1.4 **Section 15(2)(a) of the CPA:**

Under Section 15(2)(a) of the ICA a person who fails to file a Statutory Declaration by the due date with the Commission without reasonable cause, commits an offence.

See Sections 2, 4 and 15(2) of the Corruption Prevention Act at appendix 1.



4.2 The Evidence

4.2.1 The obligation to file Statutory Declarations

4.2.1.2 Under the **CPA**, a public servant who is employed in the service of a Statutory Body or Authority has a legal obligation to file Statutory Declarations. See **Sections 2 of the CPA** at appendix 1.

4.2.1.3 The referenced obligation can be established by proving that Dr. Spencer: (1) is a public servant; (2) is employed to a Statutory Body or Authority; and (3) is in receipt of the qualifying emoluments or occupies a post published in Gazette by the Commission requiring the occupant(s) thereof to file the referenced Statutory Declarations.

4.2.1.4 The investigation covered the periods 2016 and 2017. A witness statement obtained from the duly authorized officer at the SERHA indicates that Dr. Spencer, was employed to the SERHA in the capacity of Medical Officer since July 9, 2014, with earning in excess of Two Million Dollars (\$2,000,000). SERHA is a Statutory Body established under the National Health Services Act. Employees of SERHA are therefore public servants in accordance with **Section 2 of the CPA**. Public servants with annual earnings of Two Million Dollars (\$2,000,000) or above are required to file Statutory Declarations under the **CPA** and the **Corruption (Prevention) Regulations, 2003 (CPR)**.



4.2.2 Discharge of obligation

4.2.2.1 Having established Dr. Spencer's obligation to file Statutory Declarations with the Commission, it is further necessary to determine whether said obligation was discharged. The evidence provided by System Support Officer at the Information and Complaints Division, Integrity Commission disclosed that Dr. Spencer failed to file the required Statutory Declarations with the Commission for the periods in question.

4.2.3 Is the Failure to file a Statutory Declarations an Offence under the CPA?

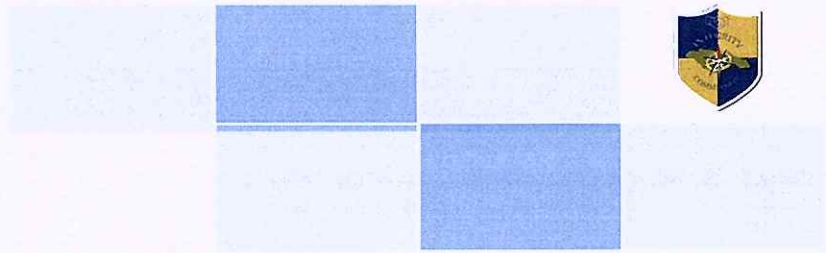
4.2.3.1 The failure to submit a Statutory Declaration to the Commission for the prevention of Corruption by the due date is an offence under **Section 15(2)(a) of the CPA.**

4.3 Discussion of Findings

4.3.1 During the investigation into the allegations against Dr. Spencer, the DI followed all reasonable lines of enquiry, gathered evidential material and collected/recorded the statements of witnesses deemed necessary.

4.3.2 The evidence of the acting Director of Information and Complaints showed that the Commission made publications in the media, gazette, over the internet and through other forms of communication, in an effort to inform declarants of their obligations to file their Statutory Declarations.

4.3.3 The evidence also, showed that Dr. Spencer was obliged to file the Statutory Declarations and having failed to do so, was deemed delinquent.



On May 24, 2019, she was informed by way of written Notice of her obligation to file the required Statutory Declaration. On June 04, 2019 she signed acknowledging receipt of the referenced Notice. The acting Director of Information and Complaints also, indicated that Dr. Spencer did not act on the opportunity provided to her to file the outstanding Statutory Declarations nor did she provide a response or lawful explanation for her failure.



5. Chapter 5 – Conclusions and Recommendations

5.1 This chapter sets out the conclusions and the recommendations of the DI.

5.2 Conclusions

5.2.1 The DI concludes that Dr. Spencer, was by virtue of being employed to a statutory body and having emoluments in excess of Two Million Dollars (\$2,000,000) was legally obligated to file Statutory Declarations with the Commission for the period 2016-2017.

5.2.2 The DI concludes that Dr. Spencer failed to submit the requisite Statutory Declarations to the Commission has provided no lawful explanation for her failure to discharge her legal obligation.

5.2.3 The DI concludes that Dr. Spencer's failure to file the referenced Statutory Declarations contravenes **Section 15(2)(a) of the CPA.**



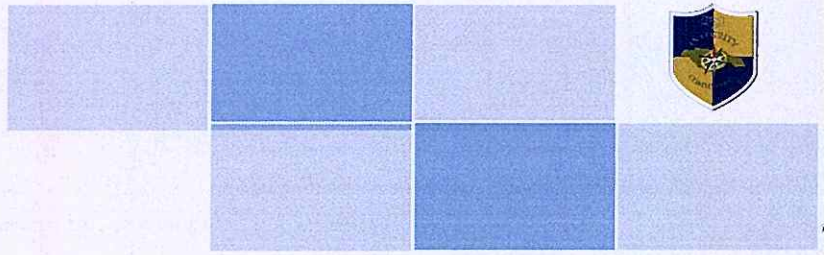
5.3 Recommendations

- 5.3.1 The Director of Investigation recommends that this report be referred to the Director of Corruption Prosecution for consideration.
- 5.3.2 Notwithstanding the foregoing the DI recommends that Dr. Spencer submits the outstanding Statutory Declaration to the Director of Information and Complaints.

Kevon A. Stephenson, J.P.
Director of Investigation

3-3-23

Date



APPENDICES



Appendix 1: Sections 2(1), 4(1), 15(2) of the Corruption Prevention Act & 3(1) of the Corruption Prevention Regulations

Section 2 (1) of the Corruption Prevention Act:

““public servant” means any person

(a) employed

- i. in the public, municipal or parochial service of Jamaica;*
- ii. in the service of statutory body or authority or a government company;*

(b) who is an official of the State or any of its agencies,

(c) appointed, elected, selected or otherwise engaged to perform a public function.”

Section 4(1) of the Corruption Prevention Act:

“every person who, on or after the appointed day, is a public servant shall subject to subsection (2), (3) and 4), furnish to the Commission a statutory declaration of his assets and liability and his income in the form set out as form A in the Second schedule.”

Subsection 3 states:

“Subsection (1) shall not apply to a public servant –

(a) Who is in receipt of total emoluments less than the prescribed amount.”



Section 3(1) of the Corruption Prevention Regulation (2003):

3. -(1) *"Subject to paragraph (2), 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."*

Section 15(2) of the Corruption Prevention Act:

"(2) Any person who-

- (a) fails, without reasonable cause, to furnish to the Commission a statutory declaration which he is required to furnish in accordance with the provisions of this Act;*
- (b) knowingly makes any false statement in any such statutory declaration;*
- (c) fails, without reasonable cause, to give such information as the Commission may require under section 7;*
- (d) fails, without reasonable cause, to attend an enquiry being conducted by the Commission under section 7 or knowingly gives false information at such enquiry,*

commits an offence, and shall on summary conviction in a Resident Magistrate's Court be liable to a -fine not exceeding two hundred thousand dollars, or to imprisonment for a term not exceeding two years or to both such fine and imprisonment."