



Investigation Report into concerns that, Mr. Mikael Asher Phillips, a Member of Parliament, failed to file his statutory declaration with the Integrity Commission for the year 2022, in breaches of the Integrity Commission Act.

Integrity COMMISSION
October 2024



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 her 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.

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Chapter 1 – Summary of Investigation and Findings

- 1.1 This investigation report by the Director of Investigation (DI) is in relation to concerns that **Mr. Mikael Asher Phillips** (hereinafter referred to as Mr. Phillips), a Member of Parliament, failed, without reasonable cause to file a statutory declaration with the Integrity Commission (hereinafter referred to as the Commission), for the year 2022, by the due date.
- 1.2 It was found that Mr. Mikael Asher Phillips, was required to file the referenced statutory declaration with the Commission, at the material time, and having failed to do so, contravened **Section 43(1)(a)** of the **Integrity Commission Act** (hereinafter referred to as the **ICA**).



Chapter 2 – Background

2.1 Why was this investigation conducted?

2.1.1 This investigation was commenced based on a referral by the Director of Information and Complaints. The referral raised the concern that Mr. Phillips, may be in breach of the **ICA**, by virtue of his failure to file his statutory declaration with the Commission, for the year 2022.

2.2 Jurisdiction and decision to investigate

2.2.1 **Section 33** of the **ICA** empowers the DI to investigate non-compliance with the said 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.

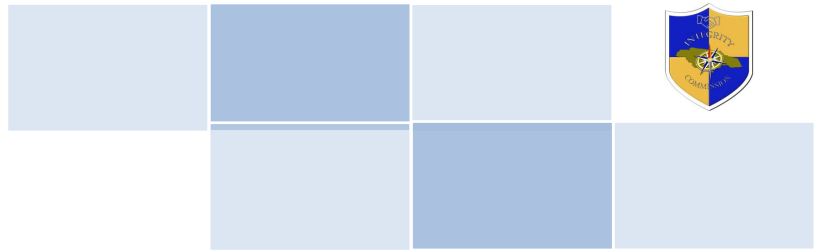
2.3 The Investigation

2.3.1 During the course of 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) Information and Complaints Division of the Integrity Commission;

(ii) Houses of Parliament; and



(iii) Tax Administration Jamaica.

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 Mr. Phillips, a Member of Parliament for North Western Manchester, is the concerned public official.



Chapter 3 – Terms of Reference

- 3.1 The DI sought to establish the following, in respect of the declarant, Mr. Phillips, whether:
- a) he had a legal obligation to file a statutory declaration with the Commission for the year 2022 and, if so, whether this obligation was discharged;
 - b) his non-compliance constitutes an offence under the **ICA**; and
 - c) recommendations ought to be made to the Director of Corruption Prosecution.



Chapter 4 – The Law, Evidence and Discussion of Findings

4.1 The Obligation to File

- 4.1.1 **Section 2** of the *ICA* defines Parliamentarians as Members of the House of Representatives and the Senate. See at appendix 1.
- 4.1.2 **Section 39(1)** of the *ICA* requires Parliamentarians to submit statutory declarations to the Commission, within the period specified, outlining their assets, liabilities and income. See appendix 1.
- 4.1.3 The referenced obligation can be established by proving that Mr. Phillips was a Member of Parliament at the material time.
- 4.1.4 The investigation covers the declaration period ending December 31, 2022. A witness statement obtained from the duly authorized officer at the Houses of Parliament indicates that Mr. Phillips was a Member of Parliament for the constituency of North Western Manchester at the material time. As indicated, Parliamentarians are required to file statutory declarations with the Commission.

4.2 Discharge of obligation

- 4.2.1 Having established Mr. Phillips' obligation to file statutory declarations with the Commission, it is necessary further, to determine whether said obligation was discharged.



4.2.2 The evidence provided by Reporting and Compliance Officer at the Information and Complaints Division of the Integrity Commission revealed that Mr. Phillips failed to file the required statutory declaration with the Commission for the period in question.

4.3 Discharge of Liability

4.3.1 **Section 43(3)** of the *Integrity Commission Act* provides as follows:

“(3) The Director of Information and Complaints may, with the approval of the Director of Corruption Prosecution, serve upon to a person referred to in subsection (1)(a) (failure without reasonable cause to submit a statutory declaration) or subsection (1) (b), (failure without reasonable cause to provide information) who appears to the Director of Corruption Prosecution to have committed an offence under that subsection, a notice in writing in the prescribed form offering that person the opportunity to discharge any liability to conviction of that offence by payment of a fixed penalty in the amount of two hundred and fifty thousand dollars and by submitting the statutory declaration or required information to the Director of Information and Complaints.”

4.3.2 Consistent with the foregoing provision, the Director of Information and Complaints sought the approval of the Director of Corruption Prosecution for Mr. Phillips to be given the opportunity to discharge his liability pursuant to **Section 43(3)** of the *ICA*. Approval was granted by the Director of Corruption Prosecution on May 17, 2023.



- 4.3.3 A Notice to discharge liability was served on Mr. Phillips on May 30, 2023, wherein he was given twenty-one (21) days to pay the fixed penalty of two hundred and fifty thousand dollars (\$250,000), to the Tax Administration Jamaica and submit the outstanding statutory declaration to the Commission.
- 4.3.4 Checks made with the information and Complaints Division revealed that on May 31, 2023, prior to the expiration of the Notice to Discharge Liability, Mr. Phillips provided the outstanding declaration.
- 4.3.5 Notwithstanding the above, upon the expiration of the Notice to Discharge Liability, the payment of fixed penalty was not made by Mr. Phillips. This was confirmed by a Certificate of Non-Payment of Fixed Penalty, received from Tax Administration Jamaica, which was submitted to the Commission on June 26, 2023.

4.4 Discussion of Findings

- 4.4.1 During the course of the investigation into the allegations against Mr. Phillips, all reasonable lines of enquiry were explored, evidentiary material was gathered and the statements of witnesses deemed necessary were collected/recorded.
- 4.4.2 The overarching objective of the Commission's investigation was to determine whether there is merit in the allegation that Mr. Phillips failed to file the referenced statutory declaration as required under the **ICA**.



4.4.3 For an offence to be committed under **section 43(1)(a)** of the **ICA**, it must be proved that: (1) the officer concerned was, at the material time, required to file a statutory declaration under the **ICA**; (2) the obligation to file was not discharged; and (3) no reasonable cause was advanced, justifying the concerned officer's failure to comply with the requirement to file.

4.4.4 In arriving at a position in the instant matter, the DI directed his mind to the following findings of fact:

(a) Mr. Phillips by virtue of his seat in the Parliament, was required, at the material time, to file a statutory declaration with the Commission, which he failed to do;

(b) Having failed to file a statutory declaration with the Commission for the year 2022 by March 31, 2023, Mr. Phillips was given an opportunity to discharge his liability by paying a fixed penalty and by submitting the required statutory declaration. Notwithstanding, Mr. Phillips' compliance was partial, that is, he only submitted the required statutory declaration but failed to pay the fixed penalty. Liability cannot, therefore, on this basis be said to have been discharged.

Based on the foregoing, the DI finds in all of the circumstances, that a referral to the Director of Corruption Prosecution is justifiable.



Chapter 5 – Conclusions and Recommendations

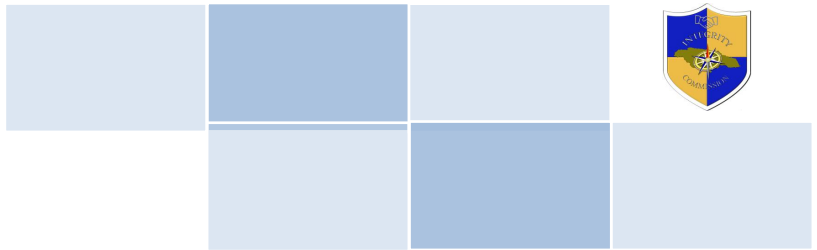
5.1 This chapter sets out the conclusions and the recommendations of the DI.

5.2 Conclusions

5.2.1 The DI concludes that Mr. Phillips, was, by virtue of being a Member of Parliament, at the material time, legally obligated to file a statutory declaration with the Commission for the year 2022.

5.2.2 The DI concludes that Mr. Phillips failed to submit the requisite statutory declaration to the Commission, by the due date, and that he provided no reasonable cause for his failure to do so.

5.2.3 The DI concludes that Mr. Phillips was given an opportunity to discharge liability by paying the fixed penalty and submitting the outstanding statutory declaration. The DI further concludes that Mr. Phillips only complied with the latter obligation, therefore, he failed to discharge his liability consistent with **Section 43(3)** of *ICA*.



5.3 Recommendations

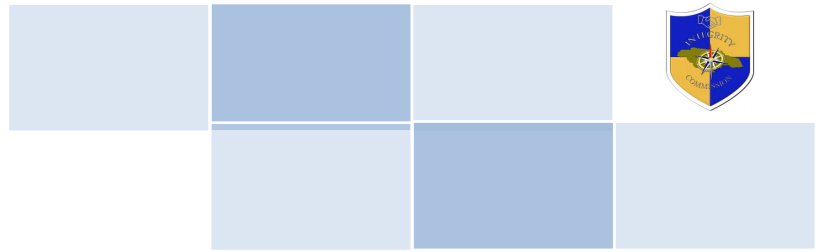
5.3.1 The Director of Investigation recommends that this report be referred to the Director of Corruption Prosecution for consideration.

A handwritten signature in blue ink, appearing to read 'K. Stephenson', written over a horizontal line.

Kevon A. Stephenson, J.P
Director of Investigation

October 8, 2024

Date



APPENDICES



Appendix 1: Sections 2(1), 39(1), 43(1)(a) and 43(3) of the Integrity Commission Act

Section 2 (1) of the Corruption Prevention Act:

*“public official” means any person
(b) any person who is employed to a public body; and*

Section 39(1) of the ICA:

“39(1) Subject to the provisions of this Act, every person who, on or after the appointed day, is a parliamentarian or public official, shall submit to the Director of Information and Complaints, a statutory declaration of his assets and liabilities and his income in the form set out in the Third Schedule.”

Section 43(1)(a) of the Integrity Commission Act:

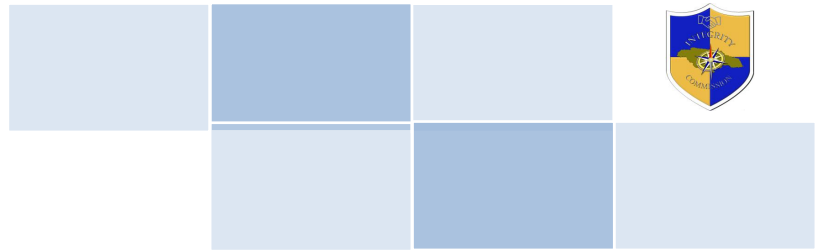
“(1) A person who-

(a) fails, without reasonable cause, to submit a statutory declaration which he is required to submit in accordance with the provisions of this Part; ...

commits an offence, and is liable on summary conviction in a Parish Court to a fine not exceeding five hundred thousand dollars, or to a term of imprisonment not exceeding six months and the Court may make an order mandating the person to comply with the requirement in respect of which the offence was committed.”

Section 43(3) of the Integrity Commission Act:

“(3) The Director of Information and Complaints may, with the approval of the Director of Corruption Prosecution, serve upon to a person referred to in subsection (1)(a) (failure without reasonable cause to submit a statutory declaration) or subsection (1)(b), (failure without reasonable cause to provide information) who appears to the Director of Corruption Prosecution to have



committed an offence under that subsection, a notice in writing in the prescribed form offering that person the opportunity to discharge any liability to conviction of that offence by payment of a fixed penalty in the amount of two hundred and fifty thousand dollars and by submitting the statutory declaration or required information to the Director of Information and Complaints.”