

Report of Investigation

Concerning Allegations of 'an Act(s) of Corruption' in Respect of the Recovery of Outstanding National Insurance Scheme (NIS) Contributions at the Westmoreland Parish Office of the Ministry of Labour and Social Security (MLSS) for the period 2022 – 2023, Contrary to the Corruption Prevention Act.

INTEGRITY COMMISSION
JULY 2024



This Publication until tabled in Parliament shall be confidential.

Sections 55 (4) and (5) 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.”

Section 56 of the Integrity Commission Act states:

“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 him 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 – Introduction

1.0 Executive Summary

- 1.1 This Investigation Report concerns allegations of an act(s) of corruption in respect of the recovery of outstanding National Insurance Scheme (NIS) contributions at the Westmoreland Parish Office of the Ministry of Labour and Social Security (MLSS).
- 1.2 During the course of the investigation, the Director of Investigation (DI) uncovered an apparent act of corruption involving an employee at the Westmoreland Parish Office of the Ministry of Labour and Social Security (MLSS), in relation to the recovery of outstanding NIS contributions.
- 1.3 Recommendations are made herein to the MLSS which are geared towards achieving greater accountability, and preventing reoccurrence of the issues identified and to the Director of Corruption Prosecution (DCP) for consideration as to whether an offence has been committed under the Corruption Prevention Act or any other law.



Chapter 2 – Background

2.0 This chapter sets out the background information concerning the investigation, jurisdiction and allegations.

Initiation of Investigation

2.1 On March 15, 2023, the DI commenced an investigation into allegations of corruption involving an employee of the Westmoreland Parish Office, MLSS, in respect of the recovery of outstanding NIS contributions.

Jurisdiction

2.2 **Sections 33** of the *Integrity Commission Act* empowers the DI to investigate allegations involving acts of corruption or non-compliance with the provisions of the legislation. The referenced legal provision is outlined in greater detail in Appendix 1.

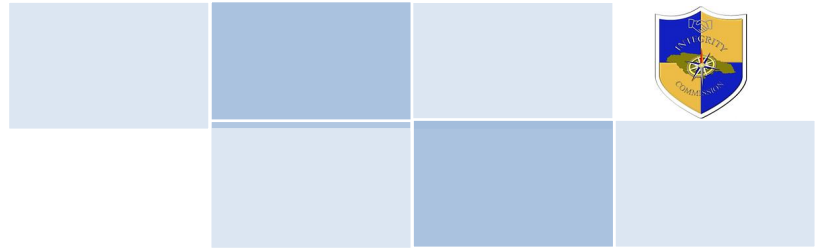
Allegations

2.3 By way of a telephone call, received from an anonymous complainant on March 07, 2023, the following allegations were made:

a) *“In December 2022, the complainant received a telephone call from a man who identified himself as Claude McIntosh and stated that he is associated with the NIS;*



- b) *Mr. McIntosh advised the complainant that he owes over \$500,000.00 in NIS payments, and he needed to make the payment urgently, otherwise, there will be problems;*
- c) *Mr. McIntosh provided a bank account number for the payment to be made;*
- d) *Mr. McIntosh informed the complainant that if he were to pay the monies to the bank account, he would give him a discount of “J\$150,000.00”.*
- e) *The complainant enquired about being issued a receipt for the payment and Mr. McIntosh advised him that it will take at least two weeks to obtain receipts in Jamaica; and*
- f) *The complainant further advised that he was contacted on numerous occasions by Mr. McIntosh, by way of email, telephone calls and WhatsApp.”*



Individuals Pertinent to the Investigation

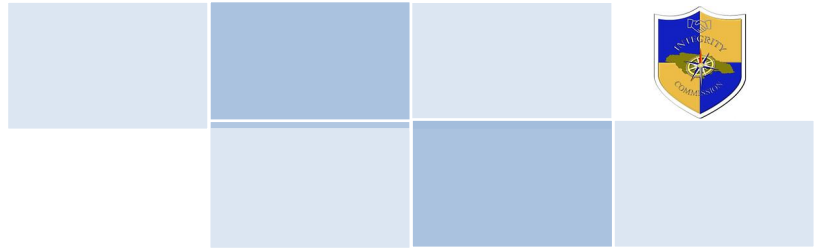
2.4 The following persons were considered pertinent to the investigation:

- a) The complainant;
- b) National Insurance Scheme Administrator, Westmoreland Parish Office;
- c) Duly Authorised Officer at the Tax Administration of Jamaica;
- d) Chief of Compliance of the National Insurance Scheme;
- e) Duly Authorised Officer at the Ministry of Labour and Social Security;
- f) National Insurance Scheme Administrator – Ministry of Labour and Social Security, Westmoreland Parish Office; and
- g) National Insurance Scheme Inspector - Ministry of Labour and Social Security, Westmoreland Parish Office.



Chapter 3 – Terms of Reference

- 3.0 This chapter outlines the scope of the investigation and the issues that were explored.
- 3.1 The objectives of the investigation were to establish, *inter alia*, the following:
- 3.1.1 The process employed by the NIS in respect of the recovery of outstanding NIS contributions;
 - 3.1.2 To determine the veracity of the allegation that Mr. Claude McIntosh “...advised the complainant that he owes over \$500,000.00 in NIS payments”;
 - 3.1.3 To determine the veracity of the allegation that Mr. Claude McIntosh provided the complainant with “a bank account number for the payment to be made”;
 - 3.1.4 Whether Mr. Claude McIntosh acted in contravention of the standard operating procedures of the NIS, in respect of the recovery of outstanding NIS contributions for the relevant period.
 - 3.1.5 Whether the actions of Mr. Claude McIntosh, in respect of the recovery of outstanding NIS contributions, amounted to an act of corruption, pursuant to the **Corruption Prevention Act** or a breach of any other law;



3.1.6 Whether there was/were breach(es) of any applicable policy(ies) with respect to the recovery of outstanding NIS contributions; and

3.1.7 Whether recommendations ought to be made in respect of the subject matter.

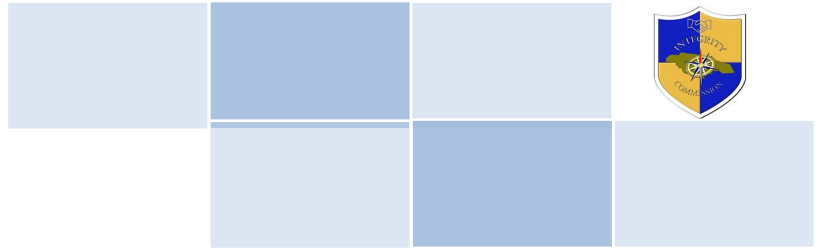


Chapter 4 – The Investigation

4.0 This chapter outlines the investigative actions that were undertaken throughout the investigation.

4.1 The following actions were executed during the course of the investigation:

- a) During the period March 31, 2023, to January 16, 2024, nine (9) Notices were served on individuals, who were deemed to be pertinent to the investigation, to provide written statements;
- b) One (1) Judicial Hearing was conducted on July 31, 2023;
- c) During the period March 2023, to July 2024, twenty-one (21) witness statements were recorded and/or obtained;
- d) One (1) unannounced visit was executed on October 19, 2023;
- e) One (1) Judges' Rules Interview was conducted on May 9, 2024, pursuant to **Judges Rule 2** of the **Judges' Rules Administration Directives**;
- f) A review of the **National Insurance Act, Corruption Prevention Act, Integrity Commission Act** and other relevant legislation and policies was undertaken; and



4.2 A review and cross-referencing of the responses and supporting documentation, including the **Ministry of Labour and Social Security's National Insurance Scheme Compliance Operations Procedure Manual** was conducted, in order to inform the DI's conclusions and recommendations.



Chapter 5 – Law, Policy, Evidence and Discussion of the Findings

5.0 This chapter sets out the applicable law, policies, evidence, findings and discussion in respect of the investigation.

Background on the National Insurance Scheme (NIS)

5.1 The NIS, is “a compulsory contributory funded social security scheme covering all employed persons in Jamaica. It is administered under the National Insurance Act and offers some financial protection to the worker and his or her family against loss of income arising from injury on the job, sickness, retirement and/or death of the bread winner.” The NIS falls under the MLSS and operates from offices located across all parishes.¹

The Circumstances Surrounding the Interaction between the Complainant and the Alleged NIS Employee.

5.2 In determining the veracity of the allegations made by the complainant, the DI deemed it prudent to examine the alleged sequence of events surrounding the interaction between the complainant and the alleged NIS employee.

5.3 On Friday, December 16, 2022, about 9:00 am, the complainant received a telephone call. The party on the other end of the call identified himself as Claude McIntosh, and advised the complainant that he works at the NIS

¹ Retrieved from <https://mlss.gov.jm/departments/national-insurance-scheme/> accessed on June 11, 2024



office in Savanna-la-mar. Mr. McIntosh informed the complainant that he has about five hundred and two thousand dollars (\$502,000.00) in outstanding NIS contributions. The caller further informed the complainant that he needed to make the payment by the end of the business day or else further actions will be taken.²

- 5.4 On Friday December 16, 2022, between the hours of 5:00 pm and 6:00 pm, the complainant received another telephone call from Mr. McIntosh who enquired whether the payment was made.
- 5.5 At 5:06 pm on the said date, the complainant received a WhatsApp message from Mr. McIntosh. The message contained the name Claude McIntosh, a bank account number, the branch of the bank account and the name of a bank. Shortly after receiving the WhatsApp message, the complainant received a telephone call from Mr. McIntosh. He (Mr. McIntosh) enquired whether the money was remitted. The complainant advised him that the matter is in the hands of his accountant.
- 5.6 On Sunday, December 18, 2022, about 4:54 pm, the complainant sent a WhatsApp message to the alleged NIS employee (Mr. McIntosh), requesting the full name on the bank account. The complainant received a response which indicated the name on the bank account in which the money is to be deposited.
- 5.7 On Monday, December 19, 2022, about 9:27am, the complainant received another WhatsApp message from Mr. McIntosh who previously messaged

² Statement of Complainant dated March 22, 2023



him, enquiring whether the transfer of the money was completed. The complainant did not respond.

- 5.8 On Tuesday, January 10, 2023, the complainant sent a WhatsApp message to Mr. McIntosh advising that he did not receive a response from his accountant. Mr. McIntosh responded and indicated that he will inform the complainant if he is contacted by the accountant.
- 5.9 On Thursday, January 12, 2023, about 9:24 am, the complainant messaged Mr. McIntosh to ascertain if he was contacted by the accountant. Mr. McIntosh confirmed that he was contacted by the accountant and further advised that the accountant will advise the complainant to make the payment.
- 5.10 On Wednesday, March 1, 2023, about 12:26 pm, the complainant sent a WhatsApp message to Mr. McIntosh advising that he wishes to deal with Mr. McIntosh himself as the accountant is not cooperating. The complainant also requested a statement of what he owes, in order to arrange payment. The complainant's Tax Registration Number (TRN) was requested by Mr. McIntosh and subsequently provided.
- 5.11 Mr. McIntosh sent the complainant a photograph, by WhatsApp, which appeared to be an image of a computer screen, which depicted the amount the complainant owes in outstanding NIS contributions. Additionally, the complainant enquired whether the amount of \$350,000, as indicated by the accountant, would satisfy Mr. McIntosh.



- 5.12 Mr. McIntosh responded by indicating that he wanted the complainant to pay the \$350,000.00. The Complainant replied by saying the accountant advised him not to pay until he “sorted it out”.
- 5.13 The complainant also enquired why the money should be remitted to Mr. McIntosh’s account and if he would obtain a receipt. Mr. McIntosh indicated that the complainant will get a receipt and further informed him that that’s how the payment will be made. Mr. McIntosh confirmed that \$350,000.00, must be paid and also advised that it will take a minimum of two (2) weeks for the official receipt to be issued. The complainant then requested 24 hours to work out finances.
- 5.14 On Friday, March 3, 2023, about 8:51am, Mr. McIntosh messaged the complainant using WhatsApp messaging service, asking for an update. The complainant requested to meet in person after the weekend, on either Tuesday or Wednesday, and enquired whether the NIS office is still next door to Kentucky Fried Chicken (KFC). Mr. McIntosh responded and indicated, *inter alia*, that “*If you had not contacted me on Wednesday I would have submitted my report for further action. I am trying to help, but this seems to be going on and on. Please try and make it on Monday so a decision can be made*”.³
- 5.15 On Monday, March 6, 2023, about 10:31 am, Mr. McIntosh enquired of the complainant what time he should be expecting him. The complainant responded and advised, *inter alia*, that “*I will not be coming in*” and further

³ Statement of Complainant dated March 22, 2023



that Mr. McIntosh should go ahead and do whatever needs to be done, to which Mr. McIntosh responded “ok”.

Outstanding National Insurance Scheme Contribution Allegedly Owed by the Complainant

5.16 Having regard to the allegations made in respect of outstanding NIS contributions, the DI sought to ascertain whether the complainant actually has outstanding NIS contributions.

5.17 By way of a statement dated June 24, 2024, the Chief of Compliance, NIS stated that “[The complainant] ... *has outstanding NIS contributions totaling J\$571,083.98 as at June 24, 2024... I cannot say what [the complainant's] contribution was in December of 2022, but based on his current outstanding NIS balance, [the complainant] would have had an outstanding NIS balance less than what he is currently owing...[The complainant] is registered as a self-employed individual...*”.⁴

5.18 Respecting the foregoing, the DI is in possession of a Demand Notice dated December 14, 2022, appended to a Statement obtained from the alleged accountant of the complainant on January 18, 2024, which indicates that as at December 14, 2022, the complainant had \$502,852.00 in outstanding NIS contributions.

⁴ Statement of Chief of Compliance, NIS dated June 24, 2024



- 5.19 The DI highlights, the **Ministry of Labour and Social Security's National Insurance Scheme Compliance Operations Procedure Manual**, which stipulates that self-employed persons work independently and are responsible for their own contributions. The referenced manual further states, *inter alia*, that “Some self employed persons operate established businesses... An established business is one which has a registered business name and address”.⁵
- 5.20 In the aforementioned statement dated June 24, 2024, the Chief of Compliance further indicated that the complainant “has a registered business entity named Dream Team Divers... Given that [the complainant] is self employed and has a registered business which, according to his filings, employed persons at different times, it is safe to say that [the complainant] is also an employer... the entity would have had an outstanding balance of J\$29,019.80 which is only principal amount... no filings were made in respect of Dream Team Divers after December 31, 2013. This would mean that the entity is now non-compliant and the Compliance Officer in charge of the area where the business entity is located will initiate non-compliance procedures in keeping with the steps outlined in the NIS Compliance Manual... I wish to note that the same steps apply, for self-employed persons and employers in respect of the recovering of outstanding NIS contributions”.⁶

⁵ Ministry of Labour and Social Security's National Insurance Scheme Compliance Operations Procedure Manual, Page 18

⁶ Statement of Chief of Compliance, NIS dated June 24, 2024



The Nature and Extent of the Relationship between Claude McIntosh and the NIS

- 5.21 The DI sought to determine the nature of the relationship, if any, between Claude McIntosh and the NIS.
- 5.22 By way of a statement dated June 29, 2023, the Duly Authorised Officer in MLSS, confirmed that Mr. Claude McIntosh, is, in fact, an employee of the MLSS. Mr. McIntosh has been serving the Ministry since 1990, and is currently employed in the capacity of Administrator (GMG/AM 3).
- 5.23 The Duly Authorised Officer also stated, *inter alia*, that the role of the Administrator (GMG/AM 3) includes to “*Support the Parish Manager in the Administration of the provisions of the National Insurance Act and Regulations... Officers who are assigned regions are monitored and provided support in the execution of their duties...monitor the compliance of companies in the payment of contributions and where necessary, facilitate legal action*”.⁷
- 5.24 During a Judges’ Rules Interview conducted on Thursday, May 9, 2024, Mr. Claude McIntosh, in the presence his Attorney-at-law, confirmed that he is in fact employed in the capacity of a NIS Administrator, at the Westmoreland Parish Office of the MLSS.⁸

⁷ Statement of Duly Authorised Officer of the MLSS dated June 29, 2023

⁸ Judges’ Rules Interview Proceeding held on May 9, 2024



Identity of the Holder of the Bank Account Provided to the Complainant by the NIS Employee

- 5.25 The DI then sought to ascertain whether the banking particulars provided to the complainant, by Mr. Claude McIntosh, coincides with an actual bank account and to establish the identity of the holder of said bank account. Further, the DI also sought to ascertain whether Mr. McIntosh actually provided the banking information to the complainant, as is alleged.
- 5.26 By way of a statement (with exhibits attached) dated May 5, 2023, the Duly Authorised Officer at the Bank of Nova Scotia Jamaica Ltd. (BNS), confirmed that the bank account number in question, that was allegedly provided to the complainant, is currently active and was opened on January 29, 2003. It was further verified that the account is held in the name Claude McIntosh and also that the account is held at the Iron Shore branch of the BNS.
- 5.27 The referenced statement also contained exhibits which detailed, among other things, the Taxpayer Registration Number (TRN) and telephone number, provided to BNS, by Mr. McIntosh, during the process of opening the bank account.
- 5.28 During the referenced Judges' Rules Interview conducted on Thursday, May 9, 2024, Mr. Claude McIntosh confirmed that he is in fact the holder of the referenced bank account, held at the Iron Shore branch of BNS.



- 5.29 Mr. McIntosh, during the Judges' Rules interview proceedings, was asked whether he provided his name and his personal banking information to the complainant, in order to remit the outstanding NIS contributions, Mr. McIntosh indicated, "*I do not recall that*".⁹
- 5.30 The DI highlights that a forensic analysis conducted on the complainant's cellular telephone revealed that the information allegedly provided to the complainant, by Mr. McIntosh, actually originated from the telephone number associated with Mr. Claude McIntosh.

Identity of the Owner of the Telephone Number Used to Contact the Complainant in Respect of Outstanding NIS Contributions

- 5.31 In an effort to establish a connection between Mr. Claude McIntosh and the telephone number used to contact the complainant, the DI sought to ascertain the subscriber information for the telephone number used to contact the complainant.
- 5.32 By way of a statement (and accompanying records), dated January 18, 2024, the Duly Authorised Officer at Digicel Jamaica Ltd., stated, *inter alia*, that "*My search revealed that this number is registered to Claude Anthony McIntosh ...*".¹⁰ The DI also examined call data records appended to said statement which revealed that Mr. McIntosh telephoned the complainant over fifteen (15) times during the period December 13, 2022 and March 6, 2023.

⁹ Judges Rule Interview proceeding conducted on Thursday May 09, 2024

¹⁰ Statement of the Duly Authorised Officer at Digicel Jamaica Ltd. dated January 18, 2024



- 5.33 By way of a further statement dated November 30, 2023, the Duly Authorised Officer at the MLSS stated that in addition to the telephone number provided on the file for Mr. Claude McIntosh, “*Mr. McIntosh also provided another contact number which is [the telephone number used to contact the complainant]. This number was provided by Mr. McIntosh on his vacation Leave Form...*”.¹¹
- 5.34 The DI examined the referenced vacation leave form and confirmed that the telephone number provided on the vacation leave form by Mr. Claude McIntosh, is the same as the telephone number which was used to contact the complainant, both by telephone calls and WhatsApp messaging service during the period December 13, 2022, and March 6, 2023.
- 5.35 By way of a statement dated November 29, 2023, an Inspector (NIS) attached to the Westmoreland Parish Office of the MLSS, confirmed that Mr. Claude McIntosh’s “... *personal contact number is [telephone number used to contact the complainant]. The personal contact number was shared with me by Mr. McIntosh upon my employment with the MLSS*”.¹²
- 5.36 During the referenced Judges’ Rules interview, Mr. Claude McIntosh was asked to provide his cellular telephone number. He confirmed that the telephone number in question is actually associated with him. He also stated, *inter alia, that, “this is the number I got when Digicel came around... I can say I have had it for more than 10 years*”.¹³

¹¹ Further statement of the Duly Authorised Officer of the MLSS dated November 30, 2023

¹² Statement of NIS Inspector dated November 29, 2023

¹³ Judges’ Rules Interview proceeding conducted on Thursday May 09, 2024



- 5.37 The DI highlights that the telephone number provided to the DI, by the Duly Authorised Officer at the MLSS and the NIS Inspector at the Westmoreland NIS Parish Office for Mr. Claude McIntosh, is the same telephone number included among the information that was provided to BNS, by Mr. McIntosh, in the opening of his bank account. This is also the telephone number provided to the DI, by Mr. McIntosh himself and is also the same telephone number which was used to contact the complainant.
- 5.38 The DI further highlights that the forensic analysis conducted on the complainant's telephone revealed that the WhatsApp messages sent to the complainant, which detailed the banking information, amongst other things, emanated from the telephone number owned by Mr. Claude McIntosh.

The Process Employed by the NIS in Respect of the Recovery of Outstanding NIS contributions

- 5.39 In light of the allegations made by the complainant, the DI considered it prudent to identify and outline the process employed by the NIS in recovering outstanding NIS contributions.
- 5.40 In this regard, ***Part 3 of the Ministry of Labour and Social Security's National Insurance Scheme Compliance Operations Procedure Manual***, titled *Non-Compliance*, outlines from the General Guidelines, that "... a number of graduated steps are to be taken at both the Parish and Compliance Unit levels. At the Parish Office these steps are ranked as follows:



Step 1 – Issue Annual Return Notice and/or Payment Notice.

...

Preliminary Notice letters are to be issued. The Inspector must ensure that outstanding liabilities, that is the principal, interest and total to be paid, are accurate. A total of twenty-eight (28) days are to be given to the employer to respond.

Step 2 – Quarterly Non-Compliance Report

Complete Quarterly Compliance Reports and submit same to the Compliance Unit within the established time-frame.

Step 3 – Issue Final Annual Return and/or Payment Notice.

Final Notices are issued when employers fail to respond in the 28 days stated in the preliminary notices. They are issued immediately following the expiration of the twenty-eight days of the initial notice and give the employer an additional fourteen (14) days to respond... This is the final notice issued before legal action is taken.

Step 4 – Initiate Legal Action.

Legal Action is initiated when an employer fails to respond to preliminary notices and final notices or reneges on an agreement with the NIS. At this stage preparation is made to attend court”.¹⁴

¹⁴ Part 3 of the Ministry of Labour and Social Security's National Insurance Scheme Compliance Operations Procedure Manual



- 5.41 The DI then sought to ascertain the steps taken by the NIS in treating with the complainant's alleged outstanding NIS contributions. In this regard, an interview was convened pursuant to **Judges' Rules (Rule 2)** with Mr. Claude McIntosh.
- 5.42 The DI enquired whether Mr. McIntosh was familiar with the **Ministry of Labour and Social Security's National Insurance Scheme Compliance Operations Procedure Manual**, which outlines the procedures to be followed in respect of the recovery of outstanding NIS contributions. During a Judges' Rules interview convened on May 9, 2024, Mr. McIntosh replied "Yes".¹⁵
- 5.43 The DI enquired whether Mr. McIntosh issued or caused to be issued, Preliminary Notice Letters to the complainant in respect of outstanding NIS contributions. He replied "*So, as I explained before, [the complainant] is a self-employed person and there is no fixed address for him so there was no way to issue a letter to him*".¹⁶
- 5.44 The DI also enquired whether Mr. McIntosh completed or caused to be completed, quarterly non-compliance report/s in respect of the complainant's outstanding NIS contribution. In this regard, he indicated, "*No, we did not do that, nor did we do this for any other self-employed person*".¹⁷

¹⁵ Judges' Rules Interview proceeding conducted on Thursday May 09, 2024

¹⁶ Ibid.

¹⁷ Ibid.



- 5.45 Proceeding onwards, the DI enquired whether Mr. McIntosh issued or caused to be issued, a Final Notice to the complainant in respect of outstanding NIS contribution. In this regard, he responded “*No, nor was this done for any other self-employed person.*”¹⁸
- 5.46 The DI further enquired whether Mr. McIntosh initiated or caused to be initiated, legal action against the complainant in respect of outstanding NIS contributions. In this regard, he responded “*No. In all my years at NIS, we have never initiated any legal actions for self-employed persons. Legal actions are done for employers/businesses. Employers are paying for their employees but a self-employed person is paying for their own contribution.*”¹⁹
- 5.47 Having regard to Mr. McIntosh’s emphasis on the complainant’s status as a self-employed person, the DI highlights **section 3.0** of the **Ministry of Labour and Social Security’s National Insurance Scheme Compliance Operations Procedure Manual**, which states, amongst other things, that “*...compliance means ensuring that all employers remit employee/employer contributions to Tax Administration Jamaica and submit Annual Returns within the time specified. **When employers and self employed persons fail to comply with these requirements, they are deemed to be delinquent and the non-compliance procedure is to be initiated.***”
- 5.48 The DI also highlights **section 11** of the **National Insurance (Collection of Contributions) Regulation, 1966** which stipulates that “*employer means any*

¹⁸ Ibid.

¹⁹ Judges’ Rules Interview proceeding conducted on Thursday May 09, 2024



person paying wages whether on his own account or on behalf of another person".²⁰

5.49 Based on the foregoing, the DI highlights a section of the complainant's statement dated March 22, 2023, in which he stated that the company he operated "employed three lancers, two free lancers and one part time employee".²¹ The DI further highlights a section of a completed National Insurance Act Employer/*Business Registration Form, completed by the complainant and sequestered from the Westmoreland Parish Office of the MLSS, which indicated that the complainant's business employed four persons.

5.50 The referenced National Insurance Act Employer/*Business Registration Form details information relating to, *inter alia*, the following:

- i. Business Name – Dream Team Divers;
- ii. Proprietor/Managing Director – (Name of Complainant);
- iii. Business Address – (Address of Business Entity stated);
- iv. Mailing Address – (Mailing address of Business Entity stated);
- v. Location of Records – (Address of Business Entity stated); and
- vi. Number of Employees in Business Establishment – Four (4)

²⁰ Ibid.

²¹ Complainant Statement dated March 22, 2023



The Method Employed by the NIS in Relation to the Remitting of Outstanding Contributions

- 5.51 The DI sought to ascertain the method through which NIS contributions are remitted to the NIS. By way of a statement dated May 2, 2023, the Chief of Compliance of the NIS stated, *inter alia*, that “Contributions are made through mandatory salary deductions from all employees of businesses... Deductions are made at the source of employment. Employers are responsible for filing their employees NIS contributions, and remitting same through the Tax Administration of Jamaica (TAJ), to the NIS...The system used for the remitting of contributions is the TAJ’s Revenue Administration Information System (RAIS) and it is utilized to collect outstanding contributions.”²²
- 5.52 By way of statement dated February 5, 2024, the Commissioner General of the TAJ indicated, *inter alia*, that “Tax Administration Jamaica (TAJ), in managing taxpayers’ accounts utilizes an electronic database known as the Revenue Administration Information System (RAIS). Employers are required to file Returns (SO1 and SO2) electronically, declaring all statutory deductions, including NIS contributions”.²³
- 5.53 By way of statement dated March 14, 2024, a Duly Authorised Officer at the TAJ indicated that Mr. Claude McIntosh was granted access to RAIS on October 6, 2016, and further that Mr. McIntosh used RAIS to access the

²² Statement of the Chief of Compliance of the NIS dated May 2, 2023

²³ Statement of the Commissioner General of TAJ dated February 5, 2024



complainant's information on six (6) occasions between the period December 13, 2022 and February 15, 2023.²⁴

- 5.54 The DI reiterates, that the first contact made to the complainant, by Mr. McIntosh was on December 13, 2022. Furthermore, the aforementioned period coincides with the period observed in the call data records (telephone calls and WhatsApp messages) between Mr. McIntosh and the complainant.
- 5.55 The Chief of Compliance, NIS, in the referenced statement dated May 2, 2023, further stated that *“Officers are directed not to collect any cash payment from employers. They are to advise employers to make the payments at the TAJ... No NIS employee is authorized to instruct employers to make deposit to their personal bank accounts or to provide discounts of any sort if payment is made by a certain time.”*²⁵
- 5.56 In light of the foregoing assertions made by the Chief of Compliance of the NIS, the DI sought to establish whether the method of remitting contributions to the NIS, as described, is the same method employed by the Westmoreland Parish Office of the NIS.
- 5.57 By way of a statement dated November 29, 2023, a NIS Inspector attached to the referenced Parish Office indicated, *inter alia*, that *“If an entity is noncompliant I will advise them to visit the NIS office to speak with [NIS Compliance Officer] who will provide them with a media number to visit*

²⁴ Statement of the Duly Authorised Officer of the TAJ dated March 14, 2024

²⁵ Statement of the Chief of Compliance of the MLSS dated May 2, 2023



the tax office to make the outstanding NIS contributions. All contributions are paid to the tax office. The NIS office does not collect money. I do not collect money from contributors either. As Inspector, we are not allowed to collect contributions from business entities to pay their contributions to the tax office. We are not allowed to operate in that manner. We are not allowed to give or advise of discounts to business entities on their outstanding contributions because I am not aware if this is possible. As Inspectors, we also do not provide our personal banking information to business entities to facilitate payments of their outstanding contributions".²⁶

- 5.58 The DI reiterates that in this particular instance, Mr. Claude McIntosh provided the complainant with his personal bank account number to remit payment for his outstanding NIS contribution, contrary to the procedures outlined by the Chief of Compliance, NIS.
- 5.59 Consequent on the foregoing, the DI highlights **section 14(1)(a),(b) and (14)(6)(a)** of the **Corruption Prevention Act** which states:

"14. – (1) A public servant commits an act of corruption if he–

(a) corruptly solicits or accepts, whether directly or indirectly, any article or money or other benefit, being a gift, favour, promise or advantage for himself or another person for doing any act or omitting to do any act in the performance of his public functions;

²⁶ Statement of NIS Inspector dated November 29, 2023



(b) in the performance of his public functions does any act or omits to do any act for the purpose of obtaining any illicit benefit for himself or any other person;²⁷

14(6) Any public servant who improperly uses for his own benefit or that of a third party –

(a) any classified or confidential information that he obtains as a result of or in the course of the performance of his functions;

(b)...
commits an act corruption.

²⁷ Corruption Prevention Act



Chapter 6 – Conclusions

- 6.0 This chapter outlines the conclusions drawn by the DI.
- 6.1 The DI concludes that the individual who contacted the complainant, purporting to be in the employ of the NIS, in respect of outstanding NIS contributions, is Mr. Claude McIntosh, who, up to the date of this report, holds the position of NIS Administrator at the Westmoreland Parish Office of the Ministry of Labour and Social Security.
- 6.2 The DI concludes that Mr. Claude McIntosh advised the complainant that he owes outstanding NIS contributions and proceeded to request that the payments be made to his personal bank account. The DI's conclusion is premised on the evidence gathered during the course of this investigation, and Mr. McIntosh's admission that he engaged the complainant by way of telephone in respect of the said outstanding contributions.
- 6.3 The DI concludes that the complainant has outstanding NIS contributions for himself, as a self-employed individual, in the sum of \$571,083.98, and for the business entity Dream Team Divers, in excess of \$29,019.80, as at June 24, 2024.
- 6.4 The DI concludes that the telephone number which was used to communicate with the complainant during the period December 13, 2022 to March 6, 2023, was confirmed as belonging to Mr. Claude McIntosh, and



was in his custody at all material times, based on the evidence obtained from the following individuals/entities:

- (a) Digicel Jamaica Ltd.;
- (b) Duly Authorised Officer at the MLSS;
- (c) NIS Inspector at the Westmoreland Parish Office; and
- (d) Mr. Claude McIntosh.

The DI further concludes that the telephone number utilised in this instance, is the same number associated with the WhatsApp messaging service used in the referenced interactions between Mr. Claude McIntosh and the complainant.

- 6.5 The DI concludes that Mr. Claude McIntosh utilised WhatsApp messaging service to provide the complainant with his personal banking information for the payment of his outstanding NIS contributions.

The DI further concludes that the personal banking information that was provided to the complainant by Mr. Claude McIntosh, was verified to be the accurate details of an active BNS account which is held in Mr. McIntosh's name since 2003.

- 6.6 The DI concludes that Mr. Claude McIntosh acted in contravention of the **Ministry of Labour and Social Security's National Insurance Scheme Compliance Operations Procedure Manual** in respect of his efforts to collect the complainant's outstanding NIS contributions.



The DI's conclusion is premised on the following:

- (a) Mr. Claude McIntosh's provision of his personal banking information to the complainant for the remitting of outstanding NIS contributions with the purpose of obtaining an illicit benefit; and
- (b) Mr. Claude McIntosh's failure to adhere to the **Ministry of Labour and Social Security's National Insurance Scheme Compliance Operations Procedure Manual** in respect of the permissible steps to be taken when collecting outstanding contributions from non-compliant contributors/employers.

6.7 The DI concludes that the conduct of Mr. Claude McIntosh amount to a breach(es) of **Corruption Prevention Act**. The DI's conclusion is premised on the fact that Mr. McIntosh corruptly solicited money from the complainant, with the intent to obtain an illicit benefit for himself. This he did by unlawfully providing his personal banking information to the complainant, for the purpose of the complainant depositing the outstanding NIS contributions therein.

Furthermore, Mr. McIntosh may have improperly used, for his own benefit, information obtained from RAIS, in the course of the performance of his public duties.



Chapter 7 – Recommendations

7.0 This chapter outlines the DI's recommendations having regard to the findings outlined herein.

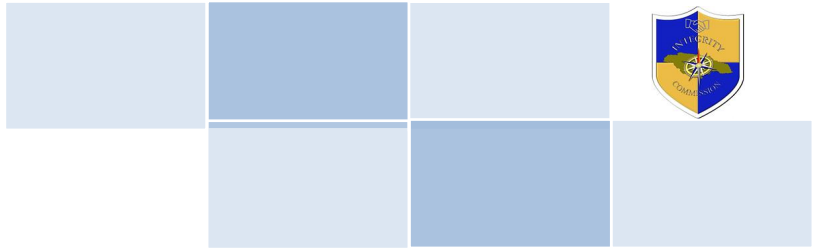
Recommendation to the Director of Corruption Prosecution

7.1 The DI recommends that this report be referred to the Director of Corruption Prosecution for a determination to be made as to whether the conduct of Mr. McIntosh contravened **Corruption Prevention Act**, and/or any other applicable law.

Recommendations to the Ministry of Labour and Social Security (MLSS)

7.2 The DI recommends that the MLSS conduct continuous island wide training and sensitisation sessions with all employees assigned duties in respect of the National Insurance Scheme. The objective of this recommendation is to ensure that all NIS employees are *au fait* with the policies and procedures of the Ministry, touching and concerning the recovery of NIS contributions. The implementation of the DI's recommendation may also result in fewer instances of departure from the relevant policies and law.

7.3 The DI recommends that the MLSS sensitise its employees around the principles of ethics and integrity, in an effort to prevent corrupt and unethical conduct. The DI further recommends that awareness sessions be conducted with NIS contributors, both employers and self-employed persons, regarding the proper method of making their NIS contribution.



Measures should also be implemented to fraud proof NIS systems and processes, as well as, to prevent acts of corruption and other irregularities within the NIS.

7.4 The DI recommends that this matter be referred to the MLSS for any applicable internal disciplinary actions to be taken against Mr. Claude McIntosh.

Appeal

7.5 The DI uses this medium to appeal to anyone who has paid monies to, or who has been approached by Mr. Claude McIntosh in relation to their NIS contributions, to contact his office as soon as practicable.

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

Kevon A. Stephenson, J.P
Director of Investigation

July 9, 2024

Date



Appendices

Appendix 1

Section 6(1)(a) of the Integrity Commission Act

"6.— (1) Subject to the provisions of this Act, the functions of the Commission shall be to -

- (a) investigate alleged or suspected acts of corruption and instances of non-compliance with the provisions of this Act;"

Section 33(1)(a) of the Integrity Commission Act

"33.— (1) The Director of Investigation shall—

- (a) without prejudice to the provisions of any other enactment, and subject to any general or specific direction of the Commission, investigate, in the manner specified by or under this Act, any allegation that involves or may involve an act of corruption or any allegation relating to non-compliance with the provisions of this Act, on the basis of any complaint, information or notification referred to him by the decision of the Commission or by the Director of Information and Complaints;"