

**REPUBLIC OF VANUATU  
OFFICE OF THE OMBUDSMAN**

PMB 081  
Port Vila  
Vanuatu

**PUBLIC REPORT  
ON THE  
MISAPPROPRIATION OF LAND FEES  
AND THE  
DELAY IN REIMBURSING  
EXCESS OF LAND FEES  
BY LANDS OFFICER IN SANTO**

**1 August 2002**

**1015/2002/07**

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ON THE  
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## **1. JURISDICTION**

- 1.1 The Constitution and the Ombudsman Act allow the Ombudsman to look into the conduct of government, related bodies, and Leaders. This includes the Luganville Lands Department. The Ombudsman can also look into defects in laws or administrative practices, including the Financial Regulations of the Republic of Vanuatu.

## **2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED**

- 2.1 The purpose of this report is to present my findings as required by the Constitution and the Ombudsman Act No.27 of 1998.
- 2.2 The scope of this investigation is to establish the facts about the misappropriation of Land fees at the Luganville Lands Department and the delay reimbursing excess land fees to Mr. Visan Konkon for title No.03/OI82/075. The investigation also determined whether the Lands Officer's conduct conformed to the Financial Regulations of the Republic of Vanuatu.
- 2.3 This Office collects information and documents by informal request, summons, letters, interviews and research.

## **3. RELEVANT LAWS, REGULATIONS AND RULES**

- 3.1 The relevant Constitutional and statutory provisions relevant to this report are mentioned in **Appendix M** to this report.
- 3.2 The Constitution provides for the fundamental rights and freedoms of the individual.
- 3.3 The Financial Regulations of the Republic of Vanuatu provides for the collection and receipt of revenue and public monies and the deposit to the Government Bank account.
- 3.4 The Penal Code provides for the definitions of both theft and misappropriation, and for false accounting.
- 3.5 Under section 29 of the Public Service Act the Commission may dismiss an employee at any time without notice for serious misconduct.
- 3.6 Section 2.2 of Chapter 6 of the Public Service Staff manual provides that fraud or theft or misappropriation of public funds is a serious disciplinary offence and that the Director of the Department shall suspend the employee on full pay immediately.
- 3.7 Under section 4.2 (c) in Chapter 6 of the Public Service Staff Manual, theft of Government property or misappropriation of Government funds is a disciplinary offence.

## **4. OUTLINE OF EVENTS**

- 4.1 On 19 February 1999, Mr. Visan Konkon withdrew three hundred and fifteen thousand ninety eight (315098) vatu from his own savings at the Westpac Banking Corporation branch in Luganville (**Appendix A: Withdrawal form**). The amount of money was for land premium (246,200Vt), land rent (9,848Vt), lease signing fee (11,250Vt), land record fee and stamp duty. This amount of money was paid to a Lands Officer, Mr. Jeremiah Lingi, on 19 February 1999 as Mr. Konkon's Certificate of Registered Negotiator would expire on 20 February 1999.

Mr. Lingi advised Mr. Konkon that once an applicant deposited or paid 50% of the total value of the land which would comprise the land premium, land rent, land signing fee, land record and stamp duty, it was possible for him/her to sign the Agreement to Lease. Mr. Konkon was determined to sign his lease quickly and for that reason he decided to fully comply with the said land policy by executing the payment of 315,098 vt as advised by Mr. Lingi.

- 4.2 On 23 February 1999, 267,298 vt which comprises land premium 246,200 vt, land rent 9,848 vt, and lease signing fee 11,250 vt, was deposited into Government Bank account at Bank d'Hawaii Vanuatu Limited (**Appendix A 1: Letter dated 18.01.01 by Government Cashier**). However, Mr. Lingi failed to deposit the total amount paid by Mr. Konkon to the Government cashier in Luganville, of which forty seven thousand eight hundred (47,800Vt) vatu was withheld by Lands Officer Mr. Lingi. Mr. Lingi only produced a receipt No.92101471 amounting to two hundred and sixty seven thousand two hundred ninety eight (267,298Vt) vatu to Mr. Konkon (**Appendix B: Receipt No.92101471**).

On many occasions, Mr. Konkon approached Mr. Lingi requesting that a receipt for the forty seven thousand eight hundred (47,800Vt) vatu be produced to him but to no avail to date.

- 4.3 To make up for the forty seven thousand eight hundred (47,800Vt) vatu, Mr. Lingi deposited on 23 June 2000 an NBV cheque No.013025 dated 17 September 1998 and amounting to forty two thousand and six hundred forty two (42,642Vt) vatu as part payment of the premium (**Appendix C: letter dated 4.12.00**).

However, according to a note on one of the enclosures of the letter dated 18 January 2001, Mr. Javen Joshua, who is the Government Cashier, explicitly stated that the cheque No.013025 amounting to forty two thousand and six hundred forty two vatu was paid to the Lands Department. As it was kept for too long, the Bank of Hawaii regarded it as a stale cheque when the Lands Officer came and paid it to the Government Cashier (**Appendix D**).

Interestingly enough, Mr. Konkon confirmed that he had never received a receipt for that particular payment.

- 4.4 On 15 April 2002 the Office of Ombudsman advised Mr. Jeremiah Lingi for the second time to reimburse the money as agreed upon on 14 February 2002 during a round-table discussion held at the Luganville Urban Lands Department but Mr. Lingi failed to do so.

## **5. RESPONSES BY THOSE WITH COMPLAINTS AGAINST THEM**

- 5.1 Before starting this enquiry, the Ombudsman notified all people or bodies complained of and gave them the right to reply. Also, a working paper was provided prior to this public report to give another opportunity respond. No responses were received from any persons in respect of whom complaints were made.

## **6. FINDINGS**

- 6.1 **Finding 1:** Mr Jeremiah Lingi may have breached s. 125 of the Penal Code [CAP 135] by misappropriating forty seven thousand eight hundred vatu (47,800 vt) being entrusted to him for custody prior to depositing it to the Government cashier.

On 23 February 1999, the actual cash of two hundred sixty seven thousand two hundred ninety eight vatu (Vt267,298), which comprises land premium (Vt246,200), land rent (Vt9,848), and lease signing fee (Vt11,250), was deposited into Government Bank account at Bank d'Hawaii Vanuatu Limited (**Appendix A: letter dated 18.01.01 by Government Cashier**). However, Mr. Lingi failed to deposit the total amount into the

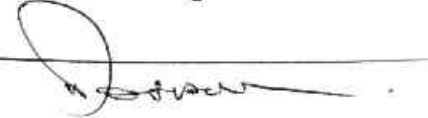
Bank d'Hawaii, of which 47,800 vt was withheld by Mr. Lingi. Mr. Lingi only produced a receipt No.92101471 amounting to 267,298 vt to Mr. Konkon (**Appendix B: Receipt No. 92101471**).

- 6.2 Finding 2: Mr Jeremiah Lingi may have breached section 5(j-k) of the Constitution of the Republic of Vanuatu by unjustly depriving the forty seven thousand eight hundred vatu (47,800Vt) from him (Mr Visan Konkon), an amount of money that was meant for stamp duty and Land records fees.
- 6.3 Finding 3: By not producing a proper receipt for the forty seven thousand eight hundred vatu (47,800Vt) to Mr Visan Konkon, Mr Jeremiah Lingi may have breached section 29(1) of the Vanuatu Financial Regulations.
- 6.4 Finding 4: Mr Lingi may have breached s.130 of the Penal Code [CAP 135] on 23 June 2000 by wilfully falsifying Mr Visan Konkon's account at the Lands Department in Luganville by depositing a stale cheque amounting to 42,642Vt. Mr. Lingi also attempted to replace 47,800 vt with 42,642 vt, an amount which was lower than what was supposed to be deposited.

## 7. RECOMMENDATIONS

- 7.1 Recommendation 1: The Lands Offier Mr. Lingi should be disciplined by appearing before the Public Service Disciplinary Board for the alleged charges of both false accounting and misappropriation of public fund.
- 7.2 Recommendation 2: The Director of Lands in conjunction with the Director General of Lands should instruct the Urban Lands Department in Luganville to immediately process Mr. Konkon's lease agreement over the lease title No.03/OI82/075 and have it signed by the Minister of Lands.
- 7.3 Recommendation 3: If there is a prima facie case against Lands Officer Mr. Lingi then the Public Service Disciplinary Board should immediately hand over the case to the Police and Public Prosecutor to investigate and lay the appropriate charges against Mr. Lingi.
- 7.4 Recommendation 4: Lands Officers should at all times direct the interested applicant to execute the payment of the various land fees (consisting of land premium, land rent, lease signing fee, land record and stamp duty) at any Government Cashier and later produce a copy of his or her receipt to the Lands Office.

Dated 1<sup>st</sup> August 2002.



 Hannington G. ALATOA  
OMBUDSMAN OF THE REPUBLIC OF VANUATU

**8. INDEX OF APPENDICES**

- A** Withdrawal form dated 19.02.99
- A1** Letter dated 18.01.01 by Government Cashier
- B** Receipt No.92101471 dated 23.02.99
- C** Letter dated 04.12.00 from Ben Garae to the Ombudsman
- D** Note on one of the enclosures of the letter dated 18 January 2001 from Mr Javen Joshua (Government Cashier).
- M** Relevant Laws, Regulations and Rules

# Appendix "A"

Westpac Banking Corporation

Savings Account Withdrawal

Westpac  
Banking Corporation  
Santo Domingo

19 FEB 1999

Branch Shown in Pass Book

L SANTO

Date 19 / 02 / 99

Name of Account

ROSE & VISA N KO

NOT NEGOTIABLE

Operator

Account Number

03 55013651

Amount in Words

THREE HUNDRED & FIFTEEN

THOUSAND & NINE EIGHT

Amount

315098

Office Use Only

Converted  
by

Checked  
by

Signature

*[Signature]*

SBW40924 1/01/90

VT 5000

VT 1000

VT 500

VT 200

VT 100

Coins

Total Cash

315000
88
315098

# Appendix "A1"

RECEIVED  
RECEIVED

Your ref: S0019/ L55/ JJ

18.JAN 2001

MR ALAIN W. MOLGOS  
OMBUDSMAN OFFICE  
OFFICER IN - CHARGE LUGANVILLE BRANCH  
SANTO

Dear Sir,

Re: NBV Cheque no. 13025 amounting vt 42.642.

I refer to the above mention, the cheque was receipted on the 23.06.2000 as per cheques deposit slip.

The actual cash of vt 267.298 which comprises of land primium = vt 246.200, land rent = vt 9.848, and lease signing fee = 11.250, was deposit into government bank a/c at Bhv.

The vt 315.098 which was paid by mr visan konkon by cash into the bank to obtain a cheque was not received.

Should you require further information please do not hesitate to contact me

Yours sincerely

*Joshua*  
JAVEN JOSHUA  
SANTO CASHIER



# Appendix "B"

001

Deposit = 315.098 VT...

PT NO. 92101471

19  
on 24 Feb 1999

Date: 23-FEB-1999

TO GOVERNMENT  
MENT OF FINANCE  
TE MAIL BAG 031  
VILA, VANUATU

Terminal: 1c09

ved from:- VISAN KONKON

Cashier: jJoshua

nt No.	Description	Invoice	Debtor	Amount
3.TPP-1200	PREMIUM PAYMENT			246,200
3.TPR-1200	LAND RENT			9,848
3.NPD-1200	LEASE SIGNING FEE			11,250

## MENTAL ADVICE:

Please note in your records that the above amount has  
been received and credited to the account shown above

Total = 267,298

Land Board + stamps etc. → Rest = 47,800  
20,000  
27,800

RECEIVED  
REPUBLIC OF VANUATU

Appendix "C"

REPUBLIQUE DU VANUATU

**SERVICE DES TERRES  
LUGANVILLE - SANTO**

MINISTRE DES TERRES, GEOLOGIES, MINES  
ENERGIES ET DES EAUX RURALES



REPUBLIC OF VANUATU

**LANDS DEPARTMENT  
LUGANVILLE - SANTO**

MINISTRY OF LANDS, GEOLOGY, MINES  
ENERGY AND RURAL WATER SUPPLY

P.O. BOX 140 – Luganville – Santo  
Tel: (678) 36 459 / 36 164 – Fax: (678) 36986

Date: 4<sup>th</sup> December, 2000.

LDU 03/0182/075/BG/cd  
N-O / Ref: ..... 1 .....

V-Y / Ref: S0190/1015/L55/bg .....

Mr Alain W. MOLGOS,  
Officer In Charge,  
Office of the Ombudsman,  
P.O. Box 378,  
LUGANVILLE,  
Santo.

Dear Sir,

**RE : ALLEGED DELAY IN REIMBURSING 47,300 VT IN EXCESS OF LAND FEES.**

Reference is made to your letter dated November 10<sup>th</sup>, 2000 ref. S0190/1015/L55/bg in regards to the above caption.

My apology for the delay in replying your letter in due course but bear in mind that our Office is here to serve all the people and business entities of this Republic as our priorities.

However to assist your Office in this matter, I will answer your queries point by point:

1) In regards to the allegations stated in paragraph 1 of your letter, the records contain in my file of the payments committed is as follows:

• Feb. 23, 1999 - VT 246,200 (Premium)	- Receipt No. 92101471
• Feb. 23, 1999 - VT 9,848 (Land Rent)	- " " "
• " " " - VT 11,250 (Lease signing fee)	- " " "
• April 6, 1999 - VT 2,500 (Premium)	- Receipt No. 92102738
• April 30, 1999 - VT 5,000 (Premium)	- " " " 92103323
• May 19, 1999 - VT 2,500 (Premium)	- " " " 92103803
• June 15, 1999 - VT 5,000 (Premium)	- " " " 92104557
• July 15, 1999 - VT 36,300 (Premium)	- " " " 92105178
• June 23, 2000 - VT 42,642 (Premium)	- " " " 2103569

**TOTAL - VT 361,240**

TU

ENT  
ITO

MINES,  
JPLLY

...2/

To this date, your client has made a total payment of VT 361,240 of which VT 340,142 is specifically made for Premium, VT 9,848 for Land Rent and VT 11,250 for Lease signing fee. You also made mention of a Bank Cheque with an amount of VT 315,098 which is the subject of the 47,800 VT reimbursement claim. You did not also state what Bank does the Cheque belong to, and I am also not aware of any Cheque issued by this Office for the reimbursement of the VT 47,800 claimed. I am not also aware of any Cheque issued for reimbursement amounting to VT 42,642 but what I do have on file is a receipt of payment dated June 23<sup>rd</sup>, 2000 amounting to VT 42,642 as part Premium (see records of payment).

For your information, your client has paid to date an amount of VT 340,142 as Land Premium for the subject property (03/0182/075).

Note also that the total Premium your client has to pay for the subject property is VT 646,275 therefore he still owes the Government an amount of VT 306,133.

- 2) As far as I am concerned, I am not aware of any Cheque issued by this Department for reimbursement purposes to your client. My file does not contain any information as such which is the subject of your letter.

You did not also mentioned the banking institution from where the Cheque was issued. If you have a copy of that Cheque, please provide it to me and that will probably enable me to answer your queries more comprehensively.

- 3) As I have stated in point 1, our file does not contain any receipt of payment deposited to the Cashier with a value of VT 315,098. All receipts of payment made are highlighted in point 1 with exception of the latter.

If your client had really deposited the amount of VT 315,098 to the Cashier, that amount automatically should have been accounted for.

4,5

& 6) We cannot issue another Cheque because :

1. I am not aware of any Cheque previously issued by this Department for reimbursement purposes to your client.
2. The amount of VT 315,098 claimed to have been deposited to the Cashier by Cheque does not show in our records of payments, the difference of which is the subject matter.
3. Your client still owes this Office an amount of VT 306,133 for settlement as Premium.

- 7) if you have evidences of your allegations, provide us with copies that we may justify our answers, and advice your client that he hasn't still made his full commitment to this title.

Thank you.

Yours faithfully,

Ben GARAE

Senior Lands Officer, Urban Lands Unit, Santo.



# Appendix "D"

SC - Santo Cashier

anier  
12jjoshua

BANK DEPOSIT LIST  
Vanuatu Vatu

VUV

Page Date  
1 23-JUN-2000

Receipt No.	Bank	Cheque	Name	Amount
103550	01 ANZ	00001018	MRS CAROLINE JEAN NALO	1,229
103563	01 ANZ	00000177	DIOCESE OF VANUATU	3,686
103603	04 ANZ	00000243	L.C.M. SHIPPING	19,693
102136	01 ANZ	00010593	SANTO MEAT PACKERS LTD	24,000
103542	05 ANZ	00004005	SANTO VENEERS & TIMBERS	50,215
103542	07 ANZ	00001485	SAGITTAIRE STORE	52,914
103542	06 ANZ	00000155	HENDERSON	160,684
103603	05 ANZ	00010592	SANTO MEAT PACKERS LTD	428,639
103603	06 ANZ	00004911	LO SIN CHIAO	2,749,408
103568	01 NBV	00013196	NBV BANK CHEQUE	14,062
103568	01 NBV	00013025	NBV BANK CHEQUE	42,642
103568	03 OTH	00553201	COULON ROBERT	500
103603	02 OTH	00531043	ALADDIN INV. LTD	6,684
102139	01 OTH	00537867	MR & MME TRONQUET JACQUES	12,500
103557	01 OTH	00115331	ROYAL GARDEN REST	17,433
103542	03 OTH	00535217	SANTO C/CENTRE	154,394
103542	02 OTH	00532962	MOBIL INT'L PETROLEUM CORP	301,464
103542	04 WLC	00017857	ARCON CONSTRUCTION	500
103542	01 WLC	00017855	ARCON CONSTRUCTION	168,326
103603	01 WLC	00000095	WONG KEE SING	212,295

al SC - Santo Cashier

4,421,268  
4,364,564

SC - Santo Cashier

\*\*\*LIST OF TOTALS\*\*\*  
ALL CURRENCIES

Page Date  
2 23-JUN-2000

Currency	Cash	Cheques	Total	Allocated
Vatu	236,201	4,421,268	4,657,469	4,657,469
		4,364,564	4,602,765	4,602,765

of List

- Santo C. Cashier

have take this list to the Bank with cash and cheques

These two cheques were paid to the Lands Dept.  
They kept the cheques too long so the bank (Bot)  
regard it as stale cheques when they came and  
paid to the Cashier.

# **APPENDIX 'M'**

## **RELEVANT LAWS, REGULATIONS AND RULES**

### **3.2 CONSTITUTION OF THE REPUBLIC OF VANUATU**

#### **FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL**

5(1) The Republic of Vanuatu recognises, that, subject to any restrictions imposed by law on non-citizens, all persons are entitled to the following fundamental rights and freedoms of the individual without discrimination on the grounds of race, place of origin, religious or traditional beliefs, political opinions, language or sex but subject to respect for the rights and freedoms of others and to the legitimate public in defence, safety, public order, welfare and health-

- (a) life:...
- (j) protection for the privacy of the home and other property and from unjust deprivation of property;
- (k) equal treatment under the law or administrative action, except that no law shall be inconsistent with this sub-paragraph insofar as it makes provision for the special benefit, welfare, protection or advancement of females, children and young persons, members of under-privileged groups or inhabitants of less developed areas.

### **3.3 PENAL CODE ACT [CAP 135]**

#### **THEFT DEFINED**

122(1) A person commits theft who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof;

- (2) A person shall also be guilty of theft of any such thing notwithstanding that he has lawful physical control thereof, if, being a bailee or part owner thereof he fraudulently converts the same to his own use or the use of any person other than the owner.

#### **MISAPPROPRIATION DEFINED**

123 A person commits misappropriation of property who destroys, wastes, or converts any property capable of being taken which has been entrusted to him for custody, return accounting or any particular manner of dealing (not being a loan of money or of monies for consumption).

#### **PROHIBITION OF THEFT, MISAPPROPRIATION AND FALSE PRETENCES**

- 7. No person shall cause loss to another-
- 6. by theft;
- 7. by misappropriation; or
- 8. by false pretences.

Penalty: Imprisonment for 12 years.

## **FALSE ACCOUNTING**

130 No person being -

- (a) a public officer with responsibility for public accounts;
- (b) a director or officer or member of any company or body corporate;
- (c) an officer or clerk or servant of any employer whatever, shall, with intent to defraud -
  - (i) destroy, mutilate, alter or falsify, any book, account, valuable security, or document belonging to the company or body corporate, or concur in so doing;
  - (ii) make or concur in making any false entry in, or omit or alter, or concur in omitting or altering, any material particular from or in any such book, account, valuable security, or document;
  - (iii) make any transfer of any interest in any stock, debenture, or debt in the name of any person other than the owner of that interest; or
  - (iv) in any manner falsify willfully any such accounts as aforesaid.

Penalty: Imprisonment for 10 years.

## **3.4 VANUATU FINANCIAL REGULATIONS**

### **RECEIPT FOR REVENUE AND PUBLIC MONIES**

- 29 (1) An accountable officer shall IMMEDIATELY issue an official receipt for each sum of money paid to him for the account of the Government except from the sale of stamps.
- 2. Monies from stamps, envelopes, etc, and petty sums of money under 2,000 vatu shall be brought into account by the issue of a single covering receipt made out to "Sundry Persons".
- 3. The receipt shall be for the ACTUAL amount received, even if this differs for any reason from the amount that should have been collected.
- 4. Under No circumstances whatsoever shall a temporary receipt, an unofficial receipt or a receipt in any form other than that prescribed be issued.
- 5. Where a bank cheque is offered for payment, the accountable officer shall check that it is correct in all respects BEFORE receipting it.

### **IMPROPER USE OF COLLECTED REVENUE**

- 54 (1) No collected revenue or public money shall be used for any private purpose whatsoever
- 2. Accountable officers shall not lend or advance, for any purpose, collected revenue or other public money for which they are accountable to Government.
- 3. Revenue collected shall not be used to pay directly for Government expenditure. At remote locations, with approval, in writing, from the Director General of Finance revenue collected may be used to reimburse payment imposts. However, normally all revenue collected will be banked intact.

### **MISUSE OF CASH**

- 2. Under no circumstances whatsoever shall any accountable officer, having cash under his control:



- 4 use such cash for any personal purpose, no matter how temporary;  
5 loan or draw such cash against any IOU or other similar document; or  
6 exchange such cash for personal cheque, including his own, except with prior  
written authority of the Director General of Finance.

#### **DEPOSITS TO GOVERNMENT BANK ACCOUNTS**

- 282 (1) Cheques received for the credit of a Government account shall  
be made payable to "Government of Vanuatu".
- (2) Before issuing a Department of Finance Receipt for any cheque,  
the receiving officer shall examine the cheque and ensure that:
- 4 the cheque has been signed by the drawer;  
5 the cheque is correctly dated. If there is no date the receiving officer will insert the  
current date. Under no circumstances will a post dated cheque be accepted;  
6 the amount written in words agrees with the amount written in figures;  
7 any alteration to the cheque has been initialed by the drawer; and  
8 the cheque is crossed. If it is not crossed the receiving officer will cross it  
immediately.
- (3) Any cheque received which contains an error or defect will be returned  
to the drawer to correct. No Department of Finance Receipt will be  
issued until the error or defect has been corrected. Under no  
circumstances will change be given.
- (4) Any receiving officer failing to undertake the checks outlined in  
subsection 2 above will be personally liable if the cheque is  
dishonoured.

#### **3.5. PUBLIC SERVICE ACT DISMISSAL FOR CAUSE**

29. (1) The Commission may dismiss an employee at any time for serious  
misconduct or inability but subject to its obligations to act as a good  
employer and subject to that employee having the right to have that  
decision reviewed in accordance with section 38.

#### **3.6 PUBLIC SERVICE STAFF MANUAL 2.PROCEDURES TO BE FOLLOWED IN ALL DISCIPLINE MATTERS**

The following procedures must be followed by all persons involved in dealing with  
discipline matters. These procedures require that:

- 2.1 Departments are to have appropriate management systems in place for  
preventing disciplinary matters from arising and that concerted attempts are  
made to resolve any discipline matters that arise first within the department;
- 2.2 Employees are suspended from duty (on full pay) only in very serious  
disciplinary cases and can only be suspended by a Director, Director  
General or the Commission;
- 2.3 Discipline matters are only referred to the Public Service Commission after  
attempts have been made to resolve it within the Department within ten  
working days if the employee has been suspended from duty for a serious  
discipline matter;
- 2.4 The Commission considers which discipline matters should be dismissed or  
referred to the Disciplinary Board, with the employee being provided with an  
opportunity to respond to any allegations made against them;
- 2.5 Only the Disciplinary Board is authorized to hear and determine discipline  
cases and must provide at least 28 days notice to the employee of the hearing  
date;
- 2.6 The Commission must confirm, vary or quash the Disciplinary Board's  
decisions within 30 days the decision is notified to the employee;
- 2.7 The aggrieved employee can appeal to the Supreme Court against a  
decision of the Board in relation to a discipline matter;

- 2.8 No person may attempt to influence the Commission or the Disciplinary Board in relation to a discipline case except as provided for in the Public Service Act and these procedures.

#### **4.2 ADDITIONAL DISCIPLINARY OFFENSES UNDER THE PUBLIC SERVICE STAFF MANUAL**

An employee commits a disciplinary offense who –

- (a) by any willful act or omission fails to comply with the requirements of the Code of Conduct under Part V in the Public Service Act; any other applicable code of conduct (including any applicable dress code) or ethics approved by the Commission or any professional code of practice, conduct or ethics covering the employee's occupation;
- (b) by any willful act or omission fails to comply with the requirements of the Leadership Code Act if the Act is applicable to the employee [NOTE: This Act only applies to employees who are nominated leaders under the Act];
- (c) by any willful act commits an act of theft of Government property or misappropriates Government funds;
- (d) by any willful act assaults another staff member or any other person;
- (e) Uses abusive language or language likely to cause unreasonable distress to other employees or to affect adversely the performance of their duties;
- (f) by any willful act provides false information for the purpose of defrauding the Government, other organizations or individuals;
- (g) smokes in a Government building or workplace, where smoking has been banned;
- (h) by any willful act or omission fails to inform the appropriate official that they have been charged with a criminal offense as required by Section 5.1 of this chapter;
- (i) uses a Government owned vehicle without authorization or damages a Government vehicle; and
- (j) is guilty of any other offense prescribed from time to time by regulations made under the Public Service Act; Instructions issued by the Public Service Commission; or the policies and procedures contained in the Public Service Staff Manual.