



CAYMAN ISLANDS

2009/2010 Session of the

LEGISLATIVE ASSEMBLY

REPORT

of the

STANDING

PUBLIC ACCOUNTS COMMITTEE

on the Report of the Auditor General

on the Financial Statements of the

Government of the Cayman Islands

For the Year Ended 30 June 2004

Laid on the Table of Legislative Assembly on this day of , 2010

Table of Contents

1.	REFERENCE	4
2.	Papers considered	4
3.	CHAIRMAN AND MEMBERS OF THE COMMITTEE	4
4.	HEARINGS OF THE COMMITTEE	5
5.	ATTENDANCE OF MEMBERS	5
6.	PERSONS IN ATTENDANCE.....	5
7.	WITNESSES CALLED BEFORE THE COMMITTEE	5
8.	Practice and procedure of the committee (s.o 77 (6))	7
SIGNIFICANT FINDINGS OF THE CAYMAN ISLANDS AUDIT OFFICE.....		8
9.	Audit Opinion.....	8
	I. Statements of Operating Receipts and Payments	8
	II. Combined Statement of Assets and Liabilities.....	9
	III. Matter of Emphasis.....	9
10.	Highlights of the Auditor General’s Report for the YEAR ending 30 June 2004.....	11
SIGNIFICANT FINDINGS AND RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE		13
11.	Public Service Pension Board – Timely Financial Statements and Actuarial valuations.....	13
12.	Cayman Airways Limited – Accounting Treatment and Shares to be Issued to Government.....	14
13.	Legislative Department/Public Works – Refurbishing of the Legislative Assembly Building	15
14.	General Registry – Arrears of Revenue.....	17
15.	Customs Department – Arrears of Revenue	19
16.	Shipping Registry – Arrears of Revenue	20
17.	Cayman Islands Monetary Authority – Arrears of Revenue.....	21
18.	Department of Environmental Health – Arrears of Revenue.....	21

Table of Contents (continued)

19.	Portfolio of Internal & External Affairs – Arrears of Revenue	23
20.	Lands & Survey Department – Purchase of Frank Sound Land for School	24
21.	Public Works (Cayman Brac) – Purchase of Aggregate	25
22.	Housing Guarantee Reserve Fund	27
23.	Health Services Authority – Financial Statements	29
	Acknowledgement	32
	Report of The Committee to the House	33
	Appendix.....	34

**REPORT OF THE STANDING
PUBLIC ACCOUNTS COMMITTEE
ON THE REPORT OF THE AUDITOR GENERAL
ON THE FINANCIAL STATEMENT OF THE
GOVERNMENT OF THE CAYMAN ISLANDS
FOR THE YEAR ENDED 30 JUNE 2004**

1. REFERENCE

The Standing Public Accounts Committee of the Cayman Islands Legislative Assembly, established under Standing Order 77, met to consider the Report of the Auditor General, on the Audited Financial Statement of the Government of the Cayman Islands for the year ended 30 June 2004, as prepared and submitted by the Auditor General.

2. PAPERS CONSIDERED

In accordance with the provision of Standing Order 77(1), the Committee considered the following papers referred to it by the House:

- (1) Report of the Auditor General on the Audited Accounts of the Cayman Islands Government for the year ended 30 June 2004; and
- (2) The audited financial statements of the Government for the year ended 30 June 2004.

3. CHAIRMAN AND MEMBERS OF THE COMMITTEE

The following Members of the Legislative Assembly are Members of the Standing Public Accounts Committee –

Mr. Osbourne V. Bodden, MLA – Chairman
Mr. Rolston M. Anglin, MLA
Mr. Cline Glidden, Jr, MLA
Mr. Moses Kirkconnell, JP, MLA
Mr. W. Alfonso Wright, MLA

4. HEARINGS OF THE COMMITTEE

The Committee held four hearings with witnesses on Tuesday 7 November 2006, 18 & 25 September 2007, and 9 October 2007, to consider these reports. In addition, the Committee has held several administrative meetings to determine the witnesses to call and to finalize this report.

5. ATTENDANCE OF MEMBERS

The attendance of Members at meetings is recorded in the Minutes of Proceedings which are attached to and form part of the Report.

6. PERSONS IN ATTENDANCE

In accordance with Standing Order 77(8), the following persons were in attendance at meetings:

Mr. Dan Duguay, Auditor General
Mrs. Deborah Drummond – Deputy Financial Secretary/Acting Chief Officer,
Portfolio of Finance and Economics
Mrs. Sonia McLaughlin, Deputy Financial Secretary
Mr. Michael Nixon, Acting Deputy Financial Secretary
Mrs. Debra Welcome, Accountant General
Mr. Terrence Outar, Acting (Deputy) Accountant General,

Also in attendance were the following support Officers:

Mr. Garnet Harrison, Deputy Auditor General
Mr. Ravi Persad, Audit Manager
Ms. Fay Tannis, Senior Auditor
Ms. Sandra Stephens, Senior Auditor

7. WITNESSES CALLED BEFORE THE COMMITTEE

In accordance with the provisions of Standing Order 77(4), the Committee invited the following Controlling Officers and support staff to give information or explanation to assist the Committee in the performance of its duties:

1. Mrs. Jewel Evans Lindsey, Managing Director, Public Service Pensions Board
2. Mrs. Faith Ebanks, Financial Controller, Public Service Pensions Board
3. Mr. Mani Sundarseson, Actuary and Budget Consultant
4. Mrs. Gloria McField Nixon, Permanent Secretary, Ministry of Tourism

5. Mrs. Angelyn Hernandez, Chairman to the Cayman Airways Ltd Board
6. Ms. Josie Sambula, Chief Financial Officer, Department of Tourism
7. Ms. Loraine Gillies, Financial Controller, Cayman Airways Ltd.
8. Mr. Max Jones, Director, Public Works Department
9. Mr. Gary Clarke, Deputy Director, Public Works Department
10. Mr. Jim Scott, Project Manager, Public Works Department
11. Ms. Wendy Lauer, Clerk Legislative Department
12. Mr. Delano Solomon, Managing Director, General Registry
13. Mrs. Grace Watson, Financial Controller, General Registry
14. Mr. Carlon Powery, Collector of Customs, Customs Department
15. Mr. Ryan Rajkumarsingh, Financial Controller, Customs Department
16. Mrs. Mitzi Watson-Jervis, Finance Manager Designate, Customs Department
17. Mr. Kenrick Ebanks, Divisional Director Designate, Finance and IT, Cayman Islands Shipping Registry
18. Mrs. Cindy Scotland, Managing Director, Monetary Authority Cayman Islands
19. Mr. Patrick Bodden, Deputy Managing Director, Monetary Authority Cayman Islands
20. Mrs. Gilda Murray, Financial Controller, Monetary Authority Cayman Islands
21. Mr. Carson Ebanks, Permanent Secretary, Ministry of Communications, Works and Infrastructure
22. Mr. Roydell Carter, Director, Department of Environmental Health
23. Mr. Vijay Parabdeen, Chief Financial Officer, Department of Environmental Health
24. Mr. Joe Colaiacovo, Chief Financial Officer, Portfolio of Internal and External Affairs
25. Mrs. Angela Martins, Permanent Secretary, Ministry of Education, Training, Employment, Youth, Sports and Culture;
26. Mr. Alan Jones, Director, Lands and Survey;
27. Mr. Nigel Bates, Chief Valuation Officer, Lands and Survey Department;
28. Mr. Uche Obi, Senior Valuation Officer, Lands and Survey Department;
29. Mr. Ernie Scott, District Commissioner, Cayman Brac;
30. Mr. Emmanuel Noli Cruz, Director of Public Works Department, Cayman Brac
31. Mr. Ralph Lewis, Managing Director, Cayman Islands Development Bank
32. Mr. Andrew Thomas, Financial Controller, Cayman Islands Development Bank
33. Ms Lynn Whittaker, Regional Sales Manager, First Caribbean International Bank
34. Ms. Famida Mohammed, Home Finance Manager, First Caribbean International Bank

35. Ms. Kara Forbes, Receivables Manager, First Caribbean International Bank
36. Pastor Al Ebanks, Chairman, Health Services Authority Board
37. Mrs. Lizzette Yearwood, Acting Chief Executive Officer, Health Services Authority
38. Mrs. Heather Boothe, Financial Controller, Health Services Authority
39. Ms. Anne Owens, Senior Assistant Financial Secretary, Chairman of HSA Board Financial Sub-committee, HSA Board Director
40. Ms. Lisa Bell, Procurement Officer, Cayman Islands Health Services Authority
41. Ms. Sharaine Chin, HSA Board Secretary

8. PRACTICE AND PROCEDURE OF THE COMMITTEE (S.O 77 (6))

The Committee agreed that in accordance with the provisions of Standing Order 77 (6) that its meetings, at which Controlling Officers and others were invited to provide information, would be done in closed sessions.

SIGNIFICANT FINDINGS OF THE CAYMAN ISLANDS AUDIT OFFICE

Part 1

Audited Financial Statements of the Cayman Islands Government

9. AUDIT OPINION

The Committee notes that the Auditor General has qualified his opinion on the 2004 modified cash financial statements (see Appendix A of the Report of the Auditor General, 2004) based on the following issues:

I. Statements of Operating Receipts and Payments

- **Unappropriated Expenditure:** The Statement of Unappropriated Expenditure indicates \$5,969,431 was incurred in excess of the Appropriation and related Supplementary Laws 2003 (July 2003 to June 2004), for various output groups. However, the Audit Office cannot ascertain whether the \$5,969,431 in excess of the original appropriation, including supplementary, is fairly stated.
- **Disagreement with Accounting Policy - Equity Injection:** In fiscal 2004, government injected \$4,000,000 (2003H: \$2,000,000) as a general subsidy in Cayman Airways Limited. Cayman Airways Limited treated this subsidy as revenue. This payment however, was classified as an Equity Injection by government as there was no expense category under the current budget system for this item. The effect of this incorrect accounting treatment is to understate expenses and to overstate the operating surplus by \$4,000,000 in 2004.
- **Scope Limitation - Revenue Balances:** The Audit Office was unable to determine the completeness of General Registry's receipts (\$44,207,075) and Tourist Accommodation Tax receipts (\$8,202,607) as they were unable to obtain the records as a result of Hurricane Ivan to support the recurrent receipts recorded in the Statement of Operating Receipts and Payments. In addition, the Audit

Office also could not verify the completeness and accuracy of Immigration Department receipts (\$39,675,938) for the Statement of Operating Receipts and Payments due to statistical reports not being provided to help corroborate the financial information.

II. Combined Statement of Assets and Liabilities

- **Overseas medical advances:** Disagreement with the accounting policy for overseas medical advances for overseas medical treatment that have not been recognised as expenditure. During 2004, overseas medical advances increased by \$1,282,589. The accumulated surplus of the General Revenue Fund reported in the Combined Statement of Assets and Liabilities is overstated by \$7,064,248.

- **Immigration deposit liability:** The Auditor General was not able to verify the accuracy of the immigration deposit liability balance of \$5,712,690 due to the lack of supporting evidence and reconciliations. There is also an understatement of the immigration deposit liability in the range of \$1,200,000 to \$1,700,000 due to the transfers of amounts to General Revenue.

III. Matter of Emphasis

The Auditor General included a matter of emphasis paragraph in the 2004 modified cash financial statements based on the following issues:

1. ***Equity Investments in Cayman Airways Limited (CAL) and the non-issuance of shares.*** During 2004 the government approved the forgiveness of \$9,114,323 of debt owed to Civil Aviation Authority and other government agencies by CAL in exchange for shares.

2. ***Non-cash item.*** The sum of \$9,114,323 shown as part of the 'Repayments of Loans-Made' in the Statement of Balance Sheet Receipts and Payments is actually a debt forgiven by the government and does not constitute a cash inflow. This amount is intended to be 'converted' to shares in Cayman Airways Limited.

3. ***Actuarial Deficiency.*** The last actuarial valuation of the civil service's pension plan was completed and approved by the Legislative Assembly as at January 2002. This reflected an actuarial deficiency of \$176,152,215 of plan liabilities

over plan assets and is disclosed in the Statement of Contingent Liabilities of the financial statements.

4. ***Restricted bank accounts. The total cash and bank balances as at June 2004*** disclosed in the Statement of Financing and Reserves is \$88,886,408. Of this amount, almost 70% or \$61,330,181 is classified as restricted.
5. ***Expenditure (supplementary appropriation) incurred without legislative authorization.*** The supplementary appropriations were minuted by the Finance Committee but not yet approved in accordance with the Public Finance and Audit Law (1997 Revision) Section 10. Furthermore, the Portfolio of Finance and Economics has stated that the final approved budgeted amounts should be the higher of the original appropriation or the Supplementary and therefore no decreases to original appropriations has been accounted for.

10. HIGHLIGHTS OF THE AUDITOR GENERAL'S REPORT FOR THE YEAR ENDING 30 JUNE 2004

10.01 For 2004, total recurrent receipts were \$352.4 million, funds receipts were \$7.9 million and total operating expenditure was \$303.6 million. This resulted in an operating surplus of \$56.7 million compared to \$39 million in the previous year, which is not readily comparable to the 30 June 2003 (6 month period end) figures.

10.02 The Auditor General has highlighted in his audit opinion on the Combined Statement of Operating Receipts and Payments that, in view of:

- the scope limitation for recurrent receipts in the amount of \$92,085,620
- the disagreement with the accounting polices on overseas medical advances and equity injection

10.03 The Statement of Operating Receipts and Payments properly presents all transactions processed during the year ended 30 June 2004. In his opinion, the classification of \$7,064,248 of overseas medical expenses as recoverable advances and general subsidy of \$4,000,000 in Cayman Airways as equity investment constitute a failure to comply with generally accepted principles and practices of cash accounting and therefore payments recorded against the General Revenue Fund are understated by \$11,064,248 and the surplus for the year is overstated by a similar amount.

10.04 For the Combined Statement of Assets and Liabilities, Net Assets increased from \$59.976 million to \$83.903 million. It should be noted that only cash and near cash assets and liabilities are included in the financial statements. Other financial assets and liabilities such as accounts receivables, loans recoverable, investment, accounts payable, public debt, contingent liabilities and retirement benefits liabilities are excluded from the Combined Statement of Assets and Liabilities.

10.05 The Auditor General has highlighted in his audit opinion on the Combined Statement of Assets and Liabilities that, in view of:

- Accumulated overseas medical advances amounting to \$7,064,248 which have not been recognised as expenditure but have been classified as assets;
- The understatement of immigration security deposits of between \$1,200,000 and \$1,700,000;
- The uncertainty in the accuracy of the immigration deposit liability balance of \$5,712,248;

10.06 The Combined Statement of Assets and Liabilities does not properly present the financial position of the Cayman Islands Government as at 30 June 2004. In his opinion, the accumulated surplus on the General Revenue Fund is overstated by between \$8,264,248 and \$8,764,248.

10.07 The Committee is aware of the many critical issues raised by the Auditor General over the years and has made substantial recommendations on the following areas based on previous years' Auditor General Reports:

- Immigration Security Deposits
- Overseas Medical Advances
- Mutual Legal Assistance Treaty
- Registrar of Companies (re: Defunct Companies balances)
- Arrears of Revenue
- Environmental Protection Fund
- Infrastructure Development Fund
- Housing Guarantee Reserve Fund

10.08 The Committee advises that Government consider previous PAC recommendations on the above subject matters and implement those that are still practical. The Committee isolated key areas of the Auditor General's 2004 Report for witnesses to be called in and hold general discussions on. These discussions related to the following areas described below along with PAC's findings and recommendations.

SIGNIFICANT FINDINGS AND RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE

11. PUBLIC SERVICE PENSION BOARD – TIMELY FINANCIAL STATEMENTS AND ACTUARIAL VALUATIONS

11.01 The Auditor General expressed concern in the delay of finalizing the audits of the financial statements for the Public Service Pension Board (PSPB). The Auditor General indicated the delay was unreasonable and re-emphasised the many issues raised in the Auditor General's Special Report on the 1999 accounts. As at the middle of November 2005 the Auditor General had not yet received the final set of financial statements for the year ending 31 December 2001 for certifying.

11.02 Public Accounts Committee asked for a brief synopsis of where the PSPB are currently at.

11.03 The witnesses indicated that the last annual reports tabled were 2000 and 2001 and that the 2002 and 2003 annual reports are going to be delivered to the Legislative Assembly and are expected to be on the agenda for this meeting of the House. In addition, the 2004 financial statements have been submitted to the Cayman Islands Audit Office and the audit for the 2004 financial statements is under way. The witness indicated that the main problem has been the lack of human capital, and the board has been very supportive. The PSPB has approved a new structure but until they are able to move to new accommodations they will not actually be in a position to hire the additional staff because of the space constraints.

11.04 PAC also questioned the current deficiency in the pension fund, indicating the last actuarial valuation of the Civil Service Pension Plan was completed and approved by the Legislative Assembly as at January 2002; this reflected a deficiency of \$176 million. PAC wanted to know whether they are moving towards closing that gap in a very positive way.

11.05 The witness indicated that the status of January 1, 2005 valuations revealed an actuarial deficiency of about \$165 million, so there has been an improvement from the

situation in 2002. Government has been contributing significant additional amounts, which has helped. It is normally expected that actuarial deficiencies will be dealt with over a longer period of time. The witness indicated that the policy now is to fund the actuarial deficiency over a 20 year period, which he felt, was a very sensible policy because anything shorter than that will demand contributions that would be a big constraint to the government's finances.

11.06 The Committee recommends that:

- I. PSPB continue to bring its Financial Statements up to date for audit. In addition, that these Financial Statements/Annual Reports would be tabled in a timely manner after the audit is completed in order to comply with the requirements under section 52 of the Public Management & Finance Law (2005 Revision)***
- II. The PSPB should ensure actuarial valuations are done in a timely manner in accordance with section 12 of the Public Service Pensions Law (2004 Revision), which requires an actuarial valuation be performed no later than the three year anniversary of the latest review and also in accordance with the requirements under International Public Sector Accounting Pronouncements #25 and/or International Financial Reporting Standard – IAS 19.***

12. CAYMAN AIRWAYS LIMITED – ACCOUNTING TREATMENT AND SHARES TO BE ISSUED TO GOVERNMENT

12.01 In the fiscal year 2003/04 Government injected \$4 million as general subsidy in Cayman Airways Limited (CAL) that was classified as an equity injection by Government. However, CAL treated this as a revenue subsidy and therefore the treatment of this transaction was not consistent between the two entities.

12.02 PAC heard from the witnesses that in fact, in the description of the equity injections, it continues to say “equity injection in Cayman Airways Ltd. to subsidize operating expenditure”, so the intent was always very clear that it was a continuation of what used to be referred to as the subsidy. However, under the new financial system it was treated as an equity injection.

12.03 The witnesses indicated, therefore in 2004/05 they took another step forward to convert what was being treated under the 2003/04 budget as an equity injection to where in the 2004/05 and 2005/06 budgets these are now output purchases, where we specify the services that are being delivered and the funding (i.e., revenue) that the airline gets in return for that. They have aimed to correct any sort of ambiguity that existed in terms of the intention of those funds.

12.04 In 2004 Government approved the forgiveness of \$9.1 million of debt owed to Civil Aviation Authority and other Government agencies by CAL in exchange for shares. In previous years a similar situation transpired with \$7.1 million of CAL's debt converted to shares. However, to date, no shares have yet been issued for the full amount of debt forgiveness of \$16.2 million.

12.05 The witnesses indicated they will ensure that the shares will be issued. They indicated that they have contacted their legal advisors and Company Registry and are actively involved in getting those share certificates issued.

12.06 **The Committee recommends that:**

- I. The accounting treatment for any funding provided by central Government to a Statutory Authority or Government Company is to be treated consistently.***
- II. CAL issue share certificates to the Government of the Cayman Islands for the full amount of debt forgiveness of \$16.2 million.***

13. LEGISLATIVE DEPARTMENT/PUBLIC WORKS – REFURBISHING OF THE LEGISLATIVE ASSEMBLY BUILDING

13.01 In January 2003 there were heavy rains that caused the damage to the Legislative Assembly building. Initially, the goal was to get the LA building back to a functioning condition. During that time Public Works pointed out that this was a good opportunity to correct some of the problems with the building as it could not be occupied for a period of time.

13.02 In April 2003 approval for the refurbishment of the Legislative Assembly Building was given from the Chief Secretary's Office. The approved cost was \$1.2 million. The scope of the project at that time was to: 1) repair the leaking roof, 2)

replace the air-conditioning (A/C), 3) replace the ceilings, 4) upgrade the electrical system, and 5) replace the external windows and doors.

13.03 The Committee had several concerns with the refurbishing of the Legislative Assembly building. These concerns were as follows:

- Poor budgeting - how the planning process went awry and what happened during the planning process.
- The number of cost over-runs incurred in this project as the original contract amount was \$1.2 million and ended up costing \$2.5 million. Who actually authorized the cost over-runs? There did not seem to be a clear method for authorizing cost over-runs.
- How instructions were given for those changes to take place?
- Despite the cost over-runs, there were still many things left undone. It was unclear to the Committee as to what the process was in deciding which work would be done and what work would be deferred and who made those decisions.
- Even after the major upgrades there are still mould problems. What happened? What is the current situation?

13.04 According to the witnesses this was not a normal project where people sit down months or years before the project is due to start and plan the project. It was a project that came about on an emergency basis and the first response was how to get the building back up and running. There were a lot of significant upgrades that were incorporated into the building but were never part of that original project. This project had an inordinately high number of change orders totalling 221.

13.05 According to the witnesses' testimony, the direction to Public Works for any increased scope of work came from the Deputy Chief Secretary. In turn, he would take those decisions, when there was a request for a change in the scope or a different element of work, to Cabinet and it was believed that these decisions in turn were approved by Cabinet. However, others were making decisions for changes to the project as well.

13.06 In regards to the mould there seemed to be a series of things contributing to this issue. All the windows and exterior doors in the building were replaced. They were getting moisture penetration through them. The drainage systems from the roof came down through the walls and there was concern that water was leaking into the walls. However, after all this work there still seemed to be a mould problem that was still being investigated.

13.07 *The Committee recommends that:*

- I. Capital projects undertaken by Government are properly planned, even in emergency situations. Adequate time should be taken to assess and plan projects. This would minimize the need for significant changes in scope of the project and cost overruns.***
- II. Change order process be streamlined through a project manager or a project management committee.***
- III. The mould situation be remedied and Public Works investigate the design/engineering of the air conditioning system.***

14. GENERAL REGISTRY – ARREARS OF REVENUE

14.01 According to the financial records General Registry had \$32 million in arrears of revenue at the end of 30 June 2004. The Committee had the following concerns with the arrears of revenue of General Registry:

- What efforts have been made to collect that revenue? How active are your investigations into what companies owe and who is basically not doing anything and therefore should be struck off the Register? How soon do you move to strike a company from the Register?
- If a company does not pay their fees when they were due and you eventually strike them off, what would they have to do for reinstatement? Is that a much more difficult process than simply coming and renewing the fees?
- Under the accrual basis of accounting how is your situation reflected under this new system? Are the accounts receivables really \$32 million? What is actually collectible since none of the companies may actually re-register?

14.02 The witnesses told the Committee that the fees are due under the Law, but only if the entity remains on the Register. In following up outstanding fees what they do is to send out statements. Sometimes they will send out quarterly statements showing the amount outstanding, the amount of penalties, but at the end of the day General Registry cannot force them to pay. What normally happens is they take action to strike the company off. Usually they will take a year before any action is taken. However, sometimes the numbers at the end of the year may be so high that they do not like to strike all of them at once for publicity reasons. If somebody sees 10,000 companies going off the Register they would think Cayman was closing down. So it may not be good for business. However, the only sanction they have is striking them from the Register.

14.03 General Registry has to keep a record of the companies/fees that might come in, but at the same time they do not realistically expect that 100 per cent will come in because they cannot force the companies to renew. It is up to the company whether they want to renew or not. The onus is on General Registry to strike the company off if they do not.

14.04 The Law states that if a company does not pay after a year they are deemed to be defunct. So, whether or not they file to say they are defunct, they are deemed defunct by the Law. According to the witnesses, they were not sure if they could record any of them as receivable because they are really deemed defunct by the Law. However, technically General Registry has to keep them in the system for 10 years according to the Law.

14.05 When a company voluntarily strikes itself off the Registry, they would file a letter just asking General Registry to strike the company off and pay \$25. Just a few companies will submit a filing to General Registry to strike the company voluntarily, but most of them just allow the company to fall away.

14.06 However, for companies who are struck off and want to be re-instated, they have to go to court and they have to pay all the back fees plus the original registration fee and the penalties in some instances. Therefore, what General Registry does before a company is struck is it is listed in the gazette for 30 days and they are given that time to come and pay. Now, if they come and pay within that time then they would not have to pay the reinstatement fee and all of that.

14.07 Unless General Registry goes through and determines which ones are in arrears for more than a year and to strike them one by one, General Registry cannot determine how many will actually be coming back on. When the companies are lifted and they come back and pay at that time General Registry can determine whether they were just late and here they are paying their fees.

14.08 The witnesses indicated that they do not expect to get in 100 per cent and therefore, what is actually a real receivable is questionable as they do not see it as a receivable because it is not something that they expect to collect in exchange for goods and services which they have rendered. Therefore, General Registry thinks it is not prudent to account for it as a receivable at all, but, rather, to account for whatever we collect.

14.09 The Committee recommends that:

- I. General Registry set up better systems to determine if a company should be struck off the Register. Consideration should be given to having the Companies listed on a website and allowing the Companies/Firms electronic submission for striking them off the Registry.***
- II. General Registry waive the \$25 strike off fee for a certain period of time to attempt to get the records of General Registry accurate.***
- III. General Registry determine a proper accounting policy for the Accounts Receivable and the provision for the uncollectible accounts. This policy should be based on the historical records of the General Registry for the aged receivables.***
- IV. General Registry enhance their system to strike off companies in a timely manner so it accurately reflects the total number of Registered Companies in the Cayman Islands.***

15. CUSTOMS DEPARTMENT – ARREARS OF REVENUE

15.01 As of June 2004 Customs Department arrears stood at \$789,732. It was made up of duties, \$523,308; special attendance, of \$261,456; charges of \$3,468; and fees of \$1,500. The Committee had a couple of concerns with the arrears of revenue of the Customs Department, which are outlined below:

- Collection of Revenue for special attendance from Cayman Airways; and
- Collection of other revenue from traders and brokers.

15.02 The witnesses indicated that all amounts have been collected except for special attendance from Cayman Airways. They have made payments and out of that \$261,000 they have brought it down to \$34,000 as at May 2007. However, it continues to build up again. Customs has been sending letters to the Financial Secretary, the CEO of Cayman Airways, the Financial Controller, hoping that they will start paying their arrears.

15.03 The accounts receivable figure at the end of June 2007 was \$3.1 million. It is basically made up of Ritz Carlton now, which accounts for a lot more because they have been given a deferral. Customs also have traders and brokers. However, they are given like 10 working days to clear their balances so as at June 2007 you would have had

people in transition. The brokers and traders account for \$1.7 million. Most seem to be collectible, but are having problems collecting from other government agencies.

15.04 The Ritz Carlton has a balance to be imported of \$6.1 million and they have started payments. Their first payment started on 30 September 2006 and they have made quarterly payments of \$347,818. That is the quarterly payment they make. So they have an outstanding balance to import of \$6.1 million. The total deferral given to them was \$14.985 million. So they have basically brought in about \$8 million already. And they have been making regular quarterly payments and have not missed a payment since September 2006.

15.05 *The Committee recommends that:*

- 1.** *Cayman Airways and other government agencies make payments towards special attendance and duties in a timely manner to the Customs Department.*

16. SHIPPING REGISTRY – ARREARS OF REVENUE

16.01 As at 30 June 2004, the Shipping Registry had receivables of \$835,981. The Committee had a couple of concerns with the arrears of revenue of the Shipping Registry, which are outlined below:

- The collectability of the of the accounts receivable; and
- The process of how the payments are received.

16.02 The witnesses confirmed that the amount remaining on the 30 June 2004 balance is \$19,021.47 and therefore the majority has been collected. The receivable as at 18 September 2007 is \$1,291,271.09. In regards to the collectability of the receivables it is fairly high.

16.03 Currently there are approximately 1500 – 1600 vessels registered. In terms of payments received, with regard to annual tonnage fees, annual fees, those are paid in majority by the local reps, law firms, and or corporate companies. The majority of money comes in the form of cheques and wires.

16.04 The Committee has no recommendations to make for the Shipping Registry.

17. CAYMAN ISLANDS MONETARY AUTHORITY – ARREARS OF REVENUE

17.01 As at 30 June 2004, the Monetary Authority had \$1,688,000 in receivables. The Committee had a couple of concerns with the arrears of revenue of the Monetary Authority, which are outlined below:

- The cooperation of the fund administrators in regards to collecting the fees owed; and
- knowing when companies are struck off General Registry.

17.02 The witnesses confirmed the \$1.688 million as the explanation provided to the Finance Portfolio at that time. That amount reflected the difference between projected revenue, which at the time is based on various assumptions that they made in terms of what they see happening in the industry and what was actually collected.

17.03 The witnesses indicated that they do not always have the cooperation of the fund administrators in doing what they need to do. And in some cases, the fees are not paid. But when you try to get those fees there is nothing there for you to collect. However, Monetary Authority indicated that they do strongly apply the penalty for late fees and that the lawyers are the last people who want to incur these penalties because they will then have to pass it on to their clients, so there has been a significant increase in fees being paid on time.

17.04 *The Committee recommends that:*

- 1. The Monetary Authority establish better communication protocol with General Registry to determine which companies have been struck off the Registry to ensure all fees are paid on both ends.***

18. DEPARTMENT OF ENVIRONMENTAL HEALTH – ARREARS OF REVENUE

18.01 As at 30 June 2004, the relating to the Department was \$3.95 million for garbage fees. The Committee had a few concerns with the arrears of revenue of the Department of Environmental Health, which are outlined below:

- The steps taken to collect the outstanding amount and how much is still outstanding now;

- consideration given to actually writing off some of that debt; and
- concerns over how the billing is done. Is it done by property owner? For instance, if somebody has a lease or is renting a premise, whose name is it done in?

18.02 The witnesses indicated that the closing balance which they could not attest to the accuracy of the figure given to them as at 13 September 2007, was \$5.6 million inclusive of the six-month billing for this fiscal year.

18.03 The breakdown as a percentage of revenue would be in the vicinity of 75 per cent to 80 per cent commercial, and 25 per cent to 20 per cent residential. However, the receivable portion is the reverse, where approximately 25 per cent is attributed to commercial and 75 per cent to residential customers. They indicated the overall collection rate is approximately 87 per cent.

18.04 The Committee was told that the \$3.95 million in question relates to previous years extending as far back as possibly 1988. There is an ongoing review of the existing database trying to clean up some of the customers and related issues. A number of issues that they are working on relate to either double billing or persons receiving incorrect billings and so forth.

18.05 In regards to collections, Environmental Health puts out press releases to the public reminding them to pay their garbage fees. In addition, they have referred the debts over to the Debt Collection Unit who pursues legal action as necessary. There are also arrangements in place for persons to set up a pre-payment plan and to pay off their outstanding accounts in a timely manner. In addition, there has been the introduction of debit and credit cards and payment of fees online. They are also considering applying a lien or flagging properties with outstanding fees of a certain value which would have to be paid prior to the sale or lease of that property.

18.06 Billings are done in a couple of ways by legal instrument. The main way has to do with residential premises in that the billing is sent to the owner of the property, being the registered owner. That is also the case for strata.

18.07 *The Committee recommends that:*

- 1.** *A percentage of funds collected upon importation of the goods into the country be allocated for waste disposal versus billing every residential property.*

II. Commercial businesses annual renewal of licenses should not be processed until the garbage fees are paid. Communication and coordination with General Registry and other licensing bodies such as the Liquor Licensing Board need to be undertaken by the Department on a regular basis.

III. Liens be placed on commercial properties where there is a long outstanding garbage fees so that this would have to be paid off prior to the sale of that property.

IV. Circulate a list of the delinquent accounts on a monthly basis to the Debt Recovery Unit and receive regular progress reports.

19. PORTFOLIO OF INTERNAL & EXTERNAL AFFAIRS – ARREARS OF REVENUE

19.01 As at 30 June 2004, \$2,611,146 is the estimate of arrears of revenue. The Committee initially had a number of concerns with the arrears of revenue of the Portfolio of Internal & External Affairs, which are outlined below:

- What steps were taken to collect the outstanding amount and how much remains outstanding.
- How are the payments for multiple year permits monitored, given the fact that an individual and/or entity pays one year at a time. What system is in place to ensure that the Department is keeping proper track of this?

19.02 The Committee was told that the \$2.6 million is based on the charges and fees received for work permits and other related charges from the Immigration Department. The grand total revenue for Immigration was \$27,230,520. The estimated average accounts receivable was estimated at 35 days of annual revenue; therefore, the year end estimate stood at \$2.6 million.

19.03 If a permit is not paid it is revoked and appropriate actions are taken in regards to that individual and/or entity. Those actions going forward would reduce the risk of any further arrears in the future. An “anniversary date report” of the renewals is ran on a daily basis and provided to the appropriate individuals within the Immigration Department. Notices are sent out 30 days in advance of the anniversary date in order to give enough time for the permit holder to make payment. In addition there is a system within Immigration that has thorough information on each permit in current operation

which is regularly monitored. Only key individuals can update this information. There are controls over key fields that prohibit the modification (for example: anniversary date, amount owed, names, etc.).

19.04 The Committee has no recommendations to make for the Portfolio of Internal & External Affairs.

20. LANDS & SURVEY DEPARTMENT – PURCHASE OF FRANK SOUND LAND FOR SCHOOL

20.01 The Frank Sound High School land purchase took place in 2004. The Committee found particularly alarming the fact that there were a number of valuations and prices that were seemingly floating around. Eventually, Government paid at the higher end of the price range after considering all of the various valuations. The Committee also expressed concerns over:

- the competency of the firms/individuals who performed those valuations; and
- why compulsory acquisition was not considered an option in this case.

20.02 In March 2002 the Ministry of Education instructed Lands & Survey to prepare a valuation of the subject parcel for a future high school. At that time the property was valued by Lands & Survey at CI\$300,000.

20.03 Subsequent to the original valuation that was prepared in March 2002, additional valuation evidence came to light that the valuer concerned took into account and increased his valuation figure to CI\$560,000.

20.04 Subsequent to that valuation in April 2003, the Ministry of Education decided to consider an alternative site. Lands & Survey were asked to negotiate with the new owner. Unfortunately, satisfactory terms could not be agreed upon. In May 2003, a decision was taken to revert back to the original site and recommence negotiations. By that time new evidence had come to light, which led the valuer to reduce his valuation down to \$420,000 from \$560,000. This was the final valuation at the time of acquisition.

20.05 In addition there were two independent valuations that were obtained during this process, one from Deloitte Property Consulting and the other one from JEC Property Management Ltd. The witnesses indicated that it is important to note that neither of those valuations, one of which was \$300,000 and the other \$365,000, took into account the new evidence, which the Lands & Survey valuer took into account when he reduced his figure

to \$420,000. The Committee was told that it is not uncommon to use independent valuers as this can assist in negotiating the final purchase price when Government is in a difficult negotiating position. Sometimes Government is considered a special purchaser due to the strategic needs it has in specific areas. This can make it very difficult to negotiate an agreement at market value.

20.06 According to the witnesses from Lands & Survey, they reported that they were unable to agree a figure and were recommended that the matter be referred for compulsory acquisition through the use of the Land Acquisition Law. Effectively, this is where Lands & Survey's Valuation Office's involvement ended in terms of the decision-making process. Later they were informed that Cabinet had decided to acquire the land at \$592,500 and the acquisition proceeded on that basis. Lands & Survey were instructed by the Ministry that that figure had been agreed.

20.07 *The Committee recommends that:*

- I. When Lands & Survey obtain independent valuations all relevant information must be provided to the independent valuers.*
- II. As a last resort, Government should consider using compulsory acquisition when there is a substantial difference between the asking price and valuation and the negotiations have stalled.*

21. PUBLIC WORKS (CAYMAN BRAC) – PURCHASE OF AGGREGATE

21.01 The Auditor General's report highlighted the purchase of aggregate for Cayman Brac which amounted to some \$400,000, which appeared to be paid for before the aggregate was actually received. The Committee expressed concerns over:

- Prepayments are in contravention of the Financial & Stores Regulations;
- District Administration spending its budgeted allocation at the end of the year in order to not reflect an underspend; and
- Public Works (Cayman Brac) having adequate machinery and space to move the aggregate from the supplier.

21.02 The witnesses indicated that instructions were received from the former District Commissioner, through the Ministry, to have estimates prepared for the proposed road works for the Sister Islands. District Administration attempted to purchase as much

material from the supplier, Scott Development, who had some problems with their equipment and some materials were not available at that time.

21.03 The witnesses indicated that they prepared a purchase order but we were holding the payment until they received all the materials on hand. However, the Auditor General indicated that the purchase order was signed on 15 June 2004 and an invoice was raised from Scott Development, which indicated that 5,920 metric tons were delivered and the invoice date was 16 June. That meant between the date they raised the purchase order to the date they produced the invoice (one day) they delivered over 200 truck loads of aggregate.

21.04 The witnesses indicated that they negotiated this transaction with Scott Development while the paperwork was being completed and approved. They also implied this was standard practice. The records show that even though the paper work was completed the formal payment, the handing over of the cheque, was only actioned after the receipt of the materials to Crown property. The timing was such that they were coming to the end of the fiscal year. The Minister at the time responsible for District Administration had issued some instructions passed down to the Works Manager through the District Commissioner's office to purchase certain materials and stockpile them for specific projects that had been highlighted as part of the Works Programme for Public Works in Cayman Brac. The Minister had actually agreed that they would stockpile materials at the Scott's quarry site. So for a time quite a bit of the material was actually stockpiled at the Scott's site until they could slowly remove it from the Scott's quarry site to the Crown property.

21.05 It was noted that the Crown property where the aggregate is stockpiled is not well secured.

21.06 *The Committee recommends that:*

- I. Public Works – District Administration follow the Financial & Stores Regulations (now the Financial Regulations) regarding the acquisition and payments of materials are done in accordance with the Regulations.***
- II. When feasible, aggregate purchased should be stored on Government property and adequately secured.***

22. HOUSING GUARANTEE RESERVE FUND

22.01 The Committee expressed concerns over several issues within the Housing Guarantee Reserve Fund. Some of these issues are:

- The extent of exposure in terms of dollar amount that the Government is liable for and the total number of loans where Government is still providing a guarantee for.
- The funds balance is being kept in separate bank accounts. However, no separate accounting records are maintained;
- The banks were actually claiming foreclosure costs in addition to the 35 per cent guarantee on the defaulting loans which the government was honouring; and
- Payout by the government to the participating banks for defaults under the scheme since 2000 totals \$432,714. There is little evidence that efforts have been made to recover these amounts by government.

22.02 There have been no new loans granted since 1995. Some of those loans have been fully repaid, refinanced, or liquidated due to borrower default. The witnesses were unable to provide the level of exposure under the programme to Government. Currently, there are approximately 84 loans remaining and out of those approximately ten are delinquent.

22.03 Since the amalgamation of CIBC and Barclays, the Cayman Islands Development Bank (CIDB) has been unable to get information from First Caribbean International Bank (FCIB). This resulted in CIDB's management being unable to generate the monthly reports for the entire loan portfolio. Therefore they in turn have not been able to provide the Treasury Department with any regular reports of the government home mortgage scheme nor administer it properly. To date CIDB has not been successful in obtaining this information.

22.04 Representatives from FCIB indicated that when the two banks merged in 2004 they had a completely new computer system. It was not Barclays or CIBC's system and unfortunately all the accounts were transferred without being specifically identified as government guaranteed loans. It was very difficult for them to provide the information after that.

22.05 The Committee was informed that there were four banks involved and the total portfolio was in the vicinity of \$22 million in 1995 with CIBC having approximately at that time about \$16 million. Audit Office personnel attempted to calculate the exposure as of 2004 and indicated it to be approximately \$4.6 million. The majority of that was at

the CIBC and Barclays. Between 2000 and 2004 Treasury indicated that they have paid out \$541,540.

22.06 The representatives from FCIB indicated that if the loan balances have reduced by 35 percent of the original balance they no longer rely on the government guarantee and the loan should be reclassified to normal loans.

22.07 In the event of default, FCIB obtains two independent valuations on the property. FCIB will then proceed to sell that property based on the valuations obtained. Any residual amounts are returned to the customer.

22.08 CIDB management indicated that once the bank goes through the process and has sold the property if there is a shortfall, the bank will send CIDB a complete accounting of the loan facility from its inception to that date. CIDB performs a detailed review to ensure that: (1) the payments have been applied correctly; and (2) any charges that have been added to the loan facility are legitimate. CIDB management felt that in most cases proper accounting and due diligence has been done, before they request payment from the Treasury Department.

22.09 According to CIDB management in some cases some of the banks charge a higher interest rate once the loan is classified in default. CIDB management went to the Legal Department some years ago to try to determine whether the government was responsible to pay legal fees, insurance costs and some of the inflated interest rate that was charged on these accounts. The Legal Department ruling at that time stated that Government was obligated to pay it so that is why in some cases it ended up being a little more than 35 per cent, especially if the property took a year or two before it had been sold and the proceeds realised. However, the Audit Office's understanding is that Legal Department made a determination that foreclosure costs were not part of this 35 per cent and therefore should not be included. The Audit Office also indicated that subsequent requests that included foreclosure costs would not be entertained. However, CIDB management indicated that the Legal Department gave them a ruling that these costs have to be paid and shared proportionately with the banks because it was necessary in getting the property sold and following due process. The Legal Department's opinion for this ruling is to be obtained as no evidence of this opinion was provided.

22.10 FCIB representatives indicated that they were obligated to wait 90 days in order to make a legal claim. This resulted in the majority of these additional claims being incurred. FCIB representatives stated that on the facilities they have outstanding the amount that the government pays back would be less.

22.11 The Treasury department indicated that they did not know of such arrangement and that this was the first time they were hearing about it. The Treasury department was not aware that there was any amendment or change to the original agreement.

22.12 *The Committee recommends that:*

- I. If agreements are changed, this change should be recognized in a written amendment to the original agreement.*
- II. CIDB obtain a legal opinion to support payments made in excess of the 35% guarantee of Government.*
- III. CIDB/Treasury consider using the Debt Recovery Unit to recover funds from the individuals who defaulted on their loans.*
- IV. A written term be included in the agreement that states when there is a foreclosure on a property that the participating Bank consider the percentage Government has guaranteed in the eventual sale of the property for reimbursement.*

23. HEALTH SERVICES AUTHORITY – FINANCIAL STATEMENTS

23.01 Some of the main issues that concern the Committee are:

- The Auditor General could not express an opinion on the financial statements of the Health Service Authority (HSA) because he was unable to obtain sufficient, appropriate audit evidence for several areas in the financial statements presented for audit;
- Governance issues in regard to constant change of top management and clear lines of authority and responsibility between the board of directors and the CEO and other executive management; and
- June 30th 2004 financial statements are not being provided to the Auditor General to be audited.

23.02 The HSA witnesses represented to the Committee that there was a lack of proper record keeping during 2003/04 and 2004/05 fiscal years. This resulted in the inadequate provision of financial information to produce financial statements. For the first time

since 2004/05 fiscal year, the HSA are able to produce financial statements. The 2005/06 financial statements have been submitted to the Auditor General's Office for audit.

23.03 The witnesses indicated that they are now performing monthly bank reconciliations and all of that information is rolled up in their financial statements, which is presented on a monthly basis to the Board.

23.04 However, there is still a considerable problem with the accounts receivable area of the financial statements. The HSA Board is considering a write-off policy. They would not be reviewing it patient by patient, but would be considering an overall sum and what should be done in regards to writing off the debt. The gross accounts receivable as at the end of September 2007 stood at \$32 million with a reserve of \$18 million. Of this the self-pay portion is \$16 million. Self-pay are individuals without insurance coverage. The accounts receivable from the insurance companies are being collected fairly well. The HSA have also made contact with Cayman Islands National Debt Bureau (a private entity) which they are considering using in the future.

23.05 In addition, the HSA are currently providing extensive training to their debt collection staff. For self-pay accounts they have issued 30 day notice letter. This is then followed up with a notice that the account will be passed to its legal counsel for further action. They then send another letter to client indicating that the account has been passed to Legal. HSA management indicated they have legal counsel working with them to collect these self-pay accounts.

23.06 In regards to accounts payable, HSA management indicated that for the majority they are in a good position with its creditors.

23.07 The HSA had an upgrade in June 2007 to its Cerner system and are experiencing some technical difficulties but are confident the information is being captured.

23.08 Also, the current charge master in Cerner is still not complete. The HSA are going through a process of updating it and there still is a small amount of work to be done in order to complete it, which will then come to Legislative Assembly in the form of a new Fees Law to be approved.

23.09 It was noted that some of the health records are still in paper form because the Cerner IT system was only implemented in 2003.

23.10 *The Committee recommends that:*

- I. The Health Services Authority launch a public relations campaign to encourage patients to establish payment plans for amounts owed.***
- II. The Health Services Authority provide the financial statements for audit within the timeframes mandated in the Public Management & Finance Law.***

ACKNOWLEDGEMENT

The Committee wishes to record its sincere gratitude and appreciation of the co-operative spirit exhibited by all the witnesses appearing before it. The Committee is most appreciative of the efforts of the Auditor General and his staff in presenting a very fair, detailed and informative *Report on the Financial Statements of the Cayman Islands Government for the Year Ended 30 June 2004* and for the support, assistance and constructive advice given throughout its deliberations. Further, for the support, advice and information provided by the Deputy Financial Secretary, the Accountant General and staff. To the members of the Committee I thank you for your time and dedication in making it possible to table this Report.

Finally I wish to thank the staff of the Legislative Assembly and in particular Ms. Kathleen Watson secretary to the Committee for the assistance provided.

REPORT OF THE COMMITTEE TO THE HOUSE

Your Committee agrees that this Report be the Report of the Standing Public Accounts Committee to the House on the *Report of the Auditor General on the Financial Statements of the Cayman Islands Government for the Year Ended 30 June 2004*.

Mr. Osbourne Bodden, MLA, Chairman

Mr. Rolston M. Anglin, MLA, Member

Mr. Cline Glidden, Jr, MLA, Member
Deputy Speaker

Mr. Moses Kirkconnell, MLA, JP, Member

Mr. Alfonso Wright, MLA, Member

APPENDIX - REPORT OF THE COMMITTEE TO THE HOUSE

This report was handled by the previous Public Accounts Committee in 2008, but was never laid on the Table of the Legislative Assembly. The current Committee has thoroughly reviewed this document and agrees that this Report be the Report of the Standing Public Accounts Committee to the House on the *Report of the Auditor General on the Financial Statements of the Cayman Islands Government for the Year Ended 30 June 2004*.

Mr. D. Ezzard Miller, MLA, Chairman

Mr. Cline A. Glidden, Jr, MLA, Member
Deputy Speaker

Mr. Ellio A. Solomon, MLA, Member

Mr. Dwayne S. Seymour, MLA, Member

Mr. Moses I. Kirkconnell, MLA, JP, Member