



**IN THE MATTER OF THE COMMISSION ON HUMAN RIGHTS AND
ADMINISTRATIVE JUSTICE ACT, 1993 (ACT 456)**

AND

**IN THE MATTER OF INVESTIGATIONS INTO ALLEGATIONS OF
CORRUPTION, CONFLICT OF INTEREST AND ABUSE OF POWER
AGAINST HON. DR. RICHARD ANANE (MP) AND MINISTER FOR ROAD
TRANSPORT**

DECISION

Ms. Anna Bossman	-	Ag. Commissioner (Chairperson)
Mr. Richard Quayson	-	Deputy Commissioner (Public Education/Anti- Corruption)
Ms. Abena Bonsu	-	Former Director (Legal /Investigations)
Dr. P. E. Bondzie-Simpson	-	Counsel for the Commission
Mr. Bede Tuku	-	Counsel for the Commission
Mrs. Mavis Andoh	-	Counsel for the Commission
Mr. J. Acquah-Sampson	-	Counsel for the Respondent
Mr. Peter Zwennes	-	Counsel for the Respondent
Mr. George Amissah (Jnr.)	-	Counsel for the Respondent
Mrs. Yvonne Awoonor-Williams	-	Counsel for the Respondent
Mr. Joshua Nimako	-	Counsel for the Respondent
Date of Decision	-	September 15, 2006

TABLE OF CONTENTS

	PAGE
1.0. INTRODUCTION	3
2.0. BACKGROUND	4
3. 0. ALLEGATIONS	6
4.0. PRELIMINARY MATTERS [OBJECTIONS ON POINTS OF LAW, MANDATE, ETC]	9
5.0. THE POWERS AND FUNCTIONS OF THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE IN RELATION TO THE ALLEGATIONS	10
5.1. The 1992 Constitution of Ghana	10
5.2. The Commission on Human Rights and Administrative Justice Act, 1993(Act 456)	11
5.3. The Commission on Human Rights and Administrative Justice (Complaint Procedure) Regulations, 1994, C.I. 7	12
6.0. BROAD ISSUES FOR DETERMINATION	12
7.0. EXAMINATION OF EVIDENCE	13
7.1. Corruption	13
7.2. Conflict Of Interest	20
7.3. Abuse of Power	26
8.0. FINDINGS	29
9.0. OBSERVATIONS / RECOMMENDATIONS/ CONCLUSION	30

INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION, CONFLICT OF INTEREST AND ABUSE OF POWER INVOLVING HONOURABLE DR. RICHARD ANANE, (MP) AND MINISTER FOR ROAD TRANSPORT

DECISION OF THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE

1.0. INTRODUCTION

This Decision of the Commission is made pursuant to Sections 7 and 18 of the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456). It relates to investigations into allegations of corruption, conflict of interest and abuse of power against the Hon Dr. Richard Anane, Minister for Road Transport, and Member of Parliament for Nhyiaso.

In view of some misconceptions and speculation held by some sections of the public regarding the scope and nature of these investigations, we need to emphasize that this Commission is not investigating matters of morality nor making a moral judgment on an extra-marital affair that the Hon. Minister had with one Alexandra O'Brien resulting in the birth of a child.

This Commission is investigating allegations that relate to three issues: corruption, conflict of interest; and abuse of power, by a public officer. In this instance, the public officer is Hon. Dr. Richard Anane (MP) and Minister for Road Transport.

The investigations, including the preliminary investigations and the hearings spanned a period of about 18 months during which various documents were consulted, interviews were held with potential witnesses, and information was collected and evaluated.

The panel hearing covered a period of over six months during which the Panel sat twenty three times. The following witnesses appeared before the Panel:

- i. Mr. Raymond Archer;
- ii. Mrs. Mercy Afriyie Anane;
- iii. Mr. Joe Osei Wusu;
- iv. Hon.Kofi Adusei Poku;
- v. Mr. Collins Duodu-Bonsu;
- vi. Mr. Obed Kissi;
- vii. Ms. Alexandra O'Brien Anane;
- viii.Hon. Dr. Richard Winfred Anane;
- ix. Mr. Joris Jordan;
- x. Mr. Ken Anku.

2.0. BACKGROUND

In January and February 2005 and some time there after, the media, notably the Chronicle and the Daily Graphic, made various allegations of corruption and conflict of interest against Dr. Richard Anane, then Minister Designate for the post of Minister for Road Transport. The media speculated about Hon Dr. Richard Anane's relationship with one Alexandra O'Brien, [also Alexandra Anane], an American, who was believed to have entered into an agreement with the Ministry of Health to undertake an HIV/AIDS project in Ghana. The fall-out of their relationship was alleged to have led to the project being aborted, thereby causing financial loss, as well as missed opportunities, to the nation.

Some of the specific allegations contained in the media were as follows:

- i. **The Chronicle** edition of Friday, January 28, 2005 reported that [Dr. Richard Anane] then Minister Designate, had denied the "...numerous transfers (US \$ 90, 000) [he] did for the woman in the USA for her upkeep..." but "confessed giving her an amount of \$ 10,000..." and paying 51 million cedis for her accommodation at

Esther's Hotel when the *woman* was in Ghana. The woman referred to here is one Alexandra, with whom [Dr. Anane] has a child. She lives in the United States of America”

Following Dr. Anane's denial of this allegation, a journalist, Mr. Raymond Archer then of the Chronicle and presently with the Enquirer, petitioned the Chairman of the Appointments Committee of Parliament challenging Dr. Anane over the transfers of the said money to Ms. O'Brien.

- ii. **The Chronicle** edition of Monday, February 7, 2005 reported that Mr. Archer had stated that Dr. Anane billed both the Ghana Civil Aviation Authority and the Ministry for Road Transport (two state institutions) for expenses incurred by Ms. O'Brien when he traveled to Montreal, Canada, on an official assignment. According to Mr. Archer, “all expenses incurred by Alexandra and his son on that trip were converted as expenditure by Dr. Anane and Ghana Civil Aviation was billed.”

Mr. Archer further stated that Dr. Anane was not truthful to the Parliamentary Committee when he said at the vetting that he had always distinguished his private affairs from his duties as a public official. According to the report, Ms Alexandra had a company, which was interested in undertaking an HIV/AIDS project in Ghana and had signed a Memorandum of Understanding to that effect with the Ministry of Health. Mr. Archer alleged that Dr. Anane's relationship with Ms O'Brien, whom he described as “the client” of the country, cost the nation not only in financial terms, but also in terms of lost opportunities to Ghana.

Mr. Archer went on to say that he had obtained certain documents from Ms. Alexandra which suggested that Dr. Anane was “feeding” off Ghana Airways funds. According to Archer, Ms. O'Brien said as follows:

“During 2002 and part of 2003, Collins Duodu- Bonsu was assisting Richard in getting money to me by many means,

including picking up \$10, 000 cash from Ghana Airways's back office in Baltimore, Maryland. I was told to meet Captain Kwakwa coming off a flight but instead was routed to the back offices to wait for Obed. (I was accompanied to the airport with another person who can testify to this as well) whereby another man, not Obed, named Eric counted and handed me cash from the safe in the office. I had assumed that since Richard was the Minister of Transportation, he had paid \$10, 000.00 of his own money into the Ghana Airways account in Accra to replace the cash given us."

- iii. On January 28, 2005, the Daily Graphic reported that Dr. Anane's had denied transferring an amount of \$90,000 to Alexandra but admitted that "although some monies were sent to her, it did not amount to the figure mentioned by members [of Parliament] and what was published in some media"

Similar reports were carried in other newspapers and in the electronic media.

The Commission decided to commence preliminary investigations into the allegations of its own volition under section 7 of Act 456 at the conclusion of which the Commission instituted a panel hearing into the matter.

3.0. ALLEGATIONS

The specific allegations included the following:

3.1. Improper and Corrupt Payment or Remittances

That, during a certain period from about 2001 to 2004, the Hon. Dr. Anane (The Respondent) under the colour and by virtue of his public office as a Minister of the Republic of Ghana improperly or corruptly paid or remitted directly as well as through several persons and some institutions and officers

of State, monies in an amount totaling at least US\$126,560 to one private person by the name Miss Alexandra O'Brien.

Particulars of the allegations of improper or corrupt payments or remittances were made available to the Hon. Respondent.

3.2. Misuse of State Resources on a Private Person

The second allegation was that while sometime in November, 2002 the Honourable Minister was in London, in the United Kingdom, on an official business, under the colour and by virtue of his public office as a Minister of the Republic of Ghana, he caused the State to incur various expenses relating to accommodation, travel and miscellaneous expenses, for and on behalf of a private person, namely, the said Alexandra O'Brien.

3.3. Causing the State to Incur Expenses on a Private Person

The third allegation was that for a certain period, on or around April to May, 2003, the Honourable Respondent, under and by virtue of his public office as a Minister of the Republic of Ghana, caused the State to incur various expenses relating to travel accommodation and miscellaneous expenses for and on behalf of a private person, namely, the said Alexandra O'Brien, by arranging for her travel to Ghana and for rebated or discounted hotel accommodation at a hotel in which the State is a shareholder and has proprietary and financial interest, to wit – the La Palm Royal Beach Hotel.

3.4. Arrangements for Accommodation and payment of Monies

The fourth allegation was that during the said period, the said Honourable Respondent, operating through two operatives who are officers or at the material time were officers of the State, to wit – one Collins Duodu Bonsu, a Special Assistant, and Honourable Ignatius Kofi Edusei Poku, a Member of Parliament, such said persons arranged for the accommodation at the La Palm Royal Beach Hotel and for monies to be paid to Ms. Alexandra O'Brien.

3.5. Reward or Payment of US\$20,000 Kickback

The fifth allegation, in sum, was that during the said period – April 28 to May 9, 2003 when Miss O'Brien was in the country lodging at La Palm Royal Beach Hotel, the Honourable Respondent had discussions with her which disclosed that he was expecting to receive a payment of US\$20,000 as a reward or payment or kickback from an unnamed contractor which payment, reward or kickback he expected to receive covertly, corruptly or unlawfully by virtue of his office as a Minister of State.

3.6. The Esther's Hotel Bill

The sixth allegation was that sometime in about October, 2003 to December, 2003, under and by virtue of his public office as a Minister of the Republic of Ghana, the Honourable Respondent arranged for and covered boarding and lodging and miscellaneous expenses for the said Miss Alexandra O'Brien, a private person, at a Hotel here in Accra named: Esther's Hotel an amount of at least ₵51 million.

3.7. The Montreal Trip

Finally, that in or about September, 2004 while the Honourable Minister of State was in Montreal, Canada, on an official trip, namely the Thirty-fifth Triennial Assembly of the International Civil Aviation Organization, under the colour and by virtue of his public office as a Minister of the Republic of Ghana, he caused the State to incur travel, accommodation and miscellaneous expenses for and on behalf of a private person, namely, Miss Alexandra O'Brien and Nicholas Anane, an infant, by arranging for their travel to Canada and for their accommodation at Fairmont Hotel in Montreal.

Other allegations the Panel considered will be discussed in the course of this decision.

4.0. PRELIMINARY MATTERS [OBJECTIONS ON POINTS OF LAW, MANDATE ETC].

On 7 February 2006, Counsel for Dr. Richard Anane raised a preliminary objection challenging this Commission's "jurisdiction" to proceed with this investigation and questioning the propriety of the procedure adopted by the Commission in carrying out its mandate.

The crux of Counsel's objection was that this Commission has no jurisdiction to proceed with this investigation without the lodging of a formal complaint.

Counsel relied on Article 218, 284 and 287 of the 1992 Constitution as well as section 7(1) of Act 456 to support his arguments. Counsel further argued that adherence to the Commission on Human Rights and Administrative Justice (Complaint Procedure) Regulations, 1994, Constitutional Instrument No. 7(C.I. 7) is mandatory as there is no procedure established for the Commission to initiate its own investigations in the absence of a formal complaint or to investigate its own complaint, for that matter.

Alternatively, in the event that it is established that Article 218(e) does not require a formal complaint or Complainant, Counsel then invites the Commission to confine itself to the parameters of Article 218(e) without touching on other provisions.

Although the Commission dismissed his objection, in his final address to the Panel, Counsel for the Respondent again reiterated his objection.

Counsel for the Respondent has again failed to persuade the Commission that there is merit in his submission.

Let us state categorically that the **Commission is vested with "jurisdiction" to proceed with this investigation without a formal complaint having been lodged by a complainant. We accordingly affirm our previous ruling on the matter.** Indeed, this is consistent with the decision of the

Commission in case number 5232/2005; dated 20th April 2006 entitled “Report of Preliminary Investigation by the CHRAJ into allegations of Corruption and Conflict of Interest against his Excellency J.A Kufour President of the Republic of Ghana in Respect of the Acquisition of a “Hotel” at Airport West, Accra.”

In that case, the Commission ruled that:

“The procedure to be followed in conducting an investigation into a complaint is regulated by Constitutional Instrument No 7 taking into consideration the circumstances of each case. In the instant case there was no complainant before the Commission. The Commission therefore invoked its inherent investigative powers to conduct investigation under article 218 (e) of the Constitution and section 7 (1) (e) and (f) of Act 456”.

5.0. THE POWERS AND FUNCTIONS OF THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE IN RELATION TO THE ALLEGATIONS

5.1. The 1992 Constitution of Ghana¹

The Commission is established pursuant to Chapter 18 of the 1992 Constitution to investigate complaints of violations of fundamental human rights and freedoms, administrative injustice, abuse of power, all instances of alleged or suspected corruption and misappropriation of monies *by public officials*. On conclusion of an investigation, the Commission may take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigations².

Where the subject matter of an investigation concerns corruption or abuse of power, the relevant provisions of Article 218, namely, Clauses (a) and (e) there under, make it clear that the Commission’s investigative reach

¹ See Chapters 18 and 24

² Article 218(a)-(f)

extends to all “public officers” (or “officials”) without exception. The term “public office” is defined in Article 295(1) to include “*an office the emoluments attached to which are paid directly from the Consolidated Fund or directly out of the moneys provided by Parliament.*”

The Commission is also mandated to investigate allegations that a public officer has contravened or has not complied with the code of conduct for public officials prescribed under Chapter 24 of the 1992 Constitution. This chapter contains provisions on conflict of interest of public officials³.

The Commission, however, “...*shall not investigate:*

- i. a matter pending before a court or judicial tribunal; or*
- ii. a matter involving the relations or dealings between the Government and any other Government or an international organization; or*
- iii. a matter relating to the exercise of the [President’s] prerogative of mercy.”*

5.2. The Commission on Human Rights and Administrative Justice Act 1993(Act 456)

Section 7 of Act 456 restates the functions and powers of the Commission as provided under Article 218 of the Constitution. Under the Act, the Commission has power to investigate all instances of alleged or suspected corruption of public officials. The Commission can, on its own initiative, investigate allegations of corruption or suspected corruption that have come to its notice through various sources including the media.

The Commission is not precluded from investigating matters on its own motion and has since its inception done so. Indeed in 1995, the Commission instituted Corruption ‘Probes’ against certain public officers on the basis of newspaper allegations, and has since then developed practice and precedent.

³ Article 284-288

It would defeat the purpose and intent of the Constitution if the Commission was to sit idly by, waiting for complaints whilst allegations have been made in the media and thus constitute notice to the entire world.

5.3. The Commission on Human Rights and Administrative Justice Complaints Procedure Regulations 1994) Constitutional Instrument No. 7

The procedure to be followed in conducting an investigation into a complaint is regulated by Constitutional Instrument No. 7 taking into consideration the circumstances of each case. In the instant case, there was no complainant before the Commission. The Commission therefore, invoked its inherent investigative powers to conduct the investigations under Article 218(e) of the Constitution and Section 7(1) (e) and (f) of Act 456.

6.0. BROAD ISSUES FOR DETERMINATION

The broad issues arising from the proceedings for the Panel to consider include the following:

- i. Whether the Honourable Minister during the period under investigation 2001 to 2004 engaged in any act of **corruption** by virtue of holding public office;
- ii. Whether during the said period under investigation the Honourable Minister placed himself in a **conflict of interest** situation where his interest as a minister serving the Republic of Ghana was compromised or potentially compromised by virtue of the relationship which he had with a lady, Ms Alexandra O'Brien;
- iii. Whether during the same period under investigation, the Honourable Minister **abused the power** of his office as a Minister of State.

These issues were detailed specifically during the proceedings and clearly articulated variously in the oral and written submissions of both Counsel for the Commission and Counsel for the Respondent and we do not deem it necessary to set them all out here. These and other issues raised were all considered by the Panel.

7.0. EXAMINATION OF EVIDENCE

The Panel considered the definition of corruption, conflict of interest and abuse of power in its determination.

7.1. CORRUPTION

7.1.1. The World Bank defines Corruption as the abuse of office for private gain. It goes further to explain that:

- i. Public office is abused for private gain when an official accepts, solicits or extorts a bribe;
- ii. It is also abused when private agents actively offer bribes to circumvent public policies and processes for competitive advantage and profit;
- iii. Public office can also be abused for personal benefit even if no bribery occurs, through patronage and nepotism, the theft of state assets, or the diversion of state revenues;
- iv. The benefit need not be financial or immediate, the public official may be appointed or elected, and the bribe may be offered or extorted;
- v. It includes the promise or giving of any undue payment or other advantages, whether directly or through intermediaries to, or for the benefit of, a public official to influence the official to act or refrain from acting in the performance of his or her official duties in order to obtain or retain business.

7.1.2 The Africa Union Convention on Preventing and Combating Corruption and Related Offences also provides as follows:

- i. "Corruption" means the acts and practices including related offences proscribed in this Convention.
- ii. "This convention is applicable to the following acts of corruption and related offences:
- a) The solicitation or acceptance, directly or indirectly, by a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
 - b) The offering or granting, directly or indirectly, to a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
 - c) Any act or omission in the discharge of his or her duties by a public official or any other person for the purpose of illicitly obtaining benefits for himself or herself or for a third party;
 - d) The diversion by a public official or any other person, for purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party, of any property belonging to the State or its agencies, to an independent agency, or to an individual, that such official has received by virtue of his or her position;
 - e) The offering or giving, promising, solicitation or acceptance, directly or indirectly, of any undue advantage to or by any person who directs or works for, in any capacity, a private sector entity, for himself or herself or for anyone else,

for him or her to act, or refrain from acting, in breach of his or her duties;

f)The offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she is able to exert any improper influence over the decision making of any person performing functions in the public or private sector in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result;

g) Illicit enrichment;

h)The use or concealment of proceeds derived from any of the acts referred to in this Article; and participation as a principal, co-principal, agent, instigator, accomplice or accessory after the fact, or on any other manner in the commission or attempted commission of, in any collaboration or conspiracy to commit, any of the acts referred to in this article.

7.1.3 CRIMINAL CODE 1960(ACT 29)

Section 239—Corruption, etc. of and by Public officer, or Juror.

(1) Every public officer or juror who commits corruption, or wilful oppression, or extortion, in respect of the duties of his office, shall be guilty of a misdemeanour.

(2) Whoever corrupts any person in respect of any duties as a public officer or juror shall be guilty of a misdemeanour.

Section 240—Explanation as to Corruption by Public Officer, etc.

A public officer, juror, or voter is guilty of corruption in respect of the duties of his office or vote, if he directly or indirectly agrees or offers to permit his conduct as such officer, juror, or voter to be influenced by the gift, promise, or prospect of any valuable consideration to be received by him, or by any other person, from any person whomsoever.

Section 241—Explanation as to Corruption of Public Officer, etc.

A person is guilty of corrupting a public officer, juror, or voter in respect of the duties of his office or in respect of his vote, if he endeavours directly or indirectly to influence the conduct of such public officer, juror, or voter in respect of the duties of his office or in respect of his vote, by the gift, promise, or prospect of any valuable consideration to be received by such public officer, juror, or voter, or by other person, from any person whomsoever.

Section 242—Special Explanation as to Corruption of and by Public Officer, etc.

It is immaterial, for the purposes of section 240 or 241, that the person respecting whose conduct the endeavour, agreement, or offer therein mentioned is made is not yet at the time of the making of such endeavour, agreement, or offer, such a public officer, juror, or voter, if the endeavour, agreement, or offer is made in the expectation that he will or may become or act as such officer, juror, or voter.

Section 243—Corrupt Agreement for Lawful Consideration, etc.

It is immaterial, for the purposes of section 240, 241 or 242, whether the act to be done by a person in consideration or in pursuance of any such gift,

promise, prospect, agreement or offer as therein mentioned be in any manner criminal or wrongful otherwise than by reason of the provisions of the said sections.

Section 244—Acceptance of Bribe by Public Officer, etc., After Doing Act.

If, after a person has done any act as a public officer, juror, or voter, he secretly accepts, or agrees or offers secretly to accept for himself or for any other person, any valuable consideration on account of such act, he shall be presumed, until the contrary is shown, to have been guilty of corruption, within the meaning of this Chapter, in respect of that act before the doing thereof.

Section 245—Promise of bribe to Public Officer, etc. After act Done.

If, after a public officer, juror, or voter has done any act as such officer, juror, or voter, any other person secretly agrees or offers to give to or procure for him or any other person any valuable consideration on account of such act, the person so agreeing or offering shall be presumed, until the contrary is shown, to have been guilty of having, before the doing of such act, corrupted such public officer, juror, or voter, in respect of such act.

7.1.4 Does the evidence support the Allegation of Corruption?

On the allegation that Hon. Dr. Anane improperly or corruptly paid or remitted directly as well as through several persons and some institutions and officers of State, monies in an amount totaling at least US\$126,560 to one private person by the name Miss Alexandra O'Brien, the testimony of Ms Alexandra O'Brien, Collins Duodu-Bonsu and Dr. Anane offer the most direct evidence on the matter. Mr. Archer's testimony was predicated substantially on the information Ms O'Brien gave to him.

The question arises: did the Hon. Respondent remit or arrange to remit, or was he involved in the transfer directly or indirectly of funds in the region of

US \$126,560 to Ms. Alexandra O'Brien Anane and, if so, did these funds come by virtue of his public office and were these public funds?

In her testimony on oath before the Commission Alexandra O'Brien testified that she received "about a hundred thousand dollars by the time we finished, from 2001 until Richard last arranged payment through Collins or through himself in December of 2004, I believe, which is US\$6,000, [from] Kofi Boateng.... I assumed that that was from Richard. That was the last time I received any money from anyone".

She stated that about \$23,600 and E5,000 was paid to her directly by Dr. Anane, whilst the rest came through intermediaries orchestrated by Collins Duodu-Bonsu.

Dr. Anane denies remitting Ms O'Brien to the tune of US\$126,560 or \$100,000. In response to interrogatories served on him by the Commission Dr. Anane admitted that total remittances he sent to Ms O'Brien were approximately \$30,000 including EU5000. In earlier proceedings before Parliament under oath the Hon. Minister had declared that total remittances he sent to Ms O'Brien did not exceed \$10,000. He further maintained that friends and relatives had assisted Ms O'Brien, but he did not know the extent of the assistance alleging that it was mostly done without his knowledge.

Collins Duodu Bonsu, on the other hand, testified that he had supported Ms O'Brien to the tune of \$72,300, and that it was drawn mainly on his credit cards. He supported his claim with documentary evidence, although it appeared strange how the same person would for the same period support his own biological child to a little over \$5000. He further testified that Dr. Anane was not aware that he was supporting Ms O'Brien. Essentially, his reason for providing this money without the knowledge of Dr. Anane was because he was acting as a friend and as he believed friends ought to.

In contrast, Ms O'Brien testified that Dr. Anane would usually call her and inform her that help was on the way, and also call to find out whether she had received the help.

The amount Dr. Anane admits to the Commission that he personally gave to Ms O'Brien was in the region of US\$30,000. If this amount is added to the sum admitted by Mr. Duodu Bonsu, US\$72,300, it comes to approximately US\$100,000, which agrees substantially with the amount claimed by Ms O'Brien as having been received by her.

The Commission accordingly finds that the allegation on the quantum of remittances made to Ms O'Brien either by or on behalf of the Hon. Minister proven is in the neighbourhood of US\$100,000.

Did these funds come by virtue of his public office and were they public funds?

The evidence available shows that US\$72,300 of the approximately US\$100,000 came out of Mr. Duodu Bonsu's credit cards, whilst the remainder came from Dr. Anane's sources, including US\$16,000 allegedly coming from Mrs. Mercy Anane. In the absence of any direct evidence to the contrary the **Commission finds that the evidence available does not support the allegation that the funds variously remitted to Ms O'Brien were from State coffers.**

Did the Hon. Minister arrange for and cover traveling, boarding and lodging and miscellaneous expenses for the said Miss Alexandra O'Brien, from State resources?

Although the evidence clearly showed that Ms O'Brien on a number of occasions did join or visited the Hon. Minister and stayed with him or alone in hotels at the expense of the Minister there was no evidence to show that either of them occasioned additional expense to the State, or that the expense

was charged directly to the State. Dr. Anane stated that he settled expenses through the per diem granted to him.

The Commission consequently finds that the allegations that the Hon. Minister had arranged for and covered traveling, boarding and lodging and miscellaneous expenses for the said Miss Alexandra O'Brien, from State resources were not proven.

On the construction of the provisions of the Criminal Code and the international instrument stated above, the evidence available does not support the offence of corruption. The Commission accordingly finds that the allegations are not proven. The Panel however makes certain observations in that regard in its conclusions.

There was also no evidence to substantiate the allegation of kickback.

7.2. CONFLICT OF INTEREST

Under Article 284 of the Constitution, "Conflict of Interest", refers to a situation where a public official's personal interest conflicts with or is likely to conflict with the performance of the functions of his/her office.

In the Commission's view therefore, a conflict of interest includes:

- i. Any interest or benefit, financial or otherwise, direct or indirect;
- ii. Participation in any business transaction, or professional activity;
- iii. An incurring of any obligation of any nature; or
- iv. An act or omission;

which is or appears or has the potential to be in conflict with the proper discharge of a public official's duties in the public interest.

It is also the view of the Commission that a conflict of interest occurs when a public official attempts to promote a private or personal interest for himself/herself or for some other person, the promotion of the private interest

then results or is intended to result or appears to be or has the potential to result in the following:

- i. An interference with the objective exercise of the person's duties; and
- ii. An improper benefit or an advantage by virtue of his/her position.

The Commission has held that "***A public official breaches this provision not only where there is actual conflict of interest but also where there is a likelihood of conflict of interest. Where there is already in existence a personal relationship between a public officer and another person or between their respective institutions or companies, there is an onerous responsibility on the public officer to ensure that all future transactions between the two persons or institutions are conducted with utmost transparency and in such a manner as to avoid suspicion of any improper motive or conduct***"⁴

Did the Respondent's conduct in respect of Ms. Alexandra Anane amount to conflict of interest?

Having reviewed the evidence adduced before the Commission, the Commission will now make its findings on the specific allegations and other matters of conflict of interest which came to light during these proceedings.

7.2.1. The Letter of Intent issued to World Health Monitor Programme (WHMP) by the Minister of Health

By a Letter of Intent dated 28th April 2001 [CD 3 Exh. A], the Respondent indicated his (and Ghana's) commitment to the project as evidenced by the attached Memorandum of Understanding with the WHMP, represented by Alexandra Anane, the President and CEO of the WHMP. The Respondent stated that the said letter served as **notification 'to all who read it that**

⁴ **MULTI MEDIA LTD (doing business as JOY 99.7 FM) vrs. SSNIT and CHARLES KWAME ASARE** pg. 31

Ghana is committed to deploying the WHMP in Ghana. He also stated his intention to join Alexandra O'Brien for the signing ceremony.

It is our understanding that the State employs a formal procedure for issuing a Letter of Intent or entering into an MOU with a third party. This would normally require authorization by Cabinet, and eventually an endorsement (if necessary) by Parliament. It cannot be done on the whim of a minister and certainly not without regard to certain ministries including the Attorney – General's Dept. Therefore the procedure whereby the Respondent issued Alexandra O'Brien with a Letter of Intent and an MOU in Abuja Nigeria in April 2001 without following procedure was therefore very irregular.

(The issue of the MOU will be discussed further under the Panel's finding on 'Abuse of Power').

Alexandra O'Brien has testified to the Commission that thereafter she and the Respondent entered into an 'intimate personal affair' which ultimately resulted in the birth of their child, Nicholas Anane.

As the Commission held, in the Case of **MULTI MEDIA LTD (doing business as JOY 99.7 FM) vs. SSNIT and CHARLES KWAME ASARE**, popularly known as the SSNIT CASE, that:

“where there is already in existence a relationship between a public officer and another person or between their respective institutions or companies, there is an onerous responsibility on the public officer to ensure that all future transactions between the two persons or institutions are conducted with utmost transparency and in such a manner as to avoid suspicion of any improper motive or conduct”⁵

⁵ SSNIT Case pg. 31

The conduct of the Respondent in converting a professional or business relationship, ostensibly purporting to benefit the people of Ghana into a personal and intimate one, whilst continuing to carry on the business of state, placed him in a conflict of interest situation.

The Commission finds that:

- i. Respondent was in a Conflict of Interest situation as he began an intimate relationship after he opened negotiations/discussions with Alexandra O'Brien who was representing WHMP in the said negotiations. WHMP was supposed to be negotiating with the Government of Ghana through the Ministry of Health's representative, the Respondent to implement a program which would help Ghana with diagnosis and data management to fight the HIV/AIDS scourge.

Various e-mails between Dr. Richard Anane and Ms Obrien reveal that he was unable to distinguish his private affair with his business relationship consequently impairing his objectivity with regards to WHMP.

Examples:

Though Respondent used his personal email richard@africaonline.com.gh', to foster this personal relationship, he also used the same medium and in fact the same letter to discuss his government negotiations in respect of Alexandra O'Brien' WHMP. This shows he was unable to function objectively in respect of WHMP.

i. Personal email 'Exhibit B' of 'CD3' from Respondent to Alexandria Anane dated 13/07/01 shows :

- a .The Parties were in a intimate relationship, (Not because of words per se but words plus fact that parties have admitted to an ongoing relationship at some point in time). 'Alexie Dearie', 'You are a darling', 'Let that voice keep floating like music to my ears, "But I could not! I*

was just burning to read you! And you are to understand why’, “My special secretary”, ‘Your own Richard’.

b. Parties were also in a business relationship

ii. Respondent conveys to Alexandra O’Brien an update on the MOU which has delayed because the Attorney General is inundated with legal tussles of our Supreme Court and the fast track courts

iii. Personal Email exhibit C of CD3 from Alexandra O’Brien to Respondent dated 11/07/01 and from Respondent to Alexandra O’Brien dated 15/07/01. The parties had entered into business negotiations by then.

iv. Personal Email: ‘Exhibit D’ of ‘CD3’ – from Respondent to Alexandra O’Brien. The Respondent again mixes his personal relationship with work. After expressing his dependence on Alexandria Anane’s ‘special understanding for him’ and other such sentiments on their ‘very special relationship,’ he then gives her his itinerary and asks her if she cannot fit her journey into any of the programs. Again he mentions that he is putting the MOU into shape and gives her a message from the Attorney General’s office.

7.2.2. Collins Duodu Bonsu, Special Assistant to the Respondent⁶

Counsel for Respondent urged this submission upon the Commission:

“My Lord, last but not the least as regard the testimony of Mr. Collins Duodu-Bonsu. It is our respectful contention and we invite the Commission to uphold same that it is not improbable in our cultural context and for purely opportunistic intentions or motives for this gentleman to do what he did even before realizing the full import of his

⁶ Hearing 18 pg. 39, ln 6-46, pg 40 ln 1 -33,pg. 42 ln 1-46, pg. 43 ln 1-11, pg. 44 ln 1-16, pg. 48 pg 51 ln 19-46

own actions. My Lord, in this situation where the evidence does not indicate that he was deliberately telling a falsehood, we urge the Commission to accept his testimony because there is no other direct testimony that contradicts that.⁷ . Counsel for the Respondent went on further to say, ‘And in addition to that, I wish to state that prior to Mr. Collins Duodu-Bonsu doing what he did, there is clear evidence before the Commission that they had already struck an acquaintance and that the two of them were known to each other and because Mr. Collins Duodu-Bonsu probably rescued him from distress some point in time, we will respectfully submit that the condition and the basis for that kind of financial relationship had already been established between the two of them’”

In making this submission, Counsel underlined Counsel for the Commission’s case that, the relationship between the Respondent and Collins Duodu Bonsu was potentially a conflict of interest situation.

The Commission finds that a conflict of interest arises from the Personal Conduct of the public official. A public official’s personal conduct is the exercise of individual freedom and would appear to be substantially a matter of personal choice. However, there are three key circumstances where personal conduct may create a conflict of interest situation:

- i. when a public official’s conduct makes him or her vulnerable to pressure to use his or her public office improperly; and
- ii. when a public official’s conduct brings significant discredit to the government, State or a particular Ministry, Department or Agency (MDA).
- iii. When the official’s conduct undermines the integrity of the public office

⁷Hearing 23 pg. 15 (07/07/06)

The Commission finds that the Respondent's personal conduct did all of the above and that thus put him in a vulnerable situation vis a vis Collins Duodu-Bonsu

7.3. Abuse of Power

Abuse of power refers to the illegitimate or improper use of power by a public official. It also refers to situations where public officials ignore procedures or allow their personal whims to subvert procedure. Abuse of power is a certifiable incubator of corruption.

In the instant case, the Hon. Minister is alleged to have abused power in a number of situations. However, the instance the Commission is most concerned about relates to the issuance of the April 28 2001 letter to Ms O'Brien. It said that the Hon. Minister, whilst attending a conference on HIV/AIDS in Abuja, without due diligence and proper authority, purported to commit the nation to the WHMP project. It was also suggested that the Hon. Minister was enamored or smitten by the opportunities Ms O'Brien personally offered to issue the said letter, and that his personal/private interest conflicted with his office at the time he did so.

The letter is reproduced below.

"April 28, 2001

*Alexandra O'Brien, President and CEO
World Health Monitor Program, Inc.
5201 Leesburg Pike, Suite 801
Falls Church, Virginia 22041 (USA)*

Dear Ms. O'Brien:

*This letter is to inform you of my intention to implement the World Health Monitor Program for the 19 million People of Ghana, as described in the attached Memorandum of Understanding. **This letter shall serve as notification to all who read it that Ghana is committed to deploying the World Health Program (WHMP) to provide mobile units to conduct HIV/AIDS and possibly other infectious disease testing and screening process and monitoring programs throughout Ghana. It shall also serve as a vehicle for Ghana and the WHMP to begin the process of obtaining the funding necessary to bring your critically needed program to Ghana and all of Africa. Ghana shall provide you all necessary assistance to complete a detailed plan and contract to bring the WHMP to Ghana at the earliest date possible. It is also my intent to join with you in a formal signing ceremony to properly acknowledge this historical moment.***

Ghana is committed to the tenets of the Action Plan of the Abuja Declaration on HIV/AIDS tuberculosis, and Other Infectious Diseases signed April 27th, 2001. I see the WHMP as the major infrastructure necessary to ensure that progress towards meeting these Action Plan objectives in monitored and successful.

I look forward to a long and mutually successful relationship between Ghana and WHMP.

With Sincerest Regards,

Dr. Richard Anane

His Excellency, The Minister of Health for Ghana”

Although the Hon. Minister vehemently protested his bona fide, he nonetheless abused his power by acting at that time beyond his authority, worse still purporting to commit the nation in the manner he did. This conduct cannot be condoned. To do so would amount to impunity and opening the integrity of power to abuse and ridicule.

7.3.1. Alexandra Anane's Free Ghana Airways Ticket

The evidence before the Commission was that Alexandra Anane was issued a free ticket by Ghana Airways USA office on the basis that she was the wife of Dr. Anane. It was immaterial that Alexandra Anane never flew on that ticket. Certainly the evidence was that she attempted to 'cash in' the free ticket i.e. get a 'refund' since she didn't fly with it.

The witness Obed Owusu-Kissi:

- i. did not know who Alexandra Anane was and had not heard of her before she turned up at the Ghana Airways Office when he was informed that she was the wife of the Respondent;
- ii. was in the employ of Ghana Airways before the Respondent became the sector minister for the airline and was not obliged to the minister in anyway.

This witness impressed the Panel as being a witness of truth.

As already stated Obed Owusu-Kissi's did not know Alexandra Anane and had no reason to doubt that Alexandra Anane was the wife of the Respondent, according to the information that he received.

The panel finds that it is more probable than not that the Respondent caused a free ticket to be issued to Alexandra Anane.⁸ The ticket however was not

⁸ Hearing 14 pg. 9 ln 32-40,

used.⁹ The former General Manager gave evidence that free tickets could be issued to 3 classes of persons:¹⁰ commercially important passengers; government officials and family of Ghana Airways staff. Alexandra Anane did not fall into any of the categories. The state would have lost revenue in one of two ways; by Alexandra Anane travelling free or had the staff of the US Ghana Airways Office not been diligent and vigilant, Alexandra Anane would have obtained a refund for the free ticket.¹¹

8.0. FINDINGS

- i. The Commission finds that the allegation on the quantum of remittances made to Ms O'Brien either by or on behalf of the Hon. Minister proven is in the neighbourhood of US\$100,000.**
- ii. The Commission finds that the evidence available does not support the allegation that the funds variously remitted to Ms O'Brien were from State coffers.**
- iii. The Commission finds that the allegations that the Hon. Minister had arranged for and covered traveling, boarding and lodging and miscellaneous expenses for the said Miss Alexandra O'Brien, from State resources were not proven.**
- iv. The evidence available does not support the offence of corruption. The Commission accordingly finds that the allegations are not proven.**
- v. There was no evidence to substantiate the allegation of kickback.**
- vi. The Hon. Minister was in a conflict of interest situation as he began an intimate relationship after he opened**

⁹ Hearing 14 pg. 11 ln 31 – 46, pg. 12 ln 1 – 14 (30/03/06)

¹⁰ Hearing 14 pg. 27 ln 1- 21, pg. 31 ln 9-25(30/03/06)

negotiations/discussions with Alexandra O'Brien who was representing in the said negotiations WHMP.

vii. The Commission finds the relationship between the Respondent and Collins Duodu Bonsu was potentially a Conflict of Interest situation that thus put him in a vulnerable situation vis a vis Collins Duodu-Bonsu

viii. The Commission does find that the evidence supports Abuse of Power

9.0. OBSERVATIONS / RECOMMENDATIONS / CONCLUSION

9.1. General Observations

Public office is a trust, which every officer occupying such office must serve in the interest of the general public. Increasingly, citizens expect and demand that public officials must perform their duties with integrity, in a fair and unbiased manner. Public officials are expected not to allow their private interests and affiliations to compromise official decision making and public management. When public officials breach the duties of the trust, a conflict of situation arises.

The function being undertaken by this investigation panel is investigation not adjudication. And as an investigation activity being undertaken by this Panel, this Panel can on its own motion or upon motion of a third party who would be called the complainant, deal with matters that squarely fall within its jurisdiction. Moreover as an investigation activity, this Panel could follow the evidence wherever it leads to.

In the course of the hearings undisputed facts came out including, the fact that Ms. Alexandra O'Brien Anane received some monies directly from the Hon. Respondent: that Ms. Alexandra O'Brien Anane received some monies a little in excess of US \$72,000.00 from the 'Special Assistant' of the Hon.

Respondent, Mr. Collins Duodu Bonsu.; that she received some US \$8,000.00 arranged by an acquaintance of the Hon. Respondent, Mr. Kofi Agyenim Boateng. Again, it is not in dispute that Mr. Collins Duodu Bonsu who held himself up as 'Special Assistant' was also held out by the Hon. Respondent as his 'Special Assistant' when he had not been properly or regularly appointed by the machinery of the State to that office.

It is also not in dispute that the Hon. Respondent entered into an intimate relationship with the said Ms. Alexandra O'Brien Anane at a time that he was Minister of State holding initially the portfolio of Minister of Health when at that same time, Ms. Alexandra O'Brien Anane, then Ms. O'Brien, was the President and C.E.O. (Chief Executive Officer) of the World Health Monitor Programme Inc., a US-based organization, which at that time sought to do business with the Republic of Ghana. Indeed this relationship resulted in the birth of a child. These facts are undisputed. But there were also disputed matters, and in making its determination on the matter the Panel, in considering the entirety of the evidence before it, considered among other things, the demeanour of the witnesses and the plausibility of the testimony they gave in order to measure that fact up against what is reasonable, normal and regular. In making that assessment, the Panel then considered certain evidence to be credible or incredible or probable or improbable or reasonable or unreasonable, as the case may be.

- i. The Panel considered whether perfect strangers would have handed over their hard earned money to a man whom they had never met, had never contacted and who had never contacted them or approached them for help, to solve a personal crisis of his own making? We think not.
- ii. The Commission is of the view that the fact of the Respondent's affair resulting in a child was not so grievous to his political fortunes that perfect strangers would have parted with their money for such a

cause, the cause of keeping this stranger's name out of the headlines. Even more curious to the Commission is the quantum given by these strangers, ranging from as much as \$1000 to the colossal and incomprehensible sum of \$8,000.00 per person and all this to a stranger who neither solicited their assistance and who to date had not seen fit to seek out and appreciate such assistance.

- iii. The Panel considered whether old acquaintances with whom the Respondent claimed to have lost touch with, since he had left school and to whom neither owed allegiance to the other save that they shared the same alma mater, would have handed over their hard earned money to a man whom they had never met, had never contacted and who had never contacted them nor approached them for help, to solve a personal crisis of his own making? Again we think not.
- iv. The Commission found that Collins Duodu Bonsu was a loyal friend to the Respondent; in fact he described himself as a bosom friend of the Respondent. The Commission finds it highly improbable that Collins was the sole architect, originator and author of the money transfers, and that Collins orchestrated the entire system of transfer on his own without the knowledge and consent of the Respondent. Collins remitted his daughter who lives in the USA \$500.00 a month. His daughter is a teenager whilst the Respondent's son is an infant. The man in the street knows as a fact that expenditure for a teenage girl far exceeds that for an infant boy. The Commission therefore finds it highly unlikely that he committed his own funds in this manner and also obtained the assistance of 'friends' far in excess of what he was committing to his own child, merely because Alexandra asked him to.
- v. The Commission finds it extremely curious and high improbable that a businessman, in fact an entrepreneur as Collins described himself

would commit his personal funds of \$73,000.00 plus to bail his friend out of an embarrassing situation:

- a) Without the prior knowledge of his friend;
- b) Without the consent of his friend;
- c) Without subsequently informing his friend, assuming that indeed he acted without his friend's prior knowledge;
- d) Without any expectation of return on his 'investment' in this 'enterprise';
- e) Without any hope of recompense, reward or appreciation, not even in the form of a 'thank you'.

The most serious of these considerations is that Collins used credit cards which as a business man carrying on business in the USA and one who has at various times been resident in both the USA and UK and was aware that credit cards attract interest and further that that interest is at a higher rate of interest than bank loans

The Commission is of the view that this is not the modus operandi of a prudent man of business and is out of character for Collins who has otherwise been business like in his endeavours. Collins was so efficient that the Respondent recruited him as his special assistant. If the Respondent knew nothing about the transfers the Commission believes it was because the Respondent told him to handle his affairs in whatever way he thought fit, whatever it took.

- vi. The Panel did not find it plausible and reasonable, for the Hon. Minister to be able to distance himself from a direct claim by Ms. Alexandra O'Brien Anane that she received US \$10,000.00 from the Baltimore office of the Ghana Airways? According to her, the Hon.

Minister had mentioned this transfer and she went there. According to the Minister, he had nothing to do with this. And even when the Press raised the matter, he did not find it necessary to enquire into the veracity or otherwise of that contention.

The Panel found Alexandra Anane to be in the main a credible witness. Though at times prone to loquaciousness, her account was the more credible and was often corroborated.

However, the Commission cannot help but comment on the seeming desperation of the Hon. Minister to distance himself from persons who apparently facilitated help to Ms O'Brien. Below is one such example involving the Hon. Minister's acknowledgment of one Kofi Agyenim Boateng:

DR. BONDZI-SIMPSON:

Very well. Do you know anybody by the name Kofi Agyenim Boateng?

DR. ANANE:

Kofi Agyenim Boateng. I don't think I can recollect who the person is.

DR. BONDZI-SIMPSON:

Based somewhere in the U.S.

DR. ANANE:

I don't know whether I have met him once or so, but I don't think I do know him very well.

DR. BONDZI-SIMPSON:

And you met him once, where?

DR. ANANE:

I have travelled, but don't know him very well. That is what I said. I think I have travelled to Washington and then I was trying to do a few things. So, we traveled in-land and I have a lot of Ghanaians because we were trying to sort out some few things for the health sector. That was way back 2001. And maybe that was where I met him.

DR. BONDZI-SIMPSON:

And did you learn that he was a resident in the Washington D.C. area?

DR. ANANE:

Indeed, I have a lot of Ghanaian friends there and he should be either a friend or one of my friends also. Because I have a lot of friends spread all over.

DR. BONDZI-SIMPSON:

And do you know if he sometimes goes by Kofi Boateng as opposed to Kofi Agyenim Boateng?

DR. ANANE:

Because he had been relating that much, I am unable to really know which of the names that he carries or what.

DR. BONDZI-SIMPSON:

Now, this gentleman, if it were suggested to you that he on one occasion, transferred some monies in the order of US\$2,000 to Alexandra on your behalf, what would your comment be?

DR. ANANE:

My Lord, when I started reading these transcriptions, when I really got to know that so much have been happening even without my knowledge. I think – is it US\$6,000 or so – yes, that's when I got to know. Because as I said, there are so many people around; the only thing is I hardly ever called for support. And if I do, I know a lot of people will just go out and do whatever I wish they do for me. However, it is really difficult for me to be seeking for support or asking people to support.

DR. BONDZI-SIMPSON:

Now, let me take you back to the question. Did Kofi Agyenim Boateng provide support to Alexandra in two tranches?

DR. ANANE:

I read this from the transcript.

DR. BONDZI-SIMPSON:

And do you have reasons to believe his admission of that or Alexandra's statement of that?

DR. ANANE:

No. In the transcript, I think Alexandra's transcript – because some documents Alexandra sent ...

DR. BONDZI-SIMPSON:

What I am asking is that you don't have any reason to doubt that Kofi Agyenim Boateng was involved in arranging for the transfer?

DR. ANANE:

From the transcripts made and I understand was made on oath, I expect that Alexandra would have told the Commission what is expected of her. So, from the transcript, I learnt about this. I thought I

have the gentleman's telephone number to even go and say thank you. But I want to believe that he may have done that in consonance with so many other people, but I don't even know right now. However, I will want to find out later.

DR. BONDZI-SIMPSON:

And would you be able to assist this Commission in understanding why this gentleman would feel obliged or inclined to provide this assistance on your behalf to Alexandra O'Brien?

DR. ANANE:

He doesn't do business here in the States. And I don't think he owes any obligation to me. So, I don't think it's an obligation per se. Possibly with some of my friends or I know that my wife's relatives also transfer money through people in the States, possibly through some of these. That's how come it could have been transferred to Alexandra. But so far as the gentleman is concerned, he doesn't owe me any obligation to do anything for me.

DR. BONDZI-SIMPSON:

And therefore if it is suggested to you that he didn't do that, i.e. transfer the fund out of any obligation to you, but he was only transferring what he had received on your behalf to Alexandra, what would your comment be?

DR. ANANE:

I would also not know and that's why I would want to believe possibly that is my wife's brothers were also transferring money to Alexandra and they do know him or if any of my friends may have been trying to find a way of supporting her, it is possible this is what they might have done because I would not think that he owes me any obligation to want to do that.

The Commission is not convinced that Dr. Anane was not aware of the remittances that were sent to Ms O'Brien. It sounds strange, as Dr. Anane would have the Commission believe that persons who did not know Ms O'Brien would suddenly get to know that she is in distress and send help to her at an address, telephone number or bank account they could not have known on their own, unless they were specifically directed to. The Hon. Minister was evasive, and often economical with the truth.

9.1. 1. Perjury/ Making of false declarations

The Panel deems it appropriate to make some observations on the Hon Minister's credibility and truthfulness.

The crucial purpose of codes of conduct and penal provisions relating to public office is not merely to preserve the integrity of government, but to preserve the appearance of integrity as well. Given the heavy trust and responsibility taken on by the holding of a public office or employ, it is appropriate that government officials are correspondingly held to codes of conduct which, for an ordinary person, may appear quite severe. Damage to the government's integrity can occur where public officials flout codes of conduct and penal provisions put in place to protect public integrity.

One such provision is sections 210 & 211 of the Criminal Code relating to Perjury. Curiously the Law takes perjury more seriously than corruption, and makes the former second degree felony. One other provision is section 248 on making false declaration for office, although the latter is only a misdemeanour.

Section 210- Perjury.

(1) Whoever commits perjury shall be guilty of second degree felony.

Section 211-Definition of Perjury.

A person is guilty of perjury, if in any written or verbal statement made or verified by him upon oath before any Court, or public officer, or before the President or any Committee thereof he states anything which he knows to be false in a material particular, or which he has not reason to believe to be true.

Section 248- Making False Declaration, for Office

Whoever, in order that he may obtain or be qualified to act in any public office or to vote at any public election makes, signs, publishes, or uses any declaration, statement or oath, required by law in such case, or any certificate or testimonial as to his conduct or services, or as to any other matter which is material for the obtaining by him of such office, or for his qualification to act in such office or to vote at such election, shall, if he does so, knowing that the declaration, statement, oath, certificate, or testimonial is false in any material particular, be guilty of a misdemeanour.

The offence created is a “conduct” offence, meaning that it does not require a particular result to flow from the commission of the prohibited act.

As stated earlier, the Hon. Minister, when undergoing the processes for prior approval of Parliament under Article 78(1) of the 1992 Constitution, made a verbal statement upon oath before a committee of the National Assembly to the effect that he did not remit Ms O’Brien in excess of \$10,000, which statement he knew to be false in a material particular, or which he had no reason to believe to be true. In fact, the Hon Minister knew at the time he made that statement under oath that he had personally remitted Ms O’Brien to the tune of about US\$30,000.¹²

The natural question that arises is, why did the Hon. Minister mislead the Parliamentary sub-committee knowing very well that his answers reflected of his personal credibility and integrity as well as that of the office for which he was vetted?

Whatever his motivation or reason is immaterial, because, as we have already stated above, the offence created is a “conduct” offence, meaning that it does not require a particular result to flow from the commission of the prohibited act.

¹² See pages 53-55 of Hearing No. 20 of 28/04/06

We can confidently surmise, however, that the law aims at upholding public integrity and the integrity of public office. Certainly if a minister's word before Parliament is worthless, you could imagine how the ordinary person will take such a minister's word in the marketplace, not to mention its repercussion on the integrity of government.

The Commission accordingly finds that the Hon. Minister misconducted himself by committing perjury when he appeared before Parliament.

9.2. Recommendations

- 1) The Commission recommends that the President of the Republic severely sanction the Respondent by relieving him of his post as Minister of State for abusing his power and bringing his office and government into disrepute.
- 2) The Commission recommends that the Hon. Minister apologise to Parliament for misleading Parliament.
- 3) The Commission recommends that the Hon. Minister apologises to the Government and to the people of Ghana for bringing the office into disrepute.
- 4) The Commission recommends those ministers, deputy ministers, ministers of state with or without portfolio within 2 months of taking office; take a compulsory course on conflict of interest which the Commission in conjunction with other Bodies would provide together with their chief directors and other key staff such as special assistants.
- 5) The Commission strongly recommends that the practice whereby ministers cultivate 'special assistants' and move with those special

assistants when they change portfolios cease forth with, unless those special assistants are paid directly from the Consolidated Fund.

9.3. Further Comments

The Commission is concerned with the state of law on corruption in our law books. In its present state, the law cannot provide the necessary deterrence for achieving Zero Tolerance for Corruption. The Commission recommends that the necessary processes be initiated to upgrade our laws to meet the AU minimum standards as contained in the AU Convention on Preventing and Combating Corruption and Related Offences.

The Commission commends the witness, Mrs. M. Afriyie Anane for her cooperation and comportment during this investigation as the circumstances for her, were understandably very trying and difficult ones.

The Commission commends all witnesses, not all of whom were called before the panel, who assisted the Commission with information in these investigations and in so doing fulfilled their constitutional obligation to uphold the Constitution of Ghana.

The Commission also wishes to commend its investigators who conducted the preliminary investigations into this matter.

9.4. Conclusion

This is the decision of the Commission following the formal hearing into allegations of corruption, conflict of interest and abuse of office involving Honourable Dr. Richard Anane (MP) and Minister for Road Transport).

The Commission will formally present His Excellency the President with its Decision to enable the President and the Attorney-General to take the appropriate action.

The Honourable Speaker of Parliament will also be presented with a copy of this Decision.

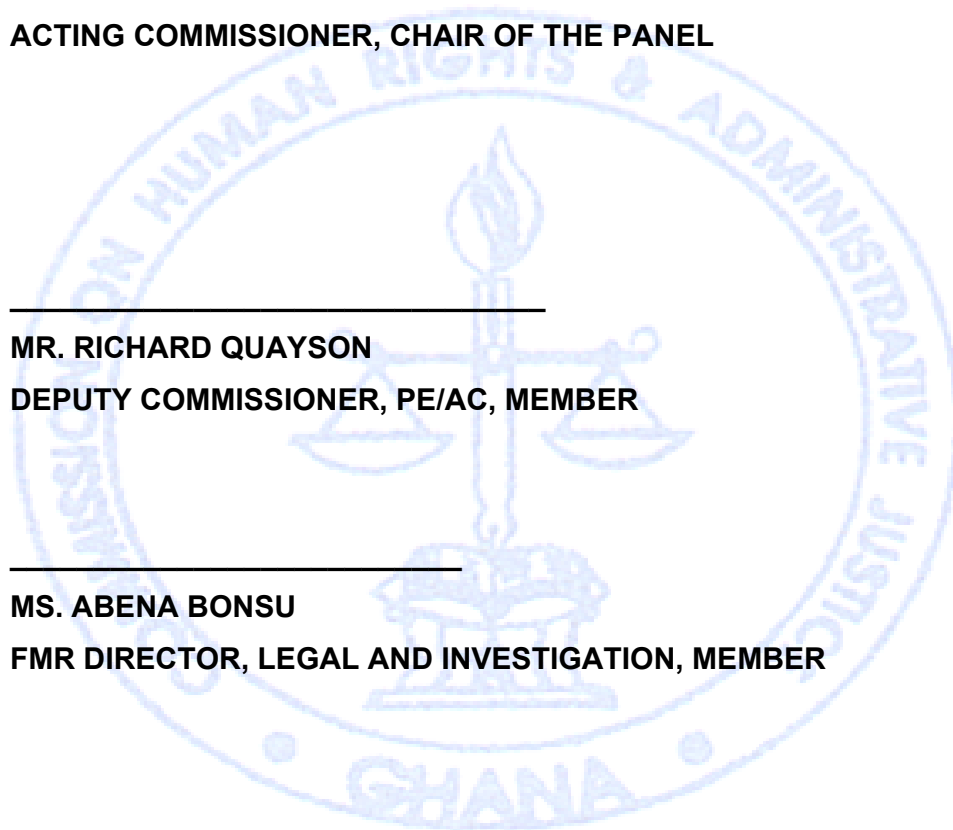
DATED AT THE COMMISSION, ACCRA, THE 15TH DAY OF SEPTEMBER, 2006.

Signed:

**MS. ANNA BOSSMAN
ACTING COMMISSIONER, CHAIR OF THE PANEL**

**MR. RICHARD QUAYSON
DEPUTY COMMISSIONER, PE/AC, MEMBER**

**MS. ABENA BONSU
FMR DIRECTOR, LEGAL AND INVESTIGATION, MEMBER**



**IN THE MATTER OF INVESTIGATIONS INTO ALLEGATIONS OF
CORRUPTION, CONFLICT OF INTEREST AND ABUSE OF POWER,
AGAINST HON. DR. RICHARD ANANE (MP) AND MINISTER FOR ROAD
TRANSPORT**

HEARINGS

Number	Date of Hearing
1.	17/1/2006
2.	7/2/2006
3.	8/2/2006
4.	9/2/2006
5.	13/2/2006
6.	15/2/2006
7.	22/2/2006
8.	23/2/2006
9.	3/3/2006
10.	15/3/2006
11.	16/3/2006
12.	17/3/2006
13.	29/3/2006
14.	30/3/2006
15.	5/4/2006
16.	6/4/2006
17.	19/4/2006
18.	26/4/2006
19.	27/4/2006
20.	28/4/2006
21.	7/6/2006
22.	8/6/2006
23.	7/7/2006