

PREAMBLE

The Kenya Anti- Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act to prepare quarterly reports.

Section 35 provides that:

- (1) Following an investigation the Commission shall report to the Attorney General on the results of the investigation.
- (2) The Commission's report shall include any recommendation the Commission may have that a person be prosecuted for corruption or economic crime.

Section 36 provides that:

- (1) The Commission shall prepare quarterly reports setting out the number of reports made to the Attorney General under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
- (2) A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was not accepted.
- (3) The Commission shall give a copy of each quarterly report to the Attorney General.
- (4) The Attorney General shall lay a copy of each quarterly report before the National Assembly.
- (5) The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of the Anti-Corruption and Economic Crimes Act. The report covers the third quarter of the year 2006 and is for the period commencing 1st July 2006 to 30th September 2006.

INVESTIGATIONS COVERING THE PERIOD 1ST JULY 2006 TO 30TH SEPTEMBER 2006

1. KACC CR 141/794/2005; NAIROBI ACC 36/2005

Inquiry into an allegation that two employees of Kenya Power & Lighting Co. Ltd had solicited for Kshs. 18,000/- each from the complainant as an inducement to reconnect power supply to house No. 45 situated in Dandora. Investigations established the demand and receipt of Kshs. 2,000/-. The two suspects were arrested and charged with soliciting and receiving a bribe.

The file was forwarded to the Attorney General on 27th June 2006 with recommendation to continue with prosecution. The recommendation was accepted on 18th August 2006.

2. KACC CR 141/040/05; NAIROBI ACC 56/2005

Inquiry into an allegation that a Clerical Officer in the Department of Civil Registration in Sheria House demanded a sum of Kshs. 1,000/- as an inducement to hasten the process of issuance of a birth Certificate to the complainant. Investigations established the demand. The suspect was arrested and charged with soliciting for a bribe.

The file was forwarded to the Attorney General on 28th June 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 18th August 2006.

3. KACC INQ.22/19.04.2004

Inquiry into allegations that Donholm Rahisi Stores entered into an agreement with East Africa Portland Cement Co. Ltd (EAPCC) for the sale of cement at a discount of 18.9% inclusive of transport rebate without the authority of the Board of Directors. Investigations did not disclose any wrongdoings that could be the basis for criminal action. Civil issues relating to the agreement are subject of a case before the High Court.

The file was forwarded to the Attorney General on 29th June 2006 with recommendation that the same be closed. The recommendation was accepted on 4th September 2006.

4. KACC/RR/INQ/5/2006

Inquiry into allegations that two Police Officers attached to Sosiot Police Station, Kericho corruptly solicited for a bribe in order to forbear charging the complainants with the offence of possession of chang'aa. The two were charged with soliciting for a bribe. Further evaluation of the matter however revealed that the evidence may not be sufficient to sustain the charge.

The file was forwarded to the Attorney General on 29th June 2006 with recommendation to take administrative action against the two Police officers together with the OCS of Sosiot Police Station. The evidence was not sufficient to sustain charges of corruption in Court. The recommendation was accepted on 18th August 2006.

5. KACC CR 142/319/05; NAIROBI ACC 61/05

Inquiry into allegations that a senior subordinate staff at the Social Development office in Kariokor, under the auspices of the area District officer demanded Kshs. 1,000/- from the complainant as an inducement to register a self-help group. Investigations established the demand. The suspect was arrested and charged with the offence.

The file was forwarded to the Attorney General on 3rd July 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 18th August 2006.

6. KACC CR 111/284/06; NAIROBI ACC 28/2006

Inquiry into an allegation that a Police Constable demanded a sum of Kshs. 500/- from the complainant as an inducement to provide protection for the 'matatus' plying route 131. Investigations established the demand and receipt of the money. The suspect was arrested and charged with two counts of corruption and the offence of obstructing an investigator.

The file was forwarded to the Attorney General on 3rd July 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 18th August 2006.

7. KACC CR 032/41/06; KISUMU ACC 859/06

Inquiry into an allegation that a Police Officer attached to Ogembo Police Station in Gucha District demanded a sum of Kshs. 3,000/- as an inducement to issue a P3 form and arrest persons who had assaulted the complainant. Investigations were carried out and the suspect was arrested and charged with soliciting for a bribe. Further evaluation of the matter however revealed that the evidence may not be sufficient to sustain the charge.

The file was forwarded to the Attorney General on 3rd July 2006 with recommendation that the case be terminated by entering a nolle prosequi under Section 82(1) of CPC as the evidence is not sufficient. The recommendation to terminate case was accepted on 18th August 2006.

8. KACC CR 111/176/2006; NAIROBI ACC 15/2006

Inquiry into an allegation that two employees of Kenya Power & Lighting Co. Ltd demanded Kshs. 25,000/- from the complainant as an inducement not to disconnect power from his house in Kimathi Estate. Investigations established that the two solicited for the said sum and received Kshs. 10,000/- from the complainant. They were arrested and charged with two counts of corruption.

The file was forwarded to the Attorney General on 4th July 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 18th August 2006.

9. KACC CR 111/1254/05; ACC 66/2005

Inquiry into an allegation that officials of General Copyright Monitors & Consultants demanded for Kshs. 20,000/- in order to return a personal computer and DVD's that had been confiscated from the complainant's shop. The investigation

established the demand. Two of the officers were arrested and charged with soliciting for a bribe.

The file was forwarded to the Attorney General on 6th July 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 21st September 2006.

10. KACC CR 122/124/2006; NAIROBI ACC 13/06

Inquiry into an allegation that the Chief of Ngara Location was demanding Kshs. 1,000/- in order to authorize sale of a one roomed structure at Brilliant slums off Muranga Road. Investigations established the demand and receipt of the bribe. The suspect was arrested and charged with three counts of corruption.

The file was forwarded to the Attorney General on 10th July 2006 with recommendation to continue with the prosecution. The recommendation accepted on 18th August 2006.

11. KACC CR 141/249/06; NAIROBI ACC 18/2006

Inquiry into an allegation that a Police Constable based at Kariobangi Police Post demanded Kshs. 20,000/- in order to forbear charging the complainant's nephew with the offence of robbery. Investigations established the demand was made. The suspect was arrested and charged with soliciting for a bribe.

The file was forwarded to the Attorney General on 10th July 2006 with recommendation to continue with the prosecution. The recommendation accepted on 26th September 2006.

12. KACC 142/360/05

Inquiry into an allegation that an employee of Telkom Kenya Telephone Exchange, Westlands Offices demanded for Kshs. 2,000/- in order to provide the complainant with a telephone line in his house. Investigations established the demand and receipt of the money. The suspect was arrested and charged with two counts of corruption.

The file was forwarded to the Attorney General on 10th July 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 29th September 2006.

13. KACC/FI/INQ/1/1B/2005

Inquiry into allegations that an Internal Auditor from the Ministry of Finance seconded to National Environmental Management Authority (NEMA) was drawing a double salary from the two institutions. The allegation was contained in a report by Efficiency Monitoring Unit (EMU). Investigations revealed that an overpayment of Kshs.155,915/- was erroneously made to her and once it was detected, arrangements were made to repay the same. No fraud was detected.

The file was forwarded to the Attorney General on 11th July 2006 with recommendation to close the same. The recommendation was accepted on 29th September 2006.

14. KACC CR/035/45/2005, KISUMU ACC 906/05

Inquiry into an allegation that two police officers attached to Kamagambo Police Station demanded a sum of Kshs. 30,000/- from the complainant as an inducement to release Motor vehicle Reg. KAT 033F and its driver. Investigations established that the two solicited for Kshs. 30,000/- from the complainant on two different occasions. They were arrested and charged with two counts of soliciting for a bribe.

The file was forwarded to the Attorney General on 13th July 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 25th September 2006.

15. KACC CR 141/106/06

Inquiry into an allegation that an employee of the City Council of Nairobi Inspectorate Department in the company of another person not working for the City Council corruptly solicited for a sum of Kshs.5,000/- as an inducement to forbear from demolishing a tent erected in the business premises of the complainant. Investigations established that a demand was made and that the money was received by the

companion/agent of the City Council employee. The two were arrested and charged with corruption.

The file was forwarded to the Attorney General on 17th July 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 15th August 2006.

16. KACC CR 141/303/2006; NAIROBI ACC 29/06

Inquiry into an allegation that a Police Constable based in Pangani Police Station solicited for Kshs. 2,000/- from the complainant in order to facilitate the withdrawal of Makadara Criminal Case No. 2544/05 in which the complainant is the accused person. Investigations established that the suspect demanded and received the said sum from the complainant.

The file was forwarded to the Attorney General on 17th July 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 8th September 2006.

17. KACC 141/241/06; ACC 17/06

Inquiry into allegations that a Senior Superintendent of Police based at Police Headquarters had corruptly demanded a sum of Kshs. 70,000/- as inducement to recruit the complainant's younger brother to the Police Force. During the investigation, the complainant was unable to identify the Police Officer who had allegedly demanded the money. He was charged with giving false information. On further review of the matter, the Commission did not find evidence of malice on the part of the complainant when he made the report.

The file was forwarded to the Attorney General on 17th July 2006 with recommendation that the case against the complainant be terminated under Section 87 of the Criminal Procedure Code. The recommendation to terminate case accepted on 26th September 2006.

18. KACC CR 141/432/2006; NAIROBI ACC 34/2006

Inquiry into an allegation that a Police Officer attached to Kilimani Police Station demanded a sum of Kshs. 15,000/- from

the complainant as an inducement not to charge her husband who was in police custody, with the offence of escaping from lawful custody. Investigations established that the said officer indeed demanded the money, and the OCS Kilimani also demanded the money on a separate date. They were both charged with soliciting for a bribe. The Police officer was charged with another count of receiving the money.

The file was forwarded to the Attorney General on 17th July 2006 with recommendation to proceed with the prosecution. The recommendation was accepted on 15th September 2006.

19. KACC CR 142/20/2006; NAIROBI ACC 8/2006

Inquiry into an allegation that the proprietor of the Independent Newspaper and another journalist were demanding a sum of Kshs. 20,000/- from the complainant as an inducement to forbear from publishing an adverse report about his sex life. Investigations established that the two had indeed demanded Kshs. 50,000/- and received Kshs. 20,000/- from the complainant. They were arrested and charged with two counts of soliciting and receiving a bribe.

The file was forwarded to the Attorney General on 17th July 2006 with recommendation to proceed with the prosecution of the case. The recommendation was accepted on 18th September 2006.

20. KACC 141/52/06

Inquiry into allegations that an employee of National Registration Bureau had demanded a sum of Kshs. 1,000/- as an inducement to process the complainant's national identity card. Investigations established that the demand was made and the sum was received. The suspect was charged with two counts of soliciting and receiving a bribe.

The file was forwarded to the Attorney General on 20th July 2006 with recommendation to proceed with the prosecution. The recommendation was accepted on 14th September 2006.

21. KACC CR 141/1020/2005; NAIROBI ACC 55/05

Inquiry into allegations that two traffic Police Officers based in Buruburu Police Station, and one of whom was the Divisional Traffic Officer, corruptly solicited for a bribe from the complainant in order to release motor vehicle Registration No. KAU 587G Isuzu Matatu, which had been detained because the owner had failed to give Kshs. 3,000/- demanded as weekly "protection fee" and Kshs. 500 as airtime. Investigations established the demand and the receipt of the money. The two officers were charged with four counts of corruption and two counts of obstructing investigations.

The file was forwarded to the Attorney General on 24th July 2006 with recommendation to proceed with the prosecution. The recommendation was accepted on 8th September 2006.

22. KACC CR 141/473/2006; NAIROBI ACC 26/2006

Inquiry into an allegation that a surveyor based at Machakos District Lands Office was demanding a sum of Kshs. 10,000/- in order to survey a piece of land the complainant had purchased in Kagonde, Masinga Division, Machakos District. Investigations established that the suspect received a sum of Kshs. 5,000/- from the complainant. He was arrested and charged with one offence of receiving a bribe.

The file was forwarded to the Attorney General on 25th July 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 14th September 2006.

23. KACC CR 032/14/2006; KISUMU ACC 311/2006

Inquiry into an allegation that an employee of Kenya Revenue Authority demanded a sum of Kshs. 30,000/- as an inducement to forbear from fining the complainant for offsetting the cost of Electronic Tax Register (ETR) machine from VAT returns without prior approval and authorization by KRA. Investigations established that the suspect indeed demanded the money, and received Kshs. 15,000/- from the complainant. He was

arrested and charged with two counts of soliciting and receiving a bribe.

The file was forwarded to the Attorney General on 25th July 2006 with recommendation to proceed with the prosecution. The recommendation was accepted on 26th September 2006.

24. KACC CR 141/363/2006; NAIROBI/MAKADARA RMCR 2462/06

Inquiry into an allegation that a Police Constable based in Shauri Moyo Police Station in Nairobi demanded Kshs. 1,000/- from the complainant as an inducement to arrest a suspect who had assaulted the complainant. Investigations established the demand. The suspect was arrested and charged with one count of soliciting for a bribe.

The file was forwarded to the Attorney General on 31st July 2006 with recommendation to proceed with the prosecution. The recommendation was accepted on 25th September 2006.

25. KACC/FI/INQ.109A/05

Inquiry into allegations that the Managing Director of Kenya Tourist Development Corporation (KTDC) arbitrarily increased his monthly salary from Kshs. 243,170/- to Kshs. 540,000/- and backdated the increment to November 2003. The investigation did not establish any criminal liability on the part of the MD. It was however recommended that a sum of Kshs. 2,196,362.45 irregularly paid to the MD be recovered.

The file was forwarded to the Attorney General on 1st August 2006 with recommendation for administrative action against the MD of KTDC. The recommendation was accepted on 21st September 2006.

26. KACC/FI/INQ/109B/05

Inquiry into an allegation that the Kenya Tourist Development Corporation (KTDC) management made a loan advance of Kshs. 100 million to Jacaranda Hotel (Mombasa) from Divestiture proceeds contrary to Treasury regulations and

guidelines, the KTDC Act and Lending policy. Investigations established that the MD did not adhere to the lending policy of KTDC with regard to the loan appraisal, valuation of securities, lending ceilings and interest rates chargeable. He also used divestiture proceeds in contravention of the guidelines issued by Treasury.

The file was forwarded to the Attorney General on 1st August 2006 with recommendations that the MD of KTDC be charged with five counts of Economic crime contrary to section 45 of the Anti-Corruption and Economic Crimes Act.

Action on the report is awaited.

27. KACC CR 141/1057/2005; NAIROBI ACC 59/05

Inquiry into allegations of corruption against a Secretary and Committee member of Westlands Constituency Development Committee. It is alleged that the two corruptly solicited for a bribe of Kshs. 20,000/- from the complainant in order to award him a contract to build a bridge within Westlands Constituency. Investigations established that the demand had been made and that the two received Kshs. 10,000/- from the complainant.

The file was forwarded to the Attorney General on 7th August 2006 with recommendation to proceed with the prosecution. The recommendation was accepted on 25th September 2006.

28. KACC/FI/INQ/88/2005

Inquiry into an allegation of irregular procurement of electronic tax registers and approval of electronic tax registers suppliers by Kenya Revenue Authority. Investigations established that identification of potential suppliers was an open process which began with the placement of an advertisement by KRA in the local dailies on 5th October 2004. The criteria of evaluation of the machines were in the public domain, as the same was set out in the Value Added (Electronic Tax Registers) Regulations, 2004. The implementation process was well thought out and extensively researched. There was thus no evidence of irregularities as alleged.

The file was forwarded to the Attorney General on 8th August 2006 with recommendation to close the file.

Action on the report is awaited.

29. KACC CR 411/228/2005; EMBU ACC 21/05

Inquiry into allegations that a National Social Security Fund (NSSF) Enforcement officer based in Thika demanded Kshs. 50,000/- from the complainant as an inducement not to charge him with non remittance of NSSF contributions in respect of employees of the complainant's flower farm. Investigations established that the suspect solicited for the said sum and received Kshs. 18,000/- from the complainant. He was arrested and charged with two counts of corruption.

The file was forwarded to the Attorney General on 15th August 2006 with recommendation to proceed with the prosecution. The recommendation was accepted on 26th September 2006.

30. KACC INQ. 94(B)/05

Inquiry into allegations of improper accounting of Kshs. 80 million remitted to Muhoroni Sugar Company Ltd (in Receivership) by the Kenya Sugar Authority. Investigations established that the allegation was based on lack of accurate records at the Kenya Sugar Board.

The file was forwarded to the Attorney General on 16th August 2006 with recommendation to close the file. The recommendation to close was accepted on 29th September 2006.

31. KACC INQ. 11(A)/5.3.04

Inquiry into allegations of impropriety against immediate former Director General of National Environmental Management Authority (NEMA). The specific allegations were that the former Director General authorized payment of Kshs. 297,500 for a computer server that had not been supplied and purchase of T-shirts at a cost of Kshs. 2.9 million without the approval of Board of Directors in return for a bribe of Kshs. 500,000/- from

the supplier. Investigations established that the supplier of the computer server was paid after a team constituted to look into the issue recommended that he be paid. There had been a dispute that the server supplied did not meet the specifications. The investigation on the Kshs. 2.9 million for the T-shirts established that the same had been budgeted for and the Board had approved the expenditure. There was also no evidence of bribery.

The file was forwarded to the Attorney General on 16th August 2006 with recommendation that the file be closed. The recommendation was accepted on 21st September 2006.

32. KACC/FI/INQ/11(C)/2005

Inquiry into allegations of irregular procurement of legal services by National Environmental Management Authority (NEMA). The inquiry was as a result of a report by Efficiency Monitoring Unit (EMU) that was prepared after a general audit on NEMA's activities. The report by EMU pointed at various wrong doings by the former Director General of NEMA. The Commission has undertaken various investigations as a result of findings in the said report, one of which was with regard to procurement of legal services from the firm of S. Musalia Mwenesi & Co. Advocates at an estimated fee of Kshs. 15 million. The brief for which the services were procured was with regard to an application filed by the developers and managers of Village Market for judicial review orders against NEMA.

Investigations established that though the services were never tendered for or discussed by the Tender Committee, the suit for which the services were required was urgent and it was impractical to start procurement process from the beginning.

The file was forwarded to the Attorney General on 17th August 2006 with recommendation for administrative action. The Board members were reminded of their responsibility and the need to have a list of pre-qualified candidates for provision of legal services. The current Director General was also advised to have the Advocate/client bill taxed at the end of the

proceedings. The recommendation was accepted on 3rd October 2006.

33. KACC/FI/INQ/11/06

Inquiry into allegations of irregular award of tender on installation and commissioning of security machines/equipment by the Government press. The allegation was made by one of the bidders who did not win the tender. Investigations established that the complaints against the winning bidder were not merited and the tendering process was properly carried out.

The file was forwarded to the Attorney General on 17th August 2006 with recommendation that the file be closed.

Action on the report is awaited.

34. KACC CR 141/34/06; NAIROBI ACC 9/06

Inquiry into allegations that a Licensing Officer working for the City Council of Nairobi demanded Kshs. 25,000 from the complainant in order to approve his Business License application. Investigations established the demand and receipt of Kshs. 6,000/-. The suspect was arrested and charged with two counts of corruption.

The file was forwarded to the Attorney on 17th August 2006 with recommendation to proceed with the prosecution. The recommendation was accepted on 21st September 2006.

35. KACC/AT/INQ/6/28.2.06

Inquiry into allegations of corruption involving an Engineer in the Ministry of Local Government on secondment to the Kenya Urban and Infrastructure Project (KUTIP). He was also accused of having unexplained wealth. The investigation did not establish any unexplained wealth as alleged.

The file was forwarded to the Attorney General on 28th August 2006 with recommendation to close file. The recommendation was accepted on 29th September 2006.

36. KACC CR 111/164/06; NAIROBI ACC 14/06

Inquiry into an allegation that a Police Officer based in Central Police Station had demanded a sum of Kshs. 8,500/- from the complainant in order to forbear charging him with an alleged offence of malicious damage to property. Investigations established a demand and receipt of the money. The suspect was arrested and charged with two counts of corruption.

The file was forwarded to the Attorney General on 28th August 2006 with recommendation to proceed with the prosecution. The recommendation was accepted on 9th October 2006.

37. KACC CR 111/279/06; NAIROBI ACC 26/2006

Inquiry into allegations that a Senior Clerical Officer with the Immigration Department had demanded a sum of Kshs. 9,000/- in order to facilitate the processing of the complainant's passport. Investigations established the demand. The suspect was arrested and charged with corruption.

The file was forwarded to the Attorney General on 29th August 2006 with recommendation to continue with the prosecution of the case. The recommendation was accepted on 21st September 2006.

38. KACC CR 411/10/2006; KIAMBU ACC 4/2006

Inquiry into an allegation that Police Officers attached to Kikuyu Police Station were receiving bribes from motorists, particularly public service vehicles, in order to forbear preferring charges for varying traffic offences. KACC officers carried out an undercover operation and they observed peculiar behaviour of traffic Police Officers, which made them believe that they were receiving bribes concealed in driving licenses of public service vehicles. They captured the events on video and recovered creased notes of fifty shillings totalling to Kshs. 1, 650/-. They charged the suspects with corruption. Further review of the evidence however revealed that the same may not be sufficient to sustain the charge.

The file was forwarded to the Attorney General on 29th August 2006 with recommendation that a nolle prosequi be entered under Section 82(1) of Criminal Procedure Code. The recommendation was accepted on 25th September 2006.

39. KACC/INQ. 73/02

Inquiry into allegations of fraudulent false accounting for cheque No. 1,092,155/- paid to the collector of Stamp Duty on account of Ganijee Glass Mart Ltd and Ganijee Brothers Ltd. Investigations established that the money in question was received at the Ministry of Lands and was deposited in Central Bank of Kenya. No wrong doing was established on the part of officers at the Lands office and the advocate for the two Companies.

The file was forwarded to the Attorney General on 30th August 2006 with recommendation to close file. The recommendation was accepted on 25th September 2006.

40. KACC CR 741/163/2006; KERICHO ACC 4/2006

Inquiry into an allegation that an Administration Police Officer based in Sogoo Chief's Camp, Narok District had demanded Kshs. 7,000/- in order to forbear charging the complainant with creating disturbance. Investigations established the demand was made and the suspect was arrested and charged with one count of corruption.

The file was forwarded to the Attorney General on 8th September 2006 with recommendation to continue with the prosecution. The recommendation was accepted on 29th September 2006.

41. KACC CR 141/1089/05; NAIROBI ACC 62/2005

Inquiry into allegations that an investigative editor working for Patriot Newspapers demanded a sum of Kshs. 80,000/- from the complainant in order to "kill" a damaging story on his sex life. Investigations established the demand and receipt of money from the complainant. The suspect was charged with two counts of corruption.

The file was forwarded to the Attorney General on 12th September 2006 with recommendation to proceed with the prosecution. The recommendation was accepted on 29th September 2006.

42. KACC/FI/INQ. 63/2005

Inquiry into allegations of abuse of office by three senior officers of Kenya Revenue Authority. They are alleged to have colluded with Aberdare Freight Ltd to evade tax on sugar imported from Brazil. It was also alleged that officers made false entries that the sugar was imported from Egypt so as to enable importers enjoy reduced import tariffs available to COMESA members. Investigations established that the sugar was indeed imported from Egypt. Further, on 30th April 2004 when the import was declared, the sugar was eligible for zero rating, but quota allocated for the year 2004 was exhausted, hence the rate had reverted to 100%. Confusion was further added to the matter by the filing of HC Misc. Application No. 646 of 2004 to compel KRA to release the sugar which had been detained as a result of complaints raised by Kenya Sugar Board and other stakeholders against importers. Due to the court order, there was an attempted release of the sugar, but the release order was reversed pending payment of duty.

The file was forwarded to the Attorney General on 18th September 2006 with recommendation to close file. The recommendation was accepted on 3rd October 2006.

43. KACC CR 141/779/2006; KIBERA RMCR 5040/2006

Inquiry into allegations that the former Head of Public Service had failed to comply with a requisition to compel attendance contrary to the provisions of the Anti-Corruption and Economic Crimes Act. The suspect however complied with the notice after charges were preferred in Court.

The file was forwarded to the Attorney General on 20th September 2006 with recommendations that the case be

terminated under Section 82 of the CPC. The recommendation was accepted on 29th September 2006.

44. KACC/FI/INQ. 81/2005

Inquiry into allegations of abuse of office by the former Registrar of Cooperatives and a Kiambu District Cooperative Officer for unlawfully registering Nyakiri Farmers Co-operative Society, a splinter Society from Gititu Coffee Growers Co-operative Society. Investigations established that the proper process was followed before the Society was registered, and even an attempt to challenge the registration at the High Court failed. The investigation did not establish any wrong doing on the part of the officers.

The file was forwarded to the Attorney General on 20th September 2006 with recommendation to close file. The recommendation was accepted on 3rd October 2006.

45. KACC/FI/INQ. 109C/05

Inquiry into allegations that the former Managing Director of Kenya Tourist Development Corporation (KTDC) irregularly acquired the Corporation's Lavington House at Kshs. 10 million whereas the highest bidder had quoted Kshs. 16 million. Investigations established that the Permanent Secretary in Treasury rejected the request for approval to dispose of the property because it had not been identified as a non-strategic Government owned house for disposal. The house is thus still owned by the Corporation.

File forwarded to the A-G on 21st September 2006 with recommendation to close the same. The recommendation was accepted on 3rd October 2006.

46. KACC/FI/INQ. 100A/05

Inquiry into allegations of financial irregularities at the Ministry of Energy. It was alleged that a sum of kshs. 70 million received by the Ministry of Energy from KPLC and Kshs. 399 million received by the Ministry of Energy through the REP account was banked for 3 months and Kshs. 400 million was withdrawn on instructions

of the PS, Ministry of Energy and these transactions were not disclosed in the Ministry's accounts. The investigations established that the transactions surrounding the said sums were legitimate and there was no evidence of wrong doing.

File was forwarded to the Attorney General on 22nd September 2006 with recommendation to close the same. The recommendation was accepted on 3rd October 2006.

47. KACC/FI/INQ.5/05/25.1.05

Inquiry into allegations that the former Assistant Minister for Manpower Development, presently Minister for Housing and Member of Parliament for Malava Constituency, made false mileage claims amounting to Kshs. 285,984/-. Investigations established that the said MP made mileage claims although he had used a GK motor vehicle in four instances when claims were made in the month of July and August 2004, and which were the focus of the investigation. The false claims totalled to Kshs. 285,984, and the claim forms purported that motor vehicle registration No. KAL 291B had been used, yet the MP does not own such a vehicle.

The file was forwarded to the Attorney General on 27th September 2006 with recommendation that the Minister be charged with four counts of economic crime for fraudulent acquisition of public property by making false mileage claims.

Action on the report is awaited.

48. KACC/FI/INQ/33/2005

Inquiry into allegations of irregular contract between Globetel Incorporated (UK) and the Government of Kenya for the supply and installation of a multi-channel security system for the Administration Police Department. The same was procured by Office of the President and the contract was signed on 29th May 2002. The project involved the supply and installation of a backbone communication infrastructure dedicated to the Administration Police, and independent of the Kenya Police.

Investigations established various irregularities in the procurement process. The project was not planned for nor was it budgeted for as required by law. No due diligence was done to assess the competence and capability of the contractors. Further, commitment fee and the first instalment were paid before anything was done to implement the project. The Attorney General's office gave a legal opinion on the project.

The file was forwarded to the Attorney General on 27th September 2006 with recommendation that the following persons be charged with criminal offences as follows;

- i. The former Permanent Secretary, OP with three counts of breaching procurement regulations and one count of economic crime.
- ii. The former Deputy Chief Finance Officer with two counts of breaching procurement regulations.
- iii. The former Minister for Finance with two counts of economic crime for approving a project without ensuring that provision for repayment of credit was made in the estimates of expenditure approved by Parliament and failing to adhere to provisions of Central Bank of Kenya Act.
- iv. The former PS, Treasury, with two counts of economic crime and three counts of abuse of office for improperly approving payment to Globetel of Euros 1,489,500 being 3% commitment fee, Euros 4,000,000 being first instalment and Euros 3,315,854 being second instalment.

Action on the report is awaited.

49. KACC/FI/INQ/19/05

Inquiry into allegations that the Office of the President irregularly entered into a Supplier's Financing Agreement with M/S Infotalent Systems Ltd of Switzerland for Computerization of the security, law and order systems for the Kenya Police (Popularly known as Project E-Cops). The contract was signed

on 19th November 2003. This was an ambitious project to computerise all operations of the Kenya Police Department countrywide with automated crime reporting, automated fingerprint identification, computerised filing and installation of closed circuit cameras in Nairobi City.

Investigations established various irregularities in the procurement process. The project was not planned for nor was it budgeted for as required by law. No due diligence was done to assess the competence and capability of the contractors.

The file was forwarded to the Attorney General on 27th September 2006 with recommendation that the following persons be charged with criminal offences as follows;

- i. The former PS, in the Office of the President in charge of Provincial Administration and Internal Security be charged with five counts of economic crime for failing to comply with law relating to procurement, incurring of expenditure and engaging in a project without prior planning.
- ii. The former Minister for Finance be charged with two counts of economic crime for approving a commitment to meet project obligations of a suppliers financing credit contract without ensuring that provision for the repayment of credit had been made in the estimates of expenditure approved by Parliament and failing to consult Central Bank of Kenya.
- iii. The former PS in the Ministry of Finance be charged with two counts of economic crime for approving and signing a payment advice advising CBK to pay commitment fee to Infotalent Systems Ltd without ensuring that the goods had been delivered in terms of delivery and implementation schedule and failing to consult Central Bank of Kenya.

Action on the report is awaited.

50. KACC/FI/INQ.29/05

Inquiry into an allegation that on 7th June 2002, the Government of Kenya irregularly entered into a contract on a single sourcing basis with M/S LBA Systems Ltd for the Supply and installation of an early warning food security system for the Kenya Meteorological Department (Popularly known as Project NEWSS) – procured by the Ministry of Transport and Communications at a cost of USD 35,000,000. The contract was signed on 6th June 2002. The project entailed supply and installation of meteorological equipments to provide accurate forecasts of weather and weather related hazards like flash floods, lightning and storms. The system was projected to modernize weather related data collection, transmission and publishing for both agricultural and aviation purposes.

Investigations established that the Director of Kenya Meteorological Department constituted a committee sometime in November 2001 to look at various project proposals that had been received by KMD on the proposed modernization. A report containing nine proposals was prepared, and one of the proposals was on the NEWSS project. It appears the KMD Director handed this report to an agent of LBA Systems Ltd. who prepared a similar proposal and presented it to the Director for consideration. A brief was prepared and forwarded to the PS together with draft contract documents. The PS then pursued the matter and sought approval from the Minister for Transport and Communication and a legal opinion from the Attorney General. The Minister for Transport in turn sought approval to proceed with the contract from Minister for Finance. The project was approved despite the fact that no budgetary allocation had been made. The procurement procedures were also not followed.

The file was forwarded to the Attorney General on 29th September 2006 with recommendation that the following persons be charged;

- i. The Director of Kenya Meteorological Department be charged with one count of abuse of office for disclosing the content of a KMD Report to LBA Systems Ltd, three counts for failing to adhere to the laid down procurement regulations and one count of neglect of statutory duty for engaging in a project which had no budgetary provision.
- ii. The former Minister for Transport and Communication be charged with one count of neglect of statutory duty for approving the project without ensuring that there was budgetary provision.
- iii. The former Minister for Finance be charged with three counts of neglect of statutory duty for authorising a project which had no budgetary allocation and failing to consult Central Bank of Kenya.
- iv. The former Financial Secretary be charged with three counts of neglect of statutory duty for failing to consult Central Bank of Kenya and signing the suppliers credit agreement without ensuring that budgetary provision had been made.

Action on the report is awaited.

51. KACC/FI/INQ.20/05

Inquiry into an allegation of irregular single sourcing of a contract between the Government of Kenya and Spacenet Corporation of USA for the Supply and installation of VSAT equipment to the Postal Corporation of Kenya (otherwise known as the Spacenet Project), procured by the Ministry of Transport and Communications. The contract with the financier was signed on 11th July 2002 while the contract with the supplier was signed on 2nd September 2002. The project involved the installation of internet services in all post offices even in rural post offices where there is no electricity. This rendered most of the procured equipment unutilised.

Investigations established that the former Postmaster General of Postal Corporation of Kenya entered into discussions with a Mr. Michael Alan of Spacenet and the said Mr. Alan proposed to supply PCK with VSAT technology which would bring about data network and rural internet access to people living in remote parts of the country. Instead of bringing the matter before the PCK Board and the tender committee, the Postmaster General entered into secret negotiations with the PS and the Minister of Transport and Communications on how to procure the project. The latter sought approval of Minister for Finance to proceed with the project as a security project under Regulation 3(2) of the Exchequer and Audit (Public Procurement) Regulations of 2001. The Attorney General's office gave a legal opinion on the project.

The file was forwarded to the Attorney General with recommendation that the following persons be charged with criminal offences as follows;

- i. The former Postmaster General be charged with four counts for failing to adhere to the laid down procurement regulations.
- ii. The former Minister for Transport and Communications be charged with one count of abuse of office and one count of disobedience of statutory duty for approving the project without ensuring that there was a budgetary allocation for it.
- iii. The former PS, Ministry of Transport be charged with four counts for failing to adhere to the laid down procurement regulations and one count of disobedience of statutory duty for approving the project without ensuring that there was a budgetary allocation for it.
- iv. The former Minister for Finance be charged with two counts of disobedience of statutory duty for approving the project without ensuring that there was a budgetary allocation for it and failing to consult Central Bank of

Kenya and one count of abuse of office for irregularly authorizing Ministry of Transport and Communication to directly procure the VSAT products whereas the same should have been subjected to the laid down procurement procedures.

- v. The former Financial Secretary with two counts of disobedience of statutory duty for executing the contract for the project without ensuring that there was a budgetary allocation for it and failing to consult Central Bank of Kenya.

Action on the report is awaited.

52. KACC/FI/INQ.25/05

Inquiry into an allegation that the Office of the President irregularly entered into a Euros 40,000,000 suppliers financing agreement with Sound Day Corporation of United Kingdom for the Modernization of Police Equipment and Accessories for the Kenya Police Department. The contract was signed on 17th December 2003. The project entailed supply of security equipment and accessories for the Police Department involving an assortment of arms and ammunitions.

Investigations established that the project was initiated by the former PS in OP in charge of Provincial Administration and Internal Security without consulting the Police Department. The Minister gave a go ahead to the PS to seek from Treasury approval for direct procurement as a national project. The PS, OP sought approval of Treasury to proceed with the project, and the same was granted. This was despite the fact that there was no budgetary allocation for the project. A commitment fee of Euros 1,200,000 was paid, but no supplies have been made to date.

The file was forwarded to the Attorney General on 29th September 2006 with recommendation that criminal charges be preferred against the following;

- i. The former PS, in OP in charge of Provincial Administration and Internal Security be charged with four counts of economic crime for failing to comply with law relating to procurement, incurring of expenditure and engaging in a project without prior planning.
- ii. The former Minister of State in charge of Provincial Administration and Internal Security be charged with one count of neglect of official duty for acquiescing to the implementation of the project for modernization of Police equipment and accessories without ensuring that there was a budgetary allocation in the estimates of expenditure.
- iii. The former PS in the Ministry of Finance be charged with two counts of economic crime for approving and signing the contract with Sound Day Corporation for modernization of police equipment and accessories without ensuring that provision had been made in the estimates of expenditure approved by Parliament and failing to consult Central Bank of Kenya.
- iv. The former Minister for Finance be charged with two counts of economic crime for approving the signing of the contract with Sound Day Corporation for modernization of police equipment and accessories without ensuring that provision had been made in the estimates of expenditure approved by Parliament and failing to consult Central Bank of Kenya
- v. The former Head of Debt Management Department in Treasury be charged with one count of deceiving principal for making false statements in a memorandum addressed to the PS.

Action on the report is awaited.

**STATISTICAL SUMMARY OF FILES FORWARDED TO THE
ATTORNEY GENERAL**

Total No. of files forwarded to the Attorney General	52
No. of files recommended for prosecution	35
No. of files forwarded to the Attorney General with recommendation to withdraw cases already before court	4
No. of files recommended for administrative or other action (One file previously before Court)	3
No. of files recommended for closure	11
No. of files forwarded to the Attorney General with recommendation to prosecute and the cases are already lodged in Court	27
No. of files where recommendation for administrative or other action accepted	3
No. of files where recommendation for closure accepted.	9
No. of files where recommendation to prosecute not accepted	0
No. of files where recommendation for administrative or other action not accepted	0
No. of files where closure not accepted	0
No. of files awaiting Attorney General's action	9

DATED AT NAIROBI THIS DAY OF 2006

JUSTICE A. G. RINGERA
DIRECTOR/CHIEF EXECUTIVE