

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 2005 and is for the period between 1st July 2005 and 30th September 2005.

**INVESTIGATIONS COVERING THE PERIOD 1ST JULY 2005
TO 30TH SEPTEMBER 2005**

1. KACC/INQ 26/24.06.04

Inquiry into alleged corruption by M/s Agro Irrigation and Pump Services Limited leading to cover up of irregularities in VAT assessment. An anonymous report alleged that in November 2003, VAT Department visited the premises of Agro Irrigation who allegedly gave the company's auditor Kshs. 2.4 million bribe in order to cover up the Company's VAT problems. The investigation did not disclose any evidence of corruption.

The file was forwarded to the Attorney General on 5th July 2005 with recommendation to close the same. The Attorney General accepted recommendation to close file on 12th August 2005

2. CF. NO. 19/2004**

Inquiry into allegations that an employee of the County Council of Kirinyaga and a Councillor of the same Council had demanded a bribe of Kshs. 30,000/- in order to facilitate the return of a section of the complainant's father's plot to the family. The investigation established that the two indeed demanded a sum of Kshs. 30,000/- from the complainant and the Councillor received Kshs. 15,000/- from the complainant. The two suspects were arrested and they have already been arraigned in Court for the offence of corruption.

The file was forwarded to the Attorney General on 5th July 2005 with recommendation to proceed with the prosecution of the suspects. The Attorney General accepted the recommendation to prosecute on 6th September 2005

3. CID INQUIRY FILE NO. 66 OF 2002

Inquiry into alleged fraud in the tender for supply, delivery and installation of patients' bedside lockers at Kenyatta National Hospital. Investigations revealed that officers of Kenyatta National Hospital wrongfully charged the contract to the hospital's

development account whereas the same was supposed to be funded by USAID. This was done without following the laid down procedures for utilising government funds. As a result, 80% advance was paid to the supplier together with a tax waiver. There was evidence of abuse of office contrary to section 101(1) of the Penal Code against a former Director of KNH, the KNH planning Manager and the USAID project coordinator. There was also evidence of uttering a false document by the managing director of Countryside Suppliers Ltd.

The file was forwarded to the Attorney General on 19th July 2005 with recommendation that a former Director of KNH, the Planning Manager and the USAID project coordinator be charged with the offence of abuse of office. It was also recommended that the Managing Director of Country Side Suppliers Ltd be charged with the offence of uttering a false document and obtaining Kshs. 41,371,515.15 by false pretences.

The Attorney General's action on the recommendation is awaited

4. KACC. 141/492/2005**

Inquiry into allegations that an employee of the City Council of Nairobi had demanded a sum of Kshs. 40,000/- in order to approve the complainant's building plans. Investigations established that the suspect actually demanded Kshs. 35,000/-. He was arrested and charged with one count of soliciting for a bribe contrary to section 39(3) (a) of the Anti-Corruption and Economic Crimes Act.

The file was forwarded to the Attorney General on 1st August 2005 with recommendation to proceed with the prosecution of the suspects. The Attorney General accepted the recommendation to prosecute on 5th September 2005

5. KACC/INQ. 37A/20.09.04

The inquiry was into an allegation that the former Managing Director of National Cereals and Produce Board occasioned loss of Kshs. 756,691/- by the sale of famine relief maize in April-June 2003

without authority from the Government of Kenya. The investigation established that there was no arbitrary conduct on the part of the Managing Director as the Agency Agreement that existed between the Government and the Board had already lapsed and consequently, the duties and rights flowing there from had ceased to exist.

The file was forwarded to the Attorney General on 1st August 2005 with recommendation to close the same. The Attorney General's action on the recommendation is awaited

6. KACC 141/11/2005 ACC. 5/05**

Inquiry into allegations that two Public Health officers of the City Council of Nairobi corruptly solicited for a sum of Kshs. 10,000/- from the complainant in order to forbear the issuance of a seizure order of the food products being manufactured by the complainant's factory. Investigations established that the suspect indeed demanded and received Kshs. 10,000/- from the complainant. They were arrested and charged in court with two counts of corruption contrary to section 39(3)(a) of the Anti-Corruption and Economic Crimes Act.

The file was forwarded to the Attorney General on 16th August 2005 with recommendation to proceed with the prosecution. The Attorney General's action on the recommendation is awaited. Meanwhile, the case is pending before court

7. NAKURU CF 2979/04 CR 760/1308/04**

Inquiry into allegations that the OCS Molo Police Station demanded a sum of Kshs. 2,000/- in order to release the complainant's pay phone (Simu ya jamii). Investigations established that the OCS and a Police Constable attached to Molo Police Station demanded the sum of Kshs. 2,000/-. The Constable received Kshs. 1,000/- from the complainant and the OCS received Kshs. 500/-. They were arrested and charged with the offence of corruption.

The file was forwarded to the Attorney General on 16th August 2005 with recommendation to proceed with the prosecution of the

suspects. The Attorney General accepted our recommendation to prosecute on 28th September 2005.

8. KACC/INQ. 45(A)/12.11.04

Allegations of misprocurement of thirty fireproof cabinets for Kenya Training Medical College without first ensuring an established need for the cabinets. The expenditure was not factored in the College's annual budget. The investigation established that the Principal of the College and the Supplies officer breached Procurement Regulations.

The file was forwarded to the Attorney General on 16th August 2005 with recommendation that the former Principal of Kenya Medical Training College be charged with two counts of abuse of office and an alternative count of misprocurement contrary to Regulation 17(1) and (6) of the Exchequer and Audit (Public Procurement) Regulations, 2001. It was also recommended that a Supplies Officer be charged with misprocurement

The Attorney General's action on the recommendation is awaited.

9. KACC/INQ/19.08.03

Inquiry into allegations that the former Director of Kenya Wildlife Service (KWS) allowed a KWS aircraft to be hired and taken to Uganda without authority. The investigation did not establish any offence against the KWS Director.

The file was forwarded to the Attorney General on 18th August 2005 with recommendation that the same be closed. The Attorney General's action on the recommendation is awaited

10. KACC 141/79/05 CF 10/05**

Inquiry into allegations that a District Officer in charge of Mbitini in Makueni District corruptly solicited for Kshs. 4,000/- from members of Muoni Multi Purpose Co-operative Society, an umbrella body of various sand harvesting groups. Investigations established that the suspect indeed demanded and received the money from the

complainant. He was arrested and charged with two counts of corruption.

The file was forwarded to the Attorney General on 24th August 2005 with recommendation to proceed with the prosecution of the suspects. The Attorney General's action on the recommendation is awaited. Meanwhile, the case is pending before court

11. CR 141/309/2005 ACC 12/05**

Inquiry into allegations that the Assistant Chief of Katina ward in Kawangware demanded a sum of Kshs. 500/- from the complainant so as to assist her with the arrest of her assailant. Investigations established the bribe demand and the suspect was arrested and charged with two counts of corruption.

The file was forwarded to the Attorney General on 24th August 2005 with recommendation to continue with the prosecution of the suspect. The Attorney General's action on the recommendation is awaited. Meanwhile, the case is pending before court

12. KACA/INQ/39A/2000

Inquiry into allegations that the Directors of Embakasi Ranching Co. Ltd were in office illegally having been last elected in 1992. Investigations established that the Directors failed to hold annual general meetings for the years 1996-2004.

The file was forwarded to the Attorney General on 25th August with recommendation that the Directors of Embakasi Ranching Co. be charged with three counts of failing to hold an annual general meeting contrary to section 131(1) of the Companies Act. Action of the Attorney General on the recommendation is awaited

13. KACC/INQ. 39/3.11.03

Inquiry into allegations that officers of the Housing Development Department of the City Council of Nairobi conspired with fraudsters to obtain a sum of Kshs. 500,000/- from the complainant pretending they would sell him a plot in Umoja. The investigation did not

establish any corruption on the part of the officers of the City Council.

The file was forwarded to the Attorney General on 25th August 2005 with recommendation to close the same and the Attorney General's action on the recommendation is awaited

14. KACC/INQ. 35(B)/01.09.04

Inquiry into allegations of corruption in the award of tender for the supply, installation and commissioning of bullet resistant glass at the Turkwel Power Station. The investigation did not establish any corruption.

The file was forwarded to the Attorney General on 26th August 2005 with recommendation to close the same. The Attorney General's action on the recommendation is awaited

15. KACC CR 032/2/05; KISUMU ACC 43/05**

Inquiry into an allegation that the Chief of God Jope Location demanded a sum of Kshs. 5,000/- from the complainant in order to assist his cousin in a land dispute. Investigations confirmed the demand and the suspect was arrested and charged in Kisumu with corruption.

The file was forwarded to the Attorney General on 30th August 2005 with recommendation to continue with the prosecution. The Attorney General's action on the recommendation is awaited. Meanwhile, the case is pending before court

16. KACC 141/320/2005; NAIROBI ACC 13/05**

Inquiry into an allegation that an Executive Assistant working with Teachers Service Commission had corruptly solicited for Kshs. 20,000/- from the complainant so as to assist him get employment with TSC. Investigations established that the suspect indeed demanded the money from the complainant, and he was subsequently arrested and charged in court with the offence of corruption.

The file was forwarded to the Attorney General on 30th August 2005 with recommendation to proceed with the prosecution of the case. The Attorney General's action on the recommendation is awaited. Meanwhile, the case is pending before court

17. KACC/CR 030/7/2005; KERICHO ACC 7/05**

Inquiry into an allegation that a CID officer based in Litein Police Station had demanded Kshs. 15,000/- in order to forbear from charging the complainant with the offence of forgery. Investigations confirmed that the suspect indeed demanded and received Kshs. 15,000/- from the complainant. He was arrested and charged with two counts of corruption.

The file was forwarded to the Attorney General on 19th September 2005 with recommendation to proceed with the prosecution of the suspect. The Attorney General's action on the recommendation is awaited. Meanwhile, the case is pending before court

18. KACC/INQ. 44/25.10.04

Inquiry into allegations of a false claim for an amount of Kshs.56 million by the proprietor of Metro Laboratories against the Ministry of Water and Irrigation. The Ministry also complained about the quality of representation it got from a State Counsel who represented it in a case filed by Metro Laboratories (HCCC No. 1312 of 2001). The matter arose as a result of a contract entered into between Ministry of Environment and Natural Resources (Predecessor of Ministry of Water and Irrigation) and Metro Laboratories for the supply of aluminium Sulphate. The investigation established that the proprietor of Metro Laboratories used forged documents in the case against the Ministry.

The file was forwarded to the Attorney General on 21st September 2005 with recommendation that the proprietor of Metro Laboratories be charged with seven counts of forgery contrary to section 345 of the Penal Code and another seven counts of uttering a false document contrary to section 353 of the Penal Code.

With regard to the State Counsel who handled the State defence in Milimani HCCC NO. 1312 of 2001, it was noted that he exhibited a high degree of negligence leading to judgment being entered in favour of the plaintiff in the sum of Kshs. 56,489,755/-. It was recommended that disciplinary action be taken against him.

Action on the recommendation is awaited

19. BURUBURU INQ. NO. 4/04

Inquiry into allegations that a Court Clerk based in Makadara Law Courts demanded Kshs. 5,000/- from the complainant in order to reinstate her husband's bond. Officers in BuruBuru Police Station carried out the initial investigation. The suspect was arrested and arraigned before Court with the offence of corruption. The file was forwarded to the Attorney General, who in turn referred the same to the Commission for further evaluation.

A review of the file established that the available evidence was not sufficient to sustain the offence of corruption against the Court Clerk. It was however recommended that administrative action be taken against the officer.

The file was forwarded to the Attorney General on 22nd September 2005 and action on the recommendation is awaited

20. CR KACC 411/151/2005; ACC 12/2005**

Inquiry into an allegation that the Traffic Base Commander, Murang'a, had demanded Kshs. 10,000/- in order to release the complainant's motor vehicle which had been detained at Murang'a Police Station for a traffic offence. Investigations established that the suspect had demanded Kshs. 10,000/- and received Kshs. 5,000/- from the complainant. He was arrested and charged with two counts of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Attorney General on 22nd September 2005 with recommendation to proceed with the prosecution of the suspect. Action of the Attorney General on the recommendation is awaited. Meanwhile, the case is pending before Court

21.KACC 411/119/05; EMBU ACC 8/05**

Inquiry into an allegation that the Tharaka District Auditor and Accountant respectively, demanded Kshs.60,000/- from the complainant in order to delete some aspects of a draft audit report, which allegedly implicated the complainant in acts of impropriety. Investigations established that the suspects indeed demanded the said sum from the complainant. The two suspects were arrested and arraigned before court with an offence of soliciting for Kshs.60,000/-.

The file was forwarded to the Attorney General on 22nd September 2005 with recommendation that prosecution should proceed against Tharaka District Auditor and Accountant respectively. Action on the recommendation is awaited. Meanwhile, the case is pending before Court

STATISTICAL SUMMARY OF FILES FORWARDED TO THE ATTORNEY GENERAL

Total No. of files forwarded to the Attorney General	21
No. of files recommended for prosecution	15
No. of files recommended for administrative or other action	1
No. of files recommended for closure	5
No. of files where recommendation to prosecute accepted	3
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	1
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	17

DATED AT NAIROBI THIS DAY OF 2005

JUSTICE A. G. RINGERA
DIRECTOR/CHIEF EXECUTIVE