



**THE ETHICS AND ANTI-CORRUPTION COMMISSION**

**THE 1<sup>ST</sup> QUARTERLY REPORT COVERING THE PERIOD FROM  
1<sup>ST</sup> JANUARY 2023 TO 31<sup>ST</sup> MARCH 2023**

**MARCH 2023**

## **PREAMBLE**

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under Section 35 of the ACECA, 2003 as read with Section 11(1) (d) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP 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 accepted or 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 ACECA. The report covers the first quarter and is for the period commencing 1<sup>st</sup> January 2023 to 31<sup>st</sup> March 2023.

**INVESTIGATION REPORTS COVERING THE PERIOD FROM 1<sup>ST</sup> JANUARY 2023 TO 31<sup>ST</sup> MARCH 2023.**

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**1. EACC/MCKS/FI/INQ/26/2019**

**INQUIRY INTO ALLEGATIONS THAT THE MINISTRY OF HEALTH AND SANITATION AT THE COUNTY GOVERNMENT OF KITUI HAD FLOUTED PROCUREMENT PROCEDURES IN THE AWARD OF THE TENDER NO. CGOKTI/128/2017-2018 FOR THE SUPPLY, INSTALLATION, COMMISSIONING AND TRAINING OF 10 X-RAY MACHINES TO MARMUT SUPPLIES.**

The Commission commenced investigations following a report received on allegations that the Ministry of Health and Sanitation at the County Government of Kitui had flouted procurement procedures in the award of the tender no. CGOKTI/ 128/2017-2018 for the supply, installation, commissioning and training of 10 X-ray machines to Marmut Supplies.

Investigations established that there was a need to replace the old x-ray machines with new digital mobile ones. The subject purchase was planned and budgeted for by the County Government of Kitui. The procurement commenced and at evaluation, Marmut Suppliers was the lowest evaluated bidder and awarded the tender. A professional opinion was approved and a contract was signed between Marmut Suppliers and County Government of Kitui.

However, investigations revealed that Marmut Suppliers delivered the wrong 10 X-ray machines which did not meet the contract specifications and were rejected. The Chief Officer, Health and Sanitation- Kitui County forced staff to accept the said X-ray machines and authorized payment of Kshs. 56 million inclusive of VAT of Kshs. 8.9 million. Investigations further established that Marmut Suppliers failed to remit taxes payable to Kenya Revenue Authority of Kshs. 8,960,000/=.

On 9<sup>th</sup> February 2023 a report was compiled and forwarded to the DPP with recommendations to charge the then Chief Officer Health of County Government of Kitui with 2 counts of the offence of abuse of office contrary to section 46 as read with Section 48 of ACECA; one count of willful failure to comply with the procurement law contrary to section 45 (2) (b) as read with Section 48 of ACECA; one count of unlawful spending of public money contrary to section 196(1) of

Public Finance Management Act; charge the sole proprietor of Marmut Suppliers with the offence of failure to pay taxes contrary to section 45 (1) (d) as read with Section 48 of ACECA and one count of fraudulent acquisition of public funds section 45 (1) (a) as read with Section 48 of ACECA.

On 10<sup>th</sup> May, 2023 the DPP returned the file with recommendation for further investigations.

## **2. EACC/MSA/FI/INQ/04/2021 (A)**

### **INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AND PROCUREMENT IRREGULARITIES INVOLVING THE HEAD OF TREASURY AT THE KWALE COUNTY GOVERNMENT WHO IS ALLEGED TO OWN A COMPANY KNOWN AS CHILOGOLA HOLDINGS LIMITED, WHICH HAS BEEN TRADING WITH COUNTY GOVERNMENT OF KWALE.**

The Commission commenced investigations upon receipt of a complaint alleging conflict of interest by the Head of Treasury at Kwale County Government who is alleged to own two companies namely Rome Investment Limited and Chilogola Holdings Limited which had received Kshs 9,000,000/= from Kwale County Government.

Investigations established that Chilogola Holdings Limited indeed tendered with the County Government of Kwale for various works between the financial years 2018 to 2021. The Head of Treasury at Kwale County Government was a Director at Chilogola Holdings Limited before he resigned. The said Head of Treasury was the final approver of the payments of Kshs. 22,850,891/- that were made to Chilogola Holdings Limited by Kwale County Government.

However, investigations revealed that Chilogola Holdings Limited had submitted false documents as proof of works previously done while applying for tenders and had fraudulently benefited from the Kwale County Government. Further, the said Head of Treasury was a signatory to Chilogola Holdings Limited bank account and was transacting from the bank account even after resigning as the Director of Chilogola Holdings Limited.

On 13<sup>th</sup> March 2023, a report was compiled and forwarded to the DPP with recommendation that the then Head of Treasury, Kwale County Government be charged with the offence of conflict of interest contrary to section 42(3) as read with section 48 of ACECA; fraudulent acquisition of public property contrary to Section 45 (1)(a) as read with section 48 of ACECA; fraudulent practice in procurement proceedings contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015; uttering false documents contrary to section 353 of the Penal Code.

On 27<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

### **3. EACC/MSA/FI/INQ/04/2021(B)**

#### **INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AND PROCUREMENT IRREGULARITIES INVOLVING THE HEAD OF TREASURY AT THE KWALE COUNTY GOVERNMENT WHO IS ALLEGED TO OWN A COMPANY KNOWN AS CHILOGOLA HOLDINGS LIMITED, WHICH HAS BEEN TRADING WITH COUNTY GOVERNMENT OF KWALE.**

The Commission commenced investigations upon receipt of a complaint alleging conflict of interest by the Head of Treasury at Kwale County Government who is alleged to own two companies namely Rome Investment Limited and Chilogola Holdings Limited which had received Kshs 9,000,000/= from Kwale County Government.

Investigations established that Chilogola Holdings Limited and Rome Investments Limited had indeed tendered and entered into contracts (local service orders) for various request for quotation procurements with the County Government of Kwale between the financial years 2017 to 2020. The Head of Treasury at Kwale County Government was a Director at Chilogola Holdings Limited before he resigned and his four brothers were the Directors of Rome Investment Limited. The Head of Treasury was the final approver of payments of Kshs. 10,839,630 that were made to Chilogola Holdings Limited by Kwale County Government

However, investigations revealed that the said Head of Treasury was a signatory to the Chilogola Holdings Limited bank account and was transacting from the bank account even after resigning as the Director of Chilogola Holdings Limited.

On 13<sup>th</sup> March 2023, a report was compiled and forwarded to the DPP with recommendation that the then Head of Treasury, Kwale County Government be charged with the offence of conflict of interest contrary to section 42(3) as read with section 48 of ACECA.

On 14<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

#### **4. EACC/FI/INQ/11/2016**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF MAVOKO TOWN BLOCK NO. 3/2545 BY THE MINISTRY OF DEVOLUTION AND PLANNING IN THE YEAR 2013 WHERE A FORGED VALUATION REPORT WAS USED LEADING TO A LOSS OF KSHS. 22 MILLION BY THE GOVERNMENT.**

Investigations commenced following a complaint on allegations that two valuation reports existed for a 20 acres parcel of land no. Mavoko Town Block 3/2545 purchased by the Ministry of Devolution at Kshs. 38 million for construction of a rehabilitation centre for street children. It was also alleged that Ministry of lands did not submit the valuation report valuing the land at Kshs. 40 million instead it had valued the same at Kshs. 16 million.

Investigations established that Ministry of Devolution in consultation with the Street Families Rehabilitation Trust Fund planned to set up a modern rehabilitation Centre for relocation of street families from the Nairobi City Centre. Procurement for the purchase of land commenced and at evaluation, a businessman was recommended as the successful bidder quoting a cost of Ksh. 1.9 million per acre. The identified land, Mavoko town block 3/2545 was valued at Kshs. 16 million.

However, investigations revealed that the Deputy Head of Procurement, Ministry of Devolution presented a forged forwarding letter and a forged valuation report for Kshs. 40 million to the Ministerial Tender Committee which awarded the tender to the businessman. A sale agreement and transfer of land was done. The

businessman received a total of Kshs 38 million from the Ministry of Devolution which was Kshs 22 million more than the assessed value of the land.

On 13<sup>th</sup> March 2023, a report was compiled and forwarded to the DPP with recommendation that the businessman be charged with unlawful acquisition of public property contrary to Section 45 (1) (a) as read with section 48 of ACECA and the then Deputy Head of Procurement, Ministry of Devolution be charged with the following offences: knowingly using a false document to one's principal contrary to section 41(1) as read with section 48 of ACECA; Abuse of office contrary to section 46 as read with section 48 of ACECA and two counts of forgery contrary to section 349 of the Penal Code.

On 18<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

#### **5. EACC/FI/INQ/77/2016**

#### **INQUIRY INTO ALLEGATIONS THAT OLESEKUT COMMUNITY BASED ORGANIZATION (CBO) OFFICIALS EMBEZZLED KSHS 3,600,000/= DISBURSED BY THE WATER SERVICES TRUST FUND (WSTF) MEANT FOR A WATER DAM PROJECT**

The Commission commenced investigations following a report on allegations that Olesekut Community Based Organization (CBO) officials embezzled Kshs 3,600,000/= disbursed by the Water Services Trust Fund (WTSF) Meant for a water dam project.

Investigations established that WSFT disbursed to the CBO the first tranche of Kshs. Kshs 4, 030, 000/= and contracted a Support Organization (SO) known as Cawily Engineers to supervise, monitor, and guide the CBO in the implementation of the project. Upon receipt of the above funds the CBO officials without undertaking any procurement process or consulting the SO, awarded the project to Narok Site and Services Ltd.

Investigations revealed that the CBO paid the said contractor, Narok Site and Services Ltd, a deposit of Kshs. 2,000,000/=. The said contractor undertook some work valued at Kshs. 3,196,120/=. However, the CBO paid the contractor a total sum of Kshs. 3,525,000/= for the works done hence an overpayment of Kshs. 328,

880/=. From the analysis of the CBO's financial records that the CBO officials had withdrawn a sum of Kshs. 880,700/= which they failed to account for.

On 9<sup>th</sup> February 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Olesekut CBO officials with the offence of unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 of ACECA, 2003 and the Directors of Narok Site and Services Ltd with one count of unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 of ACECA, 2003.

On 20<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

#### **6. EACC/MCKS/INQ/FI/2/2019**

#### **INQUIRY INTO ALLEGATIONS THAT KITUI COUNTY GOVERNMENT RECEIVED A DONATION OF A CT SCAN MACHINE BUT IRREGULARLY PAID KSHS 80 MILLION TO LOKAKI INVESTMENT LIMITED THROUGH TENDER NO. CGOKTI/127/2017-2018 FOR SUPPLY, DELIVERY AND COMMISSIONING OF A CT SCAN AND ITS ACCESSORIES**

The Commission commenced investigations after receiving a complaint that despite the County Government of Kitui receiving a donation of a CT Scan Machine and its accessories from a Non-Governmental Organisation (NGO), a local purchase order (LPO) for Kshs 80,000,000/= was issued to Lokaki Investments Limited for the supply of the equipment.

Investigations established that there was a procurement plan and budget for the purchase of a CT scan machine by the County Government of Kitui. The procurement commenced and at evaluation, Lokaki Investment Limited was the lowest evaluated bidder and awarded the tender. Lokaki Investments Limited signed a contract with the County Government of Kitui. Lokaki Investments Limited supplied and installed the CT scan machine and was paid a sum of Kshs. 80,000,000/-.

However, investigations revealed that while submitting their bid documents, Lokaki Investments Limited attached a forged credit facility letter purportedly from Equity



Bank. Further, Lokaki Investments Limited, failed to remit taxes payable to the Kenya Revenue Authority for the sum of Kshs. 12,800,000/-.

On 9<sup>th</sup> February 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Director of Lokaki Investments Limited with the offence of fraudulent acquisition of public property contrary to Section 45 (1)(a) as read with section 48 of ACECA, 2003; two counts of uttering false documents contrary to section 353 of the Penal Code and failure to pay taxes contrary to section 45 (1) (d) as read with Section 48 of ACECA.

On 19<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

#### **7. EACC/MCKS/FI/INQ/27/2017**

#### **INQUIRY INTO ALLEGATIONS OF INFLATION OF THE AMOUNT ALLOCATED FOR THE CONSTRUCTION OF A PERIMETER FENCE AROUND KCB GROUNDS IN KAJIADO COUNTY FROM KSHS 9 MILLION TO KSHS 14 MILLION AND FINALLY TO KSHS 24 MILLION WITHOUT FOLLOWING THE PUBLIC PROCUREMENT PROCEDURES.**

The Commission commenced investigations following receipt of a report on allegations of inflation of the amount allocated for the construction of a perimeter fence around KCB grounds in Kajiado County from Kshs. 9 million to Kshs. 14 million and finally to Kshs. 24 million without following the public procurement procedures.

Investigations established that there was a need to secure KCB Grounds belonging to Kajiado County by erecting a perimeter wall so as to ward off any intending land grabbers. The project was planned and budgeted as a multi-year project and restricted tendering method was used. The procurement commenced and at evaluation, Mwelwa Contractors Ltd was the lowest evaluated bidder and entered into a contract with Kajiado County Government for Kshs 19,000,000/-.

Investigations revealed that there was no evidence of any irregular variation of the contract sum by the Kajiado County Government. The Contractor was paid based on certified measured works amounting to Kshs.17,760,528.65/= which was within the contract sum by the Kajiado County Government.

On 9<sup>th</sup> February, 2023 a report was compiled and forwarded to the DPP with recommendation that the file be closed for lack of sufficient evidence.

On 19<sup>th</sup> April, 2023 the DPP returned the file with recommendation for closure.

#### **8. EACC/MCKS/FI/INQ/14/2016**

#### **INQUIRY INTO ALLEGATION THAT THE NATIONAL WATER CONSERVATION AND PIPELINE CORPORATION (NWCPC) HAD IRREGULARLY AWARDED EL ADI CONSTRUCTION LIMITED THE TENDER NO. NWCPC/RT/023/2014-15 FOR DESILTING OF UPEPONI DAM AT KSHS 36 MILLION**

The Commission commenced investigations following a report on allegations that the National Water Conservation and Pipeline Corporation (NWCPC) had irregularly awarded El Adi Construction Limited the tender no. NWCPC/RT/023/2014-15 for desilting of Upeponi Dam at Kshs. 36 million.

Investigations established that the subject project was planned and budgeted for by NWCPC and restricted tendering method was used. The procurement commenced and El Adi Construction Ltd was the lowest evaluated bidder. El Adi Construction Ltd entered into a contract with NWCPC and works for the dam began.

Investigations revealed that the procurement process for the subject project was within the law and the tender was not irregularly awarded as alleged. The project was well implemented and the works supervised by an Inspection Committee which prepared a report indicating that the works were done as per the specifications given in the bills of quantities. The Contractor was paid based on the completion certificate a sum of Kshs. 36,616,000/=. There was no loss of public funds as well.

On 9<sup>th</sup> February, 2023 a report was compiled and forwarded to the DPP with recommendation that the file be closed for lack of sufficient evidence.

On 24<sup>th</sup> April, 2023 the DPP returned the file with recommendation for closure.

#### **9. EACC/FI/INQ/89/2014**

##### **INQUIRY INTO BRIBERY ALLEGATIONS AGAINST OFFICERS OF THE KENYA NATIONAL EXAMINATION COUNCIL (KNEC).**

The Commission commenced investigations following a report received on allegations against Kenya National Examinations Council (KNEC) officers who allegedly were given bribes by the Directors of an international company called Smith and Ouzman Limited (S&O) through its local agent Trevy Oyombra. It is alleged that the bribes were given to influence award of tenders for printing of examination materials, certificates and Optical Magnet Reader (OMR) forms.

Investigation did not establish any receipt of £100 each by the KNEC Senior Principal Supply Chain Manager, the KNEC Senior Deputy Secretary ICT and the KNEC Senior Deputy Human Resources Officer. Investigations established that there was no Western Union record for receipt of £200 by the retired KNEC Deputy Secretary ICT and no DHL shipment record of receipt of gifts from S&O by the retired KNEC Deputy Secretary ICT. There is no evidence obtained to support the allegation of the retired KNEC CEO receiving £500 during a visit to United Kingdom.

On 13<sup>th</sup> March 2023, a report was compiled and forwarded to the DPP with recommendation that the file be closed for lack of sufficient evidence.

On 2<sup>nd</sup> May, 2023 the DPP returned the file with recommendation for closure.

#### **10. EACC/MCKS/EL/INQ/9/2018**

##### **INQUIRY INTO ALLEGATIONS THAT MAKUENI COUNTY PUBLIC SERVICE BOARD (CPSB) IRREGULARLY RECRUITED FOR THE POSITION OF COUNTY SECRETARY DURING FINANCIAL YEAR 2017/18.**

The Commission commenced investigations following receipt of a report on allegations of irregular recruitment by the Makueni County Public Service Board for the position of the County Secretary, Makueni County during the financial year 2017/2018. Further, it was alleged that the said County Secretary was part of the interview panel that conducted interview for the other candidates for the same position he was appointed.

Investigations established that Makueni County advertised for the positions of County Executive Committee members and County Secretary. Investigations further revealed that the suspect, who was a former Chief Executive Officer at the Kenya National Examinations Council (KNEC), had applied for the position of County Secretary, Makueni County was shortlisted and invited for an interview. Investigations revealed that the suspect was appointed as the chair to the interview panel for the position of the County Executive Committee members. Investigations revealed that there was no evidence that the suspect was a panelist in the interview for the position of County Secretary. However, the members of the interview panel for the County Secretary position received money from the suspect during and after the recruitment exercise to influence the outcome of the said exercise. Consequently, the suspect was appointed as the County Secretary, Makueni County.

On 9<sup>th</sup> February, 2023 a report was prepared and forwarded to the DPP with recommendation to charge the suspect the four counts of giving a bribe contrary to section 5 (1) as read with section 18 of the Bribery Act, 2016; the interview select panel members for the position of County Secretary, Makueni County each with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act.

On 17<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

#### **11.EACC/MCKS/EL/INQ/15/2019**

#### **INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT BY A MEMBER OF COUNTY ASSEMBLY FOR KALAMA WARD IN MACHAKOS COUNTY IN THE SALE OF LAND TITLED MACHAKOS/NZIUNI/245 FOR EXTENSION OF THE CHIEF'S OFFICE IN KALAMA AREA.**

Investigations commenced following a report that the Member of County Assembly (MCA) for Kalama Ward had entered into an agreement to sell a portion of his parcel of land-Machakos/Nziuni/245 to Kalama Community for the expansion of the Kalama's Chief's office but transferred a different parcel of land-Kalama/Nziuni/1788 which was not the subject of the agreement.

Investigations established that there was a need to expand the Chief's office in Kalyaka area and in 2012, the Kalama community requested the Machakos CDF Committee (CDFC) to purchase a piece of land for the said purpose. The CDFC allocated the said project a sum of Kshs. 500,000/ and a Project Management Committee (PMC) was formed to enable opening of an account for the funds and to implement/monitor the project. The said MCA was a member of PMC as well as the Project Coordinator. The PMC informed CDFC that they had identified a suitable land neighbouring the Chief's office and the owner, the MCA, had agreed to sell it to them. CDFC advised that before payments are made a search on the parcel of land be done, the said parcel be valued and the seller must also transfer the ownership of the parcel to the Government.

Investigations established that the MCA entered into a sale agreement to sell a portion of what was believed to be his land- Machakos/Nziuni/245 at Kshs 250,000/= to the Kalama community. The ideal parcel of land neighbouring the chief's office shown to the community by the MCA was Kalama/Nziuni/253 owned by Kasou Minza and not the MCA. The MCA subdivided his land Kalama/Nziuni/254 and created another title Kalama/Nziuni/1788 valued at Kshs 340,000/= which was not ideal for purposes of expansion of the Chief's office as it was located far from the current office of the Chief. The MCA knowingly presented to the PMC a sale agreement with the wrong parcel number Kalama/Nziuni/1788.

On 13<sup>th</sup> March 2023, a report was prepared and forwarded to the DPP with recommendation to charge the MCA, Kalama Ward with the following offences: abuse of office contrary to section 46 as read section 48 of the ACECA; knowingly misleading a public entity contrary to section 46 of the Leadership and Integrity Act; fraudulent acquisition of public property contrary to section 45 (1) (a) as read section 48 of the ACECA.

On 28<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

## **12. EACC/OPS/INQ/119/2020**

### **INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE AGAINST A TRAFFIC POLICE OFFICER ATTACHED TO MAKONGENI POLICE STATION**

The Commission commenced investigations following upon receipt of numerous complaints from motorists against Traffic Police Officers manning Jogoo Road were notorious for collecting bribes from motorists plying that route.

Investigation established four (4) traffic police officers were soliciting and receiving bribes from the motorists. EACC officers arrested one traffic police officer as the other three traffic officers escaped. A search was conducted on the arrested traffic officer where Kshs 5,250/= was recovered from him in denominations of Kshs.200/=:, Kshs 100/=: and Kshs 50/=: . The proximity in time within which the video clips taken show the said Traffic Officer receiving money, the arrest and recovery of the money was so short that it could only be concluded that the recovered money was as a result of corrupt conduct.

On 9<sup>th</sup> February 2023, a report was prepared and forwarded to the DPP with recommendation to charge the Traffic Police Officer with one count of dealing with suspect property contrary to section 47 as read with section 48 of the ACECA. It was further recommended that the National Police Service take appropriate administrative disciplinary action against the three Traffic Police officers who escaped arrest.

On 4<sup>th</sup> May, 2023 the DPP returned the file with recommendation for administrative action to be taken against the Police Officer employed by the National Police Service.

### **13. EACC/BGM/OPS/INQ/3/2020**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST THE CHIEF OF HARAMBEE LOCATION, BUNGOMA COUNTY.**

The Commission commenced investigations following a complaint received alleging that the Chief of Harambee Location within Bungoma County had requested for a financial advantage of Kshs 3,000/= in order to issue registration forms to access money from the Elderly Fund.

Investigations established that the suspect, a Chief of employed by the Ministry of Interior and Coordination of National Government, requested for and received a bribe of Kshs 2,000/= from the complainant.

On 9<sup>th</sup> February 2023, a report was prepared and forwarded to the DPP with recommendation to charge the Chief of Harambee Location with two counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 12<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

#### **14. EACC/OPS/INQ/39/2022**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST TWO EMPLOYEES OF NAIROBI METROPOLITAN SERVICES WITHIN NAIROBI CITY COUNTY**

The Commission commenced investigations after receiving a complaint that two employees of Nairobi Metropolitan Services within Nairobi City County were demanding for a bribe of Kshs 15,000/= to expedite the release of an impounded motorcycle detained at the Nairobi City County General Store by the Nairobi County Enforcement Officers.

Investigations established that the complainant's motor cycle had been detained at the Nairobi City County General Stores by the Nairobi County Enforcement Officers. The two suspects who are employees of Nairobi City County who requested for and received for a bribe of Kshs. 15,000/= from the complainant.

On 9<sup>th</sup> February 2023, a report was prepared and forwarded to the DPP with recommendation to charge the two employees of Nairobi City County with three counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 12<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

#### **15. EACC/OPS/INQ/147/2021**

##### **INQUIRY INTO ALLEGATIONS THAT A FORMER EMPLOYEE OF IMMIGRATIONS OFFICE REQUESTED FOR A BRIBE FROM A RWANDESE NATIONAL AS AN INDUCEMENT SO THAT SHE COULD ASSIST HIM TO GET A FOREIGN NATIONAL CERTIFICATE.**

The Commission commenced investigations following a report received alleging that the suspect who was purporting to be an immigration officer working at State

Department of Immigration had requested for a financial advantage of Kshs 15,000/= from the complainant to facilitate him process a Foreigner's National Certificate (Alien Identity Card).

Investigations established that the suspect was a former employee of the State Department of Immigration and personated an officer working with the Directorate of Immigration Services. The suspect had requested for a bribe of Kshs 15,000/= and on different dates and received Kshs. 3,000/= and Kshs. 10,000/= from the complainant.

On 9<sup>th</sup> February 2023, a report was compiled and forwarded to the DPP with recommendation to charge the suspect with three counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act and one count of personating a person employed in the public service contrary to section 105 (b) of the Penal Code.

On 27<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

#### **16.EACC/BGM/OPS/INQ/7/2021**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST ONESMUS KIPROP, CHARLES OGOLA AND VINCENT ORWA POLICE OFFICERS ATTACHED TO KANDUYI POLICE PATROL BASE.**

The Commission commenced investigations following a complaint that police officers based at Kanduyi Police Patrol Base had requested for a financial advantage of Kshs 4000/= to facilitate the release an impounded motorcycle.

Investigation established that the suspect, a Police Officer employed by the National Police Service had requested for a financial advantage of Kshs. 4000/= and later negotiated to Kshs. 3500/= from the complainant as an inducement to facilitate the release of an impounded motorcycle from Kanduyi Police Patrol Base. The suspect, through a third party, received Kshs 3,500/= from the complainant. The suspect resisted arrest causing a scuffle between EACC officers and himself. After arresting the suspect, EACC officers were unable to recover the Kshs 3,500/= as the suspect had concealed it.



On 9<sup>th</sup> February 2023, a report was compiled and forwarded to the DPP with recommendation to charge the Police Officer with the following offences: three counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act; one count of obstruction contrary to section 66(1)(a) read together with section 66(2) of ACECA and jointly charge the suspect Police Officer and his colleague with one count of concealing evidence contrary to section 66(1)(c) as read together with section 66(2) of ACECA.

On 2<sup>nd</sup> May, 2023 the DPP returned the file with recommendation for further investigations.

#### **17. EACC/OPS/INQ/43/2022**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A HEAD TEACHER AT BARAKA PRIMARY SCHOOL, MAKADARA-NAIROBI AND AN EMPLOYEE OF TEACHERS SERVICE COMMISSION.**

The Commission commenced investigations upon receipt of a report of that the Head teacher at Baraka Primary school in Makadara within Nairobi County had requested for a financial advantage of Kshs. 15,000/= to issue an admission letter for grade one for child who had successfully done an interview in the said school.

Investigations established that the Head teacher employed by the Teacher Service Commission had requested for a financial advantage of Kshs. 15,000/= and received Kshs 10,000/= from the complainant to issue an admission letter for grade one for the complainant's child.

On 9<sup>th</sup> February 2023, a report was compiled and forwarded to the DPP with recommendation to charge the Head teacher with two counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 20<sup>th</sup> April, 2023 the DPP returned the file with recommendation for prosecution.

#### **18. EACC/NYR/OPS/INQ/08/2020**

#### **INQUIRY INTO ALLEGATIONS THAT A PARKING SUPERVISOR AT THE COUNTY GOVERNMENT OF EMBU REQUESTED FOR A BRIBE OF KSHS 7,000/= IN ORDER TO RELEASE A VEHICLE THAT HAD BEEN CLAMPED FOR NON-PAYMENT OF PARKING FEES.**

The Commission commenced investigations following a complaint that the Officer in Charge of Revenue, Manyatta Sub-County employed by the County Government of Embu had requested for a financial advantage of Kshs 7,500/= to release a motor vehicle which had been impounded by the County Enforcement Officers for failure to pay parking fees.

Investigations established that the suspect, the Officer in Charge of Revenue, Manyatta Sub-County requested for a financial advantage of Kshs 7,500/=. Later, a Parking Supervisor employed by the County Government of Embu received Kshs 7,000/= from the complainant and released the motor vehicle which had been impounded from the County Yard.

On 9<sup>th</sup> February 2023, a report was compiled and forwarded to the DPP with recommendation to charge the then Officer in Charge of Revenue, Manyatta Sub-County with one count of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act and the Parking Supervisor with one count of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 25<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

#### **19.EACC/MSA/OPS/INQ/15/2022**

#### **INQUIRY INTO ALLEGATIONS THAT THE HEAD OF VERIFICATION AT REGIONAL CONTAINER FREIGHT STATION (CFS) MIRITINI MOMBASA DEMANDED FOR A BRIBE OF KSHS 200,000/= TO FACILITATE THE RELEASE OF A 40FT CONSIGNMENT CONTAINER NO. TCKU7581063**

The Commission commenced investigations upon receipt of a report that an employee of Kenya Revenue Authority (KRA) Head of Verification at the KRA Regional Logistics Centre, Container Freight Station (CFS) based in Miritini, Mombasa County had requested for a financial advantage of Kshs 200,000/= to prepare a favourable report to enable the complainant's clear his consignment container number TCKU7581063.

Investigations established that the suspect requested and received a financial advantage of Kshs 150,000/- from the complainant. Upon the suspect's arrest Kshs 130,000/- was recovered and the suspect concealed Kshs 20,000/= from EACC officers.

On 9<sup>th</sup> February 2023, a report was compiled and forwarded to the DPP with recommendation to charge the Head of Verification at KRA with two counts of receiving a bribe contrary to Section 6 (1) (b) as read with Section 18 of the Bribery Act and one count of concealing evidence contrary to section 66(1) (c) as read together with section 66(2) of ACECA.

On 4<sup>th</sup> May, 2023 the DPP returned the file with recommendation for further investigations.

#### **20. EACC/OPS/INQ/67/2022**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPT CONDUCT AGAINST A CHIEF MAGISTRATE DURING HER TENURE AT MILIMANI LAW COURTS NAIROBI.**

The Commission commenced investigations upon receipt of a complaint that a Chief Magistrate formerly attached to Milimani Law Courts engaged in unethical conduct during the trial of case no. 1 of 2019. It is alleged that the said Chief magistrate received Kshs 500,000/= on behalf of the accused person in order to grant him favorable bail terms.

Investigations established that the said Chief Magistrate did not request nor receive a bribe of Kshs. 500,000/- in order to grant favorable bail terms to the accused in case no. S.O. 1 of 2019.

On 13<sup>th</sup> March, 2023, a report was compiled and forwarded to the DPP with the recommendation that the file be closed for lack of sufficient evidence.

On 12<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

#### **21. EACC/NYR/OPS/INQ/5/2021**

#### **INQUIRY INTO ALLEGATIONS OF OFFERING A BRIBE CONTRARY TO SECTION 5 (1) AS READ TOGETHER WITH SECTION 18 (1) OF THE BRIBERY ACT, 2016**

The Commission commenced investigations upon receipt of a complaint from the Officer Commanding Maragua Police Station (OCS) that three relatives of a suspect had offered to give him a bribe of Kshs 40,000/= to drop defilement charges against the suspect.

Investigations established that three relatives of the suspect arrested for defilement and the victim's mother went to the office of the Maragua OCS seeking the release of the suspect on cash bail of Kshs. 40,000/= which was placed on his table. The said OCS called the Officer in Charge DCI Maragua who went to the OCS's office, recovered the money and prepared an inventory of the recovered money. It was alleged that the three relatives of the suspect had offered the OCS a bribe of Kshs 40,000/=.

Investigations revealed that it was not clear whether the Kshs 40,000/= was a bribe or a settlement between the victim's mother and the suspect's relative for the criminal case or whether there was prior negotiation for a bribe between the suspect's relative and the OCS. Therefore, it was not conclusive whether the Kshs 40,000/- was a bribe.

On 13<sup>th</sup> March, 2023, a report was compiled and forwarded to the DPP with recommendations to the file be closed for lack of sufficient evidence to sustain the offence of offering bribe against the suspects under Section 5 (1) (a) as read with Section 18(1) (a) of the Bribery Act 2016.

On 4<sup>th</sup> May, 2023 the DPP returned the file with recommendation for closure.

## **22. EACC/OPS/INQ/88/2021**

### **INQUIRY INTO ALLEGATIONS OF BRIBERY AND IMPERSONATION AGAINST A FORMER NAIROBI CITY COUNTY OFFICER**

The Commission commenced investigations following a complaint from a boda boda rider within Nairobi that while in the course of his business, he was arrested by the suspect, former Nairobi City County Officer, and his motorcycle was confiscated. It was alleged that the suspect requested for a bribe of Kshs. 10,000/= to release his motorcycle.

Investigations established that the suspect, requested for a financial advantage of Kshs 10,000/- and on different dates and received Kshs. 3,000/=, Kshs. 1,000/= and Kshs. 5,000/= from the complainant. Investigations revealed that the suspect was not an employee of Nairobi City County and was personating a Nairobi City County Enforcement Officer.

On 13<sup>th</sup> March, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect with four counts of receiving a bribe contrary to section 6(1)(a) as read with section 18 of the Bribery Act and one count of personation contrary to section 382 of the Penal Code.

On 20<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

### **23. EACC/OPS/INQ/74/2022**

#### **INQUIRY INTO BRIBERY ALLEGATIONS AGAINST AN EMPLOYEE OF THE TOURISM FUND.**

The Commission commenced investigations after receiving a bribery report that a Levy Officer at the Tourism Fund had requested for Kshs 500,000/= to waive tourism levy arrears of Kshs. 1,000,000/= owed by a Hotel.

Investigations established that the Hotel owed Kshs. 26,092/= in arrears of the Tourism Levy. Investigations revealed that the suspect requested for a bribe of Kshs. 500,000/= later negotiated the amount to Kshs. 300,000/= and received Kshs. 100,000/= from the complainant.

On 13<sup>th</sup> March, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Levy Officer at Tourism Fund with 3 counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 27<sup>th</sup> April, 2023 the DPP returned the file with recommendation for further investigations.

**STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS**

1.	Total No. of files forwarded to the Director of Public Prosecutions	<b>23</b>
2.	No. of files recommended for prosecution	<b>18</b>
3.	No. of files recommended for administrative or other action	<b>0</b>
4.	No. of files recommended for closure	<b>5</b>
5.	No. of files recommended for prosecution and the cases are already lodged before Court	<b>0</b>
6.	No. of files where recommendation to prosecute accepted	<b>1</b>
7.	No. of files where recommendation for administrative or other action accepted	<b>0</b>
8.	No. of files where recommendation for closure accepted	<b>4</b>
9.	No. of files returned for further investigations	<b>17</b>
10.	No. of files where recommendation to prosecute not accepted	<b>0</b>
11.	No. of files where recommendation for administrative or other action not accepted	<b>0</b>
12.	No. of files where closure not accepted	<b>0</b>
13.	No. of files where prosecution declined but administrative action recommended	<b>1</b>
14.	No. of files awaiting the DPP's advice	<b>0</b>

DATED AT NAIROBI THIS

22<sup>nd</sup>

DAY OF

May

2023



**DAVID OGINDE, PhD**  
**CHAIRPERSON**

/wk



**TWALIB MBARAK, CBS**  
**SECRETARY/CHIEF EXECUTIVE OFFICER**