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**THE FIRST QUARTERLY REPORT FOR THE YEAR
2006 COVERING THE PERIOD JANUARY TO
MARCH 2006**

KENYA ANTI-CORRUPTION COMMISSION

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 first quarter of the year 2006 and is for the period commencing 1st January 2006 to 31st March 2006.

INVESTIGATIONS COVERING THE PERIOD 1ST JANUARY 2006 TO 31ST MARCH 2006

1. KACC 141/714/05; NAIROBI ACC 27/2005

Inquiry into an allegation that three City Council Askaris attached to the Housing Department demanded a sum of Kshs. 10,000/- from an employee of the complainant's construction firm so as to forbear charging him with the offence of erecting a building structure without development permission. Investigations established that the three demanded the money and one of them received the same. They were arrested and charged with corruption.

The file was forwarded to the Attorney General on 10th January 2006 with recommendation that the case be prosecuted to conclusion. The recommendation was accepted on 3rd February 2006.

2. KACC/FI/INQ/44/05

Inquiry into allegations of abuse of office in the appointment of Mr. Francis Oyatsi and Mrs Meuledi Mabruki Iseme by the Minister of Agriculture to the post of Deputy Managing Director, National Cereals and Produce Board (NCPB) and Kenya Seed Company Ltd respectively. Mr. Oyatsi, who was previously lawfully employed as the Deputy Managing Director of Kenya Seed Co. was irregularly deployed to NCPB to occupy a similar non existent position. This was with a view to create a place for Mrs. Iseme at the Kenya Seed Co. The investigation established that the Minister for Agriculture acted unlawfully in instructing the PS to appoint Mrs. Iseme. Though Mr. Oyatsi moved to NCPB, no office for Deputy Director existed in their organisational structure; hence he continued drawing his salary from Kenya Seed Co. The Company was essentially paying for two Deputy Directors.

It was recommended that the Minister be charged with the offence of abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act.

The file was forwarded to the Attorney General on 16th January 2006 with recommendation to prosecute the Minister. The Attorney General did not accept the recommendation and returned the file to the Commission on 31st March 2006. He observed that the law regarding the powers of Ministers over appointment of Chief Executives and staff of Statutory Corporations has been misunderstood and the practise of Ministers appointing Chief Executives still continues though it has no basis in law. The Attorney General has consequently directed the Head of Public Service to issue a circular to all Ministers advising them on the correct legal position.

The Attorney General also advised that the purported appointment of Mrs. Iseme as Deputy Managing Director should be revoked unless otherwise regularised by the Board of Directors in accordance with the law.

3. ACPU/INQ.82/31.10.02

Inquiry into allegations that the Kenya Police SACCO irregularly paid Kshs. 3,960,000/- to its lawyers. The investigation did not establish any wrong doing on the part of the lawyers and it was recommended that the file be closed.

The file was forwarded to the Attorney General on 16th January 2006 with recommendation to close file. Recommendation for closure was accepted on 8th February 2006.

4. KACC 141/891/05 NAIROBI ACC 46/05

Inquiry into allegations that an employee of Kenya Power and Lighting demanded a sum of Kshs. 7,000/- from the complainant in order to forbear from charging her with illegal consumption of electricity. Investigations established that the suspect demanded Kshs. 5,000/- and received Kshs. 2,000/- from the complainant. He was arrested and arraigned before court for two counts of corruption.

The file was forwarded to the Attorney General on 17th January 2006 with recommendation that the pending case be prosecuted to conclusion. The recommendation was accepted on 3.2.06.

5. KACC/FI/INQ.58/2005

Inquiry into allegations that an official of Naivasha G. K. Prison was defrauding the Government through fraudulent procurement of foodstuff. Investigations did not establish any wrong doing on the part of the officer.

The file was forwarded to the Attorney General on 17th January 2006 with recommendation to close file. The recommendation to close file was accepted on 14th February 2006.

6. KACC CR.142/311/05; NAIROBI ACC 53/2005

Inquiry into allegations that two Public Health Officers attached to the City Council of Nairobi solicited for Kshs. 50,000/- from the complainant in order to forbear from charging her with the offence of failing to comply with a notice. Investigations established that the suspects indeed demanded Kshs. 50,000/- and received Kshs. 5,000/- from the complainant. They were arrested and charged with two counts of corruption.

The file was forwarded to the Attorney General on 23rd January 2006 with recommendation that the pending case be prosecuted to conclusion. Recommendation to prosecute was accepted on 22nd February 2006.

7. KACC. CR. 141/871/2005; NAIROBI ACC 2009/2005

Inquiry into allegations that Technicians of KPLC were demanding Kshs. 15,000/- from the complainant in order to forbear disconnecting his electricity. Investigations established that the three persons were not employees of KPLC. They were arrested and charged with attempting to obtain money by false pretences and personating a person employed by the Public Service.

The file was forwarded to the Attorney General on 23rd January 2006 with recommendation to proceed with the prosecution. Recommendation to prosecute was accepted on 28th February 2006.

8. KACC/INQ.15/8.03.02

Inquiry into allegations that the former Managing Director of Kerio Valley Development Authority fraudulently purchased two plots for the Authority at kshs. 6.6 million instead of Kshs. 2.5 million, and the acquisition was done in contravention of the procurement procedures. Investigations established that the said Managing Director indeed abused the authority of his office.

The file was forwarded to the Attorney General on 23rd January 2006 with recommendation to prosecute the former Managing Director with the offence of abuse of office. The Attorney General returned the file to KACC on 6th April 2006 raising various points of law.

9. KACC INQ.14/05

Inquiry into allegations of corruption in the award of a Kshs. 6.5 million insurance contract by New KCC Ltd to M/S Secular Insurance Brokers Ltd, a company associated with the Minister for Co-operative Development. The investigation did not establish the criminal elements of conflict of interest as set out in the law as the Minister did not in any way participate in the procurement deliberations. No wrong doing was disclosed that can be the subject of criminal proceedings.

The file was forwarded to the Attorney General on 24th January 2006 with recommendation that the file be closed. The Attorney General accepted the recommendation to close file on 2nd March 2006.

10. KACC CR 141/114/05; EMBU ACC 11/2005

Inquiry into allegations that the OCS of Ntumu Police Station demanded Kshs. 10,000/- from the complainant in order to release his mother and brother who were in police custody.

There was evidence that the suspect demanded and received Kshs. 10,000/- from the complainant. He was arrested and charged with two counts of corruption.

The file was forwarded to the Attorney General on 26th January 2006 with recommendation to continue with the prosecution. Recommendation to prosecute was accepted on 2nd March 2006.

11. KACC 142/305/05; ACC 49/05

Inquiry into allegations that two employees of the City Council of Nairobi demanded a sum of Kshs. 5,000/- from the complainant's employee in order to forbear charging his company with the offence of failing to take out a food hygiene license and a medical examination certificate for its cook. Investigations established the demand and receipt of Kshs. 5,000/- by the suspects. They were arrested and arraigned before court with two counts of corruption.

The file was forwarded to the Attorney General on 14th February 2006 with recommendation to continue with the prosecution. Recommendation to prosecute was accepted on 28th February 2006.

12. CR 141/147/06; ACC 11/06

Inquiry into an allegation that a former Minister in charge of Internal Security failed to comply with a notice issued by KACC under Section 26 of the Anti-Corruption and Economic Crimes Act. Investigations established that an offence had been committed and the suspect was charged under Section 26 of the said Act.

The file was forwarded to the Attorney General with recommendation that the suspect be prosecuted. Meanwhile the suspect has been charged before court.

13. KACC/FI/INQ/65(A)/05

Inquiry into allegations that the Governor of Central Bank of Kenya abused his office by irregularly hiring consultants, who

included his son, under the aegis of African Centre for Economic Growth occasioning loss to Central Bank of Kshs. 9,070,018.90.

The file was forwarded to the Attorney General on 21st February 2006 with recommendation that the Governor be charged with four counts of abuse of office. The Attorney General accepted recommendation to prosecute on 22nd March 2006.

14. KACC CR 943/296/05; KISUMU ACC NO. 751/2005

Inquiry into an allegation that the District Officer, Shinyalu Division in Kakamega and an Administration Police Officer demanded a bribe of Kshs. 10,000.00 from the complainant as an inducement to release her motor vehicle which had been detained for transporting illicit liquor. Investigations established that the two indeed corruptly solicited for the money. They were arrested and arraigned before Court for soliciting for Kshs. 10,000.00.

The file was forwarded to the Attorney General on 22nd February 2006 with recommendation to proceed with the prosecution of the case.

15. KACC CR 741/382/2005; KERICHO ACC NO. 27/2005

Inquiry into an allegation that the Divisional Criminal Investigation Department (DCIO) Kilgoris demanded a sum of Kshs. 30,000.00 in order to release the uniform of the complainant, who is a Chief, and to drop an arson case against him. Investigation established that the suspect demanded the money on two occasions. He was arrested and charged with the offence of soliciting for a bribe.

The file was forwarded to the Attorney General on 9th March 2006 with recommendation to proceed with the prosecution of the case.

16. KACC CR 141/431/05; ACC NO. 63/2005

Inquiry into an allegation that a Preventive Officer with Kenya Revenue Authority attached to the Gilgil Weighbridge corruptly

solicited for Kshs. 30,000.00 from the complainant in order to release his motor vehicle which had been detained at the Weighbridge. Investigations established that the suspect demanded Kshs. 30,000.00 and received Kshs. 10,000.00 from the complainant. He was arrested and charged with soliciting and receiving a bribe.

The file was forwarded to the Attorney General on 9th March 2006 with recommendation to proceed with the prosecution of the case. Recommendation to prosecute was accepted on 29th March 2006.

17. KACC CR 141/1223/05; ACC NO. 67/2005

Inquiry into an allegation that two officials of the City Council of Nairobi demanded from the complainant a sum of Kshs. 50,000.00 in order to forbear charging his two companies with the offence of trading without a licence. Investigations confirmed that the two officers demanded the money and one of them received Kshs. 8,000.00 from the complainant whereas the other received Kshs. 12,000.00. They were arrested and charged with the offences of soliciting and receiving a bribe.

The file was forwarded to the Attorney General on 21st March 2006 with recommendation to proceed with the prosecution of the case. Recommendation to prosecute was accepted on 10th April 2006.

18. KACC CR 141/775/2005; ACC NO. 33/2005

Inquiry into an allegation that an Estates Officer with the City Council of Nairobi corruptly solicited for a bribe from the complainant in order to forbear from demolishing a wall erected on the complainant's premises and allegedly extending to a public road. Investigations established that the suspect demanded for a sum of Kshs. 5,000.00 and received Kshs. 2,000.00 from the complainant. He was arrested and charged with the offences of soliciting and receiving a bribe.

The file was forwarded to the Attorney General on 21st March 2006 with recommendation to proceed with the prosecution of

the case. Recommendation to prosecute was accepted on 10th April 2006.

19. KACC/AT/INQ/87/2005

Inquiry into an allegation that an Advocate of the High Court based in Mombasa forged a transfer document thereby causing the Government of Kenya to lose stamp duty to the tune of Kshs. 760,000.00. Investigations established that the transfer instrument was indeed forged and the purchase price was altered from Kshs. 26 million to Kshs. 5 million. Thus although the advocate had received from his client kshs. 1,040,010 which was the legitimate amount of stamp duty, he paid Kshs. 280,010.00 only. A valuer and cashier at Kilifi Lands office aided in the commission of the crime.

The file was forwarded to the Attorney General on 22nd March 2006 with recommendation that the advocate be charged with Economic Crime Contrary to Section 45(1)(a) of the Anti-Corruption and Economic Crimes Act and an alternative charge of stealing Kshs. 760,000.00 from his client.

It was recommended that the Land Valuer based at Kilifi Lands Office be charged with abuse of office for deliberately undervaluing the subject piece of land in order to confer a benefit to the advocate.

It was also recommended that a clerk based at the Kilifi District Lands Office be charged with the offence of forgery and an alternative charge of fraudulent false accounting for making false entries in receipt No. F 634861.

Attorney General's action on the report is awaited.

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

Total No. of files forwarded to the Attorney General	19
No. of files recommended for prosecution	16
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files forwarded to the Attorney General with recommendation to prosecute and the cases are already lodged in Court	12
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted.	3
No. of files where recommendation to prosecute not accepted	1
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	2

DATED AT NAIROBI THIS 12th DAY OF April 2006



**JUSTICE A. G. RINGERA
DIRECTOR/CHIEF EXECUTIVE**