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**THE FORTH QUARTERLY REPORT FOR THE  
YEAR 2008 COVERING THE PERIOD 1<sup>ST</sup>  
OCTOBER 2008 TO 31<sup>ST</sup> DECEMBER 2008**

**THE KENYA ANTI-CORRUPTION  
COMMISSION**

## **PREAMBLE**

The Kenya Anti-Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003, 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, 2003. The report covers the forth quarter of the year 2008 and is for the period commencing 1<sup>st</sup> October, 2008 to 31<sup>st</sup> December, 2008.

**INVESTIGATIONS COVERING THE PERIOD 1<sup>ST</sup> OCTOBER 2008 TO 31<sup>ST</sup> DECEMBER 2008**

**1. KACC/FI/INQ/20/06**

Inquiry into allegations of procurement irregularities at the Ministry of Health involving procurement officials of the said Ministry and private suppliers. Investigations carried out covered five tenders for the supply of pharmaceuticals, medical equipments and non-pharmaceutical items. The evidence gathered disclosed that in three of the tenders, request for quotation numbers SD/KEN/RUR-HEA-2/98/25/IS for supply of start-up drugs, MOH/HQS/192/2004-05 for purchase of x-ray mobile units, MOH/HQS/193/2004-05 for purchase of various theatre items, were selectively issued to companies which a certain doctor was either the principal shareholder or otherwise closely associated with them. In particular reference to tender number SD/KEN/RUR-HEA-2/98/25/IS, it was established that documents of tender were purportedly issued to a mix of existing and non existing international companies as interested bidders. On the part of the existing companies, it was confirmed that the companies were unaware that tenders and bid documents were submitted on their behalf bearing signatures and rubber stamps of non existent company officials, bank officials, and witnessed by Advocates and Accountants. In this case the award for supply of start up drugs was made to one of the companies at the tender price of Kshs. 28,738,109.40.

In reference to tender no. MOH/HQS/193/2004-05 awards for the items being procured were made to four companies associated with the doctor in the total sum of Kshs. 59,557,600/=. In this instance documents of incorporation belonging to registered local companies were used in support of bids submitted to stage manage competition without their knowledge and consent. It was confirmed that the doctor is the controlling share holder and the sole signatory to the accounts of all the companies awarded this tender.

In the request for quotation number MOH/HQS/192/2004-05, an award in the tender price of Kshs. 18,437,500.00 was made to a non

existing company. Investigations confirmed that a cheque issued by the Ministry of Health in settlement of the bid price was deposited in the account of the said company, a firm with no known offices or any other form of physical address. It was also verified that, though not a signatory to the account, the doctor instructed the bank to transfer the funds to the account of another of his companies.

In a tender No. MOH/02/2005-06 for purchase of non-pharmaceuticals, it was ascertained that officers of the Ministry of Health's Technical Committee had evaluated and recommended seven bidders' samples as acceptable. However, the summary technical evaluation report prepared after decoding of samples and presented to Ministerial Tender Committee indicated that only one tenderer's sample whose principal share holder is the doctor, was evaluated as being acceptable. Consequently, the contract to supply the goods was awarded to the doctor's company at Kshs. 40,300,000.00. The same company was awarded Tender No. MOH/06/2005/2006 for purchase of Medical Equipments at Kshs. 123,400,000.00. However, tender documents obtained from the Procurement Department of the said Ministry indicated that the tender document for one of the most eligible bidders was mutilated. The same was evaluated as lacking a brochure for equipment code No. DH 114, an x-ray general unit. Consequently a company associated with the doctor was awarded the tender by virtue of being the only responsive bidder.

The file was forwarded to the Attorney General on 18<sup>th</sup> December 2008 with the recommendation that Procurement Officers at the Ministry of Health be charged for involvement in fraudulent dealings with the Director (who is a doctor) of various companies registered for the purpose of carrying out irregular procurement and supplies. Advice of the Attorney General is awaited.

## **2. KACC/AT/INQ/9/2006**

Inquiry into allegations that the former Chief Executive Officer of the Kenya Sugar Board with the complicity of the Legal Officer was engaged in corrupt dealings with regard to the outsourcing of legal services. It was alleged that despite existence of three law firms on the Kenya Sugar Board Panel, the Chief Executive Officer gave legal

work to only one firm of advocates. As a result, the said law firm benefited in terms of legal fees in excess of Kshs. 100 million. The investigation established that though the procurement of the services of the advocates was sanctioned by the Tender Committee, there was some element of neglect of duty by the two suspects in their handling of the fee note for Kshs. 26 million that was presented by the firm of advocates. In consequence thereof, Kenya Sugar Board incurred expenses in challenging an *ex parte* taxation and to ward off an attachment and sale of its goods.

The file was forwarded to the Attorney General on the 2<sup>nd</sup> October, 2008 with a recommendation that appropriate administrative action be taken by the Kenya Sugar Board against the Chief Executive Officer and the Legal Officer of the Kenya Sugar Board. The advice of the Attorney General is awaited.

### **3. KACC/AT/INQ/28A/2006**

Inquiry into allegations of abuse of office against the management of the Lake Basin Development Authority (LBDA). It had been alleged that certain advocates acting in concert with the past management of LBDA, fraudulently and without authority, executed and recorded a consent order in court requiring the said LBDA to pay a firm of Consulting Engineers the sum of Kshs 80,000,000.00. The investigations revealed a number of shady dealings through which the Authority lost large sums of money. The conspiracy to defraud LBDA involved a number of individuals both within and without the Authority.

The file was forwarded to the Honourable Attorney General on 22<sup>nd</sup> October 2008 with the recommendation to charge two advocates involved in the transaction, two directors of the Consulting Engineering firm, the Consulting Engineering company, and the LBDA's Managing Director with various offences of conspiracy to defraud, fraudulent attempt to dispose off public property as well as fraudulent acquisition of public property. It was further recommended that a sum of Kshs. 2,000,000 improperly paid to an advocate be recovered through civil action and the advocates involved in the transaction be referred to the Law Society of Kenya's Disciplinary Committee for disciplinary action. The file was returned

on 8<sup>th</sup> January 2009 with a recommendation that further investigations be undertaken. The same are being carried out.

#### **4. KACC/FI/INQ/105/05**

Inquiry into allegations of abuse of office against the officials of the Prisons Department's Nairobi Remand and Allocation Prison (NRAP) in that they misappropriated Kshs. 40 Million meant for the construction of staff houses. The investigation revealed various instances where the procurement procedures as set out in the Exchequer and Audit (Public Procurement) Regulations, 2001 were not followed by NRAP Officers when procuring building materials for the staff houses. This was by verbally instructing suppliers to deliver goods in total disregard to competitive bidding and even where there was competitive bidding, failing to issue Local Purchase Orders as required by Regulation 37(4) of the Procurement Regulations.

The file was forwarded to the Attorney General on 22<sup>nd</sup> December 2008 with the recommendation that the Officer in Charge of Prison and the Procurement Officer of NRAP be charged with various counts of failure to comply with the law relating to procurement contrary to Section 45(2)(b) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. Advice of the Attorney General is awaited.

#### **5. KACC/FI/INQ/56/2007**

Inquiry into an allegation that part of the sum of Kshs. 242 million paid by Zep-Re (PTA Reinsurance Co.) for the purchase of United Insurance Towers to Kenya Reinsurance Corporation Ltd to the tune of Kshs. 7,260,000 was misappropriated by the former Managing Director in collusion with the Managing Partner of a law firm that had been instructed to handle the transaction in the guise that it was payment made to agents employed in the sale transaction. The investigation confirmed the misappropriation as there were no agents involved in the transaction.

The file was forwarded to the Attorney General on the 29<sup>th</sup> October, 2008 with a recommendation that the former Managing Director of

Kenya Reinsurance Corporation and a partner to the law firm be prosecuted for fraudulent acquisition of public property under section 45(1)(a) of the Anti-Corruption and Economic Crimes Act, 2003. The recommendation was accepted on 6<sup>th</sup> January 2009.

#### **6. KACC/FI/49/2007**

Inquiry into allegations of malpractices in the use of a sum of Kshs. 22,729,310/- being part of money disbursed to Kibwezi CDF in the years 2004/05 and 2005/06. Investigations revealed that the questioned funds were utilized in a food-for-work- programme initiated by the Kibwezi Constituency Development Committee in response to requests made by the constituents to alleviate imminent famine in the region. The additional funds from the emergency and bursary accounts were pooled into the food-for-work-programme with the authority of the National Management Committee. In spite of the fact that the food-for-work-programme appeared to have worked well, there were no proper accounting records maintained by the Kibwezi CDC making it difficult to monitor distribution of foodstuffs and evaluate its effectiveness. There was an overall effect of re-allocation of funds from one project to another contrary to the provisions section 9(2) of the CDF Act. It was further noted that appropriate recommendations for enhancement of human resource capacity at the Kibwezi CDC offices had been made by an audit team under the auspices of the National Management Committee. Despite the fact that the food-for-work-programme largely worked well, the procurement process was noted to have been conducted in favour of a few suppliers who had a close relationship with the members of Kibwezi CDC. A separate investigation into the procurement was initiated by the Commission.

The file was forwarded to the Attorney General on 17<sup>th</sup> November 2008 with the recommendation that the inquiry file on the food-for-work-programme be closed. The recommendation was accepted on 5<sup>th</sup> January 2009.

## **7. KACC/FI/INQ/93B/2005**

Inquiry into allegations of abuse of office against a former Minister for Energy, the Managing Director of Kenya Pipeline Corporation (KPC) and the Chief Security Officer, KPC. The allegations were that the former Minister used his influence at the Ministry to secure the award of a tender to a security firm for the provision of security services to KPC premises in Lamu, Kipevu and Miritini, in the Coast Province. KPC was a parastatal that fell within the Minister's docket. A further allegation was that the Minister's father had been receiving a monthly commission from the security firm through an account at a bank located along Nyerere Road, Nairobi for onward transmission to the Minister. The investigation established that the role played by the Minister in influencing the tender award in favour of the security firm, if any, was not documented and no witness made any allegation of the existence of the same. There was no tangible evidence that the Minister influenced the tender award, neither was there evidence that the payments that the Minister's father received were commission payments directed to the Minister from the security firm.

The file was forwarded to the Attorney General on 22<sup>nd</sup> October 2008 with the recommendation that the same be closed. The recommendation was accepted on 31<sup>st</sup> December 2008.

## **8. KACC/FI/INQ/60A/06**

Inquiry into allegations of irregular procurement of second hand CAT 140G graders through single sourcing from Associated Equipment Company (PTY) Limited of South Africa by South Nyanza Sugar Company Limited (SONY). The investigation was prompted by an audit carried out by the Inspectorate of State Corporations and the same revealed that the Managing Director of SONY failed to follow the procurement guidelines issued by the Directorate of Procurement when undertaking the procurement of the second hand graders. The graders were never delivered to SONY though a down payment was made.



The file was forwarded to the Attorney General on 29<sup>th</sup> December 2009 with the recommendation that the Managing Director of SONY be charged with the offence of wilful failure to comply with applicable procedures and guidelines relating to procurement. Advice of the Attorney General is awaited.

#### **9. KACC/AT/INQ/02/05**

Inquiry into allegations that the Principal Accountant of the Ministry of Home Affairs is corrupt and has unexplained wealth. Though the investigations established that the Principal Accountant has substantial property, the same did not reveal any fraudulent dealings by the officer and his wife. The investigation however established that the Principal Accountant failed to declare a number of assets as required by the Public Officer Ethics Act and in some instances grossly undervalued the same.

The file was forwarded to the Attorney General on 17<sup>th</sup> December 2008 with the recommendation that the Principal Accountant of the Ministry of Home Affairs be charged with the offence of submitting a false declaration of income, assets and liabilities in contravention of the Public Officer Ethics Act, No. 4 of 2003. Advice of the Attorney General is awaited.

#### **10. KACC/AT/INQ/8/06**

Inquiry into allegations of theft of famine relief maize from the Kapenguria National Cereals and Produce Board Depot (NCPB). Investigations confirmed that some 1,700 x 90 kg bags of maize were irregularly obtained from the Depot on the pretext that the allocation of the maize to the District Commissioner, West Pokot, risked cancellation if not collected before the impending annual stock-taking exercise. Save for some 300 bags that were traced at the instance of members of the public, the rest of the maize was fraudulently disposed of.

The file was forwarded to the Attorney General on 21<sup>st</sup> October, 2008 with the recommendation that the Depot Manager, the DO I, the District Officer, Kapenguria and two NCPB Store Clerks be charged with fraudulent disposal of public property contrary to

section 45(1)(b) of the Anti-Corruption and Economic Crimes Act, 2003. The recommendation was accepted on 31<sup>st</sup> December 2008.

#### **11. KACC/FI/INQ/13/08**

Inquiry into allegations of bid rigging of a job evaluation tender in favour of a certain company by the Sports Stadia Management Board. The investigation established that the procurement was undertaken in accordance with the Exchequer and Audit (Public Procurement) Regulations 2001 which were in force at the time and the choice of mode of procurement of request for quotations/proposals was in order. There was also no evidence that the Assistant Director, Human Resource and Administration of Sports Stadia Management Board advised the company to irregularly adjust the price from Kshs. 2,988,000 to Kshs. 2,088,000.

The file was forwarded to the Attorney General on 2<sup>nd</sup> October 2008 with the recommendation that the file be closed. Advice of the Attorney General is awaited.

#### **12. KACC/FI/INQ/28/2008**

Inquiry into allegations that three officers of the National Aids Control Council (NACC), fraudulently obtained imprests for training on Risk Management, which training never took place. The imprest was to cater for training on Risk Management in the South Rift, Nyanza and Coast Regions. However, although the three officers received the money, the evidence gathered revealed that they did not conduct the training as alleged. Instead, they surrendered the imprest and attached several documents to indicate that the trainings had allegedly been held at various hotels, and fabricated lists of participants were also attached. The alleged participants recorded statements and confirmed that they neither attended any workshops, nor received any payments or signed the schedules as indicated in the payment schedules.

The file was forwarded to the Attorney General on 18<sup>th</sup> December 2008 with the recommendation that the three NACC officers be charged with three counts of fraudulent acquisition of public property contrary to section 45(1) (a) of the Anti-Corruption and

Economic Crimes Act and three counts of uttering a false document contrary to section 353 of the Penal Code. Advice of the Attorney General is awaited.

### **13. KACC/AT/INQ/34/2007**

Inquiry into allegations of irregularities in the award of a contract for the maintenance of Elugongo-Bungasi Road in Mumias Constituency to a construction company. It was alleged that the contractor was paid before completing the works and that the District Accountant received a bribe from the said contractor on the day he processed the payment to the contractor. Investigations established that the award of the contract was carried out regularly and though the contractor was paid the contract sum before completing the works, the works were satisfactorily completed. However, an overpayment was made to the contractor and the same was not deducted from the payments made to the said contractor.

The file was forwarded to the Attorney General on 2<sup>nd</sup> October 2008 with the recommendation that the overpayment made to the contractor be recovered. The recommendation was accepted on 31<sup>st</sup> December 2008.

### **14. KACC/FI/INQ/01/2008**

Inquiry into allegations that the District Officer, Ndia Division, and an Administration Police Inspector embezzled funds realized from the private hire of the services of Administration Police Officers under their charge. Investigations conducted by the Commission established that the District Officer wilfully failed to comply with applicable procedures and guidelines relating to the management of public revenue, and that he also fraudulently acquired public property.

The file was forwarded to the Attorney General on the 3<sup>rd</sup> November, 2008 with the recommendation that the District Officer, Ndia Division be prosecuted for the offences of wilful failure to comply with applicable procedures and guidelines relating to the management of funds contrary to section 45(2)(b) and abuse of

office, contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2008. It was further recommended that the embezzled funds be recovered by the Civil Litigation and Asset Recovery Department of the Commission. The recommendation was accepted on 9<sup>th</sup> January 2009.

#### **15. KACC/FI/INQ/59B/2007**

Inquiry into allegations of conflict of interest against the District Cashier, Narok North District. The investigation commenced after the Commission received a report that Government employees based in Narok North District were trading with their employers through their private companies. Specifically, it was alleged that the District Cashier was supplying stationery to the District Treasury and the District Commissioner's office through her company. Investigations revealed that in deed, the District Cashier supplied stationery to the District Treasury and to the DC's office through her company, Osinoni Investment. She thus knowingly held a direct private interest in a company that supplied stationery to her employer. This amounted to conflict of interest.

The file was forwarded to the Attorney General on 3<sup>rd</sup> November 2008 with the recommendation that the District Cashier, Narok North District be charged with three counts of conflict of interest contrary to section 42(3) as read with section 48(1) of the Anti- Corruption and Economic Crimes Act, 2003. The recommendation was accepted on 9<sup>th</sup> January 2009.

#### **16. KACC/FI/INQ/102/2005**

Inquiry into allegations that the former Executive Director of Industrial and Commercial Development Corporation (ICDC) had defrauded the Government by making false mileage claims. Investigations established that the Executive Director was entitled to make mileage claims, but import duty had not been paid for the motor vehicles registration numbers KAH 454K and KAJ 105Z which he used to lodge the mileage claims.

The file was forwarded to the Attorney General on 17<sup>th</sup> December 2008 with the recommendation that the same be closed with regard

to false mileage claims as mileage was payable to the Executive Director. It was however recommended that the issue of tax evasion be referred to Kenya Revenue Authority. Advice of the Attorney General is awaited.

#### **17. KACC CR 142/21/2008: NAIROBI ACC 7/2008**

Inquiry into allegations that an Administrator with KANU Party and a Councillor of the City Council of Nairobi had solicited for a benefit in order to facilitate the complainant's nomination as a Councillor in the City Council of Nairobi. It was reported that the Administrator made the initial demand in a meeting held on 19<sup>th</sup> February 2008, between himself and the complainant. The Administrator with KANU Party held himself out as the Personal Assistant to the then Minister for Local Government and alleged that he was working on the final list of persons to be nominated as Councillors. However, investigations established that he was an Administrator with KANU Party. The Councillor of the City Council of Nairobi held a meeting with the complainant and he encouraged her to pay the bribe and promised to act as the link between her and the KANU Party Administrator. The investigations established the solicitation and receipt of the trap money. Both the KANU Party Administrator and the Councillor of the City Council of Nairobi were arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. In spite of the available evidence, the complainant vanished under circumstances suggesting that she was greatly apprehensive of her security following threats to her life.

The file was forwarded to the Attorney General on 3<sup>rd</sup> November 2008 with a recommendation that the case pending before court be withdrawn under section 87(a) of the Criminal Procedure Code to secure an opportunity to revive the charges in future. The file was returned on 12<sup>th</sup> January 2009 with a request that further information be availed on the matter.

### **18. KACC (ACPU) CR. 342/148/02: NAIROBI ACC 910/2002**

Inquiry into allegations that two Revenue Officers with the Kenya Revenue Authority, solicited for a benefit from a spare parts firm as an inducement to reduce the amount of VAT payable by the said firm which is based in Mombasa. A trap was laid and one of the suspects was arrested after receiving treated money. The two Revenue Officers were charged with the offence of corruption in office contrary to section 3(1) of the defunct Prevention of Corruption Act (Cap. 65 Laws of Kenya). After the repeal of the said Act, the matter was terminated. However, following the Attorney General's request, the matter was subjected to further consideration and evaluated with a view to determine the possibility of pressing fresh charges against the said Revenue Officers. In spite of the fact that there was good evidence in support of the case, it was observed by the Commission that the trap money used had been utilized in other trap cases. It was therefore not possible to revive the case.

The file was forwarded to the Attorney General on 9<sup>th</sup> October 2008 recommending that the inquiry be marked as closed. The recommendation was accepted on 5<sup>th</sup> January 2009.

### **19. KACC CR 141/101/2007: NAIROBI ACC 02/2008**

Inquiry into an allegation that a Police Officer based at GSU Headquarters and two other Police Officers based at Kasarani Police Station had solicited for a benefit as an inducement to release the complainant who had been arrested on suspicion of being a member of the outlawed Mungiki sect. The three officers were arrested and charged with three counts of soliciting for and receiving a benefit. Further investigations established that one of the officers is indeed the one who solicited for and received the benefit from the complainant. It was recommended that the charge against two of the officers be dropped and the officer who solicited for and received the benefit be charged instead. The case is pending before Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on 24<sup>th</sup> December 2008 with the recommendation that the case pending before Court

be prosecuted to its logical conclusion. The recommendation was accepted on 12<sup>th</sup> January 2009.

#### **20. KACC CR 141/281/2008: NAIROBI ACC 18/2008**

Inquiry into allegations of corruption against the Chairman of the Board of Governors and Principal, respectively, of Gichuru High School in Kiambu West District. It was alleged that the two suspects had solicited for a benefit from the complainant as an inducement to facilitate payment of a debt owed to him by the school for construction work done. Investigations conducted by the Commission established the solicitation and receipt of the benefit by the suspects. They were arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The case is pending hearing before the Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on the 17<sup>th</sup> October, 2008 with a recommendation that the case pending before court be prosecuted to its logical conclusion. The recommendation was accepted on 9<sup>th</sup> January 2009.

#### **21. KACC/CR 141/443/2008: NAIROBI ACC 30/2008**

Inquiry into an allegation that a Public Health Officer attached to the City Council of Nairobi had solicited for a benefit that was an inducement to facilitate withdrawal of a criminal case No. 253(A)/08 which had been filed against the complainant as the Landlord/Caretaker of Plot No. 209/2420 at the City Court. Investigations established the solicitation and receipt of a benefit. The suspect was arrested and charged with the solicitation and receipt of a benefit contrary to Section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on 19<sup>th</sup> December 2008 with recommendation that the case pending before court be prosecuted to its logical conclusion. The recommendation was accepted on 6<sup>th</sup> January 2009.

## **22. KACC CR 141/502/2008: NAIROBI ACC 33/2008**

Inquiry into allegations that a Pipeline Attendant with the Export Processing Zones Authority (EPZA) had solicited for a benefit from the complainant, as an inducement to assist Kiang'ombe Tegemeo Self Help Group to get water connection from the EPZA's main water line. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on 22<sup>nd</sup> December 2008, with the recommendation that the case pending before court be prosecuted to its logical conclusion. The recommendation was accepted on 7<sup>th</sup> January 2009.

## **23. KACC (MSA) CR 021/159/2008: MOMBASA ACC 4/2008**

Inquiry into allegations that the Assistant Chief of Jomvu Kuu Sub location solicited for a benefit from the complainant, as an inducement to facilitate an intended survey of Land Parcel LR No. MN/V/1912. The investigation established the solicitation and receipt of a benefit. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Mombasa Anti-Corruption Court.

The file was forwarded to the Attorney General on 22<sup>nd</sup> December 2008 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The recommendation was accepted on 6<sup>th</sup> January 2009.

## **24. KACC MSA/INQ/FI/10/2008**

Inquiry into an allegation that a subordinate staff at the Immigration Office Mombasa had solicited for a benefit from a Swiss national



who has been a resident in Kenya and was seeking an entry permit. The purpose of the benefit was to hasten the processing of the re-entry permit. The Swiss national gave the bribe but the permit delayed without being processed. When the matter was reported to the Officer's Supervisor, he offered to pay back the money he had received.

The file was forwarded to the Attorney General on 23<sup>rd</sup> December 2008 with the recommendation that administrative action be taken against the subordinate staff of the Immigration Office as the available evidence was not strong enough to sustain the offence of soliciting and receiving a benefit. Advice of the Attorney General is awaited.

#### **25. KACC CR 141/262/08: NAIROBI ACC 17/2008**

Inquiry into an allegation that an officer of the City Council of Nairobi Inspection Department corruptly solicited for a benefit from the complainant as an inducement to forbear charging him with an alleged offence of permitting his employees to carry out renovation work on a building without wearing helmets and overalls. The investigation established the solicitation. The suspect was arrested and charged with soliciting for a benefit contrary to Section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The case against the suspect is pending before the Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on 13<sup>th</sup> November 2008 with the recommendation that the case pending before Court be prosecuted to its logical conclusion. The recommendation was accepted on 31<sup>st</sup> December 2008.

#### **26. KACC CR 141/415/2008: NAIROBI ACC 28/2008**

Inquiry into an allegation that an employee of the Nairobi Water and Sewerage Company Ltd based at Pangani had solicited for a benefit from the complainant as an inducement to manipulate the water meter reading for the complainant's house at Githurai 45 Estate where the water supply had been disconnected for non payment of an outstanding bill. Investigations established the

solicitation and receipt of a benefit. The suspect was arrested and charged with the solicitation and receipt of a benefit contrary to Section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on 19<sup>th</sup> December 2008 with recommendation that the case pending before court be concluded to its logical conclusion.

#### **27. KACC (MSA) CR 21/16/2008: MALINDI ACC 1/2008**

Inquiry into an allegation that a Court Clerk at Kwale Law Courts had solicited for a benefit that was an inducement to avail the Court file in respect of Kwale Resident Magistrate's Court Civil Case number 83/2002. A trap operation was organized, and the solicitation and receipt of the benefit was established. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The case is pending before the Malindi Anti-Corruption Court.

The file was forwarded to the Attorney General on 24<sup>th</sup> October 2008 with a recommendation that the case pending before court be prosecuted to its logical conclusion. The recommendation was accepted on 22<sup>nd</sup> December 2008.

#### **28. KACC CR 142//84/2008: NAIROBI ACC 26/2008**

Inquiry into an allegation that two employees of the Kenya Forest Service, Kiambu District had solicited for a benefit from the complainant as an inducement to release his power saw that had been seized at the time of his arrest by Forest Rangers. Investigations conducted by the Commission established the solicitation and receipt of a benefit by one of the Forest Guards, for and on behalf of the other. They were arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The case is pending hearing before the Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on the 13<sup>th</sup> November, 2008 with a recommendation that the pending case be prosecuted to its logical conclusion. The recommendation was accepted on 12<sup>th</sup> January 2009.

### **29. KACC CR 030/15/2008: NAKURU ACC 2/2008**

Inquiry into an allegation that a Police Sergeant attached to Divisional CID Nakuru solicited for a benefit that was an inducement to release the complainant's vehicle that had been detained for allegedly being involved in a robbery. Investigations established the solicitation. However, the accused did not receive the trap money, but later released the motor vehicle. He was arrested and charged with the offence of soliciting for a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The case is pending before the Nakuru Anti-Corruption Court.

The file was forwarded to the Attorney General on 17<sup>th</sup> October 2008, with the recommendation that the case pending before Court be prosecuted to its logical conclusion. The recommendation was accepted on 31<sup>st</sup> December 2008.

### **30. KACC (ACPU) CR 123/129/2002: NAIROBI ACC 690/2002**

Inquiry into an allegation that a Police Officer based in Kasarani Police Station had solicited for a benefit that was an inducement to release the complainant's brother who had been held in police custody at Ruaraka Police Post. Investigations established the solicitation and receipt of a benefit and the suspect was arrested and charged with two counts of corruption in office contrary to Section 3(1) of the Prevention of Corruption Act (Now repealed). Following the repeal of the Act, the court on 8<sup>th</sup> September 2003 discharged the accused under Section 89(5) of the Criminal Procedure Code on the basis that there were no valid charges following the repeal. After reviewing the case, the Commission formed the opinion that revival of the prosecution of the case is not tenable as some of the key witnesses are not longer available.

Further, the money which the accused received was never recovered.

The file was forwarded to the Attorney General on 22<sup>nd</sup> December 2008 with the recommendation that the same be closed. The recommendation was accepted on 7<sup>th</sup> January 2009.

### **31. KACC CR 011/95/2008: MAKADARA ACC 4/2008**

Inquiry into an allegation that a private investigator carrying out investigations for, and on behalf of Insurance companies to facilitate settlement of insurance claims had solicited for a benefit from a meat transporter as an inducement to prepare a favourable report to the Insurance Company in respect of the theft of a motor cycle, registration number KAZ 378Y belonging to the meat transporter so as to facilitate compensation by the said Insurance Company. The accused was arrested and charged with two counts of soliciting for and receiving a benefit contrary to section 39(3)(a) as read together with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The case is pending before Makadara Anti-Corruption Court.

The file was forwarded to the Attorney General on 3<sup>rd</sup> November 2008 with the recommendation that the case be prosecuted to its logical conclusion. The recommendation was accepted on 7<sup>th</sup> January 2009.

### **32. KACC CR 030/32/2008: NAKURU ACC 3/2008**

Inquiry into an allegation that a Motor Vehicle Inspector based at the Nakuru Motor Vehicle Inspection Unit, solicited for a benefit that was an inducement to issue the complainant with inspection certificates for her three motor vehicles. A trap was laid and the suspect was arrested after he received the treated money. Further sums of money were recovered from various locations in his office as well as his body. He was arraigned before the Nakuru Anti-Corruption Court to face charges relating to the offences of corruptly soliciting for and receiving a benefit and dealing with suspect property contrary to sections 39(3)(a) and 47(2) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Attorney General on 27<sup>th</sup> October 2008 with a recommendation that the case pending before court be prosecuted to its logical conclusion.

**33. KACC CR 142/70/2008: NAIROBI ACC 23/2008**

Inquiry into an allegation that a Clerk based at the Thika District Lands Office had solicited for a benefit from the complainant as an inducement to release a title deed to him. The investigation established the solicitation and receipt of a benefit. The suspect was arrested and charged with the offences of solicitation and receipt of a benefit contrary to Section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on 18<sup>th</sup> December 2008 with the recommendation that the case pending before Court be prosecuted to its logical conclusion. The recommendation was accepted on 9<sup>th</sup> January 2009.

**34. ACPU CR 142/397/2002: NAIROBI ACC 40/2002**

Inquiry into an allegation that the Acting Chief of Rironi Location had solicited for a benefit that was a reward for having arbitrated over a dispute relating to a mobile phone. Investigations established the offence of corruption and the suspect was charged with two counts of the offence. However, after the repeal of the Prevention of Corruption Act, the accused was discharged by the Court under Section 89(5) of the Criminal Procedure Code. After reviewing the case, the Commission formed the opinion that reviving the prosecution of the case is not tenable as some of the witnesses are no longer available. Further, administrative action would have been more appropriate in the circumstances of this case. The same has already been taken.

The file was forwarded to the Attorney General on 17<sup>th</sup> December 2008 with the recommendation that the same be closed. The recommendation was accepted on 6<sup>th</sup> January 2009.

### **35. KACC CR 141/322/2008: NAIROBI ACC 21/2008**

Inquiry into an allegation that the Head Teacher of Riruta Satellite Primary School, Nairobi was soliciting for diverse sums of money as an inducement to admit new pupils to the school. Investigations conducted by the Commission established the solicitation and receipt of money from an investigating officer who posed as a parent seeking admission of his two children to the school. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3)(a) of the Anti-Corruption and Economic Crimes Act, 2003. The case is pending hearing before the Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on the 21<sup>st</sup> October, 2008 with the recommendation that the case pending before Court be prosecuted to its logical conclusion.

### **36. KACC CR 022/16/2008: KISUMU ACC 239/2008**

Inquiry into allegations that a Clinical Officer seconded to Chulaimbo Sub-District Hospital corruptly solicited for a benefit that was an inducement so as to fill a P3 form in respect of the complainant's mother. The investigation established the solicitation and receipt of the benefit. The suspect has since been charged before Kisumu Anti-Corruption Court with solicitation and receipt of a benefit contrary to Section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act (ACECA).

The file was forwarded to the Attorney General on 14<sup>th</sup> November 2008 with the recommendation that the case pending before Court be prosecuted to its logical conclusion. The recommendation was accepted on 31<sup>st</sup> December 2008.

### **37. KACC (ACPU) CR 112/175/2002: NAIROBI ACC 50/2002**

Inquiry into an allegation that some City Council of Nairobi Askaris were soliciting for a benefit as an inducement so as to release the paint spray gun and pipe which had been confiscated from the complainant at his workshop situated in Dagoretti Corner.

Investigations established the solicitation and receipt of the benefit by one of the *Askaris* and he was duly arrested and charged before the Nairobi Anti-Corruption Court. However, though the prosecution had already closed its case in Court, the same was withdrawn on 28<sup>th</sup> August 2003 after the repeal of the Prevention of Corruption Act. The accused was charged afresh but the Attorney General once again withdrew the case on 29<sup>th</sup> September 2003. After reviewing the case, the Commission formed the opinion that revival of the prosecution of the case is not tenable as some evidence could not be traced and crucial witnesses are not longer available.

The file was forwarded to the Attorney General on 17<sup>th</sup> December 2008 with the recommendation that the same be closed. The recommendation was accepted on 12<sup>th</sup> January 2009.

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

Total No. of files forwarded to the Attorney General	37
No. of files recommended for prosecution	26
No. of files recommended for administrative or other action	3
No. of files recommended for closure	8
No. of files where recommendation to prosecute accepted	21
No. of files recommended for prosecution and the cases are already lodged before Court	16*
No. of files where recommendation for administrative or other action accepted	1
No. of files where recommendation for closure accepted	6
No. of files returned for further investigations	2
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 forwarded in previous quarters and received during this quarter	13
No. of files where closure not accepted	0
No. of files awaiting Attorney General's action	9

\* In one file, withdrawal of the case is recommended.

DATED AT NAIROBI THIS 15<sup>th</sup> DAY OF January, 2009.



**JUSTICE A. G. RINGERA (EBS)  
DIRECTOR/CHIEF EXECUTIVE**