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**THE FIRST QUARTERLY REPORT FOR THE YEAR 2010
COVERING THE PERIOD 1ST JANUARY, 2010 TO 31ST
MARCH, 2010**

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 setting out the number of reports made to the Attorney General under section 35.

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 first quarter of the year 2010, and is for the period commencing 1st January, 2010 to 31st March, 2010

INVESTIGATIONS COVERING THE PERIOD 1ST JANUARY TO 31ST MARCH 2010

1. KACC/FI/INQ/141/09

Inquiry into allegations that the acting Deputy Director, Secondary and Tertiary Directorate of the Ministry of Education misappropriated an imprest in the sum of Kshs. 5,545,300/- that was meant for conducting workshops described as Sensitization/Capacity Building Workshops on Secondary School Infrastructure Management in Western, Nyanza and Rift Valley Regions. The investigation revealed that the suspect misappropriated the imprest and purported to surrender the same using false documents. A report was compiled and forwarded to the Attorney General on 1st February, 2010 with recommendations for prosecution of the suspect for the offences of fraudulent acquisition of public property contrary to section 45(1) (a) and abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003.

The Attorney General accepted the recommendation for prosecution on 11th February, 2010

2. KACC/INQ/FI/145/2009

Inquiry into allegations of embezzlement of Kshs.1,945,000 by a Deputy Director of Education, while conducting a sensitization Capacity Building Workshop on Management of Instructional materials in Secondary Schools for Coast Province. The investigations carried out revealed that whereas the suspect received the imprest, he did not utilize it for the intended purposes. In surrendering the imprest, the suspect used false documents that were forgeries. A report was compiled and forwarded to the Attorney General on 3rd February, 2010 with recommendations that the suspect be prosecuted for fraudulent acquisition of public property contrary to section 45 (1) (a) of the Anti-Corruption and Economic Crimes Act, 2003, as well as false accounting by a public officer contrary to section 331(1) and uttering false documents contrary to section 353 of the Penal Code.

The Attorney General accepted the recommendation for prosecution on 11th February, 2010.

3. KACC/AT/INQ./7/F

Inquiry into allegations of irregular purchase of land L.R No. 14759/2 Machakos for cemetery use by the City Council of Nairobi. The investigation established a well orchestrated fraud in which Nairobi City Council was misled by its officers in collusion with others into buying a parcel of land unsuitable for the purpose for which it was intended and at a price of Kshs 283,200,000.00 which price was far above the fair market value of land in similar location. A report was compiled and forwarded to the Attorney General on 1st April 2010, recommending that a number of suspects be charged with offences including breach of procurement laws and regulations, wilful neglect of duty and conspiracy to commit fraud against the public.

The Attorney General's response is awaited.

4. KACC/FI/INQ/02/2010

Inquiry into allegations that an Assistant Director of Education, misappropriated Kshs.7,230,065 from the World Bank/Government funded Kenya Education Sector Support Program (KESSP), purportedly in conducting workshops to train 2,500 Primary School representatives on HIV/AIDS prevention and life skills. The investigation revealed that the suspect embezzled the imprest received, and purported to surrender it using false documents. A report was compiled and forwarded to the Attorney General on 5th February, 2010 recommending that the suspect to be charged with false accounting by a public officer contrary to section 331(1) of the Penal Code and knowingly making a false statement to ones principal contrary to section 41 (1) of the Anti-Corruption and Economic Crimes Act, 2003

The Attorney General accepted the recommendation for prosecution on 11th February, 2010.

5. KACC/FI/INQ/149(a)/2009

Inquiry into allegations that an Assistant Director of Education, Ministry of Education embezzled a sum of Kshs. 9, 732,000, from the World Bank/Government funded Kenya Education Sector Support Program (KESSP) that was intended for conducting workshops to train primary school teachers on HIV/AIDS prevention and life skills. The investigation revealed that the suspect embezzled the imprest received, and purported to surrender it using false documents. A report was compiled and forwarded to the Attorney General on 19th March, 2010,

recommending that the suspect be charged with false accounting by a public officer contrary to section 331 (1) of the Penal Code and deceiving principal contrary to section 41 (1) of the Anti- Corruption and Economic Crimes Act, 2003.

The Attorney General accepted the recommendation for prosecution on 6th April, 2010.

6. KACC/INQ/144/09

Inquiry into allegations that an Acting Assistant Director of Education, Ministry of Education misappropriated Kshs. 3,334,600/= meant for the World Bank/Government of Kenya funded Education Sector Support Program purportedly in conducting double shift sensitization workshops for secondary schools in Kisumu and Mombasa. The investigation established that the suspect surrendered the imprest using fake receipts and forged reimbursement schedules. A report was compiled and forwarded to the Attorney General on 8th February, 2008 with recommendations that the suspect be charged with the offence of false accounting by a public officer contrary to section 331 (1) of the Penal Code and deceiving principal contrary to section 41 (2) of the Anti- Corruption and Economic Crimes Act, 2003.

The Attorney General accepted the recommendation for prosecution on 11th February, 2010.

7. KACC/FI/INQ/142B/09

Inquiry Into allegations that a Senior Education Officer at the Ministry of Education misappropriated an imprest of Kshs 3,161,000/- from the World Bank funded Kenya Education Sector Support Project (**KESSP**) to facilitate a workshop on Management of Instructional Materials in Secondary Schools for North Rift. Investigations revealed that he surrendered the said imprest using false documents. A report was compiled and forwarded to the Attorney General 8th February, 2010, with recommendations that the suspect be charged with the offences of fraudulent acquisition of public revenue contrary to section 45(1) (a) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003, false accounting by a public officer contrary to section 331(1) of the penal code and several counts of uttering false documents contrary to section 353 of the Penal Code.

The Attorney General accepted the recommendation for prosecution on 11th February, 2010.

8. KACC/INQ/FI/143/2009

Inquiry into allegation of misappropriation of Kshs.1,478,581 by a Deputy Director of Education, while carrying out Infrastructure Needs Assessment for secondary schools in the Coast Province. The investigations carried out revealed that the imprest in question was received by a Senior Education Officer who went to the Coast Province to facilitate and conduct the exercise. The investigation also showed that at the time of surrendering the said imprest, the said officer used false documents to purport to explain the expenditure. A report was compiled and forwarded to the Attorney General on 10th February, 2010 with recommendations that the suspect be prosecuted for the offence of false accounting by a public officer contrary to section 331 (1) of the Penal Code and giving a false statement to one's principal contrary to section 41 (2) of the Anti- Corruption and Economic Crimes Act, 2003.

The Attorney General accepted the recommendation for prosecution on 11th February, 2010.

9. KACC/FI/INQ/142A/09

Inquiry Into allegations that a Deputy Director of Education at the Ministry of Education misappropriated an imprest of Kshs. 1,790,256/- from the World Bank funded Kenya Education Sector Support Project **(KESSP)** while conducting a Capacity Building Workshop on management of instructional materials in secondary schools. Investigations established that the suspect surrendered the said imprest using forged hotel receipts and payment schedules. A report was compiled and forwarded to the Attorney General on 10th February, 2010 with recommendations that the suspect be charged with the offences of fraudulent acquisition of public revenue contrary to section 45(1)(a) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003, fraudulent false accounting by a public officer contrary to section 331 of the penal code, uttering false documents contrary to section 353 of the Penal Code and abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 .

The Attorney General accepted the recommendation for prosecution on 11th February, 2010.

10. KACC/FI/INQ/ 27/09

Inquiry into allegations of fraudulent payment of Kshs. 5 million by National Aids Control Council (NACC) officers to M/S Plutonic ICT Ltd. It was alleged that M/s Plutonic ICT Ltd were awarded a contract to survey, design, install and commission Local Area Network for NACC; received payment, but they did not render fully the services for which the payment was made. The investigation established that contrary to the said allegations, the Local Area Network was installed and working and the payment was therefore not irregular. No impropriety or offence was established. A report was compiled and forwarded to the Attorney General on 9th February, 2010, recommending closure of the inquiry file.

The recommendation for closure was accepted by the Attorney General on 11th March, 2010.

11. KACC/MSA/FI/INQ/13/2008

Inquiry into allegations of abuse of office by the Director of Matuga Government Training Institute. The investigation revealed that the Director of the said institute in collusion with the director of a private company manipulated the procurement procedures to favour the said company. The Director received several payments that were made after several supply contracts were awarded to the private company. The investigation established that the Institute's Director placed himself in a position of conflict of interest with his employer by acquiring an interest in the supply contracts emanating from the Institute that he was heading. A report was compiled and forwarded to the Attorney General on 11th February, 2010 recommending that the suspect be charged with the offence of abuse of office contrary to section 46 and conflict of interest contrary to section 42 (3) respectively, of the Anti-corruption and Economic Crimes Act, 2003.

The Attorney General accepted the recommendation for prosecution on 11th February, 2010

12. KACC/FI/INQ/94/2005

Inquiry into allegations of abuse of office against a former Receiver Manager for Muhoroni Sugar Company Ltd (in receivership). The investigation revealed that a Receiver Manager of Muhoroni Sugar

Company Ltd (in receivership) had placed a sum of Kshs.100 million for investment purposes with a stock brokerage company he was associated with. The investigation established that in the course of his functions as a Receiver/Manager; the suspect gave instructions to the then Financial Controller of Muhoroni Sugar Company to transfer an amount of Kshs.100 million from its account to the brokerage company for investment. The Receiver/Manager disregarded clear guidelines issued by the appointing authority regarding the receivership. He also acted in conflict of interest by using public funds for investment by his own company. A report was compiled and forwarded to the Attorney General on 18th January, 2010, with the recommendation that the suspect be charged with abuse of office contrary to section 46 and conflict of interest 42 (3) respectively, of the Anti- corruption and Economic Crimes Act, 2003.

The Attorney General accepted the recommendation for prosecution on 22nd March, 2010.

13. KACC/MSA/FI/INQ/14/2009

Inquiry into allegations that an importer and a clearing agent colluded with officers at Kenya Bureau of Standards (KEBS) and Kenya Revenue Authority (KRA) to allow the importation of 32 used vehicles which were more than eight years old into Kenya contrary to Regulation KS 1515:2000 of KEBS. The investigation established that before any imported used motor vehicles were cleared for release into the country, it had to be verified that they met the age requirement stipulated in KS 1515:2000. This verification was the responsibility of the officers at KEBS and KRA. The investigation revealed that the verification and inspection officers from the two institutions failed to carry out the verification of both the vehicles and the import documents to ascertain the year of manufacture of the vehicles. Instead they passed the vehicles and issued release orders. The 32 vehicles were later inspected and found to be over eight years old. They were impounded before they could be released to the importers. The investigation also established that the clearing agents presented forged import documents. A report was compiled and forwarded to the Attorney General on 22nd March 2010, with recommendations that the KEBS and KRA officers be charged with the offence of deceiving principal, abuse of office and wilful neglect to perform official duty; and the importers and clearing agents be charged with conspiracy, and uttering false documents.

The Attorney General accepted the recommendation for prosecution on 6th April, 2010.

14. KACC /MSA/INQ/9/2007

Inquiry into allegations of a flawed procurement of two ship to shore cranes by the Management of Kenya Ports Authority (KPA). The allegation was that KPA intended to enter into a contract with an Italian Firm for the supply of the two cranes without obtaining the necessary approvals, and there was no quality assurance clause in the intended contract. The investigation revealed that had KPA proceeded with the award of the contract, they would have flouted the procurement regulations. However, before the contract could be executed, KACC intervened to stop it. No offence was disclosed since the contract was not entered into. A report was forwarded to the Attorney General on 11th February, 2010, recommending the closure of this inquiry.

The Attorney General accepted the recommendation for closure on 16th March, 2010

15. KACC/FI/INQ/25/2009

Inquiry into allegations of irregular increment of the salary of the Director General of the National Environment Management Authority (NEMA). The investigation revealed that the Director General applied for a salary review which was approved by NEMA's Finance and Establishment Committee. The Board of NEMA also gave its approval. Prior to the salary increment being effected, the approval of the PS Ministry of Environment was required. The investigation revealed that prior to the PS giving his approval; the Director General directed that his salary increment be effected immediately. In authorizing the payment before Ministerial approval, the Director General and the Director of Finance and Administration failed to comply with specific guidelines that were applicable to the subject. A report was compiled and forwarded to the Attorney General on 4th January, 2010, recommending that the two officers be charged with wilful failure to comply with procedures relating to incurring of expenditure and procurement contrary to section 45(2)(b) of the Anti-Corruption and Economic Crimes Act, 2003

The Attorney General returned the file on 1/4/2010 with the advice that administrative action be taken instead.

16. KACC/FI/INQ/3/2009

Inquiry into allegations that the former Managing Director of Kenya Tourist Board (KTB), misappropriated Kshs. 38,007,173 meant for the operations of KTB by making direct payments to M/s Prime Outdoor Network Limited for advertising services that were not rendered. The investigation established that the procurement in respect of the advertising services, to prime Outdoor Network Ltd had not been planned nor budgeted for by KTB. The procurement was not deliberated upon by the Tender Committee of KTB. It was also established that the company awarded the contract for advertising did not render the services fully. A report was compiled and forwarded to the Attorney General on 25th February, 2010, recommending that the suspect be charged with abuse of office contrary to section 46, wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) and fraudulently making payment from public revenue for services not rendered contrary to section 45 (2) (a) (iii) of the Anti-Corruption and Economic Crimes Act, 2003

The Attorney General's response is awaited.

17. KACC CR. 652/267/2009 CF KISUMU ACC.NO.493/2009

Inquiry into allegations that an Inspector of Police, based at Kisii Police Station had corruptly solicited from the Complainant a benefit as an inducement so as to release the complainant's son who had been arrested and detained for an alleged offence of stealing. The investigation established the solicitation and receipt of the benefit. The suspect was 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 and the case is pending before the Kisumu Anti-Corruption Court. A report was forwarded to the Attorney General on 6th January, 2010 with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 24th February, 2010.

18. KACC CR.921/825/2009 CF KAKAMEGA ACC.NO.4/2009

Inquiry into allegations that a Town Engineer with the Kakamega Municipal Council solicited for a benefit from the complainant as an

inducement for him to certify variation works and issue a favourable completion certificate in respect of a contract that had been awarded to Thelmax Contractors to undertake construction and repair works at the Kakamega Youth Polytechnic. The investigation established the solicitation and receipt of the benefit. The suspect was 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 and the case is pending before the Kakamega Anti-Corruption Court. A report was forwarded to the Attorney General on 8th January, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 11th March, 2010.

19. KACC CR. 210/104/200 CF. NYERI ACC. NO.10/2009

Inquiry into allegations that two police officers attached to Karuri Police Station had solicited for a benefit from the complainant as an inducement to forebear charging him with the offence of allegedly being a member of the Mungiki sect and to return his mobile that they had confiscated. The investigation established the solicitation and receipt of the benefit. The suspects 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 and the case is pending before the Nyeri Anti-Corruption Court. A report was forwarded to the Attorney General on 15th January, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 17th February, 2010.

20. KACC CR.141/873/2009 CF.NAIROBI ACC. NO.32/2009

Inquiry into allegations that the Chief of Makadara Location had solicited for a benefit from the complainant as an inducement to offer him protection while conducting his business within Buruburu. The investigation established the solicitation and receipt of the benefit. The suspect was 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 and the case is pending before the Nairobi Anti-Corruption Court. A report was

forwarded to the Attorney General on 28th January, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 11th February, 2010.

21. KACC. CR.661/204/2009, CF. KISUMU ACC.383/2009

Inquiry into allegations that a Chief Inspector of Police, attached to Migori Police Station had solicited for a benefit from the complainant as an inducement to forbear charging him with an unspecified offence, and as an inducement to return two (2) Applications for Registration Forms that the accused had confiscated from the complainant. The investigation established the solicitation and receipt of the benefit. The suspect was 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 and the case is pending before the Kisumu Anti-Corruption Court. A report was forwarded to the Attorney General on 1st February 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 24th February, 2010.

22. KACC CR. 021/101/2008 CF NAIROBI ACC.NO.8/2009

Inquiry into allegations that a number of people were impersonating KACC investigators and extorting money from unsuspecting members of the public. Several members of the public made the complaints to the effect that some people purporting to be investigators from KACC were summoning them to Nairobi alleging that they are investigating corruption cases against them. The same people were also said to be demanding money from the complainants alleging that they would assist to halt the alleged investigations. Investigations were carried out and three suspects were arrested. One of the suspects was arrested as he received the trap money. The suspects were arraigned before the Nairobi Anti-Corruption court and charged with the offences of impersonating an investigator and extortion by threats. Given that the prosecution of the case was completed before the file was forwarded to the Attorney General, a report was compiled and forwarded 11th February, 2010 for purposes of compliance with section 35 of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

23. KACC CR. 141/715/2009 CF. NAIROBI ACC NO. 36/2009

Inquiry into allegations that a police officer attached to Kasarani Police Station had solicited for a benefit from the complainant as an inducement to forbear charging the complainant with the offence of stealing. The investigation established the solicitation and receipt of the benefit. The suspect was 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 and the case is pending before the Nairobi Anti-Corruption Court. A report was forwarded to the Attorney General on 11th February 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 16th March, 2010.

24. KACC CR. 741/641/2009 CF KERICHO ACC. NO.5/2009

Inquiry into allegations that traffic police officers attached to Bureti Traffic Base, Litein, were soliciting for and receiving bribes from public service vehicle operators as an inducement to allow them to continue operating along the Litein Road. The investigation established the solicitation and receipt of the benefit. The suspects 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 and the case is pending before the Kericho Anti-Corruption Court. A report was forwarded to the Attorney General on 11th March, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

25. KACC CR. 142/55/2009 CF NAIROBI ACC NO.23/2009

Inquiry into allegations that a Security officer with the Cooperative Bank; had been offered a benefit by relatives of a suspect whom the bank was investigating for fraud. The offer for a benefit was an inducement for the Security officer to release the said suspect. The investigation established the offer of a benefit to the security officer. The suspects were arrested and charged with the offences of offering and giving a benefit contrary to section 39(3)(b) 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. A report was

forwarded to the Attorney General on 10th March, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

26. KACC CR. 030/15/2009 CF KERICHO ACC NO.6/2009

Inquiry into allegations that the District Commissioner Rongai had solicited for a benefit from the complainant as an inducement to allow the complainant to continue operating his brewery business. The investigation established the solicitation and receipt of the benefit. The suspect was 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 and the case is pending before the Kericho Anti-Corruption Court. A report was forwarded to the Attorney General on 25th March, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

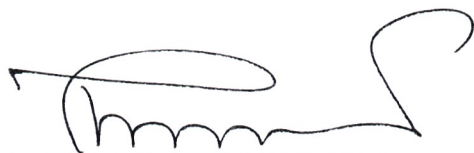
27. KACC CR. 141/91/2009 CF NAIROBI ACC NO.33/2009

Inquiry into allegations that an Inspector with Nairobi City Council had solicited for a benefit from the complainant as an inducement to allow the complainant to construct a kiosk at his plot in Kariobangi South. The investigation established the solicitation and receipt of the benefit. The suspect was 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 and the case is pending before the Nairobi Anti-Corruption Court. A report was forwarded to the Attorney General on 24th March, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

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

Total No. of files forwarded to the Attorney General	27
No. of files recommended for prosecution	25
No. of files recommended for administrative or other action	0
No. of files recommended for closure	2
No. of files recommended for prosecution and the cases are already lodged before Court	19
No. of files where recommendation to prosecute accepted	22
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	2
No. of files returned for further investigations	0
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 forwarded in previous quarters and received during this quarter	9
No. of files where closure not accepted	0
No. of files awaiting Attorney General's action	2

DATED AT NAIROBI THIS 13th DAY OF *April* 2010



**DR. JOHN P. MUTONYI, MBS
AG. DIRECTOR/CHIEF EXECUTIVE**