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**THE FOURTH QUARTERLY REPORT FOR THE YEAR 2009 COVERING  
THE PERIOD 1<sup>ST</sup> OCTOBER 2009 TO 31<sup>ST</sup> DECEMBER 2009**

**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 fourth quarter of the year 2009, and is for the period commencing 1<sup>st</sup> October, 2009 to 31<sup>st</sup> December, 2009.

## **INVESTIGATIONS COVERING THE PERIOD 1<sup>ST</sup> OCTOBER TO 31<sup>ST</sup> DECEMBER 2009**

### **1. KACC/INQ/AT/08/2008 (a)**

Inquiry into allegations of issuance of a fraudulent Letter of Consent and Clearance Certificate for 9,394 acres of land belonging to Miwani Sugar Company (1989) Ltd [In Receivership]. It was alleged that the said parcel of land valued at Kshs. 2 Billion had been fraudulently transferred to a company known as Crossley Holdings Ltd. The Kenya Sugar Board, the debenture holders of the property were organizing to sell the property through competitive bidding when they learnt that the same had been sold through a public auction in purported execution of a court decree. The investigations unearthed a maze of conspiracies involving an advocate, a magistrate and a number of personalities aimed at ensuring that the ownership of the public property whose value is more than Kshs 2 Billion passed to the said Crossley Holdings Ltd.

A report was compiled and forwarded to the Attorney General recommending prosecution of a number of personalities for various offences. The recommendation to prosecute was accepted by the Attorney General on 9<sup>th</sup> December, 2009.

### **2. KACC/FI/INQ/90/08**

Inquiry into allegations that the National Social Security Fund (NSSF) lost Kshs. 1.4 billion of pension funds through irregular trading in shares through M/S Discount Securities Limited (DSL). Investigations revealed that Discount Securities Ltd was one of the approved stock brokers that NSSF utilized in the purchase of shares in accordance with its investment policy. It was also established that whereas NSSF had made payments totalling to Kshs. 2.3 billion to Discount Securities Ltd for the purchase of shares, Discount Securities Ltd had not fully accounted for the same. It was evident that as a result of collusion between some NSSF officials and Discount Securities Ltd, the latter irregularly received Kshs. 1.6 billion for which it never acquired shares as ordered by NSSF.

A report dated 23<sup>rd</sup> December, 2009 was forwarded to the Attorney General on 4<sup>th</sup> January, 2010 with the recommendation that the officers at NSSF be charged with the offences of fraudulent disposal of public property and fraudulently making payment from public property contrary to section 45(1) and 45(2), respectively, of the Anti-Corruption and Economic Crimes Act. It was also recommended that directors of various investment companies that were part of the shares scam be charged with fraudulent acquisition of public property as well as conspiracy to defraud the public. A further recommendation was made to have the Civil Litigation and Asset Recovery Department of the Commission institute recovery proceedings for the sum of Kshs. 1.2 billion being the value of undelivered shares to NSSF in order to safeguard the public interest. The Attorney General accepted the recommendation for prosecution on 8<sup>th</sup> January, 2010.

### **3. KACC/FI/INQ/89/08**

Inquiry into allegations of irregular sale and transfer of plot numbers 209/11219, 209/12220, 209/12287, 209/11331 and 209/11412 held by the NSSF at the Nairobi central business district valued at Kshs.1.37 billion. It was alleged that the said plots had been irregularly sold and transferred to a private developer. After evaluation of evidence, it was ascertained that on 4<sup>th</sup> December 2007, a company by the name Delta Resources Ltd offered to purchase the property at Kshs 1.375 Billion. The said company paid a deposit of Kshs 137,500,000.00 upon which a sale agreement was prepared between the company and the NSSF. Before the balance of the purchase price was paid, the Fund's management executed and registered the transfer of all the plots to another company known as Delta Square Ltd which was said to be a nominee of Delta Resources Ltd. Shortly thereafter the new company purported to have noted some discrepancy in the size of one of the plots for which reason they declined to release the balance of the purchase price to the NSSF. The investigations unveiled a number of irregularities commencing from the time of the acquisition of the said plots to the moment of their disposal by the NSSF. The irregularities involved a number of personalities and were perpetrated over a period of time.

A report was compiled and forwarded to the Attorney General recommending prosecution of the concerned personalities for various offences. The Attorney General accepted the recommendation to prosecute two of the suspects on 23<sup>rd</sup> December, 2009, and directed that further investigations be carried out in respect of all the other proposed charges against the other suspects.

### **4. KACC/FI/INQ/96/2008**

Inquiry into allegations of misappropriation of Kshs. 536, 986,493 belonging to the Kenya Medical Research Institute (KEMRI) Staff Retirement Benefits Scheme by the former Director, and other Trustees. The investigation revealed that the contributions to the Scheme, which was being managed by a Board of Trustees, were paid into two bank accounts held with Standard Chartered Bank. Following the appointment of an Interim Administrator of the KEMRI Staff Retirement Benefits Scheme, It was discovered that there were questionable payments of Kshs. 536,986,493 made from the Scheme funds by three of the Trustees. The said Trustees were the signatories of the Scheme Fund account and hence were accountable for the funds that were misappropriated.

The report was forwarded to the Attorney General on 9<sup>th</sup> October, 2009 with the recommendation that the three Trustees of the KEMRI Staff Retirement Benefits Scheme be prosecuted for fraudulent disposal of public property contrary to section 45 (1) of the ACECA. It was noted that all the Trustees did not administer the Scheme fund in line with the applicable law and are therefore jointly culpable therefor. In addition the Commission has also recommended that all the beneficiaries of the misappropriated funds be charged with fraudulent acquisition of public property. Thirdly, it has been recommended that the funds in question be recovered through the Civil Litigation and Asset Recovery Department of the Commission. The

Attorney General accepted the recommendation for prosecution on 28<sup>th</sup> December, 2009.

#### **5. KACC/ AT/INQ/29/09**

Inquiry into allegation that the Managing Director, School Equipment (SEPU) abused his office by improperly conferring a benefit of Kshs. 226,772,450 to Vulcan Lab Equipment Ltd by awarding the company a contract to supply school equipment. The investigation revealed that after the Ministry of Education established that funds disbursed directly to schools for the purchase of lab equipment was not being properly utilized, the Ministry identified two Laboratory science equipment suppliers that had the approval of Kenya Institute of Education. A sum of Kshs. 261,326,532 was set aside for the purchase of laboratory equipment to secondary schools. Once this money was deposited in SEPU account, the Finance and General Purposes Committee recommended that the suspect, who was the MD of SEPU, should write to the Ministry of Education to seek guidance whether SEPU would use the African Development Bank (ADB) Project procurement process or SEPU'S in-house procurement procedures.

Contrary to the said recommendation, the suspect caused to be prepared by the procurement officer, a requisition to Vulcan Lab Equipment Supplies Limited for the supply of science kits at a cost of Kshs. 75,086,880 and proceeded to pay for the goods upfront. The evidence gathered revealed that the actions by the suspect and his accomplices were in contravention of the Public Procurement and Disposal Act, 2005, which requires that all public procurement be done in accordance with the Act.

The file was forwarded to the Attorney General on 22<sup>nd</sup> December, 2009 with the recommendation that the MD of SEPU and three others be charged with the offence of wilful failure to comply with applicable procurement procedures contrary to section 45(2) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, and an alternative charge of abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act. The Attorney General accepted the recommendation for prosecution on 4<sup>th</sup> January, 2010.

#### **6. KACC/FI/INQ/23/2009**

Inquiry into allegations of irregular payment of Kshs. 112,648,108.50 as plot rent for NSSF Plot Number LR/209/11412 by former Managing Trustee and former Corporation Secretary of NSSF. The investigation revealed that to facilitate the transfer of the said plot which had been earmarked for sale, a rent demand notice was raised by the Land Rent Section at the Department of Lands. It was indicated that the outstanding rent for the said plot was Kshs. 112,648,108.50. The Managing Trustee and the Corporation Secretary authorized the payment of the said amount although it later emerged that the demand notice was raised in error. This was because the two officers did not involve the Investment Department in verifying the claim. Whereas the Commission was of the opinion that there was carelessness on the part of the NSSF officials regarding the manner in which such a large sum of money was paid by NSSF, there was no criminal culpability that would warrant a

possible prosecution, granted that the money was duly accounted for and ultimately remitted by Kenya Revenue Authority to the Central Bank of Kenya.

The file was forwarded to the Attorney General on 2<sup>nd</sup> November, 2009 with a recommendation that the NSSF and Lands officials be dealt with administratively. A further recommendation was made that NSSF should, in liaison with the Civil Litigation and Asset Recovery Department of the Kenya Anti-Corruption Commission, recall the funds erroneously paid to KRA. The Attorney General returned the file on 29<sup>th</sup> December, 2009 with the advice that further investigations be carried out.

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

Inquiry into allegation of fraudulent disposal of public property belonging to Kenya Reinsurance Corporation by the former Director of the Finance and Corporate Services at the Corporation. The investigation showed that the Finance Director demanded payment for Kshs. 2,865,507 from Kenya Alliance Insurance Company on account of outstanding balance of cash calls due to Kenya Re. The Reinsurance Supervisor prepared a payment note and a cheque was prepared which he collected. Kenya Re issued a letter of offer to purchase its property at Villa Franca to the Reinsurance Supervisor (suspect). The latter completed the acceptance form and the cheque that had earlier been issued by Kenya Alliance was attached as payment for the property. A sale agreement was later prepared and a transfer of the property to the suspect was executed and registered. The investigation showed that the suspect acquired the property for no consideration and that he fraudulently misled Kenya Re by representing that the payments from Kenya Alliance were towards the purchase of the Corporation's property at Villa Franca Estate. The officer manipulated payments meant for cash calls and caused them to be applied towards the cost of the house.

The report was forwarded to the Attorney General on 8<sup>th</sup> October 2009, recommending that the Reinsurance Supervisor at Kenya Re be charged with fraudulent acquisition of public property contrary to section 45(1) of the ACECA. The Commission further recommended institution of civil proceedings to recover the house number 287 Villa Franca Estate situated on L.R No. 209/106611/189 and restore its ownership to the Corporation. The Attorney General accepted the recommendation for prosecution on 23<sup>rd</sup> December, 2009.

#### **8. KACC/FI/INQ/21/09**

Inquiry into allegations that money intended to be paid to Internally Displaced Persons (IDPs) sent to Molo District was not properly utilized for the intended purpose. It was also reported that a councillor in Sachangwan area of Molo District had presented to the Minister for Special Programmes a list of about 200 persons who had allegedly been paid money intended for the IDPs, though the said persons had actually not received the same. Following the allegations the Commission carried out investigations and confirmed the allegations to be true. The Commission established that a sum of Kshs. 8,750,000 meant for IDPs was paid to fictitious persons on the basis of documents that were forgeries.

The file was forwarded to the Attorney General on the 23rd November, 2009 with a recommendation that the two suspects involved in the embezzlement of the IDPs funds be charged with the offences of;

- i. Fraud by persons employed in the public service
- ii. Forgery contrary to section 349 of the Penal Code, and
- iii. False accounting by a public officer contrary to section 331 of the Penal Code.

The Attorney General accepted the recommendation to prosecute on 28<sup>th</sup> December 2009.

#### **9. KACC. MSA. FI/INQ/7/2009**

Inquiry into allegations of failure by officials of Lamu West Constituency Development Fund Committee to comply with procurement procedures in the award of a contract for the construction of classrooms at Hongwe Secondary School. The Commission commenced investigations to ascertain the veracity or not of the said allegations. The investigation revealed that, whereas the contract to construct the classrooms, a project approved by the CDF Board, was awarded to a contractor, the procurement procedures as set out in the Public Procurement and Disposal Act, 2005 were not complied with. Instead an official of the Lamu West CDF Committee single sourced the contractor without reference to other CDF officials.

The file was forwarded to the Attorney General on 23<sup>rd</sup> November, 2009 with the recommendation that the said CDF official be charged with the offence of wilful failure to comply with applicable procurement procedures contrary to section 45(2) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The Attorney General accepted the recommendation to prosecute on 22<sup>nd</sup> December 2009.

#### **10. KACC/FI/INQ/139/09**

Inquiry into allegations of embezzlement of Kshs. 102,000 for Western Kenya Community Driven Development and Flood Mitigation Project by the Busia District Project Coordinator. The investigation revealed that the District Project Coordinator (suspect) received an imprest of Kshs. 102,000 to cater for training expenses, but the training was not carried out. The witnesses who were interviewed confirmed that the training was not carried out and some of the alleged recipients of the money also confirmed that they did not receive any allowances as alleged by the suspect. The suspect misappropriated the imprest he received. In an attempt to account for the imprest, the suspect used false documents to surrender the same.

The report was forwarded to the Attorney General on 23<sup>rd</sup> December, 2009 with the recommendation that the suspect be charged with the offences of fraudulent acquisition of public property contrary to section 45(1) of the Anti-Corruption and Economic Crimes Act, as well as forgery and uttering a false document contrary to

sections 349 and 353 of the Penal Code, respectively. The Attorney General accepted the recommendation for prosecution on 4<sup>th</sup> January, 2010.

#### **11. KACC/FI/INQ/29/09**

Inquiry into allegations that the National Aids control Council (NACC) awarded a system security contract worth Kshs.1,432,836.06 to M/s UUNET (K) Ltd, which contract was not reduced into writing and that whereas the contract price included a training component, no training was conducted. The investigation revealed that NACC awarded a contract for the provision of a system Security solution to M/s UUNET (K). The contract had a training component. The evidence gathered showed that UUNET(K) installed the security systems in terms of the contract. They also provided the training in accordance with the requirements of the contract. The payment made by NACC was for services that were satisfactorily rendered. There was no evidence of any wrong doing on the part of the NACC officials to warrant any action being taken against them.

A report was forwarded to the Attorney General 5<sup>th</sup> October December, 2009 recommending that the inquiry file be closed. The Attorney General accepted the recommendation for closure on 22<sup>nd</sup> December 2009.

#### **12. KACC/MSA/FI/INQ/NO. 11/2009**

Inquiry into allegations that a road reserve in Mtwapa area had been illegally acquired by a former public officer. From the investigation carried out, the Commission established that the plot in question was validly and legally allocated to the said public officer. It was also established that the road in question that appears to have cut across the plot was closed in a survey carried out sometimes in the late 1970's. The plot allocated to the former public officer was in existence much earlier before the road network covering the area was established. The investigation did not reveal any illegality in the manner in which the former public officer acquired plot number MN/III/594 which was alleged to be a road reserve.

A report was forwarded to the Attorney General on 15<sup>th</sup> October, 2009 recommending the closure of the inquiry file. The Attorney General returned the file on 13<sup>th</sup> November, 2009 with the advice that further investigations be carried out.

#### **13. KACC. MSA INQ/FI/15/2009**

Inquiry into allegations of fraudulent loss of Kshs. 7.9 million by Mombasa Water and Sewerage Company Limited (now defunct) through fraudulent waivers of customers water bills. It was reported that the waivers were facilitated through collusion between the Commercial Manager, his staff and some customers. The allegations about the fraudulent waivers were made in respect of six accounts. The investigation revealed that several complaints by customers arose as a result of over-billing, meter breakdown, wrong meter reading and billing where no services had been rendered. The investigation showed that after all the documents relating to the six accounts were examined, it was ascertained that all the adjustments made were justified. The



adjustments were occasioned after errors were detected in the billings. The officers from the Water Company involved in the adjustments all confirmed that the adjustments in respect of the six accounts were regular. The investigation showed that there was no fraudulent waiver of customers water bills contrary to the allegations made. From the evidence gathered, none of the officers at the water company are culpable for any fraudulent waivers to warrant any action.

A report was forwarded to the Attorney General on 17<sup>th</sup> November 2009 recommending that the inquiry file be closed. The Attorney General accepted the recommendation for closure on 22<sup>nd</sup> December, 2009.

#### **14. KACC/FI/INQ/2/08**

Inquiry into allegation of irregular plot allocations by the Meru County Council. The report made to the Commission was to the effect that the Meru District Physical Planning Officer had colluded with the County Council of Meru to irregularly allocate plots at Gatimbi Market. The irregularities were alleged to have occurred when the Council decided to plan the market and allocate plots. In the process of planning, persons who had for a long time occupied some of the plots were not considered for allocation and as such the plots they occupied were allocated to other persons. One such person who had all along occupied "plot number 28" made the report to the Commission after his plot was allocated to other persons. The investigation revealed that at the time the said complainant developed the plot, the market had not been planned through an approved sketch plan made by the Council. The Director of Physical Planning has legal mandate to plan any Government land or Trust land within a local authority with reference to any market or trading centre and prepare a local physical development plan. In doing so, the director is not obliged to take into account any developments that had taken place before planning. The Investigation showed that there was no evidence to show that the officials at the Meru County Council of Department of Physical Planning made irregular plot allocations as alleged.

A report was forwarded to the Attorney General on 12<sup>th</sup> November, 2009 recommending that the inquiry file be closed. The Attorney General accepted the recommendation for closure on 23<sup>rd</sup> December, 2009.

#### **15. KACC/FI/INQ/33/2008**

Inquiry into allegation of irregular procurement of M/s Enablis Entrepreneurial Network East Africa as a Financial Intermediary by the Youth Enterprise Development Fund Board (YEDFB). The report made was to the effect that Enablis was engaged by the YEDFB without following the laid down procurement procedures. The evidence gathered in the investigation showed that a loan agreement was entered between the YEDFB and Enablis. The main feature of the loan agreement was the concept of matching funds. The agreement was that the YEDFB would loan Enablis Kshs. 300,000,000 for on-lending to qualifying Kenyan youth. As a pre-condition to the loan, Enablis was supposed to prove that they had similar matching funds of the same sum. The matching funds from Enablis would

also be available for lending to the youth. The investigation established that in engaging Enablis, the laid down procurement procedures were not followed. It was evident that Enablis was contracted through direct procurement without the requisite approval of the tender committee.

The investigation further revealed that there were differences between the Board and the management of the YEDF as concerns its partnership with Enablis. The Board insisted that the partnership was of great benefit to the Kenyan youth while the management was of the view that it was a risky venture since Enablis was a new entity in Kenya and were apprehensive of loaning such a large sum to them without security. Secondly, whereas the CEO of the YEDFB sought the advice of the Attorney General and the Public Procurement Authority, the Board was of the view that the partnership between the YEDFB and Enablis was a public-private partnership and therefore outside the ambit of the Public Procurement and Disposal Act, 2009, granted that the rules for public-private partnership procurement had not been operationalized.

Taking into consideration all the circumstances in this inquiry, the Commission was of the opinion that the evidence obtained would not be sufficient to sustain a charge of wilful failure to comply with procurement procedures. Accordingly, a report was forwarded to the Attorney General on 26<sup>th</sup> October 2009, with the recommendation that the Loan agreement be cancelled pursuant to an appropriate exit clause in the said agreement in view of the fact that no money had been released to Enablis. The Attorney General returned the file on 22<sup>nd</sup> December, 2009 with the advice that further investigations be carried out.

#### **16. KACC/FI/INQ/31/2009**

Inquiry into allegations of embezzlement of Kshs. 1.141 million by the senior management of the National Aids Control Council (NACC) in making payments to M/S Communications Solutions Limited (Access Kenya) for unsupplied internet services. The investigation revealed that sometime in 2007, NACC awarded a contract for the provision of internet services to Access Kenya, for a period of one year, and for a sum of Kshs. 1.141 million. The investigation further showed that upon execution of the agreement, Access Kenya installed and configured the internet services under the terms of the contract. The evidence obtained showed that NACC paid the contract sum to Access Kenya after satisfactory provision of internet services by the latter. There was no evidence of embezzlement of the money by NACC officials to warrant any action being taken against them.

A report was forwarded to the Attorney General on 2<sup>nd</sup> December, 2009 recommending that the inquiry file be closed. The Attorney General accepted the recommendation for closure on 23<sup>rd</sup> December, 2009.

#### **17. KACC CR. 032/16/2009: COURT FILE NO. KISUMU ACC. 194/2009**

Inquiry into allegations that a Constable with the Municipal Council of Kisumu had solicited for a benefit from the complainant as an inducement to forbear charging

the complainant with the offence of constructing a building without an approved plan from the Council. 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 2<sup>nd</sup> October 2009, with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 26<sup>th</sup> October, 2009.

**18. KACC.CR.216/83/08: COURT FILE NO. NYERI ACC. 6/2009**

Inquiry into allegations that a Senior Clerical Officer based at Githunguri D.O's office had solicited for a benefit from the complainant as an inducement to release Land Control Board Consent Application forms in respect of two parcels of land belonging to the complainant, for presentation to the Land Control Board. 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 Nyeri Anti-Corruption Court.

A report was forwarded to the Attorney General on 7<sup>th</sup> October 2009, with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 4<sup>th</sup> November, 2009.

**19. KACC CR. 141/528/2009: COURT FILE NO. NAIROBI ACC. 21/2009**

Inquiry into allegations an employee of Lumumba & Lumumba, Advocates, had solicited for a benefit from the complainant as an inducement to facilitate the registration of a Trust Deed for a Trust known as People for Rural Change Trust at the Lands office. 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 7<sup>th</sup> October 2009, with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 29<sup>th</sup> October, 2009.

**20. KACC CR. 021/53/2009: COURT FILE NO. MOMBASA ACC. NO. 6/2009**

Inquiry into allegations of impersonation by a suspect who represented himself to CID officers attached to Compact Container Freight Station as an investigator with

KACC. The said impersonator also presented himself as a police officer attached to the Special Crime Prevention Unit, Kiambu. The investigation showed that the suspect went to an employee of Kenya Revenue Authority and purported to have been sent to investigate the said officers. When the officer raised concerns about the said person, the CID officers were called and the person alleged that he was an employee of KACC. The suspect was arrested and charged with the offences of impersonating a person employed in the public service and impersonating a KACC investigator. The case is pending before the Mombasa Anti-Corruption court.

A report was forwarded to the Attorney General on 7<sup>th</sup> October 2009, with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 29<sup>th</sup> October, 2009.

#### **21. KACC CR. 021/23/2009: COURT FILE NO. MOMBASA ACC. 5/2009**

Inquiry into allegations that an employee of Kenya revenue Authority had the tendency of corruptly soliciting for and receiving bribes from clearing agents and importers as an inducement to assist them in speedy clearance of their containers. The Commission after receiving the anonymous report carried out surveillance to monitor the activities of the said officer. After monitoring his activities for a week, the suspect was found to have kept Kshs. 548,416 and USD 1,105 in his car boot and a further Kshs. 300,000 in his house. To successfully prosecute the suspect with the offences of corruptly soliciting and receiving a benefit, the evidence of the various agents and importers was crucial. None of the agents could be traced to verify the allegations or to confirm that any bribe was demanded from them. Considering the difficulties in sustaining the charges against the suspect, the Commission recommended that the case that is already pending before the court be withdrawn under section 87(a) CPC and asset recovery be pursued instead.

The report with the aforementioned recommendation was forwarded to the Attorney General on 8<sup>th</sup> October 2009. The Attorney General accepted the recommendation on 9<sup>th</sup> December, 2009.

#### **22. KACC CR. 141/638/2009: COURT FILE NO. NAIROBI ACC. 25/2009**

Inquiry into allegations that a Police Corporal attached to Kileleshwa Police Station corruptly solicited for a benefit from the complainant as an inducement to release the complainant's mobile phone which the suspect had confiscated. 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 8<sup>th</sup> October 2009, with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 16<sup>th</sup> November, 2009.

**23. KACC CR. 141/466/2009: COURT FILE NO. NAIROBI ACC. NO. 7/2009**

Inquiry into allegation that the Assistant Chief of Savannah Sub-Location corruptly solicited for a benefit from the complainant as an inducement to allow Maximizing Facts on HIV/AIDS Youth Group to construct an Orphan Rescue Centre in Soweto slums. 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 12<sup>th</sup> October 2009, with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 16<sup>th</sup> November, 2009.

**24. KACC CR. 440/386/2009: COURT FILE NO. EMBU ACC. 3/2009**

Inquiry into allegation that a Clerical Officer with the Ministry of Immigration and Registration of Persons corruptly solicited for a benefit from the complainant as an inducement to facilitate the processing of a death certificate. 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 Embu Anti-Corruption Court.

A report was forwarded to the Attorney General 15<sup>th</sup> October 2009, with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 16<sup>th</sup> November, 2009

**25. KACC CR. 141/519/2009: COURT FILE NO. NAIROBI ACC. 19/2009**

Inquiry into allegation that an employee with Department of Registrar General based at Sheria House, corruptly solicited from the complainant a benefit as an inducement to process a business registration certificate for 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 Nairobi Anti-Corruption Court.

A report was forwarded to the Attorney General on 21<sup>st</sup> October 2009, with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 14<sup>th</sup> December 2009.

**26. KACC.CR.170/340/2009: COURT FILE NO. MAKADARA ACC. 4/2009**

Inquiry into allegations that a former technician with the Kenya Power and Lighting Company, had corruptly solicited for a benefit from the complainant as an inducement to facilitate the relocation of a KPLC meter from the house of the said complainant and to install the same at the main gate. 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 Makadara Anti-Corruption Court.

The file was forwarded to the Attorney General on 12<sup>th</sup> November, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 16<sup>th</sup> December 2009.

**27. KACC.CR.141/521/2009: COURT FILE NO. NAIROBI ACC. 5/2009**

Inquiry into allegations that a City Council of Nairobi Parking Attendant had corruptly solicited for a benefit from the complainant as an inducement to forbear having the complainant charged with the offence of forgery. 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.

The file was forwarded to the Attorney General on 20<sup>th</sup> November, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 16<sup>th</sup> December 2009.

**28. KACC.CR.211/155/2009: COURT FILE NO. NYERI ACC. 13/2009**

Inquiry into allegations that the Assistant Chief of Githiga Sub-location in Githunguri District had corruptly solicited for a benefit from the complainant as an inducement to release a business permit No. 2009/11611 that she had confiscated from the owner of a hotel. The investigation established the receipt of the benefit by the accused through an agent. The suspect was arrested and charged with the offence of abuse of office contrary to section 46 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.

The file was forwarded to the Attorney General on 23<sup>rd</sup> November, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion subject to additional charges being preferred. The Attorney General accepted the recommendation on 14<sup>th</sup> December 2009.

**29. KACC.CR.141/566/2009: COURT FILE NO. NAKURU ACC. 7/2009**

Inquiry into allegations that a Warrant Officer 1 at the Lang'ata Barracks had corruptly solicited for a benefit from the complainant as an inducement to secure the complainant a vacancy in the Military Training College. 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 Nakuru Anti-Corruption Court.

The file was forwarded to the Attorney General on 24<sup>th</sup> November, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 23<sup>rd</sup> December 2009.

**30. KACC.CR.030/10/2009: COURT FILE NO. NAKURU ACC. 6/2009**

Inquiry into allegations that the Assistant Chief of Ndabibi Location in Naivasha District had corruptly solicited for a benefit from the complainant as an inducement to waive a Community Service Committal Order issued against the complainant by a Naivasha Court. 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 Nakuru Anti-Corruption Court.

The file was forwarded to the Attorney General on 24<sup>th</sup> November, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 14<sup>th</sup> December 2009.

**31. KACC CR. 764/348/2009: COURT FILE NO. NAKURU ACC. 9/09**

Inquiry into allegations that a Catchment Management Officer with the Water Resources Management Authority solicited from the complainant a benefit as an inducement to facilitate the quick processing of a water permit renewal. 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 Nakuru Anti-Corruption Court.

The file was forwarded to the Attorney General on 14<sup>th</sup> December, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 28<sup>th</sup> December, 2009.

**32. KACC CR. 481/157/2009: COURT FILE NO. EMBU ACC. 2/09**

Inquiry into allegations that a Court Clerk based at the Chuka Law Courts solicited from the complainant a benefit as an inducement to influence the court to give a favourable judgement in a criminal case pending against 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 Embu Anti-Corruption Court.

The file was forwarded to the Attorney General on 21<sup>st</sup> December, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The Attorney General accepted the recommendation on 30<sup>th</sup> December, 2009.

**33. KACC CR. 141/858/05: COURT FILE NO. NAIROBI ACC. 43/05**

Inquiry into allegations that a nurse, formerly working for the Ministry of Health, had solicited from the complainant a benefit as an inducement to facilitate the employment of the complainant's sister as a nurse in the Ministry of Health. 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.

The file was forwarded to the Attorney General on 23<sup>rd</sup> December, 2009 with the recommendation that the case be prosecuted to its logical conclusion. At the time of forwarding the report to the Attorney General, the case before court had already been finalized and the accused was acquitted in respect of the charges of solicitation but was convicted for the offence of receiving a benefit and fined a sum of Kshs. 70,000 or 12 months imprisonment in default.

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

Total No. of files forwarded to the Attorney General	33
No. of files recommended for prosecution	26
No. of files recommended for administrative or other action	2
No. of files recommended for closure	5
No. of files recommended for prosecution and the cases are already lodged before Court (one finalized)	17
No. of files where recommendation to prosecute accepted	26
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	4
No. of files returned for further investigations	3
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	2
No. of files where closure not accepted	0
No. of files awaiting Attorney General's action	0

**DATED AT NAIROBI THIS 12<sup>th</sup> DAY OF *January* 2010**



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