


THE ETHICS AND ANTI-CORRUPTION COMMISSION

PARLIAMENT
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SECOND QUARTERLY REPORT COVERING THE PERIOD
1ST APRIL, 2024 TO 30TH JUNE, 2024

 THE NATIONAL ASSEMBLY PAPERS LAID	
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PREAMBLE

The Ethics and Anti-Corruption Commission (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 Director of Public Prosecutions (DPP) under Section 35 of the Anti-Corruption and Economic Crimes Act, 2003 as read with Section 11(1) (d) of the Ethics and Anti-Corruption Commission Act, 2011.

Section 36 provides that;

1. *The Commission shall prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions under Section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.*
2. *A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.*
3. *The Commission shall give a copy of each quarterly report to the Attorney General.*
4. *The Attorney General shall lay a copy of each quarterly report before the National Assembly.*
5. *The Commission shall cause each quarterly report to be published in the Gazette.*

This report is therefore made pursuant to Section 36 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003(ACECA). The report covers the Second Quarter and is for the period commencing 1st April, 2024 to 30th June, 2024.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST APRIL, 2024 TO 30TH JUNE, 2024

1. EACC/PI/INQ/2/2023

ALLEGATIONS OF IRREGULAR AWARD OF TENDERS WORTH KES. 45M BY THE NG-CDF TO COMPANIES ASSOCIATED WITH AN INTERNAL AUDITOR AT NG-CDF DURING THE FINANCIAL YEARS 2018-2022.

The Ethics and Anti-Corruption Commission (**EACC**) commenced these investigation following a report received on allegations of irregular award of tenders by the National Government Constituency Development Fund Board (**NG-CDF**) to companies associated with an Internal Auditor at NG-CDF Board during the financial years 2018/2019 - 2021/2022.

Investigation established that the suspect was seconded to the Constituency Development Fund Board on 26th July 2011 as an Internal Auditor. Subsequently, she was absorbed to the Constituency Development Fund Board and appointed as the Principal Internal Auditor on 4th August, 2022.

In 2016, the Head of Internal Audit tasked the suspect to audit projects undertaken by the the Constituency Development Fund in Kajiado East Constituency (**CDF**) in the 2014/2015 and 2015/2016 Financial years.

Investigation established that immediately after the completion of the audit exercise, the suspect started undertaking projects in Kajiado East Constituency project using four companies associated with her. She is the Director of OneTouch Professional Limited, Opulence Africa Merchants, Pyramid Concepts East Africa Ltd and a bank signatory to Braimo General Merchants. She is also the sole Bank Signatory to all the bank accounts held in respect of the four companies.

Investigation revealed that between 2017 and 2022, the four companies received a total of **Kshs. 59,045,580** being payments from NG-CDF funded projects in Kajiado East Constituency with the assistance of the Funds Account Manager. The suspect held a private interest in the contracts awarded to the companies associated to her by the Project Management Committee. Further, the suspect, upon receiving payments from NG-CDF, transferred money to the Funds Accounts Manager, the Quantity Surveyor and Clerk of Works both from Kajiado County. The amounts of cash were received during the implementation phase of the projects in the constituency awarded to the Principal Internal Auditor that were being supervised by the Quantity Surveyor and Clerk of Works.

On 23rd May, 2024 a report was compiled and forwarded to the DPP with recommendations to charge the Internal Auditor, Fund Account Manager, Quantity Surveyor and the said contracted companies with the following offences:

- i. Conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48(1) of the Anti -Corruption and Economic Crimes Act No. 3 of 2003.
- i. Five counts of conflict of interest contrary to Section 42(3) as read with Section 48 of ACECA.
- ii. One count of willful failure to comply with the law relating to procurement contrary to Section 45(2) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.
- iii. Three counts of fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA.
- iv. Four counts of uttering false documents contrary to Section 353 of the Penal Code

Awaiting DPP's response.

2. EACC/FI/INQ/29/2023

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF GOODS BY THE NAIROBI CITY COUNTY GOVERNMENT IN TENDER NO. NCC/MWKRS/T/109/2022-2023 FOR SUPPLY AND DELIVERY OF ELECTRICAL MATERIALS FOR STREET LIGHTING THROUGH ISSUANCE OF EIGHT (8) LPOS, TO EIGHT (8) DIFFERENT COMPANIES, AMOUNTING TO KES. 313,844,035.00 IN THE FINANCIAL YEAR 2022/2023.

The Ethics and Anti-Corruption Commission (EACC) received a report on allegation of irregular award of tender no. NCC/MWKRS/T/109/2022-2023 for supply and delivery of street lighting electrical materials to eight (8) companies by the Nairobi City County Government at a cost of Kes. 313,844,035.00 during the financial year 2022/2023.

Investigation established that the letters of notification of intention to enter into a contract were written on 6th February 2023 and LPOs signed on the same day. This was a clear violation of the fourteen (14) day's waiting period which must lapse following a notification of award before contracts are signed.

It was also established that the LPOs were signed and issued out to the Suppliers without a preceding acceptance of the awards, in violation of the public procurement laws

In addition, the LPOs were irregularly signed without the Accounting Officer having approved the recommendation set forth in the professional opinion in violation of the procurement law and the procedures established therein.

On 3rd June 2024, a report was compiled and forwarded to the DPP with recommendations to charge the Chief Officer, Works and Mobility, Head of Procurement, Procurement Officer (secretariat of Tender Opening/ Evaluation Committee), Finance Officer, Procurement Officer, Chair – Tender Evaluation Committee, Chair- Tender Opening Committee, Member (TEC), Member (TEC), Director of Waylin Gen. Ltd, Director - Fidelity Telecom Services and the contracted companies with the following offences;

- i. Conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48(1) of the Anti -Corruption and Economic Crimes Act No. 3 of 2003.
- ii. Neglect of official duty contrary to Section 128 as read with Section 36 of the Penal Code.
- iii. Two counts of willful failure to comply with the law relating to procurement contrary to Section 45(2) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.
- iv. Six counts of corrupt practice in a procurement proceeding contrary to Section 66(1) and (2) of the Public Procurement and Asset Disposal Act, 2015.
- v. One count of uttering false documents contrary to Section 353 of the Penal Code.
- vi. Two counts of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- vii. One count of financial misconduct contrary to Section 197 (1) (h) as read with Section 199 of the Public Finance Management Act No.18 of 201.

The Commission also recommends for the cancellation of the signed contract (LPO), disciplinary proceedings against the members of the Evaluation Committee and an advisory to issue to Nairobi City County Government on the need to adhere to procurement procedures

On 26th July, 2024 the DPP returned the file with recommendation for administrative action to be taken against the suspect in lieu of prosecution.

3. EACC/BGM/FI/INQ/14/2020

INVESTIGATION INTO ALLEGATIONS OF MISAPPROPRIATION OF KSH 11 MILLION PUBLIC FUNDS SET ASIDE TO FACILITATE PUBLIC AWARENESS CAMPAIGN ON COVID-19 (CORONA VIRUS) BY THE COUNTY GOVERNMENT OF BUNGOMA

The Commission received a complaint that officials of the County Government of Bungoma misappropriated Kshs.11 Million borrowed from the Bungoma County Referral Hospital (Hospital) that was meant to facilitate public awareness campaign on Covid-19 sensitization (Covid campaign).

Investigation established that on 17th February, 2020 the County sought for funds (Kshs. 50 Million) from the National Treasury to initiate measures to address the looming Covid-19 emergency. On 14th April 2020, Kshs. 50 Million from the National Treasury was disbursed to the County Emergency to address the looming Covid 19 emergency.

In the intervening period, the CEC for Public Service Management & Administration approved a budget of Kshs. 6,986,000 for Covid campaign from the Director Special Programmes. The CEC Finance approved for the said funds to be transferred from the hospital's Revenue Collection Account (Hospital's Account) to conduct the Covid campaign.

The said funds were released from the Hospital's Account to nine (9) County staff attached to different Departments at the County. Each of the nine (9) officers received Kshs. 776,223 on 18th March 2020 after making imprest applications and made surrender at different periods thereafter.

The funds were utilized thereafter by the imprest holders in procurement of goods and services for Covid campaign, paying of MCA's while some funds were not properly accounted for.

Investigation established that the CEC Finance approved transfer of funds from the Hospital which had been set aside for the hospital's budgeted use. She never identified the vote from which funds were to be reallocated from before she approved expenditure/ reallocation. In addition, the reallocation/ transfer was beyond what was allowed under Section 154 of PFMA

Investigation established that the imprest holders procured goods by themselves without involving the department of supply chain.

The Chief Officer Health, the Medical Superintendent, an Accountant and the Administrative Officer of the hospital jointly authorized the utilization of a total sum of Kshs. 11,986,000 for an activity that was not within the hospital's budget.

The Chief Officer Health issued instructions to the Medical Superintendent of the hospital that led to irregular withdrawal of funds from the hospital's Account without seeking requisite approvals from the Chief Officer Finance and Economic Planning or CEC Finance. This led to mismanagement or misappropriation of public funds.

The Medical Superintendent and the Accountant at the hospital approved or allowed incomplete imprests to nine (9) imprest holders for activities which were not within budgeted activities of the hospital and to personnel not employed within the hospital.

The Health Administrative Officer and the Accountant unlawfully committed funds of the hospital by signing imprest applications without ensuring that there was a Vote available for the activity.

The use of the emergency fund and the hospital's fund was not properly managed and the funds utilized from the hospital were misappropriated.

On 3rd June, 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspects with six counts of misappropriation of public funds contrary to Section 198(1) (b) as read with Section 199 of the Public Finance Management Act 2012.

Awaiting DPP's response.

4. EACC/ISL/PI/INQ/12/2017

ALLEGATIONS OF CORRUPTION AND PROCUREMENT IRREGULARITIES AGAINST THE PRINCIPAL AND THE MANAGEMENT BOARD OF MERU TEACHERS TRAINING COLLEGE IN THE PROCUREMENT AND AWARD OF TENDER TO RE-CARPET THE ENTRANCE OF THE COLLEGE USING CARBROS

The Commission commenced investigation following a complaint received in February 2017 at the Commission's Upper Eastern Regional, Isiolo on allegations of irregularities and corrupt conduct in the procurement and award of tender to re-carpet the entrance of Meru Teachers Training College (MTTC) using cabros.

Investigation established that the Board of Management Meru Teachers Training College met on 14th July 2016 and approved the re-carpeting project. Subsequently, the Principal who is the Accounting Officer of the College initiated the procurement process for works, services and supplies in regard to the project.

Investigation further revealed, inter alia, that during the procurement process, the Principal and the Procurement Officer did not follow the lawful procurement procedures as per the Public Procurement Law and Regulations. It was also established that the contractor who was awarded the tender, did not have requisite qualifications to undertake the works. Further, it was established that there were fraudulent practices during the tendering process.

On 18th April, 2024 a report was compiled and forwarded to the DPP with recommendations to charge the Principal, the Procurement Officer of MTTC and the contractor with the following offences;

- i. Five counts of willful failure to comply with the law and applicable procedures relating to procurement contrary to Section 45(2) (b) as read with Section 48(1) (a) of the Anti-Corruption and Economic Crimes Act, 2003.
- ii. Fraudulent practice in procurement proceeding contrary to Section 66(2) as read with as read with Section 177(a) of PPADA.
- iii. Abuse of office contrary to Section 46 as read with Section 48 of the Anti-Corruption and Economic Crimes Act (ACECA), 2003.
- iv. Carrying on the business of a contractor without registration contrary to Section 15(1) as read with Section 15(3) of the National Construction Authority Act No. 41 of 2011.

Awaiting DPP's response.

5. EACC/MCKS/FI/INQ/22/2021

INQUIRY INTO ON ALLEGATIONS THAT THE VICE CHANCELLOR (VC) AT SOUTH EASTERN KENYA UNIVERSITY (SEKU) RECEIVED DOUBLE PAYMENT FOR HIS GRATUITY FOR THE PERIOD BETWEEN MARCH 2012 AND MAY 2013

The Commission commenced investigation following a report received on 25th November 2021 on allegations that the Vice Chancellor of South Eastern Kenya University (SEKU) received double payments for his gratuity for the period between March 2012 and May 2013.

Investigation established that the suspect was appointed as the Principal, South Eastern University College for a period of five years as from March 2010. In May 2013, while serving in the said position, he was appointed as the VC, SEKU. In both positions, he was employed on contractual basis and was entitled to gratuity at the rate of 31% of the basic salary paid in arrears every two years.

Investigation further established that in April 2012, the suspect was paid gratuity for the period 15th March 2010 to 14th March 2012. In July 2013, he was paid gratuity for the period between 15th March 2012 to 19th May 2013, a total sum of **Kshs. 714,267.80/=** (Kshs. 499,987.20/= as gratuity and Kshs. 214, 280.60/= as tax on gratuity). This was a one-year gratuity given that his term as the Principal for SEKU had ended on 19th May 2013 and there was need to pay all his dues including the said one-year gratuity.

Investigation revealed that there was an overpayment of Kshs. 714,267.84/= as gratuity that was deducted from the suspect's service gratuity of 15th March 2016

to 14th March 2018. There was no evidence to prove that he engineered the double payment as the payment went through the system checks.

On 18th April, 2024 a report was compiled and forwarded to the DPP with recommendations to close the inquiry file and an advisory be issued to SEKU University on the need to upgrade their payment system.

On 13th June 2024, the DPP returned the inquiry file with recommendation for closure.

6. EACC/ELD/FI/INQ/17/2019

INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AGAINST THE CLERK OF THE COUNTY ASSEMBLY OF TURKANA IN THE PROCUREMENT OF AIR TRAVEL AGENCY SERVICES FROM REAPAK TRAVEL AGENCY LIMITED.

The Commission received a report on allegations of conflict of interest, abuse of office and procurement irregularities at Turkana County Government. It was alleged that the Clerk of the County Assembly of Turkana was trading with the County Government of Turkana (both the Assembly and the County Executive) through Reapak Travel Agency Ltd in the provision of Travel Agency Services

Investigation established that the County Assembly irregularly procured the services of Reapak Travel Agency to offer Air Travel services.

It was further established that the Clerk of the County Assembly of Turkana was the Accounting Officer of the County Assembly and a Director of Reapak Travel Agency Ltd, a Company incorporated on 3rd February 2014.

Investigation also revealed that the officers in the Finance Department jointly approved and processed payment for the subject tender without confirming that the requisite supporting documents were available.

On 3rd June, 2024 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk of Turkana County Assembly, a Procurement Officer, the Deputy Clerk, the Principal Finance Officer, the Principal Internal Auditor, the Senior Accountant, the Director Finance, an agent of Reapak Travel Agency Ltd, Reapak Travel Agency Limited and its Directors with the following offences;

- i. Conspiracy to commit an economic crime contrary to Section 47a as read with Section 48 of the Anti-Corruption and Economic Crimes Act, 2003.
- ii. Five counts of abuse of office contrary to Section 46 as read with Section 48 of the Anti-Corruption and Economic Crimes Act (ACECA), 2003.
- iii. Unlawful acquisition of public property contrary to Section 45(a) as read with Section 48 of the Anti- Corruption and Economic Crimes Act, 2003
- iv. Conflict of interest contrary to Section 42(3) as read with Section 48 of the Anti- Corruption and Economic Crime Act, no. 3 of 2003

Awaiting DPP's response.

7. EACC/MCKS/F1/INQ/8/2022

INQUIRY INTO ALLEGATIONS OF ILLEGAL SALE OF CALCIUM HYPOCHLORITE (CHLORINE) BY YATTA WATER SERVICES COMPANY TO KITUI WATER AND SANITATION COMPANY (KITWASCO).

The Commission received a report on 14th July 2022, on allegations of illegal sale of Calcium Hypochlorite (commonly referred to as Chlorine) by Yatta Water Services Company to Kitui Water and Sanitation Company (KITWASCO) at a cost of Kshs. 743,850.

Investigation established that in February 2022, KITWASCO was in need of chlorine to be used at the Masinga Water Treatment Works. The only prequalified company (KEL Chemicals Limited) which had been contracted to supply and deliver water treatment chemicals was not able to supply the chlorine as it was out of stock.

Investigation established that the Managing Director of KITWASCO requested the Managing Director, Yatta Water Services Company to supply fifty (50) buckets of Calcium Hypochlorite (Chlorine) in 45 Kg buckets at a cost of Kshs. 330.60 per kg; totaling Kshs. 743,850. The chlorine that Yatta Water Services sold to KITWASCO had been supplied to Yatta Water Services by the Government of Kenya and had been marked 'Not for Sale'. In the course of its Investigation, the Commission established that this matter was investigated by the Directorate of Criminal Investigation vide Yatta Criminal Inquiry File No.2/2022.

On 3rd June, 2024 a report was compiled and forwarded to the DPP with recommendations that the Commission institutes a civil recovery suit against the Managing Director Yatta Water Services for the sum of Kshs 743,850/= that could not be accounted for.

On 24th July 2024, the DPP returned the inquiry file with the recommendation for administrative action.

8. EACC/ELD/FI/INQ/21/2020

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN THE AWARD OF TENDER NO. CDFMBN/1/2018/2019 FOR CONSTRUCTION OF A CLASSROOM AT ST. ANN & JOACHIM SECONDARY SCHOOL IN MOIBEN CONSTITUENCY IN THE FINANCIAL YEAR 2018/2019.

The Commission received a report on allegations of Procurement irregularities in the award of a tender for the construction of a classroom at St. Ann & Joachim Secondary School. It was alleged that the Principal of St. Ann & Joachim Chepkosom Secondary School was unilaterally requesting for Company Profiles from contractors, and preparing or filling bids on their behalf with the intention of awarding the NG-CDF funded project Tender No. (CDFMBN/1/2018-2019) to a company of her choice.

Investigation established that St. Anne & Joachim Chepkosom Secondary school had an approved procurement plan and budget for the classroom project in accordance with Section 53 (2) and Section 45 (3) of the PPDA.

Investigation further established that the Principal executed her mandate as the Accounting Officer by appointing ad hoc committees in compliance with the law, as espoused in Section 78(1) of the PPDA.

The Tender Opening Committee prepared minutes in compliance with Section 78(10) of the PPDA. The Evaluation Committee prepared a Report in accordance with Section 80(4) of the PPDA recommending that the Tender be awarded to the lowest evaluated responsive bid submitted by M/s Endo Builder (K) Ltd at a tender sum of Kshs. 842,288 in accordance with Section 86(1) (a) of the PPDA.

Investigation revealed that the construction of the classroom was completed satisfactorily and it is now in use. However, there were procedural irregularities during the tender opening which recommended use of prequalified list of suppliers for an open tender.

On 3rd June, 2024 a report was compiled and forwarded to the DPP with recommendations that the school or relevant Ministry takes administrative action against the public officers.

Awaiting DPP's response.

9. EACC/NKR/FI/INQ/08/2021

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF MORTGAGE SCHEME FUND AMOUNTING TO KSHS. 200,000,000.00 BY THE LOAN MANAGEMENT COMMITTEE OF THE COUNTY GOVERNMENT OF BOMET IN THE FINANCIAL YEAR 2018/2019 AND 2019/2020.

The Commission received and registered a complaint that the County Government of Bomet Loans Management Committee misappropriated the

County Assembly mortgage scheme funds amounting to Kshs.200, 000,000 in the Financial Years 2018/2019 and 2019/2020.

Investigations established that on diverse dates from October 2017, the Members of the County Assembly and Staff made applications for mortgage attaching relevant documents such as a valuation report, title deed and search certificate, being a requirement under regulation 10(2) of the Public Finance Management (Bomet County Assembly (Members) Scheme Fund) Regulations, 2017. Consequently, the Committee met on various dates deliberated and approved the respective Mortgage applications.

Investigations revealed that the MCA's had completed their loan repayments and have since been issued with a loan clearance certificate.

Investigations also revealed that there was no misappropriation or fraud by the Loan Management Committee in the Management of the Bomet County Mortgage Scheme Fund.

On 13th June 2024, a report was compiled and forwarded to the DPP with recommendations to close the inquiry file.

Awaiting DPP's response

10.EACC/FI/INQ/70/2015

INQUIRY INTO ALLEGATIONS OF DOUBLE PAYMENTS MADE IN THE OFFICE OF THE DEPUTY PRESIDENT DURING FINANCIAL YEAR 2013/2014 FOR THE RENOVATION OF THE DEPUTY PRESIDENT'S KAREN RESIDENCE WHICH HAD BEEN DONE IN THE FINANCIAL YEAR 2012/2013.

The Commission commenced Investigation following a complaint received on allegations that massive double payments were made in the Office of the Deputy President (DP) in the financial year 2013/2014 for the renovation of the DP's Karen Residence that had been done in the Financial Year 2012/2013.

Investigation established that the project was initially meant for the Vice President's residence and had been carried out by two contractors. The first contract was terminated for non-performance and the second one undertook works to completion.

It was further established that in the year 2013, the Deputy President was supposed to move into the official residence. However, upon visiting the Karen Residence, he recommended certain changes, which informed the renovation of the whole house. It was further established that the Ministry of Lands and Housing, Directorate of Public Works was in charge of the renovations and hence were the implementers of the project.

Investigation also established that the renovations were justified and that there were no double payments made to the contractors as alleged. The renovations were carried out and no public funds were lost.

On 3rd June, 2024 a report was compiled and forwarded to the DPP with recommendations to close the inquiry file.

Awaiting DPP's response

11.EACC/PI/INQ/40/2023

INQUIRY INTO AN ALLEGATION OF PROCUREMENT IRREGULARITIES AT THE STATE DEPARTMENT FOR WILDLIFE IN TENDER NO. SDW/RFP/015/2022-2023 FOR CONSULTANCY SERVICES FOR REVIEW OF WILDLIFE CONSERVATION AND MANAGEMENT BILL, 2023 AT A COST OF KSHS. 6.6 MILLION DURING FY 2022-2023.

The Commission received a report that the Principal Secretary, State Department for Wildlife had irregularly cancelled a Kshs. 6 billion tender for consultancy services for review of the Wildlife Conservation and Management Bill.

Investigation established that the said tender was for Kshs. 6 million and not the Kshs. 6 billion as reported.

Investigation also established that in the FY 2022/2023, the subject tender was planned and funds were available from the Global Environment Facility at a budget of Kshs.20,000,000/=. The procurement method used was request for proposals.

The procurement process commenced with six bidders expressing their interest. At the Technical Evaluation stage, three bidders were successful. At the Financial Evaluation, Munyao, Muthama and Kashindi Advocates & Commissioner of Oaths was recommended for award at a tender sum of Kshs. 6,960,000.00.

Investigation established that the Principal Secretary at the State Department of Wildlife directed that the procurement process for the subject tender be cancelled based on an Executive Directive that all natural resources Departments first develop conservation policies from which laws are to emanate.

The State Department of Wildlife informed the Public Procurement Regulatory Authority and all the bidders of the termination of the procurement proceedings for the subject tender.

Investigation established that the procurement process and termination of the procurement process for the subject tender was well within the law and that there was no procurement irregularity as alleged. It was further established that there was no loss of public funds.

On 9th May, 2024 a report was compiled and forwarded to the DPP with recommendations to close the inquiry file.

On 4th July, 2024 the DPP returned the file with recommendation for closure.

12. EACC/GSA/AT/INQ/06/2022

INQUIRY INTO ALLEGATION OF IRREGULAR LEASE OF PARCEL OF LAND PLOT NO. 10 BLOCK 4 BELONGING TO THE STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT IN GARISSA MUNICIPALITY BY THE GARISSA MUNICIPAL MANAGER

The Commission conducted investigations into the allegation of irregular lease of parcel of land Plot No. 10 Block 4 (the land) belonging to the State Department of Housing and Urban Development (SDHUD) within Garissa Municipality.

Investigations established that the land belonged to SDHUD and the management of the Municipality was vested with the Garissa Municipality Board.

Investigations further established that a business man operating a hotel in Eastleigh had applied for lease of the land and his application was not tabled before the Garissa Municipality Board.

Investigations revealed that instead, the Garissa Municipality Board Manager forged the board minutes for a meeting purportedly held on 12th May, 2022. The minutes alluded to a deliberation on the business man's application for lease and approved it. All the board members denied having attended the said meeting nor did they approve the application for the lease.

Investigations further established that the lease was signed by the Garissa Municipality Board Manager on 24th May, 2022 for a term of five years at an annual fee of Kshs.30,000/=.

Investigations further revealed that the business man proceeded to apply for the necessary approvals to establish a car wash business. A site visit by the Commission established that the car wash was built and it is in operation.

On 13th June 2024, a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following offences;

- i. Forgery contrary to Section 349 of the Penal Code.
- ii. Abuse of office contrary to section 46 of the ACECA.

The Commission also recommends that an advisory to issue to the Garissa Municipality Board to terminate the lease irregularly entered in respect to parcel of land Plot No. 10 Block 4.

Awaiting DPP's response.

13. EACC/GSA/AT/INQ/03/2022

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND FRAUDULENT ACQUISITION OF PUBLIC PROPERTY BELONGING TO THE NATIONAL CEREALS AND PRODUCE BOARD (NCPB), AGAINST THE DEPOT MANAGER NCPB, GARISSA OFFICE.

The Commission received a complaint on allegations of abuse of office and fraudulent acquisition of public property against the Manager of NCPB, Garissa Office.

Investigation established that the Manager, NCPB advertised on the Garissa Depot notice board an open space on the property for lease measuring 200 by 100 square feet (the facility) in line with its Leasing Policy.

In response to the advertisement, Sunny Link Agencies Limited (the tenant) submitted an application to lease the facility for Kshs. 40,000/- a month inclusive of VAT.

It was also established that NCPB's Regional and Central Processing Committee processed the tenant's application in line with NCPB's Leasing Policy and recommended a lease to the tenant for the facility at Kshs. 40,000/- per month inclusive of VAT.

The Investigation revealed that the provisions of NCPB's Leasing Policy do not fully align with the provisions for disposal under the PPADA, 2015 to the extent that the Policy does not provide for planning, need for an expert report and setting of a reserve price of the assets to be disposed as conditions relevant in the procurement processes.

Nonetheless, the Managing Director approved the recommendation to lease the facility to a tenant at Kshs. 40,000/= and NCPB entered into an agreement for lease with the tenant on 7th July 2020.

The lease was not registered against NCPB's property. Nonetheless, the agreement created a tenancy relationship between NCPB and the tenant. The tenant has been making the agreed payments to NCPB.

On 9th May, 2024 a report was compiled and forwarded to the DPP with recommendations to close the inquiry file and an advisory be issued to NCPB to align its policy with the Public Procurement and Asset Disposal Act 2015.

On 3rd July, 2024 the DPP returned the inquiry file with recommendations for closure.

14. EACC/EL/INQ/36/2021

INVESTIGATION INTO ALLEGATIONS THAT A DISABILITY SERVICE OFFICER, AT NATIONAL COUNCIL FOR PERSONS WITH DISABILITY (NCPWD) USED A FORGED BACHELOR DEGREE CERTIFICATE FROM MT. KENYA UNIVERSITY TO SECURE EMPLOYMENT

The Commission received a report on 23rd March 2012 that the suspect, a Disability Service Officer, at National Council for Persons with Disability (NCPWD) used a forged bachelor degree certificate from Mt. Kenya University to secure employment.

Investigation established that the suspect forged a Bachelor of Arts (Sociology) Degree Certificate purporting to be a genuine certificate issued by Mt. Kenya University and a KCSE certificate to secure employment as a Disability Service Officer, at NCPWD.

Investigation further revealed that the said officer unlawfully earned a sum of Kshs. 1,476,328.40 during the period as salary on account of the fraud.

On 15th April 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following offences;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act
- ii. Two counts of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- iii. One count of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.
- iv. One count of presentation of forged certificate contrary to Section 34(a) of Kenya National Examination Council Act no. 29 of 2012.
- v. One count of giving false information to a person employed in public service contrary to Section 129 (a) of the Penal Code.
- vi. One count of making a false statutory declaration contrary to Section 11 of the Oaths and Statutory Declarations Act.

Awaiting DPP's response.

15. EACC/EL/INQ/06/2022

INVESTIGATION INTO ALLEGATIONS THAT A SCHOOL BURSAR AT NJORO GIRLS HIGH SCHOOL USED FORGED ACADEMIC CERTIFICATES TO GET EMPLOYMENT

The Commission received a report on 12th January 2022 that the suspect presented a fake certificate from KASNEB to secure employment at Njoro Girls High School. It was further alleged that the suspect continued earning salary and benefits with the Principal's full knowledge.

Upon subjecting the academic certificates belonging to the suspect for authentication, it was established that the certificates held by the suspect, for Kenya Accounting Technicians Certificates (KATC) results notifications for intermediate level and final level were forgeries. The suspect registered for KATC and attempted the intermediate level exams and failed.

Investigation established that the CPA Part II (Section 3 & 4) and Part III (Section 5) examination result notifications held by the suspect were also forgeries. The suspect has never registered for CPA nor attempted any CPA examinations.

Investigation also revealed that the suspect fraudulently earned salary amounting to Kshs 3,759,851/= for the period from 25th September 2012 to 21st December 2020 and that she tendered her resignation on 10th November 2020 after she was invited to appear before the Board of Management to respond to the allegation of fake certificates.

On 20th June 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following offences;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act
- ii. Four counts of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- iii. Four counts of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.
- iv. One count of deceiving principal contrary to Section 41(2) as read with as read with Section 48(1) of ACECA.

On 24th July 2024, the DPP returned the file with recommendation for further investigations.

16. EACC/ISL/EL/INQ/3/2020

INVESTIGATION INTO ALLEGATIONS OF IRREGULAR RECRUITMENT OF PUBLIC HEALTH OFFICERS AND DIRECTORS BY THE COUNTY PUBLIC SERVICE BOARD OF ISIOLO BETWEEN FEBRUARY AND JUNE 2020.

The Commission received a complaint on 10th August 2020 into allegations of irregular recruitment of Public Health Officers and Directors by the County Public Service Board of Isiolo between February and June 2020.

Investigation established that the members of Isiolo County Public Service Board used the authority of their office to arbitrarily shortlist and recommend for appointment, Public Health Officers who did not have practising licenses.

On 8th May, 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspects with abuse of office contrary to Section 46 as read with Section 48 of the Anti-Corruption and Economic Crimes Act (ACECA), 2003.

The Commission will also institute civil recovery suit for the sum of Kshs. 4,821,255.3 being salaries paid unlawfully to the Public Health Officers. Further, an advisory will be issued to the Public Health Officers and Technicians Council (PHOTC) to take action against the officers who were practicing without being registered as provided in Section 28(1) of the act.

On 1st July, 2024 the DPP returned the file with recommendation for further investigations.

17. EACC/ISL/EL/INQ/5/2022

INVESTIGATION INTO ALLEGATIONS OF FORGERY AGAINST THE DEPUTY PRINCIPAL MARALAL VOCATIONAL TRAINING CENTRE.

The Commission commenced Investigation following a report that the suspect, the Deputy Principal Maralal Polytechnic used forged academic certificates to secure his employment as an Arc Welding and Plumbing Instructor at the Samburu County Government.

Investigation established that the suspect never studied nor sat for his Kenya Certificate of Primary Education (KCPE) examinations at Barsaloi Primary School. Investigation also established that the suspect did not study nor was he issued with

a Kenya Certificate of Secondary Education (KCSE) from Baragoi Boys High School. The KCPE and Kenya National Examination Council (KNEC) certificate presented to Samburu County Government by the suspect in support of declaration of head count was forged. The suspect used the said certificates to secure employment as an Arc Welding and Plumbing Instructor at the County.

On 15th April 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following offences;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act
- ii. Two counts of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- iii. Two counts of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.
- iv. One count of presentation of forged certificate contrary to Section 34(a) of KNEC Act no. 29 of 2012.
- v. One count of providing false information to the Samburu County Government contrary to Section 46(1)(d) as read with Section 46(2) of the Leadership And Integrity Act,2012

On 22nd July, 2024 the DPP returned the file with recommendation for further investigations.

18. EACC/EL/INQ/025/2023

INVESTIGATION INTO ALLEGATIONS THAT A FORMER EMPLOYEE OF NATIONAL SYNDOMIC DISEASES CONTROL COUNCIL (NSDCC) IS SUSPECTED TO HAVE FORGED A BACHELORS DEGREE FROM THE UNIVERSITY OF NAIROBI TO GAIN EMPLOYMENT AT (NSDCC)

The Commission received a report on 26th June 2023 that the suspect used forged Bachelor's degree from University of Nairobi (UoN) to secure employment at

National Syndemic Diseases Control Council(NSDCC formerly National Aids Control Council .

Investigation established that the suspect was enrolled at the University as a student with registration number C01/6061/2002 and a Bachelors of Arts Student in the Faculty of Arts and Social Sciences.

Investigation revealed that the suspect first registered for his course in academic year 2002/2003 and the last time he registered was in academic year 2006/2007. Due to lapse of academic progress, he was deregistered from the University.

Investigation further revealed that the copy of the degree and academic transcripts used by the suspect to secure employment were not genuine and were not issued by the UON. The certification in the certificate and transcripts was also forged.

On 13th May 2024, a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following counts;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act
- ii. Two counts of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- iii. Three counts of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.
- iv. Two counts of deceiving principal contrary to Section 412) as read with as read with Section 48(1) of ACECA.

Awaiting DPP's response.

19. EACC/KIS/ EL/INQ/2/2020

INVESTIGATION INTO ALLEGATIONS THAT THE DEPUTY CLERK OF THE COUNTY ASSEMBLY OF KISII EMPLOYED HIS NIECE AS A CLERICAL OFFICER WITHOUT FOLLOWING EMPLOYMENT PROCEDURES.

The commission commenced Investigation following a complaint that the Deputy Clerk, Kisii County Assembly irregularly appointed his niece as an employee of the County Assembly in the year 2017.

Investigation established that the suspect appointed his niece to a permanent and pensionable position without the Board's approval and without following established procedures in the human resource manuals.

Investigation revealed that the conduct of the suspect fell short of the moral and ethical requirements as stipulated under Chapter Six of the Constitution and the Leadership and Integrity Act, 2012.

On 15th April 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with one count of abuse of office contrary to Section 46 as read with Section 48 of the Anti-Corruption and Economic Crimes Act (ACECA), 2003.

The Commission also recommended that a caution be issued to the Speaker of the County Assembly for failing to adhere to the Circular on Appointment of Personal Staff. It was also recommended that an advisory to issue to the County Assembly of Kisii to open and maintain a conflict of interest register in compliance with the Leadership and Integrity Regulations, 2015

On 22nd July, 2024 the DPP returned the Inquiry file with recommendations for further investigations.

20. EACC/EL/INQ/043 (b)/2021

INQUIRY INTO ALLEGATIONS OF FORGERY OF A BACHELORS OF ARTS DEGREE IN SOCIOLOGY FROM MOUNT KENYA UNIVERSITY BY A SENIOR MEDICAL SOCIAL WORKER AT THE WAJIR COUNTY GOVERNMENT.

The Commission commenced investigation following a report that the suspect, a Senior Medical Social Worker at County Public Service Board of Wajir forged documents from Mount Kenya University (MKU) to secure employment.

Investigation established that the suspect was never a bona fide student at MKU and that the degree certificate and academic transcripts never used to secure the employment at Wajir County Government were not genuine.

Investigation established that for the period June 2016 to January 2023, the suspect earned a total of Kshs. 6,794,893.25 in salary.

The County Public Service Board terminated his employment contract with effect from 5th June 2023 after conducting an administrative inquiry into his academic qualifications and establishing that he was employed based on a forged degree certificate.

On 20th June 2024, a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following counts;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act
- ii. One count of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- iii. Four counts of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.

The Commission further recommended that it issues an advisory to the County Government of Wajir through the County Public Service Board to conduct due

diligence when recruiting staff in all cadres to avoid employing staff with falsified academic certificates.

On 24th July, 2024 the DPP returned the file with recommendation for further investigations.

21. EACC/KSM/EL/INQ/06/2023

INQUIRY INTO ALLEGATIONS THAT THE DIRECTOR ICT AT THE COUNTY GOVERNMENT OF KISUMU USED FORGED ACADEMIC CERTIFICATES (KCSE AND DEGREE CERTIFICATE) TO SECURE EMPLOYMENT AT THE COUNTY GOVERNMENT.

The Commission commenced investigation following a report that the suspect, a Director ICT at the County Government of Kisumu forged academic certificates to secure employment.

Investigation established that the degree certificate that the suspect presented to Kisumu County Public Service Board during recruitment was not genuine.

Investigation revealed that the KCSE Certificate that he presented to Kisumu County Public Service Board purporting to have attended Ngere Boys High School was not genuine as it had been altered from mean grade C- to C+.

The suspect fraudulently earned a net salary of Ksh.4,656,211.45 for the period September 2020 and August 2023 from Kisumu County Government.

On 20th June 2024 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1) (a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.
- ii. Two counts of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- iii. Two counts of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.

- iv. Two counts of giving false information to a person employed in public service contrary to Section 129(a) of penal code cap 63 laws of Kenya.
- v. One count of false declaration contrary to Section 11 of the Oaths and Statutory Declarations Act cap 15 laws of Kenya.

Awaiting DPP's response.

22. EACC/ EL/INQ/57(i)/2023

AN INQUIRY INTO AN ALLEGATION THAT AN INVESTIGATION & MONITORING OFFICER AT NAIROBI CITY WATER AND SEWERAGE COMPANY LTD (NCWSC) USED A FORGED BACHELOR OF LAWS DEGREE CERTIFICATE FROM MOI UNIVERSITY TO SEEK EMPLOYMENT.

The Commission received a report on 22nd September 2023 from the Managing Director Nairobi City Water & Sewerage Company that several officers from the organization were in possession of fake academic certificates and among them was an Investigation/Monitoring Officer (the suspect).

Investigation established that the Degree certificate in Bachelor of Laws, Second Class Honours (Lower Division) submitted to the Company, allegedly awarded to the suspect by Moi University on 19th October 2007, is not authentic and was not issued by the university.

Investigation confirmed that the suspect was a student at the University having been admitted under the Privately Sponsored Students Programme (PSSP) successfully pursued a degree course leading to the award of a Bachelor of Laws Degree whereby she obtained a Pass and not a Second Class Lower Division.

The suspect drew a net salary of Kshs. 8,998,710.10 from August 2017 to November 2023.

On 20th June 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following counts;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.
- ii. One count of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- iii. Two counts of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.
- iv. One count of deceiving principal contrary to Section 412) as read with as read with Section 48(1) of ACECA.

The Commission further recommended that an advisory be issued to the Nairobi Water and Sewerage Company to conduct due diligence when recruiting staff in all cadres to avoid employing staff with falsified academic certificates.

Awaiting DPP's response.

23. EACC/EL/INQ/57(viii)/2023

INQUIRY INTO AN ALLEGATION THAT A COMMUNITY DEVELOPMENT ASSISTANT AT NAIROBI CITY WATER & SEWERAGE COMPANY USED A FORGED DIPLOMA IN COMMUNITY DEVELOPMENT AND SOCIAL WORK CERTIFICATE FROM ZETECH COLLEGE TO SECURE EMPLOYMENT.

The Commission commenced investigation following a report that the suspect, a Community Development Assistant at Nairobi City Water & Sewerage Company forged academic certificates to secure employment.

Upon subjecting the academic certificates for authentication, it was established that the Diploma in Community Development and Social Work certificate purportedly awarded by Zetech College on 6th November 2015 was not genuine.

Investigation established that the suspect deceived and gave false information to NCWSC that she held a Diploma in Community Development and Social Work certificate from Zetech College.

On 20th April 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following offences;

- i. One count of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- ii. One count of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.
- iii. One count of deceiving principal contrary to Section 412) as read with as read with Section 48(1) of ACECA.

On 24th July, 2024 the DPP returned the file with recommendation for further investigations.

24. EACC/EL/INQ/57(IX)/2023

INQUIRY INTO ALLEGATION THAT AN ICT ASSISTANT USED A FORGED DIPLOMA IN INFORMATION AND TECHNOLOGY CERTIFICATE FROM ELDORET NATIONAL POLYTECHNIC TO SECURE EMPLOYMENT AT NAIROBI CITY WATER & SEWERAGE COMPANY.

The Ethics and Anti- Corruption Commission (EACC) received a report on 22nd September 2023 from the Managing Director Nairobi City Water & Sewerage Company that several officers from the organization were in possession of fake academic certificates and among them was the suspect herein who was an ICT Assistant.

During the pendency of investigation, the suspect was issued with a show cause letter dated 8th August 2023 and later suspended from work vide a letter dated 24th August 2023. He left employment after the dismissal of a petition that he had filed in court challenging the disciplinary process.

Investigation established that the suspect was employed at Nairobi City Water & Sewerage Company as an ICT Assistant on 13th August 2016 on the strength of the Diploma in ICT which he purported to have been obtained from Eldoret National Polytechnic.

Investigation established that the Diploma certificate in Information Technology purportedly awarded by the Eldoret National Polytechnic on 13th September 2010 is not genuine.

Investigation further established that the suspect was a registered student at the Eldoret National Polytechnic pursuing Diploma in Information Technology. He only sat for Module 1 exams in July 2007 instead of the requisite three modules for the award of a Diploma.

For the period that the suspect served at NCWSC, he had fraudulently earned a net salary of Kshs. 7,173,963.60.

On 20th April 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following offences;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act
- ii. One count of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- iii. One count of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.
- iv. One count of deceiving principal contrary to Section 412) as read with as read with Section 48(1) of ACECA.

On 22nd July, 2024 the DPP returned the Inquiry file and concurred with the recommendation to prosecute.

25. EACC/ EL/INQ/57(14)/2023

INQUIRY INTO AN ALLEGATION THAT A SPORTS SUPERVISOR AT NAIROBI CITY WATER AND SEWERAGE COMPANY LTD SUBMITTED A FORGED DIPLOMA CERTIFICATE IN SPORTS SCIENCE MANAGEMENT FROM JOMO KENYATTA UNIVERSITY OF AGRICULTURE & TECHNOLOGY.

The Ethics and Anti- Corruption Commission (EACC) received a report on 22nd September 2023 from the Managing Director Nairobi City Water & Sewerage Company that several officers from the organization were in possession of fake academic certificates and among them was the suspect herein who was a Sports Supervisor.

Investigation established that on 30th June 2021, the suspect submitted a Diploma Certificate in Sports Science Management purporting to have been obtained from Jomo Kenyatta University of Agriculture and Technology awarded on 30th November 2018.

Investigation by the Commission established that the Diploma Certificate was a forgery and not issued by JKUAT. Investigation further established that the fake Diploma Certificate was not used to confer any benefit to him hence no recovery of salary.

On 19th June 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following counts;

- i. One count of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- ii. One count of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.

The Commission to issue an advisory to the Nairobi Water and Sewerage Company to conduct due diligence when recruiting staff in all cadres to avoid employing staff with falsified academic certificates.

On 25th July, 2024 the DPP returned the file with recommendation for further investigations.

26. EACC/EL/INQ/008(i)/2024

INQUIRY INTO ALLEGATION THAT A DRIVER AT THE COMMISSION ON REVENUE ALLOCATION USED A FORGED KCSE CERTIFICATE TO SECURE EMPLOYMENT.

The Commission commenced investigation following a report from the Commission Secretary of the Commission on Revenue Allocation (CRA) that the suspect, a driver at the Commission on Revenue Allocation used a forged KCSE certificate to secure employment.

Investigation established that the suspect had altered the grades for two subjects in his KCSE certificate when seeking employment.

Investigation further revealed that for the period the suspect worked at CRA, from August 2023 to November 2023, the suspect had earned a net salary of Kshs. 223,809/=.

On 26th June 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following offences;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act
- ii. One count of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- iii. One count of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.

The Commission also recommended that an advisory be issued to the Commission for Revenue Allocation to conduct due diligence by conducting verification of staff academic certificates periodically.

On 24th July, 2024 the DPP returned the Inquiry file with recommendations for further investigations.

27. EACC/EL/INQ/008(ii)/2024

INQUIRY INTO ALLEGATION THAT A DRIVER AT THE COMMISSION ON REVENUE ALLOCATION USED A FORGED KCSE CERTIFICATE TO SECURE EMPLOYMENT.

The Ethics and Anti-Corruption Commission commenced investigation following a report from the Commission Secretary on Revenue Allocation (CRA) that the suspect, a Driver at the Commission on Revenue Allocation used a forged KCSE certificate to secure employment.

Investigation established that the suspect had altered his KCSE certificate mean grade from D (plain) to B (plain) and that the grades for six subjects had been altered.

Investigation further established that for the period that the suspect had worked at CRA, from May 2023 to September 2023, he earned a net salary of Kshs. 262,498.60.

On 24th April 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following offences;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act
- ii. One count of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- iii. One count of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.
- iv. One count of presentation of forged certificate contrary to Section 34(a) of KNEC Act no. 29 of 2012.
- v. One count of giving false information to a person employed in public service contrary to Section 129 (a) of the Penal Code.

On 24th July, 2024 the DPP returned the file with recommendation for further investigations.

28. EACC/EL/INQ/56(iv)/2023

INQUIRY INTO ALLEGATIONS THAT AN ASSISTANT ELECTION OFFICER AT INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) USED A FORGED

BACHELOR OF BUSINESS MANAGEMENT (HUMAN RESOURCE MANAGEMENT OPTION) DEGREE CERTIFICATE FROM MASINDE MULIRO UNIVERSITY OF SCIENCE AND TECHNOLOGY TO SECURE EMPLOYMENT.

The Commission commenced investigation following a report that the suspect, an Assistant Election Officer at Independent Electoral and Boundaries Commission (IEBC) forged academic certificates to secure employment.

Investigation established that the suspect, an Assistant Election Officer submitted a copy of a Bachelor of Business Management (Human Resource Option) Degree Certificate from Masinde Muliro University of Science and Technology (MMUST) purporting to have been awarded on 17th December 2021 together with four Undergraduate Academic Transcripts all dated 9th November 2021.

Investigation established that the suspect has never been a student at MMUST and that the Bachelor of Business Management (Human Resource Option) Degree Certificate was forged.

The investigation further established that the certificate, transcripts, and graduation booklet are forgeries.

On 24th June 2024 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

- i. One count of forgery contrary to Section 345 as read with Section 349 of the Penal Code.
- ii. Six counts of uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.
- iii. Six counts of deceiving principal contrary to Section 41(2) as read with as read with Section 48(1) of ACECA.

Awaiting DPP's response.

29. EACC/EL/INQ/136/2017

INQUIRY INTO ALLEGATIONS THAT THEN DEPUTY DIRECTOR KENYA SCHOOL OF LAW DID NOT RESIGN FROM HIS POSITION WHEN HE CONTESTED IN THE AUGUST 8TH 2017 GENERAL ELECTION AND RESUMED AFTER LOSING THE ELECTION.

The Commission received a complaint that the former Deputy Director of the Kenya School of Law vied for the Mwatate Constituency Parliamentary seat in the general elections of 08/08/2017 without resigning from his position in contravention of the Election Act, No. 24 of 2017.

Investigation established that the suspect was a former Deputy Director of the Kenya School of Law and that he sought unpaid leave from 10/07/2017 to 11/08/2017 to participate in the 2017 general election and thereafter resumed his duties on 14/08/2017 after losing the election.

Investigations further established that the School's Financial and General Purpose Committee resolved that the suspect was deemed to have resigned and the decision was upheld by the full Board.

Investigations also established that the matter was a subject of the Employment and Labour Relations Court in Nairobi ELRC No.119 of 2018 Morris Kiwinda Mbondeyi vs Kenya School of Law in which the suspect had prayed for benefits including salary arrears, gratuity, and airtime allowance and general damages all totaling to Kshs. 13,321,584.00. The court dismissed the suit filed by the claimant as well as the School's counterclaim.

Investigation established that in light of the dismissal of the suspect's petition and the counterclaim by the Kenya School of Law, it was not viable to file a recovery suit against the suspect since the issue is res judicata.

On 18th April, 2024 a report was compiled and forwarded to the DPP with recommendations to close the inquiry file.

On 10th July, 2024 the DPP returned the file with recommendation for closure.

30. EACC/NYR/OPS/INQ/14/2021

INVESTIGATION ON CORRUPTION ALLEGATIONS AGAINST THE DEPUTY DCIO, ATTACHED TO MATHIRA WEST, NYERI COUNTY.

The Commission commenced Investigation following a complaint that the Deputy DCIO Mathira West, demanded Kshs. 200,000 from the complainant in order to drop alleged land fraud charges against him.

Investigation established that indeed there were various applications in court touching on land parcel no Kirimukuyu/Mbogoini/225 and Kirimukuyu/Gachuiro/536 registered in the name of the complainant and another person relating to succession proceedings that were ongoing in Court.

Investigation further established the complainant was being investigated by the DCI for fraud in regard to the above mentioned parcels of land.

Investigation revealed that the complainant was arrested on 18/10/2021 at 6pm by the suspect and taken to Karatina Police Station where he was booked on 19th October 2021 at 0050hrs.

Investigation further established that on 19th October 2021, the suspect released the complainant after demanding Kshs 200,000/= in order to drop the land fraud charges against him.

On 9th May, 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with two counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) of the Anti-Bribery Act, 2016.

On 26th July, 2024 the DPP returned the file with recommendation for further investigations.

31. EACC/ISL/OPS/INQ/12/2023

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST A POLICE OFFICER AT MUTUATI POLICE STATION.

The Commission commenced Investigation following receipt of a complaint from a motor cycle operator, that a Police Officer based at Mutuati Police Station had demanded a bribe of Kshs. 10,000/= from him so that he could release his motor cycle which had been detained by the police officer on 20th May 2023 for lack of registration documents..

On 15th June, 2023, EACC Officers organized a trap operation that resulted to the arrest of the suspect after he had received the bribe of Kshs. 5,000/= from the complainant.

Investigation revealed that the suspect demanded for a bribe of Kshs.10,000/= from the complainant and received a bribe of Kshs. 5,000/=.

On 18th April, 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with two counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) of the Anti-Bribery Act, 2016.

On 1st July, 2024 the DPP returned the file with recommendation for administrative action to be taken against the suspect in lieu of prosecution.

32.EACC/OPS/INQ/149/2019

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND CONFLICT OF INTEREST BY THE PRINCIPAL OF RUTHIMITU GIRLS HIGH SCHOOL.

The Commission received a report on 3rd September 2019 that the Headmistress/Principal of Ruthimitu Girls High School, supplied foodstuffs to the said school between 2013 and 2019 through her business entity, Kawisa Suppliers.

Investigation established that the suspect was the Principal of Ruthimitu Girls High School and also the sole proprietor and bank signatory of Kawisa Suppliers. She conspired with another individual by signing a memorandum of understanding in which the Principal allowed the individual to use Kawisa Suppliers to trade with the School. Kawisa Suppliers supplied foodstuffs to Ruthimitu Girls High School from 2013 to 2018 and was paid a total amount of Kshs. 11, 600,531/=.

Investigation further revealed that there was conflict of interest on the part of Principal who failed to disclose her direct private interest in Kawisa Suppliers, which was trading with Ruthimitu Girls High School and unlawfully acquired public funds totaling to Kshs 11,600,531/= from Ruthimitu Girls High School. On 18th April, 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with;

- i. One count of conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48 of the ACECA
- ii. One count of conflict of interest contrary to Section 42 (3) as read with Section 48 of the ACECA
- iii. One count of unlawful acquisition of public property contrary to Section 45 (1)(a) as read with Section 48 of the ACECA
- iv. One count of abuse of office contrary to Section 46 as read with Section 48 of the ACECA.

On 5th June 2024, the DPP returned the file declining the Commission's recommendation for prosecution and recommending that the subject matter be pursued by filing civil recovery suit of monies paid to the suspect.

33.EACC/OPS/INQ/96/2023

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST TWO EMPLOYEES OF KENYA POWER AND LIGHTING COMPANY LIMITED.

The Commission commenced Investigation upon receipt of a report from the complainant that two employees of Kenya Power and Lighting Co Ltd (KPLC) had requested for a bribe of Kshs. 100,000 from her so as to strike out a bill amounting to Kshs. 250,000 and reconnect back power which had been disconnected at her family residence.

Investigation established that the suspects requested and agreed to receive a financial advantage of Kshs. 50,000/= so as to improperly facilitate the

reconnection of electricity that had been disconnected at the complainant's premises.

On 3rd June 2024, a report was compiled and forwarded to the DPP with recommendations to charge the suspects with two counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) of the Anti-Bribery Act, 2016 and one count of conspiracy to commit an offense of corruption contrary to Section 47A (3) as read with Section 48 of Anti-corruption and Economic Crimes Act.

On 26th July, 2024 the DPP returned the file with recommendation for administrative action to be taken against the suspect in lieu of prosecution.

34. EACC/OPS/INQ/130/2023

INVESTIGATION INTO ALLEGATIONS OF BRIBERY AGAINST THE OFFICER COMMANDING RUIAI POLICE STATION.

The Commission commenced investigation following a complaint that the OCS Ruai Police Station had requested for a bribe of Kshs. 5,000/= from the complainant in order to release three suspects who had been arrested for the offence of being drunk and disorderly.

Investigation established that the suspect was the OCS at Ruai Police Station and had arrested and detained three suspects allegedly for being drunk and disorderly. Investigation established that the suspect requested for and received a bribe of Kshs. 3,000.

On 24th July 2024, a report was compiled and forwarded to the DPP with recommendations to charge the suspect with two counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) of the Anti-Bribery Act, 2016.

On 5th June 2024, the DPP returned the file declining the Commission's recommendation for prosecution and recommended closure.

35. EACC/OPS/INQ/112/2023

INVESTIGATION INTO BRIBERY ALLEGATIONS AGAINST POLICE OFFICERS MANNING TRAFFIC ALONG THIKA – MATUU – GARISSA ROAD.

The Commission commenced Investigation following numerous complaints by members of the public concerning widespread solicitation for bribes by Police Officers from Matuu Police Station, Machakos County, in charge of traffic along Thika – Matuu – Garissa Road.

Investigation established that the traffic police officers manning the said road were engaged in corrupt practices of collecting bribes from motorists.

Upon completion of investigation and review of the available evidence, it was observed that the same could not satisfy the necessary threshold required for a criminal prosecution.

On 3rd June, 2024 a report was compiled and forwarded to the DPP with recommendations that the National Police Service Commission takes administrative action against the suspects.

On 22nd July, 2024 the DPP returned the inquiry file with recommendations for administrative action.

36. EACC/OPS/INQ/01/2023

INVESTIGATION IN RESPECT TO ALLEGATIONS OF CORRUPT CONDUCT AGAINST TRAFFIC OFFICERS ATTACHED TO NAIROBI AREA TRAFFIC HEADQUARTERS.

The Commission received a complaint on 11th January 2023 that a civilian was collecting bribes on behalf of police officers around the flyover from Muthurwa heading to the Country Bus Station in Nairobi at the Junction from Gikomba.

On 13th and 17th January, 2023, the investigation team carried out surveillance at Echo Roundabout and captured video recordings of the suspects who appeared to be taking bribes from public service vehicles.

This culminated to an arrest of a Police Officer alongside the suspected civilian who was collecting bribes on his behalf.

Investigation established insufficient evidence to sustain bribery charges against the suspects.

On 3rd June, 2024 a report was compiled and forwarded to the DPP with recommendations that the National Police Service Commission takes administrative action against the suspect.

On 24th July, 2024 the DPP returned the inquiry file with recommendations for administrative action.

37.EACC/OPS/INQ/18/2024

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST A POLICE OFFICER BASED AT KASARANI POLICE STATION

The Commission commenced investigation upon receipt of a complaint by the that a Police Officer based at Kasarani Police Station was demanding for a bribe of Kshs. 30,000/= in order to release two persons from police custody.

Investigation established that the suspect requested for and received a bribe of Kshs. 10,000. During the arrest, the suspect resisted arrest and damaged to property belonging to Red Plate Restaurant.

On 3rd June, 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following offences;

- i. Two counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) of the Anti- Bribery Act, 2016; and
- ii. One count of obstruction contrary to Section 66(1)(a) read together with Section 66(2) of ACECA.

On 24th July 2024, the DPP returned the inquiry file and concurred with the recommendation to prosecute.

38. EACC/KSM/OPS/INQ/02/2023

AN INVESTIGATION ON CORRUPTION ALLEGATIONS AGAINST A POLICE OFFICER ATTACHED TO KISUMU COUNTY CRIMINAL INVESTIGATION OFFICE.

The Commission commenced investigations following a report by the complainant that the Investigating Officer in his case of stealing goods in transit demanded for a bribe of Kshs 500,000 in order to withdraw the charges against him and as well as discontinuing the investigations against two others.

Investigation established that the suspect is a Police Officer attached to CCIO, Kisumu as an Investigator who requested for a bribe of Kshs 500,000 from the complainant and received Kshs.200,000/=.

On 13th June, 2024 a report was compiled and forwarded to the DPP with recommendations to charge the suspect with three counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) of the Anti-Bribery Act, 2016.

On 26th July, 2024 the DPP returned the file with recommendation for further investigations.

39. EACC/OPS/INQ/17/2023

INQUIRY INTO BRIBERY ALLEGATION OF CORRUPT CONDUCT AGAINST A PUBLIC HEALTH OFFICER BASED AT ROYSAMBU SUB-COUNTY WORKING AT NAIROBI CITY COUNTY GOVERNMENT (NCCG).

The Commission commenced investigations upon receipt of a complaint that the suspect was demanding for a financial benefit of Kes.50,000/= so as not to charge the complainant in court for an offence of selling consumable food without labels and storage instructions.

Investigations established that the suspect is Public Health Officer from Nairobi City County Government who requested for a benefit of Kes.50,000 that was negotiated downwards to Kes.25,000/=.

On 13th June 2024, a report was compiled and forwarded to the DPP with recommendations to charge the suspect with two counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) of the Anti-Bribery Act, 2016.

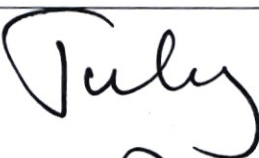

Awaiting DPP's response.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

1.	Total No. of files forwarded to the Director of Public Prosecutions	39
2.	No. of files recommended for prosecution	29
3.	No. of files recommended for administrative or other action	4
4.	No. of files recommended for closure	6
5.	No. of files recommended for prosecution and the cases are already lodged before Court	0
6.	No. of files where recommendation to prosecute accepted	2
7.	No. of files where recommendation for administrative or other action accepted	3
8.	No. of files where recommendation for closure accepted	4
9.	No. of files returned for further Investigation	11
10.	No. of files where recommendation to prosecute not accepted	1
11.	No. of files where recommendation for administrative or other action not accepted	0
12.	No. of files where closure not accepted	0
13.	No. of files where prosecution declined but administrative action recommended	4
14.	No. of files awaiting the DPP's advice	14

Dated at Nairobi this 31st Day of July 2024


DAVID OGINDE, PhD
CHAIRPERSON
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TWALIB MBARAK, MGH, CBS
SECRETARY/CHIEF EXECUTIVE OFFICER