


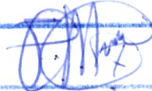


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THE ETHICS AND ANTI-CORRUPTION COMMISSION

**THE 2nd QUARTERLY REPORT COVERING THE PERIOD FROM
1ST APRIL 2019 TO 30th JUNE 2019**

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 19 NOV 2019	
Day: TUESDAY	
TABLED BY:	MAJORITY LEADER
CLERK AT THE TABLE:	

JUNE 2019

PREAMBLE

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under Section 35 of the ACECA, 2003 as read with Section 11(1) (d) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP 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 ACECA. The report covers the Second Quarter and is for the period commencing 1st April, 2019 to 30th June, 2019.

1. EACC/AT/INQ/5/2019

INQUIRY INTO ALLEGATIONS OF IRREGULAR COMPENSATIONS BY THE NATIONAL LAND COMMISSION (NLC) TO TORNADO CARRIERS LTD (KSHS. 109,769,363.00) FOR LAND REFERENCE MN/VI/3801 AND SUBSEQUENT BRIBES TO NLC OFFICIALS

The Commission received a complaint that there was an irregular compensation by the National Land Commission(NLC) on behalf of Kenya National Highways Authority (KeNHA) to M/s Tornado Carriers Ltd. (Kshs. 109,769,363.00) for land reference MN/VI/3801 and subsequent payment of bribes to NLC officials.

Investigations established that the parcel of land was gazetted for acquisition by KeNHA and upon valuation the NLC returned a value of Kshs. 34,501,110/= The Director of Tornado Carriers Ltd. rejected the award and requested that the same be reviewed to Kshs. 180,000,000/=. NLC officials carried out a valuation and returned a valuation of Kshs. 109,769,363/=. On the request of the Chairman of NLC, KeNHA transmitted monies to NLC with instructions for compensation through a payment schedule where Kshs. 109,769,363/= was to be paid to Tornado Carriers Ltd. A Land Acquisition and Compensation Committee approved the payment Schedule where it was established that the payment was spilt into Kshs. 55,269,363 payable to Tornado Carriers Ltd and Kshs. 54,500,000/= to the bank account of a law firm. The money from the bank account of the law firm was disbursed to several beneficiaries who included public officers employed at NLC and their relatives.

A report was compiled and forwarded to the DPP on 8th April, 2019 with a recommendation that the former Chairman of NLC, the members of Land Acquisition and Compensation Committee, NLC officials, the law firm in question, the beneficiaries of the money that was paid through the law firm be charged with the following offences; Conspiracy to commit an economic crime contrary to Section 47A as read with Section 48 (1) of the ACECA; abuse of office contrary

to Section 46 as read with section 48 (1) of the ACECA; financial misconduct contrary to Section 197(1) (h) as read with Section 199 of the Public Finance Management Act; financial misconduct contrary to Section 197(1) (o) (i) as read with Section 199 of the Public Finance Management Act, unlawful acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of the ACECA; fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of the ACECA; dealing with suspect property contrary to Section 47 (2) (a) as read with Sections 47(1) and 48 (1) of the ACECA; money laundering contrary to Sections 3 (b) (iii) as read with Section 16 (1) (a) of the Proceeds of Crime and Anti-Money Laundering Act.

On 16th April, 2019 the DPP returned the inquiry file accepting recommendation for prosecution.

2. EACC/NKR/FI/INQ/32/2016

INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION AND PROCUREMENT IRREGULARITIES AGAINST KERICHO COUNTY GOVERNMENT OFFICIALS IN THE PROCUREMENT AND AWARD OF TENDER TO REHABILITATE CHEPCHOLEIT WATER PAN IN CHEPSEON WARD, KIPKELION EAST SUB COUNTY.

The Commission commenced investigations upon receiving a complaint alleging irregularities and corrupt conduct in the procurement process undertaken by Kericho County Government in tendering for works to rehabilitate the Chepcholeit Water Pan in Chepseon Ward, Kipkelion East Sub- County.

Investigations established that the genesis of the process of rehabilitating the Chepcholeit Water Pan was formally initiated by the Chief Officer in charge of Water, Environment, Forestry and Natural Resources who was also the Accounting Officer in the Department. It was established that there was no annual procurement plan and a budget allocation in the financial year 2014/2015 to rehabilitate the Chepcholeit Water Pan. It was further established that the Chair of the Tender Committee awarded the contract using the unsigned Evaluation Report for the said rehabilitation.

A report was compiled and forwarded to the DPP on 10th April, 2019 recommending to charge the Chief Officer, Water, Environment, Forestry and Natural Resources Department and the Chairman of the Tender Committee with the following offences; engaging in a project without prior planning contrary to Section 45(2) (c) as read with Section 48 of the ACECA; abuse of office contrary to section 46 as read with Section 48 of the ACECA; fraudulent practice in procurement proceedings contrary to section 41(4) as read with Section 137 of the Public Procurement and Disposal Act, 2005 (PPDA); spending public money contrary to Section 196 (1) as read with Section 196 (6) of the Public Finance Management Act and willful failure to comply with applicable procedure and guidelines relating to procurement contrary to section 45(2) (b) as read with Section 48(1) of the ACECA.

Awaiting DPP's response.

3. EACC/FI/INQ/20/2016

INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS AND FAILURE TO FOLLOW PROCUREMENT LAWS IN RESPECT TO THE CONSTRUCTION OF KASARANI GIRLS BOARDING HIGH SCHOOL.

Investigations commenced following a report on embezzlement of public funds and failure to follow procurement laws in respect of the construction of Kasarani Girls Boarding High School. It was further alleged that the Kasarani Constituency Development Fund Committee (CDFC), irregularly paid over Kshs. 32 Million to various contractors and individuals for the construction of the school long after the project had stalled owing to ownership disputes of the project site.

Investigations established that the project had been allocated a total of Kshs. 41,679,121/=. Further, it was established that no proper procurement processes were adopted by the CDFC in identifying the contractor and suppliers.

Further, that the purported suppliers' payment vouchers were not supported by invoices and quotations as required by law and those that were provided were

fictitious. This led to the loss of over Kshs. 41,679,121/= meant for the construction of the school.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations to charge the members of the Constituency Development Fund Committee, the Fund Managers, the District Development Officers, the Provincial Accountant, directors/proprietors of the entities that purportedly supplied construction materials and the former Kasarani Constituency Member of Parliament with the following offences; conspiracy to commit an offence of corruption contrary to Section 47(A) (3) as read with Section 48 of ACECA; misappropriation of public funds contrary to section 198(1)(b) as read with Section 199 of the PFMA ; fraudulent acquisition of public property contrary to Section 45(1) (a) as read with Section 48 of ACECA; abuse of office contrary to Section 45(1)(a) as read with Section 48 of ACECA; engaging in a procurement without prior planning contrary to Section 45(C) as read with Section 48 of ACECA; failure to comply with the law relating to procurement contrary to Section 45(2)(b) as read with Section 48 of ACECA; fraudulent payment from Public Revenues for goods not supplied contrary to Section 45(2)(a) (iii) as read with Section 48 of ACECA

On 10th June, 2019, the DPP responded, recommending further investigations be carried out.

4. EACC/FI/INQ/141/2014

INQUIRY INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDER FOR RENOVATION OF KENYATTA STADIUM, KITALE BY THE COUTY GOVERNMENT OF TRANS-NZOIA TO WEST END COMPANY FOR KSHS. 68 MILLION.

Investigations commenced after a report was made to EACC in 2013 that Trans-Nzoia County Government(TNCG) irregularly awarded a tender for renovation of Kitale Stadium through single sourcing to West End Company at Kshs. 68 million.

Investigations established that the entire membership of the County Tender Committee(CTC) approved and awarded the tender in respect of the

renovation contract without the requisite evaluation or opening committee proceedings. Investigations revealed that the Interim Head of Supplies Chain Management and the Interim Chief Finance Officer of TNCG failed to satisfy themselves that the subject contract sum was within the budget before signing the contract document.

It was established that the Procurement Officer signed the payment certificate for Kshs. 3,957,468 as the Project Manager. The County Architect issued a Certificate of Practical Completion which authorized payment of total retention funds to the Contractor while the said works were not complete. TNCG based on the misleading Certificates paid the Contractor the full contractual sum of Kshs. 8,700,000/=. Evidence revealed that the Contractor unlawfully received the extra amount of money Kshs. 12,004,322 for no work done.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations to charge all the above mentioned officers with the following offences; conspiracy contrary to Section 47 A (3) of ACECA; abuse of office contrary to Section 46 of ACECA ; willful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with section 48 of the ACECA; deceiving principal contrary to Section 41 of ACECA; uttering a false document contrary to Section 353 of the Penal Code and forgery contrary to Section 347 of the Penal Code.

Awaiting DPP's response.

5. EACC/FI/INQ/85/2014

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF PUBLIC FUNDS IN FOOTBALL KENYA FEDERATION

Investigations commenced following an allegation of misappropriation of Kshs. 25,075,075/= by officials of the Football Kenya Federation (FKF). It was further alleged that there was theft of monies belonging to Football Kenya Federation amounting to USD 410,222.20 received by the Federation in the period of 2/2/2011 to August 2012, held in the dollar Account no. 8702016649500 at Standard Chartered, Koinange Street branch and the dollar account no.

046000012051 and Account no. 046000012050 at the Family Bank, Kilimani branch.

It was established that between 5th December, 2012 to 14th June, 2013 there were several requests made by FKF by the then acting Secretary General, seeking for assistance in various activities of the organization from the Ministry of State for Youth Affairs and Sports. It was established that FKF was paid a total sum of Kshs. 25,075,075/=.

FKF owed the Chairman an amount of Kshs. 36,578,947/= as at 31st December 2013. From the evidence on record the National Executive Committee of FKF approved the transfer of Kshs. 5,000,000/= from the Federations Account to the Chairman's account. The sequential evidence demonstrates that there was no impropriety or breach of law by the FKF officials with regard to transfer of the Kshs. 5,000,000/= to the Chairman.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

Awaiting DPP's response.

6. EACC/MBSA/FI/INQ/6/2017

INQUIRY INTO ALLEGATIONS THAT BETWEEN OCTOBER 2014 AND MARCH 2017, KENYA PORTS AUTHORITY (KPA) MADE IRREGULAR PAYMENTS TO NYALI CAPITAL LIMITED ASSOCIATED TO THE GENERAL FINANCE MANAGER AT KPA

The Commission received a complaint that Kenya Ports Authority(KPA) made irregular payments amounting to Kshs. 214,548,340.80/= to Nyali Capital Limited (NCL). It was further alleged that the General Finance Manager, had interests in NCL where his wife and brother work as managers.

The investigations established, that between the aforesaid period, KPA made irregular payments amounting Kshs. 214,548,340.80 to Nyali Capital Limited. A company associated with KPA's General Manager Finance where his wife and brother works as managers.

Kenya Ports Authority (KPA) gave several tenders to several firms for supply of various goods and works. The said firms would then seek financing from NCL to service the tenders at an interest of 10% and upon supply of the goods or services, KPA would deduct the principal amount plus the interest accrued and directly pay to NCL and the rest was paid to the firm.

The transactions between NCL and KPA were irregular and therefore all the payments made to NCL were illegal.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations that KPA's General Manager Finance and the Accountant at KPA together with the Directors of NCL be charged with several offences namely; conspiracy to commit an economic crime contrary to Section 47A(3) as read with Section 48 of the ACECA; abuse of office contrary to Section 46 of ACECA; failure to disclose a private interest to one's principal contrary to Section 42(1)(a) and (b) as read with Section 48 of the ACECA; dealing with suspect property contrary to section 47(1) as read with Section 48 of the ACECA.

Awaiting DPP's response.

7. EACC/ISL/AT/INQ/11/2017

INQUIRY INTO THE ALLEGATION THAT THE NATIONAL CEREALS & PRODUCE BOARD HAS IRREGULARLY SUB-LEASED PART OF THEIR LAND HOUSING THEIR ISIOLO DEPOT (GRANT NO I.R 5808) TO A PRIVATE DEVELOPER WHO INTENDS TO PUT UP A PETROL STATION ON THE SAID LAND

The Commission received an allegation on irregular leasing out of National Cereals & Produce Board (NCPB) land – Isiolo Depot, to a private developer for the purpose of construction of a petrol station.

Investigations established that on 8th November, 2016, the Director of Dihiya Recruitment and Supplies Agency Co. Ltd wrote a letter to the Managing Director, NCPB to lease land for purposes of constructing a petrol station, restaurant, carwash and parking in Isiolo. The end result was the signing of a ten-year lease agreement between NCPB (Lessor) and Dihiya Recruitment and

Supplies Agency Co. Ltd (Lessee) on 28th December, 2016, where the Lessee was to utilize the property only for the purposes of parking trucks, ablution block and car wash. The lease was signed by the Board Secretary and the Manager-Marketing Services, NCPB.

Evidence established that the lease was unprocedurally entered into for a monthly rent of Kshs. 3,548/= without properly informing all the concerned parties (Isiolo County Government, Depot Manager and some NCPB Board members).

A report was compiled and forwarded to the DPP on 10th April, 2019 with recommendations that the lease agreement be cancelled, the Board be advised to put in place a clear leasing policy in line with the relevant laws and the charge the Managing Director, the Board Secretary and the Manager-Marketing Services with the following offence; wilful failure to comply with the law relating to disposal of property contrary to Section 45 (2)(b) as read with Section 48 (1) (a) of the ACECA

Awaiting DPP's response.

8. EACC/MKS/INQ/FI/09B/2015

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN THE PURCHASE OF 2400 WATER TANKS AND ABUSE OF OFFICE BY THE MACHAKOS COUNTY GOVERNMENT STAFF.

On 4th April 2017, the Commission received a complaint that a Chief officer for Water in the County Government of Machakos had failed to adhere to Machakos County Assembly Resolution to suspend purchase of 2400 water tanks. This led to the loss of over 100 tanks reserved for Matungulu Sub County. It was further alleged that the Sub County Water Officer for Matungulu Sub County had distributed tanks reserved for the said County as handouts to residents and churches.

It was established that there was a procurement plan and budget for the Financial Year 2014/2015 that was approved by the County Government of Machakos for the water tanks to be procured. Evidence on record established

that the Department of Water in the Machakos County Government failed to communicate to the Sub County Water Officer on how the water tanks were to be distributed. With no clear guidelines or communication from the County Government headquarters, the Officer went ahead to distribute the tanks to unauthorized recipients. The County Government took administrative action against the Officer by interdicting him which interdiction was later lifted.

A report was prepared and forwarded to the DPP on 16th January, 2019 with recommendations to close the file with no further action.

On 29th August 2019, the DPP recommended that further investigations to be carried out.

9. EACC/ FI/INQ/30/2017

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT AT THE KITUI COUNTY GOVERNMENT IN THE CONSTRUCTION OF RIVER DRIFTS AND ROAD WORKS.

Investigations commenced following an intelligence report based on a letter received from the Ministry of Lands, Infrastructure & Urban Development (Ministry) addressed to the Acting County Secretary by the Chief Officer where it was alleged that there was irregular procurement of emergency construction works for drifts and road structures in the various parts of the country following El-Nino rains. The construction had a total of 21 projects worth Kshs. 172,156,53.84/=.

Investigations established that the County Government of Kitui (CGK) had not planned for construction of drifts in the annual procurement plan in the Financial Year 2015/2016. Further, the contracts awarded to the companies exceeded the recommended threshold matrix of Kshs. 20,000,000/=. It was established that ten contractors listed in the tender register never collected the tender documents however, they were listed as having collected in order to appear that the law had been complied with. Investigations established that the tender opening and tender evaluation Committees were only created fictitiously with the suspects signing all the relevant procurement documents.

On 3rd May, 2019, a report was compiled and forwarded to DPP with recommendations that the Chief Officer, Ministry of Lands Infrastructure and Urban Development, Head of Supply Chain Management, Chairman and Secretary of the Evaluation Committee be charged with 7 counts of wilful failure to comply with the law relating to procurement contrary to Section 45(2)(b) as read with Section 48 of the ACECA; abuse of office contrary to Section 46 as read with Section 48 of the ACECA; knowingly making a false document to one's principal contrary to Section 41 (2) as read with Section 48(1) of the ACECA and fraudulent practice in procurement contrary to Section 40 as read with Section 137 of the Public Procurement and Disposal Act.

Awaiting DPP's decision.

10. EACC/PI/INQ/303/2016

INQUIRY INTO ALLEGATIONS OF MONEY LAUNDERING IN KILIFI COUNTY GOVERNMENT INVOLVING FUTURE LINK LIMITED

The Commission commenced investigation pursuant to intelligence reports received in September, 2016 to the effect that there was suspected fraud/corruption and money laundering in Kilifi County Government (KCG) involving Directors of a company known as Future Link Limited and two advocates. It is alleged that the two advocates opened a joint bank account in which Kshs 308,189,651/= was deposited into by KCG for a purchase of nine parcels of land from Future Link Limited by KCG.

Although investigations revealed that there was no money laundering, the Valuers overvalued the property sold to the Kilifi County Government.

On 7th May, 2019, a report was compiled and forwarded to DPP with recommendations to charge the two Valuers with deceiving principal contrary to section 41(1) of ACECA and making a misleading statement contrary to section 24(c) of the Valuers act

Awaiting DPP's response.

11. EACC/PI/INQ/70/2017

INQUIRY INTO ALLEGATION OF IRREGULAR PROCUREMENT OF STAFF MEDICAL COVER BY THE MANAGING DIRECTOR OF NATIONAL WATER CONSERVATION AND PIPELINE CORPORATION (NWCPC) IN THE YEAR 2016/2017

Investigations commenced following a complaint that the Acting Managing Director – National Water Conservation and Pipeline Corporation (NWCPC) in the year 2016/2017, solely procured staff medical cover amounting to Kshs. 33,659,84 without following appropriate procurement procedures. That on 29th September, 2016 NWCPC paid initial deposit of Kshs. 5,000,000/= to AAR Credit Services vide various cheques. The said payment was done without supporting documents.

Investigations revealed that the proper procurement procedure was followed in procuring medical cover by AAR insurance Kenya Limited for the employees of NWCPC. However, investigations established that the Managing Director, NWCPC directed the cashier to make payment of Kshs. 5,000,000/= to AAR credit services ASTA Societies without payment voucher and that he signed the cheques without ensuring that there were supporting documents.

On 7th May 2019 a report was compiled and forwarded to DPP with recommendations that the Managing Director be charged with wilful failure to comply with the applicable law relating to incurring of expenditure contrary to Section 45(2) (b) as read with Section 48 of the ACECA and two counts of wilful failure to comply with the law relating to the management of funds contrary to Section 45 (2) (b) as read with Section 48 of the ACECA.

Awaiting DPP's response.

12. EACC/F1/INQ/27/2016

AN ALLEGATION OF IRREGULAR AUTHORIZATION AND PAYMENT OF SITTING ALLOWANCES TO THE DIRECTOR/CEO COUNCIL OF LEGAL EDUCATION/KENYA SCHOOL OF LAW.

The Commission commenced investigation following receipt of an audit report dated March 2014 from the Efficiency Monitoring Unit alleging, inter alia that the Director/ CEO of Council of Legal Education and the Kenya School of Law had irregularly and fraudulently authorized and received sitting allowances

amounting to Kshs. 900,000/= for the period 23rd September, 2010 to 30th May, 2013.

Investigations established that the Director was a Member of the Council of Legal Education and doubled up as the Secretary/CEO. By virtue of his membership to the Council, he was entitled to draw sitting allowances alongside other members of the Council as determined by the Council of Legal Education under Section 5A of the Council of Legal Education Act.

On 7th May, 2019, a report was compiled and forwarded to DPP with recommendations that the file be closed with no further action.

Awaiting DPP's decision.

13. EACC/MCKS/INQ/FI/16/2016

AN INQUIRY INTO ALLEGATIONS THAT THE KANGUNDO SUB COUNTY REVENUE OFFICERS HAVE PRINTED A PARALLEL RECEIPT BOOK FOR COLLECTING REVENUE AND THE SAME IS NOT REMITTED TO THE COUNTY GOVERNMENT

Investigations revealed that there is no evidence to prove that the Kangundo Sub-County Revenue Officers had printed a parallel receipt book for revenue collection. It was established the Kangundo Revenue Office was using an automated revenue management system and the office did not have an office receipt book hence making it impossible to generate parallel receipts.

On 7th May, 2019, a report was compiled and forwarded to DPP with recommendations that the file be closed with no further action.

On 13th September, 2019, the DPP accepted the recommendation for closure.

14. EACC/PI/INQ/1/2019

INVESTIGATIONS INTO ALLEGATIONS OF IRREGULAR PAYMENT OF KSHS. 198,441,030.60 BY THE KENYA SCHOOL OF LAW TO ADEMWA ENTERPRISES, NGOYA COSMETICS AND BEAUTY, FRIGOYA INVESTMENTS, ALFRANC INVESTMENTS,

FIRMLINE COMPANY AND DESKENCH INVESTMENTS FOR GOODS AND SERVICES NOT DELIVERED

The Commission commenced investigations following a report indicating an alleged attempted fraud at the Kenya School of Law (KSL) of Kshs. 3,452,239.00/=. This was through a cheque written in favour of a company that was not in the prequalified list of suppliers and had not supplied anything to KSL. In addition, he indicated that there was a likelihood of other fraudulent transaction activities in the past financial year being 2017/2018.

Investigations established that six companies namely; Ademwa Enterprises, Ngoya Cosmetics and Beauty, Frigoya Investments, Alfranc Investments, Firmline Company and Deskench Investments had been paid different amounts of money totalling Kshs. 198,441,030.60 by KSL yet they had not supplied or rendered any services to KSL.

Investigations revealed that the six companies paid different sums of money by KSL were not prequalified nor registered with the School as suppliers for the period 2013-2018. Evidence adduced revealed that there were no documentation /Payment vouchers to support payments made to the six companies.

Investigations further revealed that KSL employees used their positions and credentials to authorize irregular payments to bank accounts of the six private companies.

On 7th February, 2018 a report was compiled and forwarded to DPP with recommendations the KSL employees be charged with conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48 of the ACECA; six counts of fraudulent acquisition of public property contrary to Section 45(1) (a) as read with Section 48(1) of the ACECA; six counts of fraudulently making payments from public revenue for goods not supplied contrary to Section 45(2) (a) (ii) as read with Section 48(1) of the ACECA; five counts of abuse of office contrary to Section 46 as read with Section 48(1) of the ACECA; two counts of conflict of interest contrary to Section 42(3) as read with Section 48

of the ACECA and one count of neglect of official duty contrary to Section 128 as read with Section 36 of the Penal Code.

On 29th August 2019, the DPP recommended that further investigations be carried out.

15. EACC/MSA/FI/INQ/23/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF A CONTRACTOR FOR THE CONSTRUCTION OF A PERIMETER WALL FENCE AT KENYATTA HIGH SCHOOL

The Commission commenced investigations following a report against the Principal of Kenyatta High School, Taita Taveta County for allegedly failing to follow procurement procedures when awarding a tender for the construction of the school's perimeter wall fence at a cost of Kshs. 5 million and that the tender was awarded to a company allegedly associated with the Principal's wife and that the award of the tender was done by the Infrastructure Committee as opposed to the Tender Committee. The Principal was also accused of using school building materials to construct his house and arbitral use of his office by using school employees to undertake private work at his house. Additionally, that he would purportedly pay the employee weekly, between Kshs. 20,000/= to Kshs. 30,000/=, which would later be shared with him.

Evidence established that the money paid towards the construction of the perimeter fence was funded through PTA funds sourced from parents and levies from students. However, the said tender was advertised and the procurement processes followed despite the same not being subject to the Public Procurement and Disposal Act, 2005.

Investigations revealed that the Principal did not use the school employees for his personal engagements and that the payments of the construction of the perimeter wall fence was consistent with the work done. Further, it was revealed that the Principal reallocated funds without seeking authority from the Board of Management.

On 27th May, 2019, a report was compiled and forwarded to the ODPP with recommendations that the file be closed. However, an advisory be given to the Principal to seek approvals when reallocating funds from the different accounts when the need arises. Further, the Commission recommends that an advisory be made to the Ministry of Education, Science and Technology to give guidelines on how PTA money should be utilized to safeguard the funds from misappropriation/embezzlement.

Awaiting DPP's decision.

16. EACC/ FI/INQ/123/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDER TO SMART SOLUTIONS AFRICA FOR THE SUPPLY, INSTALLATION AND COMMISSIONING OF GREEN HOUSES WITH DRIP IRRIGATION BY THE YOUTH ENTERPRISE DEVELOPMENT FUND

The Commission commenced investigation following a report made on 11th November, 2015, on irregular awarding of tender by the Youth Enterprise Development Fund (YEDF) to Smart Solutions Africa Ltd. It was alleged that YEDF and the Accounting Officer had willfully failed to comply with the law and applicable procedures relating to procurement in the tender for the supply, installation and commissioning of green houses.

Investigations revealed that the procurement process for the supply of Green Houses to Smart Solutions was above board and in compliance with the Repealed Public Procurement and Disposals Act,2005. However, it was established the accounting officer did not appoint an Inspection and Acceptance Committee in the course of the procurement process. Further that the Acting CEO, Finance Manager, Senior Accountant and Accountant allowed payments to be made to Smart Solutions without the Certificates of Completion which was an express requirement of the contract.

On 16th January, 2019, a report was compiled and forwarded to DPP with a recommendation to charge all the above mentioned officers with three counts

of willful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of the ACECA.

Awaiting DPP's response.

17.EACC/MCKS/FI/INQ/08/2018

INVESTIGATIONS INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES FOR THE SUPPLY AND DELIVERY OF 5 TRUCKS FOR LIVESTOCK TRANSPORTATION BY KITUI COUNTY GOVERNMENT.

The Commission commenced investigations upon receiving a complaint alleging breach of procurement laws leading to the award of a tender by the county government of Kitui to Thika Motor Dealers Ltd for the supply and delivery of five trucks suitable for livestock transportation. It was alleged that the cost of the trucks was said to have been inflated from Kshs 7,000,000 to Kshs. 11,950,000 per truck.

Investigations established there was no procurement plan and approved budget for the financial year 2018/2018 for the subject procurement. The Acting Chief Officer Trade, Co-operative and Investment, Kitui County entered into a contract with Thika Motor Dealer before the lapse of 14 days contrary to the Public Procurement and Assets and Disposal Act, 2015. It was further established that the Head of Supply Chain Management failed to invite at least 10 firms from the selected list of dealers in the pre-qualified list maintained in the Supply Branch Contract for the supply and prepared an inaccurate professional opinion which was relied on for the delivery of the said trucks.

A report was compiled and forwarded to the DPP on 25th June, 2019 recommending to charge the Acting Chief Officer Trade, Co-operative and Investment and the Head of Supply Chain Management with the following offences; engaging in a project without prior planning contrary to Section 45(2) (c) as read with Section 48 of the ACECA; abuse of office contrary to Section 46 as read with Section 48 of the ACECA and three counts of willful failure to comply

with the law relating to procurement contrary to Section 45(2) (b) as read with Section 48(1) of the ACECA.

Awaiting DPP's response.

18. EACC/FI/INQ/13/2013

INQUIRY INTO ALLEGATIONS OF FRAUDULENT ELECTRONIC FUND TRANSFER OF KSHS. 89,543,270/= BELONGING TO KENYA RURAL ROADS AUTHORITY (KeRRA) TO A WRONG ACCOUNT LEADING TO EMBEZZLEMENT OF FUNDS

The Commission commenced investigations upon a request to investigate by the then Director General KeRRA, Mwangi Maingi vide letter dated 26th February, 2013.

Investigations established that KeRRA made payments totaling Kshs. 89,543,270/= to two accounts held at KCB, Moi Avenue belonging to Cowford General Contractors Limited and Countrywide Chemfert Enterprises Limited respectively. A businessman was a director in both companies which he co-owned with his sister and his wife. It was established that the Physical Payment Vouchers and the manual authorized RTGS excel sheets for transmission into KCB Quick pay platform had the correct payee account KeRRA intended to pay. However, the Quick Pay text file transmitted to KCB for payment had the correct payee name narration and account code but a different account number. All the five questioned transactions uploaded into Quick pay by Assistant Accountant and were authorized by KeRRA authorizers; Acting Finance Manager, Finance Manager and General Manager, Finance.

A report was compiled and forwarded to the DPP on 26th June, 2019 recommending to charge the Assistant Accountants Acting Finance Manager, Finance Manager and General Manager, Finance and the directors of Cowford 12/2016 General Contractors and Countrywide Chemfert Enterprises Limited with the following offences; five counts of conspiracy to defraud contrary to Section 45(1) (A) as read with Section 48 of the ACECA; seven counts of abuse of office contrary to Section 46 as read with Section 48 of the ACECA and two counts of

unlawful acquisition of public property contrary to Section 45 (1) (A) as read with Section 48 of the ACECA.

Awaiting DPP's response.

19. EACC/OPS/INQ/173/2018

INVESTIGATION INTO ALLEGATIONS THAT DIRECTORATE OF CRIMINAL INVESTIGATION OFFICERS REQUESTED AND RECEIVED A BRIBE FROM A FEMALE CHINESE NATIONAL WITH INTENT THAT HE WOULD FORBEAR TO CHARGE ANOTHER CHINESE FEMALE WITH THE OFFENCE OF BEING IN KENYA WITHOUT PROPER DOCUMENTATION.

Investigations commenced following a complaint received on 28th November 2018, that a female Chinese national working with China Jiangsu International Limited, reported that Directorate of Criminal Investigations (DCI) officers based at the Kabete Police Station had arrested and detained in their office another Chinese female. The Officers had detained the said Chinese female on the allegation that she was staying in Kenya illegally and without proper documentation. The report further indicated that the DCI Officers were requesting for a bribe of Kshs. 1,000,000/= so as to release her from custody and forbear charging her and to allow her to continue staying in the Country.

On 28th November, 2018 EACC organized a trap operation that resulted in the arrest of the suspect. EACC officers conducted a search on the suspect and recovered Kshs. 100,000/= treated trap money. However, the suspect was rescued by his colleagues from lawful custody and thereafter taken into hiding. The said policemen also disappeared with the treated money.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the police officers be charged with three counts of receiving a bribe contrary to Section 6(1) (b) as read with Section 18 of the Bribery Act; concealing evidence under Section 66 (1) (c) as read with Section 66 (2) of ACECA; escape contrary to Section 124 as read with Section 36 of the Penal Code; obstruction contrary to section 66 (1) (a) as read with Section 66 (2)

of ACECA; aiding escape contrary to Section 124 (a) of the Penal Code; conspiracy to commit an offence of corruption contrary to Section 47A(3) as read with Section 48 of the ACECA and robbery contrary to Section 295 as read with Section 296 (2) of the Penal Code.

Awaiting DPP's decision.

20. EACC/OPS/INQ/2/2019

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST A DRIVER OF A PRIVATE MOTOR VEHICLE

On 29th December, 2018 the Commission and Makindu Traffic Police conducted a joint operation to arrest motorists who flout traffic laws and offer bribes to officers on duty so as to avoid being charged.

On this day the officers carried out an operation along the Nairobi- Mombasa road at Makindu area that led to the arrest of the owner of a private motor vehicle Reg. No. KCA 961T. He corruptly offered a benefit to a Traffic Police Officer in order to forbear being charged with a traffic offence of driving at a speed of 115 KPH at a road of a maximum speed limit of 100 KPH.

Evidence established that indeed the suspect gave a bribe to the Traffic officer amounting to Kshs. 5,000/=.

On 10th April, 2019 a report was compiled and forwarded to ODPP with recommendations that the suspect be charged with giving a bribe contrary to Section 5(1)(a) as read with Section 18 (1) and (3) of the Bribery Act.

On 16th July, 2019 the DPP returned the inquiry file accepting recommendation for prosecution.

21. EACC/OPS/INQ/152/2016; CID/INQ.NO. 24/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST EMPLOYEES OF KENYA REVENUE AUTHORITY, ELDORET OFFICE.

The Commission commenced this investigation following directions from the Director of Public Prosecutions to reinvestigate the file which had earlier been investigated by the Directorate of Criminal Investigations. The allegations were that three Kenya Revenue Authority (KRA) Officers had solicited and received Kshs. 160,000/= from Grewal Karan Singh.

The Complainant had reported the matter to a Supervisor at National Intelligence Service (NIS) for assistance. The Supervisor organized for an operation where the suspects received Kshs. 160,000/= and were arrested. Efforts to trace the Supervisor who would be a key witness to corroborate the Complainant's statement that the suspects received the money were in vain. It was also established that there was no inventory or photocopies of the money before and after recovery and neither was the recovered money treated with APQ chemical powder thus difficult to prove that the suspects came into contact with the money.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

Awaiting DPP's response.

22. EACC/INTEL/02/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST MERU LAND OFFICERS AT THE MERU NORTH DISTRICT LAND REGISTRAR'S OFFICE

The Commission commenced this investigation on receipt of an anonymous complaint via email on 25/5/2018. The Complaint was that the complainant was unable to receive services at the Meru North District Land Registrar's office as there were brokers demanding for bribes from him to access services. That services could not be rendered unless he was using the brokers.

Investigations established that there was no link between the land officials and the brokers. The evidence gathered was therefore inadequate to prefer charges against the said land officials and the brokers.

On 7th May, 2019, a report was compiled and forwarded to DPP with recommendations that the file be closed with no further action.

On 30th August 2019, the DPP accepted the Commission's recommendation for closure.

23. EACC/KSM/OPS/INQ.9/2018

INVESTIGATION INTO ALLEGATIONS OF CORRUPTION AGAINST A CIVIL REGISTRATION CLERK ATTACHED TO KISUMU CIVIL REGISTRATION OFFICES.

Investigations commenced following a report by a complainant that a Civil Registration Clerk at Kisumu Registration Offices had requested for a financial advantage for Kshs. 1,500/= in order to issue him with a late birth certificate that he had earlier on applied for.

On 26th October, 2018 EACC organized operation that resulted in the arrest of the suspect. EACC officers conducted a search on the suspect and recovered Kshs. 1,500/= treated trap money.

On 7th May, 2019, a report was compiled and forwarded to DPP with recommendations to charge the said Clerk with two offences of receiving a bribe contrary to Section 6(1) as read with Section 18 of the Bribery Act and that the case already filed in Court be prosecuted to its logical conclusion.

On 29th August 2019, the DPP accepted the Commission's recommendation for prosecution.

24. EACC/MSA/OPS/INQ.12/2018

ALLEGATIONS OF BRIBERY AGAINST AN IMMIGRATION OFFICER AT IMMIGRATION DEPARTMENT OFFICES IN MOMBASA

Investigations commenced following a report by a complainant that an Immigration Officer at Immigration Department Offices in Mombasa had requested for a financial advantage for Kshs. 15,000/= to extend the Complainant's Visa.

On 16th March, 2018 EACC organized a trap operation however, the suspect was arrested before the Complainant could hand over the trap money. There was no evidence indicating that the suspect received any financial advantage from the suspect.

On 27th May, 2019, a report was compiled and forwarded to DPP with recommendations that the file be closed with no further action.

On 29th August 2019, the DPP accepted the Commission's recommendation for closure.

25. EACC/EL/INQ/90/2017

INQUIRY INTO ALLEGATION OF UNETHICAL CONDUCT AGAINST AN ASPIRANT FOR GOVERNOR OF HOMABAY COUNTY BY IRREGULAR ACQUISITION OF ACADEMIC CERTIFICATES

Investigations commenced when the Commission received an anonymous report registered on 2nd June 2017 on allegations that the aspirant for the seat of Governor for Homabay County was holding a degree certificate from the University of Nairobi (UoN) yet he was a form two dropout.

Investigations established that the suspect was a pupil at Godber Primary School and that he sat for his Certificate of Primary Education in 1981. He later joined Our Lady's Ringa School for his O-Levels. In addition, he sat for CPA Section 1 in December 1989 and passed all the papers. Investigations established that he made an application to the University of Nairobi for a Diploma in Human Resource Management on 27th October 2012 and was admitted to the said campus.

It was further established that the suspect made an application to the University of Nairobi for a Bachelor of Project Planning and Management on 22nd September, 2013. He applied for the degree programme before graduating in the Diploma in Human Resource Management which was a requirement

precedent. It was established that the Resident Lecturer enabled the irregular process of admitting the suspect in both the Diploma and Degree courses.

On 27th May, 2019 a report was compiled and forwarded to DPP with the following recommendations:

- i) Administrative action be taken against the Resident Lecturer for allowing the suspect to attend classes before the process of admission could be completed as per the provisions of the University of Nairobi Policy on Admissions and Payment of fees.
- ii) The validity of the degree and diploma certificates of the suspect be reviewed by the Senate to find whether there were irregularities in the process of admission in order to undertake the necessary action and;
- iii) The EACC conducts a systems audit at the University of Nairobi to identify weaknesses and gaps so as to strengthen the process of admissions and payments of fees in order to forestall the possibility of similar cases occurring in the future.

Awaiting DPP's decision.

26. CASE FILE REF NO. 251/266/288

INQUIRY INTO ALLEGATIONS OF CORRUPTION LEVELLED AGAINST COUNTY GOVERNMENT OF KIRINYAGA OFFICIALS

Investigations commenced following a report by a complainant on 12th October, 2018 that the Director in charge of Alcoholic Drinks Control and Children Services and the Kirinyaga Central Sub-County Administrator were demanding for Kshs. 300,000/= from the Complainant as a precondition for issuing him with a licence to distribute wines within the County of Kirinyaga.

On 12th October, 2018 EACC organized a trap operation that resulted to the arrest of the suspect. EACC officers conducted a search on the suspects and recovered Kshs. 200,000/= treated trap money.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations to charge the said suspects with two counts of receiving a

bribe contrary to Section 6(1) (b) as read with Section 18 (1) of the Bribery Act, each suspect with a count of abuse of office contrary to Section 46 as read with Section 48 of the ACECA and conspiracy to commit an offence contrary to Section 47A (3) as read with Section 48 of the ACECA.

On 17th September, 2019 the DPP returned the inquiry file accepting recommendation for prosecution.

27. EACC/ELD/INQ/26/2018

INQUIRY INTO ALLEGATIONS AGAINST OFFICIALS OF THE INTERNALLY DISPLACED PERSONS (IDPS), NANDI COUNTY

Investigations commenced following a report on the 12th November, 2018 by the County Commissioner, Nandi County that some people purporting to be officials of the Internally Displaced Persons (IDPS) were receiving bribes from the IDP's at Equity Bank- Kapsabet Branch. It was alleged that the said officials were receiving between Kshs. 5,000 and Kshs. 9,000/= from the IDP as compensation for facilitating the payments from the government.

On 14th November, 2018 EACC organized a sting operation that resulted to the arrest of the suspect. EACC officers conducted a search on the suspect and recovered Kshs. 99,050/= believed to be collections from IDPs who had received compensation on that day.

On 27th May, 2019, a report was compiled and forwarded to DPP with recommendations to charge the said suspects with conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48 of the ACECA; three counts of conspiracy to defraud contrary to Section 317 of the Penal Code and dealing with suspect property contrary to Section 47 as read with Section 48 of the ACECA.

Awaiting DPP's response.

28. EACC/NYR/E&L/01/2017

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND OTHER RELATED OFFENCES LEVELLED AGAINST THE MEMBER OF THE NATIONAL ASSEMBLY REPRESENTING LAIKIPIA EAST CONSTITUENCY

Investigations revealed the Laikipia East National Government Constituency Development Fund (LENGCDF) Committee members were culpable for the violation of the terms of the Constitution of Kenya, 2010, the Leadership and Integrity Act, 2012 and the Public Officer Ethics Act, 2003.

It was established that the LENGCDF Committee put up signage for projects in the Constituency indicating that the project had been undertaken and implemented by the Member of the National Assembly. The evidence revealed that it was inappropriate and improper to explicitly include the name of the Member of Assembly on the signposts of the projects initiated, undertaken and/or implemented by the LENGCDF Committee. However, there is no evidence established against the Hon. Member of Parliament and no criminal activities were disclosed by the investigations.

On 27th May, 2019, a report was compiled and forwarded to the ODPP with recommendations that an advisory be issued to the National Government Constituencies Development Fund(NGCDF) Committees at the Constituency level countrywide on guidelines regarding the branding of all projects funded by the NGCDF.

On 2nd August, 2019 the DPP returned the inquiry file accepting recommendation that the file be closed and that an advisory be issued to the National Government Constituencies Development Fund(NGCDF) Committees.

29. EACC/EL/INQ/43/2018

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT TOUCHING ON AN INDIVIDUAL THAT USED A FAKE DEGREE CERTIFICATE FROM MASENO UNIVERSITY TO SECURE EMPLOYMENT AT RURAL ELECTRIFICATION AUTHORITY (REA)

The Commission commenced investigations following a complaint that two staff members of the Rural Electrification Authority (REA) used fake certificates to

secure employment. It was further alleged that one staff member used a fake degree certificate from Maseno university to secure employment at the Department of Renewable Energy at REA. The other staff member equally used a fake degree certificate from the United States International University to be employed at the Human Resource Department. The subject investigation centered on one suspect while the other suspect is the subject of another investigation.

It was established that the suspect was an employee at REA and had used fake certificates to secure employment and promotion while at REA for the period of 6 years that she worked therein.

On 27th May, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect be charged with the following offences: giving false information to a person employed in the public service contrary to Section 129(a) of the Penal Code; fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of the ACECA; uttering a false document contrary to Section 353 of the Penal Code and forgery contrary to Section 349 of the Penal Code.

On 26th August, 2019 the DPP returned the inquiry file recommending further investigations.

30. EACC/EL/INQ/51/2016

INQUIRY INTO ALLEGATIONS OF FORGERY OF ACADEMIC CERTIFICATES BY A COUNTY EXECUTIVE COMMITTEE MEMBER OF TAITA TAVETA COUNTY GOVERNMENT

Investigations commenced following a report by the Centre for Law and Research made on 3rd March 2015, that there was an irregular appointment of a County Executive Committee(CEC) Member of the County Government of Taita Taveta citing lack of academic papers.

Investigations established that the CEC misled both the nominating authority and the County Assembly Committee on Appointments that he was pursuing a Masters degree in Corporate Management at KCA University, and that he also

holds a Bachelor of Education in Business Studies and Economics from Kenyatta University. He did not hold the academic qualifications to be appointed as CEC.

On 27th May, 2019, a report was compiled and forwarded to the ODPP with the following recommendations to charge the member with two counts of providing false information to a public entity contrary to Section 46(1) (d) and (2) of the Leadership and Integrity Act; forgery contrary to Section 349 as read together with Section 345 of the Penal Code and uttering a false document contrary to Section 353 of the Penal Code.

Awaiting DPP's decision.

31. EACC/GSA/EL/INQ/12/2016

INQUIRY INTO ALLEGATIONS THAT THE HUMAN RESOURCES AND ADMINISTRATION MANAGER, GARISSA WATER AND SEWERAGE COMPANY, FORGED HIS KENYA CERTIFICATE OF SECONDARY EDUCATION CERTIFICATE

The Commission commenced investigations following a complaint alleging that the Human Resources and Administration Manager (HR&AM) at Garissa Water and Sewerage Company (GAWASCO), forged his Kenya Certificate of Secondary Education (KCSE) Certificate.

Investigations revealed that the suspect presented a copy of the KCSE certificate with a mean grade C+ to GAWASCO and University of Nairobi (UON) purporting that it was a genuine document issued by Kenya National Examination Council (KNEC). It was established that all subject grades were altered except Islamic Religious Education and the mean grade was altered from D plain to C+.

Investigations also established that the subsequent certificates obtained from UON and Mount Kenya University (MKU) were based on a forged KCSE Certificate therefore being irregularly obtained. The suspect also presented the subsequent Certificates to his employer and was promoted to various grades.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations to charge the public officer with the offences of uttering a

false document contrary to Section 353 of the Penal Code, fraudulent acquisition of public benefit contrary to Section 45 (1) (a) as read with Section 48 of the ACECA.

On 2nd August, 2019 the DPP returned the inquiry file recommending further investigations.

32. EACC/EL/INQ/55/2016

INQUIRY INTO ALLEGATIONS THAT THE FORMER SPEAKER OF UASIN GISHU COUNTY ASSEMBLY DEFRAUDED AN ATHLETE OF KSHS. 21,500,000/=

Investigations commenced following a complaint that the former Speaker of Uasin Gishu County Assembly, defrauded the Complainant of Kshs. 21,500,000/=. The transactions in questions are said to have been executed partly in the year 2008 when the former Speaker was in private practice in the firm of Terer & Company Advocates, Eldoret and partly after he became the Speaker to the Uasin Gishu County Assembly.

Investigations revealed that the Complainant bought land parcel No.s LR 12448/7 and 12448 at a cost of Kshs. 12 Million. The suspect included his name in the sale agreement and when the Complainant enquired why the suspect was appearing as a purchaser, the suspect informed him that it was an oversight and assured him that the same would be rectified. The suspect caused the amalgamation of the two parcels of land and later subdivided the same into 36 plots and sold them off without the Complainant's authority.

Investigations further revealed that the suspect bought another parcel of land ELDORET MUNICIPALITY/BLOCK/176 at a cost of Kshs. 8M purportedly on behalf of the Complainant in Eldoret town. The Complainant had however not instructed the suspect to buy the said parcel of land. The purchase price of the said property was Kshs. 8 million. The complainant paid a total of Kshs. 6.5 million. The balance was to be paid upon the transfer of the title. The suspect included himself as a joint owner yet he had not contributed anything towards the

purchase. The transfer was however not effected since it later turned out that the title held by the purported vendors had been fraudulently obtained.

In addition, investigations revealed that the suspect was using his wife, who happens to be the County Land Registrar, Uasin Gishu County to carry out the fraudulent land transactions.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations to forward the matter to DCI to charge the former Speaker with procuring execution of documents by false pretenses contrary to Section 355 as read together with Section 349 of the Penal code, making a false document contrary to Section 347 (d) as read with Section 349 of the Penal Code, obtaining registration by false pretence contrary to Section 32 of the Penal Code and providing false information to a person employed in the public service contrary to Section 129 of the Penal Code.

Awaiting DPP's response.

33. EACC/MCKS/EL/INQ/03/2016

INQUIRY INTO AN ALLEGATION OF UNETHICAL CONDUCT AGAINST FIVE MEMBERS OF MAKUENI COUNTY ASSEMBLY THAT OCCURRED ON 11TH JANUARY, 2018 AT ST. JOSEPH'S GIRLS SECONDARY SCHOOL.

Investigations commenced after the Commission received a complaint on 12th January, 2018 from the media indicating that five Members of County Assembly (MCA) of Makueni had on 11th January, 2018 been engaged in misconduct after they attempted to prevent and evict a new Principal, whom had been transferred by the Teachers Service Commission to St Joseph Girls Secondary School. The MCA's alleged that the incoming principal was a non-performer and that she would not deliver to their expectations.

It was established that the MCA's engaged in unethical conduct by blocking the school gate to prevent the new Principal from settling into the school. This conduct on the part of the MCA's amounted to breach of Chapter Six of the Constitution of Kenya, 2010 and the Leadership and Integrity Act, 2012.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations to issue cautions to the MCA's as per the Leadership and Integrity Act and charge them with the following charges: Incitement to violence contrary to Section 96 (c) of the Penal Code; undermining authority of public officer contrary to Section 132 of the Penal Code and conspiracy to cause injury to reputation of a person contrary to Section 395 (b) of the Penal Code.

On 29th August 2019 the DPP accepted the Commission's recommendation that there is sufficient evidence to sustain charges already filed in court.

34. EACC/OPS/INQ/80/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A POLICE CONSTABLE ATTACHED TO KASARANI POLICE

Investigations commenced following a report by a complainant that the suspect, a Police Officer attached to Kasarani Police Station in Petty Crime Office had solicited from her and her brother in law Kshs. 20,000/= so as to facilitate her release and release of the gambling machines that had been confiscated.

On 19th and 20th July, 2018 EACC organized a trap operation but did not manage to arrest the suspect as he was on duty. The OCS was informed by EACC officers that the Complainant was released upon paying a bribe of Kshs. 20,000/=. EACC officers summoned the suspect through the OCS for questioning and recording a statement. Evidence established that indeed the suspect received a bribe amounting to Kshs. 20,000/=.

On 27th May, 2019, a report was compiled and forwarded to DPP with recommendations to charge the said suspect with three counts of receiving a bribe contrary to Section 6(1) (a) as read with Section 18 of the Bribery Act.

On 16th July, 2019 the DPP returned the inquiry file recommending further investigations.

35. EACC/OPS/INQ/126/2017

INQUIRY INTO ALLEGATION OF ABUSE OF OFFICE AGAINST TRAFFIC POLICE OFFICERS ATTACHED TO KISII TRAFFIC BASE.

Investigations commenced following intelligence report that Traffic Police Officers from Kisii Station request and receive bribes from motorists in major roads within Kisii county.

On 24th August 2017, 2018 EACC organized a sting operation that resulted to the arrest of two suspects. One traffic Officer escaped on foot and another Officer drove off motor vehicle registration number KCJ 935C and knocked down an EACC officer.

On 27th May, 2019, a report was compiled and forwarded to DPP with recommendations that administrative action be taken against the suspects who were captured on camera receiving bribes from motorists as provided for under Section 42 of the Leadership and Integrity Act.

Awaiting DPP's decision.

36. EACC/OPS/INQ/190/2018

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST A DRIVER OF A PRIVATE MOTOR VEHICLE

On 19th December, 2018 the Commission and Traffic Police conducted a joint operation to arrest motorists who flout traffic laws and offer bribes to officers on duty so as to avoid being charged.

On this day the officers carried out an operation along the Embu – Kiritiri Highway that led to the arrest of the owner of a private motor vehicle Reg. No. KCP 464. He had corruptly offered a benefit to a Traffic Police Officer in order to forbear being charged with a traffic offence of carrying farm produce in private vehicle which was covered by private insurance and not commercial insurance.

Evidence established that indeed the suspect gave a bribe to the Traffic officer amounting to Kshs. 450/=.

On 10th April, 2019 a report was compiled and forwarded to ODPP with recommendations that the suspect be charged with two counts of giving a bribe contrary to Section 5(1) as read with Section 18 (1) and (2) of the Bribery Act.

On 17th September, 2019 the DPP returned the inquiry file recommending alternative to prosecution to be explored.

37. EACC/ISL/OPS/25/2018

INVESTIGATION INTO THE ALLEGATION THAT A CLINICAL OFFICER BASED AT MERU TEACHING AND REFERRAL HOSPITAL LEVEL 5, REQUESTED FOR A BRIBE SO AS TO CONDUCT EYE SURGICAL OPERATION.

Investigations commenced following a report by a complainant that the suspect, a Clinical Officer based at Meru Teaching and Referral Hospital, Level 5 had solicited from him Kshs. 4,000/= so as to conduct an eye surgical operation despite the said operation being fully covered by NHIF.

On 23rd October, 2018 EACC organized a trap operation that resulted to the arrest of the suspect. EACC officers conducted a search on the suspect and recovered Kshs. 3,000/= treated trap money.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations to charge the said suspect with three counts of receiving a bribe contrary to Section 6(1) (a) as read with Section 18 of the Bribery Act.

On 7th August 2019, the DPP recommended closure of the inquiry file and an advisory be issued to the hospital management to ensure that supplies are available to support medical services being offered.

38. EACC/OPS/INQ/31/2018

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST CHIEF INSPECTOR ATTACHED TO MATUU POLICE STATION

The Commission commenced this inquiry after an article was published in the Daily Nation newspaper of 18th March, 2018. It was alleged that on 7th March,

2018 Officers of Matuu Police Station arrested five suspects who were arraigned before (Hon. G.O Shikwe (SRM) presiding at Kithimani Law Courts on charges of breaking into a building and committing a felony and an alternative charge of handling stolen goods. On 12th March, 2018, the five accused pleaded not guilty to the charges. One of the accused persons alleged in open court that the Chief Inspector attached to Matuu Police Station had received Kshs. 200,000/= from him so as to terminate the charges against the accused.

Investigations revealed the amount of Kshs. 200,000/= was paid as cash bail and returned to the accused person during the trial. The evidence on record disclosed that the Chief Inspector issued instructions to a fellow Officer for the temporary removal of the accused person from the prison cell to proceed to KCB Matuu branch for withdrawal of Kshs. 200,000/=. The movement of the accused was not recorded in the cell register but only in the Occurrence Book with the narrative that he had been removed temporarily for an inquiry.

On 10th April, 2019, a report was compiled and forwarded to DPP with the recommendation that there was sufficient evidence to prefer administration action against the Chief Inspector in accordance with the Service Standing Orders of the National Police Service.

On 17th September, 2019 the DPP returned the inquiry file accepting recommendation for administrative action.

39. EACC/OPS/INQ/172/2018

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST THE NATIONAL COORDINATOR AND SECRETARY OF BUNGE LA MWANANCHI

Investigations commenced following a report made to the EACC by the complainant that he received a letter from a group known as Bunge la Mwananchi complaining that patients visiting his clinic at St. Mary's Clinic- Umoja One, Nairobi were being sexually harassed. The letter had been signed by the National Group Coordinator. The Coordinator and his colleague approached the Complainant and requested for a financial advantage of Kshs. 250,000/= so

as not to incite members of the public to stage a demonstration in protest of the alleged sexual harassment or have the allegations aired in the media.

On 3rd December, 2018 EACC organized a sting operation that resulted to the arrest of the suspects. EACC officers conducted a search on one of the suspects and recovered Kshs. 100,000/= treated trap money.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations to charge the said National Coordinator, Bunge la Mwananchi with offences of requesting and receiving a bribe contrary to Section 6(1) as read with Section 18 of the Bribery Act.

On 4th September, 2019 the DPP returned the inquiry file accepting recommendation for prosecution.

40. CR 641/19/2018, ACC.NO. KISII 1/2018

INQUIRY INTO ALLEGATION OF RECEIVING A BRIBE BY AN ADMINISTRATIVE SECRETARY AT ATTORNEY GENERAL'S OFFICE DEPARTMENT OF PUBLIC TRUSTEES/MARRIAGES, KISII

EACC commenced Investigations following a report made by the complainant who went to the Public Trustee's office within the Attorney General chambers in Kisii to follow up on her late husband's pension. The Administrative Secretary in the said office, however, demanded for a bribe of Kshs. 50,000/= from the complainant in order to facilitate the issuance of the late husband's pension.

On 18th January, 2018 EACC organized a trap operation that resulted in the arrest of the suspect. EACC officers conducted a search on the suspect and recovered Kshs. 50,000/= treated trap money.

On 10th April, 2019, a report was compiled and forwarded to DPP with recommendations to charge the said Administrative Secretary with offences of requesting, agreeing to receiving and receiving a bribe contrary to Section 6(1) (a) as read with Section 18 (1) and (2) of the Bribery Act.