

# **SPECIAL AUDIT REPORT**

**OF THE**

**CONTROLLER AND AUDITOR GENERAL**

**ON THE**

***KENYA PIPELINE COMPANY LIMITED***

**September, 2005**



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### **PART ONE**

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## **1 INTRODUCTION**

### **1.1 Scope of Report**

The Parliamentary Public Investments Committee (PIC) in a meeting of 7 October, 2004 requested the Controller and Auditor General to conduct a special audit of Kenya Pipeline Company Limited (KPC) in relation to the following issues:-

- Financing Agreement with Triple A Company Limited;
- Rehabilitation of Ngema Access Road, and
- Harambee and other donations paid by KPC during the years 2002/2003 to 2004/2005.

This report transmits the findings of the Controller and Auditor General with respect to the audit and review of these issues.

### **1.2 Methodology and Scope of Audit Investigation**

Kenya Pipeline Company Limited complied with requests for information from C & AG staff through the voluntary production of documents.

In carrying out the audit investigation, C & AG staff:-

- held discussions with management and their staff;
- made independent observations and reviewed/vouched documentation and information provided;
- reviewed policy and procedure manuals and evaluated the extent to which they had been implemented;
- reviewed procedures for authorization; and
- analyzed their findings and results.

The C & AG staff faced several limitations in conducting the audit investigation. The C & AG staff had to rely on KPC's co-operation to make available relevant documents. The individuals interviewed by C & AG's staff were not under oath, nor were individuals relevant to the investigations compelled to appear. Some employees who had participated in the transactions or activities had since left KPC. However, in spite of these limitations, in my view this report provides valuable and credible information and facts relating to the issues under audit investigation.

### **1.3 Structure of the Report**

This report is presented in five parts. Part one contains the Introduction part that includes the scope of the report, methodology used and the structure of the report. Part two contains the Executive Summary which includes background investigation and a history of the questionable company transactions. Part three to five provides detailed reports on the issues under investigation and part six comprises Appendices I to IV.



## 2 EXECUTIVE SUMMARY

### 2.1 **Financing arrangement with M/S Triple A Capital Limited**

2.1.1 The company found itself in a precarious financial position in the year 2002 when its working capital dropped from KShs.1.88 billion in 2001 to KShs.0.6 billion in 2002 and to a negative working capital of KShs.0.42 in the year 2003.

2.1.2 Apparently, although the Public Investment Committee in its Tenth Report Volume II of the year 2002 advised the company against engaging itself in non-core activities, the company continued to engage in non care activities. The non-core activities undertaken by the company included the following:-

- Payment of KShs.291,678,780 during the year 2002/2003 in respect of 33 plots of land irregularly hived off Ngong forest which is still gazetted as a forest by government.
- Payment of KShs.20,151,322.80 and KShs.32,268,495.05 in 2001/2002 financial year to M/S. Aventura Trading Company Ltd for Clearance and reinstatement of right of way at Km 2 Mukuru area which was not done or completed and refurbishment of Embakasi Housing Estate respectively.
- Payment of KShs.36,517,928.65 in 2001/2002 financial year to M/S Haraka Enterprises for refurbishment to Karura Housing Estate without competitive bidding.
- Payment of KShs.480,384,667 for construction and rehabilitation of 9km Ngema road and KShs.13,920,000 paid to M/S BOT Construction Ltd. for gravelling of Kunya road in Bondo District.

2.1.3 Due to these and other irregular expenditure and non-core activities, the company found itself in serious financial problems and could not meet its financial obligations as they fell due.

2.1.4 Consequently in April 2003 the management sought approval of the Board to source for extra funding of KShs.2,000,000,000 to facilitate smooth implementation of normal operations and five core projects. ***The board deliberated on the paper at length and gave approval to management to explore possible sources to borrow from and revert to the board.***

2.1.5 However, instead of exploring all possible sources of funding as directed by the Board it appears that the Company through the then Chairman, Mr. Maurice Dantas approached Triple A Capital Ltd. for funding.

- 2.1.6 As a result on 9<sup>th</sup> May 2003, 20 days after the above Board meeting, Triple A Capital Limited made a financing proposal through a letter addressed to Mr. Maurice Dantas, Chairman of the Board. In the letter ***Triple A Capital Ltd proposed to provide financing to KPC Ltd over 12 months with the financing cost burden being borne entirely by itself except in the event that the financing required exceeded a 12 month repayment period in which case KPC would incur a financing cost of 1.25 % per month multiplied by the total number of months requested above 12 months***”.
- 2.1.7 On receipt of this proposal, an Emergency Board Committee Meeting was convened on 13<sup>th</sup> May 2003. The Emergency Board Committee meeting noted the proposal and recommended a number of amendments aimed at reducing the finance costs to KPC if the borrowing period exceeded 12 months.
- 2.1.8 The Emergency Board Committee’s proposals were conveyed to Triple A Capital Limited on the same day 13 May, 2003.
- 2.1.9 In response in a letter dated 14 May 2003, Triple A generally accepted the KPC counter proposals except for the rewording of a ***paragraph allowing further assignment of the deed***. Triple A also in their letter stated that they ***had held discussions with standard chartered bank with respect to a short term facility***.
- 2.1.10 ***Clearly a new condition/dimension was being introduced i.e. TRIPLE A had reworded the paragraph to allow further assignment of the deed with Standard Chartered Bank short term facility in view.***
- 2.1.11 The involvement of Standard Chartered Bank was a clear indication that Triple A intended to rely on the Bank to finance the deal. The Board and the Management should therefore at this point in time have questioned the rationale for having Triple A as a go between instead of dealing directly with the Standard Bank.
- 2.1.12 An Emergency Board Committee meeting of 14 May 2003 authorised management to seek approval from the Ministry of Finance through the Ministry of Energy to borrow KShs.2,000,000,000 repayable in 12 months but did not clearly state from Triple A.
- 2.1.13 In the same emergency meeting on 14 May 2003, a proposal to borrow US\$ 40,000,000.00 from Standard Chartered Bank was rejected by the members of the Emergency Board Committee who recommended that ***Management should seek financial proposals from five (5) banks as per procurement rules and regulations.***
- 2.1.14 On **20 May 2003** KPC wrote to Triple A stating that ***in principle the arrangement is acceptable and that they will begin the process of formalizing the same with the Board and the parent Ministry.***
- 2.1.15 The final version of financing proposed arrangement between Triple A and KPC was neither taken to another Emergency Committee meeting nor to the Full Board



for deliberation and adoption although it had significantly changed the earlier proposal by introducing assignment of deed and arrangement for short term borrowing facility with Standard Chartered Bank.

- 2.1.16 In a letter dated 27 May 2003, the Managing Director of KPC sought the approval of the Ministry of Finance through Permanent Secretary, Ministry of Energy for the Company to borrow KShs.2 billion from Triple A Capital Ltd. indicating that the Board of Director had in its meeting of 22<sup>nd</sup> and 23<sup>rd</sup> April given management approval to source for funds.
- 2.1.17 It will be noted that this was misleading because the Board of Directors at its meeting of 23 April 2003 gave approval to management to explore possible sources to borrow from and revert to the Board. The Board did not give management authority to enter into negotiations or to borrow from Triple A Ltd.
- 2.1.18 Further information indicates that a meeting was held at the Treasury on 21 July 2003 and attended by Mr. Macharia, MD Triple A, a Mr. Victor Gitobu, Messrs J.G. Mwangi and David Onyonka (representing the Treasury), Mr. H.O. Orata and others (representing KPC). The meeting agreed on various issues including new terms for liquidated damages refinancing option, deed of assignment and arrangement fee. These new terms were approved at the 148<sup>th</sup> Board meeting held on the same day, the 21 July 2003. KPC was represented by Mr. H O Orata and others not specifically mentioned in the letter from Triple A dated 21 July 2003.
- 2.1.19 In a letter dated 22 July 2003, the Minister for Finance referring to a recommendation by the Permanent Secretary, Ministry of Energy and in accordance with section 5(2) of the State Corporations Act, Cap 446, authorised KPC to borrow KShs.2 billion from Triple A Limited under the stated terms.
- 2.1.20 On 29 August 2003, the Permanent Secretary, Ministry of Energy wrote to the MD, KPC and expressed concern that the Agreement had been finalized for signature without involvement of the Ministry. He stated that those documents ought to have been reviewed by Government and legal opinion sought to ensure the interest of Government was safeguarded and, accordingly, instructed KPC to put the proposed signing ceremony in abeyance.
- 2.1.21 On 10 September 2003, the Managing Director Kenya Pipeline, replied to the Permanent Secretary, Ministry of Energy stating that the financing proposal was tabled and discussed and approved during the Board of Directors meetings on 13 & 14 May 2003 and that KPC had sought an independent opinion from one of the company's lawyers in respect of the documents, which was positive.
- 2.1.22 *Clearly the Managing Director misled the PS that the financing proposal was discussed and approved by the Board of Directors at their meeting on 13 and 14 May 2003. This was not a Board meeting but a meeting of Board Emergency Committee. Further, the terms and conditions of earlier agreements were substantially different from the new ones referring to assignment of debts to Standard Chartered.*

- 2.1.23 On 19 September 2003 the Managing Director KPC wrote to the Attorney General Chambers asking for legal opinion as to whether the documents were in tandem with the Ministry of Finance approval and whether the security documents were in order.
- 2.1.24 The Office of the Attorney General in a letter dated 14 October 2003 indicated that the draft documents submitted for his advice had been examined and found to be in order from the legal point of view.
- 2.1.25 In a letter of **16 October 2003**, the Managing Director, KPC, requested for an additional consent from the Minister for Finance to ***Incorporate Standard Chartered bank (K) Ltd as a party to the transaction.***
- 2.1.26 In a letter dated 23 October 2003, addressed to the Minister for Energy, the Minister for Finance gave consent for KPC Ltd to borrow on a revolving basis KShs.2 billion from Standard Chartered Bank, Kenya so that Standard Chartered Bank could refinance amounts owed to Triple A Ltd by KPC under deeds of assignment of debt from time to time.
- 2.1.27 On the same day, 23 October 2004 the Hon. Minister for Energy on 28 October 2004 conveyed to KPC the Minister for Finance approval to borrow KShs.2 billion from Standard Chartered.
- 2.1.28 During the 151<sup>st</sup> Board of Directors meeting held on 4<sup>th</sup> and 5<sup>th</sup> November 2003 the board approved the refinancing facility for KShs.2 billion on terms required by Standard Chartered Bank of Kenya.
- 2.1.29 Following the signing of the agreements, payments totaling KShs.1,701,791,968 were made to Triple A Capital Ltd by KPC on 31 December, 2003.
- 2.1.30 On 31 December 2003 Triple A Capital Limited paid EDC, US Dollars 15,439,258 and JBID JY457,126,133. On 23/7/2004 Triple A further paid PENCOL STG 894,146.45 and on 16/6/04 paid JFE US\$854,446 and JY15,239,704. All these payments were made on behalf of Kenya Pipeline Company.
- 2.1.31 As a result of the above payments KPC Ltd suffered exchange losses of KShs.152,108,052.80 and bank credit charges totaling KShs.133,489,306.

## CONCLUSIONS AND RECOMMENDATIONS

### 2.1.32 Conclusions

Due to deliberate misrepresentation by the management with the connivance of the so called Emergency Board Committee, the Kenya Pipeline Company Ltd incurred losses amounting to KShs.285,597,362.10 being excess exchange rate of KShs.152,108,056.10 and credit charges of KShs.133,489,306 paid to Triple A Capital Ltd.



### 2.1.33 Recommendations

- Attempts should be made to recover the amount of KShs.285,597,362.10 from Triple A Capital Limited through the legal process.
- Appropriate action should be taken against the senior management members who were involved in this deal together with the members of the emergency board.

## 2.2 Rehabilitation of 9 Kilometer Ngema Access Road

### SUMMARY

The following firms were paid various consultancy fees and compensation for rehabilitation of 9 km Ngema Access Road:-

8.12.03	Songa Ogada & Associates	8,636,008.35
26.3.04	Nelliwa Builders & Civil Engineers	
6.5.04	Contractual Claim	26,526,896.90
30.5.99	MAK Consultants	3,508,141.05
2.6.99	Kenya Tech Consulting Engineers	7,226,392.80
11.7.02	Kenya Tech Consulting Engineers	6,789,667.20
15.1.04	Tamcon Consulting Engineers	<u>28,592,696.80</u>
	<b>Total</b>	<b><u>KShs.81,279,803.10</u></b>

- 2.2.1 Despite the huge amount of KShs.81.2 Million paid by the company no rehabilitation works were carried out and there was no value for money or anything to show for this expenditure as the condition of the road remains poor and impassible.

### CONCLUSIONS AND RECOMMENDATIONS

#### 2.2.2 Conclusions

Proper tendering procedures were not followed. Contracts costs were varied upward without due considerations while a contract was terminated without due regard to law resulting to payment of liquidated damages. As a result KPC Ltd paid a total of KShs.81,279,803.10 for little value if any.

#### 2.2.3 Recommendations

Appropriate action should be taken against the managing director who authorized these works/consultant contracts including recovery of KShs.81,279,803.10 from him.

## **2.3 Donations**

### **SUMMARY**

The audit of Harambee and other donations covered the years 2002/2003, 2003/2004 and 2004/2005. The Kenya Pipeline Company does not have a formal policy and/or guidelines on donations. This is left at the discretion of the Managing Director who approves all donations. These donations do not get Board's approval or ratification and no meetings are held to deliberate on them. During the period 2002/2003, 2003/2004 and 2004/2005 the company incurred expenditure totaling KShs.23,649,946.25 on donations. The Company therefore incurred expenditures over and above the budgeted figures KShs.7,000,000 with the year 2003/2004 having the biggest over expenditure of 742.35%. These over expenditures were not taken to the Board for ratification.

#### **2.3.1 SUMMARY OF DONATION FOR 2002/2003, 2003/2004 and 2004/2005**

<b>Name of Beneficiary</b>	<b>Amount (KShs)</b>
Gravelling of road No. 148 Ndori-Owino-Luanda for Mr. Ramogi Achieng Oneko	13,920,000.00
Renovation of house for Mr. Bildad Kagia	2,537,947.15
Miritini Secondary School	2,831,202.85
Donations without request	1,703,250.00
Donations associated with influential persons	705,000.00
Donations but requests madeto staff members	160,000.00
Donations – Documents not seen	<u>1,792,546.25</u>
<b>Total</b>	<b><u>23,649,946.25</u></b>

### **CONCLUSION**

- 2.3.2 It is clear from the foregoing that the Managing Director, KPC Ltd. misused his Office to authorize donations in cash and other company resources without the Board's approval. The basis for making donations without written requests from the beneficiaries is not clear. Also questionable is making donations at the request of influential personalities and staff members. Further and as indicated above a big proportion of the donations are not supported by verifiable documents such as payment vouchers and relevant copies of correspondence. As a result it has not been possible to confirm the authenticity of such donations or even to confirm that they were actually donations at all. The total expenditure of KShs.23,649,946.25 on donations is therefore questionable.

### **Recommendations**

- 2.3.3 Appropriate action should be taken against the Managing Director involved including recovery of the money from him.

## **PART ONE**

### **3. FINANCIAL ARRANGEMENT WITH M/S TRIPLE A CAPITAL LIMITED**

#### **3.1 Financial Requirements**

3.1.1 The company found itself in a precarious financial position in the year 2002 when its working capital dropped from KShs.1.88 billion in 2001 to KShs.0.6 billion in 2002 and to a negative working capital of KShs.0.42 in the year 2003. Apparently, although the Public Investment Committee in its Tenth Report Volume II of the year 2002 advised the company against engaging itself in non-core activities, the company continued to engage in non care activities. Among the non-core activities carried out by the company included the following:-

- Payment of KShs.291,678,780 during the year 2002/2003 in irregular land deals being payment for a total of 33 plots hived off Ngong forest which is still gazetted as a forest by government.
- Payment of KShs.20,151,322.80 and KShs.32,268,495.05 in 2001/2002 financial year to M/S. Aventura Trading Company Ltd for Clearance and reinstatement of Right of Way at KM2 Mukuru area which was not done or completed and refurbishment of Embakasi Housing Estate respectively.
- Payment of KShs.36,517,928.65 in 2001/2002 financial year to M/S Haraka Enterprises for refurbishment to Karura Housing Estate and without competitive bidding.
- Payment of KShs.480,384,667 for construction and rehabilitation of 9km Ngema road and KShs.13,920,000 paid to M/S BOT Construction Ltd. for gravelling of Kunya road in Bondo District.

3.1.2 Due to these and other irregular expenditure and non-core activities, the company found itself in serious financial problems and could not meet its financial obligations. These obligations included the following:-

- International loan obligations and a loan from a local bank amounting to KShs.1,899,315,410 as at 30 June 2003
- Amount due in respect of Corporate Tax amounting to KShs.2.4 billion as at 31 March 2003.
- Amount due to the Commissioner of VAT for taxes amounting to KShs.280,155,915 as at 17 April 2003.



3.1.3 In addition, on 13 December 2001, the board of directors approved borrowing of 20% of the total cost of Kipevu Oil Storage Facility Upgrade Project which translated to US\$ 5 million from Standard Chartered Bank but the management increased the amount to be borrowed to US\$ 15 million without reference being made to the board of directors. The amount so borrowed was disbursed in December 2002.

3.1.4 Consequently in April 2003 the management sought approval of the Board to source for extra funding to facilitate smooth implementation of operations including four core projects and other obligations with financial requirements of KShs.7,114,044,533 as shown below:-

**(i) Core Projects**

<u>Item</u>	<u>Amount (KShs)</u>
Consultancy	266,692,975.00
Additional storage tanks at Kipevu	604,780,253.00
Additional pump station at Morendat	480,622,760.00
Mombasa – Nairobi Pipeline Inspection	200,000,000.00
Construction of Jet A – 1 tanks at Eld & Ksm	461,315,054.00
<b>Sub total</b>	<b>2,013,411,042.00</b>

<b>(ii) Other obligations</b>	<u>5,367,326,466.00</u>
<b>Total financial requirements</b>	<b><u>KShs.7,380,737,508.00</u></b>

The other obligations shown above included outstanding foreign loans as follows:-

<b>Name of loan</b>	<b>Amount in foreign currency</b>
Export Development of Canada	US Dollars 3,090,356.90
Export Import Bank of Japan	Japanese Yen 426,971,932.00
Nataxis	Euros 1,036,238.78

**INVOLVEMENT OF TRIPLE A CAPITAL LTD AND STANDARD CHARTERED BANK**

3.1.5 From the above analysis, the management informed the board that the company was to spend KShs.2,013,411,042 on five core projects as shown above. **The management thus sought board approval to source for external funding to the tune of KShs.2,000,000,000. The board deliberated on the paper at length and gave approval to management to explore possible sources to borrow from and revert to the board.**

3.1.6 However, instead of exploring all possible sources of funding as directed by the Board it appears that somebody with access to Board decisions leaked the

information and Board's decision to Triple A Capital Ltd. It appears from available correspondence that Triple A company was introduced to KPC management by Mr. Maurice Dantas who was then the chairman of the Board. Mr. Dantas also appears to have been the source of information on the financing requirements of the company.

- 3.1.7 As a result on 9<sup>th</sup> May 2003 only 20 days after the above Board meeting, Triple A Capital Limited made a financing proposal through a letter which was addressed to Mr. Maurice Dantas, Chairman of the Board.

The letter (proposal) stated in part, that ***“Triple A Capital Ltd was in a position to provide financing to KPC Ltd over 12 months and the structure of that financing would allow the financing cost burden to be borne entirely by the supplier but in the event that the financing required exceeded a 12 month repayment period, then KPC would incur a financing cost of 1.25 % per month multiplied by the total number of months requested above 12 months”***.

- 3.1.8 On receipt of this proposal, an Emergency Board Committee Meeting was convened on 13<sup>th</sup> May 2003. A paper on financing proposal by Triple A was placed before the Emergency Board Committee.

The Emergency Board Committee meeting noted the paper presented, discussed the matter and recommended:-

- That a proper Board Paper be done and presented to the Emergency Board Committee meeting.
- That management negotiate with Triple A the interest clause from 1.25% to 1% which will be payable if the loan repayment by KPC could exceed 12 months.
- That management negotiates on the 2% liquidated damages on failure by KPC to pay the debt when due.
- That management keenly study legal provisions of the offer from Triple A and report back to the Board Emergency Committee.
- That management gives Board Members sufficient notice and the Board Papers in time.
- That after the above have been addressed, the meeting be continued on 14 May, 2003 at 11 am.

- 3.1.9 On the same day the Emergency Board Committee discussed the proposal by M/S Triple A i.e. on 13<sup>th</sup> May 2003, Mr. C.B. Manyaga, for Managing Director KPC

wrote to the Managing Director Triple A Capital limited on the financing proposal, seeking further information and making a number of counter proposals as follows:-

- Triple A provides a copy of the company's Certificate of Incorporation; List of Directors, Shareholders and the Share Capital.
- Paragraph 8 of the deed assignment we recommended 1% liquidated damages.
- Paragraph 9 to be after on year and at the same terms as it contradicts paragraph 10(b).
- Lending in excess of 12 months to attract interest of 1% per month.
- Kenya Pipeline Company Ltd. would also like to know the discount rate and the members of the consortium.
- We would like to know the discount rate.
- Who are the members of the consortium?

### **3.2 Assignment of Deed Factor Introduced**

3.2.1 Triple A replied to this letter the following day, on 14<sup>th</sup> May 2003 in a letter addressed for the attention of Mr. Manyaga. In this letter M/S Triple A provided the company with the information on group structure. Triple A also generally accepted the KPC counter proposals except for the requested rewording of **paragraph 10(b) to allow further assignment of the deed**. Triple A also in their letter stated that they **had held discussions with standard chartered bank with respect to the short term facility and anticipate working together**.

3.2.2 It's worth noting the following:-

***A new condition/dimension was being introduced i.e. TRIPLE A had reworded paragraph 10b to allow further assignment of the deed. A discussion with Standard Chartered Bank had been held with respect to a short term facility.***

The involvement of Standard Chartered Bank was a clear indication that Triple A intended to rely on the Bank to finance the deal. In other words it was a mere go between. The Board and the Management should therefore at this point in time have questioned the need for having Triple A as a go between instead of dealing directly with the Standard Bank.

3.2.3 Even as the letters were being written another Emergency Board Committee meeting was convened on 14<sup>th</sup> May 2003 a day after the meeting on 13<sup>th</sup> May

2003. Management submitted a paper to the Committee in which Triple A proposal was recommended and the Board was requested to note the board paper and give management approval to negotiate further and report back to the Board and **to give approval to management to seek authority from Ministry of Finance through Ministry of energy on borrowing of KShs. 2 billion repayable in 12 months.**

The Board Emergency committee meeting deliberated on the matter at length and recommended as under:

- Management to seek approval from the Ministry of Finance through the Ministry of Energy to borrow KShs.2,000,000,000 repayable in 12 months (but did not clearly state from Triple A).
- The company Secretary to confirm in writing to management that all the Board's concerns had been addressed before the final document was prepared & signed by management.

3.2.4 In the same emergency meeting on 14<sup>th</sup> May 2003, a proposal to borrow US\$ 40,000,000.00 from Standard Chartered Bank was rejected by the members of the Emergency Committee Board who recommended that **Management should seek financial proposals from five (5) banks as per procurement rules and regulations.** Management was asked to compile all financial proposals (offers) and come up with a management paper on all the options. **All these recommendations by the Emergency Board Meetings were never tabled before the full Board, although according to written representation obtained from KPC legal secretary, the mandate of the Emergency Committee Meeting was to report to the full Board.**

3.2.5 The meetings of 13 and 14<sup>th</sup> May 2003 did not conclusively deliberate on borrowing from Triple A but gave Management authority to seek approval from the Ministry of Finance through the Ministry of Energy to borrow KShs.2 billion repayable in 12 months.

3.2.6 Although the Company secretary a Mrs. Mary Kiptui on 16<sup>th</sup> May 2003 wrote to Triple A requesting for deletion of paragraph 10 completely Triple A Ltd insisted on the retention of the paragraph saying that it was **not feasible to delete this clause as it would eradicate the flexibility envisioned.**

It would appear that by declining to delete the paragraph dealing with further assignment of deed and dealing with one assignee throughout the assignment M/S Triple A was indicating that it needed flexibility to finance the deal through borrowing from third party financiers. Nevertheless on 20<sup>th</sup> May 2003, Mrs. Mary Kiptui wrote back to M/S Triple A indicating that **in principle the arrangement is acceptable to KPC and that they will begin the process of formalizing the same with the Board and the parent Ministry.**

to  
Triple A  
SC  
First  
CBA  
City Bank  
Standard  
not opened

- 3.2.7 This final version of financing proposal arrangement between triple A and KPC was neither taken to another Emergency Committee meeting nor to the Full Board for deliberation and adoption although it had significantly changed the earlier proposal by introducing assignment of deed and arrangement for short term borrowing facility with Standard Chartered Bank.
- 3.2.8 On 27<sup>th</sup> May 2003, the Managing Director of KPC wrote to the Permanent Secretary of Ministry of Finance through Permanent Secretary, Ministry of Energy seeking approval for KPC to borrow KShs.2 billion from Triple A Capital Ltd. In his letter the MD stated that Triple A Capital was offering to finance KPC suppliers directly by discounting their receivables and that the facility was KShs.2 billion repayable in 12 months interest free, and further that during the Board meeting of 22<sup>nd</sup> and 23<sup>rd</sup> April the Board gave management approval to source for funds and that the 13<sup>th</sup> and 14<sup>th</sup> May Board Emergency Committee deliberated on the funding proposal.
- 3.2.9 It is however noted that the Board of Directors in its meeting of 23<sup>rd</sup> April 2003 gave approval to management to explore possible sources to borrow from and revert to the Board and not authority to enter into negotiations or to borrow from M/S Triple A Ltd. It is also noted that the Board Emergency Committee meeting had directed the company secretary to confirm in writing that all Board concerns had been addressed before the final document was prepared and signed by the management. It would appear that this was not done and it is doubtful whether all the Boards concerns had been addressed.
- 3.2.10 In response to the Managing Director KPC letter on 3<sup>rd</sup> June 2003, Mr. Ngatia, for PS Ministry of Energy pointed out the discrepancies between what had been approved at the Emergency Committee Meetings and the MD's letter. He stated that the issue of Triple A had been discussed among other lenders and that they needed to capture this information in their letter to the Treasury and also to provide the Treasury with a draft copy of the agreement to be signed between KPC and Triple A. He also stated that Mr. Ochuodho had to confirm the arrangement would be interest free loan for 12 months and that KPC would not be expected to meet expenses like commitment fees but would have to pay interest at a rate to be determined incase they are unable to repay the debt after the 12 months as was stipulated in the agreement.
- 3.2.11 On 12<sup>th</sup> June 2003, KPC's company secretary, Mary Kiptui for the Managing Director while acknowledging Mr. Ngatia's letter again requested ministries of Finance & Energy to approve the borrowing of KShs.2 billion from M/S Triple A, and stated in the same letter that the loan would be interest free for the first 12 months and thereafter incur interest of 1% per month on the outstanding amounts if KPC exceeds 12 months in repayment of the loan and that if KPC defaults in the first 12 months it would attract an interest rate of 0.95%per month.

3.2.12 Further information indicates that a meeting was held at the Treasury on 21 July 2003 and attended by Mr. Macharia, MD Triple A, a Mr. Victor Gitobu, Messrs J.G. Mwangi and David Onyonka (representing the Treasury), and Mr. H.O. Orata representing KPC where it was agreed that:-

- Liquidated damages charge shall be 0.4% per month 30 days after default.
- Refinancing option: that a clause in final agreement shall be inserted to allow for refinancing of overdue amounts for further periods with the approval of KPC and ministry of Finance.
- Deed of assignment: That deed of assignment of debt signed by KPC, creditors and Triple A shall be further assigned by Triple A after advice to KPC.
- Arrangement fee: that the arrangement fee will be reduced from 1% of total facility to 0.5% of the facility. It was further agreed that Triple A capital Ltd will be responsible for the legal costs while KPC would be responsible for all statutory costs relating to the transaction.

These were clearly different terms and conditions which were being introduced and agreed outside the board of directors of the company. However these new terms were approved at the 148<sup>th</sup> Board meeting held on the same day, the 21 July 2003.

3.2.13 From the foregoing it is noted that:-

- *It is evident that new issues had now been introduced especially refinancing arrangement Deed of assignment and arrangement fee.*
- *It is worth noting that the meeting of 21 July 2003 was the first time the full board was learning of Triple A apart from the members who were in previous Emergency Board Meetings*
- *Management did not disclose all facts to the full Board to enable them make an informed decision e.g. copy of the proposed agreement between KPC and Triple A.*
- *This appeared to have been a misrepresentation as no other commercial banks had been approached.*
- *The board members were not informed of the emergency meetings, which had been held on 13 and 14 may 2003.*

- *Terms of agreement which had been agreed upon between officials of Kenya pipeline and Ministry of Finance were not tabled for deliberation in the full Board.*
- *No attempt appears to have been made by the board members to discuss the proposed terms of the agreement between KPC and M/S Triple A as no copies of the proposed agreement were requested for.*

3.2.14 In a letter dated 22 July 2003, the Minister for Finance referring to a recommendation by the Permanent Secretary, Ministry of Energy and in accordance with section 5(2) of the State Corporations Act, Cap 446, authorised KPC to borrow KShs.2 billion from Triple A Limited under the stated terms.

3.2.15 Soon after Treasury approval was granted, the Managing Director of Triple A wrote to Mr. H. O. Orata on 7 August 2003 referring to various negotiations and telephone conversations and stated that in order to complete documentation and avail the proposed facility, KPC should provide to Triple A and Standard Chartered Bank (K) limited with the following:-

- Two copies of an executed Board of Directors resolution
- Two copies of the approvals received from the Ministries of Finance and Energy.
- A written acceptance of the terms and conditions of the attached term sheet together with a request for the facility to Standard Chartered bank.
- Signed and sealed copies of the master agreement provided
- A written acceptance of deeds of assignment.

***It is thus apparent that both KPC and Triple A were now deviating from the initial approval by Treasury to borrow KShs.2 billion from Triple A and were now introducing Standard Chartered bank in the borrowing arrangement.***

3.2.16 Although this new development was objected to by senior legal officer of KPC (Mrs. Flora Okoth) for various legal reasons and implications her objections were not heeded to. One of the reasons was that in this new arrangement costs were not only rising to include an additional KShs.10m facility fee but also a variable interest to be levied as per each deed of assignment of debt.

3.2.17 Instead of heeding their own Senior Legal Officer, Kenya Pipeline sought a different legal opinion from Amolo & Gacoka advocates who in summary in their letter dated 20<sup>th</sup> August 2003 reiterated that the agreement had been negotiated and



agreed upon by the parties and that KPC should accept the offer contained in the term sheets dated 7<sup>th</sup> August 2003 subject to documentation being in form and substance satisfactory to all parties.

3.2.18 A number of meetings were held between Triple A Ltd and KPC to discuss the new terms and conditions of Triple A financing including refinancing by the Standard Chartered Bank. However on 29<sup>th</sup> August 2003, the Permanent Secretary, Ministry of Energy wrote to the MD, KPC and expressed concern that the Agreement had been finalized for signature without involvement of the Ministry. He stated that those documents ought to have been reviewed by Government and legal opinion sought to ensure the interest of Government was safeguarded and, accordingly, instructed KPC to put the proposed signing ceremony in abeyance. It is worth noting that by this date i.e. 29 August 2003, management had not sought or obtained either Board or Ministerial approval to incorporate Standard Chartered Bank into the transaction.

3.2.19 On 1<sup>st</sup> September, 2003, the Deputy Managing Director of Kenya Pipeline responded to the Permanent Secretary stating:-

- That he had appraised the Chairman of KPC on the contents of the PS's letter of 29 August 2003.
- That the Kenya Pipeline had instructed their legal department to seek a legal opinion on the financial & legal obligations of the deeds of assignment of debt (the credit charges & penalties payable therein, facility letter of contract with Standard Chartered Bank, the assignment of further debenture in respect to receivables from M/S Kenya Shell and the master assignment agreement).
- That KPC undertakes to make a full report to the Ministry of Energy as soon as possible.

3.2.20 On 10 September 2003, the Managing Director Kenya Pipeline, replied to the Permanent Secretary, Ministry of Energy stating the following:-

- That the financing proposal was tabled and discussed and approved during the Board of Directors meetings on 13 & 14 May 2003. *emergency Comm meeting*
- That there were two distinct documents, the master agreement for the financier and KPC and the deed of assignment of debt for the financier and creditors only and maintained that nothing had changed.
- That KPC did seek an independent opinion from one of the company's lawyers in respect of the documents, which was positive. However, the Managing Director of the Kenya Pipeline said that he would be happy to forward those details to the Attorney General for second legal opinion.

3.2.21 *Clearly the Managing Director misled the PS that the financing proposal was discussed and approved by the Board of Directors at their meeting on 13 and 14 May 2003. This was not a Board meeting but a meeting of Board Emergency Committee. Further, the terms and conditions of earlier agreements were substantially different from the new ones referring to assignment of debts to Standard Chartered.*

3.2.22 *On 19<sup>th</sup> September 2003 the Managing Director KPC wrote to the Attorney General Chambers asking for legal opinion as to whether the following documents were in tandem with the Ministry of Finance approval and whether the security documents were in order. These documents were:-*

- *Term sheets from Standard Chartered Bank.*
- *Draft Master agreement between Standard Bank, KPC, and Triple A.*
- *Tripartite Agreement between creditors, KPC and Triple A.*
- *A fixed debenture supported by assignment of receivable from M/S Shell Ltd.*
- *Draft Deed of assignment between KPC and Standard Chartered Bank.*
- *Master Assignment Agreement between KPC and Standard Chartered Bank.*

3.2.23 In response to the Managing Director's letter reference No. MD/ME/1002 dated 19 September 2003, the Office of the Attorney General in a letter reference No. REF.AG/CONF/2/C/S XO.11 dated 14 October 2003 the Attorney General indicated that the draft documents submitted for his advice had been examined and found to be in order from the legal point of view. However the Attorney General suggested that the Kenya Pipeline should confirm with the Treasury that the financial provisions as set out in the documents were acceptable.

### **3.3 Authorization by Ministry of Finance to Refinance from Standard Chartered Bank**

3.3.1 In a letter of 16 October 2003, reference No. MD/ME/1002 addressed to the Minister for Energy through Permanent Secretary, Ministry of Energy the Managing Director, KPC, requested for an additional consent to the earlier approval from the Minister for Finance to ***Incorporate Standard Chartered bank (K) Ltd as a party to the transaction. However, the letter did not make it clear under what terms and conditions the Standard Chartered Bank was to be incorporated and whether those conditions had been approved by the Board.*** However, on 23 October 2003 Hon. Minister for Finance wrote to Hon. Minister for Energy letter ref CONF.60/01 giving consent for KPC Ltd to borrow on a revolving basis KShs.2 billion from Standard Chartered Bank, Kenya so that

Standard Chartered Bank to refinance amounts owed to Triple A Ltd by KPC under deeds of assignment of debt from time to time.

- 3.3.2 On the basis of the letter by the Minister for Finance of 23 October 2004 the Hon. Minister for Energy on 28<sup>th</sup> October 2004 wrote to the Managing Director KPC letter reference No. ME/CONF/3/1/1A forwarding the Minister for Finance approval to borrow from Standard Chartered. On 29 October 2003 the KPC Finance Manager forwards the letters of approval by both the Ministers for Energy and Finance to the Managing Director, M/S Triple Capital A Ltd.

During the 151<sup>st</sup> Board of Directors meeting held on 4<sup>th</sup> and 5<sup>th</sup> November 2003 the board approved the refinancing facility for KShs.2 billion on terms required by Standard Chartered Bank of Kenya.

### 3.4 Implementation of KPC, Triple A and Standard Chartered Bank Agreements

Following the signing of the agreements, the following payments were made:-

#### 3.4.1 PAYMENTS TO M/S TRIPLE A CAPITAL LTD.

<u>Date</u>	<u>Details</u>	<u>Amount (KShs)</u>
31.12.2003	Payment to Triple A	1,250,577,549.00
31.12.2003	“	33,015,248.00
31.12.2003	“	397,699,893.00
31.12.2003	“	10,499,278.00
Total Payment to Triple A		<u>1,691,791,968.00</u>
Standard Chartered Bank commitment fee of 0.5%		10,000,000.00
		<b><u>1,701,791,968.00</u></b>

#### 3.4.2 PAYMENT BY TRIPLE A ON BEHALF OF KPC

<u>Date</u>	<u>Lender</u>	<u>Amount(Foreign Currency)</u>	<u>Amount in KShs</u>
31/12/2003	EDC	USD 15,439,228.54	1,250,577,549.00
31/12/2003	JBID	JY 457,126,313.00	397,699,893.00
23/7/2004	PENCOL	STG 894,146.45	136,357,333.63
16/6/04	JFE	US\$854,446.42 and JY15,239,704	70,064,606.44
			12,191,763.20
			<i>KShs</i>
			<i>11,418,048.60</i>
<b>Total (KShs)</b>			<b>1,878,309,193.87</b>

Interest - late payment →  
Penalty → 2,568,933,000

**3.4.3** It is noted that:-

- Export Development Canada and Japan Bank for International Development were settled by M/S Triple A after receiving KShs.1,691,791,968 payment from KPC escrow account.
- PENCOL and JFE Engineering were settled by M/S Triple A from funds generated from the December payments of KShs.1,691,791,968 from the KPC and three equal quarterly advance interest payments to Triple A by KPC of KShs.130,543,578. Clearly, therefore, the payments cannot be said to have come from Triple A own funds.
- The total interest and penalties paid on EDC loan was USD 1,512,255.26 which was in accordance with the terms of the loan.
- The initial financing request to the Board on 22<sup>nd</sup> and 23<sup>rd</sup> April 2003 was to source for external funding of KShs.2,000,000,000 to finance core projects, this request was changed so as to utilize the funds borrowed for the purposes of paying outstanding loans. No evidence was seen to show that the lenders were demanding the loans though repaid in full or that the terms under which the loans were given had changed.

**LOSS TO KENYA PIPELINE COMPANY LTD**

**3.4.4** As a result of the above payments KPC Ltd suffered the following losses (costs)

**(i) Exchange Loss from the above payment**

Date	Amount (Foreign Currency)	Transaction Rate	Average Market Rate	Rate	Loss (KShs)
31/12/2003	JY457,126,313	0.87	0.7135	0.1565	71,540,268.00
31/12/2003	USD 15,439,228.54	81	76.43	4.6602	71,949,892.89
17/6/2004	JY15,239,704	0.8	0.7338	0.0662	1,006,125.26
21/6/2004	USD 854,446	82	79.5313	2.4687	2,109,370.84
30/7/2004	STG\$894,146.45	152.50	146.3462	6.1538	5,502,398.42
<b>Total Loss</b>					<b>152,108,056.11</b>

**(ii) Credit charges paid to Triple A**

Date	EDC Loan (KShs)	JBIC Loan (KShs)	JFE Loan (KShs)	Pencol Loan (KShs)	Total
31/12/03	33,015,248	10,499,278			43,514,526
01/4/04	33,015,248	10,499,278			43,514,526
30/6/04	33,015,248	10,499,278			43,514,526
16/7/04			852,437		852,437
16/8/04			852,437		852,437
24/8/04				1,240,852	1,240,852
<b>TOTAL</b>	<b>99,045,744</b>	<b>31,497,834</b>	<b>1,704,876</b>	<b>1,240,852</b>	<b>133,489,306</b>



**3.4.5 Summary of Loss by KPC Ltd**

	<u>KShs</u>
Exchange Loss	152,108,056.10
Credit charges on payment of foreign loans	<u>133,489,306</u>
<b>Total</b>	<b><u>285,597,362.10</u></b>

**3.4.6 Audit Concerns**

- *It is not clear why KPC should borrow from Standard Chartered Bank then pay Triple A to settle their debts at a fee of KShs.133,489,306 as at the time the arrangement was stopped.*
- *It is not clear what services were rendered to KPC for payments of KShs.43,514,426 made to M/S Triple A which was being paid quarterly.*
- *Further it is also not clear what had happened to the initial proposal that Triple A was to charge zero interest rate for the first year because the above payments were now being made in the first year. We were still in the first year.*

**3.4.7** Monthly repayments of Standard Chartered Bank loan of KShs.1,701,791,964 were made through an escrow account with Standard Chartered Bank at the rate of KShs.47 million. Standard Chartered Bank charged interest on a reducing balance at the 3-year Treasury bill rate + 3.5% p.a. The following repayments had been made to Standard Chartered Bank through the escrow account.

<u>Date</u>	<u>Repayment</u> <u>(KShs.)</u>
30.1.2004	47,271,999.10
28.2.2004	47,271,999.10
29.3.2004	47,271,999.10
28.4.2004	47,271,999.10
28.5.2004	47,271,999.10
28.6.2004	47,271,999.10
16.7.2004	2,602,067.00
28.7.2004	47,271,999.10
16.8.2004	2,602,067.00
24.8.2004	3,787,703.70
28.8.2004	47,271,999.10
28.9.2004	47,271,999.10
28.10.2004	<u>47,271,999.10</u>
	<b><u>481,711,828.70</u></b>

→ 280 857 537 against T A

### Comments

3.4.8 These payments were to be made for 36 months as from January 2004 on the 28 day of each month. Total payments that would have been made to Standard Chartered Bank would have been 47,271,999.10 multiplied by 36 = 1,701,791,964.

#### **Repayment of JFE and PENCOL Loan**

3.4.9 By the time the arrangement of refinancing by Triple A was stopped KPC had paid the following amounts to Triple A towards servicing of their loans to settle JFE and PENCOL.

Date	JFE Loan	PENCOL	Total (KShs)
16/7/2004	2,601,563		2,601,563
16/8/2004	2,601,563		2,601,563
24/8/2004		3,787,703	3,787,703
<b>Total</b>	<b>5,203,126</b>	<b>3,787,703</b>	<b>8,990,829</b>

### **3.5 Conclusions and Recommendations**

#### **Conclusions**

3.5.1 Due to deliberate misrepresentation by the management with the connivance of the Emergency Board Committee, the Kenya Pipeline Company Ltd incurred losses amounting to KShs.285,597,362.10 being excess exchange rate of KShs.152,108,056.10 and credit charges of KShs.133,489,306 paid to Triple A Capital Ltd.

#### **3.5.2 Recommendations**

- Attempts should be made to recover the amount of KShs.285,597,361 from Triple A Capital Limited through the legal process.
- Appropriate action should be taken against the senior management members who were involved in this deal together with the members of the Emergency Board Committee.

## PART TWO

### 4 REHABILITATION OF 9 KILOMETRE NGEMA ACCESS ROAD

#### 4.1 *Tender for Repair of 9km Ngema Access Road*

4.1.1 In the audit report for the year ended 30 June 1997, it was reported that the Ngema Access road, was contracted at a cost of KShs.196,997,057 in February 1995. Latter, in 1996, the route for the access road was changed which resulted in additional cost of KShs.130,165,880 bringing revised contract sum to KShs.327,162,937. The revised contract cost included payments for reinstatement of the previous route, idle time and contingency all totaling to KShs.23,750,000. The company, then, attributed the necessity to revise the contract to mistakes made by consulting engineers. Information available at the time indicated that proper tendering procedures were not complied with in awarding the contract.

4.1.2 The Public Investment Committee discussed the matter and according to its Tenth Report Volume II of 2002 the following was observed:-

- that tendering procedures were not followed in respect of the original contract and that even the board under minute no. 626/96 –(f) noted the apparent tendering irregularities
- the contact was awarded to Ruaha Concrete company and yet the company was not qualified to build roads as it was registered under the category of painters and builders in estates, a fact acceded to by the then managing director Mr. M.R. Rao
- that the then management appointed Mr. B.S. Dogra as lead consultant and yet as an architect by profession had no knowledge or capacity to be a consultant in road construction
- that the services of M/S Kitololo Consultants were terminated when he insisted on quality work and replaced with Mr. Oscar Munupe who was not a registered consultant
- that certificates nos. 5 and 6 worth KShs.21,913,272.90 and KShs.31,604,807.99 respectively were certified by Eng. W.O. Oluoch on the direction of the then Managing Director although he is not a roads engineer and M/S Kitololo Consultants had rejected them.

4.1.3 Arising from the above observations, the Public Investment Committee recommended the following:-



- The then managing director, Mr. Rao be held responsible for awarding the contract on non-competitive basis to Ruaha Concrete Company, a company that was not registered to do roads.
  - The Attorney General and Director of CID should investigate the tenure of the then Managing Directors, Mr. Rao and Mr. Komen to establish if they were involved in conspiracy with the contactors to defraud the corporation and / or abuse of office with a view to prosecuting them.
  - The contractors and Directors of M/S Dogra, M/S Ruaha concrete Company and M/S Munupe Consultants be blacklisted and precluded from award of contracts by state corporations and government contacts.
  - The Corporation should under no circumstances invest in non- core business activities especially building roads.
  - The then managing director Mr. M.R. Rao be barred from holding public office conferred by the Republic of Kenya.
  - M/S Munupe Consultants be reported to the Engineers Registration Board for appropriate disciplinary action for operating without being a registered consultant.
  - M/S Dogra, M/S Ruaha concrete company M/S Munupe Consultants and the then Managing Director Mr. M.R. Rao be made to pay the difference between assessment by the Chief Engineer Roads, and the actual amount spent on the road.
- 4.1.4 Despite the above recommendations, and as far as it has been possible to ascertain, the company has continued to involve itself in non-core business activities like building of the roads, donations and purchase of plots not for business expansion. Further, M/S Dogra, M/S Ruaha Concrete Company, M/S Munupe Consultants and Mr. M.R. Rao have not refunded the difference between assessment by the Chief Engineer Roads, and the actual amount spent on the road.

#### **Tender for the Repair Works - Rehabilitation**

- 4.1.5 Arising from the shoddy work done, on the construction of Ngema Access Road, in December 1998, KPC Managing Director appointed M/S Kenya Tech Consulting Engineers to conduct an engineering feasibility study on the improvement works necessary for the rehabilitation of the road.

The consulting Engineers did the feasibility studies and reported to KPC management, who accepted the same report. Design of the rehabilitation works were completed in May 1999.

After the feasibility studies, a consulting firm of quantity surveyors, MAK CONSULTANTS were engaged to price the repair works, and as per their bills of quantities dated 19 May 1999, the cost was given as KShs.130,000,000.

- 4.1.6 As a result of recommendations by M/S Mak Consultants, KPC management approved the rehabilitation works in two phases; and Kenya Tech Consulting Engineers were given a go ahead in February 2002 to carry out a detailed design for the improvement works, considered as very urgent under the title, “proposed Emergency Repair Works to Ngema Access Road”.

Design and tender documents had been prepared by MAK CONSULTANTS in June 1999. The rehabilitation works was approved in two phases as follows:-

**Phase I - Emergency Remedial Work**

The Engineers estimate for the works was KShs.120.9 million inclusive of 18% VAT.

**Phase II - Long Term Remedial Works**

These works were estimated to cost KShs.29.53 million inclusive of 18% VAT.

- 4.1.7 After the design, seven quotations were received for phase I, and opened at KPC headquarters on 2 May, 2002 as follows:-

<b>Name of Contractor</b>	<b>Amount (KShs)</b>	<b>Completion Period</b>
Kaguanjai Builders Ltd	200,973,894.00	42 weeks
Terracraft (K) Ltd	191,087,225.00	47 weeks
Jipsy Civil & General Contractors	183,113,493.00	38 weeks
Njoro Construction Company	172,540,149.00	40 weeks
Skive Construction Co. Ltd	159,989,104.70	38 weeks
Nelliwa Builders & Civil Eng. Ltd	146,815,482.00	36 weeks

The engineers had estimated that the rehabilitation works would cost KShs.120,389,500.

Although all the bids received were above the engineers estimates the Consultants recommended M/S Nelliwa Builders and civil engineers who had quoted a figure of KShs.146,815,482.00 (lowest) within a completion period of 36 weeks it is noted that their bid was higher by 21% of the engineers estimate.

Later the above figure was scaled down from KShs.146,816,650 to KShs.124,541,685.20.

### **Quotations Evaluation**

- 4.1.8 After the bid evaluation was done, the Contract was awarded to M/S Nelliwa builders & Civil Engineers on 19 December 2002 at the scaled down tender sum of KShs.124,541,685.20.

It is observed that the budgeted provision for the rehabilitation of the road was KShs.45 million, and it is not clear where the additional funds were to be sourced from.

### **Termination of Contract**

- 4.1.9 The proposed emergency repairs to Ngema Access Road – Phase I, as awarded to Nelliwa Builders, never took place as the contract was terminated by KPC management as per letter dated 18 March 2003 and issued by M/S Kenya Tech Consultants on behalf of KPC.

The Contractor, contested the termination, and threatened to go for arbitration but then KPC management opted for negotiation for an amicable settlement of the matter. The contractor sent a claim of KShs.62,517,220.00 through the consultant to KPC management, which was based on some clauses contained in a document called FIDIC – being Federation International Designers Councils.

The above amount claimed by the contractor was negotiated by both parties and upon successful completion of the negotiations on 25 February 2004 (2<sup>nd</sup> Meeting) the final value of KShs.26,526,896.90 inclusive of 18% VAT was accepted. Nelliwa Builders & Civil Engineers Ltd was paid a net of KShs.21,806,008.50 and KRA was paid KShs.4,046,475.80 being 18 % VAT, with KShs.674,412.10 being 30% with holding tax paid.

The contractual claim paid to Nelliwa Builders & Civil Engineers Ltd was paid without a valid contract in place, signed by both parties, KPC and Neliwa Builders. It is observed that Clause 9.3 of KPC Ltd on procurement policy, procedures and guidelines dated 4<sup>th</sup> April 2001 regarding CONTRACTS states that. “NO contract will be effective and binding on the company until all contract documents have been formalized. This fact shall be stated explicit and prominently on the tender documents”.

It is not clear why this condition was not followed with regard to the contract with M/S Nelliwa Builders and Civil Engineers Ltd.

#### **4.2 Other Payments made towards the Rehabilitation of Ngema Access Road**

##### **Consultancy Services**

- 4.2.1 For the company to repair (rehabilitate) the Ngema Access Road to Ps 22, it engaged a number of consulting firms, which were paid heavily and which were engaged irregularly without following proper procurement procedures. The firms and payments in question included the following:-

##### **Kenya Tech Consulting Engineers**

M/S Kenya Tech Consulting Engineers were appointed vide Es/sc/5702/B of 3 December 1998 by the then managing Directors, E.K.C Komen. They were commissioned as civil engineers to design and advice KPC Ltd on how to proceed and execute these works without proper tendering procedures. They were paid a total of KShs.14,016,060.

##### **MAK Consultants**

M/S MAK Consultants were appointed Building Economists and Quantity Surveyors. It is not clear how the firm was identified as proper procurement procedures were not followed. The firm was paid a total of KShs.3,508,141,05 for preparation of the bills of quantities.

##### **Songa Oganda & Associates**

The Managing Director, wrote a letter (Ref Es/sc5702) appointing Songa Oganda and Associates (a firm of quantity surveyors) to assess the damage on the road and advice KPC on a permanent and lasting solution. The firm was subsequently paid a total amount of KShs.8,636,008.35 as follows:-

		<u>KShs</u>	
Songa Ogada & Associates	-	7,072,593.05	(Net)
	-	1,191,173.55	(VAT)
	-	<u>372,241.75</u>	(With-holding Tax)
<b>Total</b>		<b><u>KShs,8,636,008.35</u></b>	

(Payment was made on 8.12.2003)

### Tamcom Consulting Engineers

Another firm Tamcom Consulting Engineers was also engaged as Consultants on the same project and was paid a total of KShs.28,592,696.80 inclusive of VAT and with-holding tax as follows:-

Date	PV No.	Amount
15.1.2004	103896	KShs.15,000,000.00
19.1.2004	104877	<u>KShs.13,592,696.80</u>
	<b>Total</b>	<b><u>KShs.28,595,696.80</u></b>

### Summary of Payments

4.2.2 The total expenditure incurred on rehabilitation of 9 km Ngema Access Road was KShs.81,279,803.10 arrived at as follows:-

	<u>KShs</u>
8.12.03 Songa Ogada & Associates	8,636,008.35
26.3.04 &Nelliwa Builders & Civil Engineers	
6.5.04 Contractual Claim	26,526,896.90
30.5.99 MAK Consultants	3,508,141.05
2.6.99 Kenya Tech Consulting Engineers	7,226,392.80
11.7.02 Kenya Tech Consulting Engineers	6,789,667.20
15.1.04 &Tamcon Consulting Engineers	<u>28,592,696.80</u>
<b>Total</b>	<b><u>81,279,803.10</u></b>

Despite the huge amount of KShs.81.2 Million paid by the company no rehabilitation works were carried out and there was no value for money or anything to show for this expenditure as the condition of the road remains poor and impassible.

### **4.3 Conclusions and Recommendations**

#### **4.3.1 Conclusions**

Proper tendering procedures were not followed. Contracts costs were varied upward without due considerations while a contract was terminated without due regard to law resulting to payment of liquidated damages. As a result KPC Ltd paid a total of KShs.81,279,803.10 for little value if any.

#### **4.3.2 Recommendations**

Appropriate action should be taken against the managing director who authorized these works/consultant contracts including recovery of KShs.81,279,803.10 from him.





## PART THREE

### 5 DONATIONS

#### 5.1 *Harambee and Other Donations*

- 5.1.1 The audit of Harambee and other donations covered the years 2002/2003, 2003/2004 and 2004/2005 up to November 2004.

The Kenya Pipeline Company does not have a formal policy and/or guidelines on donations. This is left at the discretion of the Managing Director who approves all donations. These donations do not get Board's approval or ratification and no meetings are held to deliberate on them. From information available some donations do not have formal requests from the recipients and it is not clear how the company identified the needy or the deserving recipients.

In the rare cases where requests for donations are made, they are made to individual staff members and not to Kenya Pipeline as a Company. These requests are made in form of Harambee cards sent to individual staff members and are then forwarded to the Managing Director who then makes a decision whether or not the donations are to be made. Further, it was noted that donations requested by or associated with influential politicians were given consideration and preference while several charitable homes and organizations had their requests turned down.

- 5.1.2 During the period 2002/2003, 2003/2004 and 2004/2005 the company incurred expenditure totaling KShs.23,649,946.25 on donations as follows:-

<b>Year</b>	<b>Budgeted Amount (KShs)</b>	<b>Actual Amount (KShs)</b>	<b>Variance (KShs)</b>	<b>Variance %</b>
2002/2003	3,000,000	4,639,613	(1,639,614)	54.65
2003/2004	2,000,000	18,724,159	(16,724,159)	836.21
2004/2005	2,000,000	286,172	1,713,827	-85.7
<b>Total</b>	<b>7,000,000</b>	<b>(23,649,946)</b>	<b>(16,649,946)</b>	

(NB: Year 2004/2005 –The actual amount is KShs.1,566,172.70 up to the month of November 2004).

As shown above the Company therefore incurred expenditures of KShs.16,700,145 over and above the budgeted figure of KShs.7,000,000 with the year 2003/2004 having the biggest over expenditure of 742.35%. These over expenditures were not taken to the Board for ratification.

### 5.1.3 SUMMARY OF DONATION FOR 2002/2003, 2003/2004 and 2004/2005

The following donations were made in 2002/2003, 2003/2004 and 2004/2005 financial years:-

Name of Beneficiary	Amount (KShs)
Gravelling of road No. 148 Ndori-Owino-Luanda for Mr. Ramogi Achieng Oneko	13,920,000.00
Renovation of house for Mr. Bildad Kagia	2,537,947.15
Miritini Secondary School	2,831,202.25
Donations without request	1,703,250.00
Donations associated with influential persons	705,000.00
Donations but requests made to staff members	160,000.00
Donations – Documents not seen	<u>1,792,566.85</u>
<b>Total</b>	<b><u>23,649,945.95</u></b>

### 5.1.4 DETAILS OF DONATIONS MADE IN YEARS 2002/2003 AND 2003/2004

#### **Donations to Honour National Heroes**

The Kenya Pipeline Company decided as part of its contribution to the 40<sup>th</sup> Independence Anniversary Celebrations to undertake some projects to honour national heroes and freedom fighters. Among, national heroes identified were Mr. Ramogi Achieng Oneko, Mr. Bildad Kagia and the family of the late Dedan Kimathi. Mr. R.A. Oneko was approached and opted for a project to gravel road No. E148 off Ndori-Owino-Luanda-K'otieno road in Rarienda, Bondo District (Access road to Kunya Beach). Mr. Bildad Kagia was to benefit from renovation of his up-country home at Kenol- Maragua District. It appears that in the case of the family of the late freedom-fighter Dedan Kimathi no immediate project was identified for assistance. However, no correspondence was seen to show that the recipients of the donations had given choice of the project to be undertaken or whether the decision to honor the national heroes was discussed and approved by the Board of Directors.

#### **Road E148 – Ndori-Owino, Luanda K'Otieno road in Rarienda – Bondo District (Access Road to Kunya Beach)**

- 5.1.5 As a follow up of management's decision to honour the national heroes, a visit was made to the home of Mr. Ramogi Achieng Oneko and he requested for a project that could benefit the entire community among other projects. The freedom fighter requested for a 5km. Access Road leading to his home to be graveled as it could also enable the locals in the area transport fish from Kunya Beach as well as accessing the surroundings.

According to a report by the Civil Section of the Kenya Pipeline Company dated November 2004, the works were to be carried out on a design and build basis, whereby contractors were to be asked to tender lump sum for individual work items. The project had to be handed over by 12 December 2003.

The company Quantity Surveyors through instructions from Administration Manager visited Hon. Oneko's home and did preliminary estimates for the road works estimated to cost KShs.14,991,440.

### Tendering

*(Tender Documents were not availed)*

- 5.1.6 The Civil Section of the Kenya Pipeline Company prepared tender documents, which were passed to chief supplies officer to invite tenders. Four companies were invited to tender for the works consideration was given only to contractors based in Kisumu in order to minimize mobilization costs.

Those asked to tender were:-

<b>Tenderer</b>	<b>Tender Sum (KShs)</b>
B. O. T. Construction Ltd	13,920,000
Njora Contractors	14,790,000
Kisumu General Merchants	15,080,000
Emkay Construction Company	15,660,000

### **Evaluation**

- 5.1.7 According to Tender Evaluation Committee, out of the 4 bidders, none of the firms who quoted was fully responsive to the technical and financial requirements. However, the lowest bidder, M/S B.O.T construction Ltd. of P. O. Box 1180-40100 Kisumu was recommended for the works, purely on its financial lower bid and subject to the following conditions:-

- An appropriate tender bond
- Performance bond in form of Bank guarantee
- A list of equipment to be used in the project
- A registration Certificate with ministry of Roads and Public works

The Evaluation Report was to be sent to the tender committee for consideration / deliberation before final awarding was done, However, the tender committee did not discuss it, and instead, the contract was directly awarded to M/S B.O.T construction Ltd at their tendered sum of KShs.13,920,000, being the lowest

bidder, and the letter of offer and acceptance was signed on 19 November 2003 by both parties.

- 5.1.8 Although the contract agreement was prepared, it was not formalized, and this appeared to have contravened KPC procurement policy, procedures and guidelines which stipulate that no contract will be effective and binding on the company until all contract documents have been formalized, and which should be stated explicitly and prominently on the tender documents – clause 9.3 of KPC procurement procedure manuals.

The works on the gravelling of the road was to commence on 27 November 2003 for a period of 8 weeks, but the project was completed on 8 March, 2004 after a 22 days extension period.

### **Budget**

- 5.1.9 Available information shows that the project had not been budgeted and the expenditure was therefore charged to the donations account under the Managing Directors vote. However, the donations account had a provision of only KShs.2,000,000 and it is not clear where the KShs.13.9 million was sourced from to complete the road.

- 5.1.10 Payments were made to the contractor through the following certificates:-

<b>Certificate Nos.</b>	<b>KShs</b>
Payment Certificate No. 1	4,464,630
Payment Certificate No. 2	3,976,470
Payment Certificate No. 3	2,847,600
Payment Certificate No. 4	2,271,300
Total with-holding Tax	<u>360,000</u>
<b>Total cost</b>	<b><u>13,920,000</u></b>

The project period was 8 weeks, the commencement date being 27 November 2003. However, the project was not completed until 8 March 2004. The contractor was, therefore, contractually liable to pay liquidated damages for the period between 14 February and 8<sup>th</sup> March 2004 at the rate of 0.2% of the contract sum per day for the whole period, an amount of KShs.668,160.

The contractor did not however pay these damages as he requested for a waiver, and the management accepted his request and therefore, liquidated damages were cancelled.

### 5.1.11 Conclusion

It would appear that management of Kenya Pipeline Company Ltd. spent public funds on non core activities without the necessary authority of the Board of Directors.

A visit was made by a team of auditors to Ndori Owino Luanda K'otieno road. The team observed that although the road was properly graveled, the cost of gravelling the 5 km. road at a total cost of KShs.13,920,000 appeared to have been on the higher side.

#### **Proposed Renovation to Bildad Kaggia's Up-country home at Kenol – Maragua District**

- 5.1.12 In August 2003, KPC's Quantity Surveyor received instructions from the Administration Manager to carry out survey of dilapidations in the home of Mr. B. Kaggia with an aim of preparing a report on necessary renovation works needed. Consequently, some staff members of KPC made a visit to Bildad Kaggia's home and gave a report Ref. no. MD/DM/1011 of 26<sup>th</sup> August 2003 and gave details of the works to be carried out at an estimated cost of KShs.4,410,979.
- 5.1.13 According to the report, the scope of works involved the replacement of the dilapidated roof, ceilings and walls and repainting the entire house including redoing landscaping to the compound. Other works included electrical installation, plumbing installation, chain link fence, fixing main gate and installation of water tanks. Upon discussing the report and after scaling down of some works, the new estimate of KShs.2,551,512 was arrived at.
- 5.1.14 On 22 September 2003 the above proposal was forwarded to Management Vide letter Ref. no. MD/DM/1011 and on 3 October 2003, the proposal was approved by the Managing Director, who at same time gave instructions to obtain quotations for the works. Quotations were received from three firms as follows:-

<b>Tender</b>	<b>Tender Sum (VAT Inclusive) KShs.</b>
Thwama Building Services	2,745,679.40
Njama Ltd.	2,854,371.40
Aliwoth Agencies	2,993,844.00

The tenderers were ranked based only on financial bids as all the three firms did not meet the standard technical requirements of KPC. Ranking was done from the lowest to highest, and in view of that analysis, and the fact that the works were very urgent and the contractor had to be from the locality, it was recommended

that the proposed renovation to Bildad Kaggia's up-country home be awarded to the lowest bidder M/S Thwama Builders Services at their tender sum of KShs.2,745,679.40 inclusive of VAT.

5.1.15 On 13 November 2003, the Managing Director formally awarded the works but the contract agreement was not signed until 15 March 2004 after the works had been completed. The works were completed on 5 January 2004 and handed over to the family of Bildad Kaggia. Inspection was done on 22 September 2004 after expiry of defects liability period.

#### **Payment**

5.1.16 KShs.2,081,636.25 was paid to M/S Thwama Building Services on 27 January 2004 for work done exclusive of VAT of KShs.343,362.65 and retention money of KShs.112,948.25 bringing the total amount paid to KShs.2,537,947.15.

5.1.17 A visit was made to Bildad Kaggia's home in Maragwa by the audit team on 31 January 2005 which observed as follows:-

- Mr. Kaggia was not staying in that house but was mostly in Nairobi.
- Mr. Kaggia's daughter in law whose husband had passed away was the one staying in that house.
- According to Mr. Kaggia's daughter, the house renovated was built in 1967 and had eleven rooms.

5.1.18 **The renovations which were done were:-**

- ✓ Painting of the house
- ✓ Fixing of eleven new wooden doors
- ✓ Put ceramic floor in the kitchen, bathroom and kitchen sink.
- ✓ Erecting a fire place in the sitting room and the kitchen
- ✓ Replace leaked ceilings
- ✓ Installed eight (8) curtain boxes
- ✓ Replaced mabati roof with rensincort red roof
- ✓ Painted the floor
- ✓ Cemented the veranda
- ✓ Scrapped the outside walls of the house
- ✓ Bought a 5000 liters water tank
- ✓ Fenced the entire compound almost a ¼ of hectare with Chain Link and erected a metal gate.
- ✓ Done wiring in the house, so that electricity can be connected.

5.1.19 It was observed that although some work was done, on the existing house for Mr. Kaggia, the cost involved appear to have been exorbitant and on the higher side. Clearly, the Kenya Pipeline Company undertook a project which was outside its core business activities and spent amounts which had not been authorized by the Board of Directors.

**Miritini Secondary School – Mombasa Project:**  
**School Laboratory**

5.1.20 The following payments were made to M/S Outback Investments Ltd for the construction of Miritini Secondary School laboratory:

<b>Year 2002/2003</b>	<b>KShs</b>
Certificate No. 1	1,076,588.65
Certificate No. 2	<u>573,651.00</u>
	<b><u>1,650,239.65</u></b>
<b>Year 2003/2004</b>	<b>KShs</b>
Certificate No. 1	697,294.95
Certificate No. 2	<u>483,667.65</u>
	<u>1,180,962.60</u>
	<b><u>2,831,220.25</u></b>

5.1.21 The initial contract was for the installation of Electric fence at Miritini Estate which is owned by Kenya Pipeline Co. Ltd. The Secondary School which borders the estate, requested for a similar wall to be put up for them to separate them from the primary school and the company accepted the request and subsequently invited quotations for the works which was combined (i.e. Miritini Electric fence and the school wall).

5.1.22 Quotations received were as follows:-

<b>Tenderer Name</b>	<b>Tendered Sum</b>	<b>Tendered Sum</b>	<b>Completion</b>
<b>Name</b>	<b>KShs.</b>	<b>KShs.</b>	<b>Period</b>
Patriotic Services Ltd	11,375,084.36	11,194,662.36	-
Scanner Agencies Ltd.	11,695,263.20	11,724,291.20	3 months
Outback Investments	9,134,722.20	8,279,217.20	6-8 weeks
Carter Link Ltd.	14,090,900.00	-	-
Mesh Craft Ltd.	10,566,103.00	10,562,711.00	2 months

5.1.23 The tender committee later in its minutes (T.C.5-2002/2003) noted that the School needed to priorities its needs. The Engineering manager was asked to liaise with school and have a project that would be of much assistance to the school than the wall. They settled on the laboratory. The Tender Committee minutes 5-2002/2003 had agreed to donate to a project worth KShs.3,887,080 to the school but once the

school chose the project, the issue was to be taken back to the tender committee for deliberation and for further appropriate action. This never happened and the management went ahead to award the tender for the construction of the laboratory to M/S Outback Investments Ltd at a contract sum of KShs.3,917,799.40.

The Tender Committee never discussed the laboratory project and M/S Outback Investments Ltd never tendered for the same. This means that M/S Outback Investments Ltd did not get the contract to construct the laboratory competitively.

#### **5.1.23 Observations and Recommendation**

- The school wanted a wall but Kenya Pipeline Company Ltd. Management asked them to choose something else which was more costly.
- Management did not seek the Board's approval of the project.
- Since the project was changed from a wall to a laboratory, fresh tenders should have been floated. Clearly this is a contract which was awarded without following the normal tendering procedures.

#### **5.1.25 Other Donations**

As detailed in the attached Appendices KPC Ltd made numerous other donations totaling KShs.5,360,816.85 during the period 2002/2003, 2003/2004 and 2004/2005 (up to November 2004).

The donations are categorized as follows:-

	<b>KShs</b>
Donations made without any request letters/cards	1,703,250
Donations associated with influential persons	705,000
Donations arising from harambee requests made to staff members	160,000
Other donations:- documents not made available	<u>1,792,566.85</u>
<b>Total</b>	<b><u>4,360,816.85</u></b>



**5.1.26 Summary of Donations for the Years 2002/2003, 2003/2004 and 2004/2005**

<b>Name of Beneficiary</b>	<b>(KShs)</b>
Gravelling Road for Mr. Ramogi Achieng Oneko	13,920,000.00
Renovation of house for Mr. Bildad Kaggia	2,537,947.15
Miritini Secondary School	2,831,202.25
Donations without any request	1,703,250.00
Donations associated with influential persons	705,000.00
Donations request made from staff members	160,000.00
Other Donations – Documents not seen	1,792,546.85
<b>Grand Total</b>	<b>23,649,946.25</b>

**5.2 Conclusions and Recommendations**

**5.2.1 Conclusions**

It is clear from the foregoing that the Managing Director, KPC Ltd. misused his Office to authorize donations in cash and other company resources without the Board's approval. The basis for making donations without written requests from the beneficiaries is not clear. Also questionable is making donations at the request of influential personalities and staff members. Further and as indicated above a big proportion of the donations are not supported by verifiable documents such as payment vouchers and relevant copies of correspondence. As a result it has not been possible to confirm the authenticity of such donations or even to confirm that they were actually donations at all. The total expenditure of KShs.24,580,031 on donations is therefore questionable.

**5.2.2 Recommendations**

Appropriate action should be taken against the Managing Director involved including recovery of the money from him.



**E. N. MWAI**  
**CONTROLLER AND AUDITOR GENERAL**  
September 1, 2005

# **APPENDICIES**

## APPENDIX I

### SUMMARY OF DONATIONS WITHOUT REQUEST LETTERS

Year	Amount KShs.
2002/2003	1,252,000
2003/2004	421,250
2004/2005	<u>30,000</u>
<b>Total</b>	<b><u>1,703,250</u></b>

#### Donations made without any request letters

##### Year 2002/2003

Voucher No.	Voucher Date	Payee	Amount (KShs)	Cheque No.	Remarks
98737	24/9/02	Richard M. Chebochok	20,000	225601	No reason to show why donation given
90593	12/8/02	Esther N. Moenga & Mr. Mecheo	50,000	105722	Donation for funeral for Mr. Mecheo
99659	22/10/02	Kenwide Media	32,000	226354	Freedom from Hunger Walk
94758	27/2/03	PS – Ministry of Energy	1,000,000	228576	E. A. Petroleum Conference
97429	9/6/03	Hon. Chrysanthus B. Okemo	50,000	230231	Funeral for Mrs. Grace Okemo
97391	5/6/03	Hon. Festus M. Kinyanjui	50,000	230195	Funeral for a relative
97427	9/6/03	Jerusha N. A. Odhiambo	50,000	230230	Funeral for Prof. T. Odhiambo
<b>Total</b>			<b>1,252,000</b>		

**YEAR 2003/2004**

<b>Voucher No.</b>	<b>Voucher Date</b>	<b>Payee</b>	<b>Amount (KShs)</b>	<b>Cheque No.</b>	<b>Remarks</b>
108781	22/6/04	Hon. Achilo Ayacko	50,000	914758	Donation for father in law funeral
107665	15/4/04	Mr. Dick Murunga	10,000	107431	Donation for treatment
108861	25/6/04	ASK – Kisumu	10,000	674916	Donation of diesel to grade roads to ASK Show - Kisumu
108861	22/4/04	Kenya Diabetes	50,000	914757	Donation to Diabetes Centre
92487	25/7/03	National Cereals and Produce Board	96,250	106764	Food staff to Miwani
96841	27/7/03	Mangu High School	125,000	107470	Charity dinner at the Grand Regency
108035	30/4/04	Association of Media Women in Kenya	30,000	236304	Support for Women Journalist
96310	17/9/03	Mji Wa Wazee	50,000	232188	To honour Cardinal Maurice Otunga
<b>Total</b>			<b>421,250</b>		

**YEAR 2004/2005**

<b>Voucher No.</b>	<b>Voucher Date</b>	<b>Payee</b>	<b>Amount (KShs)</b>	<b>Cheque No.</b>	<b>Remarks</b>
10818	12/7/04	St. Xavier Girls Secondary School	30,000	237181	Education support for orphan girls
<b>Total</b>			<b>30,000</b>		

**SUMMARY**

<b>YEAR</b>	<b>AMOUNT</b>
2002 / 2003	350,000.00
2003 / 2004	275,000.00
2004 / 2005	80,000.00
<b>TOTAL</b>	<b>705,000.00</b>

**YEAR 2002/2003**

<b>Voucher No.</b>	<b>Voucher Date</b>	<b>Payee</b>	<b>Amount (KShs)</b>	<b>Cheque No.</b>	<b>Remarks</b>
97429	9/6/03	Hon. Chrysanthus Okemo	50,000	230231	Funeral for Mrs. Grace Okemo
97391	5/6/03	Hon. Festus Mwangi	50,000	230195	Funeral for relative. No request letter
100302	13/11/02	Kewapmwen & Kowochi Primary School	100,000	226551	Harambee associated with Hon. Biwott
100301	13/11/02	Nangoi Primary School	150,000	226550	Harambee associated with Hon. Joseph Leting'
<b>Total</b>			<b>350,000</b>		

## APPENDIX II

### DONATIONS SOUGHT OR ASSOCIATED WITH INFLUENTIAL PERSONALITIES

**2003/2004**

Voucher No.	Voucher Date	Payee	Amount (KShs)	Cheque No.	Remarks
108781	22/6/04	Hon. Achilo Ayacko	50,000	914758	No request letter to father in law
96841	27/4/04	Mangu High School	125,000	107470	Appeal from Hon. Moody Awori. Endowment fund for needy student
105060	18/11/03	Bird Printers Office	50,000	233240	Funding of Mr. Wanguhu Nganga's book "Kenya Ethnic Communities Foundation of the Nation
95380	5/11/03	Rarienda ABC fund for youth	50,000	233070	Hon. Raphael Tuju for Rarienda ABC bursary fund dinner
<b>Total</b>			<b>275,000</b>		

**YEAR 2004/2005**

Voucher No.	Voucher Date	Payee	Amount (KShs)	Cheque No.	Remarks
10851	23/7/04	Rachier & Company Advocate	30,000	107708	Donation to St. Paul's ACK Church Kisumu rural request put by Hon. Peter Anyang' Nyong'o
11057	23/7/04	Kerio Valley Secondary School	30,000	107708	Donation to buy a bus request put by Lina Jebii Kilimo
112180	3/11/04	ACK Kathage Church Kerugoya	10,000	000539	Donation for church construction request put by Hon. Mbela
110934	7/10/04	ACK - All Saints Church	10,000	721804	Donation to repair and renovate church put by Hon. Mbela
<b>Total</b>			<b>80,000</b>		

### APPENDIX III

#### DONATIONS ARISING FROM HARAMBEE REQUEST FROM STAFF MEMBERS OF KPC

Voucher No.	Date	Payee	Amount (KShs)	Cheque No.	Card Sent To
90080	22/7/02	Ndalat Gaa Secondary School	20,000	-	Dr. Cheruiyot – Former MD
90055	24/7/02	Pal Pal Primary School	20,000	105652	Luke R. Obok – Former Chairman
90328	01/8/02	Mutuyu Station	20,000	105683	Dr. Cheruiyot
90520	07/8/02	St. Peters Catholic Church	30,000	105706	Dr. Cheruiyot
98791	27/9/02	AIC Milimani Fund-raising	50,000	225680	Dr. Cheruiyot
99200	15/10/02	Hillary Odhiambo Otin Harambee	20,000	105910	Luke Obok
<b>Total</b>			<b>160,000</b>		

## APPENDIX IV

### OTHER DONATIONS FOR WHICH PAYMENT VOUCHERS/DOCUMENTS WERE NOT AVAILED FOR AUDIT SCRUTINY

Year 2002/2003

Voucher No.	Date	Payee	Amount (KShs)
000189	2/7/02	All Saints C. M. Hall	50,000.00
89462	4/7/02	Rev. and Mrs. C. Arap Mutai	20,000.00
89551	8/7/02	Eldoret Polytechnic	30,000.00
90053	27/4/02	Mugundini Primary School	40,500.00
90179	30/7/02	Allan Kipchumba	20,000.00
Certificate No. 5	30/7/02	Riat Building Contractors	91,096.00
90521	7/8/02	Itigo Girls Secondary School	50,000.00
98272	22/8/02	Moi Girls High School Kibwezi	100,000.00
Mgt 023	26/10/02	Exp. Of imprests – Chep/Maiyo	20,000.00
Mgt 023	26/10/02	Exp. Of imprests – Chep/Maiyo	30,000.00
Certificate No. 3	10/9/02	NBK A/C – Daje Ent. 031-19	173,218.95
99700	23/10/02	St. Martins Girls Secondary School	20,000.00
99716	24/10/02	Operations Smile Ksm Site	20,000.00
551	15/10/02	Marksons Suppliers Ltd.	174,002.80
100112	7/11/02	Waithaka SDA	20,000.00
226600	18/11/02	M. A. Eskon	20,000.00
101001	11/12/02	Donation – School Fees	30,000.00
130103B	13/1/03	Nyambaria High School	15,000.00



102064	13/3/03	Star of the Sea High School	5,000.00
102107	20/3/03	Star of the Sea High School	4,500.00
Mgt. 123	30/3/03	Imprest Expensing Rotich	40,000.00
93403	1/4/03	Late F. Kuindwa Child Fund	50,000.00
93469	10/4/03	S. O. Agencies	47,133.00
92914	28/4/03	Monier 2001 Ltd	33,443.10
92948	30/4/03	Abdi W. Osman	15,000.00
96857	30/4/03	Abdi W. Osman	60,000.00
96943	16/5/03	Kenya Freedom H. Council	25,000.00
GL 038	11/7/03	Ngecha Primary School	7,000.00
<b>Total</b>			<b>1,227,394.15</b>

**Year 2003/2004**

<b>Voucher No.</b>	<b>Date</b>	<b>Payee</b>	<b>Amount (KShs)</b>
92891	20/8/03	Bunge F. C.	100,000.00
96008	8/9/03	Navy Wives	20,000.00
94828	16/10/03	Operation Smile – KSM Site	30,000.00
94983	22/10/03	Operation Smile Mission – Kenya	25,000.00
EL 016	17.11.03	T/Shirts donation	54,000.00
104944	11.11.03	APDK Rehabilitation Clinic Msa.	50,000.00
103894	16.01.04	Refund of Ticket – Mutehis	60,000.00
162770	27.01.04	Donation MD	30,000.00
140214	16.04.04	Donation MD Freda	10,000.00
<b>Total</b>			<b>389,000.00</b>

**Year 2004/2005**

<b>Voucher No.</b>	<b>Date</b>	<b>Payee</b>	<b>Amount (KShs)</b>
109536	2/7/04	Nairobi Sports House Ltd	29,175.00
309050	19/7/04	Nairobi Function Fee	39,448.00
108578	27/7/04	ICT Trust Fund for School	8,749.70
698418	26/8/04	Nairobi Hospice – Kencell	20,000.00
59191	18/9/04	Nairobi ( Trophies)	58,800.00
112183	4/11/04	Jane Ndungu	20,000.00
<b>Total</b>			<b>176,172.70</b>

**SUMMARY**

<b>Year</b>	<b>KShs</b>
2002/2003	1,227,394.15
2003/2004	389,000.00
2004/2005	<u>176,172.70</u>
<b>Total</b>	<b><u>1,792,566.85</u></b>