

TO

: THE CLERK, NATIONAL ASSEMBLY

THRO'

: THE DIRECTOR, LEGAL SERVICES- NA

THRO'

: PRINCIPAL LEGAL COUNSEL I

FROM

: LEGAL COUNSEL I

DATE

: 18<sup>TH</sup> MARCH 2015

RE: PETITION BY MR. ORIARO GEOFFREY TO THE NATIONAL ASSEMBLY FOR THE REMOVAL OF THE CHAIRPERSON AND THE VICE CHAIRPERSON OF ETHICS AND ANTI-CORRUPTION COMMISSION

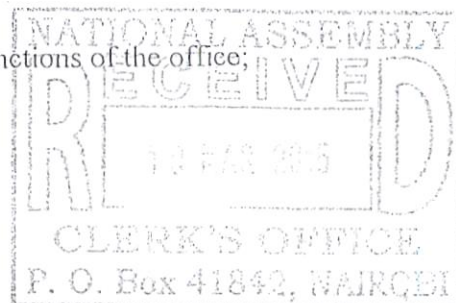
The above matter and your instructions to the Directorate of Legal Services to peruse and establish whether the petition submitted to your office on the 12<sup>th</sup> March 2015 by Mr. Oriaro Geoffrey complies with the Constitution and the National Assembly Standing Orders. We have studied the petition and wish to advise as follows:

We have scrutinized the Petition and established that it largely conforms to the provisions of Standing Order 230 of the National Assembly Standing Orders which provides that a petition for the removal of a member of a constitutional commission should comply with requirements of Standing Order 223 as regards to form and also the petition:

- (a) shall indicate the grounds under Article 251(1) of the Constitution which the member of the Commission is in breach.
- (b) may contain affidavits or other documents annexed to it.

It is noted that the petition seeks the removal of Mr. Mumo Matemu and Mrs. Irene Keino as Chairperson and Member, respectively, of the Ethics and Anti-Corruption Commission. Article 251(1) of the Constitution provides the grounds for removal of members of constitutional commissions or holders of independent offices as:

- (a) serious violation of the Constitution or any other law including contravention of Chapter six of the Constitution;
- (b) gross misconduct whether in performance of the member's office or holder's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of the office;
- (d) incompetence; or
- (e) bankruptcy



*Handwritten notes:*  
 28 Copies  
 19/3  
 Forwarded for your necessary action  
 The petition is admissible for purposes of the S. order  
 8/10/3/2015

*Handwritten notes:*  
 J-N  
 Let an officer liaise with legal de to find on the Commission to be issued today

*Handwritten note:*  
 19/3/15

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 (3)

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 Mrs. Kola  
 Memo  
 the Legal  
 Au has

Article 251(2) provides for the procedure for removal of members of a constitutional commission as presentation of a petition to the National Assembly setting out the alleged facts constituting grounds for removal.

Under Article 251(3) of the Constitution, the National Assembly shall consider the petition and, if it is satisfied that it discloses grounds for removal shall send the petition to the President.

A scrutiny of the petition and the documents submitted vis-a-vis the requirements of Standing Order 230 indicate that most of the attached documents are attributable to third parties other than the petitioner. The petitioner avers in his affidavit that he obtained the documents in the course of his interactions with “ many actors in that field including staff of the Ethics and Anti Corruption Commission”.

The Documents submitted at face value appear to disclose a ground for removal of a member of a constitutional commission under Article 251(1) of the Constitution. Under Standing Order 230(4) the petition should be submitted to the relevant standing committee.

It is thus necessary to refer the matter to the Departmental Committee on Justice and Legal Affairs to conduct investigations on the matter under Standing Order 230(4) thereafter, the Committee shall report to the House within 14 days as to whether the petition discloses grounds for removal under Article 251(1)(a).

Please find attached a letter addressed to the Petitioner and a draft communication to the House for your signature, if you approve.

  
**CLARAH KIMELI**  
LEGAL COUNSEL I  
NATIONAL ASSEMBLY

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REPUBLIC OF KENYA

*D/ Legal*  
*pse pson*  
*cur*  
*12/3/11*

IN THE MATTER OF:

ARTICLE 251 OF THE CONSTITUTION OF KENYA

-AND-

IN THE MATTER OF:

NATIONAL ASSEMBLY STANDING ORDER No. 230

PETITION FOR REMOVAL OF MUMO MATEMU AND IRENE KEINO AS  
CHAIRPERSON AND MEMBER RESPECTIVELY OF THE ETHICS AND ANTI-  
CORRUPTION COMMISSION

To:

THE NATIONAL ASSEMBLY  
MAIN PARLIAMENT BUILDINGS  
NAIROBI



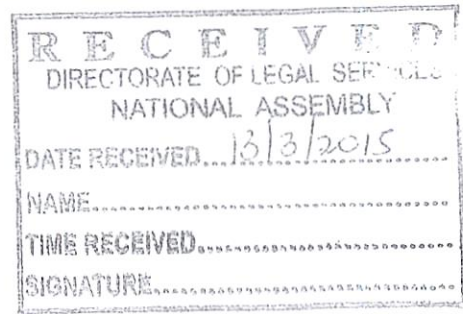
I, ORIARO GEOFFREY, a citizen of the Republic of Kenya from Nairobi County and an Advocate of the High Court of Kenya do hereby petition for the removal from office of MR. MUMO MATEMU as Chairperson of the Ethics and Anti-Corruption Commission and for the removal of MS. IRENE KEINO as a Member of the said Commission.

I take great interest in matters governance generally and corruption in particular. In that connection, I interact with many actors in that field including staff of the Ethics and Anti-Corruption Commission. The matters set out in this my petition and affidavit are from the said interactions.

This Petition, so far as it relates to MR. MUMO MATEMU, is made on the following grounds:-

1. Serious violation of the Constitution;
2. Serious violation of the Ethics and Anti-Corruption Commission Act, the Anti-Corruption and Economic Crimes Act, and the Penal Code;
3. Gross misconduct in the performance of his functions as Chairperson of the Commission; and
4. Incompetence.

The facts constituting the above grounds are as follows:-





A. By a letter dated 9<sup>th</sup> September 2014 authored by the other two Members of the Commission, namely Ms. Irene Keino and Prof. Jane Onsongo, and addressed to His Excellency the President of the Republic of Kenya, the Hon. Uhuru Kenyatta, the two Members detailed, *inter alia*, the following accusations against Mr. Mumo Matemu:

- i. That Mr. Mumo Matemu was secretly involved in meeting a suspect of the Anglo Leasing scandal, a Mr. Kamani, during the investigations of the scandal;

This fact constitutes a violation of the following provisions of the Constitution:

- i. Article 10, which binds all State organs, State officers, public officers and all persons, in applying or interpreting the Constitution, in enacting, applying or interpreting any law, or in making or implementing public policy decisions, to apply National Values and Principles of Governance set out in the said Article. The values and principles which have not been applied in meeting Mr. Kamani include the following: patriotism, the rule of law, good governance, integrity, transparency and accountability;
- ii. Article 73(1)(a) as to the requirement that authority assigned to a State officer be exercised in a manner that, *inter alia*:
  - a. is consistent with the purposes and objects of the Constitution;
  - b. brings honour and dignity to the office; and
  - c. promotes public confidence in the integrity of the office.

The meetings with Mr. Kamani are inconsistent with the purposes and objects of the Constitution, disgrace the office held by Mr. Mumo Matemu, and erode public confidence in the integrity of the office he holds.
- iii. Article 73(2) (b), in that Mr. Mumo Matemu is, as a result of the said meetings, incapable of objectivity and impartiality in decision making. Additionally, such meetings lead to the irresistible inference that decisions made with regard to Mr. Kamani in the investigation of the Anglo Leasing scandal have been influenced by, *inter alia*, favouritism, other improper motives and corrupt practices;
- iv. Article 73(2)(c), as the meetings negate the constitutional requirement that public service should be based solely on the public interest, demonstrated by honesty in the execution of duties, declaration of conflicts of interest, accountability for to the public for decisions and actions and discipline and commitment in service of the people;
- v. Article 75(1), as the conclusion is that Mr. Mumo Matemu has not conducted



himself so as to avoid:

- a. conflict between his personal interests and public or official duties;
  - b. compromising any public or official interest in favour of his personal interest; and
  - c. demeaning the office he holds; and
- vi. Article 232, which requires that the values and principles of public service include high standards of professional ethics, impartial provision of services, accountability and transparency.

The fact also constitutes a violation of the Ethics and Anti-Corruption Commission Act in that the meetings amount to the adoption of a method of work or procedures that may be conducive to corrupt practices, contrary to Section 11(1)(j) of the said Act;

The fact further is a contravention of the Anti-Corruption and Economic Crimes Act in that the holding of meetings with Mr. Kamani amounts to abuse of office under Section 46 of the Act.

The fact is also a contravention of the following provisions of the Penal Code:

- i. Section 99 as to conflict of interest by a person employed in the public service and charged with administrative duties of a special character;
- ii. Section 101 as to abuse of office; and
- iii. Section 127 as to breach of trust.

- ii. That Mr. Mumo Matemu has declared in public that he joined the Commission to make money and not to fight corruption;

This particular fact constitutes a violation of the following provisions of the Constitution: Articles 10, 73(1)(a), 73(2)(b) and (c), 75(1), and 232 relating to honesty, integrity, transparency, accountability *eiusdem generis*. [Details of the manner in which these provisions of the Constitution have been violated are similar to those set out in the previous fact.]

- iii. That Mr. Mumo Matemu habitually interferes with operational matters, including requesting for particular investigation files through unofficial methods and short circuiting the office of the Chief Executive Officer, in order to establish the status of investigations in those specific files;

This fact constitutes a violation of the following provisions of the Constitution: Articles 10, 73(1)(a), 73(2)(b) and (c), 75(1), and 232. [Details of the manner in which these provisions of the Constitution have been violated are similar to those set out above.]

- iv. That Mr. Mumo Matemu has failed to exercise leadership and judgment in directing the Commission to achieve its strategic goals based on its core values;

This fact constitutes a violation of the following provisions of the Constitution:

- i. Article 10 as to National Values and Principles of Governance, particularly the following values and principles: patriotism, the rule of law, good governance, integrity, transparency and accountability;
- ii. Article 73(1)(a) as to the requirement that authority assigned to a State officer be exercised in a manner that, *inter alia*:
  - a. is consistent with the purposes and objects of the Constitution;
  - b. brings honour and dignity to the office; and
  - c. promotes public confidence in the integrity of the office.
- iii. Article 232 as to the values and principles of public service, including accountability and transparency.

- v. That Mr. Mumo Matemu has failed to consult and inform Members of the Commission about important matters occurring at the Commission, with the result that press releases, media briefs have been communicated, and conferences held, without discussion with, and communication to, Members of the Commission and the Chief Executive Officer of the Commission;

This fact constitutes a violation of the following provisions of the Constitution:

- i. Article 10 as to National Values and Principles of Governance, particularly the following values and principles: patriotism, the rule of law, good governance, integrity, transparency and accountability;
- ii. Article 73(1)(a) as to the requirement that authority assigned to a State officer be exercised in a manner that, *inter alia*, promotes public confidence in the integrity of the office; and
- iii. Article 232 as to the values and principles of public service, including accountability and transparency.

- vi. That Mr. Mumo Matemu has adopted a poor leadership style leading to low staff morale, high levels of indiscipline, and a failure for the Commission to achieve its strategic goals based on its core values;

This fact constitutes a violation of the following provisions of the Constitution:

- i. Article 10 as to National Values and Principles of Governance, particularly the

- following values and principles: patriotism, the rule of law, good governance, integrity, transparency and accountability;
- ii. Article 73(1)(a) as to the requirement that authority assigned to a State officer be exercised in a manner that, *inter alia*, promotes public confidence in the integrity of the office; and
  - iii. Article 232 as to the values and principles of public service, including accountability and transparency.

vii. That Mr. Mumo Matemu has fuelled inter-personal wars within the Commission;

This fact constitutes a violation of the following provisions of the Constitution:

- i. Article 10 as to National Values and Principles of Governance, particularly the following values and principles: patriotism, the rule of law, good governance, integrity, transparency and accountability;
- ii. Article 73(1)(a) as to the requirement that authority assigned to a State officer be exercised in a manner that, *inter alia*, promotes public confidence in the integrity of the office; and
- iii. Article 232 as to the values and principles of public service, including accountability and transparency.

B: By a letter dated 9<sup>th</sup> March 2015 authored by Mr. Mumo Matemu and addressed to Mr. Mubea, Mr. Mumo Matemu purported to interdict Mr. Mubea for a period of 30 days pending investigations. By an Internal Memo of the same date addressed to Mr. Halakhe D. Waqo, the Commission's Chief Executive Officer, Mr. Mumo Matemu notified Mr. Waqo that a resolution had been made to interdict Mr. Michael Mubea, the Commission's Deputy Chief Executive Officer and Secretary in charge of Technical Services.

In the letter addressed to Mr. Mubea notifying him of his purported interdiction, Mr. Mumo Matemu:

- i. Asked Mr. Mubea to hand over any matters and files that he was currently handling to Mr. Mumo Matemu;
- ii. Informed Mr. Mubea that he would be paid half salary with immediate effect and that he would also cease to enjoy other benefits that accrued to him by reason of his physical presence in the office. (These benefits include Mr. Mubea's security detail);



- iii. Informed Mr. Mubea of the immediate suspension of his e-mail account and communication system;
- iv. Made reference to (undisclosed) "intelligence reaching the Commission" which had allegedly strongly suggested that there were integrity challenges surrounding the discharge of Mr. Mubea's duties.

These facts constitute a violation of the following provisions of the Constitution:

- i. Article 47, in that Mr. Mubea was not afforded any opportunity to be heard before the purported interdiction, and he therefore was denied the fundamental right to administrative action that is lawful, reasonable and procedurally fair;
- iii. The Ethics and Anti-Corruption Act in that as a non-executive Chairperson of the Commission, Mr. Mumo Matemu is supposed to be delinked from the day-to-day operations of the Commission including the handling and custody of the Commission's files;

The facts also constitute a violation of the Ethics and Anti-Corruption Commission Act in that:

- iii. Under Section 11(6) of the Act, Mr. Mumo Matemu's functions as a Commissioner include assisting the Commission in policy formulation, ensuring staff performance and giving strategic direction to the Commission, but the functions do not extend to powers of interdiction, which is the responsibility of the Secretary of the Commission as its Chief Executive Officer and accounting officer, and as the person responsible for carrying out of the decisions of the Commission, day-to-day administration and management, and supervision of other employees of the Commission;

The facts also constitute a violation of Section 101 (1) of the Penal Code in that:

- iv. The withdrawal of Mr. Mubea's security detail by Mr. Mumo Matemu, a public officer, amounts to an "arbitrary act prejudicial to the rights of" another public officer. The said act was arbitrary whether viewed by itself or in the light of Mr. Mumo Matemu's failure to afford Mr. Mubea the opportunity to be heard, particularly given the obvious security risks associated with the work of anti-corruption officers.

In the Internal Memo, Mr. Mumo Matemu:

- i. Claimed that the purported resolution was made "[f]ollowing the Special Commission held... [on] 9<sup>th</sup> March, 2015"; and
- ii. Asked Mr. Waqo to oversee the implementation of the purported decision to interdict Mr. Mubea.

These facts constitute a violation of the following provisions of the Constitution:

- i. Article 10 so far as they relate to honesty and integrity, in that the Special Commission held on 9<sup>th</sup> March 2015 did not receive any report on Mr. Mubea, and did not discuss or resolve that he be interdicted; clearly, the Chairperson summoned the Chief Executive and his Deputy as a "set up" since he merely handed the suspension letter to the Deputy Chief Executive without any discussions. To latter claim that the suspension was discussed with the Chief Executive is a lie, contrary to the letter and spirit of Article 10.

The facts also amount to gross misconduct and incompetence on the part of Mr. Mumo Matemu in the performance of his functions as Chairperson of the Commission in that section 9.20.5 of the Ethics and Anti-Corruption Commission Human Resource Manual, August 2013, provides that the responsibility to interdict any employee of the Commission is on the Secretary/Chief Executive Officer, and that during the period of interdiction an employee will "continue to receive house allowance, commuter allowance and medical benefits at full entitlement".

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Ms Irene Keino (113)??

This Petition, so far as it relates to Oriaro Geoffrey, is made on the following grounds:-

1. Serious violation of the Constitution;
2. Serious violation of the Ethics and Anti-Corruption Commission Act, the Anti-Corruption and Economic Crimes Act, and the Penal Code;
3. Gross misconduct in the performance of his functions as Chairperson of the Commission; and
4. Incompetence.

The facts constituting the above grounds are as follows:-

- A. On 20<sup>th</sup> February 2015, the Chairperson of the Commission on Administrative Justice received a letter from a member of staff of the National Social Security Fund (NSSF) indicating that Ms. Irene Keino is doing business with the NSSF through Lulu East Africa, a company associated with her. The business involves the management of a parking lot near the Laico Regency Hotel, where the company is reportedly receiving a revenue of approximately KShs. 500,000/= daily.
- B. The letter by the NSSF staff member also indicated that another company, Eco Plant, which is managed by a Mr. Matemu Nzatu, has been awarded contracts by the NSSF including environmental impact assessment, subdivision of titles

and planning in the NSSF's Tassia II Project. This company has been associated with, amongst other people, Ms. Irene Keino and a staff member of the NSSF, Mr. Gideon Kyengo, whose wife is a senior officer at the Ethics and Anti-Corruption Commission. The letter further indicates that through the wife of Mr. Gideon Kyengo, Members of the Commission have been assisted to acquire housing at the NSSF.

- C. By a letter dated 9<sup>th</sup> September 2014 authored by Ms. Irene Keino, a Member of the Commission, and Prof. Jane Onsongo, another Member of the Commission, and addressed to His Excellency the President of the Republic of Kenya, the Hon. Uhuru Kenyatta, the two Members detailed, *inter alia*, the various accusations against Mr. Mumo Matemu:
- D. At no time have the Vice-Chair, Irene Keino MBS and Commissioner Prof. Jane Onsongo denied the accuracy and truthfulness of the issues they raised in their said letter, rather, initially, they claimed that they had been 'misled' into writing the letter without stating who had misled them. In the first place, this admission alone of being misled, the Vice-Chair, Irene Keino MBS, and Professor Jane Onsongo ipso facto make them unfit to hold the high offices they hold. In their letter inexplicably dated, 14<sup>th</sup> January 2015 to the Chairperson, the two claim that the issues in their earlier letter had been "resolved." These are not issues which can be amicably resolved between the Chairperson on the one hand and the Vice-Chairperson and Commissioner Prof. Onsongo on the other hand. They are issues of integrity calling for the establishment of a Tribunal to investigate the same. The attempt by the Vice-Chair and Commissioner Prof. Onsongo make both guilty of attempted cover up to protect the Chairperson.
- E. H.E. the President has publically voiced concerns with the levels of corruption in the Country. The war against corruption must begin by ensuring that Members of the Commission, like Caesar's wife, are above suspicion.
- F. The current moves against the Deputy Chief Executive (and the Chief Executive) must be seen in the context of the arraignment in Court of the Kamani. In the days before the arraignment, the Chairperson called for the Anglo Leading files. When the files returned to the Secretariat, important evidence, including evidence obtained in Foreign Countries through Mutual Legal Assistance had been plucked out of the files. The Chairperson feigned ignorance insisting that he returned the files to the Secretariat in the condition in which they had been taken to him, which was obviously a lie. Significantly, the Chairperson became visibly agitated on learning that there was a duplicate file with the plucked out evidence. This was the genesis of the Chairperson's demands for investigation files to be availed to him. He further unfairly criticized the Deputy Secretary of running parallel investigations for simply having taken the precaution of keeping a duplicate file. The Chairperson continues to exhibit unusual interest in the Kamani's calls for investigation. Is he doing all these for free?



G. The Commissioners and in particular the Chairperson are engineering execution of MOU's with institutions notorious in corruption matters including County Government of Nairobi which will clearly result in compromising the Commission's impartiality and capacity to investigate the same institutions.

Your humble Petitioner therefore prays that the National Assembly finds as follows:

1. THAT MR. MUMO MATEMU, Chairperson of the Ethics and Anti-Corruption Commission, has contravened the aforementioned provisions of the Constitution and of the law, and has grossly misconducted himself in the performance of his functions as the Chairperson of the said Commission and/or is incompetent to continue holding the office of Chairperson of the Commission;

2. THAT MS. IRENE KEINO, a Member of the Ethics and Anti-Corruption Commission, has contravened the aforementioned provisions of the Constitution and of the law, and has grossly misconducted herself in the performance of her functions as a Member of the said Commission and/or is incompetent to continue holding the office of Member of the Commission;

3. THAT MR. MUMO MATEMU and MS. IRENE KEINO, in contravening the Constitution and the law, and in grossly misconducting themselves and/or otherwise exhibiting incompetence in the performance of their respective offices, are unfit to continue holding the said offices and should be forthwith removed from office on the aforesaid grounds.

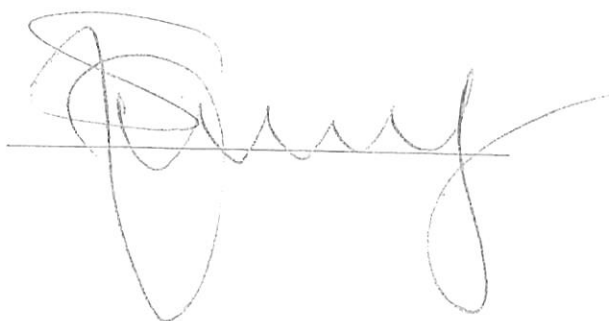
DATED at NAIROBI this 12<sup>th</sup> day of March 2015

PETITION concerning: REMOVAL OF MUMO MATEMU AND IRENE KEINO AS CHAIRPERSON AND MEMBER RESPECTIVELY OF THE ETHICS AND ANTI-CORRUPTION COMMISSION

Name of Petitioner

Signature/Thumb Impression

ORIANO GEOFFREY



*Handwritten notes:*  
We need to  
at this stage  
it has been  
waiting for  
have a look at  
and give our  
advice on  
law.



**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

Telegraphic address: "Personnel", Nairobi  
Telephone: Nairobi 2732090  
Mobile: 0723202888/0787880580  
Fax: 2243524  
Email: info@odpp.go.ke



NSSF Building, Block 'A'  
19<sup>th</sup> Floor  
P.O. BOX 30701 - 00100  
NAIROBI  
KENYA

When Replying please quote

Ref. No. : ODPP/CAM/013/5/129(2)

23<sup>rd</sup> August, 2013

Mr. Halakhe D. Waqo, ACI Arb.  
Secretary/Chief Executive Officer  
Ethics and Anti-Corruption Commission  
P.O. Box 61130 - 00200  
**NAIROBI**

Dear Mr. Waqo,

**RE: INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST PC  
THOMAS E. MUSUNGU, A POLICE OFFICER BASED AT KILGORIS  
DIVISIONAL CRIMINAL INVESTIGATIONS OFFICE  
EACC/KSM/OPS/INQ/1/2012**

I write in reference to the above captioned matter and to acknowledge receipt of your transmittal letter Ref. No. EACC.6/27/2 Vol. IV/(161) dated 16<sup>th</sup> August, 2013 forwarding the above mentioned duplicate inquiry file and your Report and recommendations under Section 11(i) (d) of EACC Act as read with Section 35 of ACECA, 2003.

I note that both the letter and the Report are signed by the Secretary/CEO of the Commission, alone. I further observe that since 5<sup>th</sup> August 2013, the Ethics and Anti-Corruption Commission has a substantive Chairman in office.

Under Section 4 of the EACC Act, the Commission shall consist of a Chairperson and two other members appointed in accordance with Article 6(3) of the Constitution. Under Section 16(7)(c) the duties of the Secretary include, among others, the carrying out of the decisions of the Commission. Under paragraph 9 of the Second Schedule enacted pursuant to section 15 of the EACC Act (Procedure for the Commission), all instruments made by and decisions of the Commission shall be signified under the hand of the Chairperson and the Secretary.

Accordingly, it is my view that the Report which communicates the recommendations of the Commission to the Director of Public Prosecutions ought to be under the hand of both the Chair and the Secretary. This is important for us to avoid any possible legal challenges.

I, therefore, return herewith your above-captioned Duplicate File for your necessary action in accordance with the above mentioned provisions of the Law. However, if you hold a contrary opinion, I would be glad to receive and consider it.

Yours Sincerely,



**KERIAKO TOBIKO, CBS, SC**  
**DIRECTOR OF PUBLIC PROSECUTIONS**

CC: Mr. Mumo Matemu  
Chairman  
Ethics and Anti-Corruption Commission  
P.O. Box 61130 – 00200  
**NAIROBI**



IN THE MATTER OF PETITION TO PARLIAMENT ACT  
CHAPTER 7C LAWS OF KENYA

AND

IN THE MATTER OF PETITION FOR REMOVAL OF MUMO MATEMU AND IRENE  
KEINO AS COMMISSIONERS OF THE ETHICS AND ANTI CORRUPTION  
COMMISSION AN INDEPENDENT COMMISSION ESTABLISHED UNDER SECTION  
3 OF THE ETHICS AND ANTI CORRUPTION COMMISSION ACT CAP 65A LAWS OF  
KENYA PURSUANT TO ARTICLE 79 OF THE CONSTITUTION OF KENYA 2010

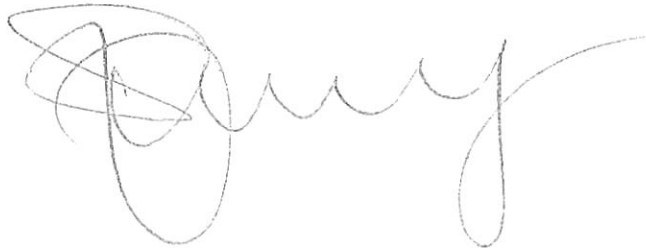
VERIFYING AFFIDAVIT

I ORIARO GEOFFREY, a resident of Nairobi and of P.O. Box 46113 – 00100 Nairobi do  
make oath and state as follows:

1. THAT I am the Petitioner in this petition and therefore competent to swear this affidavit.
2. THAT I have read the averments contained in the petition filed herewith and I verify that to the best of knowledge based on the information that I have received they are true. A bundle of some of the documents relevant to the matters pleaded in the Petition is annexed hereto and marked "OG1."
3. THAT the facts deposed herein are true and within my personal knowledge save as to those based on information sources and grounds whereof have been disclosed.

SWORN BY THE SAID  
ORIARO GEOFFREY at Nairobi  
this 12<sup>th</sup> day of March, 2015

BEFORE ME  
  
COMMISSIONER FOR OATHS



*Please and give a report*  
*28/01/2015*

HARRISON MUNENE MURIUKI  
GRAPHIC AND COMIC ARTIST,  
NIZETU COMICS AND PUBLISHERS.  
nizetucomics@gmail.com  
0720 612 698

*3 DD-ETPA*

MUMO MATEMU, MBS.  
CHAIRPERSON  
ETHICS AND ANTI-CORRUPTION  
COMMISSION (EACC).



10<sup>TH</sup> OF JANUARY, 2015.

*Please review and provide a report as required.*

*[Signature]*

Dear Sir,

RE: DONATION OF 500 COMIC BOOKS IN THE FIGHT AGAINST CORRUPTION

Corruption has been a very big issue in our country; especially in it's adverse effects on Kenya's economic growth. But there has been pro-active actions, where the government and the EACC having put in effort to fight corruption using all means they deem necessary, including involving the citizens and asking them to help curb it.

It is with this in mind that I offer my talents for use in this noble cause. I am a Cartoonist and Graphics designer, and together with a team of two others I published my first comic book going by the name 'LadyKiura' and its title is 'the fighting corruption story' in 2011. I printed 3,000 copies and over the 2 year period I have sold it in Nairobi and in Kirinyaga County where I come from. I made 2 more reprints of the same comic and was left with a remainder of about 600 copies last year, out of which I opt to donate 500 copies, in my own small way as a contribution towards the fight against corruption.

Art has its place in the shaping and evolving of society, and I believe as an artist my job is already cut out. Our hope in giving is to inspire the idea that dealing with corruption is not a 'its their job not ours' mindset, rather, its a continuous social undertaking that all kinds of talent, and individuals of all levels in society can, and should undertake. We are making a serialization of the comic story and are working on the next comic book that is broader and deeper and hope to have a much bigger impact, to be ready by March 1st, 2015.

We here at Nizetu pride ourselves with our work and you are more than welcome Sir, to enquire more about us. We donate the comic books trusting that they will be of service in any areas of your choosing. We thank you for reading this.

With much regards,

*[Signature]*

Harrison Muriuki  
Proprietor, Nizetu comics and publisher

*1 Comm (Prof Onyango)*

*You may wish to evaluate the value in this offer.*

*[Signature]*  
*27/01/15*

*4 DPS*

*Noted. Please see*

*Comm. (Prof. Onyango) attached memo suggesting the way forward.*

*1 Letter with attached estimate*  
*Please find a report*  
*29/01/15*

Handwritten notes and signatures at the top left of the page.



MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES  
OFFICE OF THE CABINET SECRETARY

Telegrams: "LABOUR", Nairobi  
Tel: +254(0)2729800  
Fax: +254(0)2722202  
Email: cabinetsecretary@labour.goke

Social Security House  
Block 'A' Eastern Wing  
Bishops Road, Milimani  
P.O. Box 40326-00100  
Nairobi

Ref: MLSSS 45/1

06 FEB 2015

6<sup>th</sup> February, 2015

Mr. Michael K. Mubea  
Ethics & Anti-Corruption Commission  
Integrity Centre  
NAIROBI

**RE: REQUEST TO FACILITATE INVESTIGATIONS**

The above matter refers.

I acknowledge receipt of your letter dated 30 January, 2015 inviting me to appear before you on 12<sup>th</sup> February, 2015 on matters touching on appointments of two members of the Board of Trustees, of National Social Security Fund namely; Ms. Veska Jepkemboi Kangogo and Mr. Andrew Gichamba Muigai.

I wish to state that as a Cabinet Secretary in charge of Ministry of Labour, Social Security and Services, I did exercise powers given to me as per the provisions of the National Social Security Fund Act No. 45 of 2013. The said two Trustees qualified to be appointed to the Board of National Social Security Fund as any other citizen of this country and have served in that capacity diligently to-date.

Therefore, I find your summons for me to appear before you lacking in good faith and driven by malice. Nonetheless, the scheduled date is not convenient for me and will communicate another date in due course.

**HON. SAMWEL K. KAMBI**  
**CABINET SECRETARY**

CC: H.E. Hon. Uhuru Kenyatta, CGH  
President of the Republic of Kenya &  
Commander-in-Chief of the Defense Forces  
State House  
NAIROBI

Mr. Justin B. Muturi  
The Speaker of the National Assembly  
NAIROBI

Mr. Mumo Matemo,  
Chairman  
Ethics & Anti-Corruption Commission  
NAIROBI

*V. Chawo*  
*Commit*

*see review. Revised with your committee views*  
*Rahim*  
*12/02/15*

*CC - CEO*  
*pre airtel brief*

Handwritten signature and scribbles at the bottom of the page.



MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES  
OFFICE OF THE CABINET SECRETARY

Telegrams: "LABOUR", Nairobi  
Tel: +254(0)2729800  
Fax: +254(0)2722202  
Email: cabinetsecretary@labour.go.ke

Social Security House  
Block 'A' Eastern Wing  
Bishops Road, Milimani  
P.O. Box 40326-00100  
Nairobi

Ref: MLSSS 45/1

07 FEB 2015

6<sup>th</sup> February, 2015

Mr. Michael K. Mubea  
Ethics & Anti-Corruption Commission  
Integrity Centre  
NAIROBI

RE: REQUEST TO FACILITATE INVESTIGATIONS

The above matter refers.

I acknowledge receipt of your letter dated 30 January, 2015 inviting me to appear before you on 12<sup>th</sup> February, 2015 on matters touching on appointments of two members of the Board of Trustees, of National Social Security Fund namely; Ms. Veska Jepkemboi Kangogo and Mr. Andrew Gichamba Muigai.

I wish to state that as a Cabinet Secretary in charge of Ministry of Labour, Social Security and Services, I did exercise powers given to me as per the provisions of the National Social Security Fund Act No. 45 of 2013. The said two Trustees qualified to be appointed to the Board of National Social Security Fund as any other citizen of this country and have served in that capacity diligently to-date.

Therefore, I find your summons for me to appear before you lacking in good faith and driven by malice. Nonetheless, the scheduled date is not convenient for me and will communicate another date in due course.

HON. SAMWEL K. KAMBI  
CABINET SECRETARY

CC: H.E. Hon. Uburu Kenyatta, CGH  
President of the Republic of Kenya &  
Commander-in-Chief of the Defense Forces  
State House  
NAIROBI

Mr. Justin B. Muturi  
The Speaker of the National Assembly  
NAIROBI

Mr. Mumo Matemo,  
Chairman  
Ethics & Anti-Corruption Commission  
NAIROBI

*Michael  
Comm*

*see review. Revolt  
with your commu  
view*

*12/02/15*

*CC - CEC  
pse email kmp*





# ETHICS AND ANTI-CORRUPTION COMMISSION

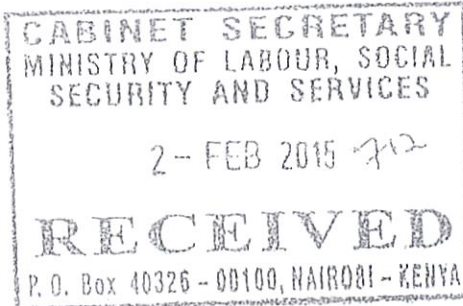
INTEGRITY CENTRE (Valley Rd. /Milimani Rd. Junction) P.O. Box 61130 -00200, NAIROBI, Kenya  
TEL.: 254 (020) 2717318/ 310722, MOBILE: 0729 888881/2/3  
Fax: 254 (020) 2719757 Email: eacc@integrity.go.ke Website: www.eacc.go.ke

When replying please quote:

Our ref. EACC. 7/10/1 (149)

30<sup>th</sup> January, 2015

Hon. Samuel Kazungu Kambi  
Cabinet Secretary for Labour  
NSSF Building  
Nairobi



Dear Sir,

**RE: REQUEST TO FACILITATE INVESTIGATIONS**

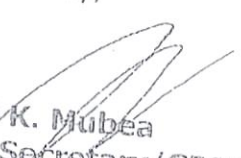
The Commission is investigating a matter touching on the appointments of Ms. Veska Jepkemboi Kangongo and Mr. Andrew Gichamba Muigai as members of the National Social security Fund Board of Trustees.

To facilitate our investigations, the Commission would like to seek clarification from you regarding this appointment. We request you to appear at the Ethics and Anti-Corruption Commission's offices at Integrity Centre on the 12<sup>th</sup> February, 2015 at 10.00am.

In this regard, we request you to bring along the following information/documents:

1. The identification and process of appointment of the two individuals to the Board;
2. Guidelines/regulations followed in the appointments;
3. Any other relevant information.

Yours faithfully,

  
Michael K. Mubea  
Deputy Secretary/CEO Technical Services  
FOR SECRETARY/CHIEF EXECUTIVE OFFICER  
PO/em



Ms. Irene Keino

Prof. Jane Onsongo

Ethics Anti-Corruption Commission

Box 61130-00200

NAIROBI

9<sup>th</sup> September, 2014

HE Hon Uhuru Kenyatta CGH

The President of the Republic of Kenya

Office of the President

NAIROBI

Dear

**RE: SEEKING THE REMOVAL OF THE CHAIRPERSON OF THE ETHICS ANTI CORRUPTION COMMISSION DUE TO INCOMPETENCE AND NON PERFROMANCE**

---

The Ethics Anti-Corruption Commission was established pursuant to Article 79 of the Constitution.

Mandate and Functions are:

**Roles of commission EACC Act 2011 Section 11 (6)**

- a) Assist the commission in policy formulation and ensure that the commission and its staff, including the secretary perform their duties to the highest standards possible.
- b) Give strategic direction to the commission in the performance of its functions as stipulated in the act.
- c) Establish and maintain strategic linkages and partnerships with other stakeholders in the rule of law and other governance sector.
- d) Deal with reports, complains of abuse of power, impropriety and other forms of misconduct on the part of the commission or its staff.
- e) Deal with reports of conduct amounting to maladministration including but not limited to delay in the conduct of investigations and unreasonable invasion of privacy by the commission or its staff.

Two commissioners namely Ms. Irene Cheptoo Keino, MBS and Prof. Jane Kerubo Onsongo were sworn in to office on 27<sup>th</sup> September 2012 after a competitive interview and vetting process. The Chairperson was later sworn in almost a year later on 5<sup>th</sup> August 2013.

When we assumed office the Commission was underperforming in several areas having been without leadership since September 2011. The staff morale was extremely low and many senior staff had resigned. The desperate situation needed urgent intervention. We therefore embarked on the following actions:

## INTERVENTIONS BY COMMISSIONERS FROM 27<sup>TH</sup> SEPTEMBER 2012 TO 5<sup>TH</sup> AUGUST 2013

### 1. Sought Legal Opinion from the Attorney General

The Commission in order to revamp the operations of the new institution, we decided to seek the legal opinion of the Attorney General on the legality of the two commissioners' undertaking the operations of the commission in the absence of the chairperson. The legal advice of the Attorney General was that we could embark on revamping the Commission without any legal hurdles.

### 2. Election of the Vice Chairperson of the Commission

In the First commission meeting held on 27<sup>th</sup> September 2012 we elected the Vice chairperson to be Ms. Irene Keino.

### 3. Developed a Road Map to guide the transition period

The Commission drew up a roadmap of the intended activities of the commission in the first year of business.

### 4. Recruitment of the Chief Executive and Deputy Secretaries

The Commission commenced the recruitment of the Chief Executive/Secretary of the Commission and the Deputy Secretary Technical Services and Deputy Secretary Support in December 2012 and they reported in January 2013. A recruitment committee comprising of nominees from Public Service Commission, Association of Professional Societies, Attorney General, National Anti-Corruption Steering Committee and the two Commissioners prepared the interview tools, score sheets and minutes of all deliberations.

### 5. Vetting Framework for elected and Executive Government Appointees

The commission developed the external vetting framework for persons' seeking elective and appointive positions. We mobilized resources that saw over 18,000 vetting forms received by EACC both in the regional and Integrity Centre offices. The vetting forms were analyzed and data captured in the EACC database before the law was changed to transfer the services to IEBC.

### 6. Reorganization of Departments and Directorates and Regional office

The commission re-organized the departments, directorates and regional offices to infuse energy and jump start the commission's operations after a lull period of one year (transition period).

### 7. Technical Transitional committees

The commission established technical transitional committees to guide the transition process of the commission during the transition of the institution from Kenya Anti-Corruption Commission to Ethics Anti-Corruption Commission.

### 8. Negotiations with Salaries Remunerations Commission (SRC)

We started negotiations with SRC on the terms and conditions of service for EACC state officers and all staff through several correspondence and meetings. We held several meeting with H.E and the Deputy President on the need to remunerate

the commission staff due to the various  
duty.

#### 9. Regional Office Expansion program

We started the process of regional office expansion and officially launched the Eldoret regional office in February 2013 and made proposals for opening of Machakos, Isiolo, Nakuru regional office. To-date none of these offices have been opened partly due to lack of vision and strategic leadership from the chairperson.

#### 10. Job Evaluation

The commission initiated the advertisement for the expression of interest for the job evaluation to map out the skills requirement, establishment and structure of the new EACC. The exercise was completed on September 2013 but the implementation of the Job Evaluation Report has stalled due to lack of proper leadership.

#### 11. Vetting Framework (Tool)

In line with the requirements of section 33 of the EACC Act, we developed the vetting policy, procedures and guidelines (vetting tool) for the Ethics Anti-Corruption Commission staff transiting from Kenya Anticorruption Commission (KACC). This tool has since been borrowed heavily by other institutions including the National Police Service Commission for the vetting of the police officers.

#### 12. Vetting of Kenya Anti-Corruption Commission staff and preparation of the vetting report

The commission prepared the Vetting Tool taking into consideration the input of all staff. The EACC Vetting Tool was subjected to stakeholder validation in compliance with the law. All former KACC employees were vetted using the tool. Therefore transition of all KACC staff to Ethics Anti-Corruption Commission was after finalisation of this process.

#### 13. National Leadership and Integrity Conference

The Commission through its Kenya Leadership Integrity Forum organised the National Leadership and Integrity Conference in coordination with its stakeholder and it was graced by both H.E The President and Deputy President on 12<sup>th</sup> June 2013. This provided an opportunity to present the EACC's accomplishments so far and seek government support in solving the challenges it faced in the fight against graft.

#### 14. Workshop on the Leadership and Integrity Act 2012

The commission held a seminar in Mombasa on the leadership and integrity Act 2012 to start the process of developing regulations for operationalization of the Act. So far the regulations have been forwarded to Parliament for the necessary consultations, input and subsequent approval.

#### 15. The EACC Strategic Plan

The commission commenced the process of developing the EACC strategic Plan 2013-2018 in March 2013. An inception workshop was conducted at KICC where all senior staff were invited to comment and initiate the strategic planning process. This process was completed in December 2013 and plan was launched by your H.E. President and Deputy President on 18<sup>th</sup> March 2014.

16. Code of Conduct for State officers and Code of Conduct for EACC staff

The commission embarked on the development of the general code of conduct for state officers based on Leadership and Integrity Act 2012. This process stalled after the chairperson assumed office and to date state officers have not signed a code of conduct as required by law.

17. Abridged version of the Code of Conduct of the Leadership and Integrity Act 2012.

The commission embarked on the development of a simplified version of the code of conduct for state officers. The thought around the development of an abridged version of the code of conduct was to make it easier for all state officers when referring to the code during duty. We had planned to host all cabinet secretaries and request all of them to sign the code witnessed by H.E. and Deputy President. This idea would then have been cascaded downwards to all ministries. The Chairperson has frustrated further progress in this area.

18. Proposed Amendments to the Anti-Corruption Economic Crime Act 2003 and the Ethics Anti-Corruption Commission Act of 2011.

We worked on the draft amendments to ACECA 2003 and EACCA 2011. At the moment the miscellaneous Bill which host the EACC proposed amendments is awaiting the President to accent to it. The Chair sponsored some members of parliament from his community to frustrate this vital amendments. We are aware that he is using the Chairman of LSK to write to you objecting the signing of this Bill.

19. Established Standing Committees

We set up the EACC standing committees: namely Risk and Audit, Operations and Finance and Planning and all have been meeting as scheduled.

---

20. Acquisition of the EACC Headquarters and Disposal of EACC Karen Plot

We started the process of acquiring office premises for EACC headquarters in January 2013. We have since put more effort in ensuring the government allocates extra budget to facilitate this initiative. We have indeed obtained Treasury approval of the same through the CEO. The Chairperson is has not shown his support for this noble idea.

21. Staff Corporate open Day

We organized a staff corporate open day for all staff on 14<sup>th</sup> June 2013 to enhance inclusiveness and obtain comments and ownership of the change management process to revamp the institutional culture that had been greatly affected by the long transition.

22. Commission Charter

We have since developed a draft commission charter and sought the secretariat's assistance on sourcing for a consultant to prepare one for the commission.

Operational Matters

23. Court Cases

We fast tracked investigations and a number of high profile personalities were charged in Court.

#### 24. County Advisory Program

We initiated the County advisory program which was launched in a number of counties. This was basically to create awareness and educate county governments on preventive strategies and sought to hold Governors accountable for county funds and developments.

#### 25. Anti-Corruption Survey on Risk Assessment and Corruption County Ranking

Following your request your H.E. the President, during the National Leadership and Integrity Conference, to conduct risk assessments for all the 47 counties and develop corruption rankings for the 47 counties. We are pleased to report that this was done and a report presented to both H.E. the President and Deputy President.

### CHALLENGES

We wish to bring to your attention our displeasure in the leadership of the Chairperson of Ethics and Anti-Corruption Commission attributable to incompetence, lack of desire to fight corruption and lack of vision. This is detailed below:

- The commission is currently investigating Anglo Leasing Contracts and the entire Secretariat is focused on this. We are however disappointed to inform you that the Chairperson is secretly engaged in meeting the architects of the scam i.e. Mr. Kamani.
- Since the Chairperson joined the commission matters to do with Charterhouse Bank have resurfaced. As we speak now a case has been filed against the Commission and we are not sure that the Chairperson is not involved.
- To date one cannot identify and thus quantify any achievement related to his leadership.
- A number of policies have been pending, though we had started the process of formulation policies on: Security, partnership, information management, conciliation, mediation and negotiation. This is mainly due to lack of strategic leadership and harmony.
- Failure to consult and inform commissioners on the ongoing in the commission e.g. press releases, media briefs and conferences where important commission issues are communicated yet they have not been discussed and communicated to the Commissioners and the CEO.
- Failure to brief the commission on regional and international linkages like the East African Association of Anticorruption Authorities (EAACA) in which he served as president, Association of African Anticorruption Authorities (AAACA), Association of Commonwealth Anticorruption Authorities (ACAA); yet these are important activities that the commission should be informed and involved as good practice.
- Poor leadership style leading to low staff morale, a lot of falsehoods circulating in the press about senior management some of which maybe originating from the commission.



- High levels of staff indiscipline since there seems to be a leadership vacuum
- Low performance in the core mandate of the commission
- Several commission resolutions remain unimplemented due to staff apathy and no mechanism for follow up.
- Standing committee meetings and recommendations are not well mainstreamed into commission meeting.
- He severally interferes with operational matters and the motive is sinister. For instance he requests for certain investigation files through unofficial methods to request for status on investigations. He avoids to request for a status on a file through the CEO. We have since requested the CEO to put in controls that will curtail the interference.
- He fails to foster unity but fuels interpersonal wars in an effort to divide and rule
- Poor corporate communication and confidential matters are leaked to media for reasons we don't understand.
- Failure to exercise leadership and judgment in directing the commission to achieve its strategic goals based on its core values.
- He has an insecure personality where he thinks everybody is after his seat (chairperson) thus the need to go on a negative smear campaign on all senior staff and fellow commissioners.
- His leadership style is "divide and rule" whereby he has a different personal relationship with fellow commissioners and senior staff which creates disunity and infighting.
- He has used gutter press to defame and malign the image of senior staff and commissioners and as a result the Commission is viewed negatively.
- He is using Members of parliament to fight the Commission.
- He has declared in public that he joined the Commission to make money and not fight corruption.
- He is using staff to file petitions against the Commissioners and threatening to fire senior Commission staff.

#### HUMBLE REQUEST


Your Excellency we know your desire to fight corruption and we assure you, that we are together in this. However we are facing serious challenges and we are worried that the man at the helm has only one agenda which is to make money and bring the institution down. The purpose of this communication is to let you know that all is not well at the Commission and the fight against corruption has been slowed down. Any intervention from your office is most welcome.

Yours Sincerely

Ms. Irene Keino, MBS

Prof. Jane Onsongo-PhD

Signature

Date

9/9/2014

20 February 2015

The Chairman  
Commission on Administrative Justice  
Nairobi.

Dear Sir,

Relationship between EACC and NSSF Regarding The Tassia Estate Probe

I have read the recent press reports regarding the above and the earlier lamentations by the COTU Secretary General on the slow rate in investigating the Tassia issue. I am a member of staff of NSSF and hope that this will not cause me untold hardships if it comes to light. Sir, I have been agonizing in my soul on where to take this information as my otherwise obvious destination (the EACC) is not a safe place for my information as they are an interested party. It has just dawned that the CAJ is another good avenue for me to communicate. What a God send avenue?

The issues raised by your office before the parliamentary committee is a fact. There are certain EACC commissioners who do business with the Fund and cover up or at least delay the investigations against NSSF because of their selfish interest. Not only have the said commissioners been bribed with houses but they are also doing business such as running the parking lot near Grand Regency. The managing trustee of NSSF Richard Langat with his officers Gideon Kyengo, Matemu Nzatu and Moses Chesoto conspired and gave Lulu East Africa Company to run the parking lot near Grand Regency. The owners include a Mr. Ruto, Mr. Kandie and a commissioner of Eacc. They make about 500,000 kshs per day from the parking lot.

Another company called Eco plant associated with a commissioner of Eacc has also been given by Matemu Nzatu jobs by such as environmental assessment, title subdivision and planning for several projects including the infamous Tassia II project. This is also worth several millions.

Langat, Kyengo, Nzatu and Chesoto have formed a clique of fleecing NSSF and making sure that EACC does not investigate them. Kyengo's wife is a senior officer at the commission and has helped the commissioners to get housing at NSSF. They boast that they are untouchable because of the close association with the commission.

Sir in addition to the above I am sure there are other underhand deals that your good office can unearth regarding the management of nssf and eacc commissioners.

Please save this country from impunity and rot.

Concerned NSSF staff

Cc

1. Chariman EACC
  2. Director CID
  3. Director Public Prosecutions
-

23348  
34989/68

LR. 1/285

P.O. Box 30049, NAIROBI

7th May, 1988

and date

✓ Director of City Planning,  
P.O.Box 30075,  
NAIROBI.  
Director of Surveys,  
P.O.Box 30046,  
NAIROBI.

5.7.87

Handwritten notes and stamps in a grid format, including 'JCP' and 'A117'.

RE: NAIROBI: PROPOSED SUBDIVISION AND CONSOLIDATION  
PLOTS: L.R. No. 1/285/287

I refer to the Managing Director of Kenya Railway's letter ref.K/F/Nairobi/16 dated 3rd March, 1988 addressed to you and copied to me on the above subject. Please let me have your comments/recommendations as soon as possible.

(F.W.S. NYITHUKIA)  
For: COMMISSIONER OF LANDS

AKW/TN.

405



NAIROBI

MISSION

61

CITY HALL  
P.O. BOX 30089  
NAIROBI  
KENYA



Survey & Photogrammetry  
CITY PLANNING AND ARCHITECTURE

NAIROBI, CITY PLANNING AND ARCHITECTURE DEPARTMENT  
P&ARCH/EC/1219/PLOTS L.R. NOs. 1/285.

Date: 29th March, 1989.

Commissioner of Lands,  
P.O. BOX 30089,  
NAIROBI.

REF: NAIROBI PROPOSED SUBDIVISION AND CONSOLIDATION - PLOTS  
L.R. NOs. 1/285&287.

I refer to your letter of Ref: 34969/68 of 25th November,  
1988 in connection with the above subject.

This is to inform you that the letter Ref: 34969/66 of the  
May 1988 which you have referred to had been sent to me from  
your office.

I have however, attached a copy of the said letter as requested.

*J. Manasseh*

J.M. MANASSEH (MRS)  
ASSISTANT DIRECTOR (T)  
for: DIRECTOR OF CITY PLANNING AND ARCHITECTURE.

A. F. C. Lee (66)  
9/3/89

no



# MINISTRY OF LANDS

Telegrams: "URBANPLAN", Nairobi  
Telephone: Nairobi 718050  
When replying please quote

DEPARTMENT OF PHYSICAL PLANNING  
ARDHI HOU  
1<sup>st</sup> NGONG AVENUE  
P.O. Box 450  
NAIROBI

REF: PPD/42/24/VII/55

Commissioner of Lands,  
P.O. Box 40159 – 00100,  
NAIROBI.

Date: 20<sup>th</sup> July, 2007

## RE: CHANGE OF USER FROM RESIDENTIAL TO MULTI-DWELLING UNITS (FLATS ON L.R. NO.1/287

I refer to your letter ref: 34969/72 of 25<sup>th</sup> September, 2007.

I visited the site and observed the following:-

- i) The site has an old individual dwelling house in the compound
- ii) It is next to a tarmarked road
- iv) Most of Infrastructural facilities are available
- v) The neighbourhood character is changing to residential Flats and offices. The property is opposite Invesco offices.

The change of user is recommended on the ground that maximum value of the land will be realized. Besides plentiful infrastructural facilities, it will match the change of character of the area.

Given the rapid change of use to flats and offices the increased population may overstretch the current infrastructure. There is need to upgrade them.

~~Signature~~  
S.N. TUMBO  
FOR: DIRECTOR OF PHYSICAL PLANNING

C.C. Irene Keino,  
P.O. Box 458997 – 00100,  
NAIROBI.

Director of City Planning,  
P.O. Box 30075,, NAIROBI.

S. W. Kamau  
For: DIRECTOR OF SURVEYS

IS

Ref. No. F/R 55/131

Please note that this office has no objection to the proposal constituting part of the disputed public utility land/allocation.  
above subject.

Reference is made to your letter Ref. No. 34969/72 dated 25<sup>th</sup> September 2007 on the

RE: CHANGE OF USER FROM RESIDENTIAL TO MULTI-DWELLING  
UNITS (PLATS) ON L.R. NO. 1/287 - KIIMANI

NAIROBI.  
The Commissioner of Lands,  
P.O. Box 30089,

Our Ref: CPC/Vol.12/45

Field Headquarters, Ruaraka  
Telephone: 8562902/8562968

E-mail sok@gr.co.ke  
Fax: 2717553

Telephone: 2718050  
Head Office: Ardhi House

Telegrams: "Surveys"

Director of Surveys

All correspondence  
Should be addressed to -

MINISTRY OF LANDS



Survey of Kenya,  
NAIROBI.  
P.O. Box 30046-00100

Date: 22<sup>nd</sup> November 2007

(Survey & Photogrammetry)  
A.K. (T.P.) A.I.S.K  
CITY PLANNING AND ARCHITECTURE



CITY HALL  
P.O. BOX 3  
NAIROBI  
KENYA

Mr. Muthembwa CITY PLANNING AND ARCHITECTURE DEPARTMENT

P&ARCH/DC/2208/L.R.1/285& 287.

11th July, 1988.

The Commissioner of Lands,  
P.O. Box 30089,  
NAIROBI.



RE: SUB-DIVISION OF L.R. 1/285 & 287.

Your letter dated 7th May 1988 refers.

We have received the above proposal and we have commented on the same and informed the applicant.

*J. Manasseh*

J.M. MANASSEH (MRS).  
ASSISTANT DIRECTOR (T)  
for: DIRECTOR OF CITY PLANNING & ARCHITECTURE.

CC.- Kenya Railways,  
P.O. BOX 30079,  
NAIROBI.

CKM/mwm.

file 44423

16

Director of City Planning,  
P.O.Box 30075,  
NAIROBI.

RE: NAIROBI PROPOSED SUBDIVISION AND CONSOLIDATION  
PLOTS: I.R. No. 1/285/287

Your letter ref.34969/80 dated 7th May, 1988 refers.

Please let me have a copy of the said letter to  
enable me proceed with the processing of the  
application.

F. W. S. MWITHUKIA

(F.W.S.MWITHUKIA)  
FOR: COMMISSIONER OF LANDS

AKW/TN.

c.c.

Kenya Railways,  
P.O.Box 30079,  
NAIROBI.

Director of Surveys  
NAIROBI

The Director of Physical Planning  
NAIROBI

RE: PROPOSED AMALGAMATION OF L.R. NOS. 1/285 and 1/287  
LENANA ROAD - KILIMANI

---

I have received an application for amalgamation of the above  
two plots.

Please favour me with your comments on the proposal.

KARURI F. S.

KARURI F.S.,  
For COMMISSIONER OF LANDS

/s/

F.34969



64

# Kenya Railways

44423  
34969

phone: .....  
grams: .....  
se quote: .....



Managing Director's Office  
P.O. Box 30079,  
NAIROBI  
3rd March, 1988

K/F/NAIROBI/16

The Director of city planning,  
P.O. Box 30075,  
NAIROBI.

59 8 MAR 1988

The Director of Physical planning,  
P.O. Box 45025,  
NAIROBI.

65

The Director of surveys,  
P.O. Box 30046,  
NAIROBI.

Dear Sir,

## NAIROBI : PROPOSED SUBDIVISION AND CONSOLIDATION PLOTS : LR.No.1/285 & 287

I attach hereto two prints of my drawing LP No.1005 showing the above proposals.

Please consider the scheme and forward your early recommendations to the Commissioner of Lands to enable him to accord his covering approval.

Encl:

Yours faithfully,  
ENG. G. K. GUCHU  
(Eng. G.K. Guchu)  
for MANAGING DIRECTOR

c.c. The Commissioner of Lands,  
P.O. Box 30089,  
NAIROBI.

Hereto attached two prints of the above plan for the favour of your approval at your earliest convenience.

for (Eng. G.K. Guchu)  
MANAGING DIRECTOR

Plan at



and date

15/3/88



1st NGONG AVENUE

P.O. Box 45025

NAIROBI

15th March, 1988

Commissioner of Lands,  
P.O. Box 30089,  
NAIROBI.

RE: NAIROBI: PROPOSED SUBDIVISION AND CONSOLIDATION  
PLOTS: LR. NO. 1/2850287

I am in receipt of a letter ref: K/F/Nairobi/16 of  
3rd March, 1988 from Kenya Railways copied to me among  
others on the above issue.

Note that I have no objection to the proposed subdivision  
and consolidation on Plots: LR. No. 1/2850287.

Enclosed please find the Scheme plan for your further  
action.

(J. Orinda-Obuya)  
For: DIRECTOR OF PHYSICAL PLANNING

E.C. Managing Director (Att. Eng. G.K. Guchu)  
Kenya Railways,  
P.O. Box 30079,  
NAIROBI.

The Director of City Planning,  
& Architecture,  
P.O. Box 30075,  
NAIROBI.

The Director of Surveys,  
P.O. Box 30046,  
NAIROBI.

JOO/mb:

94



67

Director of City Planning,  
P.O. Box 30075,  
NAIROBI.  
Director of Surveys,  
P.O. Box 30046,  
NAIROBI.

RE: NAIROBI: PROPOSED SUBDIVISION AND CONSOLIDATION  
MOTS: L.R. No. 1/255/287

I refer to the Managing Director of Kenya Railway's  
letter ref. K/R/Nairobi/16 dated 3rd March, 1968  
addressed to you and copied to me on the above  
subject. Please let me have your comments/recommendations  
as soon as possible.

T. W. S. MWITHUKIA

(T. W. S. MWITHUKIA)  
OFF: COMMISSIONER OF LANDS

REC/TH.



71

FORM P.P.A 2

2203

THE PHYSICAL PLANNING ACT (CAP 286)

SERIAL NO. ....

REF: CPD/PIS/003946/1/287/RWM/sng

APPLICATION REG. NO. 3742

DECLARATION OF APPROVAL OF DEVELOPMENT PERMISSION

~~Subdivision~~  
~~Subdivision & amalgamation~~  
~~Amalgamation~~  
Change of use from residential to multi-dwelling units (Flats)  
~~Extension of use~~  
~~Extension of lease~~

Irene Keino

P.O. Box 45897-00100  
NAIROBI

Application, numbered as above, submitted on 25/04/2007  
for permission for Change of User of L.R. No. 1/287  
situated in Lenana Road Kilimani

Approved by the Town Planning Committee held on 25/07/2007  
at item 72

Subject to the following/appended conditions:  
Submission of satisfactory building plans within one year and completion  
of construction within two years otherwise the approval lapses.

Payment of revised rates as will be determined by the Chief Valuer City  
Council of Nairobi.

Payment of revised ground rent as will be determined by the Commissioner  
of Lands.

Subject to the plot not constituting part of the disputed public utility  
land/allocations.

Subject to compliance with sections 36, 41 and 52 of the Physical Planning  
Act.

Subject to compliance with the approved zoning policy.

Subject to relevant surrender along Lenana road being effected and  
dead plans submitted upon submission of the building plans.

CITY COUNCIL OF NAIROBI  
City Planning Department  
Development application approved  
by City Council of Nairobi  
On: 25/7/07  
Signature: *R. W. Muroki*  
Date: 25/7/07  
Assistant Director  
PHYSICAL IMPLEMENTATION SECTION  
City Planning & Architecture Department

Signed: 17/8/2007  
Name: R.W. MUROKI  
For: Director  
The Director of Physical, Nairobi  
The Commissioner of Lands, Nairobi  
The Director of Survey, Nairobi  
The Land Registrar, Nairobi

SP20  
Please assist with file number  
17/07/07





REPUBLIC OF KENYA

# MINISTRY OF LANDS

Telegrams: "LANDS", Nairobi  
Telephone: Nairobi 718050-9

DEPARTMENT OF LANDS  
1<sup>st</sup> NGONG AVENUE  
OFF NGONG ROAD  
P. O. Box 30089  
NAIROBI

When replying please quote

Ref: 34969/72

Date: 25/9/2007

The Director of Surveys,  
NAIROBI.

The Director of Physical Planning,  
NAIROBI.

RE: CHANGE OF USER FROM RESIDENTIAL TO MULTI-DWELLING  
UNITS (FLATS) ON L.R. NO. 1/287- KILIMANI.

The Director of City Planning vide letter ref. CPD/PIS/003946/1/287/RWM/sng dated 17<sup>th</sup> August, 2007 has approved the above transaction.

Kindly favour me with your comments/recommendations.

S. P. N.

S. P. N. GATHONGO  
For: COMMISSIONER OF LANDS.

C.C.

Irene Keino,  
P. O. Box 458997 - 00100,  
NAIROBI.

Please pay Kshs. 3,000.00 to the Director of Physical Planning as  
inspection fees.





C.L. Approved on 19/2/08  
 D.C.L.  
 S.A.C.L. Recommended Standard 25/1/08  
 A.C.L. (on leave)  
 S.L.O. - P.W. A. - Forwarded and recomm  
W

AUTHORITY FOR CHANGE OF USER

1. Parcel No/Locality. LR. NO. 1/287 - Nairobi
  2. Acreage 1.021 Acres (ha)
  3. Name of Registered Owner The General Manager of The E.A. & Harbours (G)
  4. Term of Lease Freehold
  5. Recommendations:
    - a. Council Director of City planning approved the c of user. (7)
    - b. Planning Director of physical planning recommends change of user. (74)
    - c. Survey Director of Survey has no objection to the proposed. (75)
    - d. District Land Officer N/A
  6. Ground Report (79) The site has an old one private dwelling with most infrastructural facilities. The neighbourhood is changing to flats and offices.
  7. Newspaper advertisement (78)
  8. Existing User Residential (OPDH)
  9. Proposed User Multi-dwelling Units (Flats)
  10. Recommendation by L.O. In view of the above I recommend the change of user subject to the conditions stip by Director of City planning (71).
- Name Mbuni J.N. Signature [Signature] Designation L.O.  
 Date 30/1/2007

Recommended by the ADVIS  
Committee 18/2/08



Republic of Kenya

MINISTRY OF LANDS

Telegrams "LANDS", Nairobi  
Telephone: Nairobi 02718050  
When replying please quote

DEPARTMENT OF LANDS  
1<sup>ST</sup> NGONG AVENUE  
OFF NGONG ROAD  
P.O. Box 30089  
NAIROBI.

Ref: 34969/77

Date: 11<sup>th</sup> November 2008

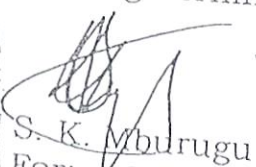
Irene Keino  
P. O. Box 45897 - 00100  
NAIROBI

PROPOSAL FOR CHANGE OF USER FROM RESIDENTIAL TO MULTI-DWELLING UNITS (FLATS) ON LR NO. 1/287 KILIMANI NAIROBI

The above subject matter refers.

I am please to inform you that the government has approved your application subject to the following conditions:-

1. Surrender the existing title in exchange for a new one reflecting the new user
2. Forward to this office a new deed plan duly signed and sealed by the Director of Surveys
3. Payment of Kshs.5,000/= being approval fees
4. Payment of legal fees as it will be assessed by this office and communicated to you later
5. Payment of revised ground rent as it will be assessed by the government Valuer and communicated to you later.

  
S. K. Mburugu

For: COMMISSIONER OF LANDS

c.c.  
Director of Surveys NAIROBI

The Director of City Planning NAIROBI



## ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Valley Rd. /Milimani Rd. Junction) P.O. Box 61130 -00200, NAIROBI, Kenya  
TEL.: 254 (020) 2717318/ 310722, MOBILE: 0729 888881/2/3  
Fax: 254 (020) 2719757 Email: eacc@integrity.go.ke Website: www.eacc.go.ke

When replying please quote.

10<sup>th</sup> March 2015

CONFIDENTIAL

The chairman,  
Ethics and Anti- Corruption Commission (EACC)  
Nairobi

Dear Sir,

**RE: MICHAEL MUBEA - D/CEO TECHNICAL SERVICES**

Your letter of the 9th March 2015 which you handed to the above named officer in my presence and the presence of the Vice Chair, Irene Keino and the Commissioner Jane Onsongo and your subsequent memo to myself on the same date refers.

In your memo, you have quoted the 'Special Commission Meeting' of 9<sup>th</sup> March 2015. However, in the said Commission meeting, nothing on or about Mr. Mubea was discussed (*see attached the agenda items*). I was hearing allegations against my deputy for the first time at the point you invited I and himself to your office while you were already seated with the Two Commissioners. You did not spell out the specifics despite Mr. Mubea asking you for the same and you to uphold the rule of law. Let me say at the outset, that Mr. Mubea's work has been outstanding and clearly demonstrated in among other projects, the Anglo Leasing investigations which was in abeyance for over ten (10) years. This is a fact you know only too well.

As the Chief Executive Officer (CEO) of the Commission who receives all intelligence reports, I am not at all aware of the alleged intelligence. I am also surprised that intelligence reports to the Commission would bypass me as the CEO and come to you directly.

Under Article 47 of the constitution, the commission must confront Mr. Mubea with the specifics of the allegations and accord him the opportunity to respond before any action can be taken against him. In this connection suspending him for the thirty (30) days on allegations of integrity issues is already adverse and damaging to his reputation and it exposes the commission to action.

*Fukomeshe Ufisiadi, Tuijenge Kenya*

CONFIDENTIAL



Mr. Chairman, your letter is also general regarding the special interagency committee which as he CEO am not privy to. Who is to appoint this committee and from which agencies.

On procedural matters, it is the role of the chair to give direction on such matters and not issue appointment, suspension, interdiction or even dismissal letters to the staff as this the role of the CEO as the Chair is not the executive officer. I am not aware when the law was amended to make the Commission Chairman (refer sect. 11. (6) of EACC Act 2011 - *attached*) to be the executive officer replace the office of the Secretary / Chief Executive Officer who is also the accounting officer of the commission (refer Sec16 (7) of EACC Act 2011 - *attached*) as this your action deems.

I have also come to understand that you instructed the administrative officials of the Commission to remove security, means of transport form the said officer and deny access to the office by the officers working in the D/CEO's office thereby rendering them squatters from their work station. If Mubea is under investigations, these staff members are not and are entitled to their work stations and service to the Commission.

Mr. Chairman in discharge of this course of action, you did not consider to consult my office or the Human Resource Management Office. You have not also referred to the 'Ethics and Anti-Corruption Commission Human Resource Manual, August 2013' Section 9.20.5 (*attached*) that stipulates clearly steps taken in interdicting an officer and benefits of an interdicted officer while under interdiction.

Given the foregoing and since I am in charge of the day to day running of the Commission according to the Act, I find it had to enforce and therefore do not support your action to interdict Mr. Mubea.

By a copy of this letter I am directing the officer to report on duty and continue with his work.

Thank you for your support.

Halakhe D. Waqo  
Secretary / Chief Executive Officer

CC  
Michael M. Mubea,  
D/CEO Technical Services





## INTERNAL MEMO

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**To:** Halakhe D. Waqo, ACI Arb - Secretary/CEO

**From:** Chairperson

**Date:** 9<sup>th</sup> March, 2015

**CONFIDENTIAL**

**SUBJECT:** GROSS MISCONDUCT / INTERDICTION OF THE DEPUTY  
CHIEF EXECUTIVE OFFICER-MR. MICHAEL MUBEA

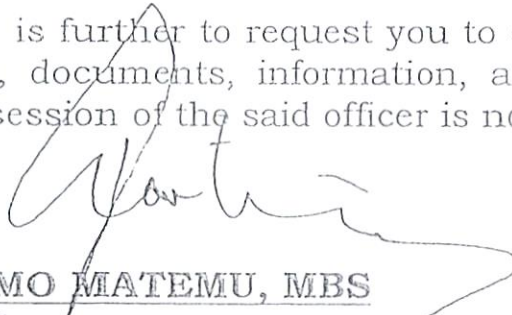
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Reference is made to the above matter.

Following the Special Commission meeting held today the 9<sup>th</sup> March, 2015, the Commission made a resolution to interdict the above officer pending investigations pertaining to his integrity.

Kindly oversee the implementation of this decision as summarized in the attached copy of the letter with immediate effect and on behalf of the Commission.

This is further to request you to ensure that the security of Commission files, documents, information, and any other Commission property in possession of the said officer is not compromised.

  
MUMO MATEMU, MBS

*Encl*



## ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Valley Rd. /Milimani Rd. Junction) P.O. Box 61130 -00200, NAIROBI, Kenya  
TEL.: 254 (020) 2717318/ 310722, MOBILE: 0729 888881/2/3  
Fax: 254 (020) 2719757 Email: eacc@integrily.go.ke Website: www.eacc.go.ke

When replying please quote:

Ref: CON 1/Vol. 1/09/2015

9<sup>th</sup> March, 2015

Mr. Michael Mubea

P.O BOX 55976-00200

NAIROBI

**CONFIDENTIAL**

Dear Sir,

RE: GROSS MISCONDUCT / INTERDICTION

Intelligence reaching the Commission has strongly suggested that there are integrity challenges surrounding the discharge of your duties as Deputy Secretary Technical Services. Some of these challenges have resulted in ridicule to the Commission and negative media publicity hence tainting its image.

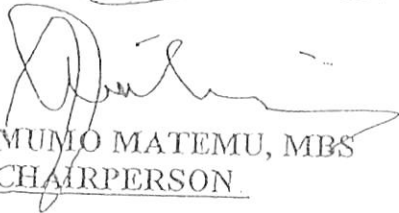
The integrity challenges if established, would amount to gross misconduct and would attract dismissal from the Commission. However, in the interest of fairness to yourself and to the Commission, it has been decided an investigation be conducted by a special inter-agency committee to be appointed for that purpose.

In order to allow for this investigation it has been decided that you be and are interdicted from exercising the duties of your office for thirty (30) days from the date of this letter pending finalization of the investigation. Upon completion of the investigations, depending on the outcome thereof, the Commission will address you appropriately.

*Tukomeshe Ufisadi, Tuijenge Kenya*

While on interdiction, you will be paid half salary. The commission will expect that you adhere to the following as well:


- That you will cease to enjoy other benefits that accrue to you because of your physical presence in the office
- You must co-operate in the investigations and if requested, attend investigatory interviews
- Your work email account and communication system will be suspended
- Hand over any matters/files that you are currently handling to the chairperson.

Yours *Sincerely,*  
  
MUMO MATEMU, MBS  
CHAIRPERSON.

ACKNOWLEDGEMENT

~~RECEIVED~~ RECEIVED UNDER  
PROTEST

I ..... Of P.O BOX ..... hereby  
Acknowledge receipt of this letter.

Signed  ..... Date 9/3/15 .....



## AGENDA FOR 13<sup>TH</sup> SPECIAL COMMISSION MEETING

1. Review and update on high profile corruption cases.
  - a. "Chicken Scandal"
  - b. Finance Director, Nairobi City County
  - c. Karen Land
  - d. Geothermal Development Corporation
  - e. Mumias Sugar Company
  - f. Vihiga County
  - g. Goodyear Tyres
2. Update on current Annual Procurement Plan and execution/implementation of the same.
3. Performance evaluation and targets for the Chief Executive Officer and DCEO - Technical Services, for 2013/2014 and the current year.
4. Tracking of implementation of Commission Resolutions.
5. Deliberations on the Commission's external communication strategy and the impact thereof.
6. Brief on the National Anti-Corruption Policy.
7. Update on exit pay for former management of the defunct KACC.
8. Consideration of Notice of Termination of EACC tenancy at Integrity Centre building.

Halakhe D. Waqo, ACI Arb



7. Term of office

(1) The chairperson and members of the Commission shall be appointed for a single term of six years and are not eligible for re-appointment.

(2) The chairperson and members of the Commission shall serve on a full time basis.

8. Oath of Office

Before assuming office, the chairperson and members of the Commission shall take and subscribe to an oath of office as prescribed under the First Schedule.

9. Vacancy

The office of the chairperson or a member shall become vacant if the holder

- (a) dies;
- (b) resigns from office, by a notice in writing addressed to the President;
- (c) is convicted of a felony and sentenced to imprisonment
- (d) is absent from three consecutive meetings of the Commission without good cause; or
- (e) is removed from office under any of the circumstances specified in Article 251 of the Constitution.

10. Filling of Vacancy

(1) Where a vacancy occurs in the membership of the Commission, the President shall appoint a replacement in accordance with the procedure provided for under this Act.

(2) A member appointed under subsection (1) shall serve the Commission for a single term of six years.

11. Additional functions of the Commission

(1) In addition to the functions of the Commission under Article 252 and Chapter Six of the Constitution, the Commission shall—

- (a) in relation to State officers—
  - (i) develop and promote standards and best practices in integrity and anti-corruption;
  - (ii) develop a code of ethics;
- (b) work with other State and public offices in the development and promotion of standards and best practices in integrity and anti-corruption;
- (c) receive complaints on the breach of the code of ethics by public officers;
- (d) investigate and recommend to the Director of Public Prosecutions the prosecution of any acts of corruption or violation of codes of ethics or other matter prescribed under this Act or any other law enacted pursuant to Chapter Six of the Constitution;
- (e) recommend appropriate action to be taken against State officers or public officers alleged to have engaged in unethical conduct;

- (f) oversee the enforcement of codes of ethics prescribed for public officers;
- (g) advise, on its own initiative, any person on any matter within its functions;
- (h) raise public awareness on ethical issues and educate the public on the dangers of corruption and enlist and foster public support in combating corruption but with due regard to the requirements of the Anti-Corruption and Economic Crimes Act, 2003 as to confidentiality;
- (i) subject to Article 31 of the Constitution, monitor the practices and procedures of public bodies to detect corrupt practices and to secure the revision of methods of work or procedures that may be conducive to corrupt practices; and
- (j) institute and conduct proceedings in court for purposes of the recovery or protection of public property, or for the freeze or confiscation of proceeds of corruption or related to corruption, or the payment of compensation, or other punitive and disciplinary measures.

[Corrigenda K.G.S. 18 of 16 March 2012.]

- (2) Any person who contravenes subsection (1) (i) commits an offence.

[Corrigenda K.G.S. 18 of 16 March 2012.]

(3) The Commission may cooperate and collaborate with other State organs and agencies in the prevention and investigation for corruption.

(4) The Commission shall have all powers necessary or expedient for the efficient and effective execution of its functions, under the Constitution, this Act or any other written law.

(5) The Commission may request and obtain professional assistance or advice from such persons or organizations as it considers appropriate.

(6) The functions of the Commissioners shall be to—

- (a) assist the Commission in policy formulation and ensure that the Commission and its staff, including the Secretary perform their duties to the highest standards possible in accordance with this Act;
- (b) give strategic direction to the Commission in the performance of its functions as stipulated in this Act;
- (c) establish and maintain strategic linkages and partnerships with other stakeholders in the rule of law and other governance sector;
- (d) deal with reports, complains of abuse of power; impropriety and other forms of misconduct on the part of the commission or its staff; and
- (e) deal with reports of conduct amounting to maladministration, including but not limited to delay in the conduct of investigations and unreasonable invasion of privacy by the Commission or its staff.

(7) The Commissioners shall meet at least once every quarter or as often as the need arises for the execution of their functions.

## 12. General principles

In fulfilling its mandate, the Commission shall, in addition to the values and principles under Article 10 of the Constitution, observe the following principles—

- (a) accommodate the diversity of Kenyan people;

- (b) impartiality and gender equity, and
- (c) the rules of natural justice.

### 13. Powers of the Commission

(1) The Commission shall have all powers generally necessary for the execution of its functions under the Constitution, this Act, and any other written law.

(2) Without prejudice to the generality of subsection (1), the Commission shall have the power to—

- (a) educate and create awareness on any matter within the Commission's mandate;
- (b) undertake preventive measures against unethical and corrupt practices;
- (c) conduct investigations on its own initiative or on a complaint made by any person, and
- (d) conduct mediation, conciliation and negotiation.

### 14. Committees of the Commission

(1) The Commission may establish committees for the effective discharge of its functions.

(2) The Commission may co-opt into the membership of committees established under subsection (1) other persons whose knowledge and skills are found necessary for the functions of the Commission.

(3) Any person co-opted into the Commission under subsection (2) may attend the meetings of the Commission and participate in its deliberation, but shall have no power to vote.

### 15. Procedure for the Commission

(1) The business and affairs of the Commission shall be conducted in accordance with the Second Schedule.

(2) Except as provided in the Second Schedule, the Commission may regulate its own procedure.

### 16. Secretary to the Commission

(1) The Commission shall, through an open, transparent and competitive recruitment process, and with the approval of the National Assembly, appoint a suitably qualified person to be the Secretary to the Commission.

(2) A person shall be qualified for appointment as the Secretary of the Commission if the person—

- (a) is a citizen of Kenya;
- (b) possesses a postgraduate degree from a university recognised in Kenya;
- (c) has had at least ten years proven experience at management level;
- (d) has experience in any of the following fields—

- (i) ethics and governance;
- (ii) law;
- (iii) public administration;
- (iv) leadership;
- (v) economics;
- (vi) social studies;
- (vii) audit;
- (viii) accounting;
- (ix) fraud investigation;
- (x) public relations and media; or
- (xi) religious studies or philosophy;

(e) meets the requirements of Chapter Six of the Constitution.

(2) The Secretary shall be a State officer and shall serve on such terms and conditions as the Commission may determine.

(3) Before assuming office, the Secretary shall take and subscribe to the oath of office set out in the First Schedule.

(4) The Secretary shall hold office for one term of six years and shall not be eligible for reappointment.

(5) The Commission shall cause the vacancy in the office of the Secretary to be advertised at least three months before the expiry of the incumbent's term.

(6) The Secretary shall, in the performance of the functions and duties of office, be responsible to the Commission.

(7) The Secretary shall be—

- (a) the chief executive officer of the Commission;
- (b) the accounting officer of the Commission; and
- (c) responsible for—
  - (i) carrying out of the decisions of the Commission;
  - (ii) day-to-day administration and management of the affairs of the Commission;
  - (iii) supervision of other employees of the Commission;
  - (iv) the performance of such other duties as may be assigned by the Commission.

#### 17. Removal from office of the Secretary

(1) The Secretary may be removed from office by the Commission for—

- (a) inability to perform functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour; or

9.20.4.2 Where an employee deserts duty or his whereabouts are unknown, the show cause letter will be addressed to the employee's last known contact address by registered mail and he will be given twenty one (21) days to respond.

#### **9.20.5 Interdiction**

9.20.5.1 Interdiction is a procedure applied on serious disciplinary cases that require investigations involving any breach of the rules and regulations in order to allow establishment of fact(s) of the case.

9.20.5.2 The employee shall be interdicted from exercise of his/her duties by the Secretary/Chief Executive Officer pending determination of the case.

9.20.5.3 This formal disciplinary punishment will be applied to major disciplinary offences. An employee who is on interdiction will be paid not less than 50% of his basic monthly salary less any statutory deductions. During this period the employee will continue to receive house allowance, commuter allowance and medical benefits at full entitlement.

9.20.5.4 While on interdiction, the employee will be required to report to his supervisor and sign a register at least once a month.

9.20.5.5 In the event the employee fails to report as instructed, the interdiction will automatically be translated to suspension.

9.20.5.6 Interdictions shall not exceed three (3) months, within which time investigations should be completed and disciplinary action determined.

#### **9.20.6 Suspension**

9.20.6.1 Where an employee has been charged with a criminal offence other than a traffic offence or investigations have commenced, the employee shall be suspended from exercise of his duties by the Secretary/Chief Executive Officer pending determination of the case.

9.20.6.2 Suspensions shall not exceed three (3) months, within which investigations are completed and action determined.

9.20.6.3 The Commission shall have the discretion to finalize such a case administratively, separate from the court process, if it is of the view that the offence amounts to gross misconduct and injurious to its interest or image.

9.20.6.4 While on suspension, an employee will not be entitled to any salary but will receive house allowance and medical benefits.





**MEMORANDUM OF  
UNDERSTANDING BETWEEN  
THE ETHICS AND  
ANTI-CORRUPTION COMMISSION  
(EACC) AND THE NAIROBI CITY  
COUNTY GOVERNMENT (NCCG)  
ON COMBATING AND  
PREVENTING CORRUPTION,  
ECONOMIC CRIME AND  
UNETHICAL PRACTICES IN THE  
NCCG**

**DECEMBER 2013**





## DEFINITION OF TERMS

In this MOU, the following terms will be interpreted to mean the following:

1. **ACECA** – Anti-Corruption and Economic Crime Act, 2003
2. **Assets Recovery**- shall mean the process of restoration of illegally acquired assets/wealth.
3. **Contracted parties** – means persons contracted by NCCG to provide services and goods.
4. **EACC** – Ethics and Anti-Corruption Commission established by section 3 of the Ethics and Anti-Corruption Act 2011 pursuant to Article 79 of the Constitution.
5. **IEC**-Information, Educations and Communication.
6. **ITP** – Integrity Testing Programme.
7. **Intelligence**- shall mean processed information that can be shared on mutual basis by the parties.
8. **Investigations**- shall mean inquiries into a complaints, report or information on commission or omission of an act specifically prohibited by the law or regulations enforceable by the two parties.
9. **Lifestyle Audit**- shall mean study of staff's living standards to see if it is consistent with their reported income.
10. **NCCG** – means Nairobi City County Government.
11. **MOU** – means this agreement between the two Parties.
12. **Oversight Committee** – the Chairperson of the EACC and Governor of NCCG and comprises their appointed officers.
13. **Parties** – means EACC and NCCG.





14. **Prevention-** Corruption prevention is detection and elimination of the causes and conditions of corruption.
15. **Secretariat** - Comprises of the technical officers and contact persons from the two agencies.
16. **Staff** - means an employee of NCCG.
17. **Vetting**- means a process of determining the suitability of a NCCG employee on account of competence, integrity and ethics.



MEMORANDUM OF UNDERSTANDING BETWEEN THE  
ETHICS AND ANTI-CORRUPTION COMMISSION (EACC)  
AND THE NAIROBI CITY COUNTY GOVERNMENT (NCCG) ON  
COMBATING AND PREVENTING CORRUPTION, ECONOMIC  
CRIME AND UNETHICAL PRACTICES AT NCCG

PARTIES

This Memorandum of Understanding (MOU) is entered into this  
16<sup>th</sup> day of August, 2013 between:-

A. The Nairobi City County Government, established pursuant to Article 176(1) of the Constitution, hereinafter referred to as "NCCG" which expression shall where the context permit include its successors in title;



AND

B. Ethics and Anti-Corruption Commission, a Commission established pursuant to Article 79 of the Constitution of Kenya 2010 and operationalized under the Ethics and Anti-Corruption Commission Act, No. 22 of 2011, hereinafter referred to as "EACC" which expression shall where the context permit include its successors in title.

PREAMBLE

The objective of this MOU is to establish, strengthen and operationalize a cooperation framework between the parties on:



- 
- 
1. Combating and preventing corruption, economic crime and unethical practices;
  2. Promotion of ethics and integrity; and
  3. Creating a mutually beneficial relationship that will assist in controlling corruption, economic crime and unethical conduct in management of the affairs of the NCCG.

This MOU therefore sets out the framework and modalities for collaboration between EACC and NCCG.

WHEREAS EACC and NCCG are bodies corporate with different mandates, both parties recognize that combating and preventing corruption, economic crime and unethical practices is critical and mutually beneficial to both parties and the country at large.

**RECOGNIZING:**

1. The importance of integrity among officers under the employ of NCCG which is entrusted to provide public services to citizens, investors and other stakeholders within Nairobi County;
2. That the negative effects and cost of corruption are certainly considerable and that corruption has detrimental effects on staff morale and discharge of public services at the NCCG and the Kenyan economy in general;
3. That perceived failures in addressing corruption quickly and effectively will erode public trust in the NCCG;
4. Given the unique position of Nairobi as the Capital City of Kenya, the tolerance of corruption in NCCG could negatively impact on devolution in general and development of the county and NCCG in particular; and





5. That EACC has the constitutional and legal mandate to combat corruption and unethical practices in Kenya, and has the expertise and experience in investigation and prevention of corruption and unethical conduct.

**THE PARTIES HEREBY AGREE TO COLLABORATE**, and cooperate under the terms and conditions set forth in this Memorandum of Understanding herein.

**Article 1**  
**PURPOSE AND SCOPE OF THE MOU**

The purpose of this MOU is to set out a Framework of cooperation between EACC and NCCG in the prevention, detection and punishment of corruption and economic crime and ensure improvement of service delivery in the County.

**Article 2**  
**AREAS OF COLLABORATION**

**NOW, THEREFORE**, the parties on the basis of mutual respect, equality and mutual benefit intend, as appropriate and within the scope of their respective mandates, to undertake to co-operate closely and consult with each other on a regular basis and therefore agree on the following:

**2.1 Corruption Prevention and Capacity Building**

To enhance effectiveness and efficiency in service delivery, inculcate attitude and behaviour change, and enhance an ethical



culture, the Parties shall collaborate in the following areas among others:

### *2.1.1 Systems Review, Advisories, Training and Awareness*

- a. Undertake systems reviews and audit of NCCG;
- b. Sensitization and awareness on corruption and attitude change for staff and stakeholders;
- c. Joint specialized training on specific areas on leadership, integrity, ethics, anti-corruption and good governance among others for EACC and NCCG staff;
- d. Development and dissemination of Information Education Communication (IEC) materials on areas of mutual concerns;
- e. Capacity building on corruption risk assessments; and
- f. Benchmark best practices in integrity and ethics for NCCG including setting up Integrity Award Scheme, Anti -corruption committees and mainstreaming corruption prevention strategies in the county government.

### *2.1.2 Vetting*

The objective of vetting shall be to assess an individual's suitability for employment or continued employment with NCCG.

The parties shall collaborate in the development and application of an appropriate vetting framework.

### *2.1.3 Lifestyle Audits and Asset Recovery*

The objective of the lifestyle audits shall be to detect and deter corrupt practices and recover unexplained assets.





Collaboration will entail developing a framework; building capacity; and undertaking lifestyle audits for NCCG staff.

## 2.2 Detection and Investigation of Corruption

### 2.2.1 Investigations

The parties shall establish mechanisms for synergy in conducting investigations and enabling successful prosecution of corruption offences and economic crimes at two levels:

- a. Investigations on corruption offences and economic crime as per the EACC mandate; and
- b. Internal investigations targeting members of staff who engage in corruption and economic crimes.

### 2.2.2 Intelligence Gathering

Intelligence is a critical element in fighting corruption and enhancing compliance with anti-corruption laws and the parties shall collaborate at three levels:

- a. Intelligence gathering geared on detection of corruption and economic crimes;
- b. Intelligence gathering on corruption and economic crimes and unethical behaviour by staff members and clients of NCCG; and
- c. Intelligence gathering to support life style audits and investigations on NCCG staff and contracted agents or parties.





### *2.2.3 Integrity Testing Programme*

The EACC and NCCG shall carry out joint Integrity Testing Programme on allegations of corruption and economic crimes, and unethical practices by employees of the NCCG. The objectives of integrity testing are to:

- a. Determine whether or not a particular officer is likely to engage in corrupt and unethical practices;
- b. Deter NCCG officers from engaging in corruption by increasing the actual and perceived risk of being detected;
- c. Encourage NCCG officials to disclose and report instances when they are exposed to or tempted to engage in corruption and other unethical conduct;
- d. Identify and address systemic weakness and loopholes in operations and service delivery; and
- e. Identify and recognize officers of integrity.

### *2.2.4 Exchange of Information and Disclosure*

There shall be, for purposes of implementation of this MOU, constant consultations and exchange of information and disclosures on areas of mutual interest.

### *2.3 Remedial Measures and Punishment*

The parties shall collaborate in:

- a. Enabling successful prosecution of investigated cases,
- b. Asset recovery;
- c. Effective administrative action on cases of corruption and unethical conduct; and
- d. Any other action intended to facilitate punishment and appropriate remedial action.



provided that each party shall ensure that such officers must be persons of high integrity.

- 3.4 The Secretariat shall implement the decisions of the Oversight Committee and provide periodic reports on implementation progress. The Secretariat shall submit reports on a quarterly basis to the oversight Committee.
- 3.5 The parties shall designate contact persons to facilitate communication between the parties.

#### Article 4

#### FUNDING OF ACTIVITIES UNDER THE MOU

Each party shall bear the costs of implementing the MOU.

#### Article 5

#### MONITORING AND EVALUATION FRAMEWORK

The two parties shall agree on terms of monitoring and evaluation of the programmes in the collaboration framework. Evaluations to assess progress and impact of the collaboration shall be conducted periodically as agreed upon by the parties.

#### Article 6

#### COMMUNICATION

Communication to the public on matters relating to the implementation of this MoU and the outcomes thereto may be done jointly through a communiqué.





#### Article 7

#### DISPUTE RESOLUTION

Where difficulties, disagreements or doubts arise between the parties regarding the implementation or interpretation of this MoU, the Oversight Committee shall endeavor to resolve the matter by mutual agreement. The Oversight Committee will facilitate communication between the parties on any matter affecting the implementation of the MoU.

#### Article 8

#### REVIEW AND AMENDMENTS OF THE MOU

If any party to this MoU desires that there be an amendment/review of the provisions set forth herein, then such party shall communicate formally to the other party indicating the area(s) for review.

The Oversight Committee shall meet to consider and provide direction on the proposed amendments/review. If agreed upon, then such amendments/review shall be incorporated into the MoU and signed by the parties.

#### Article 9

#### COMMENCEMENT AND TERMINATION

##### 9.1 Commencement

This MoU comes into force and shall bind each party from the date of signature.

**9.2 Termination**

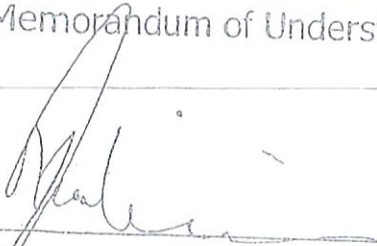
In the event that termination of this MoU is sought, the Party seeking to terminate this MoU shall serve a notice of intention to terminate in writing, to the other Party. The Oversight Committee shall meet to consider the request and give direction. In the case where termination is agreed upon, then such termination shall become effective on the first day of the third month following the date of agreement.

**Article 10**

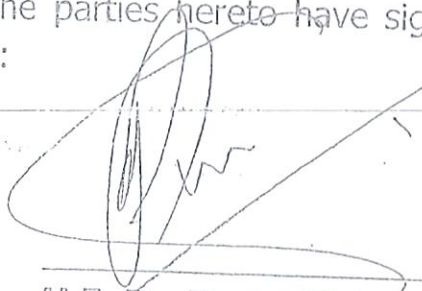
**INVESTIGATIONS BY EACC UNDER ACECA, EACC ACT, LEADERSHIP AND INTEGRITY ACT**

The provisions of this MoU shall not in any way affect or override any investigations that EACC may lawfully initiate against any person in the service of NCCG in the discharge of its mandate under the Anti-Corruption and Economic Crimes Act (ACECA), Ethics and Anti-Corruption Commission Act, No. 22 of 2011 or under any relevant laws.

IN WITNESS WHEREOF the undersigned, being the duly authorized representatives of the parties hereto have signed this Memorandum of Understanding:



Mumo Matemu, MBS  
CHAIRPERSON  
ETHICS & ANTI-CORRUPTION  
COMMISSION



H.E. Dr. Evans Kidero  
GOVERNOR  
COUNTY GOVERNMENT OF  
NAIROBI

DATE. 16<sup>th</sup> Dec 2013

DATE. 16<sup>th</sup> Dec 2013





Witnessed by:

For EACC:

*[Handwritten signature]*

Name:

H. D. WAQO

Designation

SEC/CEO

DATE.....

16/12/2013

For: NCCG

*[Handwritten signature]*  
LILIAN W. HOEWA

Name:

*[Handwritten signature]*

Designation

COUNTY SECRETARY

DATE.....

16/12/13

END