



THE ETHICS AND ANTI-CORRUPTION COMMISSION

**THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM
1ST OCTOBER 2022 TO 31ST DECEMBER 2022**

DECEMBER, 2022

PREAMBLE

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

Section 36 of ACECA provides that:

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

This report is therefore made pursuant to section 36 of ACECA. The report covers the fourth quarter and is for the period commencing 1st October 2022 to 31st December 2022.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER 2022 TO 31ST DECEMBER 2022

1. EACC/FI/INQ/18/2020

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES AND CONFLICT OF INTEREST IN THE AWARD OF PUBLICITY TENDERS BY COUNTY GOVERNMENT OF MURANG'A TO M/S TOP IMAGE MEDIA CONSULTANCY LTD IN THE FINANCIAL YEAR 2014/2015 AND 2015/2016

The Commission commenced investigations following allegations of procurement irregularities and conflict of interest in the award of publicity tenders by the County Government of Murang'a to Top Image Media Consultancy Ltd in the Financial Years 2014/2015 and 2015/2016 amounting to Kshs. 140,000,000.

Investigations established that the framework contract was awarded through a process that was not competitive and that Top Image Consultancy Ltd. was favoured through a direct procurement process that was not approved by the Tender Committee. Investigations established that the beneficiaries of the money from Murang'a County Government to Top Image Consultants Ltd included the former Governor, his relatives as well as some of the County Government officials.

On 28th November, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the former Governor, Directors of Top Image Consultants Ltd, wife to the former Governor and the Director of Value view Ltd, the brother in law to the former Governor, the Personal Assistant (PA) to the former Governor and the County Secretary with the following offences: conspiracy to commit an offence of corruption contrary to Section 47A(3) as read with Section 48 of ACECA; charge the County Secretary with the offence of abuse of office contrary to Section 46 as read with Section 48 of the ACECA,; charge the Directors of Top Image Consultants Ltd with the offence of unlawful acquisition of public property contrary to Section 45 (1) (a),; charge the Governor with 3 counts of conflict of interest contrary to Section 42 (3) as read with Section 48 of ACECA,; charge the Governor with 2 counts of dealing with suspect property contrary to

Section 47 (2) (a) as read with Section 47 (1) and 48 of ACECA,; charge the former Governor and the Directors of Value View Ltd and Top Image Media Consultants Ltd with 3 counts of money laundering contrary to Section 3 as read with Section 16 of the Proceeds of Crime and Anti-Money Laundering Act,; charge the PA to the former Governor with the offence of conflict of interest contrary to Section 42 (3) as read with Section 48 of ACECA.

Awaiting DPP's response.

2. EACC/FI/INQ/1/2022

INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF COUNTY GOVERNMENT OF WEST POKOT BURSARY EDUCATION AND INFRASTRUCTURE FUND AMOUNTING TO KSHS. 212 MILLION DURING THE PERIOD BETWEEN FINANCIAL YEARS 2017/2018 AND 2021/2022

The Commission commenced investigations upon receipt of a complaint on allegations of embezzlement of West Pokot Bursary, Education and Infrastructure Funds amounting to Kshs. 212 million during the period between the Financial Years 2017/2018 and 2021/2022.

Investigations revealed that the County Bursary Education Development and Infrastructure Committee (CBC) was never established but the members assumed the role of CBC members. That the CBC never approved any cash withdrawals other than granting bursaries to needy students during the period of investigation. Investigations established that false minutes of meetings were prepared for the county bursary and ward appraisal.

Investigations established that the requests for approvals, memos, payment vouchers and payment schedules to withdraw funds from the Bursary Fund Account to cater for specific activities were approved and falsified by the suspects. Investigations established that the signatures on the cheques belonged to the suspects who were the signatories to the accounts. Investigations established that most of the activities indicated in the documents did not take place and yet money was paid out.

On 14th November, 2022, a report was compiled and forwarded to the DPP with recommendation: to charge the then Chief Officer, Education, Director for Bursary and Bursary Coordinator with the offence of conspiracy to commit an offence of corruption contrary to Section 47A (3) of ACECA; 2 counts of fraudulent acquisition of public property contrary to Section 45 (1) (a) of ACECA against the then Chief Officer, Education and Director for Bursary; wilful failure to comply with applicable procedures and guidelines relating to management of funds contrary to Section 45 (2) (b) of ACECA against the then Chief Officer, Education; wilful failure to comply with the law relating to procurement contrary to Section 45 (2) of ACECA against the then Chief Officer, Education; abuse of office contrary to Section 46 of ACECA against the then Chief Officer, Education and the Director for Bursary; 4 counts of making false documents contrary to Section 347 of the Penal Code against the then Chief Officer, Education and Director for Bursary; 2 counts of false accounting by a public officer contrary to section 331 of the Penal Code.

Awaiting DPP's response.

3. EACC/FI/INQ/43/2021

INQUIRY INTO ALLEGATIONS OF CORRUPTION AND MISAPPROPRIATION OF PUBLIC FUNDS AT NATIONAL SOCIAL SECURITY FUND (NSSF) THROUGH IRREGULAR AWARD OF TENDER NO. 25/2020/2021 FOR SUPPLY AND INSTALLATION OF BULK FILER AWARDED TO BELDAVO ENTERPRISES LIMITED

The Commission commenced investigations following a report on allegations of procurement irregularities in the tender no. 25/2020/2021 for the supply and installation of bulk filer awarded to Beldavo Enterprises Ltd in the Financial Year 2020/2021 at a tender sum of Kshs. 47,761,840.

Investigations established that the requisition complied with the provisions of the law. Investigations established that Beldavo Enterprise Ltd did not meet the technical evaluation criteria as set out in the standard tender document and thus ought to have been disqualified at the technical stage of evaluation. Members of the Evaluation Committee failed to follow the evaluation criteria in the tender document.

Investigations established Beldavo Enterprises Ltd presented copies of documents to NSSF that were forged purporting to be genuine documents issued by various institutions thereby fraudulently acquired public property amounting to Kshs. 23,415,490 as a result of the tender awarded to them by NSSF.

On 4th October 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee members, Acting Procurement Manager and the Directors of Beldavo Enterprises Ltd with the following offences: conspiracy to commit an offence of corruption contrary to Section 47A(3); deceiving principal contrary to Section 41(2) against the Ag. Procurement Manager; wilful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to Section 45 (2) (b) against the Evaluation Committee; 2 counts of conflict of interest contrary to Section 42(3) against the Head of Procurement and the Procurement Officer; 2 counts of fraudulent acquisition of public property contrary to Section 45 (1)(a) against the Directors of Beldavo Enterprises Ltd, all as read with Section 48 of ACECA; 2 counts of fraudulent practice contrary to Section 66(1) as read with Section 66(2) of the Public Procurement and Disposal Act, 2015 against the Directors of Beldavo Enterprises Ltd; forgery contrary to Section 349 as read with Section 345 of the Penal Code and uttering a false document contrary to Section 353 of the Penal Code against the Directors of Beldavo Enterprises Ltd.

Awaiting DPP's response

4. EACC/NYR/FI/INQ/18/2021

INQUIRY INTO ALLEGATION OF IRREGULAR PROCUREMENT AND CONFLICT OF INTEREST AGAINST THE FORMER DEPUTY GOVERNOR KIRINYAGA COUNTY IN THE AWARD OF TENDER NO CGK/TR&PW/OT/007/2017-2018 TO KANJA GENERAL MERCHANTS LTD BY THE COUNTY GOVERNMENT OF KIRINYAGA

The Commission commenced investigations following a report that the former Deputy Governor for Kirinyaga County was associated with several companies that had been awarded tenders in Kirinyaga County. The particular allegation was

that he was associated with Kanja General Merchants that had been awarded the tender in issue and paid for the same.

Investigations established that Kanja General Merchants submitted false documents for the tender with intention to defraud Kirinyaga County Government of Kshs. 7,177,186.80.

Investigations established that the former Deputy Governor held a private interest in the contract by receiving money from Kanja General Merchants a company that belonged to his sisters.

On 11th October 2022, a report was compiled and forwarded to the DPP with recommendations to charge the former Deputy Governor and the Directors of Kanja General Merchants with the following charges: fraudulent acquisition of public property contrary to Section 45 (1) (a) against the Director of Kanja General Merchants Ltd; knowingly holding an indirect private interest in a contract connected with a public body contrary to Section 42 (3) against the Deputy Governor, Kirinyaga County Government, all as read with Section 48 of ACECA; fraudulent practice in a procurement process contrary to Section 66(10) as read with Section 177 of the Public Procurement and Disposal Act, 2015 against the Directors of Kanja General Merchants.

On 16th January 2023 the DPP returned the file with recommendations for further investigations.

5. EACC/MSA/FI/INQ/10/2017

INQUIRY INTO ALLEGATION THAT GOVERNMENT OFFICIALS IN THE LAND REGISTRY OFFICES IN MOMBASA AND NAIROBI FORGED TITLE DEED FOR A LAND PARCEL NO. KWALE/GALUKINONDO/50 BELONGING TO A PRIVATE INDIVIDUAL AND TRANSFERRED IT TO ANOTHER INDIVIDUAL

The Commission commenced investigations following a complaint about the fraudulent transfer of land known as Kwale/ Galu Kinondo/50 to a third party without the rightful registered owner's knowledge or involvement.

Investigations established that the owner bought the parcel of land known as Galu Kinondo/50 and was issued with a title deed on 21st May 1981. In 1996, the owner charged the said parcel of land to Daima Bank Ltd. Investigation revealed that the alleged third party purchaser occupied the land and was constructing a six-storey building said to be a hotel.

Investigations established that the then Land Registrar, Kwale Land Registry the third party purchaser, an advocate and another person facilitated the subject fraudulent transfer of land.

On 2nd December, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the said Land Registrar, the third party purchaser, an advocate and the other person with the following offences: the Land Registrar with 1 count of abuse of office contrary to Section 46 as read together with Section 48 of ACECA and 1 count of forgery contrary to Section 351 of the Penal Code; charge the Land Registrar, the third party purchaser, the advocate of the High Court of Kenya and the other person with conspiracy to defraud contrary to Section 317 of the Penal Code.

Awaiting DPP's response.

6. EACC/KSI/FI/INQ/8/2018

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES AND MISAPPROPRIATION OF PUBLIC FUNDS BY THE COUNTY ASSEMBLY OF NYAMIRA

The Commission commenced investigations following receipt of an anonymous complaint. It was alleged that Nyamira County Assembly had irregularly awarded a tender to Jetta Construction Company Ltd for construction of the Assembly block. It was further alleged that the tender was varied upwards to Kshs 379 million from Kshs. 330 million.

Investigations established that the procurement of works for the said project was initiated in accordance with the PPADA. However, the Evaluation Committee unprocedurally recommended award of tender to Jetta Builders Ltd for the construction of the County Assembly Office block despite not being the lowest

bidder and using criteria that was unlawful being a percentage deviation from the Engineer's estimates and arithmetic errors. Investigations further revealed that during construction there was a collapse of the canopy. This was due to poor workmanship and the inactions of the Director, Roads and Structures in not ensuring that the structure of the canopy was structurally sound.

Investigations established that the payment certificates issued by the project implementation team through the project manager did not include the works of the collapsed canopy. That despite the collapsed section of the office block the contract sum was not varied.

On 2nd December, 2022 a report was prepared and forwarded to the DPP with recommendation to charge the Clerk of the County Assembly of Nyamira with the offence of wilful failure to comply with the applicable procedures and guidelines relating to procurement and tendering of contracts contrary to Section 45 (2) (B), 1 count of abuse of office contrary to Section 46 of ACECA as read with Section 48 of ACECA, 1 count of neglect of official duty by a public officer contrary to section 128 of the Penal Code; the Tender Evaluation Committee with wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) of ACECA; 1 count of abuse of office contrary to Section 46 of ACECA and the Director Roads and Structures with 1 count of neglect of official duty by a public officer contrary to section 128 of the Penal Code.

Awaiting DPP's response.

7. EACC/MCKS/FI/INQ/04/2016
INQUIRY INTO ALLEGATIONS THAT MACHAKOS COUNTY GOVERNMENT
IRREGULARLY AWARDED TENDER FOR DESILTING OF MARUBA DAM TO WAKI
CLEARING AND FORWARDING AGENTS LIMITED

The Commission commenced investigations following a report that Machakos County Government irregularly awarded tender for desilting of Maruba Dam to Waki Clearing and Forwarding Agents Ltd. It was further alleged that Kshs. 89,001,000 was paid out to Waki Ltd after the company was awarded the tender

despite the fact that no work was done on the dam and that the company belonged to the Chief Officer, Ministry of Water Machakos County.

Investigations established that desilting of Maruba dam was not captured explicitly in the procurement plan contrary to the procurement procedures. It was established that the procuring entity did not follow the rules and guidelines for preparation of tender documents. The tender documents revealed that there were no standard specifications on required procedures or the quality of the finished works especially on the desilting works, compaction and the fencing.

Investigations established that the Chief Officer who was the Accounting Officer for the Machakos County Water Department entered into a contract with Waki Ltd before the lapse of 14 days after the issuance of notification for the tender.

Investigations revealed that the works carried out did not in any way increase the storage capacity of the dam since none of the excavated areas lay inside the dam's flood plain and no value was obtained from the expenditure.

On 2nd December, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Officer with 2 counts of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) of ACECA, a count of abuse of office contrary to Section 46 of ACECA, and a count of wilful failure to comply with the law relating to management of public property contrary to Section 45 (2)(b) of ACECA , and the contractor with an offence of fraudulent acquisition of public property contrary to Section 45 (1) (a), all as read with Section 48 of ACECA.

Awaiting DPP's response.

8. EACC/MSA/FI/INQ/04/2020

INQUIRY INTO ALLEGATIONS OF CORRUPTION AT THE COUNTY GOVERNMENT OF TAITA TAVETA AMOUNTING TO KSHS. 12,458,990 FOR IMPREST ADVANCE TO A FORMER TAITA TAVETA COUNTY GOVERNMENT EMPLOYEE BETWEEN THE YEARS 2016 AND 2017

The Commission commenced investigations following a complaint received on 18th August 2020 on allegation of failure to surrender outstanding imprest of Kshs 12,458,990 by a Taita Taveta County Government employee. It was alleged that the said Officer who has since exited the County failed to respond to a County letter requiring him to urgently refund the outstanding debt.

Investigations discovered four additional imprest warrants for Kshs. 9,530,181 and a payment voucher for Kshs. 2, 012,260 that were not surrendered.

Investigations established that the Officer raised imprests for fictitious events. That he would attach payment schedules indicating payment of allowances to officers who did not attend the events or sign the schedules. Investigations revealed that the Accounting Officers authorized imprest warrants and even certified that the imprest holder did not have any outstanding imprests.

On 21st December 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Director Political Affairs with offences of abuse of office contrary to Section 46 of ACECA, fraudulent acquisition of public property contrary to Section 45 (1) (a) of ACECA, deceiving principal contrary to Section 41 (2) as read with Section 48 of ACECA and concealing information on public finances contrary to Section 198 (c) as read with Section 199 of the Public Finance Management Act; charge the Chief Finance Officer with the offence of wilful failure to comply with the law relating to incurring expenditure contrary to Section 45 (2) (b) as read with Section 48; charge the Interim County Secretary with the offence of wilful failure to comply with the law relating to incurring expenditure contrary to Section 45 (2) (b) as read with Section 48; charge the Director Political Affairs and Interim County Secretary with 3 counts of conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48 of ACECA

Awaiting DPP's response.

9. EACC/MCKS/FI/INQ/29/2019

INQUIRY INTO ALLEGATIONS THAT THE COUNTY COMMISSIONER, MAKUENI COUNTY ENGAGED IN DISPOSAL IRREGULARITIES FOR DISPOSAL OF ISUZU LORRY AND LAND ROVER CARAVAN

The Commission commenced investigations following a report on allegations that the office of the County Commissioner Makueni County engaged in an irregular disposal of assets process vide tenders for disposal of Isuzu Lorry and Land Rover Caravan.

Investigations established that the County Commissioner appointed six officers to participate in a board of survey. The terms of reference was for the team to visit all the sub counties and come up with a report on disposable of assets in Makueni County. The team recommended open tender as the preferred method of disposal and they indicated the estimated resale value/reserve prices for each of the assets identified.

Investigations revealed that the disposal process was properly initiated. The investigations revealed that the Tender Opening Committee members were the same constituted as the Evaluation Committee members contrary to the PPADA. However, this was attributed to lack of staff capacity at the office.

Investigations revealed that during evaluation the requirement for one to attach a copy of an ID was not expressly indicated in the bid document. Further, it was revealed that the County Commissioner made a decision to award without the guidance of a professional opinion. Save for the foregoing concerns the two vehicles were sold at a price higher than the set reserve and that there was no loss of public funds

On 2nd December, 2022 a report was compiled and forwarded to the DPP with recommendation that the file be closed for lack of sufficient evidence and an advisory be issued to the procuring entity to fully comply with the laws and regulations relating to disposal of public assets.

Awaiting DPP's response

10. EACC/KSM/EL/INQ/3/2016

INQUIRY INTO ALLEGATIONS OF FORGERY OF CERTIFICATES AGAINST THE ASSISTANT CHIEF OF SHAMONI WARD WITHIN KAKAMEGA COUNTY

The Commission commenced investigations following a report received on 13th September 2016 pertaining to the irregular recruitment of the Assistant Chief of Shamoni Sub- location within Kakamega County.

Investigations established that the Diploma in Business Management attained in December 2007 from Rewarding College was not a valid document, as the Institution had not been registered then as per the Education Act.

On 11th October 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Assistant Chief with the following offences: 3 counts of forgery contrary to Section 345 and 2 counts of uttering a false document contrary to Section 353 of the Penal Code.

On 20th December, 2022 the DPP returned the file with recommendations for further investigations.

11. EACC/NKR/EL/INQ/8/2019

INQUIRY INTO ALLEGATIONS THAT MEMBERS OF THE BOMET COUNTY PUBLIC SERVICE BOARD IRREGULARLY EMPLOYED THEIR RELATIVES AND THAT THE CANDIDATES USED FORGED ACADEMIC CERTIFICATES TO SECURE EMPLOYMENT

The Commission commenced investigations following a report that members of Bomet County Government Public Service Board had employed their relatives without advertisement, no declaration of vacancies and that the approval of the County Secretary was not obtained.

Investigations established that the Board members did not employ their relatives within Bomet County. Investigations established that both the Protocol Assistant and Clerk are employees with Bomet County Government. That both employees forged their secondary school certificates as confirmed by Kenya National Examination Council. Investigations further established that the Diploma of Education Degree from Kisii University presented by the Protocol Assistant was not

authentic. Investigations established that both employees were employed by the county by relying on the forged documents presented to it. That they both received salaries after being employed by the County. The said salary thus paid to them amounts to fraudulent acquisition of public property.

On 4th October 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Protocol Assistant and the Clerk with the following offences: 2 counts of deceiving a public entity contrary to Section 46(1) (b) as read with Section 46(2) of the Leadership and Integrity Act, 3 counts of forgery contrary to Section 349 of the Penal Code, 3 counts of uttering a false document contrary to Section 353 of the Penal Code and 2 counts of fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA,

Awaiting DPP's response

12. EACC/EL/INQ/15/2020

INQUIRY INTO ALLEGATIONS OF FORGERY OF DEGREE CERTIFICATE IN BACHELOR OF PUBLIC ADMINISTRATION AND A DIPLOMA CERTIFICATE FROM COMMUNITY CONCERN TRAINING INSTITUTE AGAINST THE DIRECTOR SOCIAL SERVICES AT THE COUNTY GOVERNMENT OF GARISSA

The Commission commenced investigations upon receipt of an anonymous report that a Director of Social Services at the County Government of Garissa forged his academic certificates and used them to apply to join the entity.

Investigations established that the Director of Social Services was employed by the Garissa County Government. It was established that the degree certificate allegedly issued from University of Nairobi is forged. That the Certificate in County Administration and Diploma in Public Administration from Community Concern Training Institute are from an institution that is neither registered nor lawfully existent in Kenya. Investigations established that the employee received salaries after he was employed by the County upon relying on the forged documents presented to it. The said salary thus paid to the Director amounts to fraudulent acquisition of public property.

On 3rd October, 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Director, Social Services with the following offences: fraudulent acquisition of public property contrary to Section 45 (1) (A) of ACECA, providing false information to a public entity contrary to Section 46 (1)(d) as read with Section 46 (2) of the Leadership and Integrity Act, 2 counts of forgery contrary to Section 345 of the Penal Code, 3 counts of uttering a false document contrary to Section 353 of the Penal Code.

On 24th November 2022 the DPP returned the file with recommendations for further investigations.

13. EACC/EL/INQ/29/2021

INQUIRY INTO ALLEGATIONS OF FORGERY OF DEGREE CERTIFICATE IN BACHELOR OF SCIENCE IN ELECTRICAL AND ELECTRONIC ENGINEERING FROM JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY (JKUAT) AGAINST THE MEMBER OF PARLIAMENT, KIMILILI CONSTITUENCY

The Commission commenced investigations following a report that the Member of Parliament forged a degree certificate from JKUAT and a Diploma in Electrical Engineering from Kenya Power.

Investigations established that the Elected Member of Parliament representing Kimilili Constituency is a state officer. It was established that he was never admitted at JKUAT. It was established that the degree certificate for Bachelor of Science in electrical and Electronic Engineering allegedly issued from JKUAT is forged. That he used the degree certificate to obtain registration as a graduate engineer by the Engineers Registration Board.

On 5th October, 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament with the following offences: forgery contrary to Section 349, uttering false documents contrary to Section 353, giving false information to a person employed in the public service contrary to Section 129(a), obtaining registration by false pretence contrary to section 320 all of the Penal Code, and false registration contrary to Section 44 (1) of the Engineers Act.

On 24th November 2022 the DPP returned the file with recommendations for further investigations.

14. EACC/EL/INQ/31/2018

INQUIRY INTO ALLEGATIONS OF FORGERY OF KCSE CERTIFICATE AND FRAUDULENT TAX EXEMPTION AFTER FRAUDULENTLY OBTAINING DISABILITY CERTIFICATE AGAINST AN EMPLOYEE OF KENGEN

The Commission commenced investigations upon receipt of a complaint that there are staff who received tax exemptions from KRA after obtaining disability certificates from the office of the National Council of Persons with Disabilities, whereas they were not disabled.

Investigations revealed that the KENGEN employee had no history of disability or incident of accident. Further, the investigations established that upon authentication by Kenya National Examination Council (KNEC) it was found that the KCSE Certificate and result slip for this employee, were forged.

On 3rd October, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the employee with 2 counts of forgery contrary to Section 345 as read with Section 349 of the Penal Code, 2 counts of uttering a false document contrary to Section 353 of the Penal Code and 1 count of fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA.

On 15th December 2022 the DPP returned the file with recommendations for further investigations.

15. EACC/EL/INQ/5/2020

INQUIRY INTO ALLEGATIONS THAT THE DEPUTY CHIEF PROTOCOL OFFICER USED FORGED ACADEMIC CERTIFICATES TO GAIN EMPLOYMENT AT THE COUNTY GOVERNMENT OF GARISSA

The Commission commenced investigations upon receipt of an anonymous report that the Deputy Chief Protocol Officer in the Department of County Affairs at the

County Government of Garissa used forged diplomas from Technical University of Mombasa to apply for employment.

Investigations established that the Deputy Chief Protocol Officer was employed by the County Government of Garissa. Investigations revealed that the KCSE certificate presented to KNEC for authentication for the year 2006 at NEP Girls Secondary School was forged. That the leaving Certificate for Diploma in Procurement and Material Management from Technical University of Mombasa and the examination result slip were found to be forgeries. Investigations established that the employee received salaries after she was employed by the County upon relying on the forged documents presented to it. The said salary thus paid to the Deputy Chief Protocol Officer amounts to fraudulent acquisition of public property.

On 5th October, 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Chief Protocol Officer with the following offences: fraudulent acquisition of public property contrary to Section 45 (1) (A) of ACECA, deceiving the County Government of Garissa contrary to Section 46 (1)(b) as read with Section 46 (2) of the Leadership and Integrity Act, 3 counts of forgery contrary to Section 345 of the Penal Code, 3 counts of uttering a false document contrary to Section 353 of the Penal Code.

On 9th January 2023 the DPP returned the file with recommendations for further investigations.

16. EACC/EL/INQ/7/2020

INQUIRY INTO ALLEGATIONS OF FALSIFICATION OF ACADEMIC DEGREES AND SLDP CERTIFICATES AGAINST A FORMER EMPLOYEE OF MICRO AND SMALL ENTERPRISES AUTHORITY (MSEA) TO SECURE POSITION OF DIRECTOR –STRATEGY, PLANNING AND COORDINATION AT MSEA

The Commission commenced investigations upon receipt of a complaint that the Director, Corporate Strategy, Planning and Coordination at Micro and Small Enterprises Authority (MSEA) used forged Bachelor of Arts and Bachelor of Arts

(Economics) purportedly obtained from University of Nairobi to gain employment in the said institution.

Investigations established that the Director, Corporate Strategy, Planning and Coordination was employed by MSEA. Investigations revealed that both the Nairobi University Bachelor of Arts (economics degree, Second Class Honours (Upper Division) and Bachelor of Arts Degree, Second Class Honours (Upper Division) were not issued by the University of Nairobi and are therefore not authentic. Further, it was revealed that the SLDP Certificate was not issued by Kenya School of Government.

Investigations established that the employee received salaries and gratuity after he was employed by MSEA upon relying on the forged documents presented to it. The said salary thus paid to the Director, Corporate Strategy, Planning and Coordination amounts to fraudulent acquisition of public property.

On 5th October, 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Director, Corporate Strategy, Planning and Coordination with the following offences: fraudulent acquisition of public property contrary to Section 45 (1) (A) of ACECA, 4 counts of forgery contrary to Section 345 of the Penal Code, 4 counts of uttering a false document contrary to Section 353 of the Penal Code.

On 21st December 2022 the DPP returned the file with recommendations for further investigations.

17.EACC/EL/INQ/23/2021

INQUIRY INTO ALLEGATIONS THAT THE ASSISTANT INSPECTOR II USED FORGED DIPLOMA CERTIFICATE IN SUSTAINABLE AGRICULTURE & RURAL DEVELOPMENT FROM BARAKA AGRICULTURAL COLLEGE TO GAIN EMPLOYMENT AT KENYA PLANT HEALTH INSPECTORATE SERVICES (KEPHIS)

The Commission commenced investigations following a report from the Managing Director, Kenya Plant Health Inspectorate (KEPHIS) that an Assistant Inspector forged an academic certificate and used it to apply for employment at the entity.

Investigations established that the Assistant Inspector was employed by KEPHIS. Investigations revealed that the KCSE Certificate was forged. Investigations revealed that the Certificate of Training from Kilifi Institute of Agriculture and six terminal reports for year 2003/5 were forged. Further, investigations revealed that the Diploma Certificate from Baraka Agricultural College in Sustainable Agriculture & Rural Development and the examination result slips from the institution were forged.

Investigations established that the actions of using falsified academic certificates leading to employment and receipt of remuneration from a public entity amounted to fraudulent acquisition of public property on the part of the suspect.

On 3rd October, 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Assistant Inspector with the following offences: fraudulent acquisition of public property contrary to Section 45 (1) (A) as read with Section 48 of ACECA, 2 counts of providing false information to KEPHIS contrary to Section 46 (1) (d) as read with Section 46 (2) of the Leadership and Integrity Act, 2 counts of forgery contrary to Section 345 as read with section 349 of the Penal Code, 2 counts of uttering a false document contrary to Section 353 of the Penal Code.

On 1st December 2022 the DPP returned the file with recommendations for further investigations.

18. EACC/KSM/OPS/INQ/1/2020

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN OFFICE ASSISTANT AT NYANDO LAW COURTS

The Commission commenced after receiving a complaint on 24th January 2020 that a Court Clerk was requesting a financial advantage of Kshs. 30,000 so as to change the bond terms of an arrested person.

Investigations established that the suspect was employed a Senior Subordinate Staff by the Judiciary whose designation was later converted to an Office Assistant

II. Investigations established that a bribe demand of Kshs. 10,000/- was made by the suspect. A trap operation was planned and the suspect received trap money Kshs. 5,000/- from the complainant on 24th January 2020 upon which he was arrested.

On 11th October 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Officer with 4 counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

Awaiting DPP's response

19. EACC/MCKS/OPS/INQ/58/2017

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A POLICE OFFICER ATTACHED TO ATHI RIVER POLICE STATION

The Commission commenced investigations after receiving a complaint on 7th September 2017 that a Police Officer at Athi River Police Station was demanding a bribe in order to release a motor vehicle, which had been involved in an accident and was being detained at the Police Station.

Investigations established that a bribe demand of Kshs. 5,000/- was made by the suspect. A trap operation was planned and the suspect through a third party received the trap money Kshs. 5,000/- from the complainant on 7th September 2017 upon which the third party was arrested.

On 11th October 2022, a report was compiled and forwarded to the DPP with recommendations to charge the Police Officer and the third party with 2 counts of receiving a bribe contrary to Section 6 (1) (a) and assisting in bribery contrary to Section 13 (1) (a) all as read with Section 18 of the Bribery Act.

Awaiting DPP's response.

20. EACC/OPS/INQ/ 89/2021

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST A CASUAL WORKER AT THE TREASURY PENSIONS DEPARTMENT

The Commission commenced the investigations upon receipt of an anonymous complaint that a public officer working at the Treasury Pension Section Bima House, requested for a bribe of Kshs. 10,000 for retrieval of a file and an additional Kshs. 10,000 for the Officer in charge of payment and approval.

Investigations revealed that the suspect was employed in the Pension Registry Department between 14th July to 13th November 2020. That financial investigations conducted established that the monies she received were funeral contributions for the late husband when she was no longer working at the Pension Registry. That the complaint was made when the suspect was no longer working at the Pension Registry. The investigations did not establish that the suspect solicited, received or was offered a bribe,

On 9th November, 2022, a report was compiled and forwarded to the DPP with recommendation that the file be closed for lack of sufficient evidence.

Awaiting DPP's response

21. EACC/OPS/INQ/NYR/12/2019

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST THREE KENYA REVENUE AUTHORITY (KRA) OFFICERS.

The Commission commenced investigations after receiving a complaint on 8th March 2019 that three KRA officers stationed at Nyeri and Embu offices were demanding for a bribe in order to reduce tax arrears from Kshs. 2.5 million to Kshs. 500,000.

Investigation established that a bribe demand of Kshs. 1 million was made by the suspects. The complainants paid the bribe demanded of Kshs. 500,000 leaving a balance of Kshs. 500,000. The complainant made a further payment of Kshs. 50,000 leaving a further balance of Kshs. 450,000. A trap operation was planned and one of the suspects was arrested for receiving the treated bribe money amounting to Kshs. 450,000/-. The two other suspects were arrested later.

On 9th November 2022, a report was compiled and forwarded to the DPP with recommendations to charge the three KRA officers with conspiracy to commit an offence contrary to Section 47A (3) as read together with Section 48(1) of ACECA, receiving a bribe contrary to Section 6 (1) (a), and 3 counts of receiving a bribe contrary to Section 6 (1) (b) all as read with Section 18 of the Bribery Act.

On 21st December 2022 the DPP returned the file with recommendations for further investigations.

22. EACC/OPS/INQ/59/2021

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST THE CHIEF KAMULU LOCATION AND A VILLAGE ELDER WHO DEMANDED KSHS 30,000

The Commission commenced investigations after receiving a complaint that the Chief Kamulu Location and a village elder were requesting a financial advantage of Kshs. 30,000 in order to forbear shutting down the complainant's bar and restaurant business.

Investigations established that a bribe demand of Kshs. 20,000/- was made by the suspects. A trap operation was planned and the Chief was arrested before he could receive the trap money from the complainant.

On 21st December 2022, a report was compiled and forwarded to the DPP with recommendations to charge the suspects with conspiracy contrary to Section 47A as read with Section 48 of ACECA and 2 counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 1st February 2023 the DPP returned the file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

| | | |
|-----|--|-----------|
| 1. | Total No. of files forwarded to the Director of Public Prosecutions | 22 |
| 2. | No. of files recommended for prosecution | 20 |
| 3. | No. of files recommended for administrative or other action | - |
| 4. | No. of files recommended for closure | 2 |
| 5. | No. of files recommended for prosecution and the cases are already lodged before Court | - |
| 6. | No. of files where recommendation to prosecute accepted | - |
| 7. | No. of files where recommendation for administrative or other action accepted | - |
| 8. | No. of files where recommendation for closure accepted | - |
| 9. | No. of files returned for further investigations | 10 |
| 10. | No. of files where recommendation to prosecute not accepted | - |
| 11. | No. of files where recommendation for administrative or other action not accepted | - |
| 12. | No. of files where closure not accepted | - |
| 13. | No. of files where prosecution declined but administrative action recommended | - |
| 14. | No. of files awaiting the DPP's advice | 12 |

DATED AT NAIROBI THIS

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DAY OF

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2023

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**DR. MONICA MUIRU
INTERIM CHAIRPERSON**

/RG

[Signature]

**TWALIB MBARAK, GBS
SECRETARY/CHIEF EXECUTIVE OFFICER**