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THE ETHICS AND ANTI-CORRUPTION COMMISSION

THE 3<sup>RD</sup> QUARTERLY REPORT COVERING THE PERIOD FROM  
1<sup>ST</sup> JULY 2022 TO 30<sup>TH</sup> SEPTEMBER 2022

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| <br>THE NATIONAL ASSEMBLY<br>PAPERS LAID |   |
| DATE: 11 APR 2023   |   |
| DAY: WEDNESDAY  |   |
| TABLED BY:  | <i>Hon Owen Baya, MP<br/>Deputy leader - Majority</i> |
| CLERK-AT THE-TABLE:   | <i>Esther Ngunjiri</i>                                |

SEPTEMBER 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 THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003 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 THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003. The report covers the Third Quarter and is for the period commencing 1<sup>st</sup> July 2022 to 30<sup>th</sup> September 2022.

**1. EACC/MBSA/FI/INQ/16/2017**

**INQUIRY INTO ALLEGATION OF PROCUREMENT IRREGULARITIES IN THE AWARD OF TENDER NO CGK/064/2014/2015 FOR CONSTRUCTION OF KWALE COUNTY HEADQUARTERS AWARDED TO GREEN COUNTY CONSTRUCTION CO. LTD IN THE FINANCIAL YEAR 2014/2015 AMOUNTING TO KSH 462,197,054.88.**

The Commission commenced investigation following a report relating to allegations of procurement irregularities in the construction of Kwale County Headquarters in the Financial Year 2014/2015 vide tender no: CGK/064/2014/2015 amounting to Kshs 462,197,054.88/=. It was alleged that the tender was awarded to Green County Construction Company Ltd, which is associated with the former Member of Parliament (MP) for Mandera South and a former County Executive Committee Member (CECM).

Investigations established that there existed an indirect private interest on the part of the former Member of Parliament (MP) for Mandera South and the former County Executive Committee Member (CECM) in the payments made to Green County Construction Company Ltd.

It was established that Green County Construction Com Ltd was a proxy through which the suspects indirectly and directly acquired public funds fraudulently and that there is sufficient evidence to infer that the suspects were the beneficiaries of the public funds paid to Green County Construction Co Ltd.

Further investigations established that Green County Construction Company Ltd submitted fake documents/certificates in support of their bid to Kwale County Government purporting that they were genuine and issued by various institutions.

On 30<sup>th</sup> August 2022, a report was compiled and forwarded to the DPP with recommendations to charge jointly or severally the former MP for Mandera South and the former CECM at Kwale County, the Director of Green County Construction Company Ltd, County Engineer and a Statistician in the Ministry of Finance, Planning Department at Kwale County Government and members of the

Technical Evaluation Committee be charged with the following offences: conflict of interest contrary to Section 42(3), fraudulent acquisition of public property contrary to Section 45(1) a and wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; Uttering false documents contrary to Section 353 of the Penal Code; Fraudulent practice in procurement proceedings contrary to Section 41 as read with Section 137 of the Public Procurement and Disposal Act, 2005

On 28<sup>th</sup> October 2022, the DPP returned the inquiry file for further investigations.

## **2. EACC/KIS/FI/INQ/02/2016**

### **INVESTIGATION INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDER FOR RENOVATION OF MAGOMBO DISPENSARY AND ABUSE OF OFFICE BY THE OFFICIALS OF NYAMIRA COUNTY GOVERNMENT**

The Commission commenced investigations upon receiving a complaint that the County Government of Nyamira irregularly awarded tender for renovation of Magombo Dispensary to Liglas Investment Limited (Contractor) and made payment to the Contractor for works not done.

Investigations established that on 15<sup>th</sup> April 2015, Liglas Investment, a business entity owned by the Sub-County Administrator was awarded the tender for renovation of Magombo Dispensary at a contract sum of Kshs. 1,898,293.00/=. However, the Contractor did not undertake any works but was paid Kshs. 1,154,379.22/= being 60% of the contract sum.

Investigations established that the renovation works at the said Dispensary had earlier been done by another contractor following a tender award made on 11<sup>th</sup> January 2011 by the Kitutu Masaba Constituency Development Fund Committee and was paid a sum of Kshs. 2,900,000/=.

Further, it was established that the Contractor submitted fake documents in support of their bid, and that members of the Tender Evaluation Committee and other officials of the County Government of Nyamira colluded with the Contractor

in irregularly awarding the contract in contravention of the procurement laws and procedures.

On 21<sup>st</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations that: The Members of the Tender Evaluation Committee and the Head of Supply Chain be charged with wilful failure to comply with the law relating to procurement contrary to Section 45(2) (b); the Head of Supply Chain Management be charged with one count of abuse of office contrary to Section 46; Members Tender Evaluation Committee, the Head of Supply Chain Management, the Accounting Officer and the Contractor be charged with one count of conspiracy to commit a corruption offence contrary to Section 47 (A); the Proprietor of Liglas Investment be charged with failing to disclose a private interest to one's principal contrary to Section 42(1)(a) (b) , fraudulent acquisition of public property contrary to Section 45(1)(a) and fraudulent failure to pay taxes contrary to Section 45(1)(b) as read with Section 48 Section of the Anti-Corruption and Economic Crimes Act, 2003; Uttering false document contrary to Section 353 of the Penal Code; and Engaging in a fraudulent practice in procurement contrary to Section 41(1) as read with Section 41(4) of the Public Procurement and Disposal Act, 2005; the Chief Officer of Health be charged with one count of unauthorized spending of public money contrary to Section 196(1) as read with Section 196(6) of the Public Finance Management Act, 2012.

On 7<sup>th</sup> September 2022, the DPP returned the inquiry file for further investigations.

### **3. EACC/PI/INQ/11/2021**

#### **INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES AGAINST THE OFFICIALS OF THE GEOTHERMAL DEVELOPMENT CORPORATION (GDC) IN THE AWARD OF TENDER NO. GDC/ICT/RT/010/2014-2015 BEING TENDER FOR DESIGN, SUPPLY AND COMMISSIONING OF AN INFORMATION MANAGEMENT SYSTEM**

The Commission commenced investigation after receiving an allegation of procurement irregularities by Geothermal Development Company Officials in the award of tender number GDC/ICT/RT/010/2014-2015 for design, installation and

commissioning of an Information Management System (IMS) awarded to Tekno International Limited at a sum was at Kshs. 344,523,712/=.

Investigations established that ten (10) companies were invited to bid through restricted tendering. The Evaluation Committee recommended the award to Tekno International Ltd, which was approved by the Tender Committee. Further, it was established that Tekno International Limited was not in the list of prequalified suppliers for the financial year 2013-2015 and thus was ineligible for award of the tender. Investigations revealed that Tekno International Ltd did not supply the IMS as per the contract's specifications and that the parts of what was delivered was not functional hence the company was in breach of contractual obligations.

On 28<sup>th</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations to charge jointly or severally the Managing Director, Members of the Tender and the Evaluation Committees, Directors of Tekno International Ltd with the following offences: one count of conspiracy to commit an offence of corruption contrary to section 47(A) (3); one count of engaging in procurement without prior planning contrary to section 45 (2) (c) and three counts of wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti- Corruption and Economic Crimes Act, 2003;

Three counts of abuse of office contrary to section 46 and one count of fraudulent acquisition of public property contrary to section 45(1)(a); one count of dealing with suspect property contrary to section 47 as read with section 48(1) of the Anti-Corruption And Economic Crimes Act, 2003; one count of fraudulent practice in procurement proceeding contrary to section 41 (4) as read with section 137 of the Public Procurement and Disposal Act no. 3 of 2005; one count of Uttering false document contrary to section 353 as read with section 349 of the Penal Code.

The Commission awaits the response from the DPP.

#### **4. EACC/GSA/FI/INQ/27/2018**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PAYMENT OF KSHS. 107,481,060/- FOR THE CONSTRUCTION OF MANDERA COUNTY HEADQUARTERS IN THE FY 2013/2014**

The Commission commenced investigations upon receiving a complaint that Mandera County Government irregularly paid Green County Construction Company Ltd Kshs. 107,481,060/= for construction of the County Headquarters in the FY 2013/2014.

Investigations established that the County initiated a procurement for construction of the County Headquarters. The bids were duly processed and the tender awarded to Green County Construction Company Ltd (the Contractor) at a cost of Kshs. 290,230,790/=. That the Contractor submitted a forged bid bond from Cooperative Bank of Kenya and performance guarantee from Equity Bank Limited.

Investigations revealed that the Contractor stalled the project leading to termination of the contract. That the Consultant did valuation of the works undertaken by the contractor from beginning to the time of termination of the contract for purposes of final payment at Kshs 166,000,000/=. However the contractor was paid Kshs 204, 878,417.23/=.

Investigations established that the County lost about Kshs. 32,084,908/= in this project being the payment made over and above the actual cost of works as assessed by Officers from the State Department of Public Works. Further, it was established that the project was re-advertised and an award made to Bami Investments Limited for its completion.

On 28th July 2022, a report was compiled and forwarded to the DPP with recommendations that: Chief Officer for Roads, Public Works and Transport and the Chief Officer, Finance and Economic Planning be charged jointly with one count of abuse of office contrary to Section 46 ; one count of fraudulently making excessive payment from public revenue contrary to Section 42(2)(a); the Directors of Green County Construction Company and the Company, be charged with one count of unlawful acquisition of public property contrary to Section 45(1)(a) as read with Section 48(1) of the Anti-corruption and Economic Crimes Act, 2003 and two counts of fraudulent practice contrary to Section 44(1) of Public Procurement and Asset Disposal Act 2005.

On 16<sup>th</sup> September 2022, the DPP returned the inquiry file for further investigations.

## **5. EACC/MCKS/FI/INQ/10/2018**

### **INQUIRY INTO ALLEGATIONS THAT ABOUT KSHS. 14.8 MILLION HAD BEEN EMBEZZLED BY MACHAKOS COUNTY IN THE FINANCIAL YEAR 2018/2019 IN VARIOUS ACTIVITIES UNDERTAKEN THROUGH IMPREST.**

The Commission commenced investigations upon receiving a complaint that Kshs14.8 million was embezzled by the County Government of Machakos (Machakos County) in the financial year 2018/2019 in various activities undertaken through imprest.

Investigations established from original imprest vouchers, imprest surrender vouchers, cashbook and bank statements that close to Kshs. 14 million public funds were issued as imprest by Machakos County Officials for various activities in the FY2018/2019. The alleged activities included hiring of tents and seats, IT services and equipment, office expenses, maintenance of the Machakos people's park, fueling of motor vehicles, allowances and purchase of uniforms.

Investigations established that the Chief Officer for Decentralized Units approved the memos requesting for imprest for the activities. In addition investigations revealed that the said funds were misappropriated as they were not used for the intended purposes, part of the funds were never accounted for and forged receipts purporting to support the imprest surrender were submitted by the said officials.

On 23<sup>rd</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations that: Accounts Assistant in the County Executive be charged with two counts of fraudulent acquisition of public property contrary to Section 45 (1) (a) and one count of deceiving Principal contrary to Section 41 (2); Acting Director Machakos County Peoples Park be charged with one count of fraudulent acquisition of public property contrary to Section 45 (1) (a) and one count of deceiving Principal contrary to Section 41 (2); Assistant Director in-charge Operations and Administration Park be charged with one count of fraudulent acquisition of public property contrary to Section 45 (1) (a) and one count of deceiving Principal contrary to Section 41 (2); Transport Officer be charged with two counts of fraudulent acquisition of public property contrary to Section 45 (1)



(a) and one count of deceiving Principal contrary to Section 41 (2); Secretary Special Programs be charged one count of deceiving Principal contrary to Section 41 (2); Senior Accountant attached to the Decentralized Units be charged with two counts of fraudulent acquisition of public property contrary to Section 45 (1) (a) and one count of deceiving Principal contrary to Section 41 (2); Head of Inspectorate Department be charged with one count of fraudulent acquisition of public property contrary to Section 45 (1) (a); two Administrative Officers be charged with one count each of fraudulent acquisition of public property contrary to Section 45 (1) (a) and one count of deceiving Principal contrary to Section 41 (2) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003

The Commission awaits the response from the DPP.

#### **6. EACC/BGM/PI/INQ/1/2019**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT FOR THE CONSTRUCTION OF TOROSO PRIMARY SCHOOL DORMITORY AT A COST OF KSHS. 3.5 MILLION DURING THE FINANCIAL YEAR 2017/18 BY OFFICIALS OF MT. ELGON CDF.**

The Commission commenced investigations after receiving a report that officials of the Mt. Elgon CDF Committee engaged in Irregular procurement process for construction of a dormitory at Toroso Primary School at a cost of Kshs.3,500,000/=.

Investigations established after that the tender for the subject project was advertised, bids were received, opened, evaluated and the tender awarded to the Njakimje Enterprises at Kshs. 3,485,670/=.

Investigations established that during the evaluation process, the Evaluation Committee under the influence of the Mt. Elgon CDF Account Manager changed the quoted sum by Njakimje Enterprises from Kshs 5,485,670/= to Kshs. 3,485,670/= so as to fall within the allocated funds of Kshs. 3,500,000/= which was contrary to the Procurement law.

Investigations established that the resulting contract for the subject project was signed before the lapse of the requisite 14 days. Further, the Certificate of Registration, Business permit and NCA Certificate that were submitted by Njakimje

Enterprises in support of their bid were forged and the said company was ineligible for the award of the tender.

On 23<sup>rd</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations that the Fund Account Manager and the members of the Tender Evaluation Committee be charged with three counts of Wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) and one count of Knowingly giving a misleading document to one's principal contrary to section 41(2) as read with Section 48(1) of Anti-Corruption and Economic Crimes Act, 2003; The Proprietors of Njakimje Enterprises be charged with one count of carrying on a business of a contractor without registration by the NCA Board contrary to section 15 (1) as read with section 15 (3) of the NCA Act no. 41 of 2011; one count of committing a fraudulent act contrary to section 176(1)(i) as read with section 176(2) of the Public Procurement and Asset Disposal Act 2015.

The Commission awaits the response from the DPP.

#### **7. EACC/ FI/INQ/03/2021**

##### **INVESTIGATIONS INTO ALLEGATIONS OF BRIBERY IN THE AWARD OF PUBLIC TENDER WORTH KSHS 75,000,000 BY THE KENYA ROADS BOARD (KRB) TO KIRI CONSULT LTD.**

The Commission undertook investigation after receiving an allegation of suspected corruption in award of public tenders by the Kenya Roads Board (KRB), Kenya Urban Roads Authority (KURA) and Kenya Rural Roads Authority (KERRA) to KIRI Consult Ltd, ITEC Engineering Limited and SMEC International PTY Limited between February 2016 and September 2020. It was further alleged that an employee of KRB was receiving kickbacks from the above Companies for award of tenders.

Investigations established that KIRI Consult Ltd was awarded the tender for provision of consultancy services through Request for Proposals (RFP). Further, it was established that KRB procurement plan for the financial year 2018/2019 allocated Kshs 75,000,000/= for consultancy services and that the budget for the consultancy was found in the 10% allocation of the Roads Maintenance Levy Fund. Further, it was established that KRB adhered to the procurement laws and

procedures in the award of the tender to KIRI Consult Limited, and no offence was disclosed.

On 30<sup>th</sup> August 2022, a report was compiled and forwarded to the DPP with recommendations for closure of the Inquiry file for lack of evidence.

The Commission awaits the response from the DPP.

#### **8. EACC/ELD/FI/INQ/22/2020**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULARITIES IN THE ACQUISITION OF THE MT. KENYA UNIVERSITY (MKU), TURKANA CAMPUS BY THE MASINDE MULIRO UNIVERSITY (MMUST) OF SCIENCE AND TECHNOLOGY**

The Commission commenced investigations following a complaint that MMUST had purchased the MKU, Turkana Campus at an exorbitant price of Kshs. 1.2 Billion yet the Campus was valued at Kshs. 600 Million.

Investigations established that the acquisition was initiated through a letter dated 17<sup>th</sup> March 2016, by the Deputy Vice Chancellor (DVC) of MMUST, Planning, Research and Innovation to the Cabinet Secretary for Education Science and Technology. The letter was accompanied with a proposal requesting for the approval of the acquisition that was granted subject to the availability of funds, preparation of a financial outlay for the project and the concurrence of the Commission of University Education (CUE).

Investigations established that CUE approved the acquisition stating that it had already accredited the Campus. The MMUST University Council also deliberated and approved the acquisition on 17<sup>th</sup> June 2017.

Investigations revealed that Procurement procedure was not followed. However, the person responsible for ensuring adherence was the Accounting Officer who was the Vice Chancellor at the time Prof. Eng. Fredrick A.O Otieno who is deceased.

On 28<sup>th</sup> July 2022, a report was compiled and forwarded to the DPP with recommendation for closure of the inquiry file reason being that the officers who made the payments acted within the law and were to fulfil MMUST's contractual

obligations. That the VC who would have been culpable for failing to adhere to the procurement law and regulations is deceased.

On 24<sup>th</sup> October 2022 the DPP returned the inquiry file and concurred with the Commission's recommendation for closure of the file.

#### **9. EACC/FI/INQ/55/2018**

#### **ALLEGATIONS OF PROCUREMENT IRREGULARITIES AGAINST THE PRINCIPAL OF NEMBU GIRLS HIGH SCHOOL REGARDING THE PROCUREMENT OF WORKS FOR THE CONSTRUCTION OF NINE CLASSROOMS AND FOUR STAFF HOUSES AT A COST OF KSHS. 18 MILLION IN THE FINANCIAL YEAR 2015/2016.**

The Commission commenced investigations upon receipt of a report alleging that the Principal of Nembu Girls High School, abused her office, received bribes and engaged in irregular procurement including the construction of classrooms and staff quarters.

Investigations established that there was dire need for the construction of more classrooms due to the high population of students being admitted to the school. However, the project for the construction of classrooms and teachers' quarters was initiated without funds and proper planning by the School Principal.

Investigations established that the restricted tendering method of procurement used by the School was proper and within the law. However, the School Principal did not appoint members of Tender Opening Committee and Inspection and Acceptance Committee. Further, it was established that the School Principal irregularly procured Tri-kam Contractors, the firm that offered architectural services. Investigations established that the Principal, who was the Accounting Officer is deceased.

On 21<sup>st</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations for closure of the Inquiry file following the death of the School Principal who was the Accounting Officer charged with responsibility of ensuring adherence with the procurement laws.

The Commission awaits the response from the DPP.

## **10. EACC/MCKS/FI/INQ/13/2018**

### **INQUIRY INTO ALLEGATION ON THE UNPROCEDURAL ALLOCATION OF A PUBLIC LAND MACHAKOS TOWN MUNICIPALITY BLOCK 1/623 TO A PRIVATE PERSON**

The Commission commenced investigations upon receiving a report that a parcel of land number Machakos Town Municipality Block 1/623 on which the Machakos OCPD's residence stood had been grabbed by a private developer who was in the process of putting up a building.

Investigations established that Parcel No LR. No. 909/536 was originally allocated to a businessman who was issued with allotment letter in 1968. Subsequently the Government acquired the said land from the businessman in exchange for parcel no LR No. 909/701.

Investigations revealed The Town Council of Masaku allocated the said Government land to the Ministry of Health for purposes of construction of Government houses. A Government house HG14 was constructed on the said parcel and it is currently occupied by the OCPD Machakos County.

Investigations established that under unclear circumstances, a portion of the said parcel was subdivided into three plots known as Machakos Municipality Block 1/622, 1/623 and 1/624. The said allocation was based on an unapproved Part Development Plan.

Investigations established that the former Mayor of Masaku Council who was also a member of Machakos Plot Allocation Committee and was involved in the unprocedural allocation of the subject land to individuals including himself has since passed on and the subject parcel is registered in the name of his son.

On 28<sup>th</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations for closure of the inquiry file since criminal proceedings cannot be brought against the allottee who is deceased.

The Commission has filed recovery suit (ELC Case no. 127 of 2019) to recover Machakos Municipality Block 1/ 623.

The Commission awaits the response from the DPP.

## **11. EACC/MSA/EL/INQ/01/2020**

### **INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AND PROCUREMENT IRREGULARITIES IN TENDER NUMBER KPA/114/2016-17/ADM A TENDER FOR PROVISION OF HOUSE KEEPING SERVICES KPA**

The Commission commenced investigations upon receiving a complaint that Kenya Ports Authority staff heading the House Keeping Department was awarded tender number KPA/114/2016-17/ADM provision of housekeeping services.

Investigations established that the tender in question was awarded to Pencoya Enterprises, a business name registered under the name of the daughter of a Welfare Officer at KPA. The welfare Officer was a member of the Tender Evaluation Committee, she presided and participated in the meeting of the said Committee that awarded the tender for provision of housekeeping services to her daughter's Company.

Investigations established that Ratna Youth Enterprise was also awarded the tender in question and that the Tax Compliance and YAGPO Certificates attached to the bid documents submitted by Ratna Youth Enterprises in respect to the tender in question were not genuine.

Investigations established that the welfare Officer and Radio Technician both employees of KPA did not disclose conflict of interest to their employer considering the fact that their relatives were transacting with KPA. However, it was established that the Radio Technician at KPA was not a signatory to the bank account of Pencoya Enterprises and that at the time of the award, he was not yet an employee of KPA.

On 23<sup>rd</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations that the Welfare Officer be charged with conflict of interest contrary to Section 42(1); the Proprietor of Ratna Youth Enterprises be charged with unlawful acquisition of public property contrary to Section 45 as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act 2003, and Fraudulent practice in procurement proceedings contrary to Section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

The Commission awaits the response from the DPP.

## **12. EACC/EL/INQ/57/2018**

### **ALLEGATIONS THAT THE WOMAN REPRESENTATIVE FOR MARSABIT COUNTY FAILED TO RENOUNCE HER AMERICAN CITIZENSHIP UPON TAKING OATH OF OFFICE.**

The Commission commenced investigation following a report that the Woman Representative for Marsabit County had acquired citizenship of three countries namely Kenya, USA and Ethiopia. It was alleged that she failed to renounce the other citizenships when she took oath of office as the Woman Representative for Marsabit County on 31<sup>st</sup> August 2017.

Investigations established that according to the records at the National Registration Bureau, the suspect was registered as a Kenyan citizen born in Moyale in the year 1960. That in February 2017, the suspect applied for and was issued with a Kenyan passport. However, the records at the Immigration Office showed that at the time of applying for a Kenyan Passport, the suspect held a United States of America Passport but failed to disclose that information in her application.

It was further established that during the nomination process, the suspect submitted to IEBC and EACC a self-declaration form for candidates vying for elective position both in which she failed to declare that she was holding other citizenship.

On 21<sup>st</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with two counts of providing misleading information to Ethics and Anti-Corruption Commission and IEBC contrary Section 46 (1) (b) as read with Section 46 (2) of Leadership and Integrity Act 2012; one count of failure to disclose dual citizenship contrary to Section 8 (3) as read with Section 8 (4) of the Kenya Immigration and Citizenship Act, 2011.

On 17<sup>th</sup> October 2022, the DPP returned the inquiry file for further investigations.

## **13. EACC/MSA/OPS/INQ/11/2021**

### **INQUIRY INTO ALLEGATION OF BRIBERY AGAINST DCI OFFICERS SECONDED TO KRA, MOMBASA**

The Commission commenced investigation upon receiving a complaint that DCI Officers seconded to KRA, Mombasa were offered financial advantage of Kshs. 1,700,000/= by certain traders/brokers in order to influence an ongoing criminal investigations they were conducting in relation to some export of concealed goods in containers. The trader's intention was to pay less export duty by making wrong declarations of the actual goods in the containers.

Investigations established that the suspects offered a bribe of Kshs 1,000,000/= to the said DCI officers, leading to the arrest of the suspects.

On 23<sup>rd</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations that the suspects be charged individually with various counts each of giving a bribe contrary to Section 5(1) as read with Section 18 of the Bribery Act No 47 of 2016; the two suspects be charged jointly with one count of conspiracy to commit an economic crime contrary to section 47(A) (3) of Anti-Corruption and Economic Crimes Act, 2003.

The Commission awaits the response from the DPP.

#### **14. EACC/ELD/OPS/INQ/1/2020**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TRANSNZOIA COUNTY GOVERNEMENT ASSISTANT DIRECTOR OF PHYSICAL PLANNING.**

The Commission commenced investigations upon receiving a report that the Trans- Nzoia County Physical Planning Officer demanded for a bribe in order to facilitate issuance of a Lease Certificate in respect of plot No.9 Commercial Kwanza Trading Center situated within Trans - Nzoia County.

Investigations established that the suspect initially requested for a bribe of Kshs. 100,000/= .The bribe request is alleged to have been made by the County Surveyor who was to facilitate the survey process for the subject parcel before issuance of a Lease Certificate. However, investigations established that the suspect received Kshs. 50,000/= from the complainant and they were arrested.

The complainant through his Advocate wrote to the Commission indicating his unwillingness to be retained as a witness in the case.



On 21<sup>st</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations that an administrative action be taken against the Assistant Director of Physical Planning for failing to act professionally while dealing with the complainant.

On 21<sup>st</sup> September 2022, the DPP returned the inquiry file for further investigations.

#### **15. EACC/MSA/OPS/INQ/15/2021**

##### **INQUIRY INTO ALLEGATION OF BRIBERY AGAINST AN EMPLOYEE OF KPLC ATTACHED TO DIANI, KWALE COUNTY**

The Commission commenced investigations upon receiving a report that an Officer at Kenya Power and Lighting Company (KPLC) demanded a financial advantage of Kshs 100,000/= from the complainant in order to reconnect power to a commercial building in Diani Kwale County.

Investigations established that the suspect demanded a bribe of Kshs. 70,000/=. The suspect received the bribe leading to his arrest and recovery of the money.

On 21<sup>st</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with the three counts of receiving a bribe contrary to section 6(1) (b) of Bribery Act, 2016.

On 2<sup>nd</sup> September 2022, the DPP returned the inquiry file for further investigations.

#### **16. EACC/OPS/INQ/52/2021**

##### **ALLEGATIONS OF BRIBERY AGAINST TRAFFIC OFFICERS ATTACHED TO PANGANI POLICE STATION**

The Commission commenced investigation following a report that Traffic Police Officers manning Muthaiga Area along Thika Road were collecting bribes from motorists.

A surveillance was conducted along the said road and a civilian was spotted moving from one PSV vehicle to another collecting bribes on behalf of the Traffic Police Officers as indicated in the report.

The Commission conducted an operation in the area and arrested two Police Officers and a civilian who later escaped in the process. Further, Investigations found no evidence to support the allegation of bribery against the suspects.

On 21<sup>st</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations for closure of the inquiry for lack of evidence to sustain bribery charges.

On 31<sup>st</sup> August 2022, the DPP returned the inquiry file for further investigations.

#### **17. EACC/OPS/INQ/74/2018**

#### **INQUIRY INTO ALLEGATIONS CORRUPTION AGAINST TRAFFIC POLICE OFFICERS ATTACHED TO LARI POLICE STATION.**

The Commission commenced investigations following numerous complaints received that Traffic Officers in the Central and Rift Valley region were engaging in corrupt practices along the roads.

The Commission conducted an operation along the Nairobi-Mai- Mahiu Highway and arrested three Police Officers from Lari Police Station who were manning the Nairobi-Mai- Mahiu Highway.

Investigations established that there was no sufficient evidence linking the three Officers with bribery offences.

On 21<sup>st</sup> July 2022, a report was compiled and forwarded to the DPP with recommendation for closure of the inquiry file for lack of evidence to sustain a charge of bribery.

On 26<sup>th</sup> August 2022 the DPP returned the inquiry file and concurred with the Commission's recommendation for closure of the file.

#### **18. EACC/MCKS/OPS/INQ/5/2020**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A POLICE OFFICER BASED AT THE KALAMBA POLICE POST IN MAKUENI COUNTY**

The Commission commenced investigations upon receipt of a report that a Police Officer based at Kalamba Police Post in Makueni County requested for financial advantage of Kshs. 3,000/= from the complainant as an inducement to release his motorbike which was detained at the Police Post.

Investigations conducted by the Commission established that the suspect requested for and received a bribe of Kshs. 3,000/=.

On 21<sup>st</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with three counts of receiving a bribe contrary to Section 6(1) (a) read with Section 18 of the Bribery Act No. 47 of 2016

On 9<sup>th</sup> September 2022 the DPP returned the inquiry file for further investigations.

#### **19. EACC/OPS/INQ/140/2021**

#### **INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE AGAINST A CLERICAL OFFICER AT CIVIL REGISTRATION SERVICES NAIROBI REGISTRY AT ACK BISHOP HOUSE**

The Commission commenced investigations upon receiving a complaint that a Clerical Officer attached to Civil Registration Office Nairobi Registry at ACK Bishops House in Nairobi requested for a financial advantage of Kshs. 4,500/= as an inducement to issue two Birth Certificates for the complainant's children.

Investigations established that the suspect requested and received a bribe of Kshs. 3000/= from the complainant leading to his arrest and recovery of the money.

On 21<sup>st</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with three counts of receiving bribe contrary to Section 6(1) (a) as read with Section 18 (1)(2) of the Bribery Act No. 47 of 2016.

On 24<sup>th</sup> August 2022, the DPP returned the inquiry file with recommendations for further investigations.

#### **20. EACC/BGM/OPS/INQ/1/2020**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST LANDS SURVEYOR OFFICER, BUSIA COUNTY**

The Commission commenced investigations upon receiving a report that a Land Surveyor Officer based at Lands Office, County Government of Busia, requested for a bribe of Kshs. 20,000/= from the complainant in order to establish boundaries of the Kenya Medical Research Institute( KEMRI).

Investigations established that the suspect requested for Kshs. 20,000/= as a bribe for the establishment of boundary at KEMRI. The suspect was arrested upon receipt of a bribe of Kshs. 20,000/= from the complainant.

On 21st July 2022, a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with three counts of receiving a bribe contrary to section 6(1) (a) as read with Section 18 of the Bribery Act no.47 of 2016.

On 26<sup>th</sup> August 2022 the DPP returned the inquiry file for further investigations.

## **21. EACC/OPS/INQ/142/2021**

### **INVESTIGATIONS IN RESPECT OF BRIBERY ALLEGATIONS AGAINST AN EMPLOYEE OF KENYA POWER AND LIGHTING COMPANY LIMITED**

The Commission commenced investigations upon receipt of a complaint that an employee of Kenya Power & Lighting Company Ltd (KPLC) based at Electricity House and who was in charge of billing and debts collection at Electricity House was in the habit of exaggerating meter readings so as to solicit for Kshs. 10,000/= from customers to avoid electricity disconnection.

Investigations established that the suspect requested for a benefit of Kshs. 10,000/= from the complainant to facilitate re-connection of electricity that had been disconnected at his premises. The suspect was arrested after receiving Kshs. 10,000/= from the complainant.

On 21<sup>st</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with two counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act No 47 of 2016. In addition, that administrative action be taken against the suspect by KPLC.

On 14<sup>th</sup> September 2022, the DPP returned the inquiry file for further investigations.

## **22. EACC/OPS/INQ/111/2020**

### **INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE BY KEYSIAN AUCTIONEER STAFF**

The Commission commenced investigations upon receipt of a complaint by the complainant that an employee of Kenya Revenue Authority (KRA) had demanded for a bribe of Kshs. 2,000,000/= from him as an inducement to write off the tax arrears amounting to Kshs. 19,000,000/= owed by Jenga Mabati Mills Ltd to KRA.

Investigations established that the complainant gave the suspect Kshs. 100,000/= which belonged to him. The suspect was arrested and the Kshs. 100,000/= was recovered. However, despite the recovery of the Kshs. 100,000/= from the suspect, it could not be ascertained whether the said money originated from the complainant since the serial numbers had not been taken or photocopied in advance for comparison purposes upon recovery. In addition, the money had no peculiar markings for distinction purposes from any other money that the suspect would have purported to be in possession.

On 28<sup>th</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed for lack of evidence to sustain bribery charges against the suspect, in addition, an advisory be issued to KRA to put in place clear rules of engagements with Auctioneers in collection of tax arrears for efficiency purposes.

The Commission awaits response from the DPP.

## **23. EACC/OPS/INQ/5/2022**

### **INQUIRY INTO ALLEGATIONS OF IMPERSONATION OF EACC OFFICERS BY TWO CIVILIANS**

The Commission received a report from the complainant alleging that he received a call from a person who indicated that she worked for Ethics and Anti-Corruption Commission (EACC) as an investigator and she requested for a bribe of Kshs.

1,000,000/= in order for the suspect and his "boss" to drop the case against him in relation to a stolen Nairobi Water and Sanitation Company's water meter.

The complainant reported to the Commission that he had already given the suspect a total of Kshs. 700,000/= and that the suspects were still demanding for the balance of Kshs. 300,000/=. An operation was conducted, whereby the complainant was given Kshs 300,000/= for purposes of handing over to the suspects. However, the Commission Officers arrested the suspects before they could receive the bribe and they were positively identified by the complainant.

Investigations established that the suspects were not employees of the Commission and that indeed they requested for a bribe of Kshs. 1,000,000/= and received a total of Kshs. 700,000/= from the complainant.

On 28<sup>th</sup> July 2022, a report was compiled and forwarded to the DPP with recommendations that the two suspects be charged with one count of impersonating an investigator contrary to Section 34 of the Anti-Corruption and Economic Crimes Act, 2003; three counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act No. 47 of 2016; two counts of obtaining money by false pretence contrary to Section 313 of the Penal Code.

On 17<sup>th</sup> October 2022, the DPP returned the inquiry file for further investigations.

#### **24. EACC/OPS/INQ/45/2022**

#### **INQUIRY IN RESPECT OF BRIBERY ALLEGATIONS AGAINST THE HUMAN RESOURCE MANAGER AT KENYA TRADE NETWORK AGENCY (KENTRADE)**

The Commission commenced investigations upon receiving a report from the complainant that he was shortchanged his commission fee as the Agent for UAP Insurance Company Limited (UAP) regarding the award of tender for staff medical insurance at Kenya Trade Network Agency (KENTRADE). That the Human Resource Manager at KENTRADE requested for a bribe of 80% of his commission fee of Kshs. 800,000/=.

Investigations established that the Human Resource Manager at KENTRADE requested for a bribe of Kshs. 160,000 /= from the complainant as an inducement

to facilitate issuance of a tender for provision of medical staff insurance for the KENTRADE staff and also facilitate issuance of future tenders. Further it was established that the suspect received a bribe of Kshs. 70,000/= from the complainant leading to her arrest.

On 23<sup>rd</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with three counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act No. 47 of 2016. In addition, it was recommended that KENTRADE takes administrative action against the suspect.

On 24<sup>th</sup> November 2022, the DPP returned the inquiry file for further investigations.

## **25. EACC/OPS/INQ/109/2021**

### **INVESTIGATIONS INTO ALLEGATIONS OF BRIBERY AGAINST A CLERK, EMPLOYED AT THE OFFICE OF REGISTRATION OF BIRTHS AND DEATHS REGISTRY AT LIMURU.**

The Commission received a complaint that the suspect a Clerk at the Registration of Births and Deaths Office in Limuru, demanded for a bribe of Kshs. 2,000/= from the complainant as a condition for assistance in obtaining Birth Certificates for her two children since she did not have Notifications of birth documents to support application for the certificates.

The investigation established that the suspect was employed as a Clerk under the Ministry of Citizen Services attached to the Civil Department of Limuru at Kiambu County and that he requested and received a bribe of Kshs 2,000/= from the complainant leading to his arrest.

On 23<sup>rd</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with three counts of receiving a bribe contrary to section 6(1) (a) as read with Section 18 of the Bribery Act No. 7 of 2016.

The Commission awaits response from the DPP.

## **26. EACC/OPS/INQ/7/2022**

### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN ENFORCEMENT OFFICER AT NAIROBI CITY COUNTY.**

The Commission commenced investigations upon receipt of a complaint by the complainant that Officers from Nairobi Metropolitan Services Embakasi Sub County went to the complainant's plot and marked his properties for demolition and arrested him for lack of an approved plan for development. He was released after giving the officers Kshs. 5,000/=.

Investigations established that the suspect requested for a bribe of Kshs. 60,000/= terming it as "protection fee" against demolitions. Further the investigations established that the suspect received Kshs.45, 000/= from the complainant leading to his arrest and recovery of the said money.

On 23<sup>rd</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with four counts of receiving a bribe contrary to section 6(1) (a) as read with Section 18(1) of the Bribery Act No 47 of 2016.

On 10th November 2022, the DPP returned the inquiry file for further investigations.

## **27. EACC/MCKS/OPS/INQ/56/2017**

### **INQUIRY INTO BRIBERY ALLEGATIONS AGAINST POLICE OFFICERS ATTACHED TO THE DIRECTORATE OF CRIMINAL INVESTIGATIONS OFFICE AT KAJIADO COUNTY.**

The Commission received a complaint that two Police Officers attached to the Directorate of Criminal Investigations (DCI) Office at Kajiado, requested for a financial benefit of kshs. 500,000/= so as not to charge the complainant with the offence of trafficking.

Investigations revealed that the suspects summoned the complainant to the DCI Office Kajiado and informed him that a complaint had been reported that he was wanted by the Tanzanian Government in connection with sugar importation business. The suspects released the complainant on a cash bail of Kshs. 50, 000/=



but failed to issue him with a cash bail receipt neither did they record the report made against the complainant on the Occurrence Book (OB). Further, it was established that the suspects also demanded for a bribe of Kshs 200,000/=.

On 23<sup>rd</sup> September 2022, a report to the DPP was compiled with recommendations that one of the suspects be charged with four counts of receiving a bribe contrary to section 6(1) (a) as read with Section 18 of the Bribery Act No 47 of 2016; administrative action be taken against the suspects since their conduct was in breach of the provisions of Section 50 of the National Police Service Act Cap 84 and Section 9 of Public Officers Ethics Act, 2003.

The Commission awaits response from the DPP.

#### **28. EACC/OPS/INQ/137/2019**

#### **INVESTIGATIONS INTO ALLEGATIONS THAT A FORMER NTSA INSPECTION OFFICER BASED IN KERICHO RECEIVED BRIBES FROM SBI OFFICIALS TO FACILITATE INSPECTION OF VEHICLES BELONGING TO SBI COMPANY.**

The Commission commenced investigations after receiving a complaint that the Israeli Soleh Boneh International (SBI) Company officials who had been awarded a contract to construct Mau Summit, Kisumu- Kericho had bribed an NTSA Inspection Officer to facilitate inspection of vehicles belonging to SBI Company.

Investigations established that the documents relied upon as evidence for the bribery allegations against the suspect were uncertified and their authenticity was not ascertained. Hence, the documents being secondary evidence are in admissible according to Section 68 of the Evidence Act neither do they provide conclusive evidence to substantiate the bribery allegations against the suspect as per the provisions of Section 6 of Bribery Act No 47 of 2016.

On 23<sup>rd</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations for closure of inquiry file for lack of evidence to sustain bribery charges as envisaged in Section 6(1) (a) of the Act No 47 of 2016

The Commission awaits the response from the DPP.

## **29. EACC/OPS/INQ/117/2021**

### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST THE CHIEF OF MIHANG'O LOCATION WITHIN NAIROBI CITY COUNTY.**

The Commission commenced investigations upon receiving a report from the complainant, that the Chief of Mihang'o Location within Embakasi East Constituency requested for a financial advantage of Kshs 10,000/= to release the Complainant's household items which were in his custody.

Investigations established that the complainant had failed to pay his monthly rent to his Landlord. That after several attempts to convince the complainant to pay his rent arrears, the landlord took the complainant's household items to the Chief's Office for storage so that he could rent out his house to another tenant.

Investigations established that the money amounting to Kshs. 5,000/= that the suspect requested the complainant was not a bribe. The said money was for payment of part of the rent arrears the complainant owed the landlord.

On 23<sup>rd</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations for closure of the inquiry file for lack of evidence to sustain ch bribery charges against the suspect as envisaged in Section 6(1) (a) of the Bribery Act No 47 of 2016.

The Commission awaits the response from the DPP.

## **30. EACC/MCKS/OPS/INQ/14/2019**

### **INQUIRY INTO BRIBERY ALLEGATIONS AGAINST THE CHAIRMAN OF MALATANI LAND DISPUTE COMMITTEE IN MUTITU SUB-COUNTY WITHIN KITUI COUNTY.**

The Commission received a report from the complainant that the Chairman of the Malatani Land Adjudication Committee (the Committee) had requested for a bribe of Kshs. 6,000/= as a condition for the Committee to hear and determine a land dispute in respect to the complainant's land.

Investigations established that following a meeting held on 22<sup>nd</sup> June, 2017 between the said Committee and members of the public from the area, it was agreed that parties who appear before the Committee for hearing and

determination of land disputes should pay Kshs. 6000/= to the Committee. Therefore, the Kshs. 6000/= the complainant gave the Chairman of the Committee was not a bribe as alleged but an appreciation fee payable to the Committee members upon hearing land disputes.

On 23<sup>rd</sup> September 2022, a report was compiled and forwarded to the DPP with recommendations for closure of the inquiry file for lack of evidence. In addition, an advisory be issued to the Ministry of Lands and Physical Planning on the need to develop guidelines/regulations on how the Committee should conduct its business specifically with regard to fees payable by the members of public to the Committee to address any risks of corruption.

On 10<sup>th</sup> November 2022, the DPP returned the inquiry file accepting the Commission's recommendations for closure.

**STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS.**

|     |  |    |
|-----|--|----|
| 1.  | Total No. of files forwarded to the Director of Public Prosecutions                    | 30 |
| 2.  | No. of files recommended for prosecution   | 19 |
| 3.  | No. of files recommended for administrative or other action                            | 1  |
| 4.  | No. of files recommended for closure   | 10 |
| 5.  | No. of files recommended for prosecution and the cases are already lodged before Court | 0  |
| 6.  | No. of files where recommendation to prosecute accepted                                | 0  |
| 7.  | No. of files where recommendation for administrative or other action accepted          | 0  |
| 8.  | No. of files where recommendation for closure accepted                                 | 3  |
| 9.  | No. of files returned for further investigations                                       | 14 |
| 10. | No. of files where recommendation to prosecute not accepted                            | 0  |
| 11. | No. of files where recommendation for administrative or other action not accepted      | 0  |
| 12. | No. of files where closure not accepted  | 0  |
| 13. | No. of files where prosecution declined but administrative action recommended          | 0  |
| 14. | No. of files awaiting the DPP's advice   | 13 |

DATED AT NAIROBI THIS

30<sup>th</sup>

DAY OF


Nov

2022



**ARCHBISHOP (RTD) ELIUD WABUKALA, EBS  
CHAIRPERSON**

/eao



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