

**THE ETHICS AND ANTI-CORRUPTION COMMISSION**

**FOURTH QUARTERLY REPORT COVERING THE PERIOD  
1<sup>ST</sup> OCTOBER, 2019 TO 31<sup>ST</sup> DECEMBER, 2019**

## PREAMBLE

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

Section 36 provides that;

1. *The Commission shall prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions 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, No. 3 of 2003. The report covers the Third Quarter and is for the period commencing 1<sup>st</sup> October, 2019 to 30<sup>th</sup> December, 2019.

**REPORTS FOR THE PERIOD 1<sup>ST</sup> October, 2019 TO 30<sup>TH</sup> December, 2019**

**1. EACC/FI/INQ/21/2019**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST PUBLIC AND STATE OFFICERS OF NAIROBI CITY COUNTY GOVERNMENT FOR CONFLICT OF INTEREST AND IRREGULAR PROCUREMENT, AWARD AND IMPLEMENTATION OF CONTRACT FOR AWARDED HARDI ENTERPRISES LIMITED AND 5 OTHER COMPANIES TENDER NO. NCC/WEFE&NR/276/2017-2018, HIRING OF HEAVY EQUIPMENT AND VEHICLES, IN THE FINANCIAL YEAR 2017/2018 AND WHERE NAIROBI CITY COUNTY GOVERNMENT PAID HARDI ENTERPRISES LTD KSHS. 357,390,299/- BETWEEN OCTOBER 2018 AND MARCH 2019.**

The Ethics and Anti-Corruption Commission commenced these investigations following allegations of corruption, procurement irregularities, misappropriation of public funds and conflict of interest at the Nairobi City County Government (NCC) by the Governor of Nairobi City County and the other officials, during the 2017/2018 Financial Year.

Investigations revealed that the Nairobi City County Government irregularly paid Kshs. 357,390,299 to M/s Hardi Enterprises Limited in regards to tender No. NCC/WEFE&NR/276/2017-2018, for Hire of Heavy Equipment and Vehicles.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> November, 2019, recommending that the Governor, County Secretary, the Head Supply Chain Management, the negotiation of Nairobi City County Government, the opening and tender evaluation committee members, the Deputy Dumpsite Manager, Dumpsite Manager and Hardi Enterprises be charged with Conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, No.3 of 2003, Receiving bribe contrary to section 6 (1)(a) of the Bribery Act 2016, Dealing with suspect property contrary to section 47 (2) (a) of ACECA, Willful failure to comply with procurement procedures contrary to

section 45(2) (b) of ACECA, 2003, Abuse of Office contrary to section 46 of ACECA , Public officer acting without authorization imposed under the PFM Act contrary to section 148(1&2) as read with 196 (7) (b) of PFMA Act, Deceiving principal contrary to section 41 (2) as read with Sec 48 of ACECA, two(2) counts of Willful failure to comply with procurement procedures contrary to section 45(2) (b) of ACECA,2003, Unlawful failure to pay taxes contrary to section 45(1)(d). Unlawful acquisition of public property contrary to Section. 45 (1) (a) of ACECA, 2003 and Giving a bribe contrary to section 5 (1) of Bribery Act.

On 6<sup>th</sup> December,2019, the DPP concurred with the recommendation to prosecute.

## **2. EACC/FI/INQ/30/2019**

### **INQUIRY INTO ALLEGATIONS OF FRAUDULENT ACQUISITION AND IRREGULAR ALLOCATION OF UNALIENATED LAND IN NAIROBI SOUTH "C" ESTATE**

The Commission received an anonymous report that a City Tycoon had commenced construction of a Multi-Storey building in a wetland designated as public land in South "C" Estate.

Investigations revealed that the land; Nairobi/Block 103 was located within a residential scheme. That the said block consists of 792 plots subdivided from LR. 209/10282, LR. 209/12175 and LR. 209/11141. Investigations further reveals that Nairobi/Block 103/793 was not allocated any use and neither did it exist in the survey plan records.

Investigations reveals that the on 20<sup>th</sup> September, 2012, a 99 years' certificate of lease for parcel Nairobi/Block 103/793, measuring approximately 0.2108 Ha was issued. Investigations further established that the lease certificate was issued on the basis of a part development plan purportedly signed by a Senior Planner and a letter of allotment purportedly by the then Town Clerk. Investigation further reveals that the ground visit and computation i.e. survey work, was done by the

County Licensed surveyor while the Amended Registry Index Map(RIM) was done at the Survey of Kenya.

Investigations established that the land was fraudulently acquired through forged documents and through an irregular subdivision process marred with fraud and use of forged documents.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> December,2019 recommending that the County Chief Officer Lands ,the Secretary in the executive Office, an Advocate of the High Court, the Director Survey and Geographical Information, former Cateress in the office of the President and several business persons be charged with fraudulent acquisition of public property contrary to Section 45(1) A, two(2) counts of abuse of office contrary to Section 46, eight (8) counts of Dealing with suspect property contrary to Section 47(2) A, fraudulent disposal of public property contrary to Section 45(1) B of the Anti- Corruption and Economic Crimes Act, 2003 as read with section 48 of ACECA, making a false document contrary to Section 347 as read with section 349 of the Penal code, conspiracy to commit an economic crime contrary to Section 47A of the Anti- Corruption and Economic Crimes Act, 2003 as read with section 48 of ACECA, money laundering contrary to Section 3(b)(iii) as read with section 16(1)(a) of Proceeds of Crimes and Anti- Money laundering Act and Unlawful acquisition of public property contrary to Section 45(1) A of the Anti- Corruption and Economic Crimes Act, 2003 as read with section 48 of ACECA .

On 29<sup>th</sup> January,2020 the DPP concurred with the recommendation to prosecute.

### **3. EACC/ISL/FI/INQ/02/2019**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AND PROCUREMENT IRREGULARITIES AGAINST THARAKA NITHI COUNTY GOVERNMENT OFFICIALS IN THE PROCUREMENT AND AWARD OF TENDER TO SUPPLY, INSTALL AND COMMISSION A SOLID WASTE INCINERATOR.**

The commission commenced investigations following a complaint that in 2018/2019 financial year, the Tharaka Nithi County Government irregularly procured a solid waste incinerator at Kshs. 40,000,000/-.

Investigations established that the procurement process was initiated without the NEMA license or the Bill of Quantities which resulted in the County acquiring the solid waste incinerator at an inflated price of Kshs. 34,998,500/-. Investigations further established that the tender process was flawed and further that Generation Electronic & Allied Ltd, a company owned by a relative to the Governor Tharaka Nithi County, bought and imported the solid waste incinerator. Evidence further pointed at a case of money laundering by the Westomaxx Investment Ltd Directors who signed a contract after submitting a forged Performance bond from Madison Insurance. The Contract sum was paid through Westomaxx Investment Ltd.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 8<sup>th</sup> October, 2019 recommending that fifteen individuals; the Governor Tharaka Nithi County, Chief Officer Environment and Natural Resources, Ag. Director Procurement, the two Directors Westomaxx Investment Ltd, Director Generation Electronic & Allied Ltd, two Finance Officers, the Architect, two Procurement Officer II, an Accountant, Environment and Natural Resources Officer, Director Gentech Supplies Ltd and the proprietor, Gsort Ltd be charged severally and jointly with offences of conflict of interest contrary to Section 42(3), two counts of conspiracy contrary to Section 47(A) (3), five counts of Abuse of office contrary to Section 46 of the Anti-Corruption and Economic Crimes Act, 2003 as read with section 48 of ACECA, four counts of fraudulent procurement practice contrary to Section 66 (2) as read with section 77(a)Public Procurement and Asset Disposal Act, 2015, Uttering a false document contrary to Section 353 as read with section 349 of the Penal code, Fraudulent Acquisition of Public Property contrary to Section 45(1), two counts of money laundering contrary to Section 42(3) of the Anti-Corruption and Economic Crimes Act, 2003 as read with

section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and unlawful failure to pay taxes contrary to Section 45(1)(d) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 24<sup>th</sup> January, 2020, the DPP returned the file for further investigations

#### **4. EACC/ISL/FI/INQ/6/2018**

##### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF DESIGN FOR THE CONSTRUCTION OF COUNTY ASSEMBLY OF THARAKA NITHI COUNTY**

The Ethics and Anti-Corruption Commission (The Commission) received a report that Tharaka Nithi County Assembly Officials had been involved in procurement irregularities in the tender number Kathwana T.No. TNCA/T/01/2015-2016 for the proposed Construction of the County Assembly worth Kshs. 369,642,688/-.

Investigations established that the Tharaka Nithi County Assembly had advertised for expression of interest for consultancy services for Architectural designs on 23<sup>rd</sup> January, 2014. Investigation further established that there were no approved architectural designs by the County Physical Planner and neither was there a Contract Management Committee to advise on payments. Payments were authorized by the County Clerk and the Principal Finance Officer and made without the Procurement Department approval or acceptance by the Inspection & Acceptance Committee.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the Speaker Tharaka Nithi County, the clerk Tharaka Nithi County, the Principal Finance Officer, the Senior Legal Counsel Baseline Architects Limited and Senior Quantity Surveyor be charged with the offence of wilful failure to comply with the applicable procedures and guidelines relating to procurement contrary to section 45(2) (b) as read with section 48 of Anti-

Corruption and Economic Crimes Act, 2003, four counts of abuse of office contrary to Section 46 of Anti-Corruption and Economic Crimes Act, 2003, unlawful acquisition of public property contrary to section 45(1)(a) as read with section 48 of Anti-Corruption and Economic Crimes Act, 2003 and fraudulent payment from public revenues for services not rendered contrary to sec 45 (2) (a) (iii) as read with section 48 of Anti-Corruption and Economic Crimes Act, 2003.

On 24<sup>th</sup> January, 2020 the DPP returned the file for further investigations.

**5. EACC/ISL/FI/INQ/45/2016**

**INQUIRY INTO ALLEGATION OF MISAPPROPRIATION OF PUBLIC FUNDS BY THE SAMBURU COUNTY GOVERNMENT COUNTY EXECUTIVE COMMITTEE MEMBER FOR AGRICULTURE DURING THE PURCHASE OF VACCINES IN THE FINANCIAL YEARS 2013/2014, 2014/2015 AND 2015/2016.**

The Commission commenced investigations following an allegation that the Samburu County Executive Committee Member for Agriculture misappropriated public funds in the purchase of vaccines in the Financial Years 2013/2014, 2014/2015 and 2015/2016 respectively.

Investigations established that the Samburu Department of Agriculture prepared procurement plans for the Financial years 2013/2014, 2014/2015 and 2015/2016 for the purchase of vaccines. Investigations further revealed that the Samburu County approved budget allocation of Kshs. 22 Million, 20 Million and 32 Million for the 2013/2014, 2014/2015 and 2015/2016 Financial years respectively, for the purchase of vaccines.

The investigation further revealed that the Department purchased the said vaccine(s) from a government institution known as Kenya Veterinary Vaccines



Production Institute which does not handle cash and that all its transactions are done through the bank.

Additionally, the investigations established that there were procurement irregularities as the user department failed to seek and obtain approval from the Tender Committee before using direct procurement method and further that there was no written contract between Kenya Veterinary Vaccines Production Institute and the County Government in relation to the said purchase procurement.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that administrative action against the Chief Officer Agriculture and Deputy County Director for Agriculture be undertaken by the Samburu County Government.

Awaiting DPP's response.

#### **6. EACC/KSI/F1/INQ/10/2016**

#### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY OFFICIALS OF THE COUNTY GOVERNMENT OF NYAMIRA IN THE RECRUITMENT OF STAFF IN THE DEPARTMENT OF GENDER, YOUTH, SPORTS, CULTURE AND SOCIAL SERVICES (GYSC&SS).**

The Commission commenced investigations following a report received through an informant that there was an irregular/illegal recruitment in the Department of Gender, Youth, Sports, Culture & Social Services (GYSC&SS) in the County Government of Nyamira.

In June 2016, the County Government of Nyamira advertised for twenty (20) vacancies in different positions. The Nyamira County Public Service Board (PSB) proceeded to recruit forty-four (44) persons and later increased the number to 56 persons without the approval of the Cabinet.

Investigations established that the recruitment process was marred with influence peddling, corruption, nepotism and clannism. Further the investigations revealed that the County Executive Committee Member in the Department of Gender, Youth, Sports, Culture and Social Services, the Chairperson, Vice Chair, and the Secretary County Public Service Board used their official position to unduly influence the recruitment process in the Department.

Investigations further established that some of the recruited staff had presented forged academic certificates when applying for the positions while others did not qualify for the position offered. Investigations further revealed that although appointment and deployment letters were issued to all the 56 irregularly recruited staff they never reported to their respective stations. It was further confirmed that following protests from the Board members, County Assembly, Deputy Governor and the user department, the process was nullified.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the County Executive Committee in the department of GYC&SS, the Chairperson, the Secretary and a commissioner to Nyamira Public Service Board, the assistant director Administration in the department of GYC&SS, the Nyamira Chief Officer-Lands, the Nyamira Principal Culture Officer and two members of the public be charged with four counts of Abuse of office contrary to Section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, three counts of Forgery contrary to Section 345 as read with section 349 of the penal code, three counts of uttering a false document contrary to Section 353 of the penal code and three counts of making a document without authority contrary to Section 357(a) of the penal code.

Awaiting DPP's response.

**7. EACC/OPS/INQ/103/2019**

**INQUIRY INTO BRIBERY ALLEGATIONS AGAINST AN EMPLOYEE IN THE MINISTRY OF LANDS**

The Ethics and Anti-Corruption Commission received a report from a Nairobi County resident that sometime in 2015 he applied for a lease certificate for parcel number Nairobi/Block 152/136 at the Land Office at Ardhi House. They made several visits to the said office in vain. On 25<sup>th</sup> June, 2019, while on visit at the lands office, they met a Customer Care Assistant officer who assured them of assistance and demanded for a Kshs. 3,000.00 bribe in order to facilitate the processing of the lease certificate.

The Commission conducted a trap operation on 26<sup>th</sup> June, 2019, where the said officer received Kshs. 3000.00 treated money. Investigations established that the evidence obtained was sufficient to sustain charging the suspect for requesting and receiving a bribe.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the suspect be charged with two counts of Receiving a bribe, contrary to Section 6(1) (a) as read with Section 18 (1), (2) of the Bribery Act No. 47 of 2016.

On 12<sup>th</sup> March, 2020, the DPP returned the file for further investigations.

**8. EACC/MSA/PI/INQ/03/19**

**INVESTIGATION INTO ALLEGATIONS OF ABUSE OF OFFICE AND ACCRUAL OF IMPROPER BENEFITS BY THE GENERAL MANAGER MOMBASA PORT OPERATIONS AND HARBOR ON THE 25<sup>TH</sup> AND 26<sup>TH</sup> DECEMBER, 2018.**

The Commission received a complaint on 23<sup>rd</sup> January, 2019 that between 25<sup>th</sup> and 26<sup>th</sup> December, 2018, the General Manager Mombasa Port Operations and Harbor had abused his office and accrued improper benefits at Kenya Ports Authority in regard to towing of MV Serval which had stall at sea.

Investigation revealed that KPA was requested to provide the towing serving of MV Serval. Investigations further established that MV Serval was towed from the Sea to Kilindini Port at the cost of USD 300,000/-. The said amount was paid to KPA through a bank account and a clearance certificate issued.

Investigations further established the General Manager never received any benefit and the that the towing services were properly rendered and as such the charges of abuse of office could not be sustained against the two suspects.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the file be closed.

Awaiting DPP's response.

#### **9. EACC/AT/INQ/58/2017**

#### **INQUIRY INTO ALLEGATIONS THAT ERA TWO THOUSAND ENTERPRISES IS SUSPECTED TO HAVE DEFRAUDED THE GOVERNMENT OF KSHS. 1,173,234,004/= FOR THE SUPPLY OF STATIONERY AND CHEMICALS TO THE STATE DEPARTMENT OF PLANNING AND STATISTICS, YOUTH AFFAIRS AND INTERIOR**

The Commission commenced investigations following a report received on 13<sup>th</sup> July 2017 that two companies; Big Sale Superstore and Era Two Thousand Enterprises owned by the same proprietor, were suspected to have defrauded government ministries of monies to a tune of Kshs. 1,173,234,004/- in a period of seven months between 1<sup>st</sup> January 2016 and August 2016.

Investigations revealed that Era Two Thousand Enterprise entered into a contract with the Supplies Branch of the Ministry of Lands, Housing and Urban Development under contract number S/69652. The contract was for the supply of provisions and foodstuff. The State Department of Public Service and Youth and the State Department of Interior adopted the contract as a general practice. Era Two Thousand was therefore issued with several LPOs from the said state Departments; NYS issued 21 LPOs while Administration Police Service issued 40 LPOs.

Investigation further established that the goods requested were supplied by the company and payment was made on the basis of the delivery notes. The State Department of Public Service and Youth and the State Department of Interior paid Kshs 256,524,300/- to Big Sale Superstore and Kshs. 1,173,324,625/- to Era Two Thousand Enterprise. Investigations did not reveal any fraud on the part of the two companies as alleged.

Investigations further revealed that the proprietor failed to file tax returns since the year 2016 amounting to Kshs. 887,971,580/-. He has however paid Kshs. 117,000,000/- and has given an invoice to KRA of Kshs. 100,000,000/ to enforce collection through agency notice.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the file be forwarded to Kenya Revenue Authority(KRA) to pursue the taxes offences

Awaiting DPP's response.

#### **10. EACC/KIS/EL/INQ/6/2018**

### **INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT AGAINST A MEMBER OF COUNTY ASSEMBLY KEGOGI WARD IN KISII COUNTY**

The Commission commenced investigations following a report received that the current Member of County Assembly (MCA) for Kegogi Ward within Kisii County, used forged certificates belonging to a different person for purposes of vying for the said position. The names on the certificate are Kepha Sokoro Nyakundi while his real name is Joseph Onchong'a.

Investigations revealed that the MCA for Kegogi Ward used Kenya Certificate of Primary Education (KCPE) and Kenya Certificate of Secondary School (KCSE) certificates belonging to Kepha Sokoro Nyakundi, to enroll for a degree course at Kisii University, Eldoret Campus. Investigation further established that the said MCA was currently pursuing a Master's degree at Jomo Kenyatta University of Agriculture and Technology (JKUAT), Eldoret Campus.

The MCA submitted the duly filled EACC self-declaration form for clearance on 4<sup>th</sup> May 2017 at the EACC Desk Eldoret Huduma Centre attaching the KCSE certificate belonging to Kepha Sokoro Nyakundi, for purposes of vying for the MCA seat. Investigations established that the handwriting on the declaration form belonged to the MCA.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the suspect be charged with three (3) counts of Providing False Information Contrary to Section 46(1)(d) as read with Section 46(2) of the Leadership and Integrity Act, 2012, Laws of Kenya, three (3) counts of Personation of a Person Named in a Certificate Contrary to Section 384 of the Penal Code and three (3) counts of Uttering a False Document Contrary to Section 353 of the Penal Code.

On 15<sup>th</sup> April, 2020, the DPP returned the file for further investigations.

**11. EACC/ELD/EL/INQ/25/2017**

**INQUIRY INTO ALLEGATIONS THAT A PUBLIC OFFICER FALSIFIED HIS DOCUMENTS TO SECURE EMPLOYMENT AT THE MOI TEACHING AND REFFERAL HOSPITAL (MTRH).**

The Commission commenced investigations following an anonymous report that an officer was appointed as a Public Relations Assistant at the MTRH on contract basis on 3<sup>rd</sup> November, 2014 upon submitting a diploma certificate in social work and a diploma certificate in public relations which were forged. Subsequently, on 24<sup>th</sup> November, 2015 he was appointed as a Public Relations Officer I on Permanent and Pensionable terms. His appointment was upon submission of a degree Certificate in Mass Communication (News Writing) option from Multi Media University College.

Investigations revealed the diploma certificates in social work and public relations used by the suspect to secure employment as a Public Relations Assistant did not originate from East Africa Vision Institute as alleged and neither was the Degree certificate in Mass communication subsequently used to secure appointment as a Public Relations Officer I on permanent and pensionable basis issued by the Multi Media University. Investigations established that all the certificates were forgeries.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the suspect be charged with four (4) counts of uttering a false document Contrary to Section 353 of the Penal Code, four (4) counts of making a false document Contrary to Section 347 (a) as read with Section 357(b) of the Penal Code and deceiving principal Contrary to Section 41(1) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

On 14<sup>th</sup> February, 2020, the DPP returned the file for further investigations.

**INQUIRY INTO ALLEGATIONS THAT A COUNTY EXECUTIVE COMMITTEE MEMBER FOR TRADE, KITUI COUNTY GOVERNMENT PRESENTED A FORGED DEGREE CERTIFICATE DURING HIS APPOINTMENT AS A COUNTY EXECUTIVE MEMBER**

The Commission received allegations that the Executive Committee member (CEC), Trade, Cooperative & Investment in Kitui County Government presented forged Degree certificate and Kenya Certificate of Secondary Education (KCSE) Certificate during the recruitment which led to his appointment as CEC Member in the financial year 2017/18.

Investigations established that the degree certificate in Business Administration in IT was purportedly issued by Mt. Kenya University. Investigation revealed that the CEC- Member attached the degree certificate to his self-declaration form submitted to the Commission on 21<sup>st</sup> September, 2017. Investigations further established that the Degree certificate in Business Administration was forged and that the Mount Kenya University does not offer degree courses in Business Administration in IT.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the suspect be charged with fraudulent acquisition of public property Contrary to Section 45(1)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003, Deceiving Kitui County Government contrary to section 46 (1) (b) as read with Section 46 (2) of the Leadership and Integrity Act, Cap. 182 Laws of Kenya and two (2) counts of uttering a false document Contrary to Section 353 of the Penal Code, as read with Section 349 of the Penal Code.

On 20<sup>th</sup> March, 2020, the DPP returned the file for further investigations.



**13. EACC/MSA/EL/INQ/3/19**

**INQUIRY INTO ALLEGATIONS THAT THE MEMBER OF COUNTY ASSEMBLY FOR AIRPORT WARD, IRREGULARLY TRANSFERRED KSHS. 100,000/- FROM THE WARD'S OFFICE ACCOUNT TO HIS PERSONAL ACCOUNT AND THAT HE HAD ALSO IRREGULARLY EMPLOYED HIS WIFE TO THE WARD OFFICE AS A MANAGER**

The Commission commenced investigations following a report that the Member of the County Assembly for Airport Ward Mombasa County had illegally transferred public funds totaling to Kshs. 100,000/- from the Ward Bank Account Number 01141619143900 to his personal Bank Account and that he also had irregularly employed his spouse as the Ward Manager.

Investigation established that the MCA employed his wife as Ward Office Manager without disclosing this fact to the Mombasa County Assembly Clerk. Investigations further established that on 20<sup>th</sup> February, 2018, the MCA transferred Kshs. 100,000/- from the ward account to his personal account.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the suspect be charged with failure to disclose a private interest to one's principal contrary to section 42(1) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act and Abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act.

Awaiting DPP's response.

**14. EACC/EL/INQ/68/2017**

**INQUIRY INTO ALLEGATIONS OF FORGERY OF ACADEMIC CERTIFICATES BY THE MEMBER OF COUNTY ASSEMBLY OF KAJIADO**

The Ethics and Anti-Corruption Commission commenced these investigations following an anonymous complaint that an aspirant for the Kajjado West Constituency Parliamentary seat had forged a certificate from JKUAT University which he also used to get admission at the University of Nairobi.

Investigations established that the MCA presented a forged KCPE certificate to JKUAT which led to him being awarded a certificate in County Governance. Investigations further revealed that the MCA subsequently attached the Certificate from Jomo Kenyatta University of Agriculture and Technology to the self-declaration form submitted to EACC indicating that he had attained that level of education. Further the MCA acted as a Commissioner for Oaths by commissioning the said document yet he was not a Commissioner for Oaths.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the MCA, Keekonyokie ward be charged with providing false information contrary Section 46(1)(d) as read with Section 46(2) of the Leadership and Integrity Act, 2012, uttering a false document Contrary to Section 353 of the Penal Code, deceiving a public entity contrary to section 46 (1) (b) as read with Section 46 (2) of the Leadership and Integrity Act, and Unlawfully acting as a Commissioner for Oaths contrary to section 7 of the Oaths and Statutory Declarations Act.

On 15<sup>th</sup> April, 2020, the DPP returned the file for further investigations.

#### **15. EACC/ELD/EL/INQ/10/2017**

### **INQUIRY INTO ALLEGATIONS THAT THE MEMBER OF COUNTY ASSEMBLY FOR KAPOMBOI WARD FALSIFIED AN ACADEMIC CERTIFICATE**

The Commission commenced investigations following a report that an Enforcement Officer I with Trans Nzoia County, presented to the Human Resource department his personal documents including a sworn affidavit stating that the names Ben Wanjala Wanyonyi and Wanyonyi Henry B referred to one and the same person and that the Kenya Certificate of Secondary Education (KCSE) certificate No. 503205/066 in the name of Wanyonyi Henry B was his.

Investigations established that the names belong to two different people and thus the KCSE certificate belonged to Mr. Wanyonyi Henry B. Investigations further established that the officer had indicated in the self-declaration form that he attained a D+ in his KCSE examinations. The officer used the fake certificate to secure employment at the County on contract basis.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the suspect be charged with providing false information contrary Section 46(1)(d) as read with Section 46(2) of the Leadership and Integrity Act, 2012, two(2) counts of making false declaration contrary to Section 11 of the Oaths and Statutory Declarations Act, impersonating a person named in a certificate contrary to section 384 of the Penal Code, forgery Contrary to Section 347 of the Penal Code, and uttering a false document Contrary to Section 353 of the Penal Code

On 24<sup>th</sup> April, 2020, the DPP returned the file for further investigations.

#### **16. EACC/ELD/OPS/ INQ/10/19**

#### **INVESTIGATION INTO BRIBERY ALLEGATIONS AGAINST A CIVIL ENGINEER AT THE COUNTY GOVERNMENT OF UASIN GISHU AND A MEMBER OF THE PUBLIC**

The Commission commenced investigations following a complaint lodged on 18th June, 2019 that a person purporting to be a building Engineer attached to

Uasin Gishu County Government called the complainant demanding a bribe of Kshs. 100,000/= as an inducement to prepare a favorable inspection report for rental apartments at Subaru area within Eldoret Municipality.

Investigations established that the Civil Engineer, made a bribe demand of Kshs. 60,000/-. The EACC organized an operation and Kshs. 10,000/- operation money was received by the Civil Engineer's proxy; Hezron Motindu Ondari, a business man in Eldoret town. Further investigations established that out of the Kshs. 10,000 treated trap money, only Kshs. 9,000/- was recovered from the two suspects as they had already spent Kshs.1000/-.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the County Government of Uasin Gishu Civil Engineer and his proxy be charged with three (3) counts of receiving a bribe Contrary to Section 6(1) as read with Section 18 of the Bribery Act, 2016.

On 24<sup>th</sup> April ,2020, the DPP concurred with the recommendation to prosecute the suspects.

#### **17. EACC/OPS/INQ/146/2018**

#### **INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE AGAINST A POLICE OFFICER AT INDUSTRIAL AREA POLICE STATION**

Investigations commenced following a report received where the complainant, alleged that three friends operating a car hire business were arrested and detained at Industrial Area Police Station. The three had gone to report a stolen Motor Vehicle, Toyota Axio, Registration No. KCN 885V which was in the custody of one of their client. However, a Police Officer at the Station advised them to pay Kshs. 100,000/= each, Kshs. 50,000/- of which would be receipted and the

other Kshs. 50,000/- would be used to facilitate their release without being taken to court.

Investigations established that the Police officer received Kshs. 30,000/ - in order to dismiss the case. Investigations further established that the request amounted to requesting and receiving a financial advantage to facilitate the release of the two businessmen from police custody.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the suspect be charged with three (3) counts of receiving a bribe Contrary to Section 6(1) as read with Section 18 of the Bribery Act, 2016.

Awaiting DPP's response.

#### **18. EACC/OPS/INQ/161/2018**

#### **ALLEGATIONS OF CORRUPTION LEVELLED AGAINST THE QUALITY MANAGER AT FREEDOM AIRLINES EXPRESS**

The Commission commenced investigations following a report that an Airworthiness Inspector with the Kenya Civil Aviation Authority (KCAA) was making a financial demand of Kshs. 300,000 through his colleague, who is a Quality Manager at Freedom Airlines Express Limited. The financial benefit was to influence the outcome of an investigation being conducted by KCAA against the Freedom Airlines Express Manager.

Investigations established that the Kshs. 300,000/ demand was not substantiated and neither was it captured in the audio recordings. The entire audio recordings did not disclose a specific amount which constituted a bribe. Further investigations revealed that the suspect never received the treated trap money amounting to Kshs. 200,000/-.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the file be closed.

Awaiting DPP's response.

**19. EACC/MCKS/OP/INQ/52/2018**

**ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF THE NATIONAL POLICE SERVICE.**

The Ethics and Anti-Corruption Commission received a complaint that a police woman attached to Machakos Police Station had requested for a financial advantage of Kshs. 10,000/- so as to drop charges of giving false information to a Police Officer against Benson Nzioka Mboi who had falsely reported a case of defilement at Machakos Police Station.

Investigations established that the police woman had indeed requested for the financial advantage of Kshs 10,000/- which she subsequently received Kshs 8,000/- treated money, money which was later recovered from her by the EACC officers.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the suspect be charged with three (3) counts of receiving a bribe Contrary to Section 6(1) as read with Section 18 of the Bribery Act, 2016.

On 24<sup>th</sup> April, 2020, the DPP returned the file for further investigations.

**20. EACC/OPS/INQ/187/2018**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN ASSISTANT PROCUREMENT OFFICER AT THE RIFT VALLEY WATER SERVICES BOARD**

The Ethics and Anti-Corruption Commission and the National Police Service Traffic Department launched a joint multi-agency operation on all the major highways across the country during the festive season of December 2018 to January 2019. The objective was to ensure that motorists adhered to traffic rules and regulations and those found to have breached the rules were arrested. Those who bribed officers executing the operation were also arrested by the EACC officers and charged for bribery.

On 19<sup>th</sup> December, 2018 while in the course of the operation in Nakuru at the KFA roundabout along the Nairobi-Nakuru-Eldoret highway, the multiagency team arrested a passenger in Motor Vehicle Registration No KBT 357T who had failed to buckle up the safety belt.

Investigations revealed that when the passenger was asked why he did not have his safety belt on, he requested to be pardoned, however, when the driver was asked to produce his driving licence, the driver handed over his driving licence with Kshs. 500/-tacked in it. He proceeded to inform the officer that she could keep the money and return his driving licence since he was taking the passenger to a workshop at Egerton hotel.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the suspect be charged with giving a bribe contrary to section 5 (1) as read with section 18 (1) (2) of the Bribery Act No. 47 of 2016.

Awaiting DPP's response.

#### **21. EACC/OPS/INQ/7/2018**

### **INQUIRY INTO BRIBERY ALLEGATIONS AGAINST TRAFFIC AND GENERAL DUTIES POLICE OFFICERS FROM LONDIANI AND CHEPSEON POLICE STATIONS**

The Commission commenced investigations following complaints received from members of the public that traffic police officers openly and carelessly extort money from drivers plying the Nakuru-Kericho Road, the Commission conducted a surveillance operation along the road between 17<sup>th</sup> December, 2017 and 20<sup>th</sup> January, 2018.

The surveillance investigations established that the police officers were indeed taking bribes from motorists. In furtherance of the investigations, the suspected police officers were positively identified by their superiors.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that disciplinary action be taken by the National Police Service Commission against the police officers.

Awaiting DPP's response.

## **22. EACC/MLD/OPS/INQ/05/2018**

### **ALLEGATION OF BRIBERY AND UNETHICAL CONDUCT BY A JUDICIAL OFFICER AT MALINDI LAW COURTS**

The Ethics and Anti-Corruption Commission, received a report on unethical conduct and bribery against the Malindi Senior Resident Magistrate. The Malindi Senior Resident Magistrate had an affair with the plaintiff in Children Case No. 23 of 2014 and further received Kshs. 20,000.00 which adversely worked against the Defendant in the children case. It was further alleged that the Magistrate received a Kshs. 20,000/- bribe from the Plaintiff through one of her employees. This made him file an application for the Magistrate to recuse himself from the conduct of the children case but the application was dismissed.



Investigation established that indeed the Magistrate had an affair that resulted to conflict of interest in executing the Magistrate's duty in the children case. Investigation revealed that there was no cogent evidence that the Magistrate received Kshs. 20,000/- as a bribe.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> October, 2019 recommending that the magistrate be subjected to disciplinary action for breaching the Judicial Code on conflict interest.

Awaiting DPP's response.

### **23. EACC/BGM/FI/INQ/14/2019**

#### **INQUIRY INTO ALLEGATIONS AGAINST BUSIA COUNTY SECRETARY FOR FAILING TO PROVIDE DOCUMENTS**

The Commission received an anonymous report that an Accountant in the Busia County Government Finance and ICT department embezzled public funds using three companies which irregularly received a total of Kshs. 56 Million for the alleged supply of stationary to the County Government of Busia.

Investigations established that indeed the County Government of Busia irregularly paid three companies; Evam Enterprise Limited, Draccy Enterprise Limited and Loviannah Enterprise a sum of Kshs. 56 Million. However, the County Secretary failed to provide the information relating to the issue as requested. The letters requesting documents were received at the County Government of Busia but no documents were supplied. The County Secretary only wrote to the various departments of the county, requesting for documents after the inferno of 25<sup>th</sup> September, 2019, despite being aware of the destruction of the evidence.

Investigations further revealed that the Accountant Busia County Government was the director of Evam Enterprise Limited, one of the beneficiaries of the Kshs. 56 Million and that the other two Companies belonged to his relatives.

A report was compiled and forwarded to the DPP on 29<sup>th</sup> October, 2019 recommending that the Busia County Secretary, Chief Finance, Economic Planning and ICT Department, Accountant Busia County Government and Ag. Director, Accounting Services be charged with Conspiracy to commit an offence of Economic Crime Contrary to Section 47A(3) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act,2003, Concealing of Records Contrary to Section 66(1)(c) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act,2003, Failing to comply with a written notice to provide information Contrary to Section 27(3) as read with Section 27(4) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003 and two counts of Neglect of official duty by a public officer Contrary to Section 128 as read with Section 36 of the Penal Code.

On 4<sup>th</sup> January,2020, the DPP returned the file for further investigations.

#### **24. EACC/ELD/FI/INQ/58/2016**

#### **INQUIRY INTO ALLEGATION OF ABUSE OF OFFICE, CONFLICT OF INTEREST AND NON-COMPLIANCE WITH PROCUREMENT LAWS BY THE FUND ACCOUNT MANAGER, TURKANA SOUTH CONSTITUENCY BY AWARDING TENDERS TO HIS COMPANIES DURING THE 2014/2015 FINANCIAL YEAR**

The Commission commenced investigations following an anonymous report that during the Financial Year 2016/2017, the Fund Manager Turkana South Constituency Development Fund (CDF) awarded a tender for planting of trees in the CDF offices compound in Lokichar Trading Centre for the sum of Kshs. 1.9 million to a company he is a Director.

It was further alleged that the tender was not advertised and that the total cost of the project was paid before the works were done and that the works had not been done as at the time of this investigation.

Investigations established that Request for Quotations procurement method used did not meet the required threshold for Quotations. And further that the Fund Manager Turkana South Constituency Development Fund (CDF) submitted a bid for his Company, which was later awarded the Contract.

Investigations further reveals that the Fund Manager sat in the Turkana South Constituency Development Fund Meeting held on 14<sup>th</sup> September 2015 to deliberate payments of Kshs. 1,800,000.00 to his company; Parabuku Logistics and Fleet Hire Management Ltd for branding of CDF projects and further that the Fund Manager did not disclose his interest in the Contract.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the Fund Manager, Parabuku Logistics and Fleet Hire Management Ltd and the Fund Manager's wife be charged with fraudulent acquisition Contrary to Section 45(1)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, conflict of interest Contrary to Section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, eight (8) forgery Contrary to Section 347(a) as read with Section 349 of the Penal Code, abuse of office Contrary to Section 46 as read with Section 48 of the Anti-Corruption and Economic Crimes Act, 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.

Awaiting DPP's response.

**25. EACC/MSA/PI/INQ/22/2017**

**INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF MEDICAL INSURANCE COVER AT A COST OF KSHS. 78 MILLION AT TECHNICAL UNIVERSITY OF MOMBASA DURING THE FINANCIAL YEAR 2017/2018.**

Investigations commenced following a complaint that officials of the Technical University of Mombasa (TUM) were involved in procurement irregularities, bribery and abuse of office in the procurement of staff medical insurance cover for the financial year 2017/2018.

Investigations established that the contract for provision of staff medical insurance services for financial year 2016/2017 tender No. TUM/MEDI/2016-2017 for the sum of Kshs. 85,699,998 was signed before the lapse of 14 days after the award of the contract. Investigations further revealed that different persons were appointed to the negotiation committee in place of the initial members of the tender evaluation committee. Despite these, the PPAR Board on 4<sup>th</sup> May 2017 held that the procuring entity was at liberty to proceed with the procurement to its logical conclusion despite noting the irregularities in the contract signed.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that administrative action be taken against the culpable officers and also that an advisory to be issued to the procuring entity to ensure that they comply with the relevant procurement laws.

Awaiting DPP's response.

**26. EACC/KSM/PI/INQ/02/2014**

**INVESTIGATION OF CORRUPTION ALLEGATIONS AGAINST A SENIOR RESIDENT MAGISTRATE AND STATION ACCOUNTANT RESPECTIVELY, KEHANCHA LAW COURTS.**

The Commission commenced investigations following a complaint that a Magistrate based at the Kehancha Law Courts incurred running and servicing expenses on a Motor Vehicle Registration No. GK A 020 Land Rover which was at the relevant time grounded following an accident. The said magistrate converted Kshs. 150,000/- meant for fueling the aforesaid Government vehicle for his personal Vehicle Registration Number KAR 312 C with the help of the Station Accountant.

Investigations revealed that the Land Rover Motor Vehicle Registration No. GK A 020 attached to Kehancha Law Courts was involved in an accident on 16<sup>th</sup> February, 2012 and was towed to CMC Motors Ltd in Kisumu for repairs on 2<sup>nd</sup> March, 2012 where it stayed up to 7<sup>th</sup> March, 2013. During this time, the station driver was deployed at the customer care desk.

Investigations further established that during the period the vehicle was at the garage, the Magistrate being the AIE holder incurred the expenditure of Kshs. 12,000/- purportedly for servicing of the motor vehicle engine and exhaust paid to Kehancha Metal Works, Kshs. 58,000/- purportedly for the redecoration of horse pipe paid to Waloot Technical Services and Kshs. 397,056 fuel expenditure at the Haki na Jasho Filling Station purportedly for the said motor vehicle.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the Magistrate, the Accountant, the mechanic and a business lady be charged with six (6) counts of abuse of office Contrary to Section 46 as Read With Section 48[1] of the ACECA, three (3) counts of fraudulent disposal of public property Contrary to section 45(1) (b) as read With Section 48(1) of the ACECA, fraudulently making payment from public revenue for services not rendered Contrary to Section 45(2)(b)(iii) as Read With Section 48[1] of the ACECA , two (2) counts of conspiracy to commit an economic crime Contrary to Section 47A (3) as Read With Section 48[1] of the ACECA

On 24<sup>th</sup> February ,2020, the DPP returned the file for further investigations.

**27. EACC/AT/INQ/56/2007**

**INQUIRY INTO ALLEGATIONS OF FINANCIAL MALPRACTICE AGAINST THE TURKANA DISTRICT ACCOUNTANT.**

The Commission commenced investigations on receipt of a complaint that the former Turkana District Accountant engaged in financial malpractices.

The evidence established that indeed there was financial malpractice in the treasury office at Turkana District. The Turkana District Accountant irregularly processed and approved a total of 29 imprest warrants occasioning a loss of Kshs. 2,600,060/-. However, the Turkana District Accountant is willing to refund the amount.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that recovery process should be initiated.

Awaiting DPP's response.

**28. EACC/EL/INQ/49/2016**

**INQUIRY INTO FORGERY ALLEGATIONS AGAINST AN EMPLOYEE OF THE COUNTY GOVERNMENT OF THARAKA NITHI.**

Investigations commenced following a report that an ICT Officer employed by the Tharaka Nithi County submitted a forged degree certificate number /17 8721 – Bachelor of Business Information from Jomo Kenyatta University of Agriculture and Technology (JKUAT) to secure employment as an ICT Officer.

Investigations revealed that the degree certificate number /17 8721 as well as the academic transcripts used to secure employment were not issued by JKUAT. Investigations further revealed that the Deputy Registrar, College of Human Resource and Development at JKUAT fraudulently issued the employee with a letter dated 15/12/2016 indicating that he had successfully completed his studies, yet he had not.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the Tharaka Nithi County ICT Officer I and the Deputy Registrar, College of Human Resource and Development at JKUAT be charged with three (3) counts of making false documents contrary to Section 347(a) as read with section 349 of the Penal Code, three (3) counts of uttering false documents Section contrary to Section 353 of the Penal Code and abuse of abuse contrary to Section 46 as read with section 48 of the Anti- Corruption and Economic Crimes Act.

On 20<sup>th</sup> March,2020, the DPP returned the file for further investigations.

## **29. EACC/EL/INQ/53/2017**

### **ALLEGATIONS OF FALSIFYING ACADEMIC DOCUMENTS BY THE ODM SENATORIAL ASPIRANT FOR NAIROBI COUNTY AND USING THEM TO SECURE EMPLOYMENT AT THE KENYA INVESTMENT AUTHORITY**

The Commission commenced investigations following a letter received from Kenya Investment Authority (KIA) dated 24<sup>th</sup> April,2017 that an officer had used falsified academic papers to secure employment at KIA.

Investigations established that the individual had secured employment in KIA, Nairobi City Council Government (NCCG) and Moi Teaching and Referral Hospital MTRH using forged academic certificates including; Master's degree

from Day Star University, Bachelor's degree from Maseno University and Diplomas in Project Management, Diploma in HIV Counseling, Certificate in Project Planning and Management all from Catholic Diocese of Nakuru.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the Nairobi City Council Government Ward Administrator, Mathare Sub County be charged with Five(5) counts of forgery contrary to Section 345 as read with section 349 of the Penal code , fraudulent acquisition of public property contrary to section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Act , four (4) counts of providing false information to public bodies contrary to section 46(2)(1)(d) as read with section 46(2) of the leadership and integrity Act and two (2)counts of uttering a false document contrary to section 353 of the Penal Code.

Awaiting DPP's response.

### **30. EACC/ELD/EL/ INQ/03/2015**

#### **INVESTIGATION INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE PRINCIPAL, ZIWA TECHNICAL TRAINING INSTITUTE, NOW ELDORET NATIONAL POLYTECHNIC- ZIWA**

The Ethics and Anti-Corruption Commission, North Rift Regional Office commenced investigations following a complaint that the Principal Eldoret National Polytechnic had diverted cement from the institution for construction of his house. That the principal authorized the release of 37 bags of cement from Eldoret Polytechnic- Main Campus and fraudulently diverted the same for the construction of his own house under the pretext that they were being delivered to Eldoret Polytechnic- Ziwa Campus.



Investigations established that only 7 bags of cement were issued from the Main Campus on 5<sup>th</sup> February 2014 and that they were all delivered at Ziwa Campus and properly documented. Investigations further established that the Gate Pass submitted was altered to read 37 instead of 7 bags of cement.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the inquiry file be closed

Awaiting DPP's response.

### **31. EACC/ELD/OPS/INQ/25/2018**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A PRIVATE PERSON AND TWO KPLC OFFICERS RESPECTIVELY IN KITALE, TRANSNZOIA COUNTY.**

The Commission received a complaint that the Kenya power officers had disconnected their electric power line and were demanding for bribes of Kshs.5000/ in order to reconnect the power.

Investigation established that on 20<sup>th</sup> November, 2018 a private person and two KPLC officers deployed at Kitale town in Trans Nzoia County, met with the Complainant and jointly requested for a financial advantage of Kshs. 5000 from him in order for them to reconnect his electricity power line. Investigation further established that on 21<sup>st</sup> November 2018 the private person was arrested receiving trap money of Kshs. 5000 on behalf of the KPLC officers. Investigations revealed that the private person had represented himself as a KPLC officer and subsequently disconnected the electricity power line.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the suspects be charged with two (2) counts of request for bribe contrary to section 6 (1) (a) as read together with section 18

(1) (2) of the Bribery Act, Conspiracy to commit a corrupt offence contrary to Section 47(A)(3) as read with Section 48 of the Anti-Corruption and Economic Crimes Act No 3 Of 2003 and Personating a Person Employed in the Public Service contrary to Section 105(B) of the Penal Code.

Awaiting DPP's response.

### **32. EACC/OPS/INQ/155/2019**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST POLICE OFFICERS MANNING GARISSA TOWN – MODIKA ROAD**

The Ethics and Anti-Corruption Commission received anonymous complaints on diverse dates from motorists that the traffic police officers manning Garissa town –Modika road were notorious for receiving bribes from motorists for unspecified offences

An undercover surveillance carried out between 9<sup>th</sup> to 24<sup>th</sup> September, 2018 revealed that the traffic police officers manning the Garissa town –Modika road were engaging in corrupt conduct. Investigations established that video clips alone were not sufficient to support bribery charges as there was no recovery of the money and neither was the exact amount of money received known.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that administrative action be taken against the police officers.

On 30<sup>th</sup> January, 2020, the DPP concurred with the recommendation for administrative action against the Police Officers.

### **33. EACC/MSA/OPS/INQ/47/2018**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A LAW ENFORCEMENT OFFICER, MOMBASA COUNTY GOVERNMENT**

Investigations commenced following a report that Mombasa County Government Law Enforcement Officers had requested for a financial advantage of Kshs. 200,000/- so as not to demolish a structure belonging to the Complainants that was allegedly built on a road reserve.

Investigations established that on 16<sup>th</sup> November, 2018, the officers requested for a financial advantage of Kshs 200,000 which was later reduced to Kshs. 50,000/-. The suspect received Kshs. 10,000/- treated money which was later recovered from him by the investigating team.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the suspects be charged with four (4) counts of requesting for a bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act No. 47 of 2016, and Abuse of office contrary to Section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003,

On 28<sup>th</sup> February, 2020 the DPP concurred with the recommendation to prosecute.

### **34. EACC/ELD/OPS/INQ/9/2019**

#### **INVESTIGATION INTO BRIBERY ALLEGATIONS AGAINST AN EMPLOYEE OF THE MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT, KAPSABET REGION, NANDI COUNTY.**

The Commission commenced investigations following a complaint lodged that an officer at the Ministry of Interior and Coordination of National Government had requested for a bribe of Kshs. 500 in order to facilitate the late registration of births for two children.

Investigations established that on 30<sup>th</sup> May 2019, the officer requested for Kshs. 500/- bribe and subsequently received Kshs. 1,000 treated monies. He was arrested and the treated money Kshs. 1,000 was recovered from him.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the suspect be charged with three (3) counts of requesting for a bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act.

On 28<sup>th</sup> February, 2020 the DPP returned the file with recommendation for Administrative action, in lieu of prosecution.

### **35. EACC/OPS/KIS/INQ/2/2019**

#### **INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE BY A SECURITY OFFICER AT HOMABAY LAND REGISTRAR'S OFFICE WITHIN HOMABAY COUNTY.**

Investigations commenced following a report received on 2<sup>nd</sup> April, 2019 that the complainant visited the Homa-Bay Land Registrar's office to process his title deed and that of his late father and the security guard at the customer care desk demanded for Kshs. 1,000/- to facilitate the issuance of the title deeds.

The investigations were able to establish the bribe demand, and, it also revealed that the suspect received the bribe money. Further investigation revealed that the suspect was under instructions from an intern at the Land registrar's office to collect the Kshs. 1,000/= from every person who sought a title deed. The trap money was recovered from the suspect.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the suspect be charged with three (3) counts of requesting for a bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act.

Awaiting DPP's response.

### **36. EACC/OPS/INQ/105/2019**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST EMPLOYEES OF NAIROBI WATER AND SEWERAGE COMPANY (NAWASCO)**

Investigations commenced following a report received that an employee of the Nairobi water and Sewerage Company (NAWASCO) had requested for a Kshs. 50,000/- bribe in order not to charge the complainant for tampering with the water meter.

Investigations revealed that the suspects requested for a bribe of Kshs. 50,000/= as an inducement not to charge the complainant with the offence of tampering with a NAWASCO water meter. Investigations further revealed that the suspects received Kshs. 30,000/- treated money.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the suspect be charged with three counts of requesting for a bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act.

On 24<sup>th</sup> April, 2020, the DPP returned the file for further investigations.

**37. EACC/MCKS/OP/INQ/1/2019**

**INQUIRY INTO ALLEGATIONS OF REQUESTING FOR A BRIBE BY EMPLOYEES OF KENYA POWER AND LIGHTING COMPANY.**

The Commission commenced investigations following a complaint that the Kenya Power employees were demanding for a bribe in order not to disconnect an illegal connection. Kenya Power employees alleged that the complainant's house had an illegal electricity connection and as such, demanded for a bribe of Kshs. 300,000/- so as not to disconnect power.

Investigations established that there was a bribe demand of Kshs. 225,000/-. Further investigations revealed that the suspect received Kshs. 50,000/- treated money which was later recovered from him. Investigations established that the suspects were impersonating Kenya Power officers.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the property sales agent and a Kitengela business man be charged with four counts of requesting for bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act, impersonating persons employed in the Public Service contrary to Section 105(B) of The Penal Code and Uttering false document contrary to section 353 as read with section 349 of the Penal Code.

On 12<sup>th</sup> March, 2020, the DPP advised that the suspects be charged with impersonating a KPLC official, in lieu of bribery offences directed that further investigations be undertaken in that regard.

**38. EACC/ELD/OPS/16/2018**

**INQUIRY INTO ALLEGATIONS AGAINST EMPLOYEES OF TRANS-NZOIA WATER SERVICES COMPANY IN KITALE WITHIN TRANS NZOIA COUNTY**

Investigations commenced following a report received that officers from Nzoi Water company were requesting for a financial benefit of Kshs. 5,000/- in order to reconnect water supply and return the water meter which they had confiscated despite the complainant having paid the outstanding bill of Kshs. 7,500/-.

Investigations established that indeed the metering supervisor and an administrative secretary had made a bribe demand of Kshs. 5,000/-, which he later received. Further investigations reveal that Kshs. 5,000/- treated money was recovered from the suspect. Another officer prevented the investigators from leaving the premises after the arrest by ordering that the gates be closed.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that the suspects be charged with two counts of requesting for a bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act and obstruction contrary to section 66 (1) (a) as read with Section 66(2) of the Anti-Corruption and Economic Crimes Act.

On 24<sup>th</sup> February, 2020, the DPP returned the file for further investigations.

### **39. EACC/OPS/INQ/176/2018**

#### **AN INVESTIGATION INTO BRIBERY ALLEGATIONS AGAINST EMPLOYEES OF THE NAIROBI CITY COUNTY WATER AND SEWERAGE COMPANY**

The Ethics and Anti-Corruption Commission received a complaint that the Nairobi City Water and Sewerage Company employees were demanding for a bribe of Kshs. 100,000/- to compromise a complaint for illegal water connection in a building situated at Huruma Estate.

Investigations established that the Nairobi City Water and Sewerage Company security, security Assistant and Investigation supervisor had been found at the complainant's site where there was alleged illegal water connection had been arrested and detained at Pangani Police Station for a night before they were released. The suspects declined to receive the money.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> November, 2019 recommending that administrative action be taken against the Nairobi City Water and Sewerage Company employees.

On 27<sup>th</sup> January, 2020, the DPP concurred with the recommendation for administrative action against the suspects.

#### **40. EACC/OPS/INQ/NYR/3/2019**

#### **AN INVESTIGATION INTO ALLEGATIONS OF BRIBERY AGAINST THE HEAD TEACHER MABAE PRIMARY SCHOOL**

The Commission received a report that the head teacher Mabae Primary School in Murang'a County requested for a financial benefit of Kshs. 2,500/- in order to issue a Leaving Certificate to a former student of the school.

Investigations established that the Kshs. 950/- demanded by the Head teacher was meant for BOG allowance owed to the school. This was following a BOG resolution that students should contribute towards their allowances.

A report was compiled and forwarded to the DPP on 29<sup>th</sup> November, 2019 recommending that the file be closed and the BOG be sensitized on carrying out their duties in accordance with the law.



On 16<sup>th</sup> March, 2020, the DPP concurred with the recommendation that the school Board of Management be sensitized on carrying out their duties in accordance with the law.

**41. EACC/EL/INQ/37/2019**

**INQUIRY INTO ALLEGATIONS THAT THE GOVERNOR NAIROBI CITY COUNTY SWORE A FALSE DECLARATION IN THE SELF-DECLARATION FORM SET OUT IN THE FIRST SCHEDULE OF THE LEADERSHIP AND INTERGRITY ACT,2012(LIA) AND SUBMITTED TO THE ETHICS AND ANTI-CORRUPTION COMMISSION ON THE 9<sup>TH</sup> MARCH,2017.**

The Commission commenced investigations following a self-declaration form filed in compliance with Chapter six of the Constitution, Leadership and Integrity Act, 2012 and Regulation 46 of the Elections Regulations 2012, by the Governor Nairobi City County on 9<sup>th</sup> March,2017.

Investigations revealed that the Governor, Nairobi City County Government had falsely answered No to question 9 (m) which inquired whether he had ever been convicted of any offence and sentenced to serve imprisonment for a period of at least 6 months. Further investigations established that the said Governor was charged in Mombasa CR/NO.341/97, for making a document without authority contrary to section 357 (a) of the Penal Code. The Governor failed to attend court where a warrant of arrest was issued. The Governor was arrested and produced in court where on plea of guilty he was sentenced to pay a fine of Kshs. 200,000/- or in default serve a 6 months' sentence. The Governor did not raise the fine and was committed to Shimo la Tewa prison to serve his custodial sentence.

A report was compiled and forwarded to the DPP on 5<sup>th</sup> December,2019, recommending that the suspect be charged with providing false information to Ethics and Anti-Corruption Commission contrary to section46(1)(b) as read with

section 46(2) of the Leadership and Integrity Act, two counts of false declaration contrary to section 11 of the Oaths and Statutory Declarations Act, and escape from lawful custody contrary to section 123 as read with section 36 of the Penal Code.

Awaiting DPP's response.


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

Total No. of files forwarded to the Director of Public Prosecutions	<b>41</b>
No. of files recommended for prosecution	<b>29</b>
No. of files recommended for administrative or other action	<b>6</b>
No. of files recommended for closure	<b>6</b>
No. of files recommended for prosecution and the cases are already lodged before Court	<b>1</b>
No. of files where recommendation to prosecute accepted	<b>5</b>
No. of files where recommendation for administrative or other action accepted	<b>3</b>
No. of files where recommendation for closure accepted	<b>2</b>
No. of files returned for further investigations	<b>12</b>
No. of files where recommendation to prosecute not accepted	<b>1</b>
No. of files where recommendation for administrative or other action not accepted	<b>0</b>
No. of files where closure not accepted	<b>0</b>
No. of files awaiting Director of Public Prosecutions' action	<b>18</b>

Dated at Nairobi this *8<sup>th</sup>* Day of

2020

*Eljud Wabukala*  
**ARCHBISHOP (RTD) ELIUD WABUKALA, EBS**  
**CHAIRPERSON**  
 /SN

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