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PARLIAMENT  
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REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY


THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025  
PUBLIC PETITIONS COMMITTEE

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REPORT ON-

CONSIDERATION OF PETITION NO. 67 OF 2023 REGARDING DISMISSAL FROM  
EMPLOYMENT OF MR. GERALD MULI KIILU BY ABSA BANK (FORMERLY BARCLAYS  
BANK) PRESTIGE CENTRE

APRIL, 2025

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
DATE: <b>23 APR 2025</b>	
DAY: <b>NOV</b>	
TABLED BY:	<b>CHAIRPERSON PUBLIC PETITIONS Committee</b>
CLERK-AT THE-TABLE:	<b>PMUIFA</b>

Directorate of Legislative & Procedural Services  
Clerk's Chambers  
Main Parliament Buildings  
NAIROBI

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## CHAIRPERSON'S FOREWORD

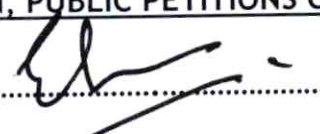
On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on the Public Petition No. 67 of 2023 regarding dismissal from employment of Mr. Gerald Muli Kiilu by ABSA bank (formerly Barclays Bank). The petition was presented to the House pursuant to Standing Order No. 225 (2) (a) by the Member of Parliament for Central Imenti Constituency, Hon. Moses Kirima, M.P on behalf of Mr. Gerald Muli Kiilu.

The Committee considered the Petition and observed that the subsequent suits by the Petitioner were unsuccessful based on the doctrine of *res judicata*. This doctrine is enshrined under section 7 of the Civil Procedure Act (Cap. 21) and it bars a court from trying a suit involving same parties raising the same issues which have been sufficiently determined by another court of competent jurisdiction. The Committee undertook this inquiry by listening to the petitioner and the management of ABSA Bank and notes that this was a dispute between an employer and employee that arose in 2005 out of an employer-employee relationship and the Petitioner was paid dues totalling Kshs992,894.20 which was subject to PAYE and other statutory deductions and loans.

The Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to lay the Report on the Table of the House.

HON. KAGESI ERNEST OGESI KIVAI, M.P.  
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date.....  ..... 22.04.2025

## PART ONE

### 1 PREFACE

#### 1.1 Establishment and Mandate of the Committee

The Public Petitions Committee is established under the provisions of Standing Order 208A with the following terms of reference:

- a) considering all public petitions tabled in the House;
- b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- c) recommending whether the findings arising from consideration of a petition should be debated; and
- d) advising the House and reporting on all public petitions committed to it.

## 1.2 Committee Membership

The Public Petitions Committee was first constituted in October 2022 and reconstituted in March 2025 and comprises the following Members:

### Chairperson

Hon. Ernest Kivai Ogesi Kagesi, M.P.  
Vihiga Constituency  
**Amani National Congress (ANC)**

### Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.  
Turbo Constituency  
**United Democratic Alliance (UDA)**

Hon. Patrick Makau King'ola, M.P.  
Mavoko Constituency  
**Wiper Democratic Movement-Kenya  
(WDM-K)**

Hon. Nimrod Mbithuka Mbai, M.P.  
Kitui East Constituency  
**United Democratic Alliance (UDA)**

Hon. Joshua Chepyegon Kandie, M.P.  
Baringo Central Constituency  
**United Democratic Alliance (UDA)**

Hon. Beatrice Kadeveresia Elachi, CBS,  
M.P.  
Dagoretti North Constituency  
**Orange Democratic Movement (ODM)**

Hon. Maisori Marwa Kitayama, M.P.  
Kuria East Constituency  
**United Democratic Alliance (UDA)**

Hon. Edith Vethi Nyenze, M.P.  
Kitui West Constituency  
**Wiper Democratic Movement-Kenya  
(WDM-K)**

Hon. Bidu Mohamed Tubi, M.P.  
Isiolo South  
**Jubilee Party (JP)**

Hon. Bernrd Muriuki Nebart, M.P.  
Mbeere South Constituency  
**Independent**

Hon. John Bwire Okano, M.P.  
Taveta Constituency  
**Wiper Democratic Movement-Kenya  
(WDM-K)**

Hon. Peter Mbogho Shake, M.P.  
Mwatate Constituency  
**Jubilee Party (JP)**

Hon. Suzanne Ndunge Kiamba, M.P.  
Makueni Constituency  
**Wiper Democratic Movement-Kenya  
(WDM-K)**

Hon. Peter Irungu Kihungi, M.P.  
Kangema Constituency  
**United Democratic Alliance (UDA)**

Hon. Sloya Clement Logova, M.P.  
Sabatia Constituency  
**United Democratic Alliance (UDA)**

### **1.3 Committee Secretariat**

The Public Petitions Committee was facilitated members of the secretariat:

**Lead Clerk  
Mr. Ahmed Kadhi  
Principal Clerk Assistant II**

**Ms. Anne Shibuko  
First Clerk Assistant**

**Mr. Willis Obiero  
Clerk Assistant III**

**Ms. Patricia Gichane  
Legal Counsel II**

**Ms. Roselyn Njuki  
Senior Sergeant at Arms**

**Mr. Calvin Karungo  
Media Relations Officer**

**Ms. Miriam Modo  
First Clerk Assistant**

**Ms. Nancy Akinyi  
Research Officer III**

**Mr. Paul Shana  
Sergeant-at-Arms**

**Mr. Peter Mutethia  
Audio Officer**

## PART TWO

### 2 BACKGROUND OF THE PETITION

#### 2.1 Introduction

1. Public Petition No. 67 of 2023 regarding dismissal from employment of Mr. Gerald Muli Kiilu by ABSA bank (formerly Barclays bank) prestige Centre was presented to the House on 23rd November, 2023 by the Member of Parliament for Central Imenti Constituency, Hon. Moses Kirima, M.P on behalf of Mr. Gerald Muli Kiilu.
2. The petitioner stated that through a letter dated 31st January 2005, one Mr. Gerald Muli Kiilu was wrongly terminated by Absa Bank (formerly, the Barclays Bank of Kenya Ltd).
3. Absa Bank claimed that in the course of duty, Mr. Gerald Muli Kiilu incurred a loss of Kshs. 149,000 money which was borrowed from him by the then Retail Manager.
4. On the spot investigations done on 30<sup>th</sup> November 2004 by the Senior Retail Manager revealed that Mr. Gerald Muli Kiilu had a shortage of Kshs. 366.10.
5. The evidence of investigation revealed a loss of Kshs. 366 through a process that appeared to target an individual. The report of investigation of another colleague was found to have shortage of about Kshs. 30,000 was not terminated from employment, despite the amount being higher than what he had lost.
6. The Petitioner claims to be a victim of witch-hunting, discrimination, intimidation, nepotism and malice.
7. Mr. Gerald Muli Kiilu lodged a trade dispute with the Ministry of Labour and Social Protection. In a judgement dated 7<sup>th</sup> February 2008, the Ministry recommended that he be reinstated without loss of benefits or break in years of service, be paid ten (10) months gross salary as compensation for wrongful and /or unfair termination; and, any other relief the management would deem fit.

#### 2.2 Petitioner's Prayers

8. The Petitioners prayed that the National Assembly through the Public Petitions Committee -
  - (i) Inquire into the dismissal of Mr. Gerald Muli Kiilu by Absa Bank (formerly, the Barclays Bank of Kenya Ltd);
  - (ii) Recommends that Absa Bank considers reinstating the Petitioner without loss or break in years of service; and,
  - (iii) Makes any other recommendation or action it deems fit in addressing the plight of the Petitioner.

## PART THREE

### 3 STAKEHOLDERS' SUBMISSIONS ON THE PETITION

#### 3.1 The Petitioner

On Wednesday 12<sup>th</sup> June, 2024, the Member for Central Imenti Constituency, Hon. Moses Kirima, M.P accompanied by Mr. Gerald Muli Kiilu, appeared before the Committee and submitted as follows –

9. Through a letter dated 31<sup>st</sup> January 2005, the Petitioner's employment contract was wrongly terminated by Absa Bank (formerly, the Barclays Bank of Kenya Ltd).
10. The matter was heard through internal mechanism of Absa Bank who dismissed the matter to his unsatisfaction, compelling the petitioner to seek redress in the labour tribunal.
11. Following his termination by the bank, the Petitioner lodged a trade dispute with the Ministry of Labour and Social Protection. In a judgement dated 7<sup>th</sup> February 2008, it was recommended that he be reinstated without loss of benefits or break in years of service, be paid ten (10) months gross salary as compensation for wrongful and/or unfair termination; and, any other relief the management would deem fit.
12. The bank had not honoured the directives issued by the Ministry of Labour and Social Protection.
13. The petition before the Committee was not an appeal of a court decision as the court did not consider the case brought by the petitioner based on a preliminary objection.
14. The Petitioner prayed for assistance to obtain justice and the deserved compensation for the years he had served before dismissal. The petitioner requested that despite his prayer of reinstatement to work as directed by the tribunal, the Committee should consider compensation of Kshs. 46 million as recommended by the tribunal.

#### 3.2 The Management of ABSA Bank

On 10<sup>th</sup> September, 2024, the Director, Legal Compliance, ABSA Bank, Mr. Kenneth Kangarati appeared before the Committee and submitted as follows–

15. The Petitioner, Mr. Gerald Muli Kilu was employed by Barclays Bank Kenya Limited (now Absa Bank Kenya PLC) on 2<sup>nd</sup> June 1993 and worked for 12 years before suspension on 20<sup>th</sup> December 2004. The reason for termination was that the Petitioner was involved in irregular lending of money in his custody and care at the till to another member of staff.
16. Investigations were conducted, a hearing held, and the termination of his employment was communicated to him on January 31, 2005. On 4<sup>th</sup> April 2005,

he appealed the decision to terminate his employment. The appeal was considered and the decision to terminate him was upheld.

17. In 2009, he filed the matter at the then Ministry of Labour and Human Resource Development requesting for a determination. This was done through the Banking, Insurance and Finance Union of Kenya (BIFU). The dispute proceeded to conciliation and on December 16, 2009 the Conciliator issued a certificate of unresolved dispute Ref: ML/ IR/52/8/2009.
18. On 15<sup>th</sup> February, 2010 the Petitioner instituted a claim for wrongful termination against the Bank in the Industrial Court. The matter was registered as Industrial Court Cause No.124 of 2010 Gerald Muli Kiilu vs. Barclays Bank of Kenya. The claim was brought under the then Employment Act, 2007.
19. The claim was determined in an Award dated 29<sup>th</sup> October, 2010. The Industrial Court dismissed the claim because it was time barred having been filed 5 years after the date of termination. The Petitioner appealed to the Court of Appeal the appeal was registered as Civil Appeal No. 10 of 2011 - Gerald Muli Kiilu v Barclays Bank of Kenya.
20. The Court of Appeal heard the Appeal and determined it in a judgment dated 22<sup>nd</sup> April, 2016. The Court of Appeal upheld the decision of the Industrial Court and determined that it was wrong for the Petitioner to base his claim on a law that came into effect after his termination to seek remedies that were not available during the subsistence of the repealed laws (Employment Act Cap 226 & Trade Disputes Act Cap 234).
21. The Petitioner reported the dispute once again before the Commissioner of Labour. That dispute was referred to a Conciliator on 12<sup>th</sup> July, 2017. The Conciliator compiled a Report dated 4<sup>th</sup> September, 2017 recommending reinstatement without loss of benefits and 10 months gross salary as compensation.
22. The Report was sent to the Bank on 4<sup>th</sup> October, 2017 and the Bank responded on 6<sup>th</sup> October, 2017 informing the Conciliator that there was divergence on the findings considering the previous findings and determinations of the dispute.
23. In 2019, the Petitioner commenced Judicial Review proceedings - Judicial Review Application 137 of 2019 Gerald Muli Kiilu v Cabinet Secretary, Ministry of Labour and Social Protection & another; Barclays Bank of Kenya (Interested Party). This time the Petitioner was seeking orders that the Court to compel the Cabinet Secretary, Ministry of Labour and Social Protection to refer the dispute to the Employment and Labour Relations Court for the dispute to be adjudicated upon.
24. The Court determined the Judicial Review Application in a Ruling delivered on February 7, 2020. The Court dismissed the application on the basis that the matters had been previously determined and the dispute was time barred.

25. The Petitioner filed another claim before the Employment and Labour Relations Court - *ELRC Cause No. E606 of 2020 Geral Muli Kiilu v. Absa Bank Kenya PLC, the Cabinet Secretary Ministry of Labour & Social Protection and the Attorney General*. The Court determined that case on 17<sup>th</sup> May, 2021 and held that the dispute had been definitively determined.
26. The Petition before the Committee is not any different from the dispute that was declared in the year 2009. Furthermore, the Courts have had an opportunity to consider the matters presented in the Petition presented severally and determined them conclusively. The Legislature should not be turned into an avenue of appeal and overturning of decisions of the Judiciary.
27. On 13<sup>th</sup> September 2024, the representative of ABSA Bank made submissions vide a letter Ref. B20/1453/L/24AGM regarding the following additional information requested by the Committee—
- a) The nature and contents of the Petitioner's Employment Contract;
  - b) The Report by the Disciplinary Hearing Panel;
  - c) Documents indicating the dues paid to the Petitioner;
  - d) Information regarding the Petitioner's pension;
  - e) Information regarding the Petitioner's loans; and
  - f) The Petitioner's disciplinary record.
28. In response, ABSA Bank provided documentation as follows:
- (i) The Petitioner's Employment Contract dated May 13, 1993 clause 4 of which provides that the Petitioner was barred from lending to colleagues.
  - (ii) The Investigation Report dated December 28, 2004 containing the findings of irregularities at the Moi Avenue Prestige Centre Branch involving the Petitioner.
  - (iii) Minutes of the Disciplinary Hearing held on January 6, 2005 confirmed and signed by the Petitioner on January 17, 2005.
  - (iv) Letters dated February 9, 2005 confirming that the Petitioner's terminal dues had been processed.
  - (v) Letter dated April 25, 2005 confirming that the Petitioner had also been paid one-month salary in lieu of notice being Kshs54,218 from which Kshs.42,858 was applied to the Petitioner's loan account before an additional payment of Kshs.35,650 outstanding leave days.
  - (vi) The Petitioner's letter dated February 22, 2008 requesting for his pension.
  - (vii) The Bank's response dated March 6, 2008 confirming to the Petitioner that his pension of Kshs819,871 had been processed and credited to his account in February 2005.
  - (viii) Letter dated February 4, 2005 and the account statement of the Petitioner confirming that his pension had been credited to his account.
  - (ix) Letter dated April 29, 2008 from the Retirement Benefits Tribunal to the Petitioner confirming that his benefits were paid.
  - (x) Cash Shortage Report dated July 11, 1997 for the sum of Kshs1,200 involving the Petitioner.

- (xi) Report dated August 22, 1998 regarding the loss of Kshs5,000 by the Petitioner.
- (xii) Letter dated August 24, 1998 by the Petitioner acknowledging the loss of Kshs.5,000.
- (xiii) Letter dated August 29, 1998 recommending that the Petitioner be issued a reprimand.
- (xiv) Letter of reprimand dated September 3, 1998.

### 3.3 Kenya Bankers Association

On 10<sup>th</sup> September, 2024, the Ag. CEO of Kenya Bankers Association, Mr. Raimond Molenje appeared before the Committee and submitted as follows—

29. The matter had been brought to their attention. However, the matter was best dealt with by ABSA as a disciplinary matter within the organization.

### 3.4 Ministry of Labour and Social Protection

On 3<sup>rd</sup> December 2024, the Cabinet Secretary for the Ministry of Labour and Social Protection, Hon. (Dr.) Alfred Mutua submitted as follows on the Petition—

30. The Petitioner, Mr. Gerald Muli Kiilu was employed by Barclays Bank Kenya Limited (now Absa Bank Kenya PLC) on 2<sup>nd</sup> June, 1993. His employment was terminated on 31<sup>st</sup> January, 2005 when he was serving as a Bank Teller (Cashier) at Moi Avenue, Prestige Centre branch. The reason for termination was that the Petitioner was involved in irregular lending of money in his custody and care at the till to another member of staff.

31. Before Mr. Muli's termination, there was an investigation which commenced on 1<sup>st</sup> December, 2004 and completed on 19<sup>th</sup> December, 2004. He underwent a disciplinary hearing on 6<sup>th</sup> January, 2005. He appealed the decision to terminate his employment. The appeal was considered and the decision to terminate was upheld.

32. His dues totalling Kshs992,894.20 which was subject to PAYE and other statutory deductions and loans was calculated and paid as follows—

- |       |  |                 |
|-------|--|-----------------|
| (i)   | One (1) month salary in lieu of notice pay | -Kshs 54,218    |
| (ii)  | Twenty (20) days leave pay                 | -Kshs 35,650.20 |
| (iii) | Pension                                    | -Kshs 903,026   |

33. Mr. Gerald Muli Kiilu was a member of Banking Insurance and Finance Union which reported a Trade Dispute under Section 62(1) of the Labour Relations Act 2007. The issue in dispute was wrongful dismissal from employment of Mr. Gerald Muli Kiilu. The dispute No. ML/IR/52/8/2009 was not resolved and the Conciliator issued a Certificate of Unresolved Trade Dispute through a letter Ref No. ML/NBI/TD/GMM/23/09 dated 16<sup>th</sup> December, 2009.

34. Mr. Gerald Muli Kiilu filed a case in the Industrial Court of Kenya Case No. 124 of 2010, ***Gerald Muli Kiilu Vs Barclays Bank of Kenya*** where the issue in dispute was wrongful termination of Gerald Muli Kiilu by the respondent.
35. On 29<sup>th</sup> October 2010, the judgement registered an award dismissing the entire claim with no order on the costs. The Petitioner, thereafter, lodged an appeal in the Court of Appeal at Nairobi in Civil appeal No. 10 of 2011, ***Gerald Muli Kiilu and Barclays Bank of Kenya***.
36. On 22<sup>nd</sup> April 2016 the Court of Appeal dismissed the appeal and ordered each party to pay their own costs.
37. The Petitioner through the Banking Insurance and Finance Union (BIFU) again registered a formal Trade Dispute with the Minister for Labour against Barclays Bank of Kenya. The issue in dispute was *wrongful dismissal from employment of Gerald Muli Kiilu*. The Conciliator through letter Ref No. MEACL&SP/LD/IR/52/37/2017 dated 4<sup>th</sup> September 2017 recommended as follows—
- (i) That the management should reinstate the Grievant without loss of benefit or breaking years of service;
  - (ii) That the grievant be paid ten (10) months gross salary as compensation for wrongful and/or unfair termination;
  - (iii) Any other relief the Management may deem fit.
38. The Management disagreed with the recommendations through a letter dated 6<sup>th</sup> October 2017. It was unfortunate that the Parties did not bring up to the attention of the Conciliator that the dispute had previously been reported to the Ministry and determined, and that the matter was the subject of a court determination. It was worth mentioning that the Conciliator was wrong to recommend both reinstatement and compensation.
39. The Petitioner filed a judicial review miscellaneous application No. 137 of 2019 between ***Gerald Muli Kiilu vs Cabinet Secretary, Ministry of Labour and Social Protection. (1<sup>st</sup> Respondent) Hon. Attorney General (2<sup>nd</sup> Respondent) Barclays Bank of Kenya. (Interested Party)***
40. On 7<sup>th</sup> February, 2020 the court declined to grant leave to commence judicial review proceedings and issued no order on costs. The Petitioner filed a suit at the Employment and Labour Relations Court Cause No. E606 of 2020, ***Gerald Muli Kiilu (Claimant) vs Absa Bank Plc (Barclays Bank of Kenya) (1<sup>st</sup> Respondent Cabinet Secretary (2<sup>nd</sup> Respondent) Ministry of Labour and Social Protection, and Attorney General (3<sup>rd</sup> Respondent)***. In a ruling delivered at Nairobi on 17<sup>th</sup> May 2021 the Court dismissed the suit.

41. On the prayer that the Committee recommends that Absa Bank considers reinstating the Petitioner without loss or break in years of services, the decisions of the Courts as highlighted are superior and the Cabinet Secretary for the Ministry of Labour and Social Protection cannot order reinstatement or challenge the Court Awards.
42. The Cabinet Secretary cannot act to address the plight of the Petitioner thus recommends this matter be closed.

## PART FOUR

### 4 COMMITTEE OBSERVATIONS

Upon hearing from the Petitioner, Management of ABSA Bank and Kenya Bankers Association, the Committee observed that—

43. The matter was a dispute between an employer and employee that arose in 2005 out of an employer-employee relationship. Then, the resolution of such dispute was governed section 87 of the Employment Act (Cap. 226) (repealed). The Act provided that an aggrieved party may lodge a complaint with the labour officer or file a suit in the Industrial Court.

44. When the labour officer failed to resolve the dispute, the Petitioner filed a suit with the Industrial Court which was dismissed based on the limitation of actions pursuant to section 90 of the Employment Act (Cap. 226) (repealed). An appeal to the Court of Appeal was also struck out on the same basis.

45. The subsequent suits by the Petitioner were unsuccessful based on the doctrine of *res judicata*. This doctrine is enshrined under section 7 of the Civil Procedure Act (Cap. 21) and it bars a court from trying a suit involving same parties raising the same issues which have been sufficiently determined by another court of competent jurisdiction.

46. The Petitioner's dues totalling Kshs 992,894.20 which was subject to PAYE and other statutory deductions and loans was calculated and paid as follows—


(i)	One (1) month salary in lieu of notice pay	-Kshs 54,218
(ii)	Twenty (20) days leave pay	-Kshs 35,650.20
(iii)	Pension	-Kshs 903,026


PART FIVE

5 COMMITTEE RECOMMENDATIONS

47. Pursuant to the provisions of Standing Order 227, the Committee responds to the Petition as follows—

- (i) On the prayer that the Committee inquires into the dismissal of Mr. Gerald Muli Kiilu by Absa Bank (formely, the Barclays Bank of Kenya LTD), the Committee undertook this inquiry by listening to the petitioner and the management of ABSA Bank and notes that this was a dispute between an employer and employee that arose in 2005 out of an employer-employee relationship and the Petitioner was paid dues totalling Kshs992,894.20 which was subject to PAYE and other statutory deductions and loans.
  
- (ii) On the prayer that Absa Bank considers reinstating the Petitioner without loss or break in years of service, the Committee rejects this prayer on the premise that various courts, which have jurisdiction to determine employment disputes, have pronounced themselves sufficiently over this matter.

 <b>THE NATIONAL ASSEMBLY</b> <b>PAPERS LAID</b>	
DATE: 23 APR 2025	
DAY: WED	
TABLED BY:	CHAIRPERSON, PUBLIC PETITIONS Comm
CLERK-AT THE-TABLE:	P MUIGA

Signed:  Date: 22<sup>nd</sup> April 2025.

HON. ERNEST KIVAI OGESI KAGESI, M.P.  
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

## **ANNEXURES**

- Annex 1: The Adoption List**
- Annex 2: Public Petition No. 67 of 2023 regarding dismissal from employment of Mr. Gerald Muli Kiilu by ABSA bank (formerly Barclays bank) prestige Centre.**
- Annex 3: Minutes of the 40<sup>th</sup> Sitting of 2024 held on 12<sup>th</sup> June, 2024**
- Annex 4: Minutes of the 49<sup>th</sup> Sitting of 2024 held on 10<sup>th</sup> September, 2024**
- Annex 5: Minutes of the 8<sup>th</sup> Sitting of 2025 held on 11<sup>th</sup> April 2025**



REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025  
PUBLIC PETITIONS COMMITTEE

ADOPTION SCHEDULE  
OF THE REPORT ON CONSIDERATION OF PETITION NO. 67 OF 2023 REGARDING  
DISMISSAL FROM EMPLOYMENT OF MR. GERALD MULI KIILU BY ABSA BANK  
(FORMERLY BARCLAYS BANK) PRESTIGE CENTRE

DATE.....11-04-2025.....

We, the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the consideration of regarding **DISMISSAL FROM EMPLOYMENT OF MR. GERALD MULI KIILU BY ABSA BANK (FORMERLY BARCLAYS BANK) PRESTIGE CENTRE** to confirm our approval and confirm its accuracy, validity and authenticity:

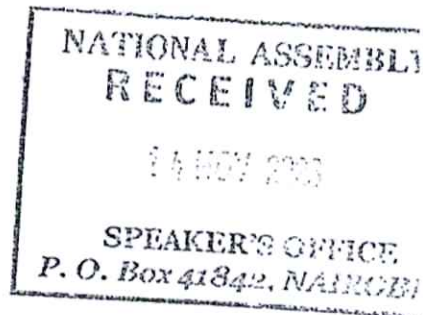
NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Ernest Ogesi Kivai Kagesi, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Nimrod Mbithuka Mbai, M.P.	Member	
5.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
6.	Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	Member	
7.	Hon. Maisori Marwa Kitayama, M.P.	Member	
8.	Hon. Edith Vethi Nyenze, M.P.	Member	
9.	Hon. Bidu Mohamed Tubi, M.P.	Member	
10.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
11.	Hon. Peter Mbogho Shake, M.P.	Member	
12.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
13.	Hon. John Bwire Okano, M.P.	Member	
14.	Hon. Peter Irungu Kihungi, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	

Hon. Speaker  
You may approve.  
14.11.23

Approved  
SWS  
15/11/23



REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT (SECOND SESSION)

PUBLIC PETITION

(No. 67 of 2023)

REGARDING DISMISSAL FROM EMPLOYMENT OF MR. GERALD MULI  
KIILU BY ABSA BANK (FORMERLY BARCLAYS BANK) PRESTIGE  
CENTRE

I, the **UNDERSIGNED**, on behalf of one Gerald Muli Kiilu residing in Central Imenti Constituency;

**DRAW** the attention of the House to the following:

1. **THAT**, through a letter dated 31<sup>st</sup> January 2005, one Mr. Gerald Muli Kiilu was wrongly terminated by Absa Bank (formerly, the Barclays Bank of Kenya Ltd);
2. **THAT**, Absa Bank claimed that in the course of duty, Mr. Gerald Muli Kiilu incurred a loss of Kshs. 149,000, money which was borrowed from him by the then Retail Manager;
3. **THAT**, on the spot investigations done on 30<sup>th</sup> November 2004 by the Senior Retail Manager, revealed that Mr. Gerald Muli Kiilu had a shortage of only Kshs. 366.10;
4. **THAT**, Mr. Gerald Muli Kiilu lodged a trade dispute with the Ministry of Labour and Social Protection who recommended that he be reinstated without loss of benefits or break in years of service, be paid ten (10) months gross salary as compensation for wrongful and /or unfair termination; and, any other relief the management would deem fit in a judgement dated 7<sup>th</sup> February 2008;
5. **THAT**, the Petitioner is a victim of witch-hunting, discrimination, intimidation, nepotism and malice;

6. **THAT**, the matter presented in this petition is not pending before any Court of law or any constitutional or legal body;

**THEREFORE**, your humble Petitioner prays that the National Assembly through the Public Petitions Committee -

- i. Inquire into the dismissal of Mr. Gerald Muli Kiilu by Absa Bank(formerly, the Barclays Bank of Kenya Ltd);
- ii. Recommend that Absa Bank considers reinstating the Petitioner without loss or break in years of service; and,
- iii. Makes any other recommendation or action it deems fit in addressing the plight of the Petitioner.

And your **PETITIONER** will ever pray.

**PRESENTED BY:**



**THE HON. MOSES KIRIMA, MP**  
**MEMBER CENTRAL IMENTI CONSTITUENCY**

**DATE:** ..... 3 - 11 - 2023 .....

**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**

**MINUTES OF THE 40<sup>TH</sup> SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON WEDNESDAY, JUNE 12, 2024, IN COMMITTEE ROOM 12, NEW WING, MAIN PARLIAMENT BUILDINGS AT 12.00. P.M**

**PRESENT**

1. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
2. Hon. Joshua Chepyegon Kandie, M.P
3. Hon. Maisori Marwa Kitayama, MP
4. Hon. Edith Vethi Nyenze, M.P.
5. Hon. Bidu Mohamed Tubi, M.P.

**APOLOGIES**

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Ernest Ogesi Kivai, M.P.
3. Hon. Patrick Makau King'ola, M.P.
4. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
5. Hon. John Walter Owino, M.P.
6. Hon. Peter Mbogho Shake, M.P.
7. Hon. Sloya Clement Logova, M.P.
8. Hon. Suzanne Ndunge Kiamba, M.P.
9. Hon. Caleb Mutiso Mule, M.P.
10. Hon. John Bwire Okano, M.P.

**SECRETARIAT**

- |                         |                        |
|-------------------------|------------------------|
| 1. Mr. Ahmad Kadhi      | Senior Clerk Assistant |
| 2. Ms. Anne Shibuko     | Clerk Assistant I      |
| 3. Mr. Willis Obiero    | Clerk Assistant III    |
| 4. Ms. Patricia Gichane | Legal Counsel II       |
| 5. Ms. Nancy Akinyi     | Research Officer III   |
| 6. Mr. Derrick Cheboi   | Audio Officer          |
| 7. Mr. Alex Kiplagat    | Audio Officer          |

**INATTENDANCE****PETITIONERS (KOIBEM COMMUNITY)**

- |                              |   |                             |
|------------------------------|---|-----------------------------|
| 1. Hon. Josses Lelmengit, MP | - | Member, Emgwen Constituency |
| 2. Mr. James Yego            | - | Chairman                    |
| 3. Mr. Joel Songol           | - | Vice Chairman               |
| 4. Mr. Alfayo Mutai          | - | Secretary                   |
| 5. Mr. David Kosgei          | - | Treasurer                   |

## PETITIONERS (WORKERS OF BOHEMIAN FLOWERS)

1. Mr. Wycliffe Araka
2. Ms. Mary Njambi
3. Mr. Justus Obiri
4. Mr. Philip Oyondi
5. Mr. Ibrahim Saitoti
6. Mr. Erick Kabuyefu

## PETITIONERS (ABSA)

1. Hon. Moses Kirima, M.P. - Member, Central Imenti Constituency
2. Mr. Gerald Kiilu - Petitioner

## MIN./PPETC/2024/252: PRELIMINARIES

The Chairperson called the meeting to order at 12:00 noon. and proceedings began with prayers by Hon. Ernest Kagesi, M.P.

## MIN./PPETC/2024/253: ADOPTION OF AGENDA

### AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of P/No.69 of 2023 on Resettlement of Squatters in Koibem Village, Chepkumia Location, Nandi County.
  - *Meeting with the Petitioner (Hon. Josses Lelmengit, MP and Mr. Joel Songol)*
6. Consideration of Public Petition No.67 of 2023 Dismissal from Employment of Mr. Gerald Muli Kiilu by ABSA Bank (Formerly Barclays Bank) Prestige Centre
  - *Meeting with the Petitioner (Hon. Moses Kirima, MP)*
7. Consideration of P/No. 63 of 2023 regarding Former Workers of Bohemian Flowers Limited in Nakuru County
  - *Meeting with Petitioner (Mr. Erick Kabuyefu)*
8. Any Other Business
9. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. Joshua Kandie, M.P. and seconded by Hon. Edith Nyenze, M.P.

## MIN./PPETC/2024/254: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred.

Meeting with the Petitioner(s)

Upon invitation by the Chairperson, the Hon. Josses Lelmengit, MP on behalf of the petitioners, residents of Koibem Village presented the Petition as follows—

**Background**

- i. In 1996, a presidential directive was issued for the relocation of residents in a forested area to new locations closer to the main road. The excision process began with one of the excision surveys paid for and excision authority was in 1999 via letter dated 22<sup>nd</sup> March 1999. The Koibem village is already on the new land.
- ii. The administration in 2002 delayed the process, and no meaningful progress was made until the passage of the 2010 Constitution and the land related legislations and the National Land Commissions Act. The enactment of the Forest Conservation and Management Act of 2016 marked a change in the procedure leading up to the degazettment and titling of forest land.
- iii. The delay in issuance of titles has caused challenges for the community including suffering losses and damage spanning two decades.
- iv. In 2016, the County Land Management Board (CLMB) conducted a validation process, which was favourable for the occupants/beneficiaries. The Senate recommended the conclusion of the exchange program, and the National Land Commission offered the conclusive recommendation which was gazettement on 1<sup>st</sup> March 2019.
- v. Whereas all the interventions were noble and in the best interest of the community, they have not been implemented hence the request for the Committee to intervene with a view of delivering justice to the community.

**Prayers**

The Committee engages:

- i. The Cabinet Secretary for the Ministry of Lands, Physical Planning, Urban Development and Public Works to proceed to gazette the intended excision area;
- ii. The Cabinet Secretary for Environment, Forestry and Climate Change to secure Cabinet Approval for the intended de-gazettement and seeks Parliamentary approval under Section 34 of the Forest Management and Conservation Act of 2016;
- iii. The Cabinet Secretary for the Ministry of Lands, Physical Planning, Urban Development and Public Works to facilitate the issuance of new title deeds in the new registration area;

- iv. The relevant government agencies to consider waiving the registration costs for the new titles given the years of frustrations; and
- v. The relevant government agencies to consider reallocating alternative lands within the same area to the seven (7) individuals whose parcels are inhabitable and the two (2) individuals who received less acreage by amending the initial excision survey.

Upon invitation by the Chairperson, the Petitioners made clarifications as follows—

- i. Chepkumia land was surrounded by hilly, rocky forests and tea farms, making it difficult and dangerous for the community to access the main road. Therefore, the government decided to resettle the residents from the hilly and rocky forest to an area near the main road that is safer and more suitable for agricultural production.
- ii. For about 27 years, the process has never been finalized, and the community has never received titles for the exchanged lands they occupy after being resettled.

### Committee Concerns

- i. **Regarding the current title deeds and the number of settlers in the area**, the Petitioners clarified that they possessed title deeds registered as Nandi/Chepkumia for approximately 108 people who were resettled in the lower ground.
- ii. **Regarding interference from the Kenya Forest Service (KFS) in the occupied area**, the Petitioners stated that the KFS had no issues with the community settled in the area. The only concern for the community was acquiring title deeds for the new area they have settled in for 27 years.
- iii. **Regarding the status of the lands**, the Petitioners stated that they were resettled on forest land with an equivalent acreage to their original land, about 1040 hectares for the 108 people. The newly occupied area is still forest land but not a forest and has not been degazetted to officially allow for settlement. However, the government has taken over the original land as a forest and has even planted trees.
- iv. **Regarding any pending legal matters or efforts to address their concerns**, the Petitioners clarified that there was no matter in court. However, they had engaged the National Lands Commission (NLC), which gazetted its recommendation on 1<sup>st</sup> March 2019 for formalizing the process. Additionally, the community had engaged the Ministries in charge of Lands and Forestry to seek the de-gazettement of the area they have occupied.
- v. **Regarding the loss and damages the community has suffered over two decades**, the Petitioners clarified that in the twenty-seven (27) years, most of the original landowners had passed away, leaving their dependents unable to inherit, subdivide, or sell the lands due to uncertainty and lack of collateral. Additionally, they have spent resources seeking justice by visiting various government offices.

- vi. Regarding the matter being handled by the Senate, the Petitioners clarified that the only time the matter was brought up in the Senate was in the previous Parliament by the area Senator, but there was no conclusive documentation on how it was dealt with.
- vii. Regarding the seven (7) individuals whose parcels are uninhabitable and the two (2) with less acreage, the Petitioners clarified that despite being given similar acreage, the seven individuals' land was more rocky and wet, making it unsuitable for farming. The two individuals with less acreage noticed this after clearing the bushes, hence the need for a re-survey.

**MIN./PPETC/2024/256: CONSIDERATION OF PUBLIC PETITION NO.67 OF 2023  
DISMISSAL FROM EMPLOYMENT OF MR. GERALD MULI  
KIILU BY ABSA BANK (FORMERLY BARCLAYS BANK)  
PRESTIGE CENTRE**

**Meeting with the Petitioner(s)**

Upon invitation by the Chairperson, the Hon. Moses Kirima, MP. presented as follows on behalf of Mr. Gerald Kiilu, the petitioner—

**Background**

- i. The petitioner served Absa Bank for twelve (12) years. However, through a letter dated 31<sup>st</sup> January 2005, one Mr. Gerald Muli Kiilu was wrongly terminated by Absa Bank (formerly, the Barclays Bank of Kenya Ltd) after the bank claimed that in the course of duty, Mr. Gerald Muli Kiilu incurred a loss of Kshs. 149,000, money which was borrowed from him by the then Retail Manager who was his supervisor;
- ii. On the spot investigations done on 30<sup>th</sup> November 2004 by the Senior Retail Manager, revealed that Mr. Gerald Muli Kiilu had a shortage of only Kshs. 366.10;
- iii. Mr. Gerald Muli Kiilu lodged a trade dispute with the Ministry of Labour and Social Protection who recommended that he be reinstated without loss of benefits or break in years of service, be paid ten (10) months gross salary as compensation for wrongful and /or unfair termination; and, any other relief the management would deem fit in a judgement dated 7<sup>th</sup> February 2008;
- iv. The Petitioner is a victim of witch-hunting, discrimination, intimidation, nepotism and malice;
- v. The matter presented in the petition was not pending before any Court of law or any constitutional or legal body;
- vi. The petitioner had exhausted other means hence turning to the Committee for assistance.
- vii. The Committee recommends that what was awarded by the labour tribunal to be the basis of the calculation. Further, even if the petitioner is

reinstated, he may not get a fair ground to practice as a banker due to the bad relationship between the two parties. Therefore, the Petitioner seeks compensation according to the tribunal ruling.

### Prayers

That the Committee—

- i. Inquiries into the dismissal of Mr. Gerald Muli Kiilu by Absa Bank (formerly, the Barclays Bank of Kenya Ltd);
- ii. Recommends that Absa Bank considers reinstating the Petitioner without loss or break in years of service; and,
- iii. Makes any other recommendation or action it deems fit in addressing the plight of the Petitioner.

Upon invitation by the Chairperson, Mr. Gerald Kiilu made clarifications as follows—

- i. That after the matter was resolved through the Ministry of Labour and Social Protection, the bank had not honoured the directives.
- ii. The evidence of investigation revealed a loss of Kshs366 through a process that appeared to target an individual. The report of investigation of other colleagues were found culpable of a larger amount of about Kshs 30,000 as a shortage but was not terminated from employment hence the discrimination.
- iii. That after frustrating a forgery of about Kshs700,000, the account was siphoned through Kshs3.6 million by the manager.

### Committee Concerns

- i. **The Committee inquired whether there was any internal conflict resolution procedures or disciplinary measures and whether the petitioner had engaged any union.** The petitioner clarified that the matter was heard through internal mechanism of Absa Bank who are the ones who dismissed unsatisfactorily hence the petitioners appeal in the labour tribunal.
- ii. **Regarding whether the court case was conclusive,** the petitioner stated that there was no case or judgement directing the committee not to act on the case. Further, the petition was not an appeal of a court case but rather the court did not hear the case brought by the petitioner based on a preliminary objection. Therefore, the case in its merit was not heard hence fairness not accorded to the petitioner.
- iii. **Regarding whether the petitioner had engaged institutions directed to implement the labour tribunal judgement,** the Petitioner clarified that the

help he needed was to have justice and deserved compensation for the years he had served before dismissal.

- iv. **Regarding the stakeholders the committee could engage**, the petitioner stated that the Committee could invite the labour tribunal, Absa Bank management to clarify the circumstances for dismissing Mr. Kiilu and any other relevant agency or authority.
- v. **Regarding the prayer for compensation vis-à-vis reinstatement by Absa Bank**, it was clarified that the plight of the petitioner concerned the uncondusive environment to work for the bank again. Therefore, the petitioner requested that despite the prayer for reinstatement as recommended by the tribunal, the Committee would consider up to date compensation for the period recommended by the tribunal. That the calculations they had made were about Kshs46 million.

**MIN./PPETC/2024/257: CONSIDERATION OF P/NO. 63 OF 2023 REGARDING FORMER WORKERS OF BOHEMIAN FLOWERS LIMITED IN NAKURU COUNTY**

**Meeting with the Petitioner(s)**

Upon invitation by the Chairperson, Mr. Erick Kabuyefu presented the petition as follows—

**Background**

- i. The petitioners were about 589 employees of Bohemian Flowers Limited in Olkaria Ward, Naivasha Sub County, Nakuru County.
- ii. Following unlawful dismissal from employment, the petitioners lodged a complaint on the matter at Naivasha Sub County labour office under section 71 of the Employment Act, 2007 vide a letter dated 19<sup>th</sup> April 2023. The labour officer responded through letters dated 4<sup>th</sup> May, 2023, 23<sup>rd</sup> May 2023 and 29<sup>th</sup> May 2023 to Bohemian Flowers Limited director.
- iii. The labour officer held a meeting dated 18<sup>th</sup> May 2023 at Naivasha Sub County labour office between Bohemian Flowers Limited senior management and the complainants (the petitioners).
- iv. The petitioners were dismissed as per a memo by Bohemian Flowers Limited management advertising positions for recruitment, immediately after their exit.
- v. It had become difficult for the employees to access their monthly deductions from the pension scheme which they were coerced to join.
- vi. The Petitioners were put on suspension on half pay contrary to the company policy.

## Prayers

The Committee—

- i. Investigate whether due process contemplated in the law was followed referred in dismissing the employees as indicated in the petition;
- ii. Engages the Bohemian Flowers Limited management to provide the investigation report into the conduct of the employees referred to in the redundancy letters for justification.
- iii. Engages the Bohemian Flowers Limited management with a view of establishing whether their human resource officers were registered with the Institute of Human Resource Management (IHRM) following the alleged unprofessionalism;
- iv. Engages the Bohemian Flowers Limited management with a view of assessing their biometric machine's effectiveness.
- v. Recommends that the company honours the recommendations of the labour officer in Naivasha Sub County to pay any outstanding claims owned to the employees by the company.

## Committee Concerns

- i. **Regarding the employees affected and the terms of employment**, the Petitioners clarified about the 589 employees were on different terms including permanent and pensionable contracts who had served for one years after probation of six (6) months.
- ii. **Regarding the duration it took before the Company readvertised the positions**, the Petitioners clarified the positions were fielded within one month without clearing the dismissed employees.
- iii. **Regarding the pension contributions and the scheme**, it was clarified that the deductions were made for retirement and medical purposes upon conclusion of the probation period, but no sensitization had been carried out on the pension scheme.
- iv. **Regarding the cause of the labor relations disagreement**, the petitioners clarified that the employees were previously employed by Oserian Development Company on permanent and pensionable terms before being acquired by Bohemian Flowers Limited in December 2021. Bohemian Flowers Ltd introduced a biometric system to manage workers without any backup, causing problems when the system was faulty. This resulted in some workers being registered for fewer hours than they actually worked, despite physically reporting to duty early. The company's directive to use the system in November 2022 was implemented without any civic education for the employees.

Occasionally, the system had multiple errors in recording the hours worked, leading to reduced payments for the employees. In response, the workers went on strike to demand that the injustice be addressed. The matter was investigated, and stakeholders agreed on a return-to-work formula. However, the management isolated several individuals they claimed were the perpetrators of the strike and suspended them. During the period of suspension, the petitioners received half their pay for six (6) months against the Company policy, after which they were issued redundancy letters.

**Committee Resolution**

After deliberations, the Committee resolved to invited the relevant stakeholders including Bohemian Flowers Limited and Labour Relations Office.

**MIN./PPETC/2024/258: ADJOURNMENT AND DATE OF NEXT MEETING**

The Chairperson adjourned the meeting at 03:10 p.m. The next meeting will be held on Thursday, 13<sup>th</sup> June 2024 at 12:00 p.m.

Sign:  .....

(CHAIRPERSON)

Date..... 18-06-2024 .....



**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**

**MINUTES OF THE 49<sup>TH</sup> SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON TUESDAY, SEPTEMBER 10, 2024, IN CONFERENCE ROOM GARDEN SUITE 1&2, 6<sup>TH</sup> FLOOR, GARDEN INN HOTEL AT 10.00. A.M**

**PRESENT**

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Janet Jepkemboi Sitienei, M.P. Vice Chairperson
3. Hon. Joshua Chepyegon Kandie, M.P.
4. Hon. John Walter Owino, M.P.
5. Hon. Ernest Ogesi Kivai, M.P.
6. Hon. Maisori Marwa Kitayama, MP
7. Hon. Bidu Mohamed Tubi, M.P.
8. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
9. Hon. Edith Vethi Nyenze, M.P.
10. Hon. Peter Mbogho Shake, M.P.
11. Hon. Suzanne Ndunge Kiamba, M.P.
12. Hon. Caleb Mutiso Mule, M.P.

**APOLOGIES**

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. Sloya Clement Logova, M.P.
3. Hon. John Bwire Okano, M.P.

**IN ATTENDANCE**

**SECRETARIAT**

- |                         |                                   |
|-------------------------|-----------------------------------|
| 1. Ms. Miriam Modo      | Clerk Assistant I                 |
| 2. Mr. Willis Obiero    | Clerk Assistant III               |
| 3. Ms. Patricia Gichane | Legal Counsel II                  |
| 4. Mr. Martin Sigei     | Research Officer III              |
| 5. Ms. Nancy Akinyi     | Research Officer III              |
| 6. Ms. Felistus Muiya   | Public Communications Officer III |
| 7. Mr. Peter Mutethia   | Audio Officer                     |
| 8. Mr. Calvin Karungo   | Media Relations Officer III       |
| 9. Mr. Paul Shana       | Sergeant-at-Arms                  |

**PETITIONER(S)**

1. Mr. Charlse Ochola
2. Mr. Gilbert Allela
3. Ms. Purity Wekesa
4. Mr. Jackson Kirui

## KENYA BANKERS' ASSACOATION

- |                        |               |
|------------------------|---------------|
| 1. Mr. Raimond Molenje | Ag. CEO       |
| 2. Ms. Yvette Mbaja    | Legal Officer |
| 3. Ms. Beth Karanja    | Legal Affairs |

## ABSA BANK

- |                           |                            |
|---------------------------|----------------------------|
| 1. Mr. Vaslas Odhiambo    | Head of Human Resource     |
| 2. Mr. Kenneth Kangarati  | Director, Legal Compliance |
| 3. Mr. Emmanuel Wetangula | Legal Counsel              |
| 4. Mr. Guzo Mogere        | Legal Counsel              |
| 5. Mr. Biko Angwenyi      | Legal Counsel              |
| 6. Mr. Charlse Wokabi     | Head of Corporate Affairs  |
| 7. Ms. Milkah Gachanja    | Legal Counsel              |

## MIN./PPETC/2024/307: PRELIMINARIES

The Chairperson called the meeting to order at 2:30 pm. and proceedings began with prayers by Hon. Joshua Chepyegon Kandie, M.P.

## MIN./PPETC/2024/308 ADOPTION OF AGENDA

### AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of P/No. 74 of 2023 regarding Enactment of the Bankers Professionals Bill, 2023
  - *Meeting with the Petitioner (Mr. Charlse Ochola)*
6. Meeting with Kenya Bankers Association
  - *Consideration of P/No. 74 of 2023 regarding Enactment of the Bankers Professionals Bill, 2023;*
  - *Consideration of P/No. 55 of 2023 regarding Enactment of Legislation to Regulate the Credit professionals; and*
  - *Consideration of P/No. 67 of 2023 regarding Dismissal from Employment of Mr. Gerald Muli Kiilu by ABSA Bank (Formerly Barclays Bank) Prestige Centre*
7. Meeting with ABSA Bank Management
  - *Consideration of P/No. 67 of 2023 regarding Dismissal from Employment of Mr. Gerald Muli Kiilu by ABSA Bank (Formerly Barclays Bank) Prestige Centre*
8. Any Other Business
9. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. Joshua Kandie, M.P. and seconded by Hon. Edith Nyenze, M.P.

MIN./PPETC/2024/309: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The agenda was deferred.

MIN./PPETC/2024/310: CONSIDERATION OF P/NO. 74 OF 2023 REGARDING ENACTMENT OF THE BANKERS PROFESSIONALS BILL, 2023

Meeting with the Petitioner, Mr. Charlse Ochola

The Petitioner, Mr. Charlse Ochola submitted as follows-

1. The banking sector plays a vital role in the economy of the country, in ensuring that the banking profession upholds the highest standards of professionalism, competency, and ethical conduct, hence the need for a comprehensive legislative framework that addresses these concerns and enhances the integrity of the banking industry.
2. The existence of the Kenya Bankers Association, Kenya Institute of Bankers and the Kenya Forex Bureau Association which are esteemed professional bodies that represent the bankers professionals and banking industry in Kenya has the primary objective to promote excellence and professionalism within the banking sector through the provision of relevant training, research, and advocacy. However, there is no legislation that regulates the norms and standards of banking professionals in Kenya.
3. Since the banking industry adds value to the national economy, serving as a backbone for financial transactions, savings, investments, and overall economic stability. It is imperative to establish a robust legislative framework that ensures the professionalism, integrity, and accountability of bankers safeguard the interests of customers and promote public trust.
4. In 2015, Imperial Bank, a mid-sized Kenyan bank, collapsed in 2015 following revelations of fraudulent activities. The revelations disclosed that the top management of the bank including its former CEO, were implicated in a massive fraud scheme that involved concealing non-performing loans, creating fictitious accounts, and siphoning off funds from its depositors.
5. Consequently, the bank was closed, its depositors and investors incurred significant losses, and thereafter raised concerns about corporate governance in the banking sector.
6. The enactment of the Bankers Profession Bill would establish a comprehensive legislative framework that addresses these concerns and enhances the integrity of the banking industry.
7. The proposed Bill seeks to introduce comprehensive regulations and standards for the banking profession. It emphasizes the importance of licensing and certification, ensuring that only qualified individuals with the necessary expertise and ethical conduct are allowed to practice banking Kenya. The bill

provides mechanisms for consumer protection, addressing issues such as fair lending practices, transparency, and dispute resolution.

### Prayers

The Petitioners prayed that the Committee recommends-

- (i) Enactment of a legislation to regulate the licensing, registration and regulation of banking professionals in Kenya; and
- (ii) Consideration of the draft legislation of the Bankers Professional Bill, 2023 annexed to the petition for enactment by the National Assembly.

### Committee Concerns

1. **Regarding the introduction of a new Bill, despite existing Acts for the industry**, the Petitioners clarified that there was a lack of public confidence and professional training within the industry, which negatively impacted the economy. They argued that the new Bill would help restore confidence and address these issues.
2. **Concerning the legislative proposal by Hon. Julius Rutto, MP, and its relation to the petition**, the Petitioners explained that although they had engaged with the Honorable Member regarding the Bill, their discussions focused on fast-tracking the proposal. The Member intended to bring the proposal before the Budget and Appropriations Committee. However, the Petitioners believed that the Committee was better positioned to advise on the most appropriate way forward for advancing the proposal.

### Committee Resolution

After deliberations, the Committee resolved to engage the Hon. Julius Rutto, MP on the status and way forward of the proposal.

#### MIN./PPETC/2024/311:

#### MEETING WITH KENYA BANKERS ASSOCIATION

The Ag. CEO of Kenya Bankers Association, Mr. Raimond Molenje appeared before the Committee and submitted on P/No. 74 of 2023 regarding Enactment of the Bankers Professionals Bill, 2023 and P/No. 55 of 2023 regarding Enactment of Legislation to Regulate the Credit professionals as follows:

1. The Kenya Bankers Association brings together all commercial banks in Kenya to realize economic empowerment, create employment opportunities and wealth for individuals, households, businesses and the country.
2. The proposed Bills: Credit Professionals Bill and Institute of Bankers Professional Bill will hinder and limit economic growth, employment opportunities and wealth creations for individuals, households, and businesses.
3. The Bills as proposed are non-existent in any developed or developing country and are bad for the economy, destructive to careers and create exclusive clubs limiting entry at all levels.

4. There are no problem(s) the two bills are seeking to address that are not addressed by current laws and regulations. Consequently, Kenya Bankers Association opposes the enactment of the two Bills in their entirety based on the following grounds:
- i. Banking is not a profession as suggested by the Petitioners since it has almost 50 different professions with different skill sets hence difficult to harmonize.
  - ii. The proposals will hinder employment as they will not allow for openness and flexibility for the banking industry. Banks would have the option of fully automating operations to limit the unnecessary compliance and expenses for certification and CPDs and outsource human capital from other jurisdictions through the shared services framework leading to unemployment.
  - iii. Other industries such as manufacturing, media, hotels, among others may also demand their professional bodies.
  - iv. On the proposed Credit Professionals Bill, the credit function in banks is broad and every bank staff is involved in credit administration and the petitioners have not provided a criterion to determine who a credit staff/professional is.
  - v. There are existing regulatory bodies within the banking sector such as the Central Bank of Kenya which primarily regulates the banking industry, under the Banking Act and Prudential Guidelines governing banks and individual bankers providing round the clock regulations of banking business including consumer protection. Additionally, several regulators undertake consumer protection including Competition Authority, Financial Reporting Centre, Office of the Data Protection, among others. Introducing further certification requirements for bankers renders Kenya uncompetitive for business and banking being a business.
  - vi. Any identified gaps could be addressed through the existing regulatory framework.

### **Committee Concerns**

1. **On whether belonging to a particular profession hinders career progression in banking**, the Acting CEO stated that most professionals within the bank have limited opportunities to advance their careers without diversifying their skill set, which provides a competitive edge. The CEO expressed concern that the proposed Bill would create barriers to both entry and career progression within the banking industry.
2. **Regarding any identified gaps in the banking industry**, the Acting CEO noted that the proposed Bills do not address any significant issues but instead impose additional compliance costs, which will ultimately be passed on to consumers. The main challenges in the market were access to credits and consumer complaints which could be addressed through the existing legislation. The KBA was working with CBK to assist in improving access to credit with low interest rates. On the customer complaints, CBK had put

measures for banks to promptly address complaints raised. Therefore, the professional body will have mandate on banking staff but not the body corporate.

3. On the role of the Kenya Bankers Association (KBA) in the industry and whether a new professional body under the Bills would interfere with KBA, the Acting CEO clarified that KBA's role is to help banks influence legislation, provide financial education, and build capacity for banking staff. While KBA would not be directly harmed if the Bills are enacted, the CEO emphasized that the Bills are unlikely to have any positive impact on the economy.

MIN./PPETC/2024/312:

CONSIDERATION OF P/NO. 67 OF 2023  
REGARDING DISMISSAL FROM EMPLOYMENT OF  
MR. GERALD MULI KIILU BY ABSA BANK  
(FORMERLY BARCLAYS BANK) PRESTIGE CENTRE

#### Meeting with ABSA Bank Management

Mr. Vaslas Odhiambo on behalf of ABSA Bank submitted as follows:

1. The Petitioner, Mr. Gerald Muli Kulu was employed by Barclays Bank Kenya Limited (now Absa Bank Kenya PLC) on 2<sup>nd</sup> June 1993 and worked for 12 years before suspension on 20<sup>th</sup> December 2004 owing to certain investigations carried out at the time regarding differences identified at a particular branch he worked as a teller/cashier. Some malpractices were identified within the teller space where tellers were engaged in lending money out of the till to fellow staff members and also differences in the till not reported on.
2. Investigations were conducted, a hearing held, and the termination of his employment was communicated to him on January 31, 2005. The reason for termination was that the Petitioner was involved irregular lending of money in his custody and care at the till to another member of staff.
3. On the 4<sup>th</sup> April 2005, he appealed the decision to terminate his employment which was determined and the decision for termination upheld. It was determined that there were no additional submissions that would have caused reversal of the decision.
4. In 2009, he referred the matter to Ministry of Labour and Human Resource Development requesting for a determination. However, a certificate of unresolved dispute was issued by the Ministry on that matter.
5. In 2010, he filed a case in court on the same issue, and the matter was dismissed because it was time barred and the issues highlighted were viewed by the court as not required to be considered differently.
6. He appealed the decision in 2011 and the same matter was dismissed in 2016. In 2017, he went to the Ministry of Labor where a recommendation was given requesting the bank to consider reinstating him to which the bank objected citing the different cases that had already been in court over the same.

7. In 2020, still aggrieved of the decision taken objecting the recommendation, he filed a judicial review in court which was similarly dismissed. Initially, he had wanted the Attorney General, and the Ministry of Labor required to implement the recommendations by the Ministry but the court was of the view that that was not plausible.
8. He filed another case which was also dismissed in reference to the processes that had been followed internally and the external court processes instituted by the petitioner.
9. The bank was present in all the instances where the matter was advanced either in court or internally.

### Committee Concerns

1. **Regarding the colleagues involved in malpractices and their outcomes**, ABSA Bank clarified that three employees were implicated. Two, including the Petitioner, were terminated, while the third received a final warning letter and remains employed. The bank emphasized that each case was judged on its individual merit.
2. **As for the specific malpractices**, ABSA explained that the two terminated employees were found lending money to each other from the teller boxes using clients' funds, a serious violation. The third employee, who received a warning, was involved in a teller discrepancy. Of the two terminated employees, one held a senior position, while the Petitioner and the other were on the same level.
3. **Regarding ABSA's disagreement with the findings of the Conciliator from the Ministry of Labour**, the bank stated that the offenses were considered gross violations, warranting termination. The Ministry had recommended that the bank reinstate the employees and pay ten months' salary for wrongful termination, along with other possible relief. However, ABSA maintained that the breaches of trust were too severe, as they could have led to client complaints. This decision was communicated to the Conciliator.
4. **Concerning the financial loss incurred by the bank**, ABSA reported a loss of approximately Kshs366. While the amount may seem small, it had serious policy implications, as employees were using cash from the tills for personal lending and failed to report shortages. The bank felt compelled to act firmly to discourage such malpractices.
5. **Regarding the bank's final decision on dismissal and whether fair administrative action was taken**, ABSA noted that the matter had gone through both the Ministry of Labour and the courts, where the cases were dismissed. The decision to terminate was based on the severity of the circumstances. Furthermore, the bank's summary dismissal procedure is permitted by law in certain situations.
6. **On why Mr. Gerald did not receive a warning letter despite this being his first offense**, ABSA explained that while Gerald admitted his guilt, he refused to put it in writing or request leniency. He had lent Kshs149,000, and during a snap-check, all but Kshs366 had been returned. The bank concluded that Gerald's lack of cooperation justified his termination. In contrast, the employee who received

the warning letter had an undated cheque of Kshs30,000 in Gerald's till but cooperated fully with the investigation, which resulted in different outcomes for each case.

**7. Regarding Mr. Gerald's pension or any other compensation,** ABSA confirmed that he had been part of the bank's pension policy for 12 years, and there was no additional compensation due beyond his pension contributions. The bank was yet to confirm if he had received his pension, but he was entitled to his National Social Security Fund (NSSF) contributions, administered by the NSSF Fund.

**8. Finally, in relation to claims of sexual harassment or relationships linked to the case,** the bank stated that there had never been an investigation into such matters, and no statement from Mr. Gerald had raised these concerns. As a result, the allegations remained unsubstantiated.

**Committee Resolution**

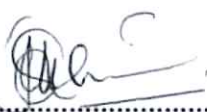
Following deliberations, the Committee resolved that ABSA Bank Management should provide additional submissions by Friday 13<sup>th</sup> September, 2024 on the following:

- i. A copy of the policy relied upon by the bank to justify the dismissal of Mr. Gerald;
- ii. The internal disciplinary committee report recommending Mr. Gerald's dismissal; and
- iii. Information on whether any of Mr. Gerald's benefits were used to recover the loan he had taken with the bank, and details on how he managed to clear the loan after his dismissal.

**MIN./PPETC/2024/313:**

**ADJOURNMENT AND DATE OF NEXT MEETING**

The Chairperson adjourned the meeting at 01:30 p.m. The next meeting will be held on Tuesday, 10<sup>th</sup> September 2024 at 2:30 p.m.

Sign:  .....

*FSV* (CHAIRPERSON)

Date.....19-11-2024.....



**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**

**MINUTES OF THE 8<sup>TH</sup> SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON  
FRIDAY, APRIL 11, 2025, IN ACACIA A CONFERENCE ROOM, SAWELA LODGE,  
NAIVASHA AT 4.00 PM**

**PRESENT**

1. Hon. Ernest Ogesi Kivai, M.P.	Chairperson
2. Hon. Joshua Chepyegon Kandie, M.P.	Member
3. Hon. Maisori Marwa Kitayama, M.P.	Member
4. Hon. Edith Vethi Nyenze, M.P.	Member
5. Hon. Bidu Mohamed Tubi, M.P.	Member
6. Hon. (Eng.) Bernard Nebart Muriuki, M.P.	Member
7. Hon. Peter Irungu Kihungi, M.P.	Member

**APOLOGIES**

1. Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice-Chairperson
2. Hon. Patrick Makau King'ola, M.P.	Member
3. Hon. Nimrod Mbithuka Mbai, M.P.	Member
4. Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	Member
5. Hon. Peter Mbogho Shake, M.P.	Member
6. Hon. Suzanne Ndunge Kiamba, M.P.	Member
7. Hon. John Bwire Okano, M.P.	Member
8. Hon. Sloya Clement Logova, M.P.	Member

**SECRETARIAT**

1. Mr. Ahmed Kadhi	Principal Clerk Assistant II
2. Ms. Roselyne Ndegi	Senior Serjeant-At-Arms
3. Ms. Patricia Gichane	Legal Counsel II
4. Mr. Willis Obiero	Clerk Assistant III
5. Mr. Calvin Karungo	Media Relations Officer
6. Ms. Nancy Akinyi	Research Officer III
7. Mr. Peter Mutethia	Audio Officer

**MIN./PPETC/2025/040:**

**PRELIMINARIES**

The Chairperson called the meeting to order at 4:00 pm. and proceedings began with prayers by Hon. Peter Irungu Kihungi, M.P.

MIN./PPETC/2025/041:

ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of Public Petition No. 63 of 2023 regarding Former Workers of Bohemian Flowers Limited in Nakuru County;
6. Consideration of Public Petition No. 67 of 2023 regarding Dismissal from Employment of Mr. Gerald Muli Kiilu By Absa Bank (Formerly Barclays Bank) Prestige Centre
7. Any Other Business
8. Adjournment

The Agenda was adopted to constitute business of the Meeting having been proposed by Hon. Peter Irungu Kihungi, M.P. and seconded by Hon. Edith Vethi Nyenze, M.P.

MIN./PPETC/2025/042:

CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred.

MIN./PPETC/2025/043:

CONSIDERATION OF PUBLIC PETITION NO. 63 OF 2023 REGARDING FORMER WORKERS OF BOHEMIAN FLOWERS LIMITED IN NAKURU COUNTY

The Committee considered the draft report and made the following observations—

- (i) The actions of Bohemian Flowers Limited of suspension of workers, initiating of disciplinary process and later halting it by declaring some of the employees redundant did not follow due process in the termination of the services of the affected workers contrary to the provisions of section 40 of the Employment Act, CAP 226.
- (ii) The twenty-one (21) Petitioners were part of the former workers of Bohemian Flowers Limited dismissed by the company. The company alleged their involvement in inciting other workers to participate in strike leading to destruction of property. Out of the twenty-one (21) Petitioners, ten (10) reported cases at the subcounty Labor Office.
- (iii) The Committee notes that the Ministry of Labour and Social Protection confirmed settlement of outstanding dues by Bohemian Limited as per the recommendations of the Labour Officer for some petitioners.
- (iv) The introduction of the new biometric clock-in system linked to the payroll system by Bohemian Flowers Limited was the cause of the industrial action and a major concern for the former workers as they did not understand how it works and consequently resulted in reduction of their pay.

- (v) There was inadequate communication from Bohemian Flowers Limited to its workers regarding joining the new GA Life Insurance Scheme from Kenindia Assurance Company. This hindered the workers from claiming their pension funds from GA Life Insurance Scheme as they joined Bohemian Flowers Limited under Kenindia Assurance Company.

### Committee Resolutions

After deliberations, the Committee resolved to adopt the report with the following response to the Petition—

- (i) On the prayer that the Committee investigates whether due process contemplated in the law was followed in dismissing the employees as indicated in the petition, the Committee conducted an inquiry on the dismissal of the petitioners by Bohemian Flowers Limited and concurs with the Labor Office that due process was not followed with regards to termination of service on the ground of redundancy based on provisions of section 40 of the Employment Act. The Committee recommends that Bohemian Flowers Limited ensures strict adherence to labor laws on termination as provided in section 40 of the Employment Act CAP 226.
- (ii) On the prayer that the company honours the recommendations of the labour officer in Naivasha Sub County to pay any outstanding claims owed to the employees by the company, the Committee recommends that the Ministry of Labour and Social Protection assists the petitioners in their outstanding claims to obtain recourse for their un-procedural termination within sixty (60) days.

MIN./PPETC/2025/043:

CONSIDERATION OF PUBLIC PETITION NO. 63 OF 2023  
REGARDING FORMER WORKERS OF BOHEMIAN  
FLOWERS LIMITED IN NAKURU COUNTY

The Committee considered the draft report and made the following observations—

- (i) The matter is a dispute between an employer and employee that arose in 2005 out of an employer-employee relationship. Then, the resolution of such dispute was governed section 87 of the Employment Act (Cap. 226) (repealed). The Act provided that an aggrieved party may lodge a complaint with the labour officer or file a suit in the Industrial Court.
- (ii) When the labour officer failed to resolve the dispute, the Petitioner filed a suit with the Industrial Court which was dismissed based on the limitation of actions pursuant to section 90 of the Employment Act (Cap. 226) (repealed). An appeal to the Court of Appeal was also struck out on the same basis.
- (iii) The subsequent suits by the Petitioner were unsuccessful based on the doctrine of *res judicata*. This doctrine is enshrined under section 7 of the Civil Procedure Act (Cap. 21) and it bars a court from trying a suit involving same parties raising

the same issues which have been sufficiently determined by another court of competent jurisdiction.

- (iv) The Petitioner's dues totaling Kshs992,894.20 which was subject to PAYE and other statutory deductions and loans was calculated and paid.

**Committee Resolutions**

After deliberations, the Committee resolved to adopt the report with the following recommendations—

- (i) On the prayer that the Committee inquires into the dismissal of Mr. Gerald Muli Kiilu by Absa Bank (formely, the Barclays Bank of Kenya LTD), the Committee undertook this inquiry by listening to the petitioner and the management of ABSA Bank and notes that this was a dispute between an employer and employee that arose in 2005 out of an employer-employee relationship.
- (ii) On the prayer that Absa Bank considers reinstating the Petitioner without loss or break in years of service, the Committee rejects this prayer on the premise that various courts, which have jurisdiction to determine employment disputes, have pronounced themselves sufficiently over this matter.

**MIN./PPETC/2025/044:**

**ADJOURNMENT AND DATE OF NEXT MEETING**

The Chairperson adjourned the meeting at 5:00 p.m. The date of the next meeting will be Friday, 11<sup>th</sup> April 2025.

Sign:  .....

(CHAIRPERSON)

Date..... .....