

REPUBLIC OF KENYA



KENYA NATIONAL AUDIT OFFICE



REPORT

OF

THE AUDITOR-GENERAL

ON

**THE FINANCIAL STATEMENTS OF
PUBLIC TRUSTEE - STATE LAW OFFICE**

**FOR THE YEAR ENDED
30 JUNE 2013**



REPUBLIC OF KENYA



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KENYA NATIONAL AUDIT OFFICE

REPORT OF THE AUDITOR-GENERAL ON PUBLIC TRUSTEE - STATE LAW OFFICE FOR THE YEAR ENDED 30 JUNE 2013

REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of the Public Trustee which comprise the Balance Sheet and Receipts and Payments Account as at 30 June 2013, and a summary of other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 8 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

Accounting Officer's Responsibility for the Financial Statements

The Accounting Officer-Public Trustee is responsible for the preparation and fair presentation of the financial statements in accordance with the Government Financial Regulations and Procedures and the Public Finance Management Act, 2012 and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The Accounting Officer is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 4 of the Public Audit Act, 2003.

Auditor-General's Responsibility

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 9 of the Public Audit Act, 2003. The audit was conducted in accordance with International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosure in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Trustee's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the appropriateness of

the accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

Basis for Qualified Opinion

1. Investment at Cost - Kshs.82, 664,861

Included in investment at cost is Kshs.25,541,761 in respect of ordinary shares held in two defunct financial Institutions and which was not supported. No provision has been made for possible diminution in value in investments of these financial Institutions. The investments at cost as stated in the financial statements could therefore be overstated by the same amount.

2. Creditors - Kshs.387, 916,199

The creditors balance of Kshs.387, 916,199.00 as reflected in the balance sheet as at 30 June 2013 was not analyzed to show the breakdown of the balance. The accuracy of the creditor's figure of Kshs.387, 916,199.00 could therefore not be established as at 30 June, 2013.

3. Other Receipts - Administration/Trust Account Kshs.61, 785,446.80

Included in Other Receipts in the schedule is a receipt dated 26/6/2013 from National Bank of Kshs.4, 059,657.20 which was not in the Cash book. Further, included in the schedule was Kshs.1,808,743.75 dated 20/12/2012 from another bank, which was reflected as Kshs.808, 743.75 in the cash book. The schedule was therefore overstated by Kshs.1, 000,000.

The accuracy of Other Receipts totalling Kshs.61,785,446.80 could therefore not be confirmed.

4. Investment – Kshs. 4,476,900

The Share Certificate for 4% Non – Cumulative Preference shares of Kshs.20 each in Consolidated Bank of Kenya Ltd was not availed for audit verification. The Cumulative Preference Shares balance amounting to Kshs.4,476,900 could therefore not be verified. In addition, the amount was omitted in the consolidated balance sheet.

Qualified opinion

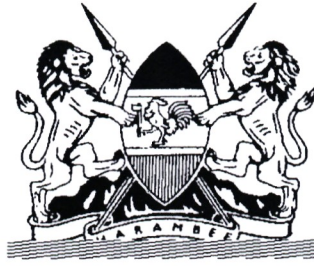
In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Public Trustee – State Law Office as at 30 June 2013, and of its operations for the year then ended, in accordance with the Government Financial Regulations and Procedures and the Public Finance Management Act, 2012.



Edward R.O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

15 May 2014



REPUBLIC OF KENYA

PUBLIC TRUSTEE

FINANCIAL STATEMENT FOR THE

YEAR ENDED 30TH JUNE, 2013

**PRESENTED ON
30TH SEPTEMBER, 2013**

BASIC INFORMATION

LOCATION: Sheria House
3rd Floor
Harambee Avenue

NAIROBI

ADDRESS: Office of the Public Trustee
State Law Office
P. O. Box 49672 – 00100

NAIROBI

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PART V: FINANCIAL STATEMENTS

1.0 INTRODUCTION

The office of the Public Trustee operates within the organizational framework of the Department of the Administrator General within the State Law Office. It was established in 1925 by an Act of Parliament, the Public Trustee Act, Cap 168 of the Laws of Kenya but has existed in Kenya since the early days of the colonial administration mainly administering estates of Europeans and persons of Asian and Arab origin.

The office operated as a section in the Department of Registrar General until 1987 when the Government in response to high public demand for accessible and affordable services made a strategic decision to decentralize the Public Trustee services to the District level.

Upon becoming a fully fledged Government Department within State Law Office in 1991, the office strengthened the already existing Regional offices in **Nyeri, Kisumu** and **Mombasa** and embarked on a systematic decentralization programme. Between 1992 and 1997, the Department established Regional offices in **Machakos, Nakuru, Kakamega, Eldoret, Embu, Kisii** and **Malindi**.

Following recent reforms in Government in response to the citizens' demand for efficient, effective and accessible services, the Department has resumed growth and in line with Vision 2030 and State Law Office's strategic plan 2008-2013 opened two offices in **Garissa** in May 2011 and **Meru** in April, 2012.

2.0 MANDATE AND CORE FUNCTIONS

The Department's strategic intent is to be the trustee of choice through service excellence. Our mission is to provide efficient and professional legal services in the administration of estates and trusts through competent staff. The spirit of our mission may be summarized to include enhanced customer satisfaction through quality service, open and effective communication and good corporate governance.

The core functions of the Department is administration of estates of deceased's persons, the management of trusts accepted under the Trustee Act, Cap 167, of the Laws of Kenya, discharging duties relating to custodianship and management of properties of persons with mental disability.

To carry out this mandate, the Department administers:-

1. The Public Trustee Act, Cap 168
2. The Law of Succession Act, Cap 160
3. The Trustees Act, Cap 167
4. The Estate Duty Act, Cap 483

The Public Trustee is also a member of the Wakf Commission under the Wakf Commission Act Cap 109, Laws of Kenya.

The Provincial Administration through respective District Commissioners has continued to partner with the Public Trustee in discharging the functions of the Public Trustee as ex-officio agents under Rule 25 of the Public Trustee rules. This

vital role has made the vulnerable, poor and marginalized access our services even in regions where we have not opened offices.

3.0 VISION

To be the best trustee and administrator of estates and trusts in Kenya through service excellence.

4.0 MISSION

To provide efficient and professional legal services in the administration of estates and trust through competent staff.

5.0 CORE VALUES

In pursuit of excellence in delivery of services, the Public Trustee staff will be guided by the following values.

5.1 Professionalism

The staff in the Public Trustee is drawn from various professions. They are expected to demonstrate high levels of professionalism in execution of their duties.

5.2 Quality Service Delivery

The Office of the Public Trustee shall endeavor to exceed customer expectations in service delivery. Guided by feedback generated from the periodic customer satisfaction surveys, the Public Trustee Office shall continuously endeavor to improve the quality of services provided to our customers.

5.3 Integrity and Professional Ethics

Working with limited resources to achieve increased quality services delivered to the customers, the new strategy has deliberately developed a mechanism for holding functional areas and individuals accountable for effective resource stewardship.

Actions to achieve include:-

1. Enforcement of the public officer ethics Act, Code of conduct and code of regulations
2. Timely completion of tasks
3. Enhanced decision making
4. Increased automation to improve efficiency

5.4 Teamwork and Respect for Diversity

The Public Trustee is a multidisciplinary organization whose results are a function of the inputs of our staff, agencies and relevant stakeholders.

The new strategic plan derives its strength from the input of all players.

Teamwork will be emphasized as a means to maximize on synergy to boost staff productivity.

6.0 KEY STRATEGIC OBJECTIVES

As we work towards our visions, we have identified where special emphasis shall be laid.

The spirit of our mission may be summarized as:-

1. Enhance customer satisfaction through quality service
2. Core values of integrity, individual initiative, teamwork, open and effective communication
3. Good corporate governance
4. A commitment to attracting, developing, motivating and retaining talented people as team members. People are key to service delivery that meets our customer expectations of our continual improvement in deals as an organization.

Our key principal is customer focus. This can only mean that the benefits of this achievement shall be felt by everyone who deals in our services as well as those whom we transact with.

The Office of the Public Trustee places a lot of emphasis on senior management involvement and organizational performance.

7.0 ORGANIZATION

The department is headed by the Administrator-General and assisted by two (2) Senior Deputy Administrators-General with a staff force of 200 officers country wide, comprising legal officers and non-legal staff.

The Department comprises of six Sections for effective Performance

- (i) Administration of estates
- (ii) Administration of trusts
- (iii) Legal division which has two sections
- (iv) Conveyance and litigation
- (v) Property management
- (vi) Accounts Section – supports all the five divisions

7.1 Specific Tasks Carried Out

- 1. Receipts of funds
- 2. Payments of advances
- 3. Ascertainment of assets
- 4. Petition for Grants/confirmation
- 5. Taking up and filing suits on behalf of estates
- 6. Preparation of final accounts
- 7. Passing of accounts

8. Preparation of statutory annual accounts
9. Calculation of annual interest
10. Property management
11. Management of records

8.0 OVERVIEW OF THE ACHIEVEMENTS

In the year under review, the Office of the Public Trustee lined up the activities listed below:-

1. Completion of development, installation and implementation of the Public Trustee Business Process Management System (automation) in the Head office and rolling out to Mombasa, Kisumu, Malindi, Nyeri and Machakos.
2. Publicizing the functions of the office of the Public Trustee through Public awareness campaigns.
3. Organizing collaboration meetings and periodic training of ex-official agents (District Commissioners).
4. Periodic advertisement of unclaimed estates in the local dailies and at strategic places i.e. D.C's offices, D.O's offices and chief's offices. This initiative has enabled approximately 4000 beneficiaries to access their funds over the last two years.
5. Develop and implement a decentralization programme for the Meru Regional office which became operational by April, 2012.
6. Conduct monitoring and evaluation of administration of estates and property management in the Regional offices and ex-official agents (District Commissioners) to meet our customers' and regulatory requirements regarding quality in the management and control of beneficiaries funds and property.

9.0 CHALLENGES

- (i) **High Staff turnover** – whereas State Law Office attracts professional staff, retaining such staff has been a big challenge. After huge amounts of funds have been spent in terms of training, energies in terms of coaching, mentoring and induction, the legal staff continue to leave The State Law Office for greener pastures. The State Law Office must therefore develop a long term strategy to address this challenge.
- (ii) **Inadequate budgetary allocation** – The Department has 13 Regional offices and a high volume and value of client base and assets. The budgetary allocation particularly the Regional offices barely meets their requirements.
- (iii) **Inadequate office accommodation** – There is needed to address the problem of office accommodation particularly in Regional offices notably Kisumu, Malindi, Kakamega, Nyeri and Garissa.
- (iv) **Inadequate ICT infrastructure and support**
- (v) **Shortage of Accountants** – The department continues to lose Accountants through ministerial transfers without replacements. This has forced the existing few Accountants to work for long hours including weekends. Most of the regional offices have to operate with only one accountant who handles almost every accounting work.
- (vi) **Transport for officers in the Regional offices** – Procurement of vehicles to facilitate officers in Regional offices should be considered.

- (v) **Rigid Scheme of Service** – The scheme of service for the staff in State Law Office is rigid and impedes horizontal deployment. The scheme does not correspond to modern trends which reduce the vertical structures laying emphasis on horizontal structures. Some officers have been in one job group for over five years. Further, the scheme of service should create room at the top for upward mobility in order to motivate staff.

10.0 FINANCIAL STATEMENTS

The financial statements include:-

1. Accounting Policies and Disclosures

- (a) The assets are valued on historical cost basis.
- (b) The financial statements are prepared on both accrual and cash basis of accounting.
- (c) The Public Trustee provides for interest receivable before the closure of financial year.
- (d) The interest provisions are based on average of Treasury bills interest rates within the financial year.
- (e) The main investments of Public Trustee funds are in Treasury Bills and Fixed Deposits in various financial institutions.
- (f) The Accounts of all outstations are semi autonomous thus provide their accounts to the Head office for consolidation.

2. Assets Deposits

(i) Deposits with various financial institutions:-

Housing Finance	-	30,000,000.00
National Bank of Kenya	-	60,000,000.00
Middle East Bank	-	5,000,000.00
Imperial Bank	-	25,000,000.00
Development Bank	-	5,000,000.00
N.I.C Bank	-	10,000,000.00
Chase Bank	-	<u>10,000,000.00</u>
Total	-	<u>145,000,000.00</u>

(ii) Treasury Bills KSHS 3,416,049,498.00

This represents amounts invested in Treasury Bills and had not mature as at 30th June, 2013. This is the principle area of our investment of the beneficiaries funds. The amount is valued at cost and not the redemption value.

The Treasury Bills schedule is hereby attached narrating the issue numbers involved, dates invested, the cost of the investment, withholding tax deductions, date of redemption and the value receivable on redemption.

11.0 DEBTORS KSHS 178,620,008.00

This represents Interest on Treasury Bill, Interest on Current Account over-transferred to Public Trustee Investment Income Account and Public Trustee Sundry Expenses Account .

The amount was cleared after closure of the year under review as per the schedule shown below:-

P.T. Investment Account	178,564,774.00
Nyeri	32,685.00
Machakos	9,500.00
Malindi	11,410.00
Eldoret	<u>1,639.00</u>
Total	<u>178,620,008.00</u>

12.0 OVERDRAWN ACCOUNT

The overdrawn accounts stands at Kshs 6,170 as at 30th June, 2013. In the last financial year, this item stood at Kshs.2,158,743 in various out stations.

The above amounts represents unclaimed interest on various finalized estates and overpayments made to beneficiaries. Clearance of the same has been going on and as indicated above. During the year in review, we were able to clear a total of Kshs.2,152,573 as per the schedule below:-

	<u>2013</u>	<u>2012</u>
Kisumu		1,609,927.00
Mombasa		326,589.00
Kakamega		-
Eldoret	0.00	3,169.00
Embu	0.00	127,304.00
Nakuru	6,170.40	60,205.00
Kisii	<u>0</u>	<u>31,549.00</u>
Total	<u>6170.40</u>	<u>2,158,743.00</u>

13.0 TRIAL BALANCE DIFFERENCE

The difference in the trial balance in the previous year 2011/2012 was Kshs.1,018,984.00 but in the year under review, it increased to Kshs.20,852,580. The increase resulted from Kisumu Office which had no accountant for some period of time. The Public Trustee has organized a team of accountants from the head office to resolve the difference.

The difference relates to the errors which occurred in the books in the year 1990 and prior years when the accounting system was manual. Efforts are being made by the Public Trustee to resolve the same. Below is the schedule.

	<u>2012</u>	<u>2013</u>
Nairobi -	144,047.00	0
Kisumu -	9,664.00	21717853.00
Mombasa -	765,040.00	765,040.00
Malindi -	<u>100,233.00</u>	<u>100,233.00</u>
Total	<u>1,018,984.00</u>	<u>20,852,580.00</u>

14.0 CREDITORS KSHS: 2082.00

This represents amounts of official Gazette charges .

Bank charges	-	2082.00
Total		<u>2082.00</u>

15.0 INTEREST PAYABLE

This relates to the interest earned on current account. The amount of Kshs.5,258,599.00 has now been transferred to Sundry Expenses Account after the closure of the year under review.

16.0 INTEREST RECEIVABLE

It is a policy for the Public Trustee to make a provision for anticipated interest due to estates for the year.

For the year under review the provisions were as follows:-

Nairobi	-	160,000,000.00
Kisumu	-	50,000,000.00
Machakos	-	25,000,000.00
Nyeri	-	27,000,000.00

Mombasa	-	25,000,000.00
Kakamega	-	25,000,000.00
Eldoret	-	35,000,000.00
Embu	-	17,000,000.00
Nakuru	-	30,000,000.00
Kisii	-	23,000,000.00
Malindi	-	3,500,000.00
Meru	-	2,000,000.00
Garissa	-	<u>1,000,000.00</u>
Total	-	<u>423,500,000.00</u>

The basis by which the provisions are made is guided by the prevailing interest rates in the market as per Treasury Bills being our principal area in which we invest.

17.0 BENEFICIARIES FUNDS

The beneficiaries fund is the total amount held by the Public Trustee as at the close of business in the year under review was **Kshs.6,785,026,161.00** visa viz for the previous financial year which was Kshs.5,807,231,794.00. This reflects a growth of the fund by **Kshs.977,794,367.00** now held with us for the beneficiaries. The schedule of the same is show below:-

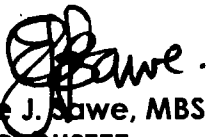
	<u>2013</u>	<u>2012</u>
Nairobi	2,428,040,756.00	1,947,710,604.00
Kisumu	776,620,877.00	781,715,220.00
Machakos	417,367,318.00	368,021,580.00
Nyeri	414,164,527.00	364,882,386.00
Mombasa	371,002,459.00	343,211,289.00
Kakamega	736,351,461.00	574,238,386.00
Eldoret	521,941,015.00	479,687,175.00
Embu	258,926,492.00	251,751,216.00
Nakuru	431,206,957.00	361,474,074.00
Kisii	341,259,206.00	292,842,643.00
Malindi	50,091,741.00	40,038,607.00
Meru	22,934,485.00	0
Garissa	<u>15,118,867.00</u>	<u>1,658,614.00</u>
Total	<u>6,785,026,161.00</u>	<u>5,807,231,794.00</u>

PART III: STATEMENT OF THE ACCOUNTING OFFICER'S RESPONSIBILITY

Pursuant to Section 4 of the Public Audit Act, 2003 and Section 81, 82 and 83 of the Public Finance Management Act, 2012, I The Public Trustee accepts responsibility for the maintenance of the Accounting Records which may be relied upon in preparation of the Financial Statements as well as adequate systems of Internal Control.

The Public Trustee accepts responsibility for the financial statements which have been prepared in compliance with appropriate accounting policies and in conformity with International Financial Reporting Standards, International Best Practices, a Public Finance Management Act and pursuant to Public Audit Act 2003.

I am therefore of the opinion that the attached Annual Accounts and other financial statements present fairly the financial status of affairs of the Public Trustee as at 30th June, 2013.




Eunice J. Nawe, MBS
PUBLIC TRUSTEE

18.0 AUDITORS

The Auditor of the Public Trustee for the year ended is the Auditor General in line with the Public Audit Act, 2003.

**PUBLIC TRUSTEE ADMINISTRATION ACCOUNT
CONSOLIDATED BALANCE SHEET
AS AT 30TH JUNE, 2013**

	<u>NOTES</u>	2013 K S H S	2012 K S H S
DEPOSITS	2	145,000,000	145,000,000
TREASURY BILLS	3	3,416,049,498	4,897,161,083
TREASURY BONDS			-
		3,561,049,498	5,042,161,083
CURRENT ASSETS			
Cash and Bank balance		2,647,963,746	332,929,995
Debtors	4	178,620,008	69,288,548
Overdrawn Estates Account	5	6,170	2,158,743
Interest Receivable	6	423,500,000	372,600,000
Trial Balance difference		865,273	1,018,984
Funds In Transit			
		3,250,955,197	777,996,270
CURRENT LIABILITIES			
Creditors	7	2,082	25,059
Interest payable	8	5,258,599	2,892,842
Trial Balance difference		21,717,853	7,657
		26,978,534	2,925,558
NET CURRENT ASSETS		3,223,976,663	775,070,712
		6,785,026,161	5,817,231,795
REPRESENTED BY:			
Beneficiaries Funds		6,785,026,161	5,807,231,794
		6,785,026,161	5,807,231,794


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EUNICE J. SAWE, MBS
PUBLIC TRUSTEE

**PUBLIC TRUSTEE ADMINISTRATION
NOTES TO THE CONSOLIDATED ACCOUNTS
FOR THE YEAR ENDED 30TH, JUNE, 2013**

1 PUBLIC TRUSTEE ADMINISTRATION CONSOLIDATED ACCOUNT

This balance sheet includes Nairobi Office and branches at Mombasa, Malindi, Machakos, Nyeri, Embu, Nakuru, Kisumu, Kakamega, Eldoret and Kisii (See Annexure)

2 DEPOSITS - KSHS 145,000,000

This represents deposits held with various banks and financial institutions.

3 TREASURY BILLS - KSHS.3,416,049,498

This represents funds invested in Treasury Bills, which are stated at cost.

4 DEBTORS - KSHS.178,620,008

This represents Interest on redeemed T/Bills & Current Account to P.T. Investment Account, P.T. Sundry Expenses Account and unrefunded Bank charges.

5 OVERDRAWN ESTATES ACCOUNT - KSHS.6,170

This represents unclaimed Interest on finalised estates and overpayments made to various beneficiaries.

6 RECEIVABLE INTEREST - KSHS.423,500,000

This represents provision for interest due to beneficiaries from Public Trustee Investment Income Account for the period 2011/2012.

7 CREDITORS - KSHS.2,082

This represents reserves for swearing fees.

8 INTEREST PAYABLE - KSHS.5,258,599

This represents interest earned on current A/c and P.T. Sundry Expenses Account.

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