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REPUBLIC OF KENYA



Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

Ref. SEN./PETITIONS/CORR./2017

25th January, 2017

Mr. Tony Watima,
P.O. Box 23699 - 00625,
NAIROBI.
Email: info@tonywatima.com
tonniewatimah@gmail.com
Tel: 0729806693

Dear Sir,

**RE: PETITION TO THE SENATE ON THE NEED TO ADDRESS INSTANCES
OF CONFLICT OF INTEREST IN THE PUBLIC SERVICE**

I acknowledge with thanks receipt of your revised Petition on the above subject matter.

Having reviewed the Petition in terms of Senate Standing Order 220, I wish to advise that the same complies with the law and Senate Standing Orders on the form of public petition and is therefore admissible.

The Petition has been forwarded to the Speaker for approval to enable presentation before the Senate.

Mrs. Serah Kioko, Director, Legislative & Procedural Services (Tel No. 0722881777 and Email, skioko@parliament.go.ke or kiokoserah@gmail.com) is the officer responsible for facilitating this matter.

Yours sincerely,

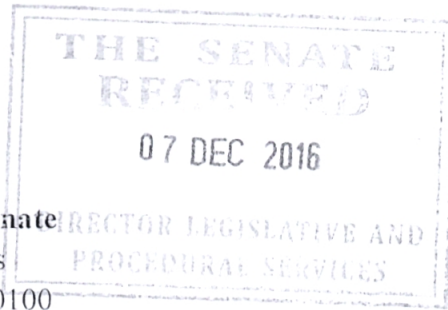
M. A. MOHAMED
SENIOR DEPUTY CLERK
FOR: CLERK OF THE SENATE

PETITION BY MR. TONY WATIMA, ON THE NEED TO ADDRESS INSTANCES OF CONFLICT OF INTEREST IN THE PUBLIC SERVICE

Honourable Senators,

1. Pursuant to Standing Orders 220 (1) (a), and 225(2) (b), I hereby report to the Senate that a petition has been submitted, through the Clerk, by Mr. Tony Watima, a resident of Nairobi County, on the need to comprehensively address instances of conflict of interest in the public service.
2. In the Petition, the petitioner states –
 - a) that there have been numerous incidences in Kenya where public officers make decisions on matters in which they, either directly or indirectly, have a personal interest in; and
 - b) that the existing legal framework has not adequately addressed this challenge, which continues to persist, thus undermining efforts to tackle corruption and enhance service delivery in the public sector.
3. The petitioner therefore prays that the Senate investigates this matter and makes appropriate recommendations thereon. Among the proposals made by the petitioner is for Parliament to enact a law barring public officers from conducting any commercial activity, with the only exception being where such an officer establishes a blind trust revocable only once they leave office.
4. *Honourable Senators*, pursuant to standing order 226, I shall now allow comments, observations or clarifications in relation to the petition for not more than **thirty** minutes.

[after comments by Senators]
5. *Honourable Senators*, pursuant to standing order 227(1), the Petition stands committed to the relevant standing committee, in this case the Standing Committee on Legal Affairs and Human Rights.
6. In terms of standing order 227(2), the Committee will be required, in not more than sixty days from the time of reading the Prayer, to respond to the Petitioner by way of a Report addressed to the Petitioner and laid on the Table of the Senate.



Q/Mr. Amolo
Please deal
08/12/16

The Clerk of the Senate
Parliament Buildings
P.O. Box 41842 - 00100

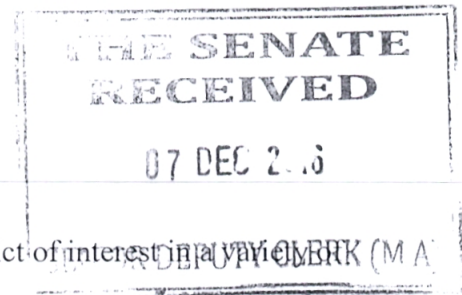
NAIROBI

Email: cSenate@parliament.go.ke

RE: PETITION TO THE SENATE CONCERNING CONFLICT OF INTEREST IN PUBLIC SERVICE.

I, the undersigned,

Citizen of Kenya, and resident on Nairobi



DRAW to the attention of Senate:

1. The rapacious existence of multiple and massive conflict of interest in a public government institutions by public officers.

By all accounts, there is a pattern of unchallenged abuse of power by both appointed and elected public officers taking official action, or make policy recommendations concerning particular governmental action in areas where they are investors or have personal interest arraying blatant conflict of interest charges within the public sector system.

The principle behind this petition is to call for the regulation of the blatant conflict of interest embodied in the axiom that public officers owe undivided loyalty to the Government and decisions, advice and recommendations they make should only be in public interest, and not to be tainted, even unintentionally with influence from private or personal interest.

As defined by ancient republicans, this classic sense of corruption of placing personal interest ahead of public interest or common good has been identified as the destroyer of republics since it not only compromises public duties but also makes it remarkably difficult to mobilize public services in the fight against corruption. And His Excellency President Uhuru Kenyatta is on public record as having declared corruption a threat to national security.

This abuse of public office and resources to advance private gains has conferred benefits to people who do not merit them to the detriment of service delivery to the Kenyan tax payer and national development.

- 2 To insulate the public service from conflicting private interest and stop the vicious downward spiral of corruption that plagues the public sector, I therefore request the house to review the Public Officer and Ethics Act by amending it to state;

Mr. Charles Mungai
Please review
LA Amolo
29/12

DLB
Please deal
7/12

- 2.1 THAT, the use of blind trust is one of the methods of conflict of interest avoidance, and so, the Act be amended that no public officer is permitted to conduct any commercial activity, unless, and only under a blind trust. The blind trust should only be revocable under two circumstances;
- a. Death of the public office holder.
 - b. Only after six months upon resignation or sacked from office.
- 2.2 THAT, parliament should enact a framework statute that creates clear, uniform, legal guidelines to govern blind trust to the best practices and standards.
- 2.3 THAT, a one month period upon taking office be given to appointed public officers to comply with no.1, and a three month period to elected public officers after being sworn to office.
- 2.4 THAT, the supervisory Ethics Office with the responsibility of enforcing no 2.1 and 2.3 be assigned to the Commission on Administrative Justice (Office of the Ombudsman) with the authority to approve the proposed trustee and trust instrument to qualify the blind trust so as to close the loophole of leaking blind trust.
- 2.5 THAT, failure by any public officer to comply with no 2.3 within the given period, he/she automatically ceases to hold the respective office and a gazette notice issued by the Ombudsman should follow suit to that effect.
- 2.6 THAT, in the event that a public officer has been found to have declared insufficient or misleading information, the public officer be blacklisted from holding any public office (both appointive and elective) through a gazette notice issued by the Office of the Ombudsman. And the action be treated as a case of perjury liable for criminal charge.
- 2.7 THAT, due to the absent demonstration of candor and openness in asset declaration, the Act should be amended giving public the right of information into assets declaration made by public officers.
- 2.8 THAT, the Commission on Administrative Justice (Office of the Ombudsman) be given one month to open public officers' assets declaration information after presentation so as to invoke no 2.7

3. **THAT**, the above stated recommendations are only meant to provide checked and balanced ethical measures that will enhance service delivery, accountability and increase public confidence in the public sector system.
4. **THAT**, the fact that our country has yet to formulate workable, sustainable policies and regulations addressing the issue of dual interest within the public sector is a testament that it's imperative the House takes on this challenge.
5. **THAT**, none of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.

WHEREFORE, your humble petitioner prays that the Senate consider, deliberate upon, and allow the petition.

I. TONY WATIMA. 

DATED:

6th

day of DECEMBER 2016



TONY WATIMA
ID NO: 25635589.
P.O. BOX 23699 - 00625
NAIROBI,
KENYA.

info@tonywatima.com
tonniewatimah@gmail.com

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PARLIAMENT OFFICE OF THE CLERK OF THE SENATE

Ref. SEN./PETITIONS/CORR./2016

17th October, 2016

Mr. Tony Watima,
P.O. Box 23699 - 00625,
NAIROBI.
Email: info@tonywatima.com/
tonniewatimah@gmail.com
Tel: 0729806693

Dear

Mr Watima,

RE: PETITION TO THE SENATE ON ALLEGED MASSIVE INCIDENCES OF CONFLICT OF INTEREST IN VARIOUS GOVERNMENT INSTITUTIONS BY PUBLIC OFFICERS

I acknowledge, with thanks, receipt of your Petition on the above subject matter.

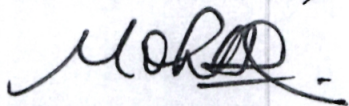
Upon reviewing the Petition in terms of Senate Standing Order 220 (3), it is advised that the Petition, though it raises important issues for consideration by the Senate, is not admissible in its present form. This is for the reasons that –

- i) the subject-matter of the Petition has not been indicated on every sheet, as required under Section 3 (e) of the Petition to Parliament (Procedure) Act (No. 22 of 2012), and Senate Standing Order 223 (e);
- ii) the Petition does not indicate whether any efforts have been made to have the subject matter of the Petition addressed by a relevant body and whether there has been any response from that body or whether the response has been unsatisfactory. This is a requirement under Section 3 (f) of the said Act, and Senate Standing Order 223 (f);
- iii) the Petition fails to state whether the issues in respect of which it is made are pending before any court of law or other constitutional or legal body, as required under Section 3 (g) of the said Act, and Senate Standing Order 223 (g); and
- iv) the petition does not conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner in regard to the matter to which it relates, as required under Section 3 (h) of the said Act, and Senate Standing Order 223 (h).

In the circumstances, it is requested that you amend the petition to comply with the said requirements. Attached in this regard are the applicable provisions of the Petition to Parliament (Procedure) Act and the Senate Standing Orders, on the form of a public petition, as well as a template which you may adopt in redrafting the petition.

Mrs. Serah Kioko, Director, Legislative & Procedural Services (Tel No. 0722881777 and Email, skioko@parliament.go.ke or kiokoserah@gmail.com) is the officer responsible for facilitating this matter.

Yours sincerely,



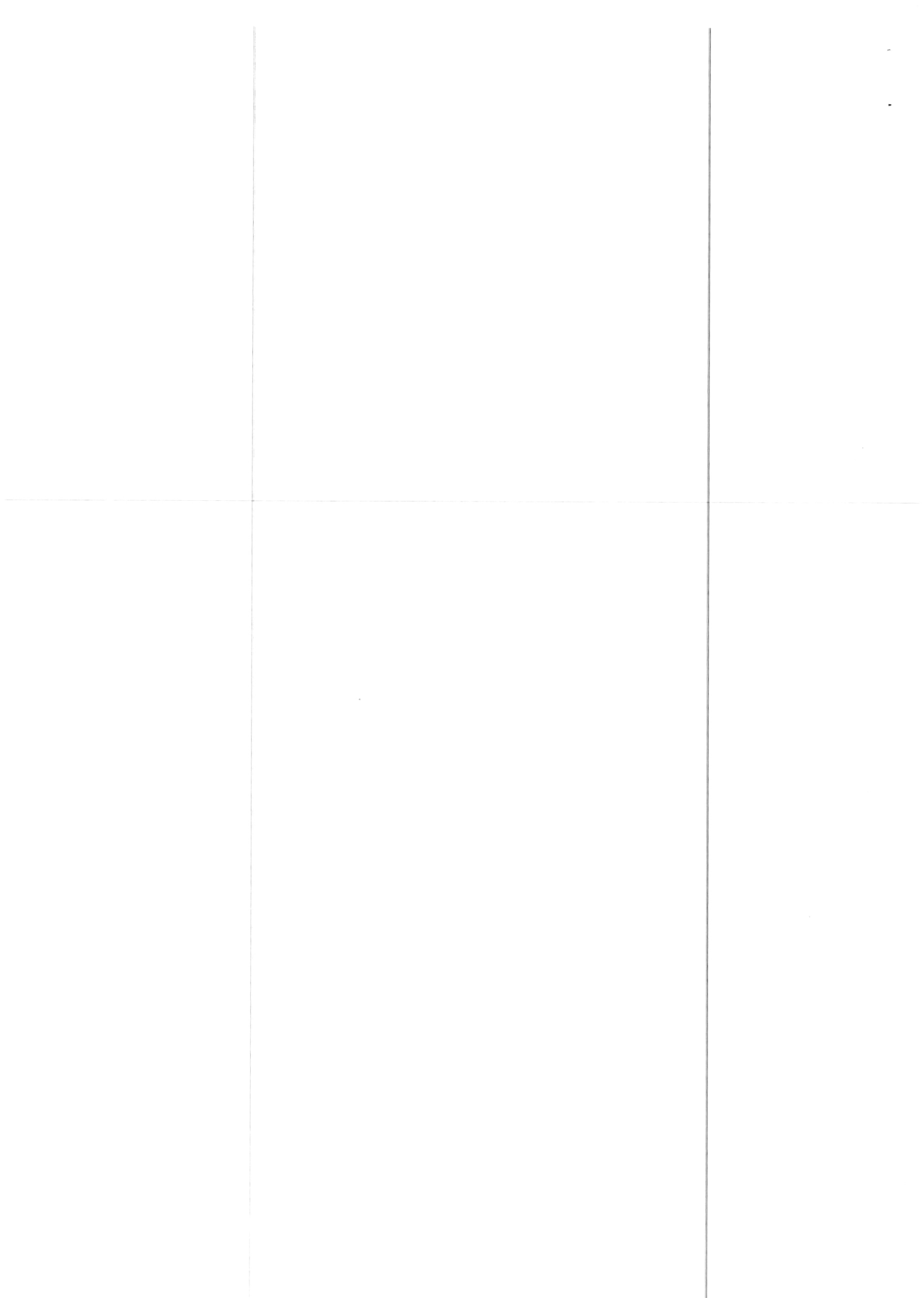
M. A. MOHAMED,
SENIOR DEPUTY CLERK,
FOR: CLERK OF THE SENATE

Encls.

REQUIREMENTS FOR A PUBLIC PETITION UNDER THE PETITIONS TO PARLIAMENT (PROCEDURE) ACT (NO. 12 OF 2012) AND THE SENATE STANDING ORDERS

A public petition to the Senate shall –

- (a) be handwritten, printed or typed;
- (b) be in English or Kiswahili and be written in respectful, decorous and temperate language;
- (c) be free of alterations and interlineations in its text;
- (d) be addressed to the Clerk of the Senate;
- (e) have its subject-matter indicated on every sheet if it consists of more than one sheet;
- (f) indicate whether any efforts have been made to have the matter addressed by a relevant body and whether there has been any response from that body or whether the response has been unsatisfactory;
- (g) indicate whether the issues in respect of which the petition is made are pending before any court of law or other constitutional or legal body;
- (h) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners in regard to the matter to which it relates;
- (i) subject to paragraph (m), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;
- (j) contain only signatures or thumb impressions, as the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;
- (k) not have any letters, affidavits or other documents annexed to it;
- (l) in the case of a petition presented by a Member of Parliament on behalf of a petitioner, be countersigned by the Member presenting it; and
- (m) be signed by the petitioner, or if the petitioner is unable to sign, by a witness in whose presence the petitioner shall make his or her mark on the petition.



The Clerk of the Senate
Parliament Buildings
P.O. Box 41842 – 00100
NAIROBI
Email: cSenate@parliament.go.ke

RE: PETITION TO THE SENATE CONCERNING XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

I/We, the undersigned,

Citizens of the Republic of Kenya, and residents of [];

DRAW the attention of the Senate to the following:

1. XX.

1.1 THAT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX;

1.2 THAT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX;

1.3 THAT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX;

2. XX.

2.1 THAT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX;

2.2 THAT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX;

2.3 THAT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX;

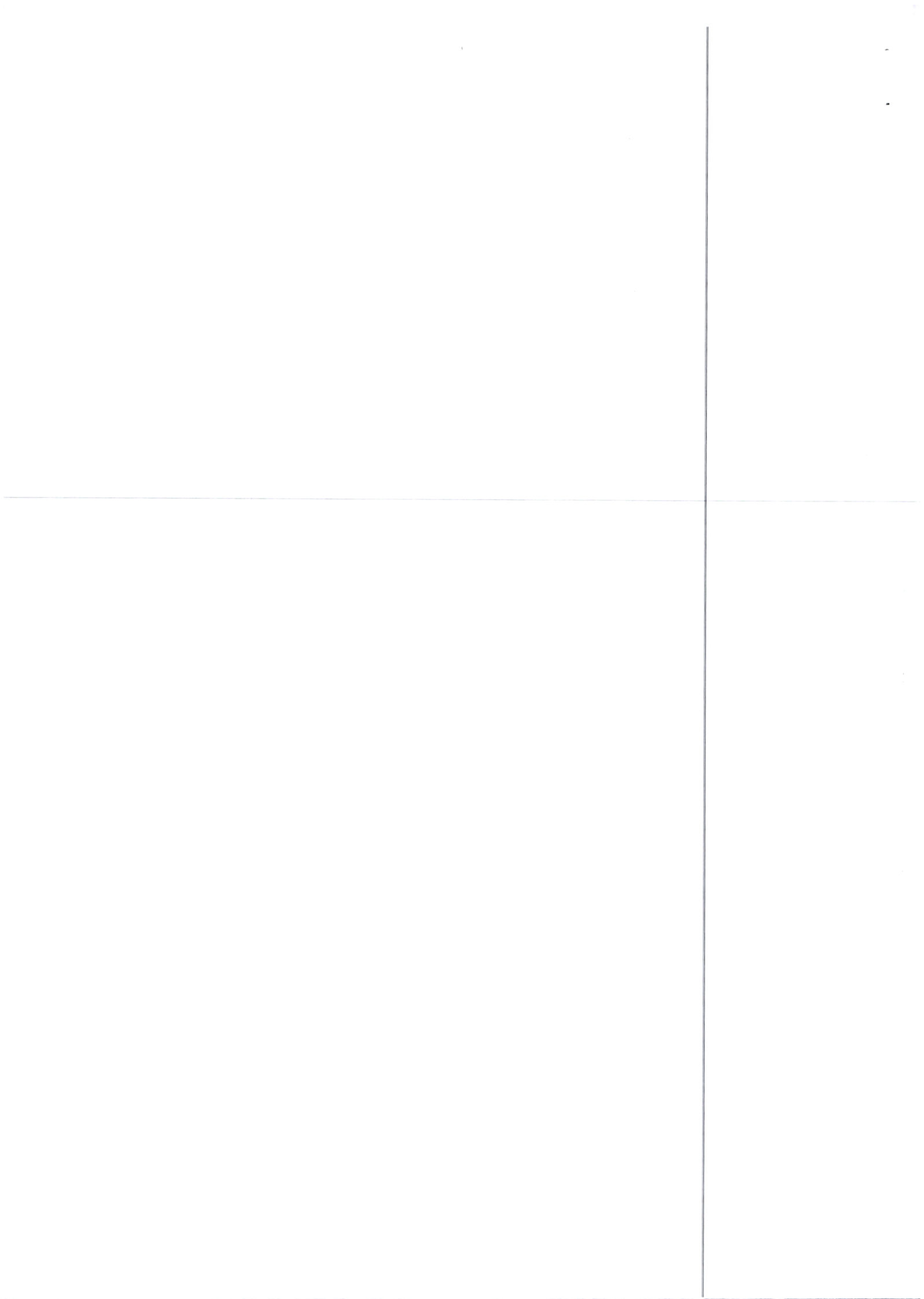
3. XX.

3.1 THAT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX;

3.2 THAT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX;

3.3 THAT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX;

4. THAT, I/we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.



Petition to the Senate by [] concerning
[]

5. **THAT**, none of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.

WHEREFORE, your humble petitioners pray that the Senate-

1. xxx;
2. xxx;
3. xxx;

Dated this.....day of.....2015.

[illegible]

If presented by a Senator:

Counter signed by Senator xxxxxxxxxxxxxxxxx, Senator for xxxxxxxxxxxxxxxxx County.

Sen. xxxxxxxxxxxx xxxxxxxxxxxx,
Senator for xxxxxxxxxxxx County

PETITION TO THE NATIONAL ASSEMBLY AND SENATE.

This petition of **TONY WATIMA**, a citizen of Kenya, wishes to draw to the attention of both Houses of Parliament the multiple and massive conflict of interest in a variety of government institutions by public officers.

By all accounts, there is a pattern of unchallenged abuse of power by both appointed and elected public officers taking official action, or make policy recommendations concerning particular governmental action in areas where they are investors or have personal interest arraying blatant conflict of interest charges within the public sector system.

The principle behind this petition is to call for the regulation of the blatant conflict of interest embodied in the axiom that public officers owe undivided loyalty to the Government and decisions, advice and recommendations they make should only be in public interest, and not to be tainted, even unintentionally with influence from private or personal interest.

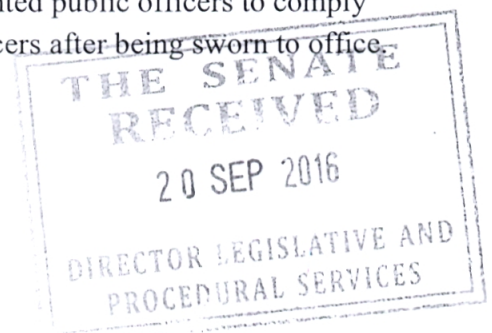
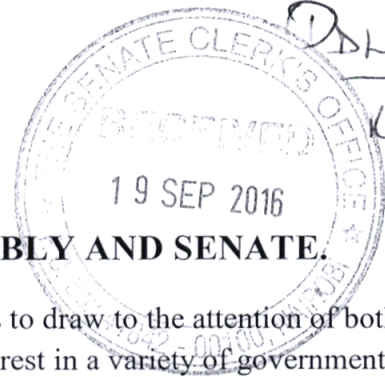
As defined by ancient republicans, this classic sense of corruption of placing personal interest ahead of public interest or common good has been identified as the destroyer of republics since it not only compromises public duties but also makes it remarkably difficult to mobilize public services in the fight against corruption. And His Excellency President Uhuru Kenyatta is on public record as having declared corruption a threat to national security.

This abuse of public office and resources to advance private gains has conferred benefits to people who do not merit them to the detriment of service delivery to the Kenyan tax payer and national development.

To insulate the public service from conflicting private interest and stop the vicious downward spiral of corruption that plagues the public sector, I therefore request both houses to review the Public Officer and Ethics Act by amending it to state;

1. The use of blind trust is one of the methods of conflict of interest avoidance, and so, the Act be amended that no public officer is permitted to conduct any commercial activity, unless, and only under a blind trust.
2. The blind trust should only be revocable under two circumstances;
 - a) Death of the public office holder.
 - b) Only after six months upon resignation or sacked from office.
3. Parliament should enact a framework statute that creates clear, uniform, legal guidelines to govern blind trust to the best practices and standards.
4. A one month period upon taking office be given to appointed public officers to comply with no.1, and a three month period to elected public officers after being sworn to office.

② Charles
Please deal.
20/09/16



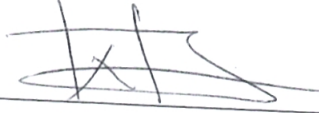
5. The supervisory Ethics Office with the responsibility of enforcing no.1 and 4 be assigned to the Commission on Administrative Justice (Office of the Ombudsman) with the authority to approve the proposed trustee and trust instrument to qualify the blind trust so as to close the loophole of leaking blind trust.
6. Failure by any public officer to comply with no.4 within the given period, he/she automatically ceases to hold the respective office and a gazette notice issued by the Ombudsman should follow suit to that effect.
7. In the event that a public officer has been found to have declared insufficient or misleading information, the public officer be blacklisted from holding any public office (both appointive and elective) through a gazette notice issued by the Office of the Ombudsman. And the action be treated as a case of perjury liable for criminal charge.
8. Due to the absent demonstration of candor and openness in asset declaration, the Act should be amended giving public the right of information into assets declaration made by public officers.
9. The Commission on Administrative Justice (Office of the Ombudsman) be given a one month to open public officers' assets declaration information after presentation so as to invoke no.8

The above stated recommendations are only meant to provide checked and balanced ethical measures that will enhance service delivery, accountability and increase public confidence in the public sector system.

The fact that our country has yet to formulate workable, sustainable policies and regulations addressing the issue of dual interest within the public sector is a testament that it's imperative we take on this challenge.

And your petitioner humbly prays that his petition herein be considered, deliberated upon by respective Houses of Parliament and allowed.

DATED: 19th day of September 2016



0729 806693

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tonniewatimah@gmail.com

