



*Paper laid
by Hon. Langat*

J. S. S. S.

1/10/13

KENYA NATIONAL ASSEMBLY

PARLIAMENT
OF KENYA
LIBRARY

ELEVENTH PARLIAMENT

FIRST SESSION

DEPARTMENTAL COMMITTEE ON FINANCE,
PLANNING & TRADE

REPORT

ON THE VETTING OF MR. JAMES MAINA
MUHORO, NOMINEE TO THE SALARIES AND
REMUNERATION COMMISSION

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

October, 2013



TABLE OF CONTENTS

	PAGE NO.
1.0 PREFACE.....	3-6
2.0. BACKGROUND INFORMATION.....	7-8
3.0 VETTING OF MR. JAMES MAINA MUHORO	8-11
4.0 COMMITTEE OBSERVATIONS.....	11-12
5.0 COMMITTEE RECOMMENDATIONS.....	13

ANNEXTURES

Annexure (1): Committee Minutes

Annexure (2): Correspondences and Memoranda
(KRA, HELB, Ethics & Anti-Corruption Commission))

Annexure (3): Curriculum Vitae

Annexure (4): Filled questionnaire



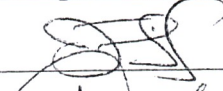




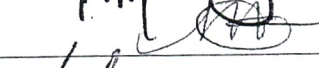
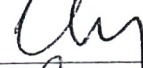
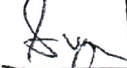
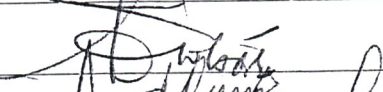
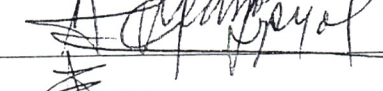

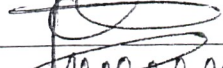
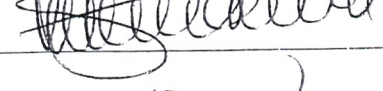
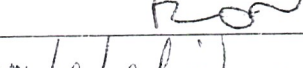
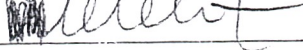
Annexure (5): Court Ruling

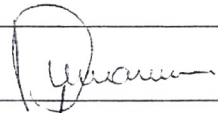

DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING & TRADE (11TH PARLIAMENT)

MEMBERS ATTENDANCE REGISTER

DATE... 1ST OCTOBER, 2013... TIME... 9:30 am

AGENDA... Adoption of the Report of voting of James Muhoro to Nominee from NPSC to Salaries and Remuneration Commission

No.	NAME	SIGNATURE
1.	Hon. Benjamin K. Longat	 Chair
2.	Hon. Nelson R. Garduhia	 ✓ Chair
3.	Hon. Jimmy Anumani	
4.	Hon. JOASH OLUO	
5.	Hon. T. A. E. Bosire	
6.	Hon Patrick Makau	 member
7.	Hon Eng. S.R. Manga	
8.	Hon Mary Emase	
9.	Hon I. W. NJIRU	
10.	Hon Ishaq Sumra	
11.	Hon. Angany Andrew Toboro	
12.	Hon. Daniel Epoyo Naniro	
13.	Hon. Abdul Rahim Lawood	
14.	Hon Joseph Limo	
15.	Hon Shakeel Shabbir Ahmed	
16.	Hon HYAMUNDOK ROSE	 ROSE
17.	Hon. HATI LELELI	

18.	DENNIS WITWIKU HON	
19.	Hon. Abdulkarim S. Nassir	
20.		
21.		
22.		
23.		
24.		
25.		
26.		
27.		
28.		
29.		

Mr. Evans Oanda

Clerk Assistant 0721823016/0720264642

Hellen Kina

Clerk Assistant 0727707754

1.0 PREFACE

Mr. Speaker, Sir,

The Departmental Committee on Finance, Planning & Trade is one of the twelve Departmental committees of the National Assembly established under Standing Order No. 216 and mandated to, *inter alia*; 'vet and report on all appointments where the Constitution or any law requires the National assembly to approve'.

The Committee deals specifically with Public finance, monetary policies, public debt, financial institutions, investment and divestiture policies, pricing policies, banking, insurance, population, revenue policies, planning, national development, trade, tourism promotion and management, commerce and industry.

Under the current governance structure, the Committee on Finance, Planning and Trade oversees the following Ministries and all the commissions/independent offices and parastatals domiciled under them:

1. The National Treasury
2. Industrialization and Enterprise Development
3. East African Affairs, Commerce and Tourism
4. Devolution and Planning

Mr. Speaker, Sir,

COMMITTEE MEMBERSHIP

The following are the Members of the Committee as constituted by the House on 16th May, 2013 and reconstituted on 6th June 2013:

1. Hon. Benjamin Langat, MP (**Chairman**)
2. Hon. Nelson Gaichuhie, MP (**vice Chairman**)
3. Hon. Jones M Mlolwa, MP
4. Hon. Andrew Toboso Anyanga, MP
5. Hon. Timothy M .E. Bosire, MP
6. Hon. Shakeel Shabbir Ahmed, MP
7. Hon. Joash Olum, MP
8. Hon. Dr. Oburu Oginga, MP
9. Hon. Patrick Makau King'ola, MP

10. Hon. Abdullswamad Sheriff, MP
11. Hon. Sumra Irshadali, MP
12. Hon. Rose Ogendo Nyamunga, MP
13. Hon. Cyprian Iringo Kubai, MP
14. Hon. Dennis Waweru, MP
15. Hon. Tiras N. Ngahu, MP
16. Hon. Johnson Sakaja, MP
17. Hon. Jimmy Nuru Angwenyi, MP
18. Hon. Ronald Tonui, MP
19. Hon. Mary Emase, MP
20. Hon. Joseph Limo, MP
21. Hon. Lati Lelelit, MP
22. Hon. Kirwa Stephen Bitok, MP
23. Hon. Sammy Mwaita, MP
24. Hon. Daniel E. Nanok, MP
25. Hon. Eng. Shadrack Manga, MP
26. Hon. Abdul Rahim Dawood, MP
27. Hon. John Sakwa Bunyasi, MP
28. Hon. Alfred W. Sambu, MP
29. Hon. Sammy Koech, MP.

Mr. Speaker, Sir,

NOMINATION AND APPOINTMENT OF COMMISSIONERS TO THE SALARIES AND REMUNERATION COMMISSION

Article 230 (2)(b)(v) of the Constitution provides that the National Police Service Commission shall nominate a representative to the Salaries and remuneration Commission and with approval of the National Assembly, be appointed by the president. Sections 6 and 7 of the Salaries and remuneration Act, 2011 provides that the nomination process of the Commissioners should be done in a transparent and competitive manner.

Mr. Speaker, Sir,

The Salaries and Remuneration Commission, as constituted hereunder in 2012, did not have a representative from the National Police Service Commission because at that time, the mandated nominating body (National Police Service Commission) had not been constituted by then.

Chairperson

1. Mrs Sarah Jepkemboi Chumo Serem

Members

2. Mr. Daniel Omondi Ogutu
3. Ms Sellestine A. Kiuluku
4. Mrs Serah Kinyua
5. Brg. (Rtd) Samuel Ndururi Kirugi-
6. Mr. Isaiah Kubai
7. Mrs Jackquline Mugo
8. Hon. Peter Oloo Aringo, MP
9. Mr. Jason A. N. Namasake
10. Mrs Anne Elizabeth Owuor

Nominating Body

- Public Service Commission
- Judicial Service Commission
- Teachers Service Commission
- Defence Council
- Central of Organization of Trade Unions
- Federation of Kenyan Employers
- Parliament
- Parliamentary Service Commission
- Association of Professional Societies in East Africa (APSEA)

Ex-Officio Members

11. Mr. Joseph Kinyua, CBS – Permanent Secretary/Treasury- nominated by the Cabinet Secretary responsible for Finance under Article 230(2)(d)(i).
12. Mr. Wanjuki Muchemi, CBS - Solicitor General – nominated by the Attorney General under Article 230(2)(d)(ii).
13. Mr. Titus Ndambuki, CBS– Permanent Secretary, Ministry of State for Public Service- nominated by the Cabinet Secretary responsible for Public Service under Article 230(2)(e).

Mr. Speaker, Sir,

On the 17th September, 2013 you informed the House that Principal Secretary for the Ministry of Interior and Co-ordination of the National Government vide a letter dated 20th August, 2013 had communicated that the National Police Service Commission had nominated Mr. James M. Muhoro as its representative in the Salaries and Remuneration Commission. You subsequently directed the Departmental Committee on Finance, Planning & Trade to conduct approval hearings pursuant to Article 118 of the Constitution, Standing Order 198 and the Public Appointments (Parliamentary Approval) Act and table its report before the House on or before Tuesday 1st of October, 2013.

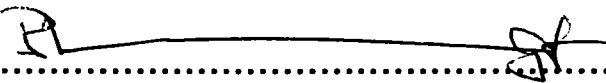
Mr. Speaker, Sir,

The Committee vetted the nominee on 26th September, 2013 by orally cross examining him, scrutinizing his documents and testimonials, examining correspondences from the Ethics and Anti Corruption Commission, Higher Education Loans Board, the Kenya Revenue Authority and affidavits from the public. The Committee's findings, as outlined in this report, enabled it to conclude that the nominee indeed did qualify to serve as a commissioner in the Salaries and Remuneration Commission.

Mr. Speaker, Sir,

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

It is now my pleasant duty and privilege, on behalf of the Departmental Committee on Finance, Planning & Trade, to present and commend this report of the vetting of the Mr. James Maina Muhoro for debate and approval by the House Pursuant to Section 7 (11) of the Salaries and Remuneration Commission Act, 2011.

SIGNED.....
HON. BENJAMIN LANGAT, M.P
CHAIRPERSON
FINANCE, PLANNING & TRADE COMMITTEE

DATE: 01-10-2013.....

2.0 BACKGROUND INFORMATION

2.1 NOMINATION AND APPOINTMENT PROCESS

The nomination and appointment criteria of Commissioners to the Salaries and Remuneration Commission is clearly outlined in the Article 230 (2) of the Constitution; Sections 4 to 7 of the Salaries and Remuneration Commission Act and the Public Appointments (Parliamentary Approval) Act, No.33 of 2011.

Section 7 of the Public Appointments (Parliamentary Approval) Act, No.33 of 2011 provides that the vetting Committee and indeed the House shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background.

Section 5 of the Salaries and Remuneration Act, 2011 provides that an individual must meet the following conditions to be eligible for nomination as a commissioner to the Salaries and Remuneration Commission:

- a) holds a degree from a university recognized in Kenya;
- b) has knowledge and at least ten years' experience in either—
 - i. finance and administration;
 - ii. public management;
 - iii. economics;
 - iv. human resource management; or
 - v. labour laws;
 - vi. meets the requirements of Chapter Six of the Constitution; and
 - vii. has had a distinguished career in their respective fields.

The Salaries and Remuneration Commission, as constituted in 2012, did not have a representative from the National Police Service Commission the mandated nominating body (National Police Service Commission) had not been constituted by then.

On 20th August, 2013, the Speaker of the National Assembly received a letter from the Principal Secretary, Ministry of Interior and Co-ordination of National Government informing him that Mr. James Maina Muhoro had been nominated to represent the National Police Service Commission in the

Salaries and Remuneration commission pursuant to Article 230(2)(b)(v) of the constitution. Subsequently, the Hon. Speaker made a *Communication from the Chair* on Tuesday 17th September 2013 directing that the nominees' curriculum vitae be referred to the Departmental Committee on Finance Planning and Trade Committee for approval hearings. The Committee was further directed to table its report to the House on or before Tuesday, 1st November, 2013.

On Thursday 19th September, 2013 an advertisement was placed in the print media inviting the public to submit memoranda by way of affidavit on the suitability or otherwise of the nominee in conformity with Section 6(9) of the Public Appointments (Parliamentary Approval) Act 2011. The submissions were to be received by Wednesday 25th September, 2013 at 5:00pm.

On Thursday 19th September, 2013, an advertisement was placed in the dailies inviting the nominees for vetting and informing the general public of the place and time of vetting.

On 17th September, 2013, the Committee requested the Ethics and Anti-Corruption Commission, Kenya Revenue Authority (KRA) and the Higher Education Loans Board (HELB) to provide reports about the nominee on: -

- Matters touching on integrity;
- Tax compliance;
- Loan repayments.

In its response vide a letter Ref. HELB/RD/56593/POV/119 dated 24th September 2013, HELB confirmed that the nominee had cleared his loan repayment while Kenya Revenue Authority also confirmed that the nominee was tax compliant through its letter dated 23rd September, 2013. However, Ethics and Anti-Corruption Commission confirmed to the Committee vide its letter dated Ref. EACC 6/Vol. XVI/(51) dated 24th September, 2013 that the Commission had indeed received allegations against the nominee which was being actively investigated to inform appropriate course of action.

3.0 VETTING OF MR. JAMES MAINA MUHORO BY THE COMMITTEE

The Committee vetted the nominee at its sitting held on Thursday 26th September, 2013. The Chairperson informed the Committee that despite inviting memoranda from the public in line with the provisions of the Public Appointments (Parliamentary Approval) Act 2011, on his suitability or

otherwise for appointment to public office none was received by the deadline on Wednesday 25th September, 2013.

During vetting, the Committee was guided by the constitution, the Salaries and Remuneration Act, 2011, Standing Orders and the criteria set out in the Public Appointments (Parliamentary Approval) Act No. 33 of 2011. Specifically, the nominee was examined against the following criteria, amongst others:

- i. Academic qualifications
- ii. Employment record
- iii. Professional affiliations
- iv. Potential conflict of interest
- v. Knowledge of the relevant subject
- vi. Overall suitability for the position
- vii. Tax compliance
- viii. Integrity

During the vetting, the nominee informed the Committee as follows:

(i) **Academic qualifications**

He holds a Bachelors of Arts Degree in Public Administration from the University of Nairobi (1978). Has also attended several professional and management courses both locally and abroad including the following:- Paramilitary Course; Advanced Public Administration; Project Design; Management and Analysis; Budgeting and Finance; Advance programme on Management of Training; Strategic Leadership; Strategic Negotiations.

He confirmed having applied for the advertised job and was among the six (6) shortlisted candidates for interview out of the 86 applicants.

(ii) **Employment record/relevance to Salaries and Remuneration Commission work**

- He has a wide range of experience in the Public Service management having worked as Senior Deputy Secretary in the Office of the Deputy President from 2008 to-date; Ag. Chief Executive Officer in the National Police Service Commission (2012-2013); Ag. Chief Executive/ Secretary, Independent Interim Boundaries Commission;

Under-Secretary, Ministry of Agriculture (1995-2003); and Ag. Director, Kenya Marine & Fisheries Institute (1999-2000).

- As an administrator, he has wealth of experience on Human Resource management having worked in the Ministry of Agriculture handling Human Resource matters and also as a Member of the Ministerial Advisory Committee which deals mainly with the welfare of workers. Has also been seconded from the Ministry to various institutions like:- Kenya Marine & Fisheries as Ag. Director to handle matters regarding staff welfare; Independent & Interim Boundaries Commission to set up the Commission where the focus was on assessment of competence of required personnel and payable benefits.
- Being the Ag, Secretary to the National Police Service Commission, he understands many issues regarding security and therefore bringing in experience on security to the Salaries and Remuneration Commission.

(iii) **Integrity**

He confirmed to the Committee that he was not aware of being investigated by Ethics & Anti-Corruption Commission as indicated in the Commission's letter dated 24th September, 2013 to the Clerk of the National Assembly. However, he informed the Committee that:-

- He was charged in Court in 2005 arising out of a case involving the Board of Kenya seed Company on account of selling off shares thereby reducing the government shareholding.
- Ms Susan Maina was the designated Alternate Director in the Board representing the Permanent Secretary, Ministry of Agriculture. However, during the period in question, she was bereaved having lost her husband and he attended only one Board meeting on her behalf, during which the Board confirmed the minutes of the meeting for release of the Company's prospectus.
- He was arrested and charged in Court on 26th May, 2004 for alleged abuse of office together with the other Board Members of the Company including Ms Susan Maina.

- He was interdicted on 28th May, 2004 but the interdiction was lifted unconditionally on 18th August, 2005 and was subsequently acquitted vide the Court Ruling on 13th February, 2008.

(iv) **Managing the national wage bill**

- He stated that there is need to assess the job description to ensure that the remuneration is commensurate to the work done and that is why the Salaries and Remuneration Commission is now encouraging dialogue on salary structure and addressing remuneration issues more logically than before.
- He further stated that the Commission appears to have underestimated the role of Members of County Assembly and the Commission is currently reviewing and doing job assessment for Members of the County Assembly.
- He also stated that the Wage Bill in the public service is very high and the Commission has been trying to contain the same by compressing the salary differentials so as to close the gap between the highest and lowest pay. The Constitution and the Salaries & Remunerations Act also provides for periodic review of the salary structure by the Commission.

(v) **His take on current remuneration of Police force**

He stated that his vision is to see a vibrant National Police Service Commission and his role will be to work closely with the National Police Service Commission to understand their needs and other issues that the Service wants to address to make it more competent and the best National Police Service Commission that can compete with rest of the world.

4.0 COMMITTEE OBSERVATIONS

The Committee having considered his curriculum vitae and heard his oral submission during the vetting exercise/interview, made the following observations:-

- i. He holds a Bachelors of Arts Degree (1978) in Public Administration from the University of Nairobi and has also attended several professional and management courses both locally and abroad which includes the following:- Paramilitary Course; Advanced Public

Administration; Project Design, Management and Analysis; Budgeting and Finance; Advance programme on Management of Training; Strategic Leadership; Strategic Negotiations.

- ii. Has a wide range of experience in the Public Service management having worked as the Senior Deputy Secretary in the Office of the Deputy President (2008-date); Ag. Chief Executive Officer in the National Police Service Commission (2012-2013); Ag. Chief Executive /Secretary, Independent Interim Boundaries Commission; undersecretary, Ministry of Agriculture (1995-2003); and Director of KEMRI (1999-2000); District Officer 1, 11 & 111 (1978-1990).
- iii. Has fully complied with his statutory tax obligations and as part of charity, he has helped educate two students in High School by meeting all of their schools requirements.
- iv. He has never held any political office; not affiliated to any political party and has no intention of joining politics.
- v. He has never had any conflict of interest in the past in the course of discharging his duties. In the event that such cases occur in future, he would be willing to declare it openly and recues himself from participating in such matters.
- vi. He is a member of the Kenya Association for Public Management Administration since 1994.
- vii. He has never been dismissed from office for contravention of the provisions of Article 75 of the Constitution which deals with conduct of state officers that are adversely mentioned in any investigatory report of Parliament or any Commission of Inquiry.
- viii. He was charged in a Court of Law on 26th May, 2004 for alleged abuse of office and was interdicted on 28th May, 2004 but the interdiction was lifted unconditionally on 18th August, 2005 and was subsequently acquitted vide the Court Ruling on 13th February, 2008.
- ix. He is currently being actively investigated by the Ethics and Anti-corruption Commission for allegations received against him to inform appropriate course of action by the Commission.

Annexure (1)

(Minutes)

MINUTES OF THE 36TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING & TRADE HELD ON THURSDAY 26TH SEPTEMBER, 2013 IN COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL BUILDING AT 10.00 A.M.

PRESENT

1. Hon. Benjamin Langat, MP (**Chairman**)
2. Hon. Jones M Mlolwa, MP
3. Hon. Andrew Toboso Anyanga, MP
4. Hon. Timothy M .E. Bosire, MP
5. Hon. Shakeel Shabbir Ahmed, MP
6. Hon. Patrick Makau King'ola, MP
7. Hon. Rose Ogendo Nyamunga, MP
8. Hon. Iringo Cyprian Kubai, MP
9. Hon. Jimmy Nuru Angwenyi, MP
10. Hon. Ronald Tonui, MP
11. Hon. Mary Emase, MP
12. Hon. Joseph Limo, MP
13. Hon. Lati Lelelit, MP
14. Hon. Daniel E. Nanok, MP
15. Hon. Abdul Rahim Dawood, MP

ABSENT WITH APOLOGY

1. Hon. Nelson Gaichuhie, MP (**Vice Chairman**)
2. Hon. Joash Olum, MP
3. Hon. Dr. Oburu Oginga, MP
4. Hon. Abdullswamad Sheriff, MP
5. Hon. Sumra Irshadali, MP
6. Hon. Dennis Waweru, MP
7. Hon. Tiras N. Ngahu, MP
8. Hon. Johnson Sakaja, MP
9. Hon. Stephen Kirwa Bitok, MP
10. Hon. Sammy Mwaita, MP
11. Hon. Eng. Shadrack Manga, MP
12. Hon. John Bunyasi Sakwa, MP

13. Hon. Alfred W. Sambu, MP

14. Hon. Sammy Koech, MP

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

Ms Florence Atenyo-Abonyo - Director, Committee Services

Mr. Tobias Opana - Parliamentary Intern

MIN. NO. 150/2013

PRELIMINARIES

The Meeting was called to order at 10.00 a.m. followed by a word of prayer.

MIN. NO. 151/2013

VETTING PROCESS

The Chairperson informed the Committee as follows:-

- (i) The Salaries and Remuneration Commission, as constituted hereunder in 2012, did not have a representative from the National Police Service Commission because the mandated nominating body (National Police Service Commission) had not been constituted by then.

Chairperson

1. Mrs Sarah Jepkemboi Chumo Serem

Members

Nominating Body

2. Mr. Daniel Omondi Ogutu - Public Service Commission
3. Ms Sellestine A. Kiuluku - Judicial Service Commission
4. Mrs Serah Kinyua - Teachers Service Commission
5. Brg. (Rtd) Samuel Ndururi Kirugi - Defence Council
6. Mr. Isaiah Kubai - Central of Organization of Trade Unions
7. Mrs Jackquiline Mugo - Federation of Kenyan Employers
8. Hon. Peter Oloo Aringo, MP - Parliament
9. Mr. Jason A. N. Namasake - Parliamentary Service Commission
10. Mrs Anne Elizabeth Owuor- Association of Professional Societies
in East Africa (APSEA)

Ex-Officio Members

11. Mr. Joseph Kinyua, CBS – Permanent Secretary/Treasury- nominated by the Cabinet Secretary responsible for Finance under Article 230(2)(d)(i)
 12. Mr. Wanjuki Muchemi, CBS - Solicitor General – nominated by the Attorney General under Article 230(2)(d)(ii)
 13. Mr. Titus Ndambuki, CBS– Permanent Secretary, Ministry of State for Public Service- nominated by the Cabinet Secretary responsible for Public Service under Article 230(2)(e)
-
- (ii) The Principal Secretary, Ministry of Interior and Co-ordination of National Government informed the National Assembly vide a letter dated 20th August, 2013 that Mr. James Maina Muhoro had been nominated to represent the National Police Service Commission in the Salaries and Remuneration Commission pursuant to Article 230(2)(b)(v) of the Constitution.
 - (iii) On Thursday 19th September, 2013 an advertisement was placed in the print media inviting the public to submit memoranda by way of sworn affidavit on the suitability or otherwise of the nominee in conformity with Section 6(9) of the Public Appointments (Parliamentary Approval) Act 2011. The submissions were to be received by Wednesday 25th September, 2013 at 5:00 pm but none was received.
 - (iv) On 17th September, 2013, the Committee requested the Ethics and Anti-Corruption Commission, Kenya Revenue Authority (KRA) and the Higher Education Loans Board (HELB) to provide reports about the nominee on matters touching on integrity, tax compliance and loan repayment. HELB confirmed that the nominee had cleared his loan repayment and Kenya Revenue Authority also confirmed that the nominee was tax compliant. However, Ethics and Anti-Corruption Commission confirmed having received allegations against the nominee which the Commission is actively investigating to inform appropriate course of action.

MIN. NO. 152/2013

**COMMITTEE'S CONCERNS ON THE VETTING
PROCESS**

Members expressed the following concerns:-

- (i) The vetting process as conducted by the National Assembly after the selection by the nominating bodies is limiting the Committee from exercising competitive vetting.
- (ii) The Salaries and Remuneration Commission as currently constituted include Commissioners who are retirees who may not be in touch with pressing issues in the various bodies they represent.
- (iii) Most of the Commissioners apparently emanates from one region of the Country which is not in line with the Constitution which provides for regional balance with regard to public appointments.

MIN. NO. 153/2013

VETTING OF MR. JAMES MAINA MUHORO

The Chairperson welcomed the nominee to the vetting session followed by introduction. During the vetting, the Committee was guided by the Constitution, the Salaries and Remuneration Act, 2011, Standing Orders and the criteria set out in the Public Appointments (Parliamentary Approval) Act No. 33 of 2011. Specifically, the nominee was examined against the following criteria, amongst others:

- i. Academic qualifications
- ii. Employment record
- iii. Professional affiliations
- iv. Potential conflict of interest
- v. Knowledge of the relevant subject
- vi. Overall suitability for the position
- vii. Tax compliance
- viii. Integrity

During the vetting, the nominee informed the Committee as follows:-

(i) **Academic qualifications**

He holds a Bachelors of Arts Degree in Public Administration from the University of Nairobi (1978). Has also attended several professional and

management courses both locally and abroad including the following:- Paramilitary Course; Advanced Public Administration; Project Design, Management and Analysis; Budgeting and Finance; Advance programme on Management of Training; Strategic Leadership; Strategic Negotiations.

He confirmed having applied for the advertised job and was among the six (6) shortlisted candidates for interview out of the 86 applicants.

• **Employment record/relevance to the Salaries & Remuneration Commission work**

- He has a wide range of experience in the Public Service management having worked as Senior Deputy Secretary in the Office of the Deputy President from 2008 to-date; Ag. Chief Executive Officer in the National Police Service Commission (2012-2013); Ag. Chief Executive/Secretary, Independent Interim Boundaries Commission; Under-Secretary, Ministry of Agriculture (1995-2003); and Ag. Director, Kenya Marine & Fisheries Institute (1999-2000).
- As an administrator, he has wealth of experience on Human Resource management having worked in the Ministry of Agriculture handling Human Resource matters and also as a Member of the Ministerial Advisory Committee which deals mainly with the welfare of workers. Has also been seconded from the Ministry to various institutions like:- Kenya Marine & Fisheries as Ag. Director to handle matters regarding staff welfare; Independent & Interim Boundaries Commission to set up the Commission where the focus was on assessment of competence of required personnel and payable benefits.
- Being the Ag, Secretary to the National Police Service Commission, he understands many issues regarding security and therefore bringing in experience on security to the Salaries and Remuneration Commission.

(ii) **Integrity**

He confirmed to the Committee that he was not aware of being investigated by Ethics & Anti-Corruption Commission as indicated in the

Commission's letter dated 24th September, 2013 to the Clerk of the National Assembly. However, he informed the Committee that:-

- He was charged in Court in 2005 arising out of a case involving the Board of Kenya seed Company on account of selling off shares thereby reducing the government shareholding.
- Ms Susan Maina was the designated Alternate Director in the Board representing the Permanent Secretary, Ministry of Agriculture. However, during the period in question, she was bereaved having lost her husband and he attended only one Board meeting on her behalf, during which the Board confirmed the minutes of the meeting for release of the Company's prospectus.
- He was arrested and charged in Court on 26th May, 2004 for alleged abuse of office together with the other Board Members of the Company including Ms Susan Maina.
- He was interdicted on 28th May, 2004 but the interdiction was lifted unconditionally on 18th August, 2005 and was subsequently acquitted vide the Court Ruling on 13th February, 2008.

The Committee directed the Nominee to submit a copy of the Court ruling on the matter.

(iv) **Managing the National Wage Bill**

- He stated that there is need to assess the job description to ensure that the remuneration is commensurate to the work done and that is why the Salaries and Remuneration Commission is now encouraging dialogue on salary structure and addressing remuneration issues more logically than before.
- He further stated that the Commission appears to have underestimated the role of Members of County Assembly and the Commission is currently reviewing and doing job assessment for Members of the County Assembly.

- He also stated that the Wage Bill in the public service is very high and the Commission has been trying to contain the same by compressing the salary differentials so as to close the gap between the highest and lowest pay. The Constitution and the Salaries & Remunerations Act also provides for periodic review of the salary structure by the Commission.

(v) **His take on current remuneration of the Police force**

He stated that his vision is to see a vibrant National Police Service Commission and his role will be to work closely with the National Police Service Commission to understand their needs and other issues that the Service wants to address to make it more competent and the best National Police Service Commission that can compete with rest of the world.

MIN. NO. 154/2013

COMMITTEE OBSERVATIONS

The Committee having considered his curriculum vitae and heard his oral submission during the vetting exercise, made the following observations:-

- i. He holds a Bachelors of Arts Degree in Public Administration from the University of Nairobi (1978) and has also attended several professional courses.
- ii. He has a wide range of experience in the Public Service management having worked as the Senior Deputy Secretary in the Office of the Deputy President from 2008 to-date; Ag. Chief Executive Officer in the National Police Service Commission (2012-2013); Ag. Chief Executive /Secretary, Independent Interim Boundaries Commission; undersecretary, Ministry of Agriculture (1995-2003); and Director of KEMRI (1999-2000); District Officer 1, 11 & 111 (1978-1990).
- iii. Has fully complied with his statutory tax obligations and as part of charity, he has helped educate two students in High School by meeting all of their schools requirements.

- iv. He has never held any political office, not affiliated to any political party and has no intention of joining politics.
- v. He has never had any conflict of interest in the past in the course of discharging his duties. In the event that such cases occur in future, he would be willing to declare it openly and excuse himself from participating in such matters.
- vi. He is a member of the Kenya Association for Public Management Administration (since 1994).
- vii. He has never been dismissed from office for contravention of the provisions of Article 75 of the Constitution which deals with conduct of state officers that are adversely mentioned in any investigatory report of Parliament or any Commission of Inquiry.
- viii. He was charged in a Court of Law on 26th May, 2004 for alleged abuse of office and was interdicted on 28th May, 2004 but the interdiction was lifted unconditionally on 18th August, 2005 and was subsequently acquitted vide the Court Ruling on 13th February, 2008.
- ix. He is currently being actively investigated by the Ethics and Anti-corruption Commission for allegations received against him to inform appropriate course of action by the Commission.

MIN. NO. 155/2013

ANY OTHER BUSINESS

The Committee resolved to schedule its Sittings as follows:-

(i) Tuesday 1st October, 2013 at 10.00 a.m.

1. Deliberation on the draft report on the vetting of the National Police Service Commission nominee, Mr. James Maina Muhoro to the Salaries and Remuneration Commission.
2. Deliberation on the following pending bills:-
 - Capital Markets (Amendment) Bill, 2013
 - Insurance (Amendment) Bill, 2013
 - Kenya Deposit Insurance (Amendment) Bill, 2013

(ii) Wednesday 2nd October, 2013 at 11.00 a.m.

Meeting with the following to deliberate on the pending bills:-

- Central Bank of Kenya
- Kenya Deposit Protection Fund Board
- Association of Kenya Insurers

(iii) Thursday 3rd October, 2013 at 10.00 a.m.

Meeting with the Cabinet Secretary, National Treasury and Cabinet Secretary, Ministry of Agriculture to deliberate on the implementation of the Privatization programmes.

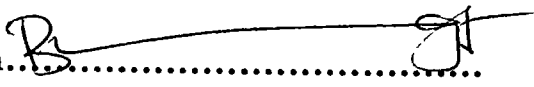
(iv) Consultative Forum with Transition Authority

The Committee was informed that the Authority has requested for a joint consultative forum with both Finance, Planning & Trade and Budget & Appropriation Committees at an appropriate date.

MIN. NO. 156/2013

ADJOURNMENT OF THE MEETING

There being no other business, the Chairperson adjourned the meeting at fifteen minutes past Twelve O' Clock until Tuesday 1st October, 2013 at 10.00 a.m.

Chairman.......... Date 01-10-2013.....

MINUTES OF THE 37TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING & TRADE HELD ON TUESDAY 1ST OCTOBER, 2013 IN COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL BUILDING AT 9.00 A.M.

PRESENT

1. Hon. Benjamin Langat, MP (**Chairman**)
2. Hon. Nelson Gaichuhie, MP (**Vice Chairman**)
3. Hon. Joash Olum, MP
4. Hon. Andrew Toboso Anyanga, MP
5. Hon. Timothy M .E. Bosire, MP
6. Hon. Shakeel Shabbir Ahmed, MP
7. Hon. Patrick Makau King'ola, MP
8. Hon. Rose Ogendo Nyamunga, MP
9. Hon. Iringo Cyprian Kubai, MP
10. Hon. Jimmy Nuru Angwenyi, MP
11. Hon. Mary Emase, MP
12. Hon. Joseph Limo, MP
13. Hon. Lati Lelelit, MP
14. Hon. Daniel E. Nanok, MP
15. Hon. Abdul Rahim Dawood, MP
16. Hon. Eng. Shadrack Manga, MP
17. Hon. Dennis Waweru, MP
18. Hon. Tiras N. Ngahu, MP
19. Hon. Sumra Irshadali, MP
20. Hon. Abdullswamad Sheriff, MP

ABSENT WITH APOLOGY

1. Hon. Dr. Oburu Oginga, MP
2. Hon. Johnson Sakaja, MP
3. Hon. Stephen Kirwa Bitok, MP

4. Hon. Sammy Mwaita, MP
5. Hon. John Bunyasi Sakwa, MP
6. Hon. Alfred W. Sambu, MP
7. Hon. Sammy Koech, MP
8. Hon. Jones M Mlolwa, MP
9. Hon. Ronald Tonui, MP

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

Ms Florence Atenyo-Abonyo	-	Director, Committee Services
Ms Hellen Kina	-	Third Clerk Assistant
Mr. Tobias Opana	-	Parliamentary Intern

MIN. NO. 157/2013 PRELIMINARIES

The Meeting was called to order at 9.30 a.m. followed by a word of prayer.

MIN. NO. 158/2013 CONFIRMATION OF THE MINUTES

Minutes of the 36th Sitting of the Committee held on Thursday 26th September, 2013 were confirmed by the Members present and signed by the Chairman after being proposed by Hon Jimmy Angwenyi, MP and seconded by Hon Eng. Mary Emase, MP

MIN. NO. 159/2013 MATTERS ARISING

Under Min. No. 153/2013 the Committee observed that:-

1. The nomine is qualified but regional balance was not considered and it is an issue that needs to be addressed in future by amending the law.

2. The nominee was charged but later acquitted and is currently under investigations but that should not lead to his disqualification.
3. The Ethics and Anti Corruption Commission should in future submit a report that clarifies the nature of investigations being undertaken against a nominee.


**MIN. NO. 160/2013 ADOPTION OF THE COMMITTEE
REPORT ON THE VETTING OF MR.
JAMES MAINA MUHORO**

The Committee deliberated and unanimously adopted the Report after being proposed by Hon. Jimmy Angwenyi, MP and seconded by Hon. Shadrack Manga, MP.

Pursuant to Article 230(2)(b)(v) of the Constitution and Sections 6 and 7 of the Salaries and Remuneration Act, 2011, the Committee recommended that the House approves Mr. James Maina Muhoro for appointment as a Commissioner in the Salaries and Remuneration Commission.

MIN. NO. 161/2013 ADJOURNMENT OF THE MEETING

There being no other business, the Chairperson adjourned the meeting at fifteen minutes past Twelve O' Clock until Tuesday 1st October, 2013 at 10.00 a.m.

Chairman..........
Date01-10-2013.....

Annexure (2)

Correspondences & Memoranda

(KRA, HELB, Ethics & Anti-Corruption Commission)



Telegram "Bunge"
Telephone: +254 20 2221 291
Fax: +254 20 2243 694
E-mail: clerk@parliament.go.ke

KENYA NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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

KNA.2/3(48)



18th September 2013

Mr. Charles Ringera
Chief Executive Officer
Higher Education Loans Board
Anniversary Towers, 18th Floor
P.O. Box 69489 – 00100
NAIROBI

Dear

RE: VETTING OF PERSON NOMINATED FOR APPOINTMENT AS A MEMBER OF THE SALARIES AND REMUNERATION COMMISSION BY THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE

The Departmental Committee on Finance, Planning and Trade was established pursuant to the Provisions of Standing Order 216 with the following mandate: -

- a. to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- b. To study the Programme and policy objectives of ministries and departments and the effectiveness of their implementation;
- c. To study and review all the legislation referred to it;
- d. To study, assess and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;
- e. To investigate and inquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a Cabinet Secretary;
- f. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments); and


- g. To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

The Committee will conduct vetting of Mr. James M. Muhoro on Thursday, 26th September, 2013 at 4th Floor Continental House, Parliament Buildings at 10.00 am.

This is to request you to provide a report on re-payments of any loans that may have been advanced by the Commission to the nominee.

We will appreciate if the information is received by Wednesday, 25th September, 2013

Yours



JUSTIN BUNDI

CLERK OF THE NATIONAL ASSEMBLY

121

①

D/Committees

Plse note, take necessary action
CMA



②

Reviews ~~12/10/2013~~
Pls def
FA: 1
25/9

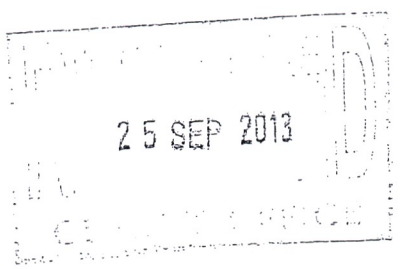
HIGHER EDUCATION LOANS BOARD

Tel: 0711052000, 2278950, 0722285292, 0733205292,
0704333035, 0704333036, 0737205292, 0754556899
Fax: 2252330
E-mail: ceo@helb.co.ke
Website: www.helb.co.ke

Anniversary Towers
18th Floor, University Way
P.O. Box 69489-00400
Nairobi, Kenya

HELB/RD/56593/POV/119

24th September 2013



Justin N. Bundi
Clerk of the National Assembly
P.O Box 41842-00100
NAIROBI

Dear *Justin*

VETTING OF NOMINEE FOR THE POSITION OF MEMBER OF THE SALARIES AND REMUNERATION COMMISSION

We acknowledge receipt of your letter Ref. KNA.2/3(48) regarding the vetting of a nominee to the position of Member, Salaries and Remuneration Commission by the Departmental Committee on Finance, Planning and Trade.

We wish to confirm that the nominee was a beneficiary of the Ministry of Education Scheme and has completed repaying his loan as shown below:

SALARIES AND REMUNERATION COMMISSION			
S/NO.	NAME	LOAN STATUS	CERTIFICATE NUMBER
1.	Mr. James M. Muhoro	Repaid	19972

We wish to thank you most sincerely for allowing us to provide you this information pursuant to Chapter Six as this kind of collaboration goes a long way in assisting the Board finance needy Kenyans pursue higher education now and in the future.

Yours *Sincerely*
Charles M. Ringera

CHARLES M. RINGERA
CHIEF EXECUTIVE OFFICER & BOARD SECRETARY





HIGHER EDUCATION LOANS BOARD

Tel: 2251877, 2246590-1, 2226080,
2226205, 2249267/ 8, Fax: 2252330
E-mail: helb@helb.co.ke
Website: www.helb.co.ke

Anniversary Towers,
University Way,
P.O. Box 69489-00400,
Nairobi - Kenya

HELB/RS/SO/VOL.112/56

31-mar-2010

MUHORO JAMES MAINA
OFFICE OF THE PRIME MINISTER
P.O. Box 74434 0 0200
NAIROBI

Dear Sir/Madam,

RE: UNIVERSITY STUDENTS' LOAN RECOVERY -
ID.NO. 789140 ; REG. C01/653/75 ; PNO. 1978108288

Your inquiry regarding the above subject refers.

I am pleased to inform you that you have completed repaying your UNDERGRADUATE LOAN

By a copy of this letter, your employer is requested to stop further deductions of the loan from your salary.

Further correspondence may be addressed to the undersigned.

Thank you.

Yours faithfully,

GEOFFREY MONARI
FOR: BOARD SECRETARY/CEO

Encl.
c.t

C.T.O
L. 11/12/2010

PERMANENT SECRETARY
OFFICE OF THE PRIME MINISTER
NAIROBI



No. 01997

HIGHER EDUCATION LOANS BOARD



Certificate of Clearance

UNIVERSITY STUDENT LOAN

This Certificate is awarded to MUHORO JAMES MAINA

ID No. 789140

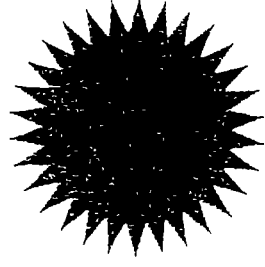
University Registration No. C01/653/75

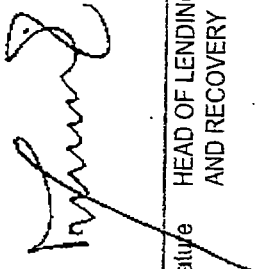
University attended UNIVERSITY OF NAIROBI

For having repaid in full the Principal Loan and interest thereon.


Signature CEO/BOARD SECRETARY

01 April 2010
Date




Signature HEAD OF LENDING, REPAYMENT AND RECOVERY

01 April 2010
Date



Telegram "Bunge"
Telephone: +254 20 2221 291
Fax: +254 20 2243 694
E-mail: clerk@parliament.go.ke

KENYA NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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

KNA.2/3(47)

18th September 2013

Mr. Halakhe Dida Waqo
Secretary/Chief Executive
Ethics and Anti-Corruption Commission
Integrity Centre
P.O. Box 61130 – 00200
NAIROBI



Dear

RE: VETTING OF PERSON NOMINATED FOR APPOINTMENT AS A MEMBER OF THE SALARIES AND REMUNERATION COMMISSION BY THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE

The Departmental Committee on Finance, Planning and Trade was established pursuant to the Provisions of Standing Order 216 with the following mandate: -

- h. to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- i. To study the Programme and policy objectives of ministries and departments and the effectiveness of their implementation;
- j. To study and review all the legislation referred to it;
- k. To study, assess and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;
- l. To investigate and inquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a Cabinet Secretary;
- m. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments); and

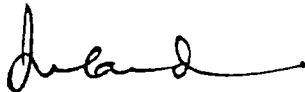
n. To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

The Committee will conduct vetting of Mr. James M. Muhoro on Thursday, 26th September, 2013 at 4th Floor Continental House, Parliament Buildings at 10.00 am.

This is to request you to provide any information touching on the integrity of the nominee that may be in possession of the Commission. Such information will assist the Committee undertake its mandate more effectively.

We will appreciate if the information is received by Wednesday, 25th September, 2013

Yours



JUSTIN BUNDI

CLERK OF THE NATIONAL ASSEMBLY.

949



Evans
pls def
HA
25/9

ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Valley Rd. /Milimani Rd. Junction) P.O. Box 61130 -00200, NAIROBI, Kenya
TEL.: 254 (020) 2717318/310722, MOBILE.: 0729 888881/2/3
Fax: 254 (020) 2719757 Email: eacc@integrity.go.ke Website: www.eacc.go.ke

When replying please quote:

Our Ref. EACC.6/42 VOL. XVI /(51)

24th September 2013,

Mr. Justin Bundi
Clerk of the National Assembly,
Kenya National Assembly
P. O. Box 41842 00100
NAIROBI

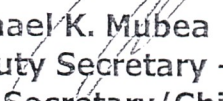
Dear

**RE: VETTING OF PERSON NOMINATED FOR APPOINTMENT AS A MEMBER OF
THE SALARIES AND REMUNERATION COMMISSION BY THE
DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE**

Your letter, **KNA.2/3(47)** dated **18th September 2013**, on the above subject.

We confirm that we have received allegations against **Mr. James M. Muhoro** who is a nominee to the above position. The Commission is actively investigating the allegations to inform appropriate course of action.

Yours faithfully,


Michael K. Mubea
Deputy Secretary - Operations
For: Secretary/Chief Executive Officer



Telegram "Bunge"
Telephone: +254 20 2221 291
Fax: +254 20 2243 694
E-mail: clerk@parliament.go.ke

KENYA NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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

KNA.2/3(46)

18th September 2013

Mr. John Njiraini, MBS
Commissioner General,
Kenya Revenue Authority
Times Tower, 30th Floor
P.O. Box 48240 – 00100
NAIROBI



Dear

RE: VETTING OF PERSON NOMINATED FOR APPOINTMENT AS A MEMBER OF THE SALARIES AND REMUNERATION COMMISSION BY THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE

The Departmental Committee on Finance, Planning and Trade was established pursuant to the Provisions of Standing Order 216 with the following mandate: -

- o. to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- p. To study the Programme and policy objectives of ministries and departments and the effectiveness of their implementation;
- q. To study and review all the legislation referred to it;
- r. To study, assess and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;
- s. To investigate and inquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a Cabinet Secretary;
- t. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments); and

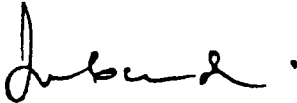
- u. To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

The Committee will conduct vetting of Mr. James M. Muhoro on Thursday, 26th September, 2013 at 4th Floor Continental House, Parliament Buildings at 10.00 am.

This is to request you to provide a report on tax compliance by the nominees. Such information will assist the Committee undertake its mandate more effectively.

We will appreciate if the information is received by Wednesday, 25th September, 2013

Yours



JUSTIN BUNDI

CLERK OF THE NATIONAL ASSEMBLY



KENYA REVENUE
AUTHORITY

Ref: CDT/MST/HO/81

25th September, 2013

Clerk Of The National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

**TAX COMPLIANCE STATUS: MR JAMES M. MUHORO PIN
NUMBER A001186383V**

Your letter Ref: KNA.2/3(46) dated 18th September 2013 refers.

We wish to confirm that Mr. James M. Muhoro is tax compliant.

Alice A. Owuor, OGW.
COMMISSIONER OF DOMESTIC TAXES,
MEDIUM AND SMALL TAXPAYERS

Tulipe Ushuru Tujitegemee!

Times Tower Building
Haile Selassie Avenue, P.O. Box 48240-00100 Tel: 310900 Fax: 316872



ISO 9001:2008 CERTIFIED



KENYA REVENUE AUTHORITY

TAX COMPLIANCE CERTIFICATE

Certificate Serial No:

KRA 09/064418/2013

THIS CERTIFICATE CONFIRMS THAT

MUHORO JAMES MAINA

Holder of Tax Registration Personal Identification Number A001186383V

has fulfilled the obligation to file relevant tax returns and to pay taxes due as provided by law

This certificate will be valid for 12 months up to 24TH September 2014

Issued by:

Name: G. J. OMAO

Designation: *Ag. SAC*

Signature: *[Signature]*

Date of Issue: 24TH September 2013



Caveat

- a) This certificate is issued on the basis of information available to the Authority as at the date shown above. The Authority reserves the right to withdraw the certificate if new evidence materially alters the tax compliance status of the recipient.
- b) Confirm genuineness and validity of the certificate using the TCC checker available at: <http://www.kra.go.ke/notices/tcc-checker.html> or contact the nearest DTD office.

TCC3

Tulipe Akhuru Tujitegemee!

Times Tower Building
Haile Selassie Avenue, P.O. Box 48240-00100 Tel: 310900 Fax: 316872





KENYA REVENUE
AUTHORITY

IT/Ref: 16/5044/KEY

Date: 19/06/2013

PIN: A001186383V

The Principal Secretary,
Office of the Deputy President,
P.O. Box 74434-00200
NAIROBI.

RE: INCOME TAX CLEARANCE CERTIFICATE FOR EMPLOYEES
LEAVING EMPLOYMENT PERMANENTLY

NAME: JAMES MAINA MUHORO

P/NO: 1978108288

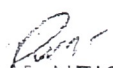
DESIGNATION: SENIOR DEPUTY SECRETARY

JOB GROUP: 'R'

I refer to your letter of 10/06/13

Re: 1978108288 advising the retirement/resignation/dismissal/death of the above-named on 1/07/14.

Please note that the above named has no further tax to be recovered from his/her benefits other than the normal P.A.Y.E. monthly tax you operate on his/her salary.


P.M. NZIOKI

FOR: COMMISSIONER OF DOMESTIC TAXES

NOTE: This Certificate is not valid if it does not bear the Official Seal.

/co

Times Tower Building

Times Tower Building

101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

EVANS
pls deal
FA
17/9



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT
(FIRST SESSION)

THE NATIONAL ASSEMBLY

COMMUNICATIONS FROM THE CHAIR

COMMUNICATION ON NOMINATION OF THE NOMINEE OF THE
NATIONAL POLICE SERVICE COMMISSION TO THE SALARIES AND
REMUNERATION COMMISSION

Hon. Members,

Article 230 (1)(b)(v) of the Constitution of Kenya, 2010 requires the National Police Service Commission to nominate one person from among persons who are not members or employees of the Commission to represent the Commission at the Salary and Remuneration Commission.

In this regard, the Principal Secretary for the Ministry of Interior and Co-ordination of National Government Cabinet Secretary vide a letter dated August 20th, 2013 has communicated that the Ministry has since nominated Mr. James M. Muhoro as a nominee of the National Police Service Commission to the Salaries and Remuneration Commission.

Hon. Members,

Under the Public Appointments (Parliamentary Approval) Act and Part XI of the Standing Orders, the National Assembly is required to conclude the process of approval or rejection of the nominee within fourteen days from the date of notification.

Hon. Members,

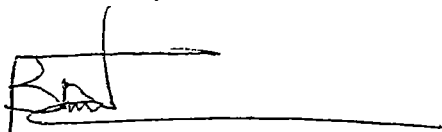
In this regard I wish to guide the House as follows, that –

- (i) The Departmental Committee on Finance, Planning and Trade should notify the nominee and the general public of the time and place for holding the approval hearings, at least seven days prior to the hearings. Owing to the strict statutory deadlines, I now order that the notification be made on Thursday, September 19, 2013
- (ii) The Committee may therefore commence the hearings on Wednesday, September 25, 2013. The hearings shall be open to the public
- (iii) Thereafter, the Committee is hereby directed to table its Report before this House on or before Tuesday 1st October, 2013 for consideration.

Hon. Members,

I now refer the Message from the Cabinet Secretary containing the name of the nominee together with his Curriculum Vitae to the Departmental Committee on Finance, Planning and Trade to conduct the approval hearings.

Thank you!



THE HON. JUSTIN B. N. MUTURI, MP
SPEAKER OF THE NATIONAL ASSEMBLY
September 17, 2013

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

In the Matter of the Approval by the National Assembly, of the person nominated to be appointed as Members of the Salaries and Remuneration Commission

SUBMISSION OF MEMORANDA

Article 230(2)(b)(v) of the Constitution provides that the National Police Commission shall nominate a representative to the Salaries and Remuneration Commission and with the approval of the National Assembly, be appointed by H.E. the President.

Pursuant to the said Article, the National Police Commission has nominated Mr. James M. Muhoro to be appointed as a Member of the Salaries and Remuneration Commission.

Following the receipt of the nomination from the Principal Secretary/ Interior vide a letter dated 20th August, 2013 the Departmental Committee on Finance, Planning and Trade is mandated to vet, consider their suitability for appointment and submit its report to the House for approval.

Pursuant to Section 6(9) of the Public Appointments (Parliamentary Approval) Act, (No. 33 of 2011), the Departmental Committee on Finance, Planning and Trade now invites interested members of the public to submit any representations by written statement on oath (affidavit), that they may have on the suitability or otherwise of the nominee for appointment as Members of the Salaries and Remuneration Commission. The representations may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to clerk@parliament.go.ke; to be received **on or before Wednesday 25th September, 2013 at 5.00 pm.**

Justin Bundi
Clerk of the National Assembly

REPUBLIC OF KENYA



**NOTIFICATION ON VETTING OF THE PERSON NOMINATED FOR
APPOINTMENT AS A MEMBER OF THE SALARIES AND REMUNERATION
COMMISSION**

Article 230(2)(b)(v) of the Constitution provides that the National Police Commission shall nominate a representative to the Salaries and Remuneration Commission and with the approval of the National Assembly, be appointed by H.E. the President.

Pursuant to provisions of Article 230(2)(b)(v) of the Constitution, Standing Order No. 198 which allow the public access to Committee sittings and in line with Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No.33 Of 2011), which provides for the Committee to notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing:

The general public is hereby notified that the Departmental Committee on Finance, Planning and Trade shall conduct the vetting of Mr. James M. Muhoro, a nominee of the National Police Service Commission to the Salaries and Remuneration Commission on **Thursday 26th September, 2013**, in the **Committee Room, 4th floor, Continental House, Parliament Buildings**, at **10.00 am**.

JUSTIN N. BUNDI
CLERK OF THE NATIONAL ASSEMBLY

Annexure (3)
(Curriculum Vitae)

BIO DATA

NAME : JAMES MAINA MUHORO
ID/NO. 0789140

AGE : 59 YEARS

MARITAL STATUS : MARRIED WITH FOUR CHILDREN

EDUCATION

1969 - CPE
1972 - 'O' LEVEL
1974 - 'A' LEVEL
1978 - BACHELOR OF ARTS DEGREE

WORK EXPERIENCE

1978 - DISTRICT OFFICER III
1978 - SECONDED TO MINISTRY OF HOME
AFFAIRS AS DISTRICT REGISTRAR OF PERSONS
1980 - REDEPLOYED AS DISTRICT OFFICER III
1983 - DISTRICT OFFICER 1 I
1986 - DISTRICT OFFICER 1
1990 - SENIOR ASSISTANT SECRETARY
1995 - UNDER SECRETARY
1999 -2000 - AG. DIRECTOR, KENYA MARINE & FISHERIES
INSTITUTE
2004 - DEPUTY SECRETARY

- 2009-2010 - ACCOUNTING OFFICER (INTERIM INDEPENDENT BOUNDARIES REVIEW COMMISSION)
- 2010 - PROMOTED TO SENIOR DEPUTY SECRETARY
- 2012/2013 - AG. SECRETARY/CEO, NATIONAL POLICE SERVICE COMMISSION

PROFESSIONAL COURSES ATTENDED

- 1980 - INDUCTION COURSE - KIA
- 1982 - PARAMILITARY COURSE - APTC
- 1983 - ADVANCED PUBLIC ADMIN - KIA
- 1985 - DISTRICT FOCUS FOR RURAL DEV. - KIA
- 1993 - PROJECT DESIGN, MANAGEMENT & ANALYSIS - KIA
- 1994 - BUDGETING & FINANCE - PITTSBURGH UNIVERSITY- USA
- 1995 - SENIOR MANAGEMENT SEMINAR - KIA
- 1998 - MANAGING THE TRAINING FUNCTION - ESAMI
- 1998 - TOP LEVEL WORKSHOP ON POLICY - DPM- NAIROBI
- 2002 - ADV. PROG. ON MANAGEMENT. OF TRAINING - ESAMI- MOMBASA
- 2006 - STRATEGIC LEADERSHIP - DPM/ STRATHMORE BUSINESS SCHOOL-NAIROBI
- 2006 - STRATEGIC NEGOTIATIONS - DPM/COMMON WEALTH-NAIROBI
- 2007 - SENIOR LEADERS SEMINAR - AFRICAN CENTRE FOR STRATEGIC STUDIES- ETHIOPIA

- 2010 - EMPLOYEE COACHING COUNSELLING &
MENTORING PROGRAMME - ESAMI- TANZANIA
- 2010 - PILGRIM CERTIFICATE - ISRAEL
- 2010 - PUBLIC ADMINISTRATION & CIVIL
SERVICE MANAGEMENT GALILLEE COLLEGE - ISRAEL
- 2011 - EXECUTIVE SPEAKER TRAINING - HARVARD UNIVERSITY
EXTENSION SCHOOL- ISRAEL
- 2011 - STRATEGIC LEADERSHIP -KENYA SCHOOL OF
DEV. PROGRAMME GOVERNEMNT
- 2012 - SEMINAR ON SCIENCE AND TECHNOLOGY
INNOVATION FOR KENYA - FUZHOU, CHINA

UNIVERSITY OF NAIROBI



This is to certify that

James M. Muhoro

having satisfied the requirements
for the award of the degree of the

BACHELOR OF ARTS

Second Class Honours (Lower Division)

was admitted to the degree

at a Congregation held at

this University on the

TWENTY FOURTH DAY OF NOVEMBER IN THE YEAR
1978

J. N. Karanja
VICE CHANCELLOR

[Signature]
REGISTRAR

Annexture (4)
(Filled Questionnaire)

SCHEDULE
[Section 6(8).]

CRITERIA FOR VETTING/APPROVAL OF NOMINEES FOR
APPOINTMENT TO PUBLIC OFFICE BY PARLIAMENT QUESTIONNAIRE

Notes:

- a) This questionnaire applies to appointments to public office arising by or under the Constitution or any other law where parliamentary approval is required.
- b) The questionnaire shall be used by the relevant parliamentary committee to vet a nominee appearing before the committee in the process of parliamentary approval.
- c) The questionnaire shall be filled and submitted by the nominee to the relevant parliamentary committee through the Clerk of the relevant House of Parliament on or before a date set by the committee.
- d) The submission of false information in the questionnaire is an offence and may result in prosecution.
- e) Any form of canvassing by a nominee shall lead to disqualification.
- f) The nominee must answer all the questions.

1. **Name:** JAMES MAINA MUHORO

2. **Position:** (State office to which you have been nominated).

COMMISSIONER WITH SALARIES REMUNERATION COMMISSION

3. **Sex:** MALE

4. **Date of Birth:** 12TH JUNE 1954

5. **Marital Status:** MARRIED

6. **Daytime phone number:** 0722640530

7. **Mobile phone number:** 0722640530

8. **Email Address:** mainamuhoro@yahoo.com

9. **ID Number:** 0789140

10. PIN Number: A 001186383V

11. Nationality: KENYAN

12. Postal Address: BOX 72490 00200 NAIROBI

13. Town/City: NAIROBI

14. Knowledge of Languages: ENGLISH, KIWAHILI & KIKUYU

15. **Education:** (List, in reverse chronological order, each university, college, or any other institution of higher education attended and indicate, in respect of each, the dates of attendance, academic award obtained, whether a degree was awarded, and the dates on which each such degree was awarded).

NAIROBI UNIVERSITY	-	1975 - 1978	DEGREE (BA)
THIKA HIGH SCHOOL	-	1973 - 1974	A LEVEL
GITHIGA SEC. SCHOOL	-	1969 - 1972	O LEVEL
GITHIGA PRY. SCHOOL	-	1961 - 1968	CPE

Employment Record: (List in reverse chronological order all government agencies, business or professional corporations, companies, firms or other enterprises with which you have been affiliated as an officer, director, partner, proprietor, employee or consultant)

SENIOR DEPUTY SECRETARY OPM/ODP	- 2008	- TODATE
AG. CEO/SECRETARY NPSC	- 2012	- 2013
AG. CEO/SECRETARY IIBC	- 2009	- 2010
UNDER SEC. MINISTRY OF AGRICULTURE	- 1995	- 2003
AG. DIRECTOR KEMFRI	- 1999	- 2000
SENIOR ASST. SEC. MIN. OF AGRICULTURE	- 1991	- 1995
DISTRICT OFFICER I,II,II	- 1978	- 1990

16. **Honours and Awards:** (List any scholarships, fellowships, honorary degrees, academic or professional honours, honorary society memberships, military awards and any other special recognition for outstanding service or achievement and in respect of each, state the date of award and the institution or organization that made the award).

N/A

17. **Professional Association** (where applicable): (List all professional associations of which you are or have a member and give any positions held and the respective dates when each such position was held):

MEMBER OF KAPAM (KENYA ASSOCIATION FOR PUBLIC ADMINISTRATION AND MANAGEMENT) - 1994

18. **Memberships:** (List all professional, business, fraternal, scholarly, civic, charitable or other organizations, (other than those listed in response to Question 16) to which you belong or have belonged). ;

A MEMBER OF THE ANGLICAN CHURCH, CHAIRMAN PARISH CHURCH COUNCIL AND MEMBER OF SYNOD DIOCES OF NAKURU
MEMBER PARISH CHURCH COUNCIL ST. PAULS PARISH KIAMBU
SECRETARY BUILDING COMMITTEE ACK ST. PAUL KIAMBU DIOCES OF MT. KENYA SOUTH

19. **Published Writings:**

(a) List the titles, publishers and dates of books, articles, reports, letters to the editor, editorial pieces or other published materials you have authored or edited.:

N/A

(b) Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of any bar association, committee, conference or organization of which you were a member.

20. **Public Office, Political Activities and Affiliations:**

(a) List chronologically any public offices you have held or are currently holding, including the terms of service and whether such positions were elected or appointed. :

N/A

(b) List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities. Also include any linkage you have to a political party at present:

N/A

(c) Have you ever been dismissed or otherwise removed from office for a contravention of the provisions of Article 75 of the Constitution?

NO

(d) Have you ever been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties?:

NO

21. **Deferred Income/Future Benefits:** (List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, etc).

TRASURY BONDS – KSHS. 200,000/- EVERY APRIL & OCTOBER (15 YRS)
PENSION – KSHS.80,000/- MONTHLY

22. **Outside commitment during service in office:** (Do you have any plans, commitments or agreements to pursue outside employment with or without compensation during your service in office? If so explain).

CHURCH & COMMUNITY ENGAGEMENTS AS FREE SERVICE

23. **Sources of Income:** (List sources and mounts of all income received during the calendar year preceding your nomination and in the current calendar year).

SALARY

STOCKS

24. **Tax Status:** (State whether you have fully complied with your tax obligations to the State up to the end of the financial year immediately preceding the nomination for appointment).

FULLY COMPLIANT

25. **Statement of Net Worth:** (State you financial net worth).

LAND	-	50MILLION
HOUSE	-	20MILLION
STOCKS	-	3 MILLION
VEHICLES	-	5 MILLION

26. **Potential Conflicts of Interest:**

(a) Identify the family members or other persons, parties, categories obligation or financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to rise.

NONE

(b) Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern:

N/A

27. **Pro-Bono/Charity Work/Donations to charity:** (Describe what you have done by way of pro bono or charity work, listing specific instances, the amount contributed and the amount of time devoted to each).

EDUCATED JAMES KUNTAI FORM I- FORM IV 2005-2008

EDUCATED SAMSON K. KODOOSI – FORM 1 – IV 2008 – 2011

IN BOTH INSTANCES PAID ALL SCHOOL FEES AND ACCOMPANYING REQUIREMENTS IN FULL.

HAVE SERVED IN CHURCH WORK FROM 1980 TO DATE – NOT QUANTIFIABLE.

28. Have you ever been charged in a court or law in the last three years? If so, specify the nature of the charge, where the matter is ongoing, the present status of the matter, or where the matter is concluded, the judgment of the court, or otherwise, how the case was concluded.:

NO

29. Have you ever been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years?

NO

30. Have you any objection to the making of enquiries with your present employer/referees in the course of consideration of your nomination?

NO

31. **References:** (List three persons who are not your relatives who are familiar with your character, qualification and work).

DR. JOHN NJOROGE KIMANI - 0722850510

MR. MICHAEL MUTEGI MUGO - 0714782606

MR. ABDUL MWASSERAH - 0722776158

Annexure (5)
(Court Ruling)



MINISTRY OF LANDS AND SETTLEMENT

Telegrams: "MINILANDS", Nairobi
Telephone: Nairobi 718050
When replying, please quote

ARDHI HOUSE
1st NGONG ROAD
OFF NGONG ROAD
P. O. BOX 3045
NAIROBI

Ref. No.CF/SR/78108288/4
and date

.....28th May, 2004.....

Mr. James M. Muhoro,
Thro'

REPORT EVERY FORTNIGHT
MONDAY BEGINING 7/6/04

The Senior Deputy Secretary,
Ministry of Lands and Settlement,
NAIROBI.

FORWARDED WITH
REFLECTS

Dear Sir,

Chiboli I. Shikoti
28504

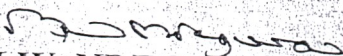
INTERDICTION

Following your arrest by police on 26th May, 2004 and subsequent appearance in court charged with the offence of abuse of office, It has been found necessary to interdict you from exercising the functions of your Public Office with effect from 26th May, 2004 until your case is finalized.

While on interdiction, you will be paid half salary and you will not be required to leave your duty station without the permission of the Senior Deputy Secretary, to whom you should be reporting to as often as required.

Finally you should acknowledge receipt of this letter and confirm having read and understood its contents.

Yours faithfully,


M.W. NDEGWA (MRS)
FOR: PERMANENT SECRETARY



MINISTRY OF LANDS AND HOUSING

Telegrams "MINILANDS", Nairobi
Telephone: Nairobi 718050
When replying please quote

ARDHI HOUSE
1ST NGONG AVENUE
OFF NGONG ROAD
P.O. BOX 30450
NAIROBI

Ref: CF/SR/78108288 TPY(14)

18th August 2005

James Muhoro

Thro' The Senior Deputy Secretary
Ministry Headquarters
NAIROBI

*FORWARDED
James
18/8/05*

Dear Sir

LIFTING OF INTERDICTION

This has reference to this office letter Ref. No. CF/SR/78108288/4 of 28th May 2004 placing you on interdiction.

I wish to inform you that it has been decided that the interdiction be and is hereby lifted unconditionally with immediate effect.

In view of this, you should make the necessary arrangements to report back to the office for deployment.

Yours faithfully,


W.M. MUSAU
FOR: PERMANENT SECRETARY

IN THE CHIEF MAGISTRATE'S COURT AT NAIROBI

CRIMINAL CASE NO.3156 OF 2003

REPUBLIC ::PROSECUTOR

VERSUS

1. NATHANIEL KIPKORIR TUM)
2. JOB KIMITEI SIROR)
3. MAKONA OMBETE)
4. EUFRANZIO DULIO GOES)
5. ZAKAYO KIPKONGA CHERUIYOT) ::::::::::::::ACCUSED
6. ELISHA KIPLANGAT BERTIEN)
7. JOHN KIBUIYA MBUGUA)
8. SUSAN WAITHERA MAINA)
9. JAMES MAINA MOHARO)
10. RAPHAEL ADAGI ALEGANA)

RULING

1st accused NATHANIEL KIPKORIR TUM, 2nd accused JOB KIMITEI SIROR, 3rd accused MAKONA OMBETE, 4th accused EUFRANZIO DULIO GOES, 5th accused ZAKAYO KIPKONGA CHERUIYOT, 6th accused ELISHA KIPLANGAT BERTIEN, 7th accused JOHN KIBUIYA MBUGUA, 8th accused SUSAN WAITHERA MAINA, 9th

accused JAMES MAINA MOHARO and 10th accused RAPHAEL ADAGI ALEGANA were jointly charged with abuse of office C/S 101 (2) of the Penal Code, that between 19th March, 2001 and 30th May, 2001 at Kitale Township within the Rift Valley Province, being members of the Board of Directors of Kenya Seed Company Limited, a public corporation, in abuse of authority of the said office and for purpose of gain, jointly arbitrarily issued 4 million shares through private placement thus Limiting the Agriculture Development Corporation shareholding from 52.88% to 33% an act which was prejudicial to the said Agricultural Development Corporation. 8th accused, 9th accused, 10th accused, 6th accused and 7th accused, in that order, were each, in the alternative charged with Abuse of office C/S 100 (1) of the Penal Code. The particulars of the charges are, except for the late dates of the offences, the same as those in the main charge. The alternative charges do not allege that there was gain on the part of the accused.

Each accused denied the charges.

The said Company Limited was incorporated on 2nd July 1956 under the Companies Act (Chapter 4⁸⁶ of the Laws of Kenya), and converted to a public company on 12th October, 1960.

Exhibit 17 is the memorandum and Articles of Association of the company.

The meeting of the Board of Directors of Kenya Seed Company (Exhibit 9) held on 3/11/99 resolved to issue 4 million new ordinary shares to the public. An Extra Ordinary General Meeting of the

Shareholders of the company was called on 15/12/00 (exhibit 12) wherein it was resolved that 4 million new ordinary shares be issued to the public in a manner to be determined by the Board at a price of Kshs.37/50 per share. Subsequently, a Prospectus (exhibit 7) was issued in which there was offer for sale of the 4 million shares of 20/- each at a price of 40/-. The Board had determined that this be a private offer made only to the following eligible and identified applicants:

- (a) existing shareholders and officers (including directors) of the company,
- (b) existing employees of the company,
- (c) growers of seed supplied to the company specifically invited to subscribe, and
- (d) seed sub-agents and stockists specifically invited to subscribe.

The anticipated officer proceeds in the amount of Kshs.160 million was to be applied towards defraying part of the costs of the company's programme as follows:

- (a) Construction of a new factory as Seed Driers – 70 million
- (b) Purchase of Elgon Down Farm
- (c) Purchase of generator sets 28 million
- (d) New godown in Nairobi – 15 million, and
- (e) New godown at Seed Driers – 20 million.

Total - Kshs.288 million.

These projects were expected to enable the company to produce seed more effectively, to process more efficiently and to have sufficient storage for the finished products this increasing its vital role in providing food security for the nation.

The issue of the 4 million shares was concluded on 30/11/01 with investors offering to purchase 3,355,000 shares, which represented 84 % of the amount under issue. The amount paid in by the new shareholders was Kshs.134.2 million. The issue was under-subscribed by 16 %.

These remaining shares have not been subscribed.

Prior to the issue of the 4 million shares the Agricultural Development Corporation (which is wholly owned by the Government) held 52.88 % (or 53) of the shares at the Kenya Seed Company. It was therefore the majority shareholder of the Kenya Seed Company. The Agricultural Development Corporation (ADC) did not participate in the new share issue, by way of buying any of the new shares. It therefore held 5,700,720 shares before and after the new share issue. Consequently, its shareholding in terms of percentage fell from 52.88 % to 38 % following the new share issue. This is the issue that is subject of the charges facing the accused in this case.

In the sense that the ADC held 52.88 % shareholding at Kenya Seed Company and the former was wholly owned by the Government, the latter was a state Corporation.

The Government was a controlling shareholder of Kenya Seed Company. This position was acknowledged in the prospectus (exhibit 7).

It was acknowledged in the letter of 1st accused (as Managing director of the company) dated 20/12/02 to PW1 JOHNSON OTENYO Inspector General Corporations. It is exhibit 2.

1st accused was writing to say that following the new share issue and the consequent shareholding structure, the company had ceased to be a State Corporation. There is no dispute that both ADC and the Government were represented at the Board of the company. There is also no dispute that at the time it was being resolved to issue 4 million new shares (exhibit – 19) it was acknowledged that the decision was going to be subjected to "Government approval".

Throughout this trial it was clear from the witnesses and the documents that there was a lot of discussion between the company and the Government regarding this new share issue.

It is the prosecution case that the floatation of the 4 million new shares, that resulted in the dilution of the ADC shareholding, was done without regard to the principles, procedures and guidelines for privatization as laid down on Public Enterprises Reform and Privatization of 1/7/92 as amended in June 1998 (exhibit 5). This paper was issued by the Department of Government Investments and Public Enterprises together with the Executive Secretariat and Technical Unit of the Ministry of Finance. Such was the evidence of PW1, PW2 CATHERINE KIMURA and several other prosecution

witnesses. PW2 explained that the paper shows how a public enterprise to be privatized is identified, how to get approvals from the respective Government bodies, method to be used to privatize or divest, how (if need be) valuation will be done and how the deal will be concluded.

It is the prosecution case that the floatation was irregular if it did not go by the requirements in the Policy Paper. It is because, it is alleged, the accused did not observe the guidelines in the Policy Paper that they are charged with abuse of office.

There is no dispute, however, that the Government in principle supported the proposal to increase the share capital and floatation by the Kenya Seed Company. There is letter (exhibit 4) dated 23/1/03 from PW2 to PW1 which, in part, states as follows:

"While the proposal to increase share capital and floatation had the support of this Ministry, the Ministry of Agricultural and the office of the President, this Ministry advised that the additional shares should be done following the principles and procedures of privatisation and specifically that interested Kenyans should be given an opportunity to invest in the Kenya Seed Company and further that Treasury did not support private placement of the shares....."

On 12th April, 2000 the Financial Secretary/Treasury MWAGHAZI MWACHOFI, in response to letter from DR. R.E. LEAKEY (PW12) Permanent Secretary, to the Cabinet and Head of the Public Service, indicated he was, in principle, in agreement with the three main objectives of the proposed issue of new shares, but had reservations with bid to issue the new shares by private placement and to issue them at the per value of Kshs.20/-. MWACHOFI wanted all interested Kenyans to be given an opportunity to invest in the company and sought that the process be exposed to the scrutiny and accountability required by the Nairobi Stock Exchange.

He also advised that the privatization be undertaken by the Government Privatization Unit. PW12 wrote to 1st accused on 13th April 2000 indicating the same in (exhibit 14). PW12, in the letter, asked 1st accused to discuss the matter with the Board and to revert to him thereafter. The Extra ordinary General Meeting of the Kenya Seed Company (exhibit 20) came after that.

There is no dispute that what happened was private placement and not a public issue. This private placement (private offer) was sanctioned by the Capital Markets Authority who approved the Prospectus (exhibit 7). CATHERINE KOZA (PW17) of the Authority gave evidence in this regard.

On 24/9/01 the 2nd accused (who was the Managing Director of ADC) wrote (exhibit 8) to 1st accused, with copy the then Minister of Agriculture and to the Investments Secretary Ministry of Finance and Planning.

The letter was in regard to the 4 million share issue. ADC was saying it had no dispute with the issue of the shares, but questioned why the issue had been done unilaterally by the company without reference to them. ADC was further complaining that the Prospectus had been issued unilaterally and without regard to PW12's letter. ADC was asking to receive 52.88 % of the proceeds of the share issue and wanted the issue of capital and revenue reserves adequately addressed beforehand. There is no dispute that the Board meeting (exhibit 9) that resolved to make fresh issue of 4 million shares had the presence of 2nd accused, who was a member of the Board. He in fact chaired the meeting. PW3 JOSEPH ODHIAMBO NDEDA (then head of planning at ADC) was in attendance, as was 7th accused who was the Financial Controller of ADC. These three also attended that Extra Ordinary General Meeting of 15/12/00 (exhibit 20).

They attended other Board meetings that discussed the issue. 2nd and 7th accused are accused in this case, but PW3 is not. Through him, at least, ADC knew about the transaction. It knew about the creation of additional shares and also knew of resolution to lift pre-emptive clause.

PW3 explained that the pre-emptive clause was lifted because ADC was not going to take up any of ADC Board of 31/10/00 (exhibit 22) indicate that ADC was in serious financial problems. In fact, it resolved that, as a way of easing the problems, it sells its 3116 acre from known as Elgon Downs to the Kenya seed at a price of

Kshs.50,000/- per acre. It has been stated in the foregoing that part of the proceeds of the sale of new shares by Kenya Seed Company were to be applied to buy Elgon Downs Farm from ADC. The witnesses (including PW3) agree that indeed Kenya Seed Company brought the farm. ADC cannot be saying it did not know about the new share issue and at the same time be waiting for a cheque from Kenya Seed Company from the proceeds of the issue. The financial problems of ADC were known to the Government and that is why it did not participate in the new share issue. There is evidence, however, that shares were offered to ADC.

PW3 saw the Prospectus (exhibit 7) when it came out. He knew it applied to ADC. He knew ADC was being asked to buy of the new shares.

There is a witness STEPHEN GICHOBI MBOGO (PW5). He was director of ADC at the time and who says ADC Board was not made aware of the increase in share capital and floatation by the Kenya Seed Company.

His evidence cannot be true. Infact, it was the evidence of PW3 that when police called to interrogate him about the case they failed to provide him with all the relevant ADC Board meetings minutes.

It is possible, I find, that had all the minutes been availed they would have shown that ADC was all the time in the know.

Back to exhibit 8. Following the letter, on 16/10/01 a meeting was held at the ADC Boardroom in Nairobi between the Boards of ADC and Kenya Seed Company chaired by the Investments Secretary

ESTHER KOIMETT (PW 13). Officials from the office of President and the Ministry of Agriculture (which was the parent ministry of both ADC and Kenya Seed Company) were in attendance. By this time the prospectus had been issued and therefore the transaction was on-going. The matter was discussed and was not resolved. It was decided that PW 13 goes to consult and to revert.

On 14/11/01 MWAGHAZI MWACHOFI (then Permanent Secretary Ministry of Finance and Planning) wrote to 1st accused (Exhibit 16), with copy to 2nd accused, saying it had been agreed that the share offer be restructured into a Rights Issue as a first step. If inadequate capital through the Rights Issue were raised then, as a second step, the shares be issued through a public offer. I do not want to say that this advise was a departure from the earlier advise indicating a public offer. Quite unfortunately, MWACHOFI was not called to testify.

During this time the offer was on and came to an end on 30/11/01.

MWACHOFI was silent on what was going to happen now that the transaction was on-going. Did he want the Prospectus withdrawn? Now that he was advising that there be a Rights Issue, and given that ADC did not have the funds to participate in the same, was the Treasury considering advancing money to ADC? PW 13 told court she wanted the 4 million shares sold to existing shareholders on private basis. How was ADC going to raise money to buy its shares? PW 13 told court that what they were questioning was not the

legality of this transaction but the process. She acknowledged that by this time there was no law governing privatization of State Corporations. What was in place was only a policy. There is no dispute that at page 20 of the Policy Paper Private placement is one of the recognized methods of privatization.

It is critical that in his letter (exhibit 16) MWACHOFI was now not saying that 1st accused goes to the Government Privatization Unit to conduct the transaction. I have indicated that by this time MWACHOFI knew the transaction had begun, and outside the purview of the unit.

It was conceded by the prosecution that at this time there was in place Legal Notice no 495 of 16th December 1994 (exhibit 1) in which the President had exempted Kenya Seed Company from "the provisions" of the State Corporations Act, Cap. 446 of the Laws of Kenya. This is the Act that defines State Corporations and regulates their operations, performance and management.

PW1 explained that the exemption gave Kenya Seed Company a measure of operational autonomy. It meant, among other things, that the company could determine terms and conditions of service of its personnel with approval of its Board without Government approval, and that the company was not going to be inspected by PW1's outfit. I do not know what liberties, if any, Kenya Seed Company was given by this exemption in relation to the transaction in question.

The Policy Paper (exhibit 5) is not Law. It is not a regulation made under any law. It does not, and cannot, have penal provisions. One cannot commit an offence of abuse of office if he flouts it. Infact, the Government and ADC were fully aware that Kenya Seed Company had created 4 million shares and was floating them. Both entitles had the power to stop the transactions, but instead engaged in conflicting and inconsistent directions in the matter. The Government and ADC had in principle allowed the creation of 4 million shares by Kenya Seed Company. The company went to Capital Markets Authority to be advised on the intricacies of "private officer" and the Prospectus (exhibit 7) was the product. It was a document that was made public. 1st accused, 2nd accused, 5th accused, 4th accused and 3rd accused bought shares from the issue. They were provided for in the Prospectus as being eligible. Infact, the prosecution did not explain why they are challenging the allocation of the shares when the then Minister for Agriculture the late BONAYA GODANA also bought some of these shares. He was the Minister in charge of the Ministry under which both Kenya Seed Company and ADC fell. Was he, by that purchase, not saying that the Government and ADC had no problem with the transaction? In the meeting of the Board of Directors of Kenya Seed Company held on 25/5/01 (exhibit 47) 1st accused reported that even the then Head of State was willing to buy some of the shares on offer.

Be it as it may, there is no dispute that 6th, 7th, 8th, 9th and 10th accused did not purchase any of the shares in question. They cannot therefore be guilty of the charge in the main count.

8th accused ceased to be director at Kenya Seed Company representing the Ministry of Agriculture on 20/2/01. During the period of the charged in the main count she was not director. The alternative charge alleges the period between 10th December 2000 and 30th December 2000. The period would be inconsistent with that alleged in the main charge. The relevant minutes being exhibit 12 which make no reference to private offer or placement. They refer only to the creation of 4 million new shares "to the public". All other transaction occurred after she had left the Board.

Returns from the Registrar of Companies (exhibit 41 and 42) show that 9th accused was not a Director of the company at the time in question and cannot therefore be blamed for anything untoward that may have happened.

10th accused represented the office of the President at the Board of Kenya Seed Company. He was answerable to PW 12. PW 12 told court he did not give any specific instructions to him regarding the transaction that he can say was floated.

He (PW 12) was shown minutes (exhibit – 56) which indicate that his instructions contained in letter (exhibit 14) were indeed discussed by the Board. PW 12's complaint is that the Board did not come back to him.

I have considered all the evidence that was made available to support the charges facing the accused.

The law is that I have to determine whether such evidence is sufficient to warrant the calling of the accused to defence. Sufficient evidence is evidence on which the court, properly directing itself on Law and fact, may convict if the accused were to keep quiet in defence. I find that the prosecution case does not provide sufficient evidence and consequently I dismiss all the charges and acquit each respective accused under Section 210 of the Criminal Procedure Code.

I am quite grateful to MR. BRYANT who represented the state and MR. YANO for 1st and 5th accused, MR. KATWA for 2nd and 7th accused, MR. OGETO for 3rd and 6th accused, MR. MAINA for 4th accused, MR. KIMANI for 8th accused, MR. MUHORO for 9th accused and MR. MWENESI for 10th accused. They made it easier for me to appreciate the issues at hand and reach the above decision.

A.O. MUCHELULE (MR)

C.M

4/2/08

Ruling delivered on 13/2/08 by M.W. Murage SPM on behalf of A.O. Muchelule (C.M) in presence of Court Prosecutor, Court Clerk.

Accused 1 to accused 10.

Mr. Munoro for accused 9.

Mr. Yano for accused 1 and accused 5.

Mr. Katwa for accused 2 and accused 7.

Mr. Maina for accused 4 holding brief for Mr. Mwenesi for accused 10.

Kimani Muhoro for accused 8.

Mr. Buyant for state.


M.W. MURAGE (MRS) SPM

Mr. Muhoro – May the securities be discharged.

M.W. MURAGE (MRS) SPM

Court – Order accordingly.

M.W. MURAGE (MRS) SPM

I certify that this is a true copy
of the original

CHIEF MAGISTRATE, NAIROBI