

REPUBLIC OF KENYA

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

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

Ref. SEN./PETITIONS/CORR./2017

27th March, 2017

The Petitioners,

C/o Mr. Nicodemus Onyango Mulaku,
The County Secretary,
County Government of Busia,
P.O. Box Private Bag - 50400,
BUSIA.

Tel: 0721125646

PARLIAMENT
OF KENYA
LIBRARY

Dear *Petitioners,*

**RE: PETITION TO THE SENATE REGARDING THE FINDINGS OF THE
SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND
INVESTMENTS ON ITS CONSIDERATION OF THE ACCOUNTS OF THE
BUSIA COUNTY EXECUTIVE FOR THE F.Y. 2013/2014**

The above matter refers.

Further to our letter Ref. No. SEN./PETITIONS/CORR./2017 dated 13th March 2017, this is to inform you that your Petition has been referred to the Sessional Committee on County Public Accounts and Investments for its consideration.

Ms. Emmy Chepkwony, Senior Clerk Assistant (Tel No. 0724789218 and Email, chepkwonyemmy@yahoo.com) is the officer responsible for facilitating this matter.

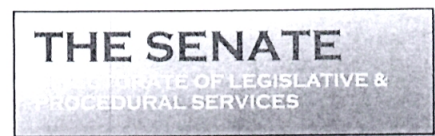
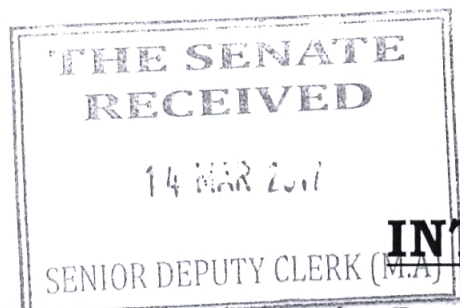
Yours *Sincerely,*

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

Copy to:-

Sen. (Prof.) Anyang' Nyong'o
Chairperson,
Sessional Committee on County Public Accounts and Investments
Parliament Buildings,
NAIROBI.

Copy of Petition enclosed.



INTERNAL MEMO

TO: The Senior Deputy Clerk (MA)

THRO': The Director, L & P Services

FROM: Second Clerk Assistant

DATE: 13th March, 2017

RE: PETITION BY THE GOVERNOR OF BUSIA COUNTY, AND TWO OTHERS, REGARDING THE FINDINGS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON ITS CONSIDERATION OF THE ACCOUNTS OF THE BUSIA COUNTY EXECUTIVE FOR THE F.Y. 2013/2014

*Forwarded. I concurred with the contents of this letter.
DLPS
Let's refer to the committee chair & reply in the same lines
16/3/17*

The above Petition refers.

Upon consideration by the Sessional Committee on County Public Accounts and Investments (CPAIC) of the accounts of various county governments for the Financial Year 2013/2014, the Chairperson of the Committee laid on the Table of the Senate, on 23rd February 2017, a Report on the financial operations of ten county executives, among them the Busia County Executive. A Motion for adoption of the Report was consequently moved on 28th February, 2017 and debate commenced. Debate on the Motion was later adjourned on 2nd March, 2017, pursuant to standing order 99(1).

Among the findings of the Committee, with regard to the financial operations of the Busia County Executive, was that various expenditure items by the County Executive were unsupported by relevant documentation. The Committee therefore recommended, among others, that the Director of Public Prosecutions takes appropriate action to charge the Governor under section 62(1)(c) of the Public Audit Act (No. 34 of 2015).

The present Petition seeks to have the said findings and recommendations of CPAIC overturned, on the basis that the Busia County Executive did present to the Committee all the documents requested by the Committee, and that the Committee failed in its duty to scrutinize the said documents as required of it.

The Petitioners also allege politics as the motive behind the said adverse findings on the part of CPAIC, including on the part of the Senator for Busia County who is a member of the said Committee. The Petitioners therefore pray that the Senate rejects the findings and recommendations of CPAIC with regard to the financial operations of Busia County Executive and drops the recommendations contained in the said Report calling for investigation and prosecution of the Governor of Busia County.

The following factors ought to be considered in determining how to proceed with the subject Petition -

- a) the fact that the Committee has already concluded its consideration of the financial operations in issue, and tabled its Report thereon, thus rendering the Committee *functus officio*;
- b) the fact that the said Report is under active consideration by the Senate which, on conclusion of debate, is expected to vote whether to adopt the Report or not. An amendment may also be moved to the Motion; and
- c) the fact that the Petitioners allege the Committee failed to objectively carry out the subject inquiry and that, in arriving at the adverse findings and recommendations thereon, was informed by factors other than the information availed to and documents adduced before the Committee.

It is submitted that the present Petition, due to the above factors, may not be suited for consideration in the manner provided for under Part XXIV of the Senate Standing Orders.

Previously, in instances where a matter is pending before a Committee, petitions have been dealt with administratively by referring them to the said Committees for consideration. In the present case, it is not clear whether and how the captioned Petition may be brought to the attention of Senators, so that the material statements/allegations made therein are available to Senators during debate and voting on the subject Report.

The Petition may also be referred to the Senate Business Committee, or the Liaison Committee, for directions on its disposal.

This is therefore to request for your guidance on the matter.

In the meantime, attached for your signature is a draft letter acknowledgment addressed to the Petitioners.



Charles Munyua
Second Clerk Assistant



COUNTY GOVERNMENT OF BUSIA
P.O. BOX PRIVATE BAG – 50400
BUSIA, KENYA



Ref: CG/BSA/ADMIN/19(1).

Clerk to the Senate,
P.O. Box 41842-00100,
NAIROBI (K)



7th March, 2017.

① DLPS
Please deal-
10/3/17

Copy to:

1.) Clerk of the County Assembly
P.O. Box 1018 - 50400
BUSIA

2.) Auditor General
Office of the Auditor General
P.O. Box 30084 - 00100
NAIROBI



PETITION

REF: PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

We the undersigned, **SOSPETER ODEKE OJAAMONG** (ID NO. 7513281.....), The Governor Busia County, **LENARD WANDA OBIMBIRA**(ID NO. 7421158.....), the member of the County Executive Committee responsible for finance in the County Government of Busia and **NICODEMUS ONYANGO MULAKU** (ID NO. 11279063.....), the County Secretary Busia County Government representing the people of Busia make this petition to the Senate and draw the attention of the Senate to the following:

- 1.) The Senate Sessional Committee on County Public Accounts and Investments in its report on the inquiry into the financial operations of Ten County Executives for the period 1st July 2013 to 30th June 2014 tabled before the Senate in February 2017 in relation to Busia County and its Government made the following findings and recommendations,

② Charles

Please deal-
10/03/17

a.) The unsupported cash and cash balances ksh 352,120,896.00

Committee Observations

The Committee observed that-

- i.) The certificate presented by the County Government from the Central Bank of Kenya was actually a statement of account with no forwarding letter from the CBK; and,*
- ii.) That the Governor failed to submit the Certificate from the CBK to the auditors for verification, as directed by the Committee.*

Committee Recommendations

The Committee recommends that the Director of Public Prosecutions takes appropriate action with a view of charging the Governor under section 62(1) (c) of the Public Audit Act.

b.) Allowancse for preparing final accounts Ksh 457,000.00

Committee Observation

The Committee observed that there was no evidence of where the workshop had taken place and a report on the same was not availed.

Committee Recommendations

The Committee recommends that the Governor be surcharged Ksh. 457,000 for failure to provide information under section 62(1)(c) of the Public Audit Act, 2015.

c.) Liabilities not qualifying for payment Ksh 6,375,000.00

Committee Observation

The Committee was not satisfied with the Governor's response as no evidence of the staff paid was availed.

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

a.) Tree planting project Ksh 7,000,000.00

Committee Observations

The Committee observed that the Governor failed to submit the muster roll, payment schedule and other relevant documents as directed by the Committee.

Committee Recommendations

The Committee recommends that the Director of Public Prosecutions takes appropriate action with a view of charging the Governor under section 62(1) (c) of the Public Audit Act, 2015.

**b.) Kenya Inter-Counties Sports and Cultural Association (KICOSCA) Games
Ksh 16,709,750.00**

Committee Observation

The Committee was not satisfied with the responses as the annexures provided were not satisfactory, especially since the payment schedules were missing.

Committee Recommendation

The Committee recommends that the Director of Public Prosecutions takes appropriate action with a view of charging the Governor under section 62(1)(c) of the Public Audit Act, 2015.

- 2.) That your petitioners have observed and noted that the County Government of Busia responded to the allegations made against it and its officers before the Senate Sessional Committee on County public accounts and investments and stated as hereunder and provided documentary evidence in support of their defence as follows:

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

a) UNSUPPORTED CASH AND BANK BALANCES KSH 352,120,896.00.

With regard to the alleged unsupported cash and cash balances, the County Government on 3rd of July 2014 received **Ksh 307,116,369.00** from the National Treasury to the County Revenue Fund Account No. 1000171618 held at the Central Bank of Kenya (CBK) which was a new financial year 2014/2015. A letter by the CBK forwarding certified bank statements together with the statements in support of the said receipt was attached for audit and Committee verification. This receipt could not have been included in the 2013/2014 financial statements because it was received after the closure of the financial year. This fact was pointed out by the County Treasury to the National Treasury.

The County Treasury was of the view that the amount of **Ksh 307,116,369.00** be included in the financial year 2014/2015 financial statements. However the National Treasury rejected this opinion and advised that the amount be included in the financial statements for the year 2013/2014 in order to maintain uniformity across Counties. This led to an audit query by the office of the Auditor General who subsequently recommended that the receipt of **Ksh 307,116,369.00** be removed from the financial statements for 2013/2014 and be included in the financial statement for 2014/2015 to adhere to International Public Sector Accounting Standards (IPSAS-CASH BASIS OF REPORTING).

With regard to the sum of **Ksh. 45,004,527.00**, when we appeared before the Sessional Committee on County public accounts and investment in August 2016, we presented to the Committee the certificate of bank balances in respect to account number 1000171138, as at 30th June 2014, which had a balance of **Ksh. 45,004,527**. This account is the County Development Account held at the Central Bank of Kenya Nairobi and not a Kenya Commercial Bank account as indicated in the Audit report.

The **Kshs. 45,004,527** plus **Kshs. 307,116,369.00** amounts to **Kshs. 352,120,896.00**. This is the figure in the query alleged to be the unsupported cash and cash balances in the Senate Sessional Committee Report.

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

We wonder why the Senate committee did not consider the certificates of bank balances and the certified bank statements from Central Bank of Kenya. The Senate Committee in its observation says that there was no forwarding letter for the certificates of bank balances. This letter ref CBK/REC-MGT/BUSIA 1/2016 dated 15th June 2016 was attached and is in appendix (iii) above. For the Senate Committee to make a recommendation based on this is therefore a miscarriage of justice given the fact that the Committee had the constitutional powers to invite the CBK management to clarify the authenticity of the statements tabled before the Committee.

a.) ALLOWANCES FOR PREPARING FINAL ACCOUNTS KSH 457,000.00.

The County Government of Busia prepared the annual financial statements for the financial year in question in compliance with section 149(2) (k) of the Public Finance Management Act 2012. The County Government did not use a consultant to prepare the said financial statements but, instead, used its own accountants which in turn also aided in developing their capacity as envisaged in Section 104(l) of the Public Finance Management Act 2012. This capacity building/training was carried out by senior and experienced accountants in the County.

Since this exercise was meant to act as a training in order to develop the capacity of the accountants, it was necessary that the same be done away from the County Headquarters at Garden park Hotel in Malaba Town (BusiaCounty). This necessitated payments of per diems to the participants.

The Auditor General was provided with the payment schedules.

b.) LIABILITIES NOT QUALIFYING FOR PAYMENT KSHS. 6,375,000.00.

There are a number of liabilities in respect whereof demands have been made upon the County Governments. Most of these demands relate to liabilities incurred and owed by the defunct local authorities in the geographical areas currently constituting different Counties. At present no law or mechanism has been established to deal with such liabilities. However section 58 of the urban areas and cities act provides that the assets and liabilities of the defunct local authorities are vested in a body created by law. Generally, the assumption has been that the body contemplated under section 58 are the Counties and their Governments established under the Constitution.

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

Among other creditors of the defunct local authorities that existed before the Counties came into place within the geographical location of Busia County were the Kenya Revenue Authority (KRA) and casual wages arrears. The KRA made a demand of **Ksh 18,673,047.00** upon the County Government of Busia to pay in respect of tax liabilities of the defunct local authorities in the County. The said demand notice is attached hereto and contained in the bundle marked appendix (xvi)

On the assumption that the body contemplated under section 58 of the urban areas and cities is the County Governments of Busia, the County Government in the financial year 2013/2014 provided for and budgeted a sum of **Ksh 60,000,000.00** to cover liabilities incurred and owed by the defunct local authorities within the County.

The two liabilities under this section relating to tax and casual wages arrears were inherited from various defunct local authorities within the County. Both the payment schedules for staff paid and the demand notices from KRA were presented to the Auditors for verification and the Senate Committee. The Auditor General in his letter LA/ADMIN/73/ (40) dated 4th December 2014, stated the issue as having been addressed satisfactorily and hence resolved.

The findings and recommendations of the Senate Committee is therefore an attempt to overturn the professional opinion and advice of the office of the Auditor General exercising its Constitutional mandate to audit Governments and its entities. The findings and recommendations of the Senate Committee is therefore a usurpation of the functions of another Constitutional office contrary to Article 229 of the Constitution of Kenya 2010. It also undermines and subverts the objects for which commissions and independent offices are established contrary to Article 249(i) of the Constitution.

c) TREE PLANTING PROJECT KSH. 7,000,000.00

The above exercise was budgeted for and approved by the County Assembly as evidenced by the copy of the approved budget for the financial year 2013/2014. The activity was conducted with a view to promote afforestation and environmental sustainability through the instrumentality of KAZI KWA VIJANA by employing youths in the County. The approved budget is attached in appendix (xv) refer to folio 7

The youth in the County were engaged to undertake this activity of tree planting as evidenced in the muster roll in appendix (xviii). This activity was supervised, monitored and evaluated as evidenced by the monitoring and evaluation minutes/report attached in appendix (xix). The selection of the relevant tree species was done by the sub-County forest officers working under the supervision of County Director of Forestry (Appendix xx).

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

Payment to the youths was done after the County Government was satisfied that the work was carried out satisfactorily as depicted in the inspection and acceptance report in appendix (xxi) and payment schedules in appendix (xxii).

From appendices (xv) folio 7, (xviii), (xix), (xx) (xxi) and (xxii) the queried amount was budgeted for and expended in accordance with the law and in a prudent and diligent manner. There is no valid basis for the Senate Committee findings and recommendations.

c.) KENYA INTER-COUNTY SPORTS AND CULTURAL ASSOCIATION (KICOSCA) GAMES KSHS16,709,750

Kenya inter-County sports and cultural association is an inter-County association to promote good relations and National Cohesion through sports and culture. To this end, the association organizes sports and cultural events annually and rotates the venues where they are held. These events are important in bringing together participants from all the Counties to interact, exchange views and learn from each other. Therefore, in the financial year 2013/2014 Busia County Government decided to send participants in these games to Nairobi. For that purpose it selected participants through a committee formed for that purpose (see appendix xxiii).

The County participated in the games as evidenced by the timetables and schedules for the games as annexed in appendix (xxiv and xxv) copies of which were given to both the auditor general and the Senate Committee. The auditor general in his letter ref LA/ADMIN/73/(40) dated 4th December 2014 annexed to this petition as appendix (xxvi) acknowledged receipt of both the timetables and the schedule and stated the issue as addressed.

The Auditor General deemed the expenditure to have been satisfactorily explained and hence resolved. We therefore find it difficult to understand the reasons for the Senate Committee making the findings it did while it had in its possession the same documents the auditor general had in resolving this matter.

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

3.) GRIEVANCE

- a.) The Senate committee did not consider the certificate of bank balances and the certified bank statements from Central Bank Of Kenya.
- b.) In the process the Senate Committee erroneously observed that there was no letter forwarding the statements when in fact the Central Bank of Kenya letter ref CBK/REC-MGT/BUSIA 1/2016 dated 15th June 2016 was available and presented before the Committee.
- c.) The primary role of the Senate and Senators is to represent and protect the County Governments as per Article 96(2) of the Constitution of Kenya 2010 and in doing so the Senators as state officers under Article 73 (2) must demonstrate they are acting with honesty in executing their oversight role. They must also demonstrate accountability to the public when making their decisions. Its in our view that by ignoring these documents the Senate Committee neither honestly represented Busia County nor protected its interest.
- d.) The Senate Committee and members of the Committee failed in their Constitutional duties and responsibility to effectively and properly represent BusiaCounty and Protect the County Government of Busia when they ignored or overlooked the evidence before them to exonerate the County and its Government from any wrong doing.
- e.) The Senate Committee and its members failed to deal honestly with regard to the allegations against the County Government of Busia in the light of the abundant documentary evidence before the Committee of which were easily accessible to the Committee contrary to Article 73 of the Constitution.
- f.) The adverse findings and recommendations of the Committee are therefore baseless and malicious in the circumstances as they unfairly portray the County Government of Busia as being corrupt and inept, thereby pre-judging the interests of the County in its relationship and co-operation with third parties.
- g.) The payment of per diems amounting to **Ksh 457,000.00** for the preparation of the final accounts of the County was properly incurred as per the documents verified by the Auditor General.

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

- h.) The preparation of the accounts with the assistance of the senior accountants for training purposes was lawful and in accordance with sections 104(1) (j) and 149(2) of the Public Finance Management Act 2012. This expenditure is supported by documents verified by the auditor.
- i.) In ignoring or disregarding the Auditor General's recommendations, the Senate Committee would seem to have transformed itself into an appellate body over the office of the Auditor General.
- j.) The conduct of the Senate Committee in the this regard maybe construed as not only malicious but also dishonest and cupricious contrary to Article 73 of the Constitution.
- k.) Its surprising the Senator representing Busia County failed to bring the issues to the attention of the Committee and failed to protect the interest of the County Government by protecting the County position with the relevant documents which were available to the Committee and which he could have had access to.
In our own view he has failed to properly represent the County as required by Article 96 of the Constitution of Kenya 2010.
- l.) In regard to liabilities not qualifying for payments **Ksh 6,375,000.00**, Tree planting exercise amounting to **Ksh 7,000,000.00** and Kenya inter-County sports association games amounting to **Ksh 16,709,750.00**, the Auditor General having, in his letter LA/ADMIN/73/ (40) dated 4th December 2014, stated these issues as having been addressed satisfactorily and hence resolved, the findings and recommendations of the Senate Committee to the contrary are therefore an attempt to overturn the professional decision of the office of the Auditor General which is mandated constitutionally to audit Government entities.
- m.) The findings and recommendations of the Senate Committee is therefore a usurpation of the functions of another Constitutional office contrary to Article 229 of the Constitution of Kenya 2010. It also undermines the objects for which commissions and independent offices are established contrary to Article 249(i) of the Constitution.
- n.) The Senate Committee's findings and recommendations with regard to the matters complained of in this petition fly in the face of the fact and the law and portray the Sessional Committee as either incompetent or malicious and thus opens itself to ridicule.

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

- o.) The Senate Committee having been seized of the facts and documents which if they had examined would have led to different findings and recommendations being made on the County Government of Busia, Governor Sospeter Odeke Ojaamong and other County Officers failed to act fairly in their report with regard to the matters complained of herein.
- p.) Politics may be read into this as the real motive behind the findings and recommendations of the Committee.

b) LOCUS STANDI OF THE PETITIONERS

Your petitioners are entitled to present this petition pursuant to and in accordance with Articles 37 and 119 of the Constitution and the relevant provisions of the Petition to Parliament (Procedure) Act No.22 of 2012 and that:

- a.) That the Constitution of Kenya 2010 reposes all sovereign authority in the people of Kenya who reserve the right to recall and exercise thier sovereignty at anytime.
- b.) That the people of Kenya have delegated legislative authority to Parliament/Senate as representatives of the people.
- c.) We have chosen to exercise the right to Petition the Senate in exercise of our residual sovereign authority and power.
- d.) We are apprehensive that the authority that we donated to the Senate maybe in danger of being abused and wrongly exercised by the Senate Committee and its members or some of its members in contravention of the Constitution.
- e.) We present this Petition in order to defend and protect the Constitution with regard to representation, protection of devolution and proper and impartial execution and discharge of public responsibilities.
- f.) Article 73(2)(c)i (d) envisages selfless service based solely on the public interest and accountability to the public for decisions and actions.
- g.) That Article 93(2) of the Constitution of Kenya requires the National Assembly and the Senate to exercise their respective functions in accordance with the Constitution.
- h.) That Article 96(1) of the Constitution of Kenya gives Senate the role of representing and serving to protect the interests of the Counties and their Governments.
- i.) Article 174(d) recognises the rights of communities to manage their own affairs and to futher their development.

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

- j.) Article 175 (b) The County Governments shall have reliable sources of revenue to enable them govern and deliver services effectively.
- c) We confirm that we have not addressed the matters in this petition to any other body because the remedy that we are seeking can only be granted by the Senate and in the petition we make allegations that touch on the Senator representing Busia County who is also a member of the Sessional Committee.
- d) That we further confirm that the issues in respect of which this petition is made are not pending before any court of law or constitutional or legal body.

In the premises we present the Petition and urge the Senate to ;

- 1.) Reconsider and review the findings and recommendations of the Sessional Committee on County Public Accounts and Investment and reject the same to the extent that it Recommends that;
- a. The Director of Public Prosecutions takes appropriate action with a view of charging the Governor under Section 62(1)(c) of the Public Audit Act on the alleged grounds that:
- i.) The certificates of financial statements for the FY 2013/2014 did not have the forwarding letter from the Central Bank of Kenya or that the Governor failed to submit the certificate from the Central Bank of Kenya to the Auditors for verification
- ii.) The Governor failed to submit the Muster Roll, Payment Schedules and other relevant documents as directed by the Committee.
- iii.) The responses given and annexes provided were not satisfactory as the payment schedule were allegedly missing.
- b. The Governor be surcharged **Ksh 457,000.00** for alleged failure to provide information under Section 62(1)(c) of the Public Audit Act on the alleged grounds that there were no evidence of where the workshop had taken place and that the report on it had not been availed

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.

- 2.) That the Senate Sessional Committee on County Public Accounts and Investments Report on the inquiry into the financial operations of ten County Executives for the period 1st July 2013 to 30th June 2014 tabled before the Senate in February 2017 in relation to Busia County and its Government be amended and the findings and recommendations therein regarding
- a.) alleged unsupported cash and cash balances **Ksh 352,120,896.00**
 - b.) allowances for preparing final accounts **Ksh 457,000.00**
 - c.) liabilities not qualifying for payments **Ksh 6,375,000.00**
 - d.) tree planting project **Ksh 7,000,000.00**
 - e.) the Kenya Inter-County Sports and Cultural Association (KICOSCA) games **Ksh 16,709,750.00,**

Expunged therefrom, and make a finding that no money was lost or misappropriated by the Busia County Government and the Senate Sessional Committee to drop the recommendations to the Director of Public Prosecution and the Ethics and Anti Corruption Commission to charge the Governor, Sospeter Odeke Ojaamong and other County officers.

Dated at Busia on this 7th day of March 2017.

Signed by the petitioner;

NAME	FULL ADDRESS	TELEPHONE	NATIONAL ID	SIGNATURE
H.E HON SOSPETER ODEKE OJAAMONG	PRIVATE BAG BUSIA	0722813819	7513281	
HON. LENARD WANDA OBIMBIRA	50400 BUSIA	0725143821	7421158	
MR. NICODEMUS ONYANGO MULAKU	50400 BUSIA	0721-125646	11279063	

PETITION TO SENATE UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA REGARDING THE FINDINGS AND RECOMMENDATIONS OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS RELATING TO BUSIA COUNTY FOR THE PERIOD 1ST JULY 2013 TO 30TH JUNE 2014.