



REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

**LIBRARY
MAIN BUILDING**

**ANNUAL REPORT
BY
THE HON. ATTORNEY GENERAL**

**PARLIAMENT
OF KENYA
LIBRARY**

**IN RESPECT OF
PROSECUTION OF ANTI-CORRUPTION AND
ECONOMIC CRIME RELATED CASES
PURSUANT TO THE
PROVISIONS OF SECTION 37
OF
THE ANTI-CORRUPTION AND
ECONOMIC CRIMES ACT
NO.3 OF 2003
FOR THE PERIOD
1ST JANUARY 2009 TO 31ST DECEMBER 2009**

P R E A M B L E

The commencement date of the Anti-Corruption and Economic Crimes Act 2003 was 2nd May 2003. Section 37 (1) of the Act requires the Attorney General to prepare an annual report with respect to prosecutions for corruption or economic crimes. Section 37(2) further provides that the period covered by the annual report shall be the year ending 31st December, 2009.

The contents of the report as provided for under section 37 (3) of the Act shall include a summary of the steps taken by the Attorney General during the year in each prosecution and the status of each case at the end of the year.

Pursuant to the provisions of section 37(4) of the aforementioned Act, the annual report shall also indicate if a recommendation for corruption or economic crime was not accepted and shall set out succinctly the reasons for not accepting the recommendation.

The Attorney General is required to lay each annual report before the National Assembly following the first ten sitting days of the National Assembly following the end of the year to which the report relates as provided for under section 37(5) of the Anti Corruption and Economic Crimes Act.

The Attorney General is empowered by the Constitution of Kenya to conduct all public prosecutions in the Republic of Kenya. Section 26 (1) of the Constitution provides;

“There shall be an Attorney General whose Office shall be an office in the public service”

Section 26(3) provides;

“The Attorney General shall have power in any case in which he considers it desirable to do so”

- (a) To institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed by that person.
- (b) To take over and continue any such criminal proceedings that have been instituted or undertaken by another person or authority ; and
- (c) To discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or another person or authority.

The powers of the Attorney General under this section may be exercised by him in person or by officers subordinate to him acting in accordance with his general or special instructions.

The Attorney General has continued to exercise his constitutional and statutory mandate to prosecute the cases that were referred to his office by the Kenya Anti-Corruption Commission pursuant to the provisions of the Anti-Corruption and Economic Crimes Act Section 35(1), which provides that;

"Following an investigation the commission shall report to the Attorney General the results of an investigation"

In exercise of his powers under section, 26(3) of the Constitution the Attorney General advised, directed upon and prosecuted various cases that were forwarded to his office and hereby tables this report before the National Assembly in compliance with section 37 of the Anti-Corruption and Economics Crimes Act.

During the year under review (2009), the Attorney General exercised his mandate to direct and prosecute cases referred to him by the Kenya Anti-corruption Commission and other investigative agencies such as the Criminal Investigations Department and Banking Fraud Department.

This was a busy year for the office with Ninety Three (93) cases forwarded by Kenya Anti- Corruption Commission alongside hundreds of cases forwarded by other investigative agencies.

The office continued to carry out its constitutional duty despite severe institutional and operational challenges that have been cited in my earlier Anti-Corruption reports to Parliament. They include capacity limitations, inadequate professional and support staff, inadequate office space, lack of library, research and other resource facilities as well as poor terms and conditions of service.

The Department of Public Prosecutions, which is responsible for prosecuting Major Anti-Corruption, Economic Crime and Serious Fraud Cases, continue to suffer serious capacity shortages. There is an urgent need to address these shortages in order to strengthen the capacity for the department to effectively handle and prosecute these cases.

In the year under review, my office in collaboration with the Governance Justice Law and Order Sector (GJLOS) and other stakeholders organized and achieved the following:

1. Inter-Agency Cooperation:

The Department of Public Prosecutions enhanced its participation and collaboration with other government agencies and departments in thematic areas of common interest and especially touching on the war against corruption.

This is evidence by the following:

- i) A secretariat was set up to work with the Inter-Ministerial and Multi-Agency Task Team to Operationalize the Witness Protection Act, 2006:
 - The team has prepared operational guidelines and developed in house procedures.
 - Participated in the East African Region Conference on Witness Protection.
 - Prepared and published the Witness Protection Amendment Bill 2010.
 - Held a stakeholders sensitization workshop
- ii) The Inter Agency Task Team on Mutual Legal Assistance drafted a Bill on Mutual Legal Assistance Law. The draft bill was tabled in Parliament.

- iii) Participation in the Inter-Ministerial task team on Human Trafficking and the National Taskforce on Money Laundering.
- iv) Representation and active participation in the Vice President's Committee on Decongestion of Prisons.
- v) Collaboration with British American Tobacco Fifteen (15) State Counsel were sensitized on scope, nature and effect of illicit trade. One officer attended and participated in the Anti Illicit Trade African Middle East Region Annual Conference in South Africa.
- vi) The officers of the department have been working with and given assistance to Kenya Revenue Authority in the investigations and prosecutions of tax evasion and revenue offences.
- vii) The department has also been working closely with the Capital Markets Authority and Criminal Investigations Department (CID) in the investigations and prosecutions of insider trading, banking and financial fraud cases.

2. In collaboration with GJLOS:

- i) The Department of Public Prosecutions held a Prosecutors Convention with the objective of:
 - a) Team Building and Bonding.
 - b) Networking and promotion of collaboration with other Agencies.
 - c) Partnering and Exchange of Experiences.
 - d) Performance Targets.
 - e) National Prosecution Policy.
 - f) Training Needs Assessment report among others.
- ii) Held a workshop to develop terms of reference for consultant on modalities of phasing out Police Prosecutors. The Department is part of the Task Team that is working out on phasing out Police Prosecutors.
- iii) Held an inter agency workshop for creation of Database on Major Anti-Corruption, Economic Crime and serious Fraud cases.

3. Officers from the Attorney General Office attended and participated in the following Anti-Corruption workshops:

- i) Stakeholder workshop to review the implementation of various reports by commissions of inquiry and watchdog institutions.

- ii) Workshop on Strategies to fight/eliminate corruption in the Public Service for Permanent Secretaries/Accounting Officers and Chief Executives of State Corporations.

- iii) Retreat by Anti-Corruption Agencies to develop a National Anti-Corruption Policy.

The Report is divided into the following categories:-

- A. FIRST QUARTERLY REPORT FROM
1ST JANUARY, 2009 TO 31ST MARCH, 2009.**

- B. SECOND QUARTERLY REPORT FROM
1ST APRIL, 2009 TO 30TH JUNE, 2009.**

- C. THIRD QUARTERLY REPORT FROM
1ST JULY, 2009 TO 30TH SEPTEMBER, 2009.**

- D. FOURTH QUARTERLY REPORT FROM
1ST OCTOBER, 2009 TO 31ST DECEMBER, 2009**

**A. FILES SUBMITTED IN THE FIRST (1ST) QUARTER OF THE YEAR
1ST JANUARY 2009 TO 31ST MARCH 2009**

**1. KACC/INQ/1/02.05.03
NO.1 KACC FIRST QUARTELY REPORT**

This was an inquiry into an allegation that a construction company was irregularly awarded a contract to improve and gravel roads in Trans-Nzoia District in the sum of Kshs. 333,429,685/= which contract was further illegally varied to Kshs. 399,744,912/= and Kshs. 457,627,065/= respectively, thereby occasioning loss to the Government of Kenya. The investigation established that the procurement process was flouted in the award of the tender. The Senior District Commissioner and Chairman of the District Tender Board abused the authority of his office by granting a waiver of the requirement for procurement by open tender in favour of restricted tendering in respect of tender for improvement and gravelling of Babaton-Endebess (C44), Kiminini-Matunda (E319) Roads in Trans-Nzoia District without seeking approval of Treasury. The former Permanent Secretary of the Ministry of Public Works and Housing on the other hand issued a letter of award to the construction company without approval of Treasury. The said Permanent Secretary and his successor also varied the contract without approval of Treasury.

KACC forwarded the file to the Attorney General with recommendation that the former Senior District Commissioner and Chairman of the Trans-Nzoia District Tender Board and two former Permanent Secretaries in the Ministry of Public Works and Housing be charged with the offence of abuse of office contrary to Section 101(1) as read with Section 102A of the Penal Code.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspects were charged with the offence of abuse of office contrary to Section 101(1) as read with Section 102A of the Penal Code. Hearing on 11th March, 2010.

2. KACC /FI/INQ/03/2009 NO.2 KACC FIRST QUARTELY REPORT

This was an inquiry into allegations that the former Managing Director of the Kenya Tourist Board (KTB) irregularly procured the services of a tour company for which KTB paid a sum of Kshs. 8,925,444/=. The investigation established that procurement procedures were not followed in awarding the tour company the job of coordinating a trip to the Maasai Mara by Permanent Secretaries. Direct procurement was adopted as the mode of procurement without regard to the provisions of the Public Procurement and Disposal Act, 2005. The said tour company is owned by one of the Board members of KTB. The Permanent Secretary, Ministry of Tourism & Wildlife participated in appointing the said tour company and indeed communicated the appointment to Catering and Tourism Development Levy Trustees. She also issued instructions for payment of a further Kshs. 400,000/= to the said tour company despite the fact that the sum of Kshs. 8,925,444/= which was highly exaggerated, had not been accounted for.

KACC forwarded the file to the Attorney General with the recommendation that:

- 1) Permanent Secretary in the Ministry of Tourism & Wildlife be charged with the offence of abuse of office contrary to Section 46 of the Anti-Corruption and Economic Crimes Act, 2003 and wilful failure to comply with the law relating to procurement contrary to

Section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003.

- 2) The former Managing Director of KTB be charged with offence of wilful failure to comply with the law relating to procurement contrary to Section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003 and an alternative charge of abuse of office contrary to Section 46 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspects were charged with the following offences:

- 1) Permanent Secretary in the Ministry of Tourism & Wildlife charged with the offence of abuse of office contrary to Section 46 of the Anti-Corruption and Economic Crimes Act, 2003 and wilful failure to comply with the law relating to procurement contrary to Section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003
2. Managing Director of KTB charged with offence of wilful failure to comply with the law relating to procurement contrary to Section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003 and an alternative charge of abuse of office contrary to Section 46 of the Anti-Corruption and Economic Crimes Act, 2003.

3. Fraudulently making payment from public revenues for services not rendered contrary to Section 45(2) (a) iii of the said Act.

The member of KTB Board who is also a director of the tour company charged with the offence of conflict of interest contrary to Section 42(3) of the Anti-Corruption and Economic Crimes Act, 2003.

4. All the suspects charged with conspiracy to defraud contrary to Section 317 of the Penal Code.

**3. KACC/AT/INQ/17/2008
NO.3 KACC FIRST QUARTELY REPORT ACC NAIROBI NO.12 OF
2009**

This was an inquiry into allegations that an employee of Deposit Protection Fund Board of the Central Bank of Kenya (DPFB) had unprocedurally acquired a Plot Number LR. 337/1083 situated at Athi-River belonging to Prudential Bank Ltd (in liquidation). It was also alleged that the land which was sold by DPFB as the liquidating agent for Kshs. 7 Million was in the process of being sold to a third party for Kshs. 35 Million and that to facilitate the process, the said employee gave a bribe of Kshs. 500,000 to the liquidating agent and Kshs. 1 Million to an officer at Ardhi House to "sort out" the issue of land rent arrears. The investigation established that before the property was formally put up for sale, an interested party wrote to the liquidating agent expressing interest in the purchase of the property. He offered to purchase the plot at Kshs. 7 Million. While negotiating with DPFB, the interested party was at the same time negotiating with another party to sell the property at Kshs. 35 Million. The evidence gathered disclosed that the Liquidating Agent opted to dispose the property by private treaty without the benefit of a current valuation as required by the DPFB Manual with a view to ascertaining the market value. The Liquidating Agent also went ahead to deceive the Director of DPFB by indicating that the current open

market value of the leasehold interest in the piece of land was Kshs. 10 Million with a forced sale value of Kshs. 6 Million, yet no current valuation had been done. However, there was no evidence that the employee of Deposit Protection Fund Board had given bribes as alleged. There was however evidence that a Senior Clerical Officer at the Ministry of Lands improperly conferred a benefit on the interested party who purchased the subject plot by preparing a clearance certificate to facilitate issuance of letter of consent to transfer the property notwithstanding that the outstanding land rent and penalties in the sum of Kshs. 3,568,985/= had not been paid.

KACC forwarded the file to the Attorney General with the recommendation that the Liquidation Agent of Prudential Bank Ltd (in liquidation) be charged with failure to comply with applicable procedures and guidelines relating to disposal of public property contrary to Section 45(2)(b) of the Anti-Corruption and Economic Crimes Act, 2003, deceiving principal contrary to Section 41(2) of the Anti-Corruption and Economic Crimes Act, 2003 and a Senior Clerical Officer in the Ministry of Lands be charged with abuse of office contrary to Section 46 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspects were charged with the above named offences. Case part heard, two witnesses remaining. Hearing on 18th March, 2010.

**4. KACC/AT/INQ/10(B)/2007
NO.4 KACC FIRST QUARTERLY REPORT**

This was an inquiry into an allegation that the Municipal Council of Nakuru had failed to implement a Government directive to reclaim grabbed or illegally acquired property belonging to the Council. The investigation established that vide its letter dated 17th September 1997, the Municipal Council of Nakuru sought permission of the Minister for Local Government to alienate and sell certain parcels of land so as to raise funds to pay a debt owed the Kenya National Assurance (then under receivership). The Minister for Local Government granted the approval but directed that the specified property to be sold must be properly valued and the funds realized from the sale to be applied to clear the debt. Contrary to the approval of the Minister, the Council went ahead to sell property in which the consent of the Minister had not been sought nor granted. Even for the properties that the Minister had given consent to sell, the Council purported to allocate the same to third parties and proceeded to issue them with leases whose terms were far much in excess of the remainder of the leasehold terms that the Council held. The investigation further established that the former Mayor and Town Clerk of the Municipal Council of Nakuru breached the trust the public has bestowed on them by arbitrarily issuing leases to third parties on parcels of land belonging to the Council.

KACC forwarded the file to the Attorney General with the recommendation that the former Mayor and former Town Clerk of the Municipal Council of Nakuru be charged with various counts of breach of trust by a person employed in the public service contrary to Section 127(1) as read with Section 127(2) of the Penal Code.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspects were charged with the offence of breach of trust by a person employed in the Public Service contrary to section 127 (1) as read with section 127(2) of the Penal Code. Case part heard.

5. KACC/FI/INQ/14/2008 NO.5 KACC FIRST QUARTERLY REPORT

This was an inquiry into allegations of irregularities in the importation of crude pyrethrum extract or Oleo Resin from Rwanda and alleged fraudulent payments by the management of the Pyrethrum Board of Kenya. The investigation established that a contract for the supply of 100 Metric Tonnes of crude pyrethrum extract was entered into between Pyrethrum Board of Kenya and Societe de Pyrethre au Rwanda (SOPYRWA) of Rwanda on 3rd March 2006. This was prior to obtaining approval of the transaction from the Ministry of Agriculture and the Directorate of Procurement in the Ministry of Finance. The necessary approvals were subsequently obtained but part payments were made to SOPYRWA fraudulently and in breach of the contract, which provided that, payments should only be made upon delivery of Oleo Resin.

KACC forwarded the file to the Attorney General with the recommendation that the Managing Director of Pyrethrum Board of Kenya and two other officials be charged with fraudulently making payment from public revenue contrary to Section 45(2) (a) (ii) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Attorney General found gaps and deficiencies in the investigation and directed that further investigations be carried out and the file resubmitted for further directions.

STATUS

The file was returned to KACC with direction to conduct further investigations and resubmit.

6. KACC/FI/INQ/10/2008 NO.6 KACC FIRST QUARTERLY REPORT

This was an inquiry into allegations of irregular payment of Kshs. 3,853,925/= by judicial officers to a landlord for the refurbishments of three maisonettes leased by the Judiciary on LR. 209/404/4 Adams Arcade, Nairobi. The investigation established that the Judiciary had leased the three maisonettes in 1991 for an initial period of two years. The lease was thereafter extended by mutual consent until December 2007 when it was terminated at the instance of the Judiciary. The Judiciary required putting them in a tenantable condition, so the termination was prolonged. To facilitate the refurbishment, the landlord submitted a bill of quantities for the three units to the tune of Kshs. 3,853,925/=. The bill of quantities, which was the basis for payment to the landlord, was not subjected to any technical verification by the Ministry of Housing. The investigation also established that the works, which ought to have been procured in accordance with the Public Procurement and Disposal Act, 2005, were left to the landlord to undertake at his own discretion and pleasure. Moreover, the vote from which some of the payment was made was not the proper one, yet no prior approval was secured by Treasury. It was established that the Registrar of the High Court improperly conferred a benefit on the landlord by issuing instructions for him to be paid Kshs. 3,853,925/= before inspection had been undertaken and cost estimates prepared by the concerned personnel of the Ministry of Housing. He also failed to comply with law relating to procurement. On the other hand, the Principal Accounts Controller of the Judiciary failed to comply with law relating to the incurring of expenditure by authorising part of the payment to be made from the wrong vote without approval of Treasury.

KACC forwarded the file to the Attorney General with the recommendation that:

- 1) The former Registrar of the High Court be charged with abuse of office contrary to Section 46 of the Anti-Corruption and Economic Crimes Act, 2003, and in the alternative, wilful failure to comply with the law relating to procurement contrary to Section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003.
- 2) The Principal Accounts Controller of the Judiciary be charged with the offence of wilful failure to comply with the law relating to incurring of expenditure contrary to Section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon initial perusal of the file, the Attorney General found some gaps and deficiencies in the investigations and directed that the outstanding areas be covered by way of further investigations and the file resubmitted. The file was resubmitted and upon subsequent perusal, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The file was returned to the Kenya Anti-Corruption Commission with directions to charge the suspects with the proposed charges as enumerated above.

7. KACC MSA/FI/INQ/28/2008 NO.7 KACC FIRST QUARTERLY REPORT

This was an inquiry into allegations that a Revenue Officer with Kenya Revenue Authority assisted a clearing agent to evade payment of taxes

by making a misdeclaration of imported goods in respect of import entry number 2008MSA1299004. The investigation established that the Revenue Officer attempted to deceive Kenya Revenue Authority by posting an entry into the Simba system indicating that container number MSKU 0275359 contained 210 bales of used clothes and 340 bales of used shoes whereas there were 340 bales of used clothes and 210 bales of used shoes. The exchange of the figures was done with an intention of cheating on the weight, which is the basis of computing taxes.

KACC forwarded the file to the Attorney General with a recommendation that the Revenue Officer be charged with the offence of attempting to deceive principal contrary to Section 47A(1) of the Anti-Corruption and Economic Crimes Act.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the proposed charge and directed prosecution to ensue.

STATUS

The suspect was charged with the offence of attempting to deceive principle contrary to section 47 A (1) of the Anti-Corruption and Economic Crimes Act. Hearing on 18th March, 2010

8. KACC/FI/INQ/16/2008 NO.8 KACC FIRST QUARTERLY REPORT

This was an inquiry into allegations of conflict of interest involving the Financial Controller of Kenya Tourist Development Corporation in the award of a cleaning service tender to a firm that he was associated with as a client through his private auditing firm. The investigation established that the Financial Controller indeed acted in conflict of interest.

KACC forwarded the file to the Attorney General with recommendation that the Financial Controller of Kenya Tourist Development Corporation be prosecuted for knowingly holding a private interest in a contract emanating from a public body contrary to Section 42(3) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecutions to ensue.

STATUS

The suspect was charged with the offence of knowingly holding a private interest in a contract emanating from a public body contrary to Section 42 (3) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard further hearing on 14th April, 2010.

9. KACC/FI/INQ/18/2008 NO.9 KACC FIRST QUARTERLY REPORT

This was an inquiry into allegations that a Returning Officer II based at the District Election Coordinators Office, Nyandarua District, had been qualifying his own motor vehicle registration number KAA 872F for hire by the Electoral Commission of Kenya notwithstanding that it was an old Toyota pick up with no 4-wheel drive power. It was also alleged that the Returning Officer had employed his wife as a Registration Clerk at Gatimu in OI Kalou Constituency though she was not the most qualified for the job. Investigations established that the recruitment of the Returning Officer's wife was done in an open and competitive manner and had no bearing with the role of the Returning Officer/Elections Officer II. There was evidence that the Returning Officer II took part in procurement proceedings for the provision of transport services to the Electoral Commission of Kenya during the Malewa River Ward by-election and qualified his motor vehicle KAA 872F.

KACC forwarded the file to the Attorney General with recommendation that the Returning Officer II be charged with the offence of conflict of interest contrary to Section 43(1) (a) as read with Sections 43(8) and Section 137(1) of the Public Procurement and Disposal Act, No. 3 of 2005.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspect was charged with the offence of conflict of interest contrary to Section 43(1) (a) as read with Sections 43(8) and Section 137(1) of the Public Procurement and Disposal Act. No.3 of 2005. Case part heard further hearing on 15th April, 2010.

10. KACC/FI/INQ/54/2007 NO.10 KACC FIRST QUARTERLY REPORT

This was an inquiry into allegations that the Managing Trustee of the Local Authorities Pensions Trust (LAP TRUST) failed to surrender Kshs. 102,132.20 being the balance of unspent imprest upon his return from official visits to UK and Italy. The investigation established that the Managing Trustee did not comply with the requirement that he surrenders imprest within 48 hours after the purpose for which the imprest was applied. This is contrary to the Public Audit Act. However, LAP TRUST is not a public entity and the said Act does not apply to it.

KACC forwarded the file to the Attorney General with recommendation that the file be closed.

Upon perusal of the file, the Hon. Attorney General found the evidence insufficient to support any criminal charge and concurred with KACC's recommendations that the file be closed.

STATUS

The file was returned to KACC with directions to close.

11. KACC/FI/INQ/01A/2008 NO.11 KACC FIRST QUARTERLY REPORT

This was an inquiry into allegations that three Administration Police Officers based in Kirinyaga District had unlawfully diverted to their own use, revenue realized for security services rendered by Administration Police to Equity Bank, Kerugoya Branch. The investigation established the fraudulent diversion of the public funds.

KACC forwarded the file to the Attorney General with the recommendation that the three Administration Police Officers be charged with various counts of fraudulent acquisition of public property contrary to Section 45(1) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspects were charged with the offence of fraudulent acquisition of public property contrary to section 45(1) (a) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard, further hearing on 16th March, 2010.

**12. KACC CR 221/286/2008: NYERI ACC 3/2008
NO.12 KACC FIRST QUARTERLY REPORT**

This was an inquiry into an allegation that a Police Officer stationed at Kiyanaga Police Station was soliciting for a benefit that was an inducement to provide "protection" to the complainant's business. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nyeri Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to sustain the preferred charge and directed that the case pending before court be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act, 2003. Case part heard further hearing on 23rd February, 2010.

**13. KACC CR 141/416/2008: NAIROBI ACC 27/2008
NO.13 KACC FIRST QUARTERLY REPORT**

This was an inquiry into an allegation that two officers of the City Council of Nairobi's Health Department had corruptly solicited for a benefit that was an inducement to forbear charging the complainant with an alleged offence of selling food contrary to Section 4 of Foods, Drugs and Chemical Substances Act, Cap 254, Laws of Kenya. The investigation

established solicitation and receipt of a benefit. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to Section 39(3) (a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offences of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard further hearing on 9th March, 2010.

14. KACC (ACPU) CR. 141/687/2002 NO.14 KACC FIRST QUARTERLY REPORT

The suspect in this matter had been charged with the offence of corruption under the Prevention of Corruption Act, Cap 65, Laws of Kenya (Repealed). The case was terminated by the Court under Section 89(5) of the Criminal Procedure Code on 8th September 2003 following the repeal of the Prevention of Corruption Act. The matter was re-evaluated by Kenya Anti-Corruption Commission following the direction of the Honourable Attorney General. The re-evaluation established that there was adequate evidence to sustain the two counts of corruption for the soliciting and receiving of a benefit and that by virtue of the saving provisions of Section 71(2) of the Anti-Corruption and Economic Crimes

Act, 2003 and Section 23(3) (e) the Interpretation and General Provisions Act, the suspect could be re-charged.

KACC forwarded the file to the Attorney General with recommendation that the charges that had been withdrawn be reinstated and the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspect was charged with the offence of soliciting and receiving of a benefit by virtue of the saving provisions of section 71(2) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

15. KACC CR. 732/181/2008: NAKURU ACC 4/2008 NO.15 KACC FIRST QUARTERLY REPORT

This was an inquiry into an allegation that a Public Health Officer had corruptly solicited for a benefit that was an inducement so as to re-open the Ngong open air market, which he had earlier closed, and to withdraw Criminal Case number 1847 of 2008 that he had filed against the County Council of Olkejuado at Kibera Law Courts. The investigation established solicitation and receipt of a benefit. The suspect was arrested and charged with the offence of soliciting for and receiving a benefit contrary to Section 39(3) (a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

16. KACC CR. 141/390/2008: NAIROBI ACC 25/2008 NO.16 KACC FIRST QUARTERLY REPORT

This was an inquiry into an allegation that a Court Clerk based in Makadara Courts had solicited for a benefit that was an inducement to facilitate the lifting of a warrant of arrest and withdrawal of a Criminal Case that was pending before Makadara Law Courts against the complainant's employee. The investigation established an offence of conspiracy to commit an offence of corruption contrary to Section 47(A)(3) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, and solicitation and receipt of a benefit contrary to Section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. He was arrested and charged with the said offences and the case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charge and directed that the case pending before court be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act, 2003. Case part heard.

17 KACC CR. 141/664/2008: NAIROBI ACC 38/2008 NO.17 KACC FIRST QUARTERLY REPORT

This was an inquiry into an allegation that an employee of the Nairobi City Water and Sewerage Co. Ltd had solicited for a benefit that was an inducement to facilitate the quick processing of the complainant's application for subdivision of his plots in Lake View Estate within the City of Nairobi and for the plots to be connected to the water reticulation system. The investigation established solicitation and receipt of a benefit. The suspect was arrested and charged with the offence of soliciting for and receiving a benefit contrary to Section 39(3) (a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charge and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

**18. KACC CR. 440/420/2008: MERU ACC 1/2008
NO.18 KACC FIRST QUARTERLY REPORT**

This was an inquiry into an allegation that the Chief of Yathui Location within Mwala District had corruptly solicited for a benefit that was an inducement to facilitate the preparation of a letter confirming the death of the complainant's grandfather as well as the beneficiaries of his estate. The investigation established solicitation and receipt of a benefit. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence insufficient to support charges of corruption and directed that the matter be dealt with administratively.

STATUS

The file was returned to KACC with directions to deal with the matter administratively.

**19. KACC CR. 142/24/2008: NAIROBI ACC 24/2008
NO.19 KACC FIRST QUARTERLY REPORT**

This was an inquiry into an allegation that the Chief of Kamahuha Location in Murang'a South District had solicited for a benefit that was an inducement so as to issue an introductory letter to the complainant stating the dependants of his late father. The investigation established solicitation and receipt of a benefit. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3)(a) as read with Section 48(1) of the Anti-

Corruption and Economic Crimes Act, 2003. The case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges of corruption and directed that the same be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

20. KACC CR. 921/675/2008: KAKAMEGA RMCR 1496/2008 NO.20 KACC FIRST QUARTERLY REPORT

This was an inquiry into an allegation that a Police Constable based at Eregi Patrol Base within Kakamega District had corruptly solicited for a benefit from the complainant as an inducement so as to release his bicycle that had been detained at Eregi Patrol Base. The investigation established solicitation and receipt of a benefit. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to the logical end.

STATUS

The suspect was charged with the offences of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

21. KACC CR.141/609/2008: NAIROBI ACC 36/2008 NO.21 KACC FIRST QUARTERLY REPORT

This was an inquiry into an allegation that a Police Officer attached to Wilson Airport Police Station had solicited for a benefit that was an inducement so as to release the complainant's music instruments. The investigation established solicitation and receipt of a benefit. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The case is pending hearing before the Nairobi Anti-Corruption Court. It has however been recommended that the charge of soliciting for a benefit preferred against the suspect's colleague be withdrawn as the evidence against him is not sufficient.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to sustain the preferred charge and directed that the case pending before court be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act, 2003. Case part heard.

22. KACC CR. 141/745/2008: NAIROBI ACC 40/2008 NO.22 KACC FIRST QUARTERLY REPORT

Inquiry into an allegation that a proprietor of company engaged in distribution business was planning to give a benefit of Kshs. 500,000/= to the Commercial Manager of East African Portland Cement Co. Ltd (EAPCC) through the then outgoing Sales Executive Officer for Mt. Kenya Region as an inducement to influence his appointment as a cement distributor for EAPCC. The investigation confirmed that the businessman gave a benefit of Kshs. 650,000/= to the Commercial Manager of EAPCC through agents. The businessman was arrested and charged with the offence of giving a benefit contrary to Section 39(3) (b) of the Anti-Corruption and Economic Crimes Act, 2003 whereas the Commercial Manager of EAPCC was charged with receiving a benefit contrary to Section 39(3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charge and directed that the case be prosecuted to the logical end.

STATUS

The suspect was charged with the offence of receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

23. KACC CR. 651/516/2008: KISUMU ACC 555/2008 NO.23 KACC FIRST QUARTERLY REPORT

This was an inquiry into an allegation that a journalist with People Daily Newspaper based in Kisumu had solicited for a benefit from the complainant as an inducement so as not to publish a damaging story about him. The investigation established solicitation and receipt of a benefit. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The case is pending before the Kisumu Anti-Corruption Court.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to the logical end.

STATUS

The suspect was charged with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

**24. KACC CR. 711/472/2008: NAKURU ACC 7/2008
NO.24 KACC FIRST QUARTERLY REPORT**

This was an inquiry into an allegation that two Councillors of the Town Council of Londiani had solicited for a benefit of Kshs. 150,000/= as an inducement so as to facilitate the approval of a cheque for Kshs. 400,000/= that was payable to the complainant's company. The investigation established the solicitation and receipt of a benefit. The suspects were arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3)(a) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found that the evidence was sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspects were charged with the offences of soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

**B. FILES SUBMITTED IN THE SECOND QUARTER OF THE YEAR
1ST APRIL 2009 TO 30TH JUNE 2009**

**25. KACC/FI/INQ/04/09
NO.1 KACC 2ND QUARTERLY REPORT**

This was an inquiry into allegations of irregular release of Petroleum products held by the Kenya Pipeline Co. Ltd under collateral financing agreement without the authority of the financier. It was alleged that officials of the Kenya Pipeline Co. Ltd had irregularly released a total of 126,488,499 litres of petroleum products worth about Kshs. 7.6 Billion that was under collateral financing to an oil marketing company without the requisite authority of the financier.

The investigation established that the collateral financing agreement was an arrangement whereby local oil marketers could access credit for the purpose of importing fuel under the Open Tender System that had been introduced by the Government of Kenya under the oversight of the Ministry of Energy. Its objective was to ensure price stability and adequate supplies of petroleum products. Such goods, once discharged at KPC's Kipevu Oil Storage Facility would be under the control of KPC based on a letter of undertaking to the financier that they would not be released without the knowledge or authority of the financier, as security for the finances advanced to the marketer. It was established that in breach of this arrangement, certain KPC officers released fuel that had been charged to a financier to an oil marketer without the authority or knowledge of the financier; with the result that the finances thus advanced to fund the import risked being lost by the financier.

KACC forwarded the file to the Attorney General with recommendation that all the suspects involved be charged, respectively, with abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes

Act, neglect of official duty by a public officer, contrary to section 128 of the Penal Code, fraudulent disposition of mortgaged goods contrary to section 291 of the Penal Code, obtaining by false pretences contrary to section 313 of the Penal Code and conspiracy to defraud contrary to section 317 of the Penal Code.

Upon perusal of the file the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue

STATUS

The suspects were charged in two separate corruption cases. Warrant of arrest was issued against Devan Yagnesh the Managing Director Triton Petroleum Ltd. His extradition is being sought. The cases are listed for hearing on 23rd March, 2010 and 22nd April, 2010.

26. KACC/FI/INQ/83/2008 NO.2 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations of irregular advance payments to a contractor by the officials of the Ministry of Roads before delivery of goods. It was alleged that certain officials of the Ministry of Roads caused a payment of Kshs. 77 Million to be made in advance to a contractor for the supply and delivery of bitumen before the goods were delivered.

The investigation confirmed that towards the end of the 2006/2007 financial year, the Ministry of Roads prepared twelve Local Purchase Orders (LPOs) for issuance to a contractor for the supply of bitumen. The LPOs were released to the contractor only two days to the closure of the 2006/2007 financial year. To facilitate payment within that financial year, two stores officers attached to the Wilson Airport Depot issued counter requisition vouchers, falsely certifying that the goods ordered for had been received and taken on charge at the Depot. They colluded with the

contractor who, for that purpose, had issued delivery notes and invoices purporting to show that deliveries had been made, when this was not the case. On the basis of the delivery notes, invoices and counter receipt vouchers, payment vouchers were prepared and full payment made to the contractor before delivery. It was evident therefore that the concerned officers had acted in breach of the Government Financial Regulations and Procedures that guide the incurring of expenditure. It was further established that delivery of the goods paid for in advance, which commenced in July, 2007, had not been fully made by the end of 2008 when this inquiry was instituted.

KACC forwarded the file to the Attorney General with recommendation that the suspects be prosecuted for the offences of wilful failure to comply with the law relating to the incurring of expenditure, and fraudulent acquisition of public property contrary to sections 45(1)(a) and 45(2)(b) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Attorney General found the evidences sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspects were charged with the above named charges. Fresh matter hearing on 23rd March, 2010.

27. KACC/FI/INQ/91/2008 NO.3 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation of fraudulent transfer of Kshs. 19.3 Million from the KEMRI/CDC project account by a former Managing Director of Kenya Medical Research Institute (KEMRI) to the account of African Medical Services Trust (AMSET), an account that was unrelated to KEMRI.

The investigation confirmed the allegations and established that a total of Kshs. 19.3 Million was irregularly transferred on the instructions of the former Managing Director to the account of AMSET, of which he was a trustee. It was further established that the suspect thereafter issued instructions for the movement of the funds from the AMSET account to various recipients outside the country through a local Forex Bureau.

KACC forwarded the file to the Attorney General with recommendation that the former Managing Director and AMSET be prosecuted for the offences of fraudulent acquisition of public property and abuse of office contrary to sections 45(1)(a) and 46 of the Anti-Corruption and Economic Crimes Act, 2003. It was further recommended that the misappropriated funds be recovered by the Commission's Civil Litigation and Asset Recovery Department.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue. The misappropriated funds to be recovered by KACC.

STATUS

The suspect was charged with the above quoted offences. Case part heard further hearing on 16th February, 2010.

28. KACC/AT/INQ/01/2009 NO.4 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations of embezzlement of the funds of the Kenya Civil Aviation Authority by the Human Resource & Administration Manager. It was alleged that some fraudulent activities were being perpetrated by the Human Resource & Administration Manager in collusion with other members of staff in the Human Resource Department in connection with the Authority's medical scheme.

The investigation confirmed the allegations and further revealed that the Human Resource & Administration Manager had caused his own girlfriend who was neither a member nor a beneficiary of the KCAA medical scheme to be treated at a Nakuru Hospital during the period between February, 2008 and February, 2009 at the expense of the Authority and that to this end, he and his deputy made false representations vide letters of undertaking to the hospital indicating that the patient was a dependant of another member of staff, without the knowledge of the member of staff.

KACC forwarded the file to the Attorney General with recommendation for the prosecution of the suspects for the offences of conspiracy to defraud, contrary to section 317 of the Penal Code, Chapter 63 of the Laws of Kenya, abuse of office and fraudulent acquisition of public benefit, contrary to sections 45(1) (a) and 46 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Hon. Attorney General found evidence sufficient to sustain the charges preferred and directed that prosecution ensure

STATUS

The suspects were charged with the offence of conspiracy to defraud contrary to section 317 of the Penal Code and abuse of office contrary to section 45(1) (a) and 46 of the Anti-Corruption and Economic Crimes Act. Case part heard.

29. KACC/FI/INQ/102/2005 NO.5 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations of abuse of office against the former Town Clerk of the Municipal Council of Busia. It was alleged that upon

transfer to Busia, the officer stayed at a Busia hotel for several months at the expense of the Council. The investigation confirmed that because the institutional house for the Town Clerk had been leased out, the officer took full board accommodation at a hotel for eight months while at the same time drawing house allowance.

KACC forwarded the file to the Attorney General with the recommendation that the former Town Clerk be charged with fraudulent acquisition of public benefit, contrary to section 45(1)(a) of the Anti-Corruption and Economic Crimes Act, 2003, and that the sums thus acquired by the suspect be recovered by the Commission by way of civil action.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspect was charged with Fraudulent Acquisition of Public benefit contrary to section 45 (1) a as read with section 48 (1) and (2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003. Case part heard.

30. KACC (KACA).CR.142/331/2002 – COURT FILE NO. NAIROBI ACC. 33/2002 NO.6 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that two employees of the Kenya Revenue Authority had corruptly solicited for a bribe of Kshs. 500,000/= from the complainant as inducement to forbear collecting unpaid income tax for the period 1993 to 1999 alleged to be in the sum of Kshs. 8 Million. The investigation undertaken by the defunct Kenya Anti-Corruption Authority, established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offence of corruption in office contrary to section 3(1) of the Prevention of

Corruption Act, Chapter 65 of the Laws of Kenya that was then in force. Upon the repeal of that Act, the two suspects were discharged under section 89(5) of the Criminal Procedure Code, Chapter 75, and Laws of Kenya.

No action could be taken immediately with a view of having the suspects re-arrested and arraigned before court under the repealing law, namely, the Anti-Corruption and Economic Crimes Act, 2003, because a suspect in similar circumstances had filed **HCMA No. 994 of 2004: Republic Vs. the Chief Magistrate's Court, the Kenya Anti-Corruption Commission and the Attorney General, ex parte Antonine Auma Okoth**, seeking an order to prohibit the Kenya Anti-Corruption Commission and the Attorney General from pursuing charges against her under section 3(1) of the repealed Prevention of Corruption Act after the repeal of the Act. This matter, which had the effect of stalling all similar matters as the Anti-Corruption Court was reluctant to proceed before the High Court issued guidance on the way forward, was not concluded until 27th January, 2006, when the High court ruled that offences under the repealed Prevention of Corruption Act could be prosecuted, its repeal notwithstanding.

Thereafter, the Attorney General advised the KACC to re-evaluate the evidence in the file with a view of reviving the charges, taking into account the availability of the witnesses, the exhibits and the suspects. Upon such re-evaluation, it was established that although the suspects are available and still working for the Kenya Revenue Authority, it was not possible to obtain an independent witness to identify their voices in the tape-recorded conversation that is a key component of the prosecution evidence. The taped conversation was also found to be largely inaudible on account of the time lapse.

KACC forwarded the file to the Attorney General with the recommendation that the matter be dealt with administratively by the Commissioner General, Kenya Revenue Authority, granted the overwhelming evidence of misconduct on the part of the officers.

Upon perusal of the file Hon. Attorney General, concurred with the Proposal by KACC and directed that administrative action be taken against the suspects.

STATUS

The file was returned to KACC with directions that the matter be dealt with administratively.

31. KACC/AT/INQ/21/2009 NO.7 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations of irregular alienation of public land belonging to Eldoret Municipal Council. It was alleged that a former Mayor of Eldoret Municipal Council had irregularly sold a house belonging to the Municipal Council of Eldoret at Elgon View Estate to a certain businessman, and that the Mayor had illegally allocated public land belong to the Council to a company that he owned and thereafter caused the piece of land to be subdivided into smaller plots which he sold out.

The investigation established the following:

- a) That the plot in question belonged to Eldoret Municipal Council after the Council bought the same and was issued with a Certificate of Lease.
- b) The Council had developed the plot by constructing thirteen three bed-roomed houses thereon for its staff.

- c) The first letter of allotment issued in 1995 to the company owned by the former mayor was cancelled after it was discovered that the land had already been leased to the Council.
- d) A second letter of allotment was issued to the former Mayor's company in 1997 in unclear circumstances, since the certificate of lease was still in the hands of the Council. The plot was therefore not available for allocation by the Government to the former Mayor's company, granted the definition of "unalienated Government Land" in section 2 of the Government Lands Act, Chapter 280 of the Laws of Kenya.
- e) It was noted that the letter of allotment in favour of the former Mayor was "subject to the surrender of the existing title" and there being no such surrender by the Council, the allocation was irregular. Besides, the alleged surrender of lease by the Council was not ratified in a full Council meeting as required by section 144 of the Local Government Act, Chapter 265 of the Laws of Kenya.
- f) The former Town Clerk of the Municipal Council of Eldoret who colluded with the former Mayor in these irregular transactions has since died.

KACC forwarded the file to the Attorney General with the recommendation that the subject property be recovered by way of civil action since the evidence gathered was not sufficient to sustain criminal charges against the former Mayor. To that end, KACC has proceeded to file recovery suits against the former Mayor and others.

Upon perusal of the file, the Hon. Attorney General found the evidence insufficient to support any criminal charge and directed KACC to proceed with the civil suit pending in court for recovery of the Public Land.

STATUS

The file was returned to KACC with directions to proceed with the civil suit.

32. KACC/AT/INQ/55/2007 NO.8 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that a Police Officer in the rank of a Constable had acquired unexplained assets in the period that he had been deployed at the Gilgil Weighbridge.

It was specifically alleged that during the period in question, the suspect had acquired the following assets:

- a) A parcel of land located in Embu District.
- b) A hotel located at Runyenjes Township.
- c) Motor vehicle registration number KAX 599G
- d) A Toyota Premio motor vehicle.
- e) A club located at Naivasha Town.
- f) Huge cash deposits in his bank account at Equity bank.

The investigation undertaken by the Commission confirmed the allegations, whereupon, the suspect was served with a notice pursuant to section 26 of the Anti-Corruption and Economic Crimes Act, 2003, requiring him to furnish the Commission with an inventory of his

properties as well as an explanation as to how and when he acquired the same. The suspect's response was analyzed and found to be unsatisfactory, thereby raising reasonable suspicion that he may have acquired the property through corruption. Nevertheless, there was no evidence to sustain a criminal prosecution against him.

KACC forwarded the file to the Attorney General with the recommendation that forfeiture of the unexplained assets be pursued by KACC by way of civil action under section 55 of the Anti-Corruption and Economic Crimes Act, 2003. It was further recommended that administrative action be taken against the Police Officer by the Commissioner of Police.

Upon perusal of the file the Attorney General found the evidence insufficient to support any criminal charge and concurred with KACC recommendation that administrative action be taken.

STATUS

The file was returned to KACC with directions that recovery proceedings by way of civil suit be instituted against the suspect.

33. KACC (MSA)/FI/INQ/12/2008 NO.9 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that a clearing and forwarding company had bribed officers manning the Kenya Ports Authority Gate 18/20 with Kshs. 400,000/= to allow a consignment of sugar purported to be on transit to Uganda, to leave the Port of Mombasa without paying the Custom's warehouse rent. It was further alleged that the sugar had been diverted into the local market.

The investigation established that by the time the goods were released the warehouse rent had not been paid, and upon discovery of this fact,

the total sums due were computed and a demand for payment made to company. It was confirmed that the payment was made. In addition, a fine of Kshs. 1,200,000/= was imposed on the company by the Kenya Revenue Authority. It was further established that the failure by the clearing company to pay the warehouse rent before the sugar left the Port was occasioned by the negligence of two employees of the Kenya Revenue Authority, who although they computed the rent payable, did not ensure payment before release of the goods. There was otherwise no evidence that the clearing company had given a bribe of Kshs. 400,000/= as alleged.

KACC forwarded the file to the Attorney General with a recommendation for administrative action against the two employees of the Kenya Revenue Authority for their dereliction of duty.

Upon perusal of the file, Hon. Attorney General found the evidence insufficient to support any criminal charge and concurred with KACC recommendation for administrative action.

STATUS

The file was returned to KACC with directions that the matter be dealt with administratively.

34. KACC/AT/INQ/9/2007 NO.10 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that the Councillors and Chief Officers of the Municipal Council of Nakuru had failed to account for over Kshs. 200 Million utilized during the Financial Years 2002/2003 and 2003/2004. Following an audit that was undertaken by the Kenya National Audit Office, it was noted that the aforesaid sum remained unaccounted for, among other anomalies. The investigation by the Commission established that most of the concerns had been addressed by the

Council. On the issue of outstanding imprest that was the subject of this inquiry, it was noted that the Council had some Kshs. 4,351,190/= in outstanding imprest, which through the efforts of the Town Treasurer had been recovered substantially at the commencement of this inquiry. As at 31st January, 2009, the balance outstanding was Kshs. 88,826/= and the recovery process was confirmed to be ongoing still. There was otherwise no evidence of criminal culpability pointing to any particular officer as the anomaly was due to the Council's system's weakness.

KACC forwarded the file to the Attorney General with recommendation for closure.

Upon perusal of the file, the Honourable Attorney General found the evidence insufficient to support any criminal charge and concurred with KACC recommendation that the inquiry file be closed.

STATUS

The file was returned to KACC with directions that the same be closed.

35. KACC/INQ/17/20.5.04 NO.11 KACC 2ND QUARTERLY REPORT

Inquiry into an alleged fraudulent sale of a piece of land situated in the City of Nairobi by Kenya Railways Corporation to a certain company at Kshs. 77,130,000/= and its subsequent re-sale by the said company, owned by a former Permanent Secretary, to the National Social Security Fund at an exorbitant price of Kshs. 174,500,000/=. It was further alleged that the former Permanent Secretary used her influence in Government to coerce NSSF to purchase the property.

The investigation undertaken by the Commission confirmed that the Kenya Railways Corporation did advertise for sale some of its properties in Nairobi and other towns in the country. The need to dispose of the

properties arose from a restructuring programme that entailed staff downsizing, with attendant financial implications. The Kenya Railways Corporation adhered to the divestiture guidelines that were then in force and caused the plots earmarked for disposal, including the subject plot, to be valued by its valuers as well as by an independent valuer. The independent valuer returned a value of Kshs. 51,550,000/= for the subject plot. Thereafter Kenya Railways Corporation advertised the plots inviting bids for their sale. It was confirmed by the Commission that the bidding and evaluation process was above board, and the ultimate buyer was the highest bidder for the subject plot. Thereafter, the former Permanent Secretary, as the Managing Director of the purchasing company offered the property to NSSF for sale after applying for change of user from residential to commercial and obtaining an extension of the lease for the plot. It was ascertained that these changes had enhanced the value of the property.

The Board of the NSSF met severally to deliberate on the offer along with other offers and resolved to buy the property at Kshs.174,500,000/=. The decision was arrived at after several valuations had been undertaken at the instance of NSSF, and on the basis of the going price of adjacent plots. Additionally, members of the Board of NSSF who were interviewed by the Commission denied that the former Permanent Secretary exerted any pressure on them to purchase the property. In a peculiar turn of events, the property was thereafter declared a national monument under the provisions of the Antiques and Monuments Act, Chapter 215 of the Laws of Kenya (now repealed), vide Gazette Notice No. 2443 of 16th May, 1997, a move which NSSF has taken action to challenge by way of a civil suit, vide **Milimani HCCC 714 of 2003**. It emerged therefore that although there was strong suspicion of collusion and conspiracy between the former Permanent Secretary and the Board/Management of NSSF in the disposal of the property to NSSF, there was no evidence to sustain a criminal prosecution to the requisite standards.

KACC forwarded the file to the Attorney General with the recommendation that the inquiry file be closed.

Upon perusal of the file, the Attorney General found the evidence insufficient to support any criminal charge and concurred with KACC that the inquiry file be closed.

STATUS

The file was returned to KACC with directions to close.

36. KACC.CASUM NO. 11616/2007 NO.12 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations of corruption and abuse of office against the Solicitor General. A report was made to the Commission alleging that the Solicitor General had engaged in various acts of corruption and abuse of office with regard to procurement of goods, works and services. The investigation conducted into each of the allegations revealed that most of them were unfounded. In a few instances, it was observed that there were institutional weaknesses at the State Law Office, which could be remedied by administrative measures. There was otherwise no evidence of criminal culpability on the part of the Solicitor General in the instances reported and investigated.

KACC forward the file to the Attorney General with recommendation that the inquiry file be closed and that the administrative weaknesses noted be addressed by the State Law Office.

Upon perusal of the file, the Attorney General found the evidence insufficient to support any criminal charged and concurred with KACC that the matter be dealt with administratively.

STATUS

The file was returned to KACC with directions to deal with administratively.

37. KACC/FI/INQ/12/2009 NO.13 KACC 2ND QUARTERLY REPORT

This is an inquiry into allegations that some Members of Parliament and senior public servants unlawfully influenced the allocation of maize by the National Cereals and Produce Board (NCPB) to themselves and others by writing introductory notes to the management of NCPB. The investigation confirmed that several Members of Parliament and some Permanent Secretaries did issue introductory notes to NCPB as alleged, and that this was at a time when the country was facing an acute food shortage that prompted the trustees of the Strategic Grain Reserve Trust Fund to dispose of some maize from the Strategic Grain Reserve through NCPB. The categories of persons who were eligible to buy maize from the Strategic Grain Reserves were millers, institutions and other desperate cases. It was further established from the concerned NCPB officers that applicable guidelines were followed in the sale of the maize and that all requests were treated equally. Additionally, the investigations established that quite a number of the introductory letters were not complied with as they were received by NCPB after the Trustees of the Strategic Grain Reserves Fund had suspended the sale of their maize stock. It became apparent therefore that the notes did not in themselves accord the note bearers any advantage or benefit.

KACC forwarded the file to the Attorney General with the recommendation that the inquiry file be closed.

Upon perusal of the file, the Attorney General found the evidence insufficient to support any criminal charge and concurred with KACC recommendation that the inquiry file be closed.

STATUS

The file was returned to KACC with directions to close.

38. KACC/FI/INQ/19/2008 NO.14 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations of misappropriation of Kshs. 18 Million meant for the construction of Kehancha Municipal Stadium by a former Mayor. The investigation established that the contractor and the consultants were paid only for works and services rendered in accordance with the terms of the contract and hence, there was no indication that the funds were misused as alleged. Regarding allegations that the former Mayor converted some of the building materials to his personal use, the investigation revealed that it was the contractor's workers who removed some of the materials from the site because they had not received all their dues. Accordingly, there was no evidence to point to the criminal culpability of the former Mayor or any other suspect. The failure to complete the project as envisaged was directly attributable to the failure by the Municipal Council of Kehancha to avail sufficient funds for the project.

KACC forwarded to the Attorney General with recommendation for closure.

Upon perusal of the file Hon. Attorney General, found the evidence insufficient to support any criminal charge and concurred with KACC recommendation that the inquiry file be closed.

STATUS

The file was returned to KACC with directions to close.

**39. ACC.CR.141/632/2008 – COURT FILE NO. NAIROBI ACC. 37/2008
NO.15 KACC 2ND QUARTERLY**

This was an inquiry into allegations that an employee of the City Council of Nairobi had corruptly solicited for a benefit as inducement to release the complainant's bicycle, which she had confiscated, in the course of her duties, for breach of the bye-laws of the City Council of Nairobi. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found sufficient evidence to sustain the charges of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act and directed that the case in court proceed to its logical end.

STATUS

The suspect was charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

**40. KACC.CR.255/600/2008 – COURT FILE NO. NYE RI ACC. 9/2008
NO.16 KACC 2ND QUARTERLY REPORT**

This was an inquiry into allegations that a Clinical Officer based at Kirogo Heath Centre in Muranga District had corruptly solicited for a benefit that was an inducement for him to fill a medical examination report form (P3) for the complainant's niece. The investigation established the solicitation and receipt of the benefit by the suspect. He was arrested and charged

with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file the Attorney General, found the evidence sufficient to sustain the preferred charges and directed that the case in court proceed to the logical end.

STATUS

The suspect was charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

41. KACC.CR.444/133/2008 – COURT FILE NO. N AIROBI ACC. 9/2008 NO.17 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that the Chairman and a member of the Kangundo District Land Disputes Tribunal had solicited for a benefit from the complainant as an inducement to facilitate the arbitration of a land dispute involving the complainant. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file the Attorney General, found the evidence sufficient to sustain the preferred charges and directed that the case in court proceed to the logical end.

STATUS

The suspect was charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

42. KACC.CR.141/683/2008 – COURT FILE NO. N AIROBI ACC. 39/2008 NO.18 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that an employee of the City Council of Nairobi had corruptly solicited for a benefit from the Route Manager of a bus company operating within the City of Nairobi as an inducement to forbear charging one of their drivers with the offence of damaging a portion of a roadside pavement and a street light post. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file the Attorney General, found the evidence sufficient to sustain the preferred charges and directed that the case in court proceed to the logical end.

STATUS

The suspect was charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

**43. KACC (MSA).CR.021/16/2009 – COURT FILE NO. MOMBASA ACC. 4/2009
NO.19 KACC 2ND QUARTERLY REPORT**

This was an inquiry into allegations that an employee of a clearing and forwarding company based in Mombasa had corruptly solicited for a benefit as an inducement to facilitate the quick clearance and release of the complainant's container. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Mombasa Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file the Attorney General, found the evidence sufficient to sustain the preferred charges and directed that the case in court proceed to the logical end.

STATUS

The suspect was charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

44. KACC (MSA).CR.021/46/2008 – COURT FILE NO. MOMBASA ACC.
5/2008
NO.20 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that an agent of the Kenya Power & Lighting Co. Ltd, based in Mombasa had corruptly solicited for a benefit from the complainant as an inducement to facilitate the installation of electricity supply to his premises situated in Bamburi Area. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Mombasa Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical end.

Upon perusal of file the Attorney General, found the evidence sufficient to sustain the preferred charges and directed that the case in court proceed to the logical end.

STATUS

The suspect was charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act.

45. KACC.CR.736/21/2009 – COURT FILE NO. NAKURU ACC. 351/2009
NO.21KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that a Public Health Officer based at Kitengela Township had corruptly solicited for a benefit from the complainant as an inducement to forbear charging his friend with the offence of hawking *samosas* under unsanitary conditions. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and

receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nakuru Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file the Attorney General, found the evidence sufficient to sustain the preferred charges and directed that the case in court proceed to the logical end.

STATUS

The suspect was charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

46. KACC (MSA).CR.346/33/2009 COURT FILE MOMBASA ACC. 1/2009 NO.22 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that two police officers attached to Kilifi Police Station had corruptly solicited for a benefit from the complainant and his driver as an inducement to forbear charging the driver with the offence of driving a defective motor vehicle on a public road and to release the lorry which had been detained by the officers in the course of their traffic duties. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file the Attorney General, found the evidence sufficient to sustain the preferred charges and directed that the case in court proceed to the logical end.

STATUS

The suspects were charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

**47. KACC.CR.030/05/2009 – COURT FILE NO. NAKURU ACC.
847/2009
NO.23 KACC 2ND QUARTERLY REPORT**

This was an inquiry into allegations that the Officer in charge of Rongai Police Station had corruptly solicited for a benefit from the complainant as an inducement to forbear charging her husband with the offence of robbery with violence. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nakuru Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file the Attorney General, found the evidence sufficient to sustain the preferred charges and directed that the case in court proceed to the logical end.

STATUS

The suspect was charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

**48. KACC.CR.141/112/2009 COURT FILE NO. NAIROBI ACC.5/2009
NO.24 KACC 2ND QUARTERLY REPORT**

This was an inquiry into allegations that two employees of the City Council of Nairobi had corruptly solicited for a benefit from the complainant as an inducement to forbear demolishing his food kiosk at Dagoreti Corner. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical end.

Upon perusal of file the Attorney General, found the evidence sufficient to sustain the preferred charges and directed that the case in court proceed to the logical end.

STATUS

The suspects were charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

49. **KACC.CR.764/468/2008 COURT FILE NO. NAKURU ACC. 6/2008**
NO.25 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that a Senior Resident Magistrate and a Police Officer attached to Engineer Law Courts in Naivasha had corruptly solicited for a benefit from the complainant as an inducement to release her mother, whose case was pending before the Senior Resident Magistrate's Court, from custody. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offences of conspiracy to commit an offence of corruption as well as soliciting and receiving a benefit contrary to section 39(3)(a) and 47A(3) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Their case is pending before the Nakuru Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file the Attorney General, found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspects were charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

50. **KACC.CR.255/53/2009 – COURT FILE NO. NYERI ACC. 2/2009**
NO.26 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that a Volunteer Children's Officer based in Kikuyu Division of Kiambu Central District had corruptly solicited for a benefit from the complainant as an inducement to issue him with a

letter granting him custody of his son, his estranged wife having consented to the arrangement. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file, the Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

51. KACC.CR.021/79/2008 – COURT FILE NO. MOMBASA ACC. 6/2008 NO.27 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations the three employees of the Municipal Council of Mombasa had corruptly solicited for a benefit from the complainant as an inducement to release her tents that had been confiscated by the officers on account of alleged illegal hawking. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offences of corruptly soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Mombasa Anti-Corruption Court.

KACC forwarded the file to the Attorney General the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file the Attorney General, found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspects were charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

**52. KACC.CRI.121/784/2008
KACC.CR.255/53/2009 – COURT FILE NO. NYERI ACC. 2/2009
NO.28 KACC 2ND QUARTERLY REPORT**

This was an inquiry into allegations that a Security Manager with a certain company based in Thika had corruptly solicited for a benefit from the complainant, the Operations Manager of a security firm, as an inducement to facilitate the renewal of a contract for the provision of security services by the security firm to the company. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nyeri Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of file the Attorney General, found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of corruption contrary to section 39(3) of the Anti-Corruption and Economic Crimes Act. Case part heard.

C) FILES SUBMITTED IN THE THIRD QUARTER OF THE YEAR

1ST JULY TO 30TH SEPTEMBER 2009

53. KACC/FI/INQ/59A/07
NO. 1 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations of conflict of interest against the then District Works Officer, Narok District. Following allegations that some Government officers based in Narok District had formed some companies through which they were trading with their employer, KACC carried out investigations and confirmed the allegations to be true in respect of some of the officers. One of the officers was the District Works Officer who was found to have personal interest in a construction company. It was further established that he had voted in favour of the company in his official capacity and had drawn the tender documents on the basis of which the company submitted its bid for the contract for the construction of Narok Law Court building.

KACC forwarded the file to the Attorney General with recommendation that the suspect be charged with failure to disclose a private interest to his principal and knowingly holding a private interest in a contract connected with a public body contrary to sections 42(1) and 42(3) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspect was charged with the offence of failure to disclose a private interest to his principal and knowingly holding a private interest in a contract connected with a public body contrary to sections 42(1) and

42(3) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. Case part heard

**54. KACC/FI/INQ/24/2009
NO. 2 KACC 3RD QUARTERLY REPORT**

This was an inquiry into allegations that the trustees of the Strategic Grain Reserve Fund (SGR) had allocated 1.2 million bags of maize from the SGR, whereas the Cabinet approval was only for 700,000 bags. The investigation confirmed that the Cabinet met on 27th November, 2008 and approved the release of 700,000 bags of maize from the Strategic Grain Reserve to alleviate the maize shortage being experienced in the country at the time. It was further established that the Cabinet also set up an *ad hoc* Food Security Committee with the mandate to critically analyze the food situation in the country and to negotiate reasonable prices of maize flour with the millers. It was in furtherance of this mandate that the committee reached a decision for the release of 1.2 bags of maize from the SGR by the trustees. Thereafter, the National Cereals and Produce Board complied with the guidelines given by the trustees as regard the allocation of the maize to the millers and the allocations were well documented. Thus, no wrongdoing or irregularity was unearthed by the investigation.

KACC forwarded the file to the Attorney General with the recommendation that the inquiry file be closed.

Upon perusal of the file, the Hon. Attorney General found the evidence insufficient to support any criminal charged and concurred with KACC recommendation to close the inquiry file.

STATUS

The file was returned to KACC with directions to close.

55. **KACC.CR.255/80/2009 – COURT FILE NO. NYERI ACC. 4/2009**
NO. 3 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that two police officers attached to Embu Divisional Criminal Investigations Department (CID) Office had corruptly solicited for a benefit from the complainant as an inducement to release his motor vehicle registration number KBA 275W, a Toyota Station Wagon, which they had detained in the course of their investigations. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nyeri Anti-Corruption Court.

KACC forwarded the file to the Attorney General with a recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspects were charged with the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 25th February, 2010.

56. **KACC.CR.170/116/2009 – COURT FILE NO. N AIROBI ACC. 13/2009**
NO. 4 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that a police officer attached to the Traffic Department, Nairobi Area, had corruptly solicited for a benefit from the complainant as an inducement to release his motor vehicle registration number KBA 660G, a Toyota Station Wagon, which had been

detained at Nyayo Stadium Police Post on account of a broken windscreen. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Case finalized. Accused acquitted under Section 215 of the Criminal Procedure Code.

57. KACC.CR.449/66/2009 – COURT FILE NO. EMBU ACC. 1/2009 NO. 5 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that the Town Treasurer of the Town Council of Matuu had corruptly solicited for a benefit from the complainant as an inducement to release a cheque for Kshs. 192,500 to him. The cheque was due to the complainant on account of goods sold and delivered to the Council. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and

Economic Crimes Act, 2003 and the case is pending before the Embu Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 25th March, 2010.

58. KACC.CR.030/07/2009–COURT FILE NO. NAKURU ACC. 1602 /2009 NO. 6 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that the proprietor of Gilgil Hills Academy had corruptly solicited for a benefit from the complainant as an inducement to forbear publishing a story about the mysterious death of a pupil at the said school in the month of July, 2008. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of offering and giving a benefit contrary to section 39(3) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 29th and 30th March, 2010.

59. KACC.CR.921/329/2009 – COURT FILE NO. KISUMU ACC. 15 0/2009 NO. 7 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that a Senior Principal Magistrate and a Court Clerk attached to Kakamega Law Courts had corruptly solicited for a benefit from the complainant as an inducement for the Senior Principal Magistrate to deliver a favourable judgment in a case of robbery with violence that was pending before him against the complainant's brother. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Kisumu Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspects were charged with the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 31st March, 2010.

60. KACC.CR.925/97/2009 – COURT FILE NO. KAKAMEGA ACC. 1/2009 NO. 8 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that a Journalist with the Weekly Citizen Newspaper based in Mumias Town had corruptly solicited for a benefit from the complainant as an inducement to forbear publishing an adverse report against the complainant in the said newspaper. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Kakamega Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Case part heard.

D) FILES SUBMITTED PERIOD FOURTH QUARTER OF THE YEAR

1ST OCTOBER TO 31ST DECEMBER 2009

61. KACC/INQ/AT/08/2008 (a)
NO. 1 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations of issuance of a fraudulent Letter of Consent and Clearance Certificate for 9,394 acres of land belonging to Miwani Sugar Company (1989) Ltd [In Receivership]. It was alleged that the said parcel of land valued at Kshs. 2 Billion had been fraudulently transferred to a company known as Crossley Holdings Ltd. The Kenya Sugar Board, the debenture holders of the property were organizing to sell the property through competitive bidding when they learnt that the same had been sold through a public auction in purported execution of a court decree. The investigations unearthed a maze of conspiracies involving an advocate, a magistrate and a number of personalities aimed at ensuring that the ownership of the public property whose value is more than Kshs 2 Billion passed to the said Crossley Holdings Ltd.

KACC forwarded the file to the Attorney General recommending prosecution of the suspects for the following offences:

- (i) Conspiracy to defraud contrary to Section 47 A (3) of the Anti Corruption and Economic Crimes Act.
- (ii) Fraudulent disposal of public property contrary to section 45(1) (b) of the Anti corruption and Economics Crime Act.
- (iii) Fraudulent acquisition of public property contrary to Section 45(1) (9) of the Anti Corruption and Economic Crimes Act. The Magistrate to be dealt with administratively.

Upon perusal of the file, the Attorney General found sufficient evidence to support the proposed charges and directed prosecution to ensue against all the suspects together with the Magistrate.

STATUS

Before filing of the charges in court, KACC resubmitted the file to the Attorney General for reconsideration in the light of representations made by the suspect's advocates.

Before the suspects were arrested and arraigned in court, an order staying the arrest and prosecution as well as the Attorney General's decision was issued by the High court in Kisumu in the High Court Miscellaneous Civil application Number 12 of 2010.

62. KACC/FI/INQ/90/08 NO. 2 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that the National Social Security Fund (NSSF) lost Kshs. 1.4 billion of pension funds through irregular trading in shares through M/S Discount Securities Limited (DSL). Investigations revealed that Discount Securities Ltd was one of the approved stockbrokers that NSSF utilized in the purchase of shares in accordance with its investment policy. It was also established that whereas NSSF had made payments totalling to Kshs. 2.3 Billion to Discount Securities Ltd for the purchase of shares, Discount Securities Ltd had not fully accounted for the same. It was evident that as a result of collusion between some NSSF officials and Discount Securities Ltd, the latter irregularly received Kshs. 1.6 Billion for which it never acquired shares as ordered by NSSF.

KACC forwarded the file to the Attorney General with the recommendation that the officers at NSSF be charged with the offences of fraudulent disposal of public property and fraudulently making payment from public property contrary to section 45(1) and 45(2), respectively, of the Anti-Corruption and Economic Crimes Act. It was also

recommended that directors of various investment companies that were part of the shares scam be charged with fraudulent acquisition of public property as well as conspiracy to defraud the public. A further recommendation was made to have the Civil Litigation and Asset Recovery Department of the Commission institute recovery proceedings for the sum of Kshs. 1.2 Billion being the value of undelivered shares to NSSF in order to safeguard the public interest.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue, an additional charge of theft by agent contrary to section 270 of the Penal Code.

STATUS

Before filing of the charges in court, KACC resubmitted the file to the Attorney General requesting for a review of the charges.

63. KACC/FI/INQ/89/08 NO. 3 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations of irregular sale and transfer of plot numbers 209/11219, 209/12220, 209/12287, 209/11331 and 209/11412 held by the NSSF at the Nairobi central business district valued at Kshs.1.37 billion. It was alleged that the said plots had been irregularly sold and transferred to a private developer. After evaluation of evidence, it was ascertained that on 4th December 2007, a company by the name Delta Resources Ltd offered to purchase the property at Kshs 1.375 Billion. The said company paid a deposit of Kshs 137,500,000.00 upon which a sale agreement was prepared between the company and the NSSF. Before the balance of the purchase price was paid, the Fund's management executed and registered the transfer of all the plots to another company known as Delta Square Ltd, which was said to be a nominee of Delta Resources Ltd. Shortly thereafter, the new company purported to have noted some discrepancy in the size of one of the plots for which reason

they declined to release the balance of the purchase price to the NSSF. The investigations unveiled a number of irregularities commencing from the time of the acquisition of the said plots to the moment of their disposal by the NSSF. The irregularities involved a number of personalities and were perpetrated over a period of time.

KACC forwarded the file to the Attorney General with recommendation that the suspects be charged with the following offences:

- i) Fraudulent making payment from public property contrary to section 45(2) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act.
- ii) Abuse of office contrary to Section 46 as read with Section 48 of the Anti Corruption and Economic Crimes Act.
- iii) Various counts of knowingly acquiring private interest in a contract involving the Principal contrary to Section 42(3) as read with Section 48 of the Anti-corruption & Economic Crimes Act.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

The suspects were charged with the above named offences. Fresh matter, hearing on 30th March 2010.

64. KACC/FI/INQ/96/2008 ACC I 12010 NO. 4 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations of misappropriation of Kshs. 536,986,493/= belonging to the Kenya Medical Research Institute (KEMRI) Staff Retirement Benefits Scheme by the former Director, and other

Trustees. The investigation revealed that the contributions to the Scheme, which was being managed by a Board of Trustees, were paid into two bank accounts held with Standard Chartered Bank. Following the appointment of an Interim Administrator of the KEMRI Staff Retirement Benefits Scheme, it was discovered that there were questionable payments of Kshs. 536,986,493/= made from the Scheme funds by three of the Trustees. The said Trustees were the signatories of the Scheme Fund account and hence were accountable for the funds that were misappropriated.

KACC forwarded the file to the Attorney General with the recommendation:

- (i) That the three Trustees of the KEMRI Staff Retirement Benefits Scheme be prosecuted for fraudulent disposal of public property contrary to section 45 (1) of the Anti – Corruption and Economic Crimes Act. It was noted that not all the Trustees administered the Scheme fund in line with the applicable law and are therefore jointly culpable.
- (ii) That all the beneficiaries of the misappropriated funds be charged with fraudulent acquisition of public property.
- (iii) That the funds in question be recovered through the Civil Litigation and Asset Recovery Department of the Commission.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed that prosecution ensue.

STATUS

The suspects were charged with the above named charges. Hearing on 16th March 2010.

65. KACC/ AT/INQ/29/09 NO. 5 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegation that the Managing Director, School Equipment (SEPU) abused his office by improperly conferring a benefit of Kshs. 226,772,450/= to Vulcan Lab Equipment Ltd by awarding the company a contract to supply school equipment. The investigation revealed that after the Ministry of Education established that funds disbursed directly to schools for the purchase of lab equipment was not being properly utilized; the Ministry identified two Laboratory science equipment suppliers that had the approval of Kenya Institute of Education. A sum of Kshs. 261,326,532/= was set aside for the purchase of laboratory equipment to secondary schools. Once this money was deposited in SEPU account, the Finance and General Purposes Committee recommended that the suspect, who was the MD of SEPU, should write to the Ministry of Education to seek guidance whether SEPU would use the African Development Bank (ADB) Project procurement process or SEPU'S in-house procurement procedures.

Contrary to the said recommendation, the suspect caused to be prepared by the procurement officer, a requisition to Vulcan Lab Equipment Supplies Limited for the supply of science kits at a cost of Kshs. 75,086,880/= and proceeded to pay for the goods upfront. The evidence gathered revealed that the actions by the suspect and his accomplices were in contravention of the Public Procurement and Disposal Act, 2005, which requires that all public procurement be done in accordance with the Act.

KACC forwarded the file to the Attorney General with the recommendation that the MD of SEPU and three others be charged with the offence of wilful failure to comply with applicable procurement procedures contrary to section 45(2) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, and an alternative charge of abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue against the suspects and the Managing Director of Vulcan Lab Equipment Supplies Limited.

STATUS

The suspects were charged with the above named offences and an additional count of conspiracy to commit an offence contrary to Section 47 a (3) as read with section 48 of the Anti Corruption and Economic Crimes Act. Fresh case, hearing on 1st April 2010.

66. KACC/FI/INQ/23/2009 NO. 6 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations of irregular payment of Kshs. 112,648,108.50 as plot rent for NSSF Plot Number LR/209/11412 by former Managing Trustee and former Corporation Secretary of NSSF. The investigation revealed that to facilitate the transfer of the said plot, which had been earmarked for sale, a rent demand notice, was raised by the Land Rent Section at the Department of Lands. It was indicated that the outstanding rent for the said plot was Kshs. 112,648,108.50. The Managing Trustee and the Corporation Secretary authorized the payment of the said amount although it later emerged that the demand notice was raised in error. This was because the two officers did not involve the Investment Department in verifying the claim. Whereas the Commission

was of the opinion that there was carelessness on the part of the NSSF officials regarding the manner in which such a large sum of money was paid by NSSF, there was no criminal culpability that would warrant a possible prosecution, granted that the money was duly accounted for and ultimately remitted by Kenya Revenue Authority to the Central Bank of Kenya.

KACC forwarded the file to the Attorney General with recommendations that:

- (i) That the NSSF and Lands officials be dealt with administratively.
- (ii) That NSSF should, in liaison with the Civil Litigation and Asset Recovery Department of the Kenya Anti-Corruption Commission, recall the funds erroneously paid to KRA.

Upon perusal of the file, the Attorney General found gaps and deficiencies in the investigations and directed that further investigations be carried out and the file resubmitted for directions. On resubmission, Attorney General found sufficient evidence and directed that charges be preferred against the suspects.

STATUS

The suspects were charged with various counts of:

- i) Abuse of office contrary to Section 46 as read with section 48 of the Anti-Corruption & Economic Crimes Act.
- ii) Fraudulent payment from public property contrary to Section 45(2) (a) of the Anti Corruption & Economic Crimes Act.

- iii) Conspiracy to defraud contrary to Section 317 of the Penal Code.

The case was consolidated with No. 3 KACC 4th Quarterly report hearing on 30th March 2010.

**67. KACC/FI/INQ/11/08
NO. 7 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegation of fraudulent disposal of public property belonging to Kenya Reinsurance Corporation (Kenya Re) by the former Director of the Finance and Corporate Services at the Corporation. The investigation showed that the Finance Director demanded payment for Kshs. 2,865,507/= from Kenya Alliance Insurance Company on account of outstanding balance of cash calls due to Kenya Re. The Reinsurance Supervisor prepared a payment note and a cheque was prepared which he collected. Kenya Re issued a letter of offer to purchase its property at Villa Franca to the Reinsurance Supervisor (suspect). The latter completed the acceptance form and the cheque that had earlier been issued by Kenya Alliance was attached as payment for the property. A sale agreement was later prepared and a transfer of the property to the suspect was executed and registered. The investigation showed that the suspect acquired the property for no consideration and that he fraudulently misled Kenya Re by representing that the payments from Kenya Alliance were towards the purchase of the Corporation's property at Villa Franca Estate. The officer-manipulated payments meant for cash calls and caused them to be applied towards the cost of the house.

KACC forwarded the file to the Attorney General with the recommendation (i) that the Reinsurance Supervisor at Kenya Re be charged with fraudulent acquisition of public property contrary to section 45(1) of the ACECA. (ii) Institution of civil proceedings to recover

the house number 287 Villa Franca Estate situated on L.R No. 209/106611/189 and restore its ownership to the Corporation.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue as recommended.

STATUS

Subsequently KACC resubmitted the file to the Attorney General in February, 2010 with recommendation that the suspects having repaid the amount fraudulently acquired in full, the prosecution should not ensue as per section 56(3)(b) of the Anti corruption & Economic Crimes Act.

68. KACC/FI/INQ/21/09 NO. 8 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that money intended to be paid to Internally Displaced Persons (IDPs) sent to Molo District was not properly utilized for the intended purpose. It was also reported that a councillor in Sachangwan area of Molo District had presented to the Minister for Special Programmes a list of about 200 persons who had allegedly been paid money intended for the IDPs, though the said persons had actually not received the same. Following the allegations, KACC carried out investigations and confirmed the allegations to be true. It was established that a sum of Kshs. 8,750,000 meant for IDPs was paid to fictitious persons based on documents that were forgeries.

KACC forwarded the file to the Attorney General with a recommendation that the two suspects involved in the embezzlement of the IDPs funds be charged with the offences of:

- i) Fraud by persons employed in the public service contrary to section 127 (1) and 127 (2) of the Penal Code.

- ii) Forgery contrary to section 349 of the Penal Code, and
- iii) False accounting by a public officer contrary to section 331 of the Penal Code.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the charges recommended by KACC and directed that prosecution ensue after addressing certain areas by way of further investigations.

STATUS

The suspects were charged with the following offences:-

- i) Fraud by persons employed in the public service contrary to section 127 (1) and 127 (2) of the Penal Code.
- ii) Forgery contrary to section 349 of the Penal Code, and
- iii) False accounting by a public officer contrary to section 331 of the Penal Code.

69. KACC. MSA. FI/INQ/7/2009 NO. 9 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations of failure by officials of Lamu West Constituency Development Fund Committee to comply with procurement procedures in the award of a contract for the construction of classrooms at Hongwe Secondary School. The investigation revealed that whereas the contract to construct the classrooms, a project approved by the CDF Board was awarded to a contractor, the procurement procedures as set out in the Public Procurement and Disposal Act, 2005 were not complied with. Instead, an official of the

Lamu West CDF Committee single sourced the contractor without reference to other CDF officials.

KACC forwarded the file to the Attorney General with the recommendation that the said CDF official be charged with the offence of wilful failure to comply with applicable procurement procedures contrary to section 45(2) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Attorney General found the evidence sufficient to support the proposed charges and directed that prosecution ensue and administrative action to be taken against an officer with the Ministry of Public Works.

STATUS

The suspects were charged with the above named offences. Fresh matter.

70. KACC/FI/INQ/139/09 NO. 10 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations of embezzlement of Kshs. 102,000 for Western Kenya Community Driven Development and Flood Mitigation Project by the Busia District Project Coordinator. The investigation revealed that the District Project Coordinator (suspect) received an imprest of Kshs. 102,000 to cater for training expenses, but the training was not carried out. The witnesses who were interviewed confirmed that the training was not carried out and some of the alleged recipients of the money also confirmed that they did not receive any allowances as alleged by the suspect. The suspect misappropriated the imprest he received. In an attempt to account for the imprest, the suspect used false documents to surrender the same.

KACC forwarded the file to the Attorney General with the recommendation that the suspect be charged with the offences of fraudulent acquisition of public property contrary to section 45(1) of the Anti-Corruption and Economic Crimes Act, as well as forgery and uttering a false document contrary to sections 349 and 353 of the Penal Code, respectively.

Upon perusal of the file, the Attorney General found the evidence sufficient to support the proposed charges and directed prosecution to ensue with an additional charge of forgery contrary to section 349 of the Penal Code.

STATUS

The suspect was charged with the above named offences. Hearing on 18th March 2010.

71. KACC/FI/INQ/29/09 NO. 11 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that the National Aids control Council (NACC) awarded a system security contract worth Kshs.1, 432,836.06 to M/s UUNET (K) Ltd, which contract was not reduced into writing and that whereas the contract price included a training component, no training was conducted. The investigation revealed that NACC awarded a contract for the provision of a system Security solution to M/s UUNET (K). The contract had a training component. The evidence gathered showed that UUNET (K) installed the security systems in terms of the contract. They also provided the training in accordance with the requirements of the contract. The payment made by NACC was for services that were satisfactorily rendered. There was no evidence of any wrongdoing on the part of the NACC officials to warrant any action being taken against them.

KACC forwarded the file to the Attorney General recommending that the inquiry file be closed.

Upon perusal of the file, the Attorney General found no evidence to support any criminal charge and accepted KACC recommendation to close the inquiry file.

STATUS

The inquiry file was returned to KACC with directions to close.

72. KACC/MSA/FI/INQ/NO. 11/2009 NO. 12 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that a road reserve in Mtwapa area had been illegally acquired by a former public officer. From the investigation carried out, KACC established that the plot in question was validly and legally allocated to the said public officer. It was also established that the road in question that appears to have cut across the plot was closed in a survey carried out sometimes in the late 1970's. The plot allocated to the former public officer was in existence much earlier before the road network covering the area was established. The investigation did not reveal any illegality in the manner in which the former public officer acquired plot number MN/III/594 which was alleged to be a road reserve.

KACC forwarded the file to the Attorney General recommending the closure of the inquiry file.

Upon perusal of the file, the Attorney General found gaps and deficiencies in the investigations and directed that further investigations be conducted in the outlined areas.

STATUS

The file was returned to KACC with directions to conduct further investigations and resubmit to the Attorney General.

73. KACC. MSA INQ/FI/15/2009
NO. 13 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations of fraudulent loss of Kshs. 7.9 Million by Mombasa Water and Sewerage Company Limited (now defunct) through fraudulent waivers of customer's water bills. It was reported that the waivers were facilitated through collusion between the Commercial Manager, his staff and some customers. The allegations about the fraudulent waivers were made in respect of six accounts. The investigation revealed that several complaints by customers arose as a result of over-billing, meter breakdown, wrong meter reading and billing where no services had been rendered. The investigation showed that after all the documents relating to the six accounts were examined, it was ascertained that all the adjustments made were justified. The adjustments were occasioned after errors were detected in the billings. The officers from the Water Company involved in the adjustments confirmed that the adjustments in respect of the six accounts were regular. There was no fraudulent waiver of customers water bills contrary to the allegations made. None of the officers at the water company were found culpable for any fraudulent waivers to warrant any action.

KACC forwarded the file to the Attorney General recommending that the inquiry file be closed.

Upon perusal of the file, the Attorney general found the evidence insufficient to support any criminal charge and accepted KACC's recommendation to close the file.

STATUS

The inquiry file was returned to KACC with directions to close.

74. KACC/FI/INQ/2/08
NO. 14 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegation of irregular plot allocations by the Meru County Council. The report made to KACC was to the effect that the Meru District Physical Planning Officer had colluded with the County Council of Meru to irregularly allocate plots at Gatimbi Market. The irregularities were alleged to have occurred when the Council decided to plan the market and allocate plots. In the process of planning, persons who had for a long time occupied some of the plots were not considered for allocation and as such, the plots they occupied were allocated to other persons. One such person who had all along occupied "plot number 28" made the report to the Commission after his plot was allocated to other persons. The investigation revealed that at the time the said complainant developed the plot, the market had not been planned through an approved sketch plan made by the Council. The Director of Physical Planning has legal mandate to plan any Government land or Trust land within a local authority with reference to any market or trading centre and prepare a local physical development plan. In doing so, the director is not obliged to take into account any developments that had taken place before planning. The Investigation showed that there was no evidence to show that the officials at the Meru County Council of Department of Physical Planning made irregular plot allocations as alleged.

KACC forwarded the file to the Attorney General recommending that the inquiry file be closed.

Upon perusal of the file, the Attorney General found no evidence to support any criminal charge and accepted KACC recommendation to close the inquiry file.

STATUS

The file was returned to KACC with directions to close.

75. KACC/FI/INQ/33/2008 NO. 15 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegation of irregular procurement of M/s Enablis Entrepreneurial Network East Africa as a Financial Intermediary by the Youth Enterprise Development Fund Board (YEDFB). The report made was to the effect that Enablis was engaged by the YEDFB without following the laid down procurement procedures. The evidence gathered in the investigation showed that a loan agreement was entered between the YEDFB and Enablis. The main feature of the loan agreement was the concept of matching funds. The agreement was that the YEDFB would loan Enablis Kshs. 300,000,000 for on lending to qualifying Kenyan youth. As a pre-condition to the loan, Enablis was supposed to prove that they had similar matching funds of the same sum.

The matching funds from Enablis would also be available for lending to the youth. The investigation established that:

- (i) In engaging Enablis, the laid down procurement procedures were not followed. It was evident that Enablis was contracted through direct procurement without the requisite approval of the tender committee.

- (ii) There were differences between the Board and the management of the YEDF as concerns its partnership with Enablis. The Board insisted that the partnership was of great benefit to the Kenyan youth while the management was of the view that it was a risky venture since Enablis was a new entity in Kenya and were apprehensive of loaning such a large sum to them without security. Secondly, whereas the CEO of the YEDFB sought the advice of the Attorney General and the Public Procurement Authority, the Board was of the view that the

partnership between the YEDFB and Enablis was a public-private partnership and therefore outside the ambit of the Public Procurement and Disposal Act, 2009, granted that the rules for public-private partnership procurement had not been operationalized.

KACC forwarded the file to the Attorney General with the recommendation that the Loan agreement be cancelled pursuant to an appropriate exit clause in the said agreement in view of the fact that no money had been released to Enablis.

Upon perusal of the file, the Attorney General found gaps and deficiencies in the investigation and directed that further investigations be carried out and the file resubmitted for further directions.

STATUS

The file was returned to KACC with directions to conduct further investigations and resubmit the file.

76. KACC/FI/INQ/31/2009 NO. 16 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations of embezzlement of Kshs. 1.141 Million by the senior management of the National Aids Control Council (NACC) in making payments to M/S Communications Solutions Limited (Access Kenya) for unsupplied internet services. The investigation revealed that sometime in 2007, NACC awarded a contract for the provision of internet services to Access Kenya, for a period of one year, and for a sum of Kshs. 1.141 Million. The investigation further showed that upon execution of the agreement, Access Kenya installed and configured the internet services under the terms of the contract. The evidence obtained showed that NACC paid the contract sum to Access Kenya after satisfactory provision of internet services by the latter. There

was no evidence of embezzlement of the money by NACC officials to warrant any action being taken against them.

KACC forwarded the file to the Attorney General recommending that the inquiry file be closed.

Upon perusal of the file, the Attorney General found the evidence insufficient to support any criminal charge against the suspects and accepted KACC recommendation to close the file.

STATUS

The file was returned to KACC with directions to close.

77. KACC CR. 032/16/2009: COURT FILE NO. KISUMU ACC. 194/2009 NO. 17 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that a Constable with the Municipal Council of Kisumu had solicited for a benefit from the complainant as an inducement to forbear charging the complainant with the offence of constructing a building without an approved plan from the Council. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Case part heard.

**78. KACC.CR.216/83/08: COURT FILE NO. NYERI ACC. 6/2009
NO. 18 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegations that a Senior Clerical Officer based at Githunguri D.O's office had solicited for a benefit from the complainant as an inducement to release Land Control Board Consent Application forms in respect of two parcels of land belonging to the complainant, for presentation to the Land Control Board. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Case part heard.

**79. KACC CR. 141/528/2009: COURT FILE NO. NAIROBI ACC. 21/2009
NO. 19 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegations an employee of Lumumba & Lumumba, Advocates, had solicited for a benefit from the complainant as

an inducement to facilitate the registration of a Trust Deed for a Trust known as People for Rural Change Trust at the Lands office. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Case part heard.

**80. KACC CR. 021/53/2009: COURT FILE NO. MOMBASA ACC. NO. 6/2009
NO. 20 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegations of impersonation by a suspect who represented himself to CID officers attached to Compact Container Freight Station as an investigator with KACC. The said impersonator also presented himself as a police officer attached to the Special Crime Prevention Unit, Kiambu. The investigation showed that the suspect went to an employee of Kenya Revenue Authority and purported to have been sent to investigate the said officers. When the officer raised concerns about the said person, the CID officers were called and the person alleged that he was an employee of KACC. The suspect was arrested and charged with the offences of impersonating a person employed in the public service and impersonating a KACC investigator.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case filed in court proceed to its logical conclusion.

STATUS

The suspect was charged with the offence of impersonating a KACC investigator contrary to section 34(10 and 34 (2) of the Anti-Corruption and Economic Crimes Act and impersonating a person employed in the public service contrary to section 105 (b) of the Penal Code. Case part heard.

81. KACC CR. 021/23/2009: COURT FILE NO. MOMBASA ACC. 5/2009 NO. 21 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that an employee of Kenya Revenue Authority had the tendency of corruptly soliciting for and receiving bribes from clearing agents and importers as an inducement to assist them in speedy clearance of their containers. Upon receiving the anonymous report, KACC carried out surveillance to monitor the activities of the said officer. On monitoring his activities for a week, the suspect was found to have kept Kshs. 548,416/= and USD 1,105/= in his car boot and a further Kshs. 300,000/= in his house. To successfully prosecute the suspect with the offences of corruptly soliciting and receiving a benefit, the evidence of the various agents and importers was crucial. None of the agents could be traced to verify the allegations or to confirm that any bribe was demanded from them.

KACC forwarded the file to the Attorney General with the recommendation that the case in court be withdrawn as the charges could not be sustained and asset recovery be pursued.

Upon perusal of the file, the Attorney General found the evidence insufficient to support any criminal charge against the suspect and accepted KACC's recommendation to withdraw the charges filed in court.

STATUS

The case filed in court was withdrawn under section 87 (a) of the Criminal Procedure Code, due to lack of evidence.

82. KACC CR. 141/638/2009: COURT FILE NO. NAIROBI ACC. 25/2009 NO. 22 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that a Police Corporal attached to Kileleshwa Police Station corruptly solicited for a benefit from the complainant as an inducement to release the complainant's mobile phone, which the suspect had confiscated. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 16th March 2010.

83. **KACC CR. 141/466/2009: COURT FILE NO. NAIROBI ACC. NO. 7/2009
NO. 23 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegation that the Assistant Chief of Savannah Sub-Location corruptly solicited for a benefit from the complainant as an inducement to allow Maximizing Facts on HIV/AIDS Youth Group to construct an Orphan Rescue Centre in Soweto slums. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Case part heard.

**84. KACC CR. 440/386/2009: COURT FILE NO. EMBU ACC. 3/2009
NO. 24 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegation that a Clerical Officer with the Ministry of Immigration and Registration of Persons corruptly solicited for a benefit from the complainant as an inducement to facilitate the processing of a death certificate. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Mention on 25th March, 2010.

**85. KACC CR. 141/519/2009: COURT FILE NO. NAIROBI ACC. 19/2009
NO. 25 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegation that an employee with Department of Registrar General based at Sheria House, corruptly solicited from the complainant a benefit as an inducement to process a business registration certificate for the complainant. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary

to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Case part heard.

86. KACC.CR.170/340/2009: COURT FILE NO. MAKADARA ACC. 4/2009 NO. 26 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that a former technician with the Kenya Power and Lighting Company, had corruptly solicited for a benefit from the complainant as an inducement to facilitate the relocation of a KPLC meter from the house of the said complainant and to install the same at the main gate. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Makadara Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Accused acquitted under section 210 of Criminal Procedure Code.

87. KACC.CR.141/521/2009: COURT FILE NO. NAIROBI ACC. 5/2009 NO. 27 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that a City Council of Nairobi Parking attendant had corruptly solicited for a benefit from the complainant as an inducement to forbear having the complainant charged with the offence of forgery. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Case part heard.

**88. KACC.CR.211/155/2009: COURT FILE NO. NYERI ACC. 13/2009
NO. 28 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegations that the Assistant Chief of Githiga Sub-location in Githunguri District had corruptly solicited for a benefit from the complainant as an inducement to release a business permit No. 2009/11611 that she had confiscated from the owner of a hotel. The investigation established the receipt of the benefit by the accused through an agent. The suspect was arrested and charged with the offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion subject to additional charges being preferred.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 6th April 2010.

**89. KACC.CR.141/566/2009: COURT FILE NO. NAKURU ACC. 7/2009
NO. 29 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegations that a Warrant Officer 1 at the Lang'ata Barracks had corruptly solicited for a benefit from the complainant as an inducement to secure the complainant a vacancy in the Military Training College. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with

the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 24th March 2010.

90. KACC.CR.030/10/2009: COURT FILE NO. NAKURU ACC. 6/2009 3082/09 NO. 30 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that the Assistant Chief of Ndabibi Location in Naivasha District had corruptly solicited for a benefit from the complainant as an inducement to waive a Community Service Committal Order issued against the complainant by a Naivasha Court. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 7th April 2010.

91. KACC CR. 764/348/2009: COURT FILE NO. NAKURU ACC. 9/09 NO. 31 KACC FOURTH QUARTELY REPORT

This was an inquiry into allegations that a Catchment Management Officer with the Water Resources Management Authority solicited from the complainant a benefit as an inducement to facilitate the quick processing of a water permit renewal. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act.

**92. KACC CR. 481/157/2009: COURT FILE NO. EMBU ACC. 2/09
NO. 32 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegations that a Court Clerk based at the Chuka Law Courts solicited from the complainant a benefit as an inducement to influence the court to give a favourable judgement in a criminal case pending against the complainant. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with the recommendation that the case pending before court be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case be prosecuted to its logical conclusion.

STATUS

The suspect was charged with offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Case part heard.

**93. KACC CR. 141/858/05: COURT FILE NO. NAIROBI ACC. 43/05
NO. 33 KACC FOURTH QUARTELY REPORT**

This was an inquiry into allegations that a nurse, formerly working for the Ministry of Health, had solicited from the complainant a benefit as an inducement to facilitate the employment of the complainant's sister as a nurse in the Ministry of Health. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and

Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain the preferred charges and directed that the case in court proceed to the logical end.

STATUS

The suspect was charged and tried for the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. The case was finalised and accused convicted and fined Kshs. 70,000/= and in default 12 months imprisonment.

**STATISTICAL SUMMARY OF CASES FORWARDED TO THE
ATTORNEY GENERAL AND ACTION TAKEN**

S/No.	PARTICULARS OF CASES	NUMBER
1.	INVESTIGATION FILES SUBMITTED BY KACC TO THE ATTORNEY GENERAL FROM: KACC: JANUARY 2009 – 3 ^{1ST} DECEMBER 2009.	93
2.	FILES WHERE AG DIRECTED PROSECUTION TO ENSUE.	73
3.	FILES WHERE AG DIRECTED FURTHER INVESTIGATIONS.	4
4.	FILES WHERE AG DIRECTED ADMINISTRATIVE OR OTHER DEPARTMENTAL ACTION.	5
5.	FILES WHERE AG DIRECTED CLOSURE.	11
6.	FILES AWAITING AG'S DIRECTIONS	0
	TOTAL	93

Key

- KACC - Kenya Anti-Corruption Commission
- INQ - Inquiry
- ACC - Anti-Corruption Court
- CF - Court File
- AG - Attorney General
- CDF - Constituency Development Fund

Dated at Nairobi this ^{15th} ... day of ^{March} 2010



Hon. S. Amos Wako (BCH, F.C.I, Arb., SC, MP)
ATTORNEY GENERAL