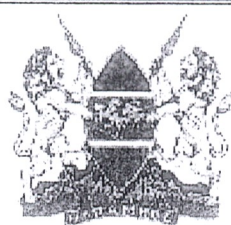


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ANNUAL REPORT
BY
THE HON. ATTORNEY GENERAL

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 2008 – 31ST DECEMBER 2008

PREAMBLE

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.

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 (2008) 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 a hundred and twenty six 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.

Though five special prosecutors were hired to aid in prosecution of major Anti-Corruption and Economic Crime cases, they are still way below the required number. Consequently a number of cases still continue to be prosecuted by police prosecutors.

Despite these limitations, significant strides have been made in empowering and enhancing the prosecution capacity of the Department of Public Prosecutions, still, a lot remains to be done to transform the Department into a professional, efficient and effective prosecution service.

In the year under review my office in collaboration with our Development partners mainly United States Department of Justice (USDOJ) 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 evidenced by the following;

- i. The establishment of an inter-ministerial and multi-agency task team to operationalize the Witness Protection Act 2006. The task team produced a Report for operationalizing the witness Protection Act which was launched on 8th May, 2008.
- ii. Constitution of an Inter-agency task team on Mutual Legal Assistance.
- 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 other agencies in the development of Key Legislation including the Money Laundering and Proceeds of Crime Bill, Counter Terrorism Bill, Organized Crime Bill, Plea Bargaining Bill and the legislative framework on Mutual Legal Assistance is currently being developed. The Criminal Procedure Code was amended vide C.P.C (amendment Act) No. 11 of 2008 making provision for plea agreements which might be applied in dealing with some of Corruption and Economic Crimes Cases.
- vi. Collaboration with the Kenya Revenue Authority through organized joint training sessions for their investigators and prosecutors, advised on their internal prosecution policy and presently handling a number of prosecution files on their behalf.
- vii. Membership and participation in the inter-ministerial coordinating committee on Corruption that comprises all Ministries, Departments and Agencies dealing with Corruption.

- viii. The Department of Public Prosecutions obtained membership in key organs namely; the African Association of Prosecutions and the International Association of Prosecutors as an organizational member and participated in the past annual conferences.

The Report is divided into four parts:

- A. FILES SUBMITTED IN THE 1ST QUARTER OF THE YEAR – 1ST JANUARY, 2008 TO 31ST MARCH, 2008.
 - B. FILES SUBMITTED IN THE 2ND QUARTER OF THE YEAR – 1ST APRIL, 2008 TO 30TH JUNE, 2008
 - C. FILES SUBMITTED IN THE 3RD QUARTER OF THE YEAR – 1ST JULY, 2008 TO 30TH SEPTEMBER, 2008
 - D. FILES SUBMITTED IN THE 4TH QUARTER OF THE YEAR – 1ST OCTOBER, 2008 TO 31ST DECEMBER, 2008
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- A. FILES SUBMITTED IN THE 1ST QUARTER OF THE YEAR – 1ST JANUARY, 2008 TO 31ST MARCH, 2008.

- 1. KACC/FI/INQ/12/2007
NO. 1 KACC 1ST QUARTERLY REPORT

This was Inquiry into allegations of fraudulent sale of Kenya Reinsurance Corporation's property No. LR1160/613 to Rockhound Properties Ltd. KACC forwarded the file to the Hon. Attorney General with the recommendation that,

- i. The former Managing Director and the Corporation Secretary of Kenya Reinsurance Corporation be charged with fraudulent disposal of public

property. Contrary to Section (45) (1) (b) of the Anti Corruption and Economic Crimes Act.

- ii. Rockhound Properties Ltd one of its directors, and the former Finance & Corporate Services Director of Kenya Reinsurance Corporation, be charged with the offence of fraudulent acquisition of a public property. Contrary to Section (45) (1) (a) of the Anti Corruption and Economic Crimes Act
- iii. The former Finance and Corporate Services Director to be charged with the offence of conflict of interest. Contrary to Section 42 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 charges and directed prosecution to ensue.

STATUS

1. The suspects were charged with offence of fraudulent disposal of public property
Contrary to Section (45) (1) (b) of the Anti Corruption and Economic Crimes Act
 2. Offence of fraudulent acquisition of a public property. Contrary to Section (45) (1) (a) of the Anti Corruption and Economic Crimes Act.
 3. Offence of conflict of interest. Contrary to Section 46 of the Anti Corruption and Economic Crimes Act. Hearing on 16th, 17th, and 19th March, 2009.
2. **KACC /FI/INQ/46(B)/2005**
NO. 2 KACC 1ST QUARTERLY REPORT

This was at Inquiry into an allegation that a part of South Western Mau forest was irregularly excised and alienated to various companies as parcel numbers 20629, 20630 and 20597. Investigations established that the allocation of land to Kericho Multipurpose Co-operative Society Ltd was irregular and the land ought to revert to the Government.

KACC forwarded the file to the Hon. Attorney General with recommendation that the then Permanent Secretary in the Ministry of Lands and the former Commissioner of Lands be charged with the offence of abuse of office. The Department of Civil Litigation and Asset Recovery of KACC look into the issue with a view to recovering the land and any unjust enrichment of Kericho Multipurpose Co-operative Society Ltd.

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 abuse of office contrary to section 46 of the Anti - Corruption and Economic Crimes Act. Hearing on 12th & 13th March, 2009.

3. KACC/AT/INQ.10/2007

NO. 8 KACC 1ST QUARTERLY REPORT

This was an inquiry into allegations that land and houses belonging to the Municipal Council of Nakuru were illegally allocated to Councillors and chief officers of the Council without approval of the Minister for Local Government and that the Council had failed to implement the Government directive of 2004 to recover the same. Investigations established that though the Minister had granted approval for sale of certain plots in order to raise money to pay off a loan, the Council sold houses and other plots, including plots set aside for water works and a Primary School, without authority of the Minister.

KACC forwarded the file to the Hon. Attorney General with recommendation that the inquiry file be closed. It was further recommended that the Department of Civil Litigation and Asset Recovery of KACC proceed to recover all the properties belonging to the Municipal Council that were irregularly allocated to individuals.

Upon perusal of the file the Hon. Attorney General found gaps and deficiencies in the investigations, KACC recommendation to close the file was not accepted. The Attorney General directed KACC to conduct further investigations.

STATUS

The file was returned to KACC with directions to conduct further investigations into the out-lined areas.

4. KACC/AT/1/2007 NO. 4 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that the business and assets of a company known as Atta (1974) Ltd were stolen by two of the Company's directors with the collusion of the Company Secretary and Auditor. Investigations confirmed that two directors fraudulently transferred the business and assets of the company worth Kshs. 40 Million to the detriment of the company's other shareholders.

KACC forwarded the file to the Hon. Attorney General with recommendation that the two directors be charged with the offence of fraudulent appropriation of company property contrary to Section 328(a) of the Penal Code, Making of a false document contrary to Section 329(a) of the Penal Code and failure by the director to disclose interest in a contract contrary to Section 200(4) of the Companies Act.

Upon perusal of the file the Hon. Attorney General noted that KACC had not made any specific recommendation as to whether to prosecute or close the inquiry file as required by the Anti Corruption and Economic Crimes Act. The Attorney General directed that the file be sent back to KACC to make specific recommendation as required by Law.

STATUS

The file was returned to KACC with directions to make specific recommendations to the Attorney General and resubmit. KACC resubmitted the file to the Hon. Attorney General

with a specific recommendation that the same be closed. Hon. Attorney General reviewed the matter and accepted KACC's recommendation to close the inquiry file.

**5. KACC CR 921/612/2007: KAKAMEGA ACC 2578/2007
NO. 13 KACC 1ST QUARTERLY REPORT**

This was an inquiry into allegations that the District Officer II attached to Kakamega North District was soliciting for a bribe of Kshs, 80,000/- as an inducement to recruit the son of the complainant as an Administration Police Constable. Investigations confirmed the solicitation and receipt of Kshs. 30,000/-. The suspect was arrested and charged in Kakamega Anti-Corruption Court with three counts of corruption contrary to Section 39(3)(a) 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 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 18th March, 2009.

**6. KACC CR 142/503/2007: NAIROBI ACC 38/2007
NO. 16 KACC 1ST QUARTERLY REPORT**

This was an inquiry into an allegation that the Fraud Manager at the Embassy of the United States of America was soliciting for a benefit of Kshs. 50,000 as an inducement to give a favourable report to the complainant and his wife for purposes of issuing a diversity visa (green card). Investigations established solicitation. The suspect was arrested and charged with three counts of solicitation contrary to Section 39(3)(a) 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 proposed 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. Mention on 12th February, 2009.

7. KACC CR 141/602/2007: NAIROBI ACC 53/07 NO. 18 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a Police Officer based at Central Police Station was soliciting for a bribe of Kshs. 20,000/- as an inducement not to charge the complainant's secretary with an alleged offence of forgery. Investigations established the solicitation and receipt of a benefit of Kshs. 10,000/- . The suspect was arrested and charged with three counts of corruption contrary to Section 39(3)(a) 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 proposed 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 1st March, 2009.

8. KACC CR 141/632/2007: NAIROBI ACC 65/2007
NO. 19 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that the Assistant Chief of Njathaini Sub-location in Kasarani Division had solicited for a bribe of Kshs. 20,000 as an inducement to assist the complainant resolve a land dispute. The investigation established the solicitation and receipt of Kshs. 3,000. The suspect was arrested and charged in Nairobi Anti-Corruption Court with three counts of soliciting and receiving of a benefit contrary to Section 39(3)(a) 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 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 13th February, 2009

9. KACC CR 411/83/07: NAIROBI ACC 4/2007
NO. 20 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a Police Constable attached to the Divisional Criminal Investigation Department in Kirinyaga had corruptly solicited for Kshs. 20,000 from the complainant to remove photographs of the complainant from Police records. Investigations established the solicitation and receipt of Kshs. 8,000 from the complainant. The suspect was arrested and charged with three counts of solicitation and receipt of a benefit contrary to Section 39(3)(a) 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 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 27th February, 2009.

10. KACC CR 141/682/2007: NAIROBI ACC 68/2007 NO. 21 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that two meter readers with Nairobi City Water and Sewerage Co. Ltd were demanding a benefit of Kshs. 15,000 as an inducement to forbear charging the complainant for a water bill in the sum of Kshs. 75,000. The investigation established the solicitation and receipt of Kshs. 10,000. The suspect was arrested and charged with three counts of solicitation and receiving a benefit in the Nairobi Anti-Corruption Court contrary to Section 39(3)(a) 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 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. The case is pending before court. Hearing on 10th March, 2009.

11. KACC CR 142/126/2007: NAIROBI ACC 41/2007 NO. 22 KACC 1ST QUARTERLY REPORT

This was an inquiry into allegations that a Clerk based in the Githunguri Land Disputes Tribunal was demanding a bribe of Kshs. 15,000 from the complainant to facilitate a favourable ruling by the Land Disputes Tribunal. The investigation established solicitation and receipt of a benefit and the suspect was arrested and charged with three counts of solicitation and receipt of a benefit contrary to Section 39(3)(a) 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 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 19th March, 2009.

12. KACC CR 141/610/2007: NAIROBI ACC 57/2007 NO. 15 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a Clearing Agent was working with some Kenya Revenue Authority officers to demand a bribe of Kshs. 50,000 from the complainant in order to have an import query relating to goods imported by the complainant cleared from Kenya Revenue Authority's computer system. The initial

investigation revealed that there was solicitation and a Clerk at Kenya Revenue Authority working on a temporary basis was charged with the offence. After review of the file by KACC, it became apparent that the evidence was not sufficient to sustain the charge of solicitation.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be withdrawn under Section 87(a) of the Criminal Procedure Code and the file be closed, due to the insufficiency of evidence.

Upon perusal of the file the Hon. Attorney General found the evidence insufficient to support the preferred charges and accepted KACC's recommendation to withdraw the case.

STATUS

The case was withdrawn under section 87(a) of the Criminal Procedure Code.

13. KACC CR 021//62/2007: MOMBASA ACC 11/2007 NO. 31 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that the Chief of Kambe Location, Kaloleni District, solicited for a benefit of Kshs. 1,000/= as an inducement to facilitate the arrest of a suspect in a criminal case filed by the complainant's sister at Kaloleni Police Station. Investigations conducted by KACC established the solicitation. He was arrested and charged with the offences of soliciting and agreeing to receive a benefit contrary to section 39(3)(a) of the Anti-Corruption and Economic Crimes Act, 2003.

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

Upon perusal of the file the Hon. Attorney General found the evidence sufficient to support the preferred charges. He accepted KACC's recommendation to prosecute, KACC subsequently wrote to the Attorney General requesting that the case be

withdrawn as the complainant had failed to turn up during the hearing. AG accepted the request and directed that the case be withdrawn under Section 87(a) of the Penal Code.

STATUS

The case was withdrawn under section 87(a) of the Criminal Procedure Code.

14. KACC/FI/INQ/39/2007

NO. 5 KACC 1ST QUARTERLY REPORT

This was an inquiry into allegations of fraud and abuse of office against the Managing Trustee of the Local Authorities Pension Trust (LAP-Trust). The Managing Trustee was alleged to have received double salaries in the months of July and August 2006 thereby using his office to improperly confer a benefit on himself to the tune of Kshs. 197,390.40. Investigations established that the double payment was occasioned by a genuine hitch in the payment process due to change of account particulars of the Managing Trustee. When the anomaly was detected, it was rectified and the money was treated as a salary advance and the same has been recovered in full.

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

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

STATUS

The file was returned to KACC with directions to close.

15. KACC/INQ/AT/14/2005

NO. 6 KACC 1ST QUARTERLY REPORT

This was an inquiry into allegations of corruption and possession of unexplained assets by the Deputy Chief Economist at the Ministry of Finance. Investigations established

that the suspect submitted a declaration form to the Public Service Commission which declaration she knew was false. KACC however lacks jurisdiction to deal with offences created under the Public Officer Ethics Act.

KACC forwarded the file to the Hon. Attorney General with recommendation that the file be submitted to Criminal Investigation Department for investigation and the investigation file by KACC be closed.

Upon perusal of the file the Hon. Attorney General found the evidence insufficient to support any criminal charge under the Public Officer Ethics Act because a reasonable explanation of the declaration had been given by the suspect. The Attorney General accepted KACC's recommendation to close the inquiry file.

STATUS:

The file was returned to KACC with directions to close.

16. KACC/AT/INQ/3/28.2.2005

NO. 9 KACC 1ST QUARTERLY REPORT

This was an inquiry into allegations that the Director of the Local Authorities Inspectorate had acquired unexplained wealth. After the investigation, KACC was satisfied that the suspect had sufficiently accounted for his wealth and explained the sources thereof. There was no evidence of corruption.

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

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

STATUS:

The file was returned to KACC with directions to close.

17. KACC/AT/INQ/25/2006

NO. 10 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that plot No. Mombasa Island/Block XLII/185, Mombasa Island /Block XLIV/118 and Mombasa Island/Block XLIV/3 were irregularly allocated to an individual yet they were road reserves. With regard to plot No. Mombasa Island/Block XLIV/3, the investigation established that the beneficiary had properly inherited the same, that the Commissioner of Lands lacked power to allocate government land to an individual and therefore the allocation of Mombasa Island/Block XLII/185 and Mombasa Island/Block XLIV/13 was irregular. However the evidence was not enough to support any criminal offence against the Commissioner.

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 against the suspect and concurred with KACC that the inquiry file be closed.

STATUS

The file was returned to KACC with directions to close.

18. KACC CR 142/144/2007: NAIROBI ACC 58/2007

NO. 11 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a debt collector of Kenya Power and Lighting Company was soliciting for a benefit of Kshs. 300,000/- from the Manager of Upper Hill Springs Restaurant as an inducement to forbear payment of an alleged outstanding electricity bill amounting to Kshs. 1,800,000 in respect of account number 0176324-04 with Kenya Power & Lighting Co. Ltd. Investigations established the solicitation and receipt of Kshs. 20,000/-. The suspect was arrested and charged with three counts of corruption contrary to Section 39(3)(a) 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 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. The case is pending in court. Further hearing on 30th & 31st March, 2009.

19. KACC CR 111/348/2007: NAIROBI ACC 32/2007 NO. 12 KACC 1ST QUARTERLY REPORT

This was an inquiry into allegations that a Police Officer attached to the Banking Fraud Investigation Unit was demanding a bribe of Kshs. 100,000 as an inducement to release two of the complainant's relatives who had been arrested on allegations of having committed banking fraud offences. The investigation established the solicitation of Kshs. 100,000/- and receipt of a benefit of Kshs. 40,000/-. The officer was arrested and charged with two counts of corruption contrary to Section 39(3)(a) of the Anti-Corruption and Economic Crimes Act.

KACC forwarded the file to the Hon. 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 corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. The case is pending before the court. Hearing on 19th March, 2009.

20. KACC CR 141/629/2007: NAIROBI ACC 62/2007 NO. 23 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a City Constable working for the City Council of Nairobi had solicited for a benefit of Kshs. 10,000 to offer "protection" to the complainant while constructing his house without approval by the City Council of Nairobi. Investigations confirmed the solicitation and receipt of Kshs. 5,000 for which the suspect was arrested and arraigned before the Nairobi Anti-Corruption Court and charged with the offence of soliciting and receiving a bribe contrary to section 39 (3) (a) of the Anti-corruption and Economic Crime.

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 offence of corruption contrary to Section 39 of the Anti-Corruption and Economic Crimes Act. Prosecution case closed. Ruling on case to answer on 2nd March, 2009.

21. KACC CR 141/641/2007: NAIROBI ACC 66/2007 NO. 24 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a Labourer attached to the City Council of Nairobi had solicited for a benefit of Kshs. 10,000 as an inducement to allow the

complainant to continue with his building construction within Lucky Summer area in spite of the building plans not having been approved and also to have the building plans approved. Investigations confirmed the solicitation and receipt of Kshs. 5,000 for which the suspect was arrested and charged with the offence of soliciting and receiving a bribe contrary to section 39 (3) (a) of the Anti-corruption and Economic Crime.

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 offence of corruption contrary to Section 39 of the Anti-Corruption and Economic Crimes Act. Prosecution case closed. Submission on 20th February, 2009.

22. KACC CR 141/628/2007: NAIROBI ACC 63/2007 NO. 25 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a Field/Reconnection Assistant with Kenya Power & Lighting Co. Ltd had solicited for a benefit of Kshs. 10,000 as an inducement not to disconnect electricity supply to the complainant's residential premises in Kawangware. Investigations established the solicitation for Kshs. 10,000. The suspect was arrested and charged in Nairobi Anti-Corruption Court with two counts of solicitation for a benefit contrary to Section 39(3) (a) 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 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. Prosecution finalised Judgement to be delivered on 10th February, 2009.

23. KACC CR 132/28/2007: KISUMU ACC 361/2007 NO. 26 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a Police Officer attached to Migori Criminal Investigations Department had solicited for various amounts of money ranging from Kshs. 1,000 to Kshs. 10,000 as an inducement to forbear charging the complainants with an alleged offence of threatening to kill. Investigations confirmed the solicitation and receipt of Kshs. 5,000 for which the suspect was arrested and arraigned before the Kisumu Anti-Corruption Court, with charges of corruption contrary to section 39 (3) (a) of the Anti – Corruption and Economic Crimes Act.

KACC forwarded to 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 offence of corruption contrary to Section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 13th February, 2009.

24. KACC CR 121/754: NAIROBI ACC 59/2007
NO. 27 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that the Assistant Chief of Thiba Sub-Location in Mwea Division had demanded for a bribe of Kshs. 2,000/- from the complainant not to take adverse action against the complainant for brewing illicit liquor. The investigation established the solicitation and receipt of the money. The suspect was arrested and charged in Nairobi Anti-Corruption Court with three counts of solicitation and receipt of a benefit contrary to Section 39(3)(a) 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 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 further hearing on 26th February, 2009.

25. KACC CR 011/94/07; NAIROBI ACC 43/2007
NO. 29 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a Nairobi City Council askari was demanding a bribe of Kshs. 2,000/- as an inducement not to charge the complainant with violating the City Council by laws relating to zebra crossings. The investigation established the solicitation and the subsequent receipt of the benefit. The officer was arrested and charged with soliciting and receiving a benefit contrary to Section 39(3)(a) 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 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. The case is pending in court.

26. KACC CR 021/80/2007: MOMBASA ACC 14/2007 NO. 32 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a Police Constable attached to Mariakani Police Station solicited for a benefit of Kshs. 1,000 from the complainant as an inducement to facilitate the processing of photographs to be used in Kaloleni Criminal Case number 177/2007. Investigations confirmed the solicitation and receipt of a benefit in the sum of Kshs. 1,000 for which the suspect was arrested and arraigned before the Mombasa 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 offence of corruption contrary to Section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 17th February, 2009

27. KACC CR 141/606/2007: NAIROBI ACC 55/2007

NO. 33 KACC 1ST QUARTERLY REPORT

This was an inquiry into allegations that a person who represented himself as an agent of an undisclosed employee of the Department of Registration of Births and Deaths had solicited for Kshs. 1,000/- as an inducement to facilitate the issuance of a birth certificate to the complainant's child. Investigations established the solicitation and receipt of a benefit. The suspect was charged in Nairobi Anti-Corruption Court with the two counts of solicitation and receipt of a benefit contrary to Section 39(3)(a) 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 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 discharged under Section 89(5) of the Criminal Procedure Code.

28. KACC CR 111/279/07: NAIROBI ACC 37/2007

NO. 14 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that the officer-in-charge of Administration Police, Kiambu West District based in Limuru Town had demanded for an inducement of Kshs. 60,000 to release some six passports, which he had confiscated from a gymnasium for allegedly belonging to non-Kenyan citizens. Investigations confirmed the solicitation and receipt of a benefit in the sum of Kshs. 50,000 for which the suspect was arrested and arraigned 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 corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 2nd April, 2009.

29. KACC CR 021/55/2007: MOMBASA ACC 10/2007 NO. 28 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that a Forest Guard in charge of Wundanyi Forest Station had solicited for a benefit of Kshs. 2,000 as an inducement to release timber which had been detained allegedly for not having a certificate of origin. Investigations confirmed the solicitation and receipt of Kshs. 2,000. The suspect was arrested and arraigned before the Mombasa Anti-Corruption Court, with charges of corruption contrary to section 39 (3) (a) of the Anti Corruption and Economic Crimes Act.

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 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 12th March, 2009.

30. KACC CR 141/580/2007: MAKADARA ACC 48/2007
NO. 30 KACC 1ST QUARTERLY REPORT

This was an inquiry into allegations that a Civil Registration Officer with the Department of Civil Registration in Sheria House was soliciting for Kshs. 2,000 as an inducement to process the complainant's birth certificate for which he had already paid the prescribed fee of Kshs. 50/-. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with four counts of solicitation and receipt of a benefit contrary to Section 39(3)(a) 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. However the complainant who lives in Switzerland was not willing to come back to Kenya to testify. Thus making the evidence insufficient.

STATUS

The case was terminated.

31. KACC CR 440/29/2008: NAIROBI ACC 1/2008
NO. 17 KACC 1ST QUARTERLY REPORT

This was an inquiry into an allegation that the Machakos District Coordinator of the Electoral Commission of Kenya had solicited for a benefit of Kshs. 50,000 as an inducement to expedite the payment of Kshs. 469,800 being the amount owed to the complainant by the Electoral Commission of Kenya for transport services rendered. Investigations confirmed the solicitation and receipt of Kshs. 20,000 for which the suspect was arrested and arraigned before the Nairobi Anti-Corruption Court.

KACC forwarded the file to the Attorney General with recommendation that the case pending before court.

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. The case came up for trial and the accused was acquitted under Section 202 of the Criminal Procedure Code due to failure by the complainant to turn up to testify.

STATUS

The accused was acquitted under Section 202 of the CPC on 25th November, 2008 due to failure by the complainant to turn up in court to testify. Subsequently the Attorney General has directed that an appeal against the acquittal be filed.

32. KACC/FI/INQ/61/05

NO. 7 KACC 1ST QUARTERLY REPORT

This was an inquiry into allegations of irregular procurement of a multi-channel digital voice and data recorders by the then Directorate of Civil Aviation. Investigations established that equipment worth Kshs. 49,428,705 that was procured and installed could not function properly due to a problem of compatibility with the existing radar data processor. It further established that though documents of tender did not conform to the standard documents of tender, the procurement process was largely transparent and did not expose any tenderer to prejudice. KACC found it undesirable and disproportionate to charge with criminal offences officers who were involved in the procurement for failing to strictly observe the provisions of the procurement regulations.

KACC forwarded the file to the Attorney General with recommendation that the Director of Kenya Civil Aviation Authority and Procurement officers of the Kenya Civil Aviation Authority be reprimanded for gross negligence in the way they handled the procurement of the multi-channel digital voice and data recording system.

Upon perusal of the file the Hon. Attorney General found the evidence insufficient to support any criminal charge and concurred with KACC that administrative action as proposed be taken against all the officers concerned.

STATUS

The file was returned to KACC with directions to take administrative action as proposed.

33. KACC /FI/INQ/58/2006

NO. 3 KACC 1ST QUARTERLY REPORT

This was an inquiry into allegations that a Procurement Officer based at the Anti-Stock Theft Unit, Gilgil was engaged in corruption and acts of abuse of office by awarding quotations to firms owned by his wife. It was also alleged that the Procurement Officer had over thirty rubber stamps for different firms which he was using to stamp procurement documents to give the false impression of competitive bidding. The investigation established that the suspect used his office to confer a benefit on firms owned by his wife, acts of conflict of interest on the part of the suspect.

KACC forwarded the file to the Hon. Attorney General with recommendation that the officer be prosecuted for the offences of abuse of office and conflict of interest.

Upon perusal of the file, the Hon. Attorney General found the evidence insufficient to support any criminal charge. The Attorney General directed that the matter be dealt with through administrative action.

STATUS

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

B. FILES SUBMITTED IN THE 2ND QUARTER OF THE YEAR – 1ST APRIL, 2008
TO 30TH JUNE, 2008

34. KACC CR 142/142/2007: NAIROBI ACC 54/2007
NO. 10 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that the Chief Procurement Officer of Kenya Meteorological Department and the proprietor of Kenya Auto Electrical Company had offered a benefit of Kshs. 1,000,000 to KACC investigators as an inducement to prepare a favourable report in respect of an investigation on procurement of automatic weather station equipments by the Kenya Meteorological Department. Investigation established that the offer was made to the investigators and in a subsequent trap operation, the suspect gave Kshs. 1,000,000 to the investigators. The suspects were arrested and charged with offering and giving a benefit contrary to Section 39(3)(b) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Attorney General with a recommendation that though the Chief Procurement Officer had already died, the case against the proprietor of Kenya Auto Electrical Company be prosecuted to its logical conclusion.

Upon perusal of the file, the Attorney General found the evidence insufficient to support a charge of corruption against the suspect and accordingly directed that the case filed against the suspect be withdrawn under section 87(a) of the Criminal Procedure Code.

STATUS

The case was withdrawn under section 87(a) of the Criminal Procedure Code.

35. KACC CR 141/132/2008: NAIROBI ACC 12/2008
NO. 23 KACC 2ND QUARTERLY REPORT

Inquiry into an allegation that a Police Officer attached to Criminal Investigation Department, Ruiru, had solicited for a benefit of Kshs. 2,000 as an inducement to return the complainant's driving licence which he had confiscated. The investigation

established the solicitation and receipt of Kshs. 2,000. The suspect was arrested and charged with soliciting and receiving a benefit 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 charge of corruption and directed that the case be prosecuted to the logical end. Subsequently KACC wrote to the Attorney General requesting that the charges filed in court be withdrawn as the complainant could not be traced to testify in court.

STATUS

The suspect was charged with the offence of corruption contrary to Section 39 of the Anti-Corruption and Economic Crimes Act. Upon KACC request the case withdrawn under Section 87(a) on 7th August, 2008.

36. KACC/FI/INQ/27B/2007

NO. 9 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that a Construction Company colluded with Government engineers to get payment for shoddy work done on the Garissa-Dadaab Road Spot Improvement Gravelling Project. Investigations established that the work undertaken on the road was shoddy due to poor supervision by the Resident Engineer, who has since died. The Resident Engineer did not provide transport to his staff and this compromised supervision. With regard to the allegation that there was excess payment to the contractor, the investigation revealed that the Contractor had not yet submitted the final certificate, yet issues of any overpayment can only be conclusively addressed after a final certificate has been issued.

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

Upon perusal of the file, the Attorney General found evidence insufficient to support any Criminal offence more so with the suspect being deceased.

STATUS

The file was returned to KACC with directions to close.

37. KACC CR 142/169/2007: MAKADARA ACC 66/2007 NO. 12 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that a Police Constable attached to Kilimani Police Station had solicited for a benefit of Kshs. 200,000 as an inducement to forbear charging the complainants with an alleged offence of forgery. Investigations established the solicitation and receipt of Kshs. 50,000. The suspect was arrested and arraigned before the Makadara Anti-Corruption Court with five counts of soliciting and receiving a benefit.

The file was forwarded 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 a charge of corruption and directed prosecution to proceed to its logical conclusion.

STATUS

The case was withdrawn under section 87(a) of Criminal Procedure Code.

38. KACC/FI/INQ/35/2007 NO. 4 KACC 2ND QUATERLY REPORT

Inquiry into an allegation that the Provincial Applied Technology Officer (PATO) based in Embu had mismanaged public funds from an AIE allocation of Kshs. 6.5 Million for the Department of Micro and Small Enterprises Development (MSED) for the Financial Year 2005/2006. The investigation established that the Provincial Applied Technology Officer together with a Jua Kali Inspector attached to the PATO's office had embezzled

the money meant for the MSED projects in Embu District by receiving money for goods that were not purchased and or supplied to the said projects.

KACC forwarded the file to the Attorney General with recommendation that the PATO officer and the Jua Kali Inspector be charged with eleven counts of fraudulent acquisition of public property. The PATO officer be charged with an additional count of careless failure to comply with law relating to procurement.

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

STATUS

The suspect was charged with the eleven counts of fraudulent acquisition of public property contrary to section 45(1) of the Anti-corruption and Economic Crime Act. Hearing on 20th February, 2009

39. KACC/INQ1/FILE/2008

NO. 11 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that an officer with the National Security Intelligence Service had corruptly offered a benefit of Kshs. 100,000 to KACC investigators as an inducement to terminate an investigation on alleged embezzlement of public funds by the District Officer of Ndia Division in Kirinyaga District. The investigation established the offer had been made to the officers, but the suspect did not hand over the money as he became suspicious a trap had been laid to arrest him.

KACC forwarded the file to the Attorney General with recommendation that the suspect be prosecuted for offering a benefit to a KACC investigator.

Upon perusal of the file, the Attorney General found the evidence sufficient to sustain a charge of corruption 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 23rd and 24th March, 2009.

40. KACC/CR/530/2007

NO. 13 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that two persons had impersonated KACC investigators and purported to arrest the complainant on the pretext that he had committed corruption offences at the Ministry of Livestock and Fisheries Development where he worked as a Transport Officer. The investigation established the impersonation. The suspect was arrested and charged with impersonating an investigator 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 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 23rd March, 2009.

41. KACC CR 141/944/05: KERICHO ACC 26/2005

NO. 15 KACC 2ND QUARTERLY REPORT

This was an inquiry as a result of information received by the Commission to the effect that officers based at the Mai Mahiu weighbridge were not enforcing the Axle Load Limits Regulations under the Traffic Act, Cap 403 and were instead demanding and receiving bribes from lorry drivers who were suspected to have exceeded the axle load limits allowed. It was alleged that the officers were taking bribes of between Kshs. 1,000 and Kshs. 5,000 per lorry depending on the excess tonnage. The lorry drivers are then

allowed to proceed with their journey without being arrested. The investigation, which included video taped evidence, revealed that the officers routinely received bribes from lorry drivers and some of them were found with cash whose source they could not explain. The amount ranged from Kshs. 41,170 to Kshs. 19,000. Another officer was found with foreign currency including dollars, sterling pounds and Tanzanian Shilling. The five officers were before the Kericho Anti-Corruption Court with offences of corruption.

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 Attorney General found the evidence sufficient to sustain the preferred charges and directed that in the public interest, the matter be prosecuted to its logical conclusion.

STATUS

The suspects were charged with offences of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Mention on 12th February, 2009 to fix hearing dates.

42. KACC CR 021/32/2008: MOMBASA ACC /3/2008

NO. 16 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that a Security officer with the Kenya Power & Lighting Co. Ltd (KPLC), Mombasa, had solicited for a benefit of Kshs. 30,000 as an inducement to reconnect electricity supply to the complainant's residence. The supply had been cut off when falling tree branches which the complainant's worker was trimming fell on the electricity wire. The investigation established the solicitation and receipt of Kshs. 14,000 on 8th May 2008 and Kshs. 10,000 on 15th May 2008. The suspect was arrested and charged 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 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 the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 24th March, 2009

43. KACC CR 011/135/2007: MAKADARA ACC 65/2007 NO. 17 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that the Assistant Chief of Savannah Sub-Location had solicited for a benefit of Kshs. 20,000 from an employee of a Children's Home as an inducement not to recommend the closure of the Home. The investigation established the solicitation and receipt of Kshs. 10,000. The suspect was arrested and charged before the Makadara Anti-Corruption Court.

The file was forwarded 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 the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 24th February, 2009

44. KACC CR 141/503/2007: MAKADARA ACC 43/2007
NO. 18 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that two persons had impersonated KACC investigators and were alleging that they had been seconded to the City Council of Nairobi. They were soliciting for a benefit of Kshs. 10,000 as an inducement not to demolish a kiosk situated in Nairobi West. Investigations established that one of the impersonators had a forged staff identity card. They were arrested and charged with impersonation, uttering a false document and offering a benefit to a City Council employee so that they are not arrested for the impersonation. The case is pending before Makadara Anti-Corruption Court.

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 Attorney General found the evidence sufficient to sustain 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. Warrant of arrest in force. Mention on 12th February, 2009.

45. KACC CR 921/723/2007: KAKAMEGA ACC NO.2839/2007
NO. 19 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that the Officer Commanding Kapsokwony Police Station had solicited for a benefit of Kshs. 10,000 as an inducement to forbear charging the complainant with an alleged offence of resisting lawful arrest. The investigation established the solicitation and receipt of Kshs. 3,000. He was arrested and arraigned before 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 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 the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 5th March, 2009.

46. KACC CR 255/117/2008: NYERI ACC 1/2008

NO. 20 KACC 2nd QUARTERLY REPORT

This was an inquiry into an allegation that the Officer in Charge of Ndaragwa Police Station had solicited for a benefit of Kshs. 18,000 as an inducement to forbear charging the complainant with the offence of assault. Investigations established the solicitation and receipt of a benefit of Kshs. 10,000. The investigation further established that the suspect had earlier on obtained a sum of Kshs. 10,000 from the complainant on the pretext that the money was for cash bail to secure the release of the complainant from custody. The suspect was arrested and charged before the Nyeri Anti-Corruption Court with the offence of soliciting, receiving a benefit, abuse of office and in the alternative, obtaining by false pretences.

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 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 the offence of corruption contrary to section 39 and abuse of office contrary to Section 46 of the Anti Corruption and Economic Crimes Act. Hearing on 24th February, 2009.

47. KACC CR 021/13/2008: MOMBASA 1/2008 NO. 21 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that a Probation Officer II based at the Mombasa Probation Office had solicited for benefit of Kshs. 10,000 as an inducement to prepare a favourable probation report in Criminal Case No. 2420/2007. Investigations established the solicitation and receipt of Kshs. 9,000. The suspect was arrested and arraigned before the Mombasa Anti-Corruption Court with the offence of soliciting and receiving a benefit.

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 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 19th/20th March, 2009.

48. KACC 2ND QUARTERLY REPORT NO. 22 KACC CR 142/117/2007: NAIROBI ACC 39/2007

This was an inquiry into an allegation that a Forest Guard based in Arboretum had solicited for a benefit of Kshs. 4,000 as an inducement not to arrest the complainant and his girlfriend and have them charged for allegedly behaving indecently in a public park.

The investigation established the solicitation and receipt of Kshs. 3,000. She was arrested and charged before 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 Attorney General found the evidence sufficient to sustain the preferred charges 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 17th February, 2009.

49. KACC/CR/151/472/2006

NO. 14 KACC 2ND QUARTERLY REPORT

This inquiry was as a result of information received by KACC to the effect that Police officers attached to Mtito- Andei Highway Traffic were collecting bribes from motorists and were using two parallel cash bail books. Investigations revealed that the officers were stopping motor vehicles. A search conducted on the officers and their residences revealed that one of them had Kshs. 94,000, he could not explain the source of the money. He also had a parallel cash bail book which had seemingly been used concurrently with official cash bail book. He was charged with corruption but was subsequently acquitted by the Court. Investigation on the issue of cash bail book revealed that the officer was not required to use a parallel cash bail book and the same was obtained under suspicious circumstances. The conduct of the officer violated the Force Standing Orders.

KACC forwarded the file to the Attorney General with recommendation that administrative action be taken against the Officer by the Commissioner of Police.

Upon perusal of the file the Hon. Attorney General found that though the evidence disclosed some irregularities they did not amount to a criminal offence. The Attorney General accepted KACC's recommendation to deal with the matter administratively.

STATUS

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

50. KACC/AT/INQ/17/2006

NO. 1 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that Mavji Construction Company Ltd which had been contracted by the National Social Security Fund to put up a thirty three storied building along Monrovia-Mokhtar Daddah Streets in Nairobi was overpaid. The project was to be a commercial project comprising of four basement parking floors, one ground shopping floor, two mezzanine floors, one podium floor and twenty five typical floors. The agreed cost was Kshs. 3,181,468,427.70. The project was however later scaled down by NSSF and the twenty five floors were done away with. The works were practically completed and the cost was kshs. 2,791,090,291.13. This amount was arguably close to the amount that was to complete the 33 storied building the investigation established that the escalated costs of the project was largely occasioned by the actions of NSSF and were not occasioned by the fault of the contractor.

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

Upon perusal of the file, the Attorney General found that the evidence was insufficient to support any Criminal charge against the contractor or any other person and concurred with KACC that the same be closed.

STATUS

The file was returned to KACC with directions to close.

51. KACC/FI/INQ/29/07

NO. 3 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that Kenyatta National Hospital lost more than Kshs. 4 Million arising from disobedience of a Court order and the consequent liability to the decree holder and the attaching auctioneer. Kenyatta National Hospital had contracted Countryside Suppliers Ltd for the supply, delivery and installation of window curtains, patient's bedside screens and patient's bedside lockers. A dispute arose between KNH and Countryside Suppliers and an arbitrator was engaged who ultimately awarded the said Company Kshs. 129,936,778.84. KNH arranged to pay the amount in instalments. In the meantime, the freight company that airlifted the consignment of curtains and lockers on behalf of Countryside Suppliers Ltd from Dubai to Nairobi sued the said Company for failure to pay the freight charges totalling to Kshs. 5,095,000. A judgment was awarded and decree was finally issued to the freight Company. The freight company later obtained garnishee orders entitling it to attach debts owed to Countryside Suppliers by KNH. Investigations further established that KNH challenged the garnishee orders in Court but its application failed. KNH therefore had to pay the sums owed by Countryside Suppliers to the freight company in accordance with the garnishee order and thereafter recovered the said sum together with auctioneer's charges from the sums due to Countryside Suppliers Ltd. The investigation did not establish any wrong doing on the part of KNH.

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

Upon perusal of the file, the Attorney General found the evidence did not disclose any criminal offence against any suspect and concurred with KACC that the file be closed.

STATUS

File was returned to KACC with directions to close.

52. KACC INQ/AT/111/2008

NO. 5 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that a public road in Majengo Estate of Mombasa Municipality had been irregularly subdivided into plot numbers Mombasa/Block XVI/610 to 619 and allocated to private developers Awadh Saleh Said and Said Saleh Said. Investigations revealed that the said parcels of land were a subdivision of an older block title known as Section XVI/10/M.I (Mombasa Island) initially owned by one Farouk Saleh Nguru. The same was later registered in the names of M/s Awadh Saleh Said and Said Saleh Said as proprietors in common in equal shares. It was clear from the evidence that, over time, the said parcels of land were leased out to several tenants who proceeded to build and settle on the land with the consent of Mr. Nguru and his family and provisions of roads and other open spaces were made in a layout plan lodged with the Municipal Council of Mombasa sometimes in 1973. Following an intervention by the Government, the tenants were settled on the land on a willing-buyer-willing seller basis. It was at this stage that Mr. Nguru and his family subdivided portions previously marked as roads and open spaces under a new subdivision scheme which largely adopted the 1973 scheme. It was noted that the subject road was never surrendered to the Government or the Municipal Council of Mombasa as a public road and the entire parcel of land remained under one title in the names Awadh Saleh Said and Said Saleh Said. The disputed "road" formed part of private land which cannot be investigated or recovered by the KACC as public property under section 7(h) of the Anti-Corruption and Economic Crimes Act, 2003. Nevertheless some anomalies which raised serious doubts as to the accuracy, fidelity and completeness of every survey done by a private surveyor, were noted. The issues arising were referred to the Land Surveyor's Board to establish whether the said private surveyor or any other licenced surveyor was guilty of professional misconduct and take appropriate disciplinary action as empowered by section 17 of the Surveyors Act (Cap 299, Laws of Kenya).

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

Upon perusal of the file, the Attorney General found that the evidence did not disclose any criminal offence and concurred with KACC that the same be closed.

STATUS

The file was returned to KACC with directions to close

53. KACC/FI/INQ/15B/2005

NO. 6 KACC 2ND QUARTERLY REPORT

This was an inquiry into an allegation that Kisii Municipal Council paid over Kshs. 1.5 Million to M/S Zafora Insurance Brokers Limited for an insurance cover for its vehicles for the period 1996/7, but the company did not issue a policy with respect to the cover, occasioning loss of money to the Municipal Council. The investigation established that the Insurance Brokers were indeed paid the money by the Council, but did not forward the same to the Insurance Company which was to avail the insurance cover. Documents relating to payment however could not be traced and hence the evidence available was not adequate to support criminal charges.

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

Upon perusal of the file, the Attorney General found the evidence insufficient to support any Criminal offence and accepted KACC's recommendation to close the file.

STATUS

The file was returned to KACC with directions to close

54. KACC/FI/INQ.10/105

NO. 7 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations that a former Minister for Finance had abused his office by irregularly exempting M/S Kinondo Holdings Ltd from payment of stamp duty amounting to Kshs. 814,000. Investigations established that after the former Minister

received the request for exemption, he assigned the matter to a Deputy Secretary who sought the Attorney General's legal advice as to whether the case qualified for stamp duty waiver. A State Counsel in the Attorney General's Chambers advised that the waiver could be granted under Section 106(1) of the Stamp Duty Act as the Section does not provide criteria for waiver. However, the Section of the law relied upon by the State Counsel was repealed way back in 1994 and the new provision required that the Minister should be satisfied that it was in the public interest to grant any waiver. The investigation also established that the Act does not outline any procedure as to how the Minister should determine public interest. In view of the wrong advice and the lack of guidelines on what amounts to public interest, the investigation did not disclose any wrong doing on the part of the former Minister.

KACC forwarded the file to Attorney General with a recommendation to close.

Upon perusal of the file, the Hon. Attorney General found the evidence insufficient to support any Criminal offence and accepted KACC's recommendation to close the file.

STATUS

The file was returned to KACC with directions to close.

55. KACC/INQ.34(A)/03

NO. 8 KACC 2ND QUARTERLY REPORT

This was an Inquiry into an allegation that the Company Secretary of Nzoia Sugar Company Limited had manipulated the minutes of Tender Committee meeting to favour M/S Agriquip Agencies (EA) Ltd in the purchase of three turbine rotors. The investigation established that the Company Secretary was not in the two meetings of the Management Tender Committee which deliberated on the issue. There was also no evidence that the Company Secretary had any interest in the Company that was awarded the tender.

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

Upon perusal of the file, the Attorney General found the evidence insufficient to support any Criminal offence and accepted KACC's recommendation to close the file.

STATUS

The file was returned to KACC with directions to close.

56. KACC/INQ1/FILE/2008

NO. 2 KACC 2ND QUARTERLY REPORT

This was an inquiry into allegations of abuse of office against the former Managing Director of Kenya Pipeline Company Ltd (KPC) in irregularly committing the KPC to a joint venture agreement with The Gas Company Ltd resulting in a loss of Kshs. 300 Million to KPC in terms of equity contributions and other outgoings. Investigations established that although the joint venture initiative was approved by the Government of Kenya, contributions made by KPC to the joint venture account were misappropriated by the former Managing Director and a Director of The Gas Company Ltd who were the signatories thereto. It was also established that some pieces of land that were purportedly contributed to the joint venture by The Gas Company Ltd were irregularly excised from public land that had already been alienated by the Kenya Airports Authority as part of the land on which Moi International Airport Mombasa is situated.

KACC forwarded the file to the Attorney General with the following recommendations;

- (a) That the former Managing Director of Kenya Airports Authority and the former Commissioner of Lands be charged with abuse of office for directing the surveying and directing the issuance of letters of allotment respectively, of the land belonging to Kenya Airports Authority.

- (b) That the former Managing Director of KPC be charged with breach of trust by a person employed in the Public Service.
- (c) That a Personal Assistant to the former President and two of his companies be charged with obtaining by false pretences.
- (d) That The Gas Company Ltd and its director together with the former Commissioner for Lands and the Managing Director of Kenya Airports Authority be charged with conspiracy to defraud.

Upon perusal of the file, the Attorney General while agreeing with KACC that there is Prima facie evidence on which to charge all the suspects as recommended by KACC nevertheless there were some loose ends which needed to be covered in order to fortify the prosecution case. The Attorney General therefore directed KACC to cover the identified areas and resubmit the file within thirty days for his necessary action.

STATUS

The file was returned to KACC with directions to cover the identified areas and resubmit the inquiry file within thirty days for his necessary action.

C. FILES SUBMITTED IN THE 3RD QUARTER OF THE YEAR – 1ST JULY, 2008 TO 30TH SEPTEMBER, 2008

57. KACC CR 461/87/2008: EMBU ACC 1/2008 NO.20 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that the Deputy Chief State Counsel based in Meru in Eastern Province had corruptly solicited for a benefit of Kshs. 50,000 as an inducement to forbear the arraignment of the complainant before court to face charges of assault and malicious damage to property in criminal case number 472/238/2005. Investigations established the solicitation and receipt of Kshs. 20,000. The suspect was

arrested and charged before Embu Anti-Corruption Court with soliciting and receiving of a benefit.

KACC forwarded the file to the Attorney General with the recommendation that the charges be substituted, as the charges preferred were not supported by evidence.

Upon perusal of the file the Hon. Attorney General found the evidence insufficient to support the charges filed against the suspect, and directed that the charges be terminated.

STATUS

The case was terminated under section 82 of the C.P.C

58. KACC/FI/INQ/58/2007/777

NO. 1 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations of irregularities in the award of tender No. KEMSA.OIT-2/2007-2008 for the supply and delivery of non pharmaceuticals by the Kenya Medical Suppliers Agency (KEMSA) to M/S Harley's Limited for Kshs. 84,236,027. Investigations established that procurement law was flouted during the award of the tender.

KACC forwarded the file to the Attorney General with recommendation that the Chief Executive Officer and Procurement Manager of KEMSA be prosecuted for wilful failure to comply with the law relating to procurement contrary to Section 45(2)(b) of Anti-corruption Economic Crimes Act along with members of the Technical Evaluation Committee. They were also to be charged with an alternative charge of abuse of office contrary to Section 46 of Anti-corruption Economic Crimes Act.

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

STATUS

The suspects were charged with the offence of wilful failure to comply with the law relating to procurement contrary to section 45 (2) b of Anti-corruption Economic Crimes Act and an alternative charge of abuse of office contrary to section 46 of Anti-Corruption Economic Crimes Act. Charges were filed in court and warrants of arrest issued. However, suspects obtained orders from the High Court staying their prosecution pending hearing of their application.

59. KACC/FI/INQ/56/2007

NO. 2 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations of fraudulent transfer of Kenya Reinsurance Corporation's property No. 209/10611/106 situated in Villa Franca Estate Nairobi to an individual who worked for an Insurance Company. Investigations established that indeed the said property comprising a 3 bed-roomed maisonette valued at Kshs 3 million was fraudulently transferred to the individual on 20th April 2004 by the then Director of Finance & Corporate Services at Kenya Reinsurance Corporation.

KACC forwarded the file to the Attorney General with the recommendation that the Director of Finance and Corporate Affairs of Kenya Reinsurance Corporation be charged with the offence of abuse of office contrary to section 46 of Anti-Corruption Economic Crimes Act with an alternative charge of fraudulent disposal of public property contrary to Section 45(1)(a) of Anti-corruption Economic Crime Act. It was further recommended that the person to whom the house was transferred be charged with the offence of fraudulent acquisition of public property contrary to Section 45(1) (a) of Anti-corruption Economic Crime Act and obtaining registration by false pretences contrary to Section 320 of the Penal Code.

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

STATUS

The suspects were charged with the offences of abuse of office contrary to Section 46 as read with Section 48 of Anti-corruption Economics Crime Act with an alternative charge of fraudulent disposal of public property contrary to Section 45 (1) of Anti-corruption Economic Crimes Act and obtaining registration by false pretences contrary to Section 320 of the penal code. Fresh hearing on 17th February, 2009.

60. KACC/FI/INQ/55/07

NO.3 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations of fraudulent transfer of Kenya Reinsurance Corporation property No. 209/10611/173 Villa Franca Estate Nairobi to an individual who worked for an Insurance Company. The investigation established that indeed the said property comprising a 4 bed-roomed maisonette valued at Kshs 3 million was fraudulently transferred to the individual on 16th April 2003 by the then Director Finance & Corporate Services at Kenya Reinsurance Corporation.

KACC forwarded the file to the Attorney General with the recommendation that the Director of Finance and Corporate Affairs of Kenya Reinsurance Corporation be charged with the offence of abuse of office contrary to Section 101(1) of the Penal Code, the individual to who the property was transferred be charged with obtaining by false pretences contrary to Section 313 of the Penal Code and the two of them be charged with conspiracy to defraud contrary to Section 317 of the Penal Code.

Upon perusal of the file the Hon. Attorney General found the evidence sufficient to sustain the charges recommended by KACC and directed prosecution to ensue.

STATUS

The suspects were charged with the offence of abuse of office contrary to Section 101 (1) of the penal code, conspiracy to defraud contrary to Section 317 of the penal code, obtaining by false pretences contrary to Section 313 of the Penal Code and obtaining

registration by false pretence contrary to Section 320 of the penal code. Hearing on 11th March, 2009.

61. KACC/FI/INQ/09/2008

NO. 5 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations of embezzlement of Kshs. 2,784,594 belonging to the National Museums of Kenya by a former Acting Financial Controller. Investigations established the fraudulent appropriation of the funds by the Financial Controller.

KACC forwarded the file to the Attorney General with recommendation that the Acting Financial Controller be charged with three counts of the offence of fraudulent acquisition of public property contrary to Section 45(1)(a) of Anti-corruption Economic Crime Act and alternative charges of abuse of office contrary to Section 46 of Anti-corruption Economic Crime Act.

Upon perusal of the file the Hon. Attorney General found the evidence sufficient to support the charges proposed and directed that the prosecution of the suspect do commence on the proposed charges.

STATUS

The suspect was charged with three counts of the offence of fraudulent acquisition of public property contrary to Section 45(1) of Anti-corruption Economic Crime Act and alternative charges of abuse of office contrary to Section 46 of Anti-corruption Economic Crime Act. Hearing on 16th 17th and 18th March, 2009.

62. KACC/MSA/INQ/FI/7/2008

NO. 6 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that the Managing Director of the Mombasa Water & Sewerage Company Ltd flouted procurement rules by awarding the 2007/2008 tender for the provision of general insurance services for the company's assets to Africa Merchant Assurance Company Limited (AMACO) yet the firm had been disqualified

during the evaluation process for not meeting mandatory requirements for the particular procurement. Investigations established that the procurement processes were not followed as the company that was awarded the contract was not the successful bidder.

KACC forwarded the file to the Attorney General with recommendation that the Managing Director of Mombasa Sewerage & Water Company be charged with abuse of office contrary to Section 46 of Anti-corruption Economic Crimes Act for improperly conferring a benefit on AMACO by awarding it a tender for provision of general insurance services for the year 2008 at a tender price of Kshs. 2,246,556 notwithstanding that the company was not the successful bidder. It was further recommended that he be charged with an alternative charge of wilful failure to comply with the law applicable to tendering of contracts contrary to Section 45(2) (b) of Anti-corruption Economic Crime Act.

Upon perusal of the file, the Hon. Attorney General found the evidence sufficient to support the offence of abuse of office contrary to Section 46 of Anti-Corruption and Economic Crimes Act and directed prosecution to ensue.

STATUS

The suspect was charged with the offence of abuse of office contrary to Section 46 of the Anti Corruption and Economic Crimes Act. Hearing on 27th April, 2009.

63. KACC/FI/103A/05

NO. 7 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations of irregular advance of Kshs. 900,000 to the Finance and Administration Manager of Kenya Wine Agencies Limited (KWAL) by the Managing Director. Investigations established that the Managing Director approved a loan to the Finance Manager to purchase a car before he had qualified for the Car Loan Scheme for Managers or a salary advance. KWAL ended up losing the money.

KACC forwarded the file to the Attorney General with recommendation that the Managing Director of KWAL be charged with the offence of abuse of office contrary to Section 46 of Anti Corruption Economic Crimes Act for conferring a benefit on the Finance and Administration Manager.

Upon perusal of the file the Hon. Attorney General found the evidence sufficient to support the charge of abuse of office contrary to Section 46 as read with Section 48 of the Anti Corruption Economic Crimes Act and directed prosecution to ensue.

STATUS

The suspect was charged with the offence of abuse of office contrary to Section 46 of the Anti-corruption Economic Crime Act. Hearing on 23rd March, 2009.

64. KACC/INQ/AT/15/2006

NO. 9 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that one Mohamed Rafiq Abdulkarim was irregularly allocated a plot number Mombasa/Block/XV/210, a public utility plot within Majengo Estate of Mombasa Municipality. The investigation established the said allocation but the disputed open space was private land and cannot be investigated or recovered by the Commission as public property under section 7(1)(h) of the Anti-Corruption and Economic Crimes Act, 2003.

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

Upon perusal of file the Hon. Attorney General found the evidence insufficient to support any criminal offence against the suspect and accepted KACC's recommendation to close the inquiry file.

STATUS

The file was returned to KACC with directions to close.

65. KACC/FI/INQ/82A/2005

NO. 10 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations of massive loss of revenue by Telkom Kenya Limited through middle men referred to as Tier 2 carriers, contracted by Telkom for the conveyance of telecommunication traffic on its behalf at a commission where there was no bilateral link between Telkom and the so called traditional or Tier 1 carriers. It was further alleged that the loss was on account of lopsided interconnection agreements that Telkom entered into with some Tier 2 operators which had no equipment of their own and thus used the equipment of Telkom. Investigations established that the allegations were unfounded and to the contrary, Telkom earned US \$ 5.5 Million from the contracts which would otherwise have been lost to the internet service providers. It was further established that the contracts were terminated in 2003 when their viability was brought into question. Though irregularities were detected in respect of one of the contracts, no charges were proposed since the suspect; Dr. Augustine Cheserem has since died.

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

Upon perusal of the file, the Hon. Attorney General concurred with KACC that though some irregularities were detected, criminal charges could not be filed in court as the suspect is deceased.

STATUS

The file was returned to KACC with directions to close.

66. KACC/FI/51/2007

NO.13 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that the management of Local Authority Pensions (LAP) Trust paid Kshs. 102,080 to a supplier for wall calendars that were never supplied during the re-launch of the Trust in 2005. Investigations established that the Managing Trustee carelessly failed to comply with known procedures and guidelines relating to

public procurement by not only failing to tender or carry out a pre-qualification exercise of suppliers of goods and services, but also authorized the payment of the sum of Kshs. 102,080 to the supplier without any security. However, the Managing Trustee could not be charged with any procurement related offence as LAP Trust has a statutory exemption from the operations of the mainstream procurement requirements that apply to public bodies.

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

Upon perusal of the file the Hon. Attorney General found the evidence insufficient to support any criminal charge and accepted KACC's recommendation to close the file and advised that a civil suit be filed by Local Authority pensions (LAP) for recovery of down payment.

STATUS

The file was returned to KACC with directions to close and further advice to LAP Trust to seek civil redress by filing a Civil Suit against the Supplier.

67. KACC/FI/INQ. 40B/2006

NO.14 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that the Export Processing Zones Authority (EPZA) Management had in abuse of their office disposed off seven vehicles at unrealistically low prices without the requisite Ministry approval. Investigations established that the sale of the vehicles had been done through open tender and the sale yielded more money than had been expected.

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

Upon perusal of the file the Attorney General found that the evidence did not disclose any criminal offence and accepted KACC's recommendations to close the file.

STATUS

The file was returned to KACC with directions to close.

68. ACPU CR 141/990/2002: NAIROBI ACC NO. 38/2002 NO. 17 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that two Public Health Technicians employed by the Ministry of Health had solicited for a benefit of Kshs. 50,000 as an inducement to forbear charging the complainant with an alleged offence of selling industrial rectified spirit for human consumption in contravention of the Foods, Drugs and Chemicals Substances Act, Cap 254, Laws of Kenya. Investigations established solicitation and receipt of Kshs. 25,000. The suspects were charged before Court but the case was terminated under Section 89(5) of the Criminal Procedure Code as they had been charged under the Prevention of Corruption Act, Cap 65, which had since been repealed. KACC reviewed the matter and found that some of the key witnesses are no longer available and the available evidence may not be adequate to sustain a conviction.

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 that with the key witness unavailable, the evidence would be insufficient to support the charges of corruption.

STATUS

The file was returned to KACC with directions to have it closed.

69. KACC CR 142/29/2008: NAIROBI ACC 10/2008 NO.15 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that an Assistant Commissioner in the Domestic Tax Department of Kenya Revenue Authority has solicited for a benefit of Kshs. 300,000 as an inducement to forbear charging the complainant's employer with an

alleged offence of failing to enter a sales transaction into an Electronic Tax Register. The investigation established the solicitation and receipt of Kshs. 40,000. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with soliciting and receiving of a benefit.

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 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, further hearing on 19th and 20th March, 2009.

70. KACC CR 760/148/2008: KERICHO ACC 1/2008 NO.16 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that a Clerical Officer attached to the Provincial State Law Office in Nakuru, who was falsely representing himself as the Deputy State Counsel, had solicited for a benefit of Kshs. 100,000 from officials of a land buying company as an inducement to facilitate the re-arrest of a suspect in a murder case. The investigations established the solicitation and receipt of Kshs. 55,000. The suspect was arrested and charged before the Kericho Anti-Corruption Court with soliciting and receipt of a benefit.

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 of corruption against the suspect 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, further hearing on 16th February, 2009.

71. KACC CR 230/61/2008: NYERI ACC 2/2008

NO.18 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that the Murang'a District Labour Officer had solicited for a benefit of Kshs. 50,000 from a Muslim Teacher at Mukuyu mosque as an inducement to facilitate the withdrawal of a criminal case pending before Murang'a law courts. Investigations established the solicitation and receipt of Kshs. 11,000. The suspect was arrested and charged before the Nyeri Anti-Corruption Court with soliciting and receiving of a benefit.

KACC forwarded the file to the Attorney General with recommendation that the case pending before Court be prosecuted to the 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. Fresh matter hearing on 5th March, 2009.

72. **KACC CR 011/29/2008: NAIROBI ACC 6/2008**
NO.19 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that a Police Constable based at CID Central Division, Nairobi had corruptly solicited for a benefit of Kshs. 50,000 to forbear charging the complainant with an alleged offence of extortion. Investigations established the solicitation and receipt of Kshs. 15,000. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with the offence of soliciting and receiving of a benefit

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 offence of corruption contrary to Section 39 of the Anti Corruption and Economic Crimes Act. Case part heard, submissions on 3rd February, 2009.

73. **KACC CR 141/168/2008: NAIROBI ACC 14/2008**
NO.21 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that some public Health Officers from the City Council of Nairobi had solicited for a benefit of Kshs. 40,000 from an employee of Galexon Hotel as an inducement to forbear executing a warrant of arrest in Criminal Case No. 28/A issued against Galexon Café. Investigations established that one of the officers solicited and received the benefit. He was arrested and charged before the Nairobi Anti-Corruption Court with soliciting and receiving of a benefit.

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 offence of corruption contrary to Section 39 of the Anti Corruption and Economic Crimes Act. Hearing on 10th and 11th March, 2009

74. KACC CR 030/08/2008: NAKURU ACC 1/2008 NO.22 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that a Revenue Officer II of Kenya Revenue Authority had solicited for a benefit of Kshs. 40,000 as an inducement to release the complainant's motor vehicle registration number KAW 974Z trailer ZC 5351 impounded for alleged non payment of transit licence and lack of documents for transportation of local goods. Investigations established the solicitation and receipt of Kshs. 20,000 by the suspect. He was arrested and charged before the Nakuru Anti-Corruption Court with soliciting and receiving of a benefit.

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 offence of corruption contrary to Section 39 of the Anti Corruption and Economic Crimes Act. Case part heard. Warrant of arrest issued against the suspect. Mention on 26th February, 2009.

75. KACC CR 011/52/2008: NAIROBI ACC 15/2008 NO. 23 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that a Police Constable based at Muthaiga Police Station had corruptly solicited for a benefit of Kshs. 30,000 as an inducement to forbear charging the complainant with an alleged offence of obtaining money by false pretences. The investigation established the solicitation and subsequent receipt of Kshs. 10,000. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with soliciting and receiving of a benefit.

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 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 and destruction of evidence contrary to Section 66 of Anti Corruption and Economic Crimes Act. No.3 of 2003. Warrant of arrest issued for the suspect on 18th November, 2008. Mention on 5th February, 2009.

76. KACC (MSA) CR 021//84/2007: MOMBASA ACC 21/2007 NO. 24 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that a candidate who had taken part in the recruitment of officers in the Armed Forces at Mwangala Primary School had corruptly offered a benefit of Kshs. 25,000 to a Senior Sergeant as an inducement to recruit the

said candidate. Investigations established that the suspect offered and gave the benefit of Kshs. 25,000. He was arrested and charged before the Mombasa Anti-Corruption Court with offering and giving of a benefit.

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 offence of corruption contrary to Section 39 of the Anti-corruption and Economic Crimes Act. Case part heard defence hearing on 16th February, 2009.

77. KACC CR 112/144/2008: NAIROBI ACC 8/2008

NO. 25 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that employees of the City Council of Nairobi had solicited for a benefit of Kshs. 20,000 as an inducement to forbear charging the complainant and his employees for working in a food manufacturing plant without medical certificates and white aprons. Investigations established the solicitation and receipt of Kshs. 11,000 by the suspects. In a bid to arrest the suspects, the KACC investigators were assaulted by the suspects with the help of other employees of the City Council of Nairobi causing KACC investigators injury. The suspects were later arrested and charged with various offences including causing grievous harm, soliciting and receiving of a benefit and assaulting an investigator.

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 suspects were charged with the offence of soliciting and receiving a benefit together with offences of assault, obstruction, escaping from lawful custody contrary to Sections 39, 66 of the Anti Corruption and Economic Crimes Act and Section, 36,234,124, of the Penal Code. Case part heard further hearing on 12th February, 2009.

78. KACC CR 021/29/2008: MOMBASA ACC 2/2008

NO.26 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that an officer of the Mombasa Water & Sewerage Company Ltd had solicited for a benefit of Kshs. 10,000 as an inducement to reconnect the complainant's water supply to his business premises situated within Mkomani area of Mombasa Municipality. The investigation established the solicitation, which had increased to Kshs. 15,000 and receipt of Kshs. 10,000. The suspect was arrested and charged before the Mombasa Anti-Corruption Court with soliciting and receiving of a benefit.

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 offences of offering a benefit and giving a benefit contrary to Section 39/3/b of the Anti-corruption and Economic Crimes Act. Prosecution finalised, Judgment on 29th February, 2009.

79. KACC CR 141/667/2007: NAIROBI ACC 67/2007

NO.27 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that an Administration Police Constable based in Nairobi Provincial Headquarter in Nyayo House had corruptly solicited for a benefit of Kshs. 10,000 as an inducement to assist the complainant in the processing of a passport. Investigations established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with soliciting and receiving of a benefit.

KACC forwarded the file to the Attorney General on 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 offences of corruption contrary to Section 39 of the Anti Corruption and Economic Crimes Act. Fresh matter hearing on 19th and 23rd March, 2009.

80. KACC CR 141/58/2008: KERICHO ACC 2/2008

NO.28 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that two Administrative officers based at Ongata Rongai Chief's Camp, Kajiado District, had solicited for a benefit of Kshs. 5,000 as an inducement to facilitate the release of a cell phone confiscated from the complainant. The investigation established the solicitation. The suspects were arrested and charged with two counts of soliciting for a benefit before the Kericho Anti-Corruption Court.

KACC forwarded the file to the Hon. 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 suspects were charged with the offence of corruption contrary to Section 39 of the Anti-corruption and Economic Crimes Act. Hearing on 11th February, 2009.

81. KACC CR 011/24/2008: NAIROBI ACC 5/2008 NO. 29 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that an Office Clerk employed by the City Council of Nairobi had corruptly solicited for a benefit of Kshs. 5,000 as an inducement to facilitate the release of a certificate authorising external repairs of Bridges Restaurant. Investigations confirmed the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with the offence of soliciting and receiving of a benefit.

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 corruption contrary to Section 39 of the Anti-Corruption and Economic Crimes Act. Case part heard further hearing on 10th February, 2009

82. KACC CR 032/10/2008: KISUMU ACC 147/2008

NO.30 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that a Police Corporal based at Nyamtiro Police Station had corruptly solicited for a benefit of Kshs. 5,000 as an inducement to forbear charging the complainant with an alleged offence of attempted rape. Investigations established the solicitation and receipt of Kshs. 3,000. The suspect was arrested and charged before the Kisumu Anti-Corruption Court with soliciting and receiving of a benefit.

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 offence of corruption contrary to Section 39 of the Anti Corruption and Economic Crimes Act. Hearing on 4th March, 2009.

83. KACC CR 032/11/2008: KISUMU ACC 22/2008

NO. 31 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that an Administration Police Constable based at Kibirigo Chief's Camp in Nyamira District had solicited for a benefit of Kshs. 2,500 as an inducement to effect the arrest of four suspects who were to be charged with the offence of malicious damage to property belonging to the complainant. Investigations established the solicitation and receipt of a benefit. The suspect was arrested and charged before the Kisumu Anti-Corruption Court with soliciting and receiving of a benefit.

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 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 corruption and Economic Crimes Act. Hearing on 10th March, 2009.

84. KACC CR 141/169/2008: NAIROBI ACC 13/2008

NO. 32 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that a Mortuary Attendant working for the City Council of Nairobi and based at the City Mortuary in Nairobi had corruptly solicited for a benefit of Kshs. 2,000 as an inducement to issue a permit for burial of a deceased person. Investigations established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with soliciting and receiving of a benefit.

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 corruption and Economic Crimes Act. Fresh matter, hearing on 11th March, 2009.

85. KACC CR 142/62/2008: NAIROBI ACC 20/2008

NO.33 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that a Valuer based at the District Lands Office in Kiambu East had solicited for a benefit of Kshs. 1,000 as an inducement to facilitate the valuation of Plot No. Dagoreti/Uthiru/1516. Investigations established the solicitation and receipt of Kshs. 500. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with soliciting and receiving of a benefit.

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 the preferred charges of corruption against the suspect and directed that the case be terminated.

STATUS

The case was terminated under Section 82 of the Criminal Procedure Code.

86. KACC/AT/INQ/33/05

NO. 8 3RD QUARTERLY REPORT

This was an inquiry into allegations that an employee of Kenya Revenue Authority, Customs Department and formerly a Revenue Officer at Jomo Kenyatta International Airport was living beyond her means. The investigation had been prompted by a report to Langata Police Station that the employee had been robbed of Kshs. 1.6 million from her house. The suspect availed an agreement to the KACC investigator to establish that she had been given the money by her friend for purposes of buying a house. The agreement was however established to be false. She had also submitted false information in her wealth declaration forms.

KACC forwarded the file to the Attorney General with the recommendation that the suspect be charged with submitting a false declaration of income, assets and liabilities

under the Public Officer Ethics Act, 2003 and deceiving KACC investigator by presenting to him a false agreement contrary to Section 66(1) (b) as read with Section 66(2) of Anti-corruption Economic Crime Act.

Upon perusal of the file, the Hon. Attorney General found the evidence insufficient to support the charges proposed by KACC and directed that the file be closed and the issue of wealth declaration be referred to the responsible commission which is the Public Service Commission.

STATUS

The file was returned to KACC with directions to close and refer the issue of wealth declaration to the responsible commission.

87. KACC/AT/INQ/27/2006

NO.11 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations of overpayment to M/S Kirinyaga Construction (K) Ltd for landscaping and construction of a sports field in Garissa Primary Teachers Training College. It was alleged that the construction company received an overpayment of Kshs. 57,230,433 in respect of the landscaping contract. Investigations conducted by KACC established that there was an overpayment to the tune of Kshs. 63,215,331.07 to Kirinyaga Construction (K) Ltd. However, no criminal offence was detected.

KACC forwarded the file to the Attorney General with a recommendation that the inquiry file be closed and the overpayment of Kshs.63,215,331.07 made to Kirinyaga Construction Co. Ltd be recovered by KACC Civil Litigation & Asset Recovery Department on behalf of the Government of Kenya.

Upon perusal of the file the Hon. Attorney General found the evidence insufficient to support any criminal charge. The Attorney General concurred with KACC's recommendation that the inquiry file be closed and directed that accounts be taken and

if any money found to be overpaid to the company, KACC to recover through civil recovery process.

STATUS

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

88. KACC/INQ/7/11.2.04

NO.12 KACC 3RD QUARTERLY REPORT

This was an inquiry into an allegation that a Senior Labour Inspector with the Ministry of Labour solicited for a benefit of Kshs. 600,000 as an inducement to agree with the computations of dues owed to the workers of Union Apparels EPZ Kenya Ltd and to have a warrant of arrest issued against the Managing Director lifted and also have his passport released. The investigation established that the Labour officer did engage in corrupt conduct, but the evidence available was not sufficient to sustain a criminal charge.

KACC forwarded the file to the Attorney General with recommendation that administrative action be taken against the Senior Labour Inspector.

Upon perusal of the file the Hon. Attorney General found the evidence insufficient to support any criminal charge and accepted KACC's recommendation to deal with the matter administratively.

STATUS

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

89. KACC/FI/INQ/26/06/17E

NO. 4 KACC 3RD QUARTERLY REPORT

This was an inquiry into allegations that the Kenya Pipeline Company Limited (KPC) Managing Director and the Board Chairman acquired government houses contrary to

Treasury requirements. Investigations revealed that the Managing Director and the Company Secretary deliberately failed to comply with the guidelines given by the KPC Board of Directors and failed to seek approval of the sale from the Ministry of Energy. There was however no evidence implicating the Chairman of the Board of Directors in the transaction.

KACC forwarded the file to the Attorney General with recommendation that the Managing Director and Company Secretary of KPC be charged with the offence of wilful failure to comply with applicable procedures and guidelines relating to disposal of public property contrary to Section 45(2) (b) of Anti-corruption Economic Crime 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 Kenya Pipeline Company Managing Director and the Company Secretary were charged before the court with the said offences. Hearing on 17th February, 2009.

D. FILES SUBMITTED IN THE 4TH QUARTER OF THE YEAR – 1ST OCTOBER, 2008 TO 31ST DECEMBER, 2008

90. KACC/AT/INQ/28A/2006

NO. 3 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations of abuse of office against the management of the Lake Basin Development Authority (LBDA). It had been alleged that certain advocates acting in concert with the past management of LBDA, fraudulently and without authority, executed and recorded a consent order in court requiring the said LBDA to pay a firm of Consulting Engineers the sum of Kshs 80,000,000.00.

KACC forwarded the file to the Attorney General with recommendation to charge two advocates involved in the transaction, two directors of the Consulting Engineering firm, the Consulting Engineering company, and the LBDA's Managing Director with various offences of conspiracy to defraud, fraudulent attempt to dispose off public property as well as fraudulent acquisition of public property and that a sum of Kshs. 2,000,000 improperly paid to an advocate be recovered through civil action and the advocates involved in the transaction be referred to the Law Society of Kenya's Disciplinary Committee for disciplinary action.

Upon perusal of the file the Hon. 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.

91. KACC/FI/INQ/56/2007

NO. 5 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that part of the sum of Kshs. 242 million paid by Zep-Re (PTA Reinsurance Co.) for the purchase of United Insurance Towers to Kenya Reinsurance Corporation Ltd to the tune of Kshs. 7,260,000 was misappropriated by the former Managing Director in collusion with the Managing Partner of a law firm that had been instructed to handle the transaction in the guise that it was payment made to agents employed in the sale transaction. The investigation confirmed the misappropriation as there were no agents involved in the transaction.

KACC forwarded the file to the Attorney General with recommendation that the former Managing Director of Kenya Reinsurance Corporation and a partner in the law firm be prosecuted for fraudulent acquisition of public property under 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 Managing Director of Kenya Reinsurance cooperation and the law firm partner were charged with the above named offences. Upon being charged, they filed an application for orders of Judicial Review seeking to prohibit the prosecution. The application is pending in the High Court.

92. KACC/FI/INQ/60A/06

NO. 8 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations of irregular procurement of second hand CAT 140G graders through single sourcing from Associated Equipment Company (PTY) Limited of South Africa by South Nyanza Sugar Company Limited (SONY). The graders were never delivered to SONY though a down payment was made.

KACC forwarded the file to the Attorney General with recommendation that the Managing Director of SONY be charged with the offence of wilful failure to comply with applicable procedures and guidelines relating to procurement.

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 Managing Director to be charged with wilful failure to comply with applicable procedures and guidelines contrary to section 45 (2) (b) and 48 of the Anti-Corruption and Economic Crimes Act, 2003.

93. KACC/AT/INQ/8/06

NO. 10 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations of theft of famine relief maize from the Kapenguria National Cereals and Produce Board Depot (NCPB). Investigations confirmed that some 1,700 x 90 kg bags of maize were irregularly obtained from the Depot on the pretext that the allocation of the maize to the District Commissioner, West Pokot, risked cancellation if not collected before the impending annual stock-taking exercise. Save for some 300 bags that were traced at the instance of members of the public, the rest of the maize was fraudulently disposed of.

KACC forwarded the file to the Attorney General with recommendation that the Depot Manager, the DO I, the District Officer, Kapenguria and two NCPB Store Clerks be charged with fraudulent disposal of public property contrary to section 45(1)(b) 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 officers were charged with fraudulent disposal of public property contrary to section 45 (1) (b) of the Anti-Corruption and Economic Crimes Act, 2003. Fresh matter, hearing on 2nd April, 2009.

94. KACC/FI/INQ/28/2008

NO. 12 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations that three officers of the National Aids Control Council (NACC), fraudulently obtained imprests for training on Risk Management, which training never took place. Investigation revealed that the three officers received a total imprest of Kshs. 830,000 but did not conduct the training. Instead, they surrendered the imprest and attached several documents to indicate that the trainings had allegedly been held at various hotels, and fabricated lists of participants were also attached.

KACC forwarded the file to the Attorney General with the recommendation that the three NACC officers be charged with three counts of fraudulent acquisition of public property contrary to section 45(1) (a) of the Anti-Corruption and Economic Crimes Act and three counts of uttering a false document contrary to section 353 of the Penal Code.

Upon perusal of the file the Hon. Attorney General found the evidence sufficient to support the proposed charges.

STATUS

The suspects were charged with the above named offences. Fresh matter, hearing on 6th April, 2009.

95. KACC/FI/INQ/01/2008

NO. 14 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations that the District Officer, Ndia Division, and an Administration Police Inspector embezzled Kshs. 308,800, realized from the private hire of the services of Administration Police Officers under their charge. Investigations conducted by KACC established that the District Officer wilfully failed to comply with applicable procedures and guidelines relating to the management of public revenue, and that he also fraudulently acquired public property.

KACC forwarded the file to the Attorney General with recommendation that the District Officer, Ndia Division be prosecuted for the offences of wilful failure to comply with applicable procedures and guidelines relating to the management of funds contrary to section 45(2)(b) and abuse of office, contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003, and the embezzled funds be recovered by KACC Civil Litigation and Asset Recovery Department.

Upon perusal of the file the Hon. Attorney-General found the evidence sufficient to support the proposed charges and directed prosecution to ensue. The embezzled funds to be recovered by KACC through Civil Litigation.

STATUS

The suspects were charged with the offences of wilful failure to comply with applicable procedures and guidelines relating to the management of funds contrary to Section 45 (2) (b) and Abuse of office contrary to Section 46 of the Anti-Corruption and Economic Crimes Act, 2003. The embezzled amount to be recovered through civil litigation. The suspect has not been charged yet (he has not been reached for arraignment in court).

96. KACC/FI/INQ/59B/2007

NO. 15 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations of conflict of interest against the District Cashier, Narok North District. The investigation commenced after the Commission received a report that Government employees based in Narok North District were trading with their employers through their private companies. It was alleged that the District Cashier was supplying stationery to the District Treasury and the District Commissioner's office through her company. Investigations revealed that the District Cashier supplied stationery worth Kshs. 31,915 to the District Treasury, and Kshs. 23,795 to the DC's office through her company,

KACC forwarded the file to the Attorney General with recommendation that the District Cashier, Narok North District be charged with three counts of conflict of interest 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 Hon. Attorney-General found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

STATUS

File returned to KACC with directions to arraign the suspect before court and recover the embezzled amount.

97. KACC CR 142/21/2008: NAIROBI ACC 7/2008 NO. 17 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations that an Administrator with KANU Party and a Councillor of the City Council of Nairobi had solicited for Kshs. 500,000/- to facilitate the complainant's nomination as a Councillor in the City Council of Nairobi. It was reported that the initial demand made by Administrator was for a sum of Kshs. 1 million. The investigations established the solicitation and receipt of Kshs. 49,000/- trap money. Both the KANU Party Administrator and the Councillor of the City Council of Nairobi 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. When the matter came for hearing the complainant was not available to testify.

KACC forwarded the file to the Attorney General with recommendation that the case pending before court be withdrawn under section 87(a) of the Criminal Procedure Code to secure an opportunity to revive the charges in future.

Upon perusal of the file the Hon. Attorney-general found the evidence sufficient to support the preferred charges of corruption 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. On the request to withdraw the case, the Attorney General directed KACC to avail more information on non-availability of the complainant. Hearing on 13th and 16th February, 2009.

98. KACC CR 141/101/2007: NAIROBI ACC 02/2008

NO. 19 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that a Police Officer based at GSU Headquarters and two other Police Officers based at Kasarani Police Station had solicited for a benefit of Kshs. 120,000 and received Kshs. 49,000 as an inducement to release the complainant who had been arrested on suspicion of being a member of the outlawed Mungiki sect. The three officers were arrested and charged with three counts of soliciting and receiving a benefit.

KACC forwarded the file to the Attorney-General with recommendation that the charges against two officers be dropped and the officer who solicited and received the benefit be charged instead.

Upon perusal of the file, the Hon. Attorney-General found the evidence sufficient to support charges of corruption against the officer who solicited and received the benefit. Attorney General directed that the case against this suspect proceed to its logical conclusion and the case against the other two officers be terminated.

STATUS

The suspects were charged with the offence of corruption contrary to section 39 of the Anti-Corruption and Economic Crimes Act. Charges against the other two suspects were terminated. Hearing on 13th February, 2009

99. KACC CR 141/281/2008: NAIROBI ACC 18/2008

NO. 20 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations of corruption against the Chairman of the Board of Governors and Principal, respectively, of Gichuru High School in Kiambu West District. It was alleged that the two suspects had solicited for a benefit of Kshs. 50,000 from the complainant as an inducement to facilitate payment of a debt owed to him by the school for construction work done. Investigations conducted by the KACC established the solicitation and receipt of Kshs. 30,000 by the suspects from the complainant. They 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 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 9th and 10th March, 2009.

100. KACC CR 141/443/2008: NAIROBI ACC 30/2008 NO. 21 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that a Public Health Officer attached to the City Council of Nairobi had solicited for a benefit of Kshs. 50,000 as an inducement to facilitate withdrawal of a criminal case No. 253(A)/08 which had been filed against the complainant as the Landlord/Caretaker of Plot No. 209/2420 at the City Court. Investigations established the solicitation and receipt of a benefit. The suspect was arrested and charged with 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.

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 offence of corruption contrary to Section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 3rd and 4th March, 2009.

101. KACC CR 141/502/2008: NAIROBI ACC 33/2008

NO. 22 KACC 4TH QUARTERY REPORT

This was an Inquiry into allegations that a Pipeline Attendant with the Export Processing Zones Authority (EPZA) had solicited for a benefit of Kshs. 50,000 from the complainant, as an inducement to assist Kiang'ombe Tegemeo Self Help Group to get water connection from the EPZA's main water line. The investigation established solicitation and receipt of the benefit. The suspect was arrested and charged with 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 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 3rd and 4th March. 2009.

102. KACC (MSA) CR 021/159/2008: MOMBASA ACC 4/2008

NO. 23 KACC 4TH QUARTERY REPORT

This was an Inquiry into allegations that the Assistant Chief of Jomvu Kuu Sub location solicited for a benefit of Kshs. 40,000 from the complainant, as an inducement to facilitate an intended survey of Land Parcel LR No. MN/V/1912. The investigation established the 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 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 16th March, 2009.

103. KACC CR 141/262/08: NAIROBI ACC 17/2008

NO. 25 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that an officer of the City Council of Nairobi Inspection Department corruptly solicited for a sum of Kshs. 30,000 as an inducement to forbear charging the complainant with an alleged offence of permitting his employees to carry out renovation work on a building without wearing helmets and overalls. The investigation established the solicitation. The suspect was arrested and charged with soliciting for 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 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. Prosecution finalised. Judgment on 24th February, 2009.

104. KACC CR 141/415/2008: NAIROBI ACC 28/2008

NO. 26 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that an employee of the Nairobi Water and Sewerage Company Ltd based at Pangani had solicited for a benefit of Kshs. 25,000 as an inducement to manipulate the water meter reading for the house of the complainant at Githurai 45 Estate where the water supply had been disconnected for non payment of an outstanding bill of Kshs. 73,000. Investigations established the solicitation and receipt of a benefit. The suspect was arrested and charged with 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.

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 offence of corruption contrary to Section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 7th April, 2009.

105. KACC (MSA) CR 21/16/2008: MALINDI ACC 1/2008

NO. 27 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that a Court Clerk at Kwale Law Courts had solicited for a benefit of Kshs. 20,000 as an inducement to avail the Court file in respect of Kwale Resident Magistrate's Court Civil Case number 83/2002. The solicitation and receipt were established, accused received Kshs. 5,000. He 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 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 17th February, 2009

106. KACC CR 142//84/2008: NAIROBI ACC 26/2008

NO. 28 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that two employees of the Kenya Forest Service, Kiambu District had solicited for a benefit of Kshs. 15,000 from the complainant as inducement to release his power saw that had been seized at the time of his arrest by Forest Rangers. Investigations established the solicitation and receipt by one of the Forest Guards of Kshs. 13,000 for and on behalf of the other. They 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 recommendation that the pending case 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 30th March, 2009.

107. KACC CR 030/15/2008: NAKURU ACC 2/2008

NO. 29 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that a Police Sergeant attached to Divisional CID Nakuru solicited for a benefit of Kshs. 15,000 as an inducement to release the complainant's vehicle that had been detained for allegedly being involved in a robbery. Investigations established the solicitation. He was arrested and charged with the offence of soliciting for 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 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 11th and 12th March, 2009.

108. KACC CR 011/95/2008: MAKADARA ACC 4/2008

NO. 31 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that a private investigator carrying out investigations for, and on behalf of Insurance companies to facilitate settlement of insurance claims had solicited for a benefit from a meat transporter of Kshs.10, 000 as an inducement to prepare a favourable report to the Insurance Company in respect of the theft of a motor cycle, registration number KAZ 378Y belonging to the meat transporter to facilitate compensation by the said Insurance Company. He was arrested and charged with two counts of soliciting and receiving a benefit contrary to section 39(3)(a) as read together 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 be prosecuted to its logical conclusion.

Upon perusal of the file the Hon. Attorney-General found the evidence sufficient to support the charges preferred 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 24th March, 2009.

109. KACC CR 142/70/2008: NAIROBI ACC 23/2008

NO. 33 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that a Clerk based at the Thika District Lands Office had solicited for a benefit of Kshs. 5,000 from the complainant as an inducement

to release a title deed to him. The investigation established the solicitation and receipt of a benefit. The suspect was arrested and charged with the offences of 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.

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 offence of corruption contrary to Section 39 of the Anti-Corruption and Economic Crimes Act. Hearing on 12th February, 2009.

110. KACC CR 141/322/2008: NAIROBI ACC 21/2008

NO. 35 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that the Head Teacher of Riruta Satellite Primary School, Nairobi was soliciting for sums ranging between Kshs. 2,000 to Kshs. 3,000 as inducement to admit new pupils to the school. Investigations established the solicitation and receipt by the suspect of Kshs. 2,500 from an investigating officer who posed as a parent seeking admission of his two children to the school. The suspect was arrested and charged with the offences of soliciting for and receiving a benefit contrary to section 39(3) (a) 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 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 31st March, 2009.

111. KACC CR 022/16/2008: KISUMU ACC 239/2008

NO. 36 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations that a Clinical Officer seconded to Chulaimbo Sub-District Hospital corruptly solicited for a benefit of Kshs. 1,000 as an inducement to fill a P3 form in respect of the complainant's mother. The investigation established the solicitation and receipt of the money. The suspect was charged before Kisumu Anti-Corruption Court with 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 (ACECA).

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 11th February, 2009.

112. KACC/FI/INQ/20/06

NO. 1 KACC 4TH QUARTERLY REPORT

This was an inquiry into allegations of procurement irregularities at the Ministry of Health involving procurement officials of the said Ministry and private suppliers. Investigations carried out covered five tenders for the supply of pharmaceuticals, medical equipments and non-pharmaceutical items. The evidence gathered disclosed irregularities in all the tenders in question. Request for quotation numbers SD/KEN/RUR-HEA-2/98/25/IS for supply of start-up drugs, MOH/HQS/192/2004-05 for purchase of x-ray mobile units, MOH/HQS/193/2004-05 for purchase of various theatre items, were selectively issued to companies which a certain doctor was either the principal shareholder or otherwise closely associated with them. In particular reference to tender number SD/KEN/RUR-HEA-2/98/25/IS, it was established that documents of tender were purportedly issued to a mix of existing and non existing international companies as interested bidders. On the part of the existing companies, it was confirmed that the companies were unaware that tenders and bid documents were submitted on their behalf bearing signatures and rubber stamps of non-existent company officials, bank officials, and witnessed by Advocates and Accountants. In this case the award for supply of start up drugs was made to one of the companies at the tender price of Kshs. 28,738,109.40.

KACC forwarded the file to the Attorney General on 18th December 2008 with the recommendation that Procurement Officers at the Ministry of Health and the Directors of various Companies involved be charged with thirteen (13) substantive counts and four (4) alternative counts of fraud, abuse of office, forgeries and irregular procurement.

Upon perusal of the file the Hon. Attorney General was satisfied that there is sufficient, credible and cogent evidence to sustain all the charges recommended by KACC against the suspects named therein. In addition, the Attorney General directed that fourteen additional counts be included. Further, in order to avoid the risk of the Constitutional challenges to the global charge sheet recommended by KACC and in order to make the ensuing prosecution manageable, the Attorney General directed that the charges be

deconsolidated so that charges relating to each tender form separate counts of its own separate charge under separate file. Prosecution to ensue.

STATUS

The file was returned to KACC for compliance with the Attorney General's directives.

113. KACC/AT/INQ/9/2006

NO. 2 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations that the former Chief Executive Officer of the Kenya Sugar Board with the complicity of the Legal Officer was engaged in corrupt dealings with regard to the outsourcing of legal services. It was alleged that despite existence of three law firms on the Kenya Sugar Board Panel, the Chief Executive Officer gave legal work to only one firm of advocates. As a result, the said law firm benefited in terms of legal fees in excess of Kshs. 100 million.

KACC forwarded the file to the Attorney General with recommendation that appropriate administrative action be taken by the Kenya Sugar Board against the Chief Executive Officer and the Legal Officer of the Kenya Sugar Board.

Upon perusal of the file the Hon. Attorney-General found the evidence insufficient to support any criminal charge and accepted KACC's recommendation to deal with the matter administratively.

STATUS

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

114. KACC/AT/INQ/02/05

NO. 9 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations that the Principal Accountant of the Ministry of Home Affairs is corrupt and has unexplained wealth. Though the investigations established that the Principal Accountant has substantial property, the same did not

reveal any fraudulent dealings by the officer and his wife. The investigation established that the Principal Accountant failed to declare a number of assets as required by the Public Officer Ethics Act and in some instances grossly undervalued the same.

KACC forwarded the file to the Attorney General on 17th December 2008 with the recommendation that the Principal Accountant of the Ministry of Home Affairs be charged with the offence of submitting a false declaration of income, assets and liabilities in contravention of the Public Officer Ethics Act, No. 4 of 2003.

Upon perusal of the file the Hon. Attorney-General found that despite the evidence KACC does not have powers to investigate under the Public Officer Ethics Act. The Attorney General directed that the case be submitted to the relevant Commission under the Public Officer Ethics Act that is the Public Service Commission for action.

STATUS

The file was returned to KACC with instructions to forward it to the Public Service Commission.

115. KACC/AT/INQ/34/2007

NO. 13 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations of irregularities in the award of a contract for the maintenance of Elugongo-Bungasi Road in Mumias Constituency to a construction company. That the contractor was paid Kshs. 728,000 before completing the works and that the District Accountant received a bribe of Kshs 60,000 from the said contractor on the day he processed the payment of Kshs. 400,000 to the contractor. Investigations established that the award of the contract was regular and though the contractor was paid the contract sum before completing the works, the works were satisfactorily completed. However, there was an overpayment of Kshs. 242,814.20 made to the contractor.

KACC forwarded the file to the Attorney General with recommendation that the Kshs. 242,814.20 overpayment to the contractor be recovered.

Upon perusal of the file, the Hon. Attorney-General found the evidence sufficient to support the overpayment. The Attorney General accepted KACC's recommendations to recover the overpaid amount and further directed administrative action by Kenya Revenue Authority.

STATUS

File returned to KACC with directions to

- (i) Recover the sum of Kshs. 242,814.20 and fee of Kshs. 5,000.
- (ii) Kenya Revenue Authority be invited to conduct an inspection exercise on all companies and firms including M/S Ebushibo Construction Company to verify their tax compliance and recover unpaid tax.

116. KACC/FI/INQ/102/2005

NO. 16 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations that the former Executive Director of Industrial and Commercial Development Corporation (ICDC) had defrauded the Government by making false mileage claims. Investigations established that the Executive Director was entitled to make mileage claims, but import duty had not been paid for the motor vehicles registration numbers KAH 454K and KAJ 105Z which he used to lodge the mileage claims.

KACC forwarded the file to the Attorney General with recommendation that the same be closed with regard to false mileage claims as mileage was payable to the Executive Director. It was however recommended that the issue of tax evasion be referred to Kenya Revenue Authority.

Upon perusal of the file the Hon. Attorney-General found the evidence insufficient to support any criminal charge regarding the false mileage claim. Attorney General accepted KACC's recommendations to deal with the matter administratively.

STATUS

The file was returned to KACC with directions to refer the tax issue to the Kenya Revenue Authority.

117. KACC MSA/INQ/FI/10/2008

NO. 24 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that a subordinate staff at the Immigration Office Mombasa had solicited for and received a benefit of Kshs. 40,000 from a Swiss National who has been a resident in Kenya and was seeking an entry permit. The purpose of the benefit was to hasten the processing of the re-entry permit. The Swiss National gave the bribe but the permit was delayed. When the matter was reported to the Officer's Supervisor, he offered to pay back the Kshs. 40,000 the officer had received.

KACC forwarded the file to the Attorney General with recommendation that administrative action be taken against the officer at the Immigration Office as the available evidence was insufficient to support a criminal charge.

Upon perusal of the file the Hon. Attorney-General found the evidence insufficient to support charges of corruption and accepted KACC's proposal to deal with the matter administratively.

STATUS

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

118. KACC/FI/INQ/105/05

NO. 4 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations of abuse of office against the officials of the Prisons Department's Nairobi Remand and Allocation Prison (NRAP) in that they misappropriated Kshs. 40 Million meant for the construction of staff houses. The investigation revealed various instances where the procurement procedures as set out in the Exchequer and Audit (Public Procurement) Regulations, 2001 were not followed by NRAP Officers when procuring building materials for the staff houses. This was by verbally instructing suppliers to deliver goods in total disregard to competitive bidding and even where there was competitive bidding, failing to issue Local Purchase Orders as required by Regulation 37(4) of the Procurement Regulations.

KACC forwarded the file to the Attorney General with recommendation that the Officer in Charge of Prisons and the Procurement Officer of NRAP be charged with various counts of failure to comply with the law relating to procurement contrary to Section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

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

STATUS

The file was returned to KACC with directions to conduct further investigations in the outlined areas.

119. KACC CR 030/32/2008: NAKURU ACC 3/2008

NO. 32 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that a Motor Vehicle Inspector based at the Nakuru Motor Vehicle Inspection Unit, solicited for a benefit in the sum of Kshs. 5,000/- as an inducement to issue the complainant with inspection certificates for her three motor vehicles. He received Kshs. 3,000. He was arraigned before the Nakuru Anti-

Corruption Court with charges of corruptly soliciting and receiving a benefit and dealing with suspect property contrary to sections 39(3)(a) and 47(2) 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 gaps and deficiencies in the investigations and directed that further investigations be conducted and the file resubmitted for directions.

STATUS

The file was returned to KACC with directions to conduct further investigations in the outlined areas and resubmit for further directions.

120. KACC/FI/49/2007

NO. 6 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations of malpractices in the use of a sum of Kshs. 22,729,310/- being part of money disbursed to Kibwezi CDF in the years 2004/05 and 2005/06. Investigations revealed that the questioned funds were utilized in a food-for-work- programme initiated by the Kibwezi Constituency Development Committee in response to requests made by the constituents to alleviate imminent famine in the region. The additional funds from the emergency and bursary accounts were pooled into the food-for-work-programme with the authority of the National Management Committee. There were no proper accounting records maintained by the Kibwezi CDC making it difficult to monitor distribution of foodstuffs and evaluate its effectiveness. There was an overall effect of re-allocation of funds from one project to another contrary to the provisions section 9(2) of the CDF Act.

KACC forwarded the file to the Attorney General with recommendation that the inquiry file on the food-for-work-programme be closed.

Upon perusal of the file the Hon. Attorney-General found that the evidence did not disclose any criminal offence and accepted KACC's recommendation to close the file.

STATUS

The file was returned to KACC with directions to close.

121. KACC/FI/INQ/93B/2005 NO. 7 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations of abuse of office against a former Minister for Energy, the Managing Director of Kenya Pipeline Corporation (KPC) and the Chief Security Officer, KPC. The allegations were that the former Minister used his influence at the Ministry to secure the award of a tender to a security firm for the provision of security services to KPC premises in Lamu, Kipevu and Miritini, in the Coast Province. A further allegation was that the Minister's father had been receiving a monthly commission from the security firm through an account at a bank located along Nyerere Road, Nairobi for onward transmission to the Minister. Investigation found no tangible evidence against the Minister, that he influenced the award of the tender or that he received commissions through his father.

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

Upon perusal of the file the Hon. Attorney-General found the evidence insufficient to support any criminal charge against the former Minister and accepted KACC's recommendations to close the file.

STATUS

The file was returned to KACC with directions to close.

122 KACC/FI/INQ/13/08

NO. 11 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations of bid rigging of a job evaluation tender in favour of a certain company by the Sports Stadia Management Board. Investigation established that the procurement was undertaken in accordance with the Exchequer and Audit (Public Procurement) Regulations 2001 which were in force at the time and the choice of mode of procurement of request for quotations/ proposals was in order. There was no evidence that the Assistant Director, Human Resource and Administration of Sports Stadia Management Board advised the company to irregularly adjust the price from Kshs. 2,988,000 to Kshs. 2,088,000.

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.

123. KACC (ACPU) CR. 342/148/02: NAIROBI ACC 910/2002

NO. 18 KACC 4TH QUARTERLY REPORT

This was an Inquiry into allegations that two Revenue Officers with the Kenya Revenue Authority solicited for a benefit of Kshs. 900,000 and received Kshs. 200,000 as an inducement to reduce the amount of VAT payable by a spare parts firm based at Mombasa. The two Revenue Officers were charged with the offence of corruption in office contrary to section 3(1) of the defunct Prevention of Corruption Act (Cap. 65 Laws of Kenya). After the repeal of the said Act, the matter was terminated.

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

Upon perusal of the file, the Hon. Attorney-General found that though the evidence was sufficient to support the charges, reviving charges under the repealed Prevention of Corruption Act (Cap 65 Laws of Kenya) was going to be a challenge. Attorney General accepted KACC's recommendation to close the Inquiry File.

STATUS

The file was returned to KACC with directions to close.

124. KACC (ACPU) CR 123/129/2002: NAIROBI ACC 690/2002

NO. 30 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that a Police Officer based in Kasarani Police Station had solicited for a benefit of Kshs. 15,000 as an inducement to release the complainant's brother who had been held in police custody at Ruaraka Police Post. Investigations established the solicitation and receipt of a benefit and the suspect was arrested and charged with two counts of corruption in office contrary to Section 3(1) of the Prevention of Corruption Act (Now repealed). Following the repeal of the Act, the court discharged the accused under Section 89(5) of the Criminal Procedure Code on the basis that there were no valid charges following the repeal.

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

Upon perusal of the file the Hon. Attorney-General found that though the evidence was sufficient to support the charges, revival of the case was no longer tenable due to the repeal of Prevention of Corruption Act and concurred with KACC's recommendation to close the file.

STATUS

The file was returned to KACC with directions to close.

125. ACPU CR 142/397/2002: NAIROBI ACC 40/2002

NO. 34 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that the Acting Chief of Rironi Location had solicited for a benefit of Kshs. 4,000 as a reward for having arbitrated over a dispute relating to a mobile phone. Investigations established the offence of corruption and the suspect was charged with two counts of the offence. However, after the repeal of the Prevention of Corruption Act, the accused was discharged by the Court under Section 89(5) of the Criminal Procedure Code. After reviewing the case, the Commission formed the opinion that reviving the prosecution of the case is not tenable as some of the witnesses are no longer available. Further, administrative action would have been more appropriate in the circumstances of this case. The same has already been taken.

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

Upon perusal of the file the Hon. Attorney-General found that revival of the case would not be tenable due to the repeal of Prevention of Corruption Act and accepted KACC's recommendation to close the file.

STATUS

The file was returned to KACC with directions to close.

126. KACC (ACPU) CR 112/175/2002: NAIROBI ACC 50/2002

NO. 37 KACC 4TH QUARTERLY REPORT

This was an Inquiry into an allegation that some City Council of Nairobi *Askaris* were soliciting for a benefit of Kshs. 500 as an inducement to release the paint spray gun and pipe which had been confiscated from the complainant at his workshop situated in Dagoretti Corner. Investigations established the solicitation and receipt of the benefit by

one of the *Askaris* and he was arrested and charged before the Nairobi Anti-Corruption Court. The charges were withdrawn following the repeal of the Prevention of Corruption Act, Cap 65 Laws of Kenya.

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

Upon perusal of the file the Hon. Attorney-General found that revival of the case would not be tenable due to the repeal of Prevention of Corruption Act Cap 65 Laws of Kenya and accepted KACC's recommendation to close the file.

STATUS

The file was returned to KACC with directions to close.

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

PARTICULARS OF FILES	NUMBER
1. INVESTIGATION FILES SUBMITTED BY KACC TO THE ATTORNEY GENERAL FROM: 1 ST JANUARY 2008 – 31 ST DECEMBER 2008	126
2. FILES WHERE AG DIRECTED PROSECUTION TO ENSUE	86
3. FILES WHERE AG DIRECTED FURTHER INVESTIGATIONS	6
4. FILES WHERE AG DIRECTED CLOSURE	23
5. FILES WHERE AG DIRECTED ADMINSTRATIVE/OTHER DEPARTMENTAL ACTION	11
6. FILES AWAITING AG'S ACTION	NIL
TOTAL	126

Key

- OCS - Officer Commanding Police Station
- KACC - Kenya Anti-Corruption Commission
- C/S - Contrary to Section
- INQ - Inquiry
- ACC - Anti-Corruption Court
- CF - Court File
- DCIO - Divisional Criminal Investigation Officer
- GK - Government of Kenya
- C.P.C - Criminal Procedure Code Cap 75 Laws of Kenya.

Dated at Nairobi this ^{14TH} day of APRIL 2009



Hon. S. Amos Wako, EGH, F.C.I, Arb., SC, MP
ATTORNEY GENERAL