



REPUBLIC OF KENYA

OFFICE OF THE DIRECTOR PUBLIC PROSECUTIONS

ANNUAL ANTI-CORRUPTION REPORT

BY

THE DIRECTOR OF PUBLIC PROSECUTIONS

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

1<sup>ST</sup> JANUARY 2011 TO 31<sup>ST</sup> DECEMBER 2011

## P R E A M B L E

The Anti-Corruption and Economic Crimes Act 2003 came into operation on 2<sup>nd</sup> May 2003. This report is prepared in accordance with Section 37 (1) of the Act. Section 37(2) of the Act enjoins the Director of Public Prosecutions to prepare an Annual Report with respect to prosecutions for corruption or economic crimes for the period ending 31<sup>st</sup> December last. Pursuant section 37 (3) of the Act, the report is to include a summary of the steps taken by the Director of Public Prosecutions in respect of each prosecution and the status of each case dealt with during that period. Further, section 37(4) of the Act requires that the report shall also indicate, if any recommendation for corruption or economic crime was not accepted and shall succinctly set out the reasons for not having accepted the recommendation.

The stated Annual Report must be laid annually before the National Assembly within the first ten (10) 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. Since the commencement of the Act in 2003, eight (8) such reports have been laid before the National Assembly.

Pursuant to the promulgation of the Constitution 2010, **the Office of the Attorney General was separated from a new Office of Director of Public Prosecutions (ODPP)**. As no provisions have been made in the Act to reflect this change, it is not clear what authority has the responsibility of laying before the National Assembly the Annual Report envisaged under section 37 of the Act. However, in light of the responsibility for prosecution having been placed solely upon the Office of Director of Public Prosecution, it is reasonable to conclude that the report will at least, be prepared by the Director of Public Prosecutions. In view of the fact that the Attorney General is **a Member of Parliament**, unlike the Director of Public Prosecutions who is not, it is equally reasonable to conclude that the report is to be laid before the National Assembly, in accordance with section 37(5) of the Act by the Attorney General.

During the year under review (2011), the Director of Public Prosecutions exercised his mandate to direct and prosecute cases submitted to him by KACC/EACC and other investigative agencies such as the Criminal Investigations Department and Banking Fraud Department.

In that period, Ethics and Anti- Corruption Commission forwarded one hundred, and forty one (141) cases. Other investigative agencies also sent hundreds of cases for consideration and advice.

Previous Annual Reports have cited a variety of challenges confronting the discharge of obligations placed upon the Director of Public Prosecutions and latterly the DPP. These have included severe legislative, administrative, regulatory, institutional and operational challenges. They have included but not limited to inadequate capacity, shortage of professional and support staff, poor terms and conditions of service, insufficient budgetary allocation, limited office space and library facilities, as well as research and other resources.

## **Inter-Agency Cooperation:**

Much ground has been covered in the realization of the purpose of the Act in the collaboration entered into and fostered between the Office of Director of Public Prosecutions and related agencies. Some of the key activities include:

- (i) ODPP participated in the drafting of the Ethics and Anti-Corruption Commission Bill in the year 2011.
- (ii) Between February and March 2, officers from ODPP were involved in the Review of Mongolia on the implementation of United Nation Convention against Corruption (UNCAC), an exercise spear headed by the Ministry of Justice National Cohesion and Constitutional Affairs.
- (iii) In February 2011, officers from ODPP participated in the retreat for the review of the implementation of United Nations Convention against Corruption (UNCAC).
- (iv) ODPP participated in several Anti-money laundering forums, corruption being a predicate offence of corruption.
- (v) The ODPP participated in all National Anti-Corruption Plan Co-ordinating Committee meetings convened by Kenya Integrity Forum.
- (vi) ODPP convened sectoral NACP meetings for the Enforcement Agencies and made an annual report for the year 2011 to the Kenya integrity Forum.
- (vii) In September 2011, ODPP participated in the Conference of State Parties held at Morocco.

In the same year, ODPP participated in various committees on the implementation of the new Constitution 2010 namely:

- (i) The Task Force on implementation of Article 10 of the Constitution i.e. national and principals of governance.
- (ii) ODPP was the convener of the Committee on the provisions on the Bill of rights and other related provisions of the Constitution.
- (iii) ODPP participated in the taskforce preparing the Bill to affect Article 51 of the Constitution, to provide for humane treatment of persons detained, held in custody or imprisoned.
- (iv) ODPP participated in the Taskforce on victims of offences Rights Bill, Bail Information, and supervision Bill under the Constitution Article 49 (1) (h) of the Constitution.

Strong measures have been undertaken to professionalize prosecution, ODPP's aim being the achievement of a situation whereby cases will be conducted ethically, professionally and efficiently as well as providing professional and timely fashion. It is further intended to support and enhance the investigative capacity and efficiency of related agencies.

Further, the ODPP hopes to attract and retain high quality staff to continuously improve performance. In order to play its role in the criminal justice system, the ODPP will not only promote the same way, the ODPP, will not only contribute to the improvement of the Justice system but will also champion initiatives targeted at Law Reform in general and particularly the refinement of the Criminal Justice System.

**The Report is divided into four (4) categories as follows:-**

- A. FIRST (1<sup>st</sup>) QUARTERLY REPORT FROM 1<sup>ST</sup> JANUARY 2011 TO 31<sup>ST</sup> MARCH 2011.**
  
- B. SECOND (2<sup>nd</sup>) QUARTERLY REPORT FROM 1<sup>ST</sup> APRIL 2011 TO 30<sup>TH</sup> JUNE 2011.**
  
- C. THIRD (3<sup>rd</sup>) QUARTERLY REPORT FROM 1<sup>ST</sup> JULY 2011 TO 30<sup>TH</sup> SEPTEMBER 2011.**
  
- D. FOURTH (4<sup>th</sup>) QUARTERLY REPORT FROM 1<sup>ST</sup> OCTOBER 2011 TO 31<sup>ST</sup> DECEMBER 2011.**

**(A) FILES SUBMITTED IN THE FIRST (1<sup>ST</sup>) QUARTER OF THE YEAR – 1<sup>ST</sup> JANUARY TO 31<sup>ST</sup> MARCH 2011.**

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**1. KACC/MSA/FI/INQ/12/2010**

**NO. 1 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Chief Executive Officer at the Kenya Ports Authority (KPA) irregularly procured Rubber Tyre Gantry Cranes and paid 40% upfront in contravention of the Public Procurement and Disposal Act, 2005. It was further alleged that that the local agent of the company sponsored three Kenya Ports Authority officials for a trip to China before the tender was awarded.

The investigations established that the Management of KPA sought and received approval of the Board of Directors to purchase additional cargo handling equipment to supplement its fleet. The equipment including 10 units of Rubber Tyred Gantry (RTG) cranes were budgeted for and included in the Procurement Plan for the Financial Year 2009/2010. The procurement process was then initiated and the invitation to tender duly advertised nationally and internationally. The tenders were evaluated and the Corporation tender Committee (CTC) awarded the tender to Chinese Company. It was further established that after the award, the Managing Director of KPA in collusion with two KPA lawyers approved the payment of 40% of the contract price of US\$6,161,600 as advance payment, while the tender documents had provided for a 20% payment.

KACC forwarded the file to the Director of Public Prosecutions on 11<sup>th</sup> January, 2011 recommending that the three suspects namely; the Managing Director, Corporation Secretary and Senior Legal officer of Kenya Ports Authority be charged with the offences of abuse of office contrary to Section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003, and willful failure to comply with the law relating to the procurement of goods contrary to section 45(2) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003; the Procurement and Supplies Manager of Kenya Ports Authority be charged with inappropriate influence on evaluation contrary to section 38(1) (b) as read with section 38(2)(a) of the Public Procurement and Disposal Act, No. 3 of 2005.

Upon perusal of the file, the Director of Public Prosecutions found gaps and deficiencies in the investigations and directed that further investigations be conducted.

**STATUS**

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

## **2. KACC/FI/INQ/105/10**

### **NO. 2 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations of loss of Kshs.1.431 million by Teso County Council through Procurement of Local Authorities Integrated Financial Operations Management Systems (LAIFOMS). It was further alleged that the project even though fully paid for, was never implemented. The investigations established that quotations were sought from three firms and processed through a Tender Committee and the lowest bidder was awarded. It further established that the computers were supplied, installed, tested and fully certified by an independent Government Ministry official. The software was installed by the Ministry of Local Government and is operational and functional since July 2009. Investigations did not reveal any breach of procurement procedures or loss.

KACC forwarded the file to the Director of Public Prosecutions on 20<sup>th</sup> January 2011 recommending that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to support any criminal charge and accepted KACC recommendation to close the file.

### **STATUS**

The file was returned to KACC with directions to close.

## **3. KACC/FI/INQ/163/2009. KACC. CR. 627/176/11. CF. 189/11**

### **NO. 3 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that an accounts clerk at the World Bank Funded Project in Western Kenya embezzled an imprest of Kshs.3, 905,000 received by him to facilitate training for the Water Resource Management Association members and Community Driven Development Officers at Tom Mboya Labour College in Kisumu. It was further alleged that the officer surrendered the imprest using forged documents. Investigations established that the workshop took place at the college from 12<sup>th</sup> to 24<sup>th</sup> January 2009. The investigations also established that forged payment schedules in respect of the workshop participants were used to account for the money, and that the suspect did not use the imprest for the purpose that it was issued.

KACC forwarded to the Director of Public Prosecutions on 1<sup>st</sup> March, 2011 with the recommendation that the suspect be charged with the following offences; deceiving the principal contrary to section 41(2) as read with section 48(1) of ACECA, fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of ACECA, forgery contrary to section 349 as read with sections 345 and 348 of the Penal Code; and uttering false documents contrary to section 353 of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found evidence sufficient to support the proposed charges and directed that the prosecution of

the suspect do commence on the proposed charges.

## **STATUS**

The suspect was charged with the offence of deceiving the principal contrary to Section 41 (2) as read with Section 48(1) of ACECA, fraudulent acquisition of public property contrary to Section 349 as read with Section 345 and 348 of the Penal Code; and uttering false documents contrary to Section 353 of the Penal Code. The case part heard, further hearing on 7<sup>th</sup> March 2012.

### **4. KACC/FI/INQ/63/2010**

#### **NO. 4 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This is an inquiry into allegations that a Senior Assistant Director of Education embezzled a sum of Kshs 7,604,700 given to her as imprest to carry out workshops on training of representatives from Primary Schools on HIV/AIDS prevention and life skills at Shanzu and Machakos Teachers Training Colleges. It was further alleged that she surrendered the imprest she received using false receipts and forged payment schedules. Investigations revealed that the workshops were held at the two colleges. However, the evidence gathered indicated that the suspect falsified the participants' payment schedules and inflated the sums paid out to account for the imprest. The suspect could not account for how she expended the imprest.

KACC forwarded the file to the Director of Public Prosecutions on 31<sup>st</sup> December, 2010, with the recommendation that the suspect be charged with the following offences; deceiving the principal contrary to section 41(2) as read with section 48(1) of ACECA, fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of ACECA and uttering false documents contrary to section 353 of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed that the prosecution of the suspect do commence on the proposed charges.

## **STATUS**

The suspect was charged with the following offences (1) deceiving the principal contrary to Section 41(2) as read with Section 48(1) of ACECA, (2) fraudulent acquisition of public property contrary to Section 45(1) (a) as read with Section 48 (1) of ACECA and uttering false documents contrary to section 353 of the Penal Code. Mention on 21<sup>st</sup> February, 2012.

### **5. KACC/MSA/FI/INQ/11/2010**

#### **NO. 5 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This is an inquiry into allegations that the Municipal Council of Mombasa entered into a contract with a private company for the provision of parking management services in disregard of the Public Procurement procedures. The investigation established that a contract was entered into between the

Municipal Council of Mombasa and the private company for the provision of parking management services for heavy commercial vehicles within the municipality to ease congestion and obstruction.

The investigations also revealed that prior to the signing of the contract; the private company made an unsolicited proposal to the Municipal Council of Mombasa and supported its proposal by a feasibility study that it had commissioned. The proposal was tabled and presented to the Full Council and was similarly approved. The evidence gathered revealed that the Town Clerk willfully failed to comply with the law relating to the tendering of contracts.

KACC forwarded the file to the Director of Public Prosecutions on 17<sup>th</sup> January, 2011 with the recommendation that the accused be charged with the offence of willful failure to comply with the law relating to the tendering of contracts contrary to section 45(2)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. On 27<sup>th</sup> January 2011, the Director of Public Prosecutions accepted the recommendation for prosecution.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed that the prosecution of the suspect do commence on the proposed charges.

## **STATUS**

The suspect was charged with the offence of willful failure to comply with the law relating to the tendering of contracts contrary to Section 45(2) (b) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. Case part heard.

## **6. KACC/FI/INQ/137/2009**

### **NO. 6 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This is an inquiry into allegations that the General Manager, Finance and Administration at the Kenya Investment Authority (KENINVEST), irregularly procured 20 desktop computers and 14 laptops computers valued at Kshs. 3,241,000. Investigations established that indeed the computers were procured single-handedly by the General Manager despite questions being raised as to the propriety of the procurement. The Managing Director of the institution authorized the payment in spite of the concerns raised.

KACC forwarded the file to the Director of Public Prosecutions on 3<sup>rd</sup> February, 2011 with recommendations that the suspects be charged as follows; the General Manager be charged with willful failure to comply with applicable law relating to procurement of goods contrary to section 45(2)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003 and both the General Manager and the Managing Director be charged with offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. Hearing is on 14<sup>th</sup> March 2011.

Upon perusal of the file, the Director of Public Prosecutions found gaps and

deficiencies in the investigations and directed that further investigations be conducted in the outlined areas.

## **STATUS**

The file was referred to KACC with directions to conduct further investigations into the outlined areas. The file was re-submitted and the General Manager and the Managing Director were charged with willful failure to comply with applicable law relating to procurement of goods contrary to section 45(2)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003 and both the General Manager and the Managing Director be charged with offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003 On 14<sup>th</sup> March 2011. Ruling on case to answer on 13<sup>th</sup> April, 2012.

### **7. KACC/MSA/INQ/FI/08/2008**

#### **NO. 7 KACC FIRST (4<sup>TH</sup>) QUARTELY REPORT**

This is an inquiry into allegations of embezzlement of public funds at Malindi Law Court by the Accountant and the Cashier. The investigation established that various court officers collected receipt books from Treasury, received money from the public, remitted it to the Accountant in Charge and thereafter surrendered it to the District Treasury. The evidence gathered further revealed that some of the court staff receiving payments and surrendering revenue were not trained in matters of finance and accounting. From the evidence gathered, it was not possible to pin point any specific officer as being responsible for the loss of revenue. The Commission was of the view that further investigations were necessary to determine how much money was collected, who made the collections and how much was surrendered to the Treasury.

KACC forwarded to the Director of Public Prosecutions on 6<sup>th</sup> January 2011 with recommendations that the inquiry file be handed over to the CID Malindi to continue with the investigations and pursue the criminal proceedings they had commenced in 2006.

Upon perusal of the file, the Director of Public Prosecutions found that the investigations were not complete and directed that the matter be handed over to the CID Malindi to continue with the investigations and pursue the criminal proceedings they had commenced.

## **STATUS**

The file was referred to KACC with directions to refer the matter to CID Malindi.

### **8. KACC/FI/INQ/144/2010**

#### **NO. 8 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This is an inquiry into allegations of abuse of office against the acting Commercial

Director, Nairobi Water and Sewerage Company. It was alleged that the acting Commercial Director, Nairobi Water and Sewerage Company influenced the installation of a communal water tank in his home at Kahawa West while he was the Manager, Southern Region. It was further alleged that he supplied water to the said tank with non-revenue water from NCSW and sold the water to the public. Investigations established that due to drought persisting in the country in 2009, there was a severe water shortage in Nairobi. Several meetings were held between officials of AWSB and NCWSC and it was decided that all regions within Nairobi would be supplied with ten plastic water tanks. The tanks were to be placed in needy areas identified by the regional managers. The investigations revealed that all the regions were supplied with water tanks. One of the tanks was placed on a road reserve near the home of the acting Commercial Director, Nairobi Water and Sewerage Company which was in the Northern Region and that the tank was not actually in the acting Commercial Director's home as alleged but on a road reserve. The evidence gathered did not establish any wrongdoing on the part of the suspect to warrant either institution of criminal charges or administrative action against him.

KACC forwarded the file to the Director of Public Prosecutions on 24<sup>th</sup> January 2011 with the recommendation that the inquiry file be closed. On 21<sup>st</sup> February 2011, the Director of Public Prosecutions accepted the recommendation for closure.

Upon perusal of the file, the Director of Public Prosecutions 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.

### **9. KACC/FI/INQ/05/2010**

#### **NO. 9 KACC FIRST QUARTELY REPORT**

This is an inquiry into allegations that an Accounts Assistant in the Ministry of Education embezzled Kshs. 4,569,300/= issued to him as imprest to pay workshop participants and facilitators. Investigations revealed that the suspect surrendered the imprest he was given using false documents which he not only inflated the transport reimbursements given to the facilitators, but also purported to have paid them lunches en route; facts denied by the participants.

KACC forwarded the file to the Director of Public Prosecutions on 24<sup>th</sup> January, 2011 with recommendations that the suspect be charged with the offences of uttering a false document contrary to section 353 of the Penal Code and Deceiving principal contrary to section 41 (2) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found there was sufficient evidence to sustain the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspect was charged with the offence of false accounting by a public officer contrary to Section 331(1) as read with 33 (2) of the Penal Code, Cap 63 of the Laws of Kenya and knowingly giving a false document to one's principal contrary to section 41 (2) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

### **10. KACC/MSA/FI/INQ/10/2010**

#### **NO. 10 KACC FIRST QUARTELY REPORT**

This was an inquiry into allegations of abuse of office, embezzlement of public funds and failure to comply with Procurement Laws by officials of Lamu West Constituency Development Fund Committee in the award of a contract for supply of school desks. Investigations established that the process of tendering was irregular since there was no proper bidding. Investigations also revealed that the supplier received excess payment for desks that were not delivered. Evidence gathered also established that one of the members of the CDF Committee participated in the award for the supply of desks to a company belonging to his nephew.

KACC forwarded the file to the Director of Public Prosecutions on 2<sup>nd</sup> February, 2011 with recommendations that the suspect be charged with the offences of fraudulent acquisition of public property contrary to section 45 (1) (a), fraudulent making payment from public revenue for goods not supplied contrary to section 45 (2) (a) (i), willful failure to comply with law relating to tendering of contracts contrary to section 45 (2) (b), knowingly holding a private interest in a contract connected with a public body contrary to section 42 (3) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; forgery contrary to section 345 and uttering a false document contrary to section 353 of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found there was sufficient evidence to sustain the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspect was charged with the offence of false accounting by a public officer contrary to Section 331(1) as read with 33 (2) of the Penal Code, Cap 63 of the Laws of Kenya and knowingly giving a false documents at one's principal contrary to section 41 (2) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

### **11. KACC/MSA/FI/INQ/02/2010**

#### **NO. 11 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations of irregular leasing of Kenya Railways Corporation Land at Voi near Total Petrol Station using a local businessperson as front. Investigations revealed that the businessperson applied for a lease from

Kenya Railways, which was granted. The evidence obtained did not disclose any culpability on the part of any of the Corporation's officers to warrant prosecution. However, there was breach of internal Corporations guidelines by the Corporations Estate Manager and Project Manager to warrant administrative action.

KACC forwarded the file to the Director of Public Prosecutions on 2<sup>nd</sup> February 2011 with recommendations that the Inquiry File be closed.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to support any criminal charge against the suspect and concurred with KACC's recommendation to deal with the matter administratively.

## **STATUS**

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

## **12. KACC/FI/INQ/17/2010**

### **NO. 12 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This is an inquiry into allegations of misappropriation of Kshs.2, 966, 00 belonging to the World Bank/Government Funded Kenya Education Sector Program (KESSP), by an Education Officer purportedly in conducting a Capacity Building Workshop on Management of Instructional Materials in Secondary Schools. The investigation disclosed that the suspect embarked on an elaborate scheme of forgery, falsification of documentation and fraudulent false accounting after receipt of Kshs. 2,966,000/= in cash which he banked in his account. The evidence gathered revealed that the suspect retained Kshs. 1,915,000/= in his account and used false documents to surrender the imprest.

KACC forwarded the file to the Director of Public Prosecutions on 1<sup>st</sup> February, 2011 with recommendations that initially the provisions of section 56B(1)&(3) be invoked to formally inform the suspect of the claim against him and demand that he settles the claim within a specified period. It was further recommended that should the suspect agree to comply; an undertaking not to prosecute him be made. In the event that the suspect does not comply criminal action be taken against him for the offences of fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48 of Anti-Corruption and Economic Crimes Act No.3 of 2003 and deceiving principal contrary to section 41(2) as read with section 48 of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions accepted the recommendation to invoke Section 56 (b) (1) and (3) of the Anti-Corruption and Economic Crimes Act, 2003, and directed that the suspect settle the claim; and in default prosecution to ensue.

## **STATUS**

The file was forwarded to KACC with directions that the accused to settle the

claim, in default prosecution to ensue.

### **13. KACC/FI/INQ/28/2010. KISUMU ACC NO.216/2011**

#### **NO. 13 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This is an inquiry into allegations of embezzlement of Kshs.1,604,158/= by an ICT officer with the Ministry of Education while carrying out an ICT Capacity Building Workshop at International School for Medicine and Applied Technology (ISMAT), Kisumu. The investigation established that the imprest received by the suspect was not utilized for the intended purpose and that fictitious and doctored documents were also used to support expenditure at the time of surrendering the imprest.

KACC forwarded the file to the Director of Public Prosecutions on 9<sup>th</sup> February, 2011 with recommendations that the suspect be charged with the offences of false accounting by a public officer contrary to section 331(1) as read with section 331 (2) of the penal code, cap 63 of the Laws of Kenya and knowingly giving a false document at one's principal contrary to section 41(2) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. On 8<sup>th</sup> March 2011, the Director of Public Prosecutions accepted the recommendation for prosecution.

Upon perusal of the file, the Director of Public Prosecutions found there was sufficient evidence to sustain the proposed charges and directed prosecution to ensue.

#### **STATUS**

The suspect was charged with the offence of false accounting by a public officer contrary to Section 331(1) as read with 33 (2) of the Penal Code, Cap 63 of the Laws of Kenya and knowingly giving a false documents at one's principal contrary to section 41 (2) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

### **14. KACC.MSA.INQ/FI/25/2010**

#### **NO. 14 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This is an inquiry into allegations that a clearing agent in Mombasa was colluding with Kenya Revenue Authority officers to evade payment of taxes on their imports. The investigation revealed that the clearing agent misdeclared the goods in respect of the four import entries and as a result paid lesser taxes. The investigation further established that after the KRA officers, dealing with the four import entries at the Document Processing Centre suspected that there were anomalies in the declaration, they directed that the a physical verification of the goods be done. In spite of these instructions, the Verification Officer (suspect) did not carry out the verification. Instead, she posted a verification report that was misleading by indicating that the description of the goods in the containers tallied with the details in the import documents. Further scrutiny of the containers revealed that the said verification report was false.

KACC forwarded the file to the Director of Public Prosecutions on 11<sup>th</sup> February, 2011 with recommendations that the suspects be charged as follows; the Verification Officer be charged with the offence of knowingly and deceiving principal contrary to section 41(1) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and that administrative action be taken against the Head of Verification for failure to perform his duties as required by his employer, Kenya Revenue Authority. On 8<sup>th</sup> March 2011, the Director of Public Prosecutions accepted the recommendation for prosecution.

Upon perusal of the file, the Director of Public Prosecutions found there was sufficient evidence to sustain the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspect was charged with the offence of knowingly deceiving principal contrary to Section 41(1) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The Director of Public Prosecutions further directed that administrative action be taken against the head of verification for failure to perform his duties as required by his employer KRA. Case part heard.

## **15. KACC/FI/INQ/147/2010**

### **NO. 15 KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the former Managing Director of Kenya Broadcasting Corporation and former Corporation Secretary irregularly committed Kenya Broadcasting Corporation (KBC) to a partnership with two media houses to Broadcast FIFA World Cup 2010 that was to be held in South Africa. It was further alleged that KBC thereafter single-sourced the two media houses as its partners in the venture. Investigations established that although two other media houses had offered better terms of engagement, KBC rejected their offers and accepted the offers from the former. The investigations further revealed that in contracting with FIFA and the two media houses, the two suspects who were responsible for all the decisions relative to the venture disregarded the applicable public procurement regulations.

KACC forwarded the file to the Director of Public Prosecutions on 16<sup>th</sup> February, 2011 with recommendations that the suspects be charged the offences of willful failure to comply with the law relating to the tendering of contracts contrary to section 45(2)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to sustain the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspects were charged with the offence of willful failure to comply with the law relating to the tendering of contracts contrary to section 45 (2) (b) as read

with section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. Case part heard.

#### **16. KACC/FI/INQ/103/2009**

##### **NO. 16. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Officer In-charge of Kisumu Main Prison, flouted procurement laws and abused his office to benefit himself. Investigations revealed that the suspect registered a business in his name and that of his wife. The said business was one of those pre-qualified by the Kisumu East Tender Committee for the supply and delivery of various goods and services to Government departments in Kisumu. The evidence obtained established that at the time, the said firm was pre-qualified, the suspect was not a member of the Tender Committee and the investigations have not shown that he influenced the Tender Committee to make the award to his firm.

KACC forwarded the file to the Director of Public Prosecutions on 18<sup>th</sup> February 2011 with the recommendation that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was 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/FI/INQ/116/2009**

##### **NO. 17. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that some officials of the Ministry of Lands, irregularly and fraudulently allocated a piece of land located in Loresho Estate to a businessman. Investigations revealed that the said piece of land had been previously allocated to a private company by the Commissioner of Lands. The investigations revealed that later the businessman, who was allocated the land under suspicious circumstances, colluded with public officers at the Lands Registry, City Council of Nairobi and licensed surveyors to alter records to facilitate the transfer of the land to him.

KACC forwarded the file to the Director of Public Prosecutions on 1<sup>st</sup> March, 2011 with the recommendation that the suspects be charged as follows; making a document without Lawful Authority contrary to Section 357(a) of the Penal Code, giving false information to a person employed in the Public Service contrary to Section 129(a) of the Penal Code, forgery contrary to section 347 of the Penal Code, conspiracy to defraud contrary to section 317 of the Penal Code, falsification of register contrary to section 361 of the Penal Code, abuse of office contrary to section 46 and deceiving principal contrary to Section 41(1) of the Anti-Corruption and Economic Crimes Act, 2003. On 5<sup>th</sup> April 2011, the file was returned by the Director of Public Prosecutions with

recommendations for further investigations.

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

## **STATUS**

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

### **18. KACC KSM. INQ/FI/03/2010**

#### **NO. 18. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was inquiry into allegations that officials of Kisumu Municipal Council irregularly procured security services for the residence of the Mayor of Kisumu. Investigations established that the Mayor of Kisumu Municipal Council engaged the services of a private security firm to provide security at his residence situated in Milimani Area within Kisumu. The investigation further revealed that the suspect unilaterally picked the security firm without reference to the Council's Tender Committee. Whereas this was a private engagement, and the firm had no contract with the Council, the Town Clerk and the Town Treasurer authorized payments to be made to the security firm.

KACC forwarded the file the Director of Public Prosecutions on 21<sup>st</sup> February, 2011 with the recommendation that the suspects be charged as follows; the Mayor of Kisumu Council be charged with the offences of willful failure with the law relating to the procurement of services contrary to section 45(2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003 and the two chief officers be charged with the offences of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and willful neglect to perform official duty contrary to section 128 as read with section 36 of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to support any criminal charge and directed that the suspects refund the money and upon satisfaction, the inquiry file to be closed.

## **STATUS**

The file was returned to KACC with directions that the suspects refund the money that the council paid for private security services provided at his residence and upon satisfaction the inquiry file to be closed.

### **19. KACC/FI/INQ/141/2010**

#### **NO. 19. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the then Ministry of Water Development irregularly made payment of Kshs.80 million to a fictitious company whose name is similar to that of a contractor awarded a tender by the Ministry to

undertake works on the Mombasa and Coastal Water Supply Project in 1981. Investigations revealed that there was no evidence to prove the alleged irregular payment by the Ministry. No culpability was established against any of the officers at the Ministry or any other person.

KACC forwarded the file to the Director of Public Prosecutions on 8th March, 2011 recommending that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecutions 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.

## **20. KACC/MSA/FI/INQ/13/2009**

### **NO. 20. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the procurement process in the award of a contract for Geographical Information Systems (GIS) Consultancy to a private firm by the Municipal Council of Mombasa (MCM) in 2004 was fraudulent and contravened the Exchequer and Audit (Public Procurement) Regulations, 2001. The investigations revealed that there were several irregularities in the award of the consultancy contract to the private firm. However, crucial documents that would support prosecution of the officers involved were not available.

KACC forwarded the file to the Director of Public Prosecutions on 10<sup>th</sup> March 2011, with the recommendations that the officers responsible be reprimanded and where they are still serving; be surcharged for any loss the Council may have incurred as a result of entering into the contract. It was further recommended that since there are arbitration proceedings over the contract, that the Commission be enjoined as an interested party for purposes of ensuring no payment is made on a contract that was heavily skewed against the Council. It was also recommended that the matter be investigated by the Criminal Investigation Department with a view to establishing who is responsible for the loss of these critical documents and their eventual prosecution.

Upon perusal of the file, the Director of Public Prosecutions accepted the recommendations to reprimand and surcharge the officers responsible for the irregularities in the award of the contract; to enjoin the Commission as an interested party in the pending arbitration proceedings to ensure that no payment is made on a contract that was skewed against the Council and lastly the CID to investigate the loss of the critical documents.

## **STATUS**

The file was returned with directions that the officer responsible for the irregularity in the award of the contract is surcharged and reprimanded and the commission

enjoined as an interested parties and CID to investigate the file loss of critical documents.

## **21. KACC/FI/INQ/145/2010**

### **NO. 21. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations of conflict of interest against the Chief Executive Officer of Tanathi Water Services Board (TAWSB). It was alleged that the officer in his capacity as the CEO routinely awarded contracts to companies in which he had personal interest. It was further alleged that in some instances, payment was made by TAWSB to his firms for goods that had not been delivered. Investigations revealed that the officer was the proprietor of some of the companies which TAWSB had contracted to supply goods during the year 2009/2010 financial year. Investigations also showed that payments were made to the suspect's firms for goods that were not supplied. It was further established that the payments were made not commensurate with the goods that were delivered, if any.

KACC forwarded the file to the Director of Public Prosecutions on 14<sup>th</sup> March, 2011 with recommendations that the Chief Executive Officer be charged with the following offences; abuse of office contrary to section 46, fraudulently making payment from public revenues for goods not supplied contrary to section 45(2) (a) (ii) of and conflict of interest contrary to section 42(3) of the Anti-Corruption and Economic Crimes Act, 2003. The other suspects who colluded with the CEO be charged with; deceiving principal contrary to section 41(2) of the Anti-Corruption and Economic Crimes Act, 2003 and abuse of office contrary to section 46 of the Anti-corruption and Economic Crimes Act, 2003. It was further recommended that the systems at the Tana Water Services Board be reviewed.

Upon perusal of the file, the Director of the Public Prosecutions found the evidence sufficient to sustain the proposed charges, directed prosecution to ensue, and the Board Systems to be reviewed.

### **STATUS**

The suspects were charged with the offences of payment from public revenues for goods not supplied contrary to section 45 (2) (a) (ii) of and conflict of interest contrary to section 42 (3) of the Anti-Corruption and Economic Crimes Act, 2003; deceiving principal contrary to section 41 (2) of the Anti-Corruption and Economic Crimes Act, 2003 and Abuse of Office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003. Hearing on 19<sup>th</sup> March, 2012.

## **22. KACC/FI/INQ/08/2010**

### **NO. 22. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that an Accountant in the Ministry of Education misappropriated Kshs.8,371,200/= meant for Teacher's Advisory Centre (TAC), Tutors and Quality Assurance and Standards Officers (QASOs) in Kaimosi Teachers Training College during the period 16<sup>th</sup> February, 2009 to

3<sup>rd</sup> April, 2009. Investigations revealed the suspect did not properly account for the imprest received and falsified documents at the time of the surrender to purport to account for the money.

KACC forwarded the file to the Director of Public Prosecutions on 15<sup>th</sup> March, 2011 with recommendations that the suspect be charged with the following offences; knowingly deceiving a principal in a material respect contrary to Section 41(2) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003 and false accounting by a public officer contrary to Section 331(1) of the Penal Code Cap 63 Laws of Kenya.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to sustain the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspect was charged with the offence of knowingly deceiving a principal in a material respect contrary to section 41(2) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003 and false accounts by a public officer contrary to section 331(1) of the Laws of Kenya. Hearing on 29<sup>th</sup> February, 2012, 1<sup>st</sup> and 2<sup>nd</sup> March, 2012.

### **23. KACC/FI/INQ/165/10 ACC. NO. 722/2011**

#### **NO. 23. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Chief Executive Officers of the Athi Water Services Board (AWSB) and Tanathi Water Services Board (TAWSB) influenced the alteration of the tender documents submitted by a tenderer for Contract No.AWSB/WaSSIP/Comp.1/W-17/2010 for the construction of Wote Bulk Water Supply. The investigation revealed that at the time of opening the bids, the bid amount offered by one of the tenderers was increased from Kshs.131,292,816.80/= to Kshs.173, 575,861.80. However, since this amount exceeded the budget, officers from the water board engaged the tenderer to discuss a reduction of the works. This engagement by the evaluation team with the tenderer was done before the evaluation process was finalized. This was in contravention of the public procurement regulations. No culpability was established on the part of the CEO.

KACC forwarded the file to the Director of Public Prosecutions on 23<sup>rd</sup> March, 2011 with recommendations that the suspects be charged with the offence of unlawful disclosure of confidential information relating to the evaluation of tenders during procurement proceedings contrary to section 44(1) (c) as read with sections 44(4) and 137(1) (a) of the Public Procurement and Disposal Act, No. 3 of 2005.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to sustain the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspect was charged with the offence of unlawful disclosure of confidential

information relating to the evaluation of tenders during procurement proceedings contrary to section 44 (1) (c) as read with sections 44 (4) and 137 (1) (a) of the Public Procurement and Disposal Act No. 3 of 2005. Case part heard and pending before court.

#### **24. KACC/FI/INQ/92/2010 ACC NO.23/2011**

##### **NO. 24. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that a Senior Education Officer misappropriated a sum of Kshs.1,905,000/= meant for the free secondary education programme while conducting Capacity Building Workshops on Management of Instructional Materials in Secondary Schools in the South Rift Region. Investigations established that the trainings took place at the Rift Valley Institute of Science and Technology (RVIST) between 28<sup>th</sup> September 2008 and 15<sup>th</sup> October 2008, with participants drawn from various districts of the Rift Valley. The imprest received by the suspect was to cater for transport reimbursement to the participants, amongst other services. Investigations revealed that the suspect surrendered the imprest using forged documents whose authenticity was disputed by the participants.

KACC forwarded the file to the Director of Public Prosecutions on 28<sup>th</sup> March, 2011 with recommendations that the suspect be charged as follows; fraudulent acquisition of public property contrary to section 45 (1) (a) and Deceiving Principal contrary to Section 41(2) as read with Section 48 of the Anti-Corruption and Economic Crimes Act, 2003, and false accounting by a Public Officer contrary to Section 331 (1) and (2) of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to sustain the proposed charges and directed prosecution to ensue.

##### **STATUS**

The suspect was charged with fraudulent acquisition of public property contrary to sec 45(1) (a) and deceiving principal contrary to section 41(2) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003 and false accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code. Hearing 22<sup>nd</sup> and 23<sup>rd</sup> February, 2012.

#### **25. KACC/FI/INQ/103 B/05. KACC. CR. 141/557/07. ACC. NO. 44/07.**

##### **NO. 25. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations of misappropriation of public funds amounting to Kshs. 2,500,000 by a former Managing Director; and a former Finance and Administration Manager of the Kenya Wines Agencies Limited (KWAL) through the irregular purchase of a motor vehicle for the said Finance and Administration Manager. Investigations established that the Managing Director authorized an application for a car loan made by Finance Manager, whereas the former did not qualify under rules of the KWAL Staff Car Loan Scheme. Investigations revealed that the Finance & Administration Manager left the employment of KWAL before repaying the loan, thus occasioning loss to

KWAL.

KACC forwarded the file to the Director of Public Prosecutions on 28<sup>th</sup> March, 2011 with recommendations that the suspects be charged with the offences as follows; The former Managing Director be charged with the offence of abuse of office contrary to Section 46 as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and alternative charge of willful failure to comply with applicable guidelines relating to the management of funds contrary to Section 45(2) (b) and conspiracy to commit an Economic Crime contrary to Section 47 A(3) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. The former Finance & Administration Manager is charged with the offence of fraudulent acquisition of public property contrary to Section 45 (1) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public prosecutions found the evidence sufficient to sustain the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspects were charged with offences as follows:

The former Managing Director with abuse of office contrary to Section 46 as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and alternative charge of willful failure to comply with applicable guidelines relating to the management of funds contrary to Section 45(2) (b) and conspiracy to commit an Economic Crime contrary to Section 47 A(3) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. The court file sent to typing pool for court proceedings. Waiting for further directions.

The former Finance & Administration Manager charged with the offence of fraudulent acquisition of public property contrary to Section 45 (1) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

## **26. KACC/INQ/FI/45/2010. CR.141/482/11. NAIROBI ACC NO.24/2011**

### **NO. 26. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that a secretary in the Ministry of Education embezzled an imprest of Kshs.1,067,550/= which she received for the purchase of stationery to be used in capacity building workshops on management of instructional materials in secondary schools. It was further alleged that she surrendered the imprest using forged receipts. Investigations revealed that the suspect did not use the imprest for the purposes it was issued, and instead surrendered the same using false documents.

KACC forwarded the file to the Director of Public Prosecutions on 29<sup>th</sup> March, 2011 with the recommendation that the suspect be charged with the offences of deceiving principal contrary to Section 41(2) of the Anti-Corruption and Economic Crimes Act, 2003;,, forgery contrary to section 347 and uttering false documents contrary to section 353 and false accounting by a public officer

contrary to section 331 (1) of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to sustain the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspect was charged with the offences of deceiving principal contrary to section 41 (2) of the Anti-Corruption and Economic Crimes Act, 2003; forgery contrary to section 347 and uttering false documents contrary to section 353 and false accounting by a public officer contrary to sec 331 (1) of the Penal Code. Case postponed, further hearing on 24<sup>th</sup> February, 2012.

## **27. KACC/AT/INQ/2/2010 ACC NO.35/2011**

### **NO. 27. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that a construction company fraudulently acquired a court decree by means of a forged arbitral award of Kshs.97,176,206/=. Investigations revealed that there was an arbitration dispute between the construction company and the Project Management Unit of the Office of the President. Investigations also revealed that the contractor altered the arbitral award and inserted their own figures, which they produced in court purporting it to be the genuine award. They thereafter used the said decree as basis of a fraudulent claim against the Government of Kenya.

KACC forwarded the file to the Director of Public Prosecutions on 28<sup>th</sup> March, 2011 with the recommendation that the suspects be charged with the following offences; Forgery contrary to Section 345 as read with Section 347(b) and Section 349 of the Penal Code Chapter 63 Laws of Kenya, Uttering a false document contrary to Section 353 of the Penal Code Chapter 63 Laws of Kenya, Attempt to commit a corruption offence contrary to Section 47A(1) of the Anti-Corruption and Economic Crimes Act, 2003 and Attempt to obtain by false pretences contrary to Section 313 as read with Section 389 of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to Support the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspects were charged with the offence of Forgery contrary to Section 345 as read with Section 347(b) and Section 349 of the Penal Code Chapter 63 Laws of Kenya, Uttering a false document contrary to Section 353 of the Penal Code Chapter 63 Laws of Kenya, Attempt to commit a corruption offence contrary to Section 47A (1) of the Anti-Corruption and Economic Crimes Act, 2003 and Attempt to obtain by false pretences contrary to Section 313 as read with Section 389 of the Penal Code. Hearing on 2<sup>nd</sup> April, 2012.

## **28. KACC/PI/INQ/52/09**

### **NO. 28. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that Chief Officers at Nairobi City Council colluded with officials of a private firm to enter into an irregular partnership contract. Investigations established that in the beginning of the year 2002, the City Council of Nairobi embarked on a process of preparation and implementation of a Strategic Plan known as Nairobi Metropolitan Growth Management and Development Strategy to manage Nairobi city for the next 20 to 30 years. One of the components of the Strategic Plan was introduction of a Geographical Information Systems (GIS) to manage information during the strategic planning and implementation period. The investigation revealed that a contract was entered into between the Council and the private firm, which contained unfair terms to the Council. However, the contract satisfied procedural propriety and was therefore binding on both parties. The contract was terminated, and the legality of the termination is pending before court. The investigation did not unearth any wrongdoing on the part of the council officials or the representatives of the private firm.

KACC forwarded the file to the Director of Public Prosecutions on 24<sup>th</sup> March 2011 with recommendations that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecutions 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 referred to KACC with directions to close.

## **29. KACC.CR./161/164/2010 CF. NAIROBI ACC NO.29/2010**

### **NO. 29. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that some persons were impersonating a KACC investigator. The suspects approached the Chairperson of the Islamic Foundation and informed him that they were KACC officers investigating the activities of the Foundation. The investigations established the impersonation since it was discovered that the suspects were not KACC employees. The suspects were arrested and charged with the offences of impersonating an investigator contrary to section 34(1) as read with section 34(2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003, attempted extortion by threats, contrary to section 300 (1) (a) of the Penal Code and uttering a false document contrary to section 353 of the Penal Code.

KACC forwarded the file to the Director of Public Prosecutions on 5<sup>th</sup> January 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that that case be

prosecuted to its logical conclusion.

## **STATUS**

The suspect was charged with the offence of impersonating an investigation officer contrary to section 34(1) as read with section 34 (2) of the Anti-Corruption and Economic Crimes Act and uttering a false document contrary to section 353 of the Penal Code. Case part heard.

### **30. KACC. CR. NO. 617/291/2010. KISUMU ACC. NO. 437 OF 2010**

#### **NO. 30. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Land Adjudication and Settlement Assistant at Sinda Lands office solicited for a benefit from the complainant as an inducement to facilitate the demarcation of the boundary between the land of the complainant's father and his neighbour. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 6<sup>th</sup> January 2011 with the recommendation that the case be prosecuted to its logical conclusion.

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

## **STATUS**

The suspect was charged with the offence 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. Mention on 8<sup>th</sup> March, 2012.

### **31. KACC/RR/INQ/03/2010**

#### **NO. 31. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that some persons were masquerading as Kenya Anti-Corruption Commission investigators who were investigating alleged cases of corruption at a farmers Company at Thika. Investigations revealed that the suspect went to the offices of the said company, represented themselves as KACC investigators; and demanded Company documents. The suspect also called the officials of the company and threatened to take them to court on corruption charges. It was established that the suspect was not a KACC employee.

KACC forwarded the file to the Director of Public Prosecutions on 11<sup>th</sup> January 2011 recommending that one suspect be charged with the offence of impersonating an investigator contrary to section 34 (1) as read with section

34(2) of the Anti-Corruption and Economic Crimes Act No. of 2003.

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

## **STATUS**

The suspect was charged with the offence of impersonating an investigation officer contrary to section 34(1) as read with section 34 (2) of the Anti-Corruption and Economic Crimes Act and uttering a false document contrary to section 353 of the Penal Code. Hearing on 22<sup>nd</sup> March, 2012.

### **32. KACC CR.141/454/2010 ACC. NAIROBI CF. 25/2010**

#### **NO. 32. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Assistant Chief, Imara Daima Sub-Location, Nairobi solicited for a benefit from the complainant as an inducement so as to allow him put up temporary structures for business shelter. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of corruptly soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 11<sup>th</sup> January 2011 with the recommendation that the case be prosecuted to its logical conclusion.

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

## **STATUS**

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

### **33. KACC CR.442/92/2010 - EMBU ACC NO.3/2010**

#### **NO. 33. KACC FIRST (1<sup>ST</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that Traffic Police Officers attached to Traffic Police Headquarters, Ruaraka, and Nairobi and stationed along Nairobi-Mombasa road was soliciting for bribes from motorists for unspecified offences. The investigation established the solicitation and receipt of the benefit by the suspects. Large sums of money were also recovered from them. The suspects were arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and conspiracy to commit an offence of corruption contrary to section 47A (3) of the Anti-Corruption and

Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 12<sup>th</sup> January 2011 with the recommendation that the case be prosecuted to its logical conclusion.

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

#### **STATUS**

The suspect was charged with the offence of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and conspiracy to commit an offence of corruption contrary to section 47 (a) (3) of the Anti-Corruption and Economic Crimes Act. Hearing on 16<sup>th</sup> March, 2012.

### **34. KACC CR.021/36/2010 - CF MOMBASA ACC NO.7/2010**

#### **NO. 34. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that an Assistant Supplies Officer, Mombasa Water and Sewerage Company Limited corruptly solicited and received a benefit for the complainant as an inducement to release a Local Purchase Order in respect of a tender for the supply of goods to the Council. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of corruptly soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 14<sup>th</sup> January 2011 with the recommendation that the case be prosecuted to its logical conclusion.

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

#### **STATUS**

The suspect was charged with the offence of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. Case pending before court, Mention on 20<sup>th</sup> April 2012 for directions.

### **35. OPERATIONS INQUIRY FILE NO.2/2009**

#### **NO. 35. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that a Principal Magistrate previously attached to Moyale Law Courts corruptly solicited and received a benefit from the complainant as an inducement to facilitate the release of seven of his

relatives who had been arrested and brought before the said Magistrate for purposes of swearing a bond to keep the peace. The investigation established the solicitation and receipt of the benefit.

KACC forwarded the file to the Director of Public Prosecutions on 17<sup>th</sup> January, 2011 with the recommendation that the suspects be 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.

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

## **STATUS**

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

### **36. KACC CR.691/225/2010 CF KISUMU ACC. 433/2010**

#### **NO. 36. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that members of Sameta Land Disputes Tribunal corruptly solicited and received a benefit from the complainant as an inducement to rule in his favour in a case pending before the said tribunal. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 17<sup>th</sup> January 2011 with the recommendation that the case be prosecuted to its logical conclusion.

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

## **STATUS**

The suspect was charged with the offence of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. Case part-heard mention on 14<sup>th</sup> March, 2012.

### **37. KACC CR.962/47/2010 - BUNGOMA ACC. 25/2010**

#### **NO. 37. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Chief, Kamolo Location, Teso District corruptly solicited for a benefit from the complainant as an inducement

so as to preside over a family dispute between the complainant and his mother. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 19<sup>th</sup> January, 2011 recommending that the suspect be charged with the offences of soliciting and receiving a benefit contrary to section 39 (3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and concealing evidence contrary to section 66(1) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

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

## **STATUS**

The suspect was charged with the offence of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and concealing evidence contrary to section 66 (1) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act. Case pending before court, mention on 3<sup>rd</sup> March, 2012.

## **38. KACC CR.141/621/2010 - NAIROBI ACC NO.34/2010**

### **NO. 38. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that an aide to the Minister for Industrialization corruptly solicited for a benefit from the complainant as an inducement to facilitate the release of a letter of exemption from 8 year rule requirement for importation of a motor vehicle to the complainant. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and concealing of evidence contrary to section 66(1) (c) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

KACC forwarded the file to the Director of Public Prosecutions on 21<sup>st</sup> January 2011 with the recommendation that the case be prosecuted to its logical conclusion.

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

## **STATUS**

The suspect was charged with the offence of soliciting and receiving a

benefit contrary to section 39(3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and concealing evidence contrary to section 66 (1) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act. Defense hearing on 15<sup>th</sup> March, 2012.

### **39. KACC/AT/INQ/36/2010 – F**

#### **NO. 39. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations of misappropriation of Kshs.26.22 million allocated to West Mugirango Constituency by the area Member of Parliament in collusion with others. Investigations established that a total sum of Kshs.1, 690,000 that was withdrawn from the CDF account could be traced as deposits into the bank account of the Member of Parliament. It was further established that a sum of Kshs.5,643,500 was owed by eight officials of the CDF in outstanding imprests, and that minutes of the CDF Committee were doctored and/or manufactured to cover up for the misappropriated funds. The investigation also revealed that the motor vehicles registered in the personal names of the Member of Parliament and his wife would regularly draw fuel from the CDF contracted supplier at the expense of the CDF.

KACC forwarded the file to the Director of Public Prosecutions on 2<sup>nd</sup> February, 2011 with recommendations that the suspects be charged with fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and false accounting by a public officer contrary to section 331(1) as read with section 331(2) of the Penal Code.

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

#### **STATUS**

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

### **40. KACC CR.755/416/2010 NAKURU ACC. NO.15/2010**

#### **NO. 40. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Prosecutor at the Nanyuki Law Courts corruptly solicited for a benefit from the complainant as an inducement so as to facilitate the withdrawal of Criminal Case against the complainant's brother. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 3<sup>rd</sup> February

2011 recommending that the case be prosecuted to its logical conclusion.

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

## **STATUS**

The suspect was charged with the offence 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. Hearing on 28<sup>th</sup> February, 2012.

### **41. KACC CR.261/436/2010 CF NYERI ACC. NO.9/2010**

#### **NO. 41. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Chief, Kakuzi Location in Central Province corruptly solicited for a benefit from the complainant as an inducement so as to write a letter confirming the death of the complainant's husband for purposes of filing a succession cause. The investigation established the solicitation of the benefit. The suspect was arrested and charged with the offences 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 Director of Public Prosecutions on 4<sup>th</sup> February 2011 recommending that the case be prosecuted to its logical conclusion.

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

## **STATUS**

The suspect was charged with the offence 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. Pending before court, no special magistrate to hear Anti-Corruption cases.

### **42. KACC MSA.CR.021/88/2010 CF MSA ACC. NO.13/2010**

#### **NO. 42. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that a Registry Clerk, Kenya Power and Lighting Company Limited corruptly solicited for a benefit from the complainant as an inducement so as to facilitate the re-routing of a power line that had passed through the complainant's land. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 4<sup>th</sup> February 2011 recommending that the case be prosecuted to its logical conclusion.

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

## **STATUS**

The suspect was charged with the offence of soliciting 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. Hearing on 12<sup>th</sup> March, 2012.

### **43. KACC CR.781/338/2010 CF NKU ACC. NO.6/2010**

#### **NO. 43. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the District Land Adjudication Officer, Narok North District corruptly solicited for a benefit from the complainant as an inducement so as to deliver a favorable ruling at the hearing of the appeal in which the complainant was a party. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 4<sup>th</sup> February 2011 recommending that the case be prosecuted to its logical conclusion.

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

## **STATUS**

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

### **44. KACC CR.141/749/2010 - CF NYERI ACC NO.8/2010**

#### **NO. 44. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

Inquiry into allegations that traffic police officers at Mathore in Lari, Kiambu along the Nairobi-Naivasha Highway were soliciting for benefits from matatu drivers and other road users. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 15<sup>th</sup> February, 2011 recommending that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that that case be

prosecuted to its logical conclusion.

## **STATUS**

The suspect was charged with the offence 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. Plea taken on 8<sup>th</sup> October, 2010, no special magistrate to hear Anti-Corruption cases.

### **45. KACC CR/161/767/2010 CF NAIROBI ACC NO.39/2010**

#### **NO. 45. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Kitsuru Ward Councilor within the City Council of Nairobi, corruptly solicited for a benefit from the complainant as an inducement to him so as to expedite the issuance of a renewal of lease on a property that a Housing Cooperative Society held at the Shauri Moyo Estate in Nairobi. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 18<sup>th</sup> February 2011 recommending that the case be prosecuted to its logical conclusion.

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

## **STATUS**

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

### **46. KACC.CR.255/307/2010 CF. ACC NYERI NO.5/2010**

#### **NO. 46. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that an acting Principal Revenue Officer, Kenya Revenue Authority based in Nyeri, corruptly solicited for a benefit from the complainant as an inducement to forbear charging him for an alleged offence of under declaring sales. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 1<sup>st</sup> March 2011 recommending that the case be prosecuted to its logical conclusion.

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

## **STATUS**

The suspect was charged with the offence 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. No special magistrate to hear the Anti-Corruption cases.

### **47. KACC (KSM) CR.661/199/2010 CF KSM ACC. NO.495/2010**

#### **NO. 47. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Chief of Suna Ragana Location in Migori District, corruptly solicited for a benefit from the complainant as an inducement so as to arbitrate in a land dispute involving the complainant and another. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 1<sup>st</sup> March 2011 recommending that the case be prosecuted to its logical conclusion.

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

## **STATUS**

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

### **48. KACC/INQ/AT/35/2007 (F)**

#### **NO. 48. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations of irregular acquisition of public utility land a portion of land forming part of Kenya Airport Authority's near Wilson Airport. Investigations revealed that the affected land was part of a thirty (30) meter wide road reserve that had been hived off, illegally alienated and allocated to private developers. The investigation revealed that this being a road reserve, it was not available for alienation. It was also established that the allottee might have forged the letters of allotment together with receipts acknowledging payment of the standard premium and stamp duty.

KACC forwarded the file to the Director of Public Prosecutions on 1<sup>st</sup> March 2011 with the recommendation that the suspects be charged with the offence of uttering a false document contrary to section 353 of the Penal Code.

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

## **STATUS**

The suspects were charged with the offence of uttering a false document contrary to section 353 of the Penal Code. Case part heard.

### **49. KACC/AT/INQ/24/2006**

#### **NO. 49. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the Directors of a private company illegally acquired public land, situated at Kizingo area, within Mombasa. Investigations revealed that the said land parcel was initially part of Government of Kenya Housing Estate. It was hived off from the original land parcel number MSA Block XXVI/243 within Kizingo area. Investigations also showed that several other portions of land forming part of the Government Housing Estate were also allocated to private individuals and companies. Since this was already land set aside for public use, the investigation revealed that it was not available for alienation.

KACC forwarded the file to the Director of Public Prosecutions on 3<sup>rd</sup> March, 2011 with the recommendation that the Commission institutes civil proceedings for the recovery of the illegally alienated land pursuant to its mandate under section 7(1) (g) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support civil proceedings for the recovery of the illegally alienated land.

## **STATUS**

The file was forwarded to KACC with directions to institute civil proceedings for the recovery of the illegally alienated land.

### **50. KACC/INQ/AT/53 (A)/2009**

#### **NO. 50. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into the allegations that the former Chief Executive Officer, Kenya Sugar Board in abuse of his office unlawfully made payments of Kshs.350 million to an unsecured creditor of Miwani Sugar Company (1989). It was further alleged that the payments were made without due consultations with either Miwani Sugar Company or the Board's approval. The payments were alleged to have been overstated thereby costing the Company substantial losses and that the monies so paid were subsequently used as bribes to the Chief Executive Officer, the area Member of Parliament and the then Minister for Agriculture. The investigation revealed that the process of negotiation and the eventual payment of the alleged sum were consultative and done with the authorization of the relevant Government ministries. No wrongdoing was established on the part of the CEO or any other officers.

KACC forwarded the file to the Director of Public Prosecutions on 3<sup>rd</sup> March

2011 with the recommendation that the file be closed.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to support any criminal charge against the suspect and accepted KACC's recommendation that the inquiry file be closed.

## **STATUS**

The file was returned to KACC with directions to close.

### **51. KACC CR.6B1/249/2010 CF KSM ACC. NO. 592/2010**

#### **NO. 51. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that a Fisheries Assistant with the Ministry of Fisheries, Nyangoma Division, corruptly solicited for a benefit from the complainant as an inducement so as to release a net that he had confiscated. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 7<sup>th</sup> March 2011 recommending that the case be prosecuted to its logical conclusion.

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

## **STATUS**

The suspect was charged with the offence 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. Mention on 29<sup>th</sup> March, 2012.

### **52. KACC CR.021/42/2010 CF MSA ACC. NO.10/2010**

#### **NO. 52. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that an Administration Police Officer and a Community Policing Member corruptly solicited for a benefit from the complainant as an inducement so as to terminate alleged investigations against the complainant. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 10<sup>th</sup> March 2011 recommending that the case be prosecuted to its logical conclusion.

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

## **STATUS**

The suspect was charged with the offence 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. Hearing on 12<sup>th</sup> April, 2012

### **53. KACC.021/3/11 CF MOMBASA ACC.14/2010**

#### **NO. 53. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that officers operating the Mariakani Transit Weighbridge were soliciting for and receiving bribes from truck drivers, as an inducement to allow the truck drivers who were not adhering to the rules on Axle Load Control to pass through the weighbridge. The investigation revealed that the suspects received bribes from various truck drivers. The suspects were arrested and charged with the offences of soliciting for a benefit contrary to section 39(3) (a) and abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 10<sup>th</sup> March 2011 recommending that the case be prosecuted to its logical conclusion, subject to amendments to the charges.

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

## **STATUS**

The suspect was charged with the offence 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. Hearing on 13<sup>th</sup> March, 2012.

### **54. KACC.CR.032/28/2010 - CF KISUMU CR NO. 472/10**

#### **NO. 54. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that a Customs Officer, at Muhuru Bay, Kisumu corruptly solicited for a benefit from the complainant as an inducement in order to release a Tanzanian registered vehicle that had been detained by the Customs Department. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 10<sup>th</sup> March 2011 recommending that the case be prosecuted to its logical conclusion.

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

## **STATUS**

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

**55. KACC CR.374/108/2010 CF MLD ACC. NO.5/2010**

**NO. 55. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that a Forest Officer with Kenya Forest Service corruptly solicited for a benefit from the complainant as an inducement so as to release the power saw that had been confiscated. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 11<sup>th</sup> March 2011 recommending that the case be prosecuted to its logical conclusion.

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

**STATUS**

The suspect was charged with the offence 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. Prosecution case closed.

**56. KACC.CR.021/480/2010 - CF MALINDI ACC NO.4/2010**

**NO. 56. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that a Public Health Officer based at Malindi Municipal Council corruptly solicited for a benefit from the complainant as an inducement so as to facilitate the issuance of a Liquor License. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 11<sup>th</sup> March, 2011 recommending that the case be prosecuted to its logical conclusion.

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

**STATUS**

The suspect was charged with the offence 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. Prosecution case closed.

**57. KACC CR.021/28/2010 CF. ACC MSA 5/2010**

**NO. 57. KACC FIRST (1<sup>ST</sup>) QUARTELY REPORT**

This was an inquiry into allegations that the suspect offered a benefit to the complainant, as an inducement to facilitate the release from custody of two persons facing charges of being in possession of papers for forgery. The investigation established the offer of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

KACC forwarded the file to the Director of Public Prosecutions on 3<sup>rd</sup> January 2011 with the recommendation that the case be prosecuted to its logical conclusion.

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

**STATUS**

The suspect was charged with the offence 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. Hearing on 15<sup>th</sup> March, 2012.

**(B) FILES SUBMITTED IN THE SECOND (2<sup>ND</sup>) QUARTER OF THE YEAR 1<sup>ST</sup> APRIL TO 30<sup>TH</sup> JUNE 2011.**

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**58. KACC/AT/INQ/01/2010 – ACC NO.25/2011**

**NO.1. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations of irregular procurement of chromatography columns for the National Quality Control Laboratory (NQCL) by the Ministry of Medical Services. The investigations established that whereas the user department had requisitioned for 30 pieces of the High Performance Liquid Chromatography (HPLC) columns valued at Kshs. 1.8 million; the quantities were subsequently changed from "pieces" to "sets" during the procurement process, thereby causing the excess supply of 30 sets valued at Kshs. 66,780,000. The investigation further established that whereas the written contract with the supplier of the goods was not duly executed as provided in the Public Procurement and Disposal Act, 2005; a Local Purchase Order was issued to the supplier, in breach of the procurement regulations.

The file was forwarded to the Director of Public Prosecutions on 4<sup>th</sup> April, 2011 recommending that the two suspects namely; the Biomedical Engineer and Head of the Biomedical Engineering and Maintenance Division, and Senior Principal Procurement Officer and Head of the Procurement Unit of the Ministry of Health be charged with the offences of deceiving principal, contrary to section 41(2) and willful failure to comply with the law relating to the tendering of contracts under section 45(2)(b) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the proposed charges and directed prosecution to ensure.

**STATUS**

The suspects were charged with the offences of deceiving principal, contrary to section 41(2) and willful failure to comply with the law relating to the tendering of contracts under section 45(2)(b) of the Anti-Corruption and Economic Crimes Act, 2003. Hearing on 29<sup>th</sup> and 30<sup>th</sup> March, 2012.

**59. KACC/INQ/FI/142A/2010. ACC. NO. 30/2011**

**NO.2. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an inquiry into allegations that a Senior Education Officer, Ministry of Education embezzled Kshs.480, 000 received by him as imprest while conducting a Capacity Building Workshop on Management of Instructional Materials for Secondary Schools at Kaimosi Teachers College. The investigations revealed that the officer purported to have paid a sum of Kshs.150, 000 for accommodation of resource persons and Kshs.330, 000 for the hire of laptops and LCD projectors, yet no such services were rendered. The evidence obtained further showed that the Education officer colluded with two business persons to provide false receipts purporting that payment had been made after

services had been rendered. The payment made was later channeled back to the Education officer. He used the false documents to surrender an imprest that he had not expended for the purposes that it was issued.

The file was forwarded to the Director of Public Prosecutions on 11<sup>th</sup> April 2011 recommending that the suspects be charged as follows; the Senior Education Officer be charged with fraudulent acquisition of public property and both the Senior Education Officer, and the two businesspersons be charged with conspiracy to commit an economic crime under the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the recommended charges and directed prosecution to ensure.

## **STATUS**

The suspects were arrested and the following charges preferred against them. 1<sup>st</sup> Suspect charged with the offences of fraudulent acquisition of public property contrary to section 45 (1) (a) read with section 48 (1) of Anti-Corruptions and Economics Crimes Act, 2003 1, 2 and 3 suspects charged with the offence of conspiracy to commit an economic crime contrary to section 47 (17(3) read with section 48 (1) of Anti Corruption and Economics Crimes Act, 2003. Hearing on 23<sup>rd</sup> March, 2012.

## **60. KACC/FI/INQ/186/2010**

### **NO.3. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that two Provincial Administration Officers in Makindu District fraudulently acquired 500 bags of famine relief maize intended for distribution to the vulnerable residents of Makindu District. Investigations established that the Ministry of State for Special Programmes approved the allocation of assorted foodstuff to Makindu District for distribution to the needy residents of the District. A further provision was made in the form of Authority to Incur Expenditure (AIE) to cater for the logistical issues. Investigations established that, the District Officer collected the 1000 bags of maize from the National Cereals and Produce Board, and transported the same to Makindu. There were no documents obtained to show how 500 bags of maize had been distributed. The evidence obtained also showed that 500 bags of maize had initially been misappropriated, but restored by the District Commissioner after intervention by KACC. It further emerged that the District Commissioner and the District Officer alleged to have used 200 bags of maize as payment in kind for transport services. This was in spite of the fact that an AIE had been provided to cater for the logistics of transport and distribution of the food. Whereas the two officers ultimately restored and accounted for all the maize they had received, they had taken steps towards fraudulent disposal of 500 bags of maize. They were therefore culpable for an attempt to commit an economic crime.

The file was forwarded to the Director of Public Prosecutions on 14<sup>th</sup> April, 2011 with the recommendation that the two suspects be charged with an

attempt to commit an offence involving economic crime contrary to section 47A(1) as read with section 45(1)(b) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to support the corruption charges recommended by the KACC against the suspects and directed that administrative action be taken.

## **STATUS**

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

### **61. KACC/FI/INQ/39/2010. ACC. NO. 13/2011**

#### **NO.4. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that a Senior Education Officer at the Ministry of Education misappropriated Kshs.4,942,000/ of World Bank Funds given to the Ministry of Education under the Kenya Education Sector Support Programme. The money was intended for the conduct of training of representatives of Primary Schools on HIV/AIDS Prevention and Life Skills at Shanzu and Kamwenja Teachers Training Colleges. The training took place concurrently between the 31<sup>st</sup> May 2009 and 20<sup>th</sup> June 2009. Investigations established that the Education Officer did not expend the imprest for the purpose it was given. Instead, at the time of surrender of the imprest, the suspect submitted false and forged documents in respect of transport reimbursement to participants and for the purchase of stationery in an attempt to account for the imprest.

The file was forwarded to the Director of Public Prosecutions on 21<sup>st</sup> April, 2011 with the recommendation that the suspect be charged with the following offences; Fraudulent Acquisition of Public Property Deceiving Principal and an alternative charge of False Accounting by a Public Officer under the Ethics and Anti-corruptions Commissions Act 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the recommended charges. The Director of Public Prosecutions accepted KACC's recommendation to prosecute.

## **STATUS**

The suspect was charged with the offence of fraudulent acquisition of public property contrary to section 45(1) (a) read with section 48 of Anti-Corruptions and Economics Crimes Act, 2003. Charged with deceiving principal section 41(2) read with section 48(1) of Anti-Corruption and Economics Crimes Act, 2003 in the alternative charged under section 331(1) and (2) of the penal code for the offence of false accounting by a public officer. Mention on 21<sup>st</sup> February, 2012 to fix fresh dates.

## **62. KACC/FI/INQ/153/2011**

### **NO.5. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that two plots LR. Nairobi/Block82/4324 & 1093 belonging to Harames Cooperative Savings and Credit Society Ltd (SACCO) were fraudulently sold by two Central Management Committee Members. Investigations revealed that Harames Sacco in the course of business engaged in the purchase of several properties in various towns up to the early 1990's when such purchases were stopped by the government. Amongst the properties, that the Sacco had already purchased for onward sale to its members was LR. No Nairobi/Block 82/4324. The investigations did not reveal any irregularities or fraud in the allocation of the said plot. The requisite fees for the plot was paid contrary to the allegations that the two members of the Central Management Committee had fraudulently sold the property, the evidence revealed that at the time of the allocations, the two were not officials. Therefore, no culpability on the part of the two was disclosed to warrant any criminal or administrative action against them.

Upon perusal of the file, the Director of Public Prosecutions found no evidence to support any criminal offence and concurred with KACC's recommendation that the file be closed.

#### **STATUS**

The file was returned to KACC with directions to close.

## **63. KACC/FI/INQ/103/2010**

### **NO.6. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations of conflict of interest and abuse of office against the National Project Co-coordinator of the Pan African Tsetse and Trypanosomiasis Eradication Campaign (PATTEC). PATTEC was a project within the Ministry of Livestock jointly funded by the Government and the African Development Fund. It was alleged, that since the inception of PATTEC in 2004/05, all consultancy contracts procured by PATTEC were awarded to a consultancy firm associated with the National Coordinator. Investigations established that the Consultancy firm was registered as a business under the Registration of Business Names Act, in 1997, and the joint proprietors were the National Project Co-coordinator and another partner. The National Project Co-coordinator however resigned from the business in 2003 and a certificate of change of particulars issued to that effect leaving the other partner as the sole proprietor. Whereas the investigations revealed that the same Consultancy firm that the Coordinator had resigned from was awarded contracts by PATTEC, there is no evidence that she participated in the procurement process, or that she directly or indirectly influenced or benefited from the proceeds of the contract.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to support any criminal charge against the suspect and concurred with KACC's recommendations that the file be closed.

## **STATUS**

The file was returned to KACC with directions to close.

### **64. KACC/FI/INQ/156/2010**

#### **NO.7. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations of irregular award of a concession/exploration license to an unqualified Company due to influence by the Permanent Secretary, Ministry of Justice and Constitutional Affairs. Investigations established that three mining companies applied for exploration license to the Commissioner of Mines and Geology. All the three applications were approved by the Prospecting and Mining Licensing Committee, despite the fact that none of them qualified for the award of the license. They did not meet all the requirements that were pre-requisite for the granting of the exploration license. Investigations revealed that in spite of the objections to the approval, raised by the Commissioner of Mines and Geology, the PS in the Ministry suspended him and appointed an acting Commissioner. Subsequently the new appointee approved the applications in spite of the flaws. The investigation also revealed that one of the directors of the applicant companies forged a Certificate of Incorporation, and he presented it together with his application, upon which the Commissioner of Mines and Geology issued an Exploration license. With regard to the allegations that the PS Ministry of Justice influenced the issuance of a Prospecting license to one of the companies, the evidence obtained did not establish any criminality or culpability to warrant any action against her.

The file was forwarded to the Director of Public Prosecutions on 5<sup>th</sup> April, 2011 with the recommendations that the following be charged as follows; the PS Ministry of Environment, the acting Commissioner of Mines and Geology and the members of the Prospecting and Mining Licensing Committee in the Ministry of Environment and Natural Resources be charged with the offence of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act No.3 of 2003; and the director of the mining company be charged with forgery contrary to section 345 and uttering a false document contrary to section 353 of the Penal Code Cap 63, the Laws of Kenya.

Upon perusal of the file, the Director of Public Prosecutions found gaps and deficiencies in the investigations and directed that further investigations be conducted.

## **STATUS**

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

### **65. KACC/FI/INQ/15/2009. ACC. NO. 06/2009**

#### **NO.8. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegation that the Head of Kabete School Equipment and Maintenance Unit, Ministry of Education Science and Technology embezzled Kshs. 2, 263,440.00 meant for rehabilitation of the Provincial Technical Training Institute office in Embu. The investigation revealed that although the officer received the imprest to refurbish the aforementioned office, no renovations were carried out, nor were any materials purchased. Instead, the officer used falsified documents to surrender the imprest, which he embezzled. The investigation also revealed that the approval of the imprest received by the suspect was irregular, since the suspect had no mandate to request for the money. The request would only have been made by the office of the Provincial Technical Training Institute office.

The file was forwarded to the Director of Public Prosecutions on 11<sup>th</sup> April, 2011, with the recommendation that the suspect be charged with the following offences; knowingly giving a false statement to one's principal and uttering a false document contrary to section 353 of the Penal Code, and that administrative action be taken against a Senior Deputy Secretary in the Ministry of who was the A.I.E. holder and who approved the imprest received by the suspect.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the recommended charges against one suspect and pursue administrative action against the other suspect, Director of Public Prosecutions directed prosecution to ensue in respect of one suspect.

## **STATUS**

The 1<sup>st</sup> suspect was arrested and charged with the offence of knowingly giving false statement to one's principal contrary to section 41 (2) as read with section 42 (1) of Anti Corruption and Economics Crimes Act 2003 and uttering a false document contrary to Section 353 of penal code cap 63. The 2<sup>nd</sup> suspect was to be subjected to administrative action. Hearing on 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 14<sup>th</sup> May, 2012.

## **66. KACC MSA/FI/INQ/6/2010 –**

### **NO.9. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations of failure to adhere to public procurement laws and regulations in the procurement of a motor grader at the Kwale County Council. Investigations established that the Tender Committee charged with the responsibility of evaluating the bids for the tender for the supply of the grader adopted an irregular evaluation criteria and awarded the tender to an unresponsive bidder. This was in breach of the public procurement regulations. Investigations further established that the successful bidder received payment for the grader although it was not supplied to the County Council.

The file was forwarded to the Director of Public Prosecutions on 23<sup>rd</sup> June, 2011, with the recommendation that the members of the Kwale County Council Tender Committee be charged with the offence of willful failure to comply with the law relating to the procurement of goods and the County

Clerk be charged with the abuse of office and alternative charge of fraudulently making payment for goods not supplied both under the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the proposed charges against the suspects and accepted KACC's recommendations to prosecute.

## **STATUS**

The suspects were arrested and charged with the following offences:

- Willful failure to comply with the law relating to procurement of goods Contrary to Section 45(2) (b) of Anti Corruptions and Economics Crimes Act, 2003
- The Town Clerk be charged with abuse of office contrary to Section 46 in the alternative section 45 (2) (a) (II) of the Anti Corruptions and Economics Crimes Act, 2003

Case part heard.

## **67. KACC/FI/INQ/168/2010**

### **NO.10. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations of abuse of office by officials of the National Water Conservation and Pipeline Corporation, by irregular procurement of borehole materials. The investigations revealed that the Corporations Tender Committee approved the procurement of borehole materials, which was to be done by way of raising Requests for Quotations. In spite of this requirement, the procurement officer issued LPOs to suppliers who had not submitted their quotations, and ignored those that had been invited to place their bids. Falsified documents were also used and no deliberations were made on the quotations. By issuing the LPOs without any quotations, the procurement officer failed to comply with the applicable procurement procedures. By approving the LPOs and the Payment Voucher in respect of goods supplied without following the laid down procedure, the Managing Director and the head of the user department improperly conferred a benefit.

The file was forwarded to the Director of Public Prosecutions on 7<sup>th</sup> April 2011, with the recommendation that the suspects be charged with the following offences; the Managing Director and Head of Construction and Electro-Mechanical Department be charged with the offence of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003; and the Procurement Officer be charged with willful failure to comply with procurement law and procedures relating to procurement of public property contrary to section 45(2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found gaps and deficiencies in the investigations and directed further investigations to be conducted along identified lines.

## **STATUS**

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

### **68. KACC/KSM/FI/INQ/02 –**

#### **NO.11. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that an acting Assistant Director of Education in the Ministry of Education embezzled Kshs.1, 675,000 meant for the Kenya Education Sector Support Project. It was alleged that the officer received the imprest to facilitate the organization of a capacity building workshop on the management of instructional materials in Secondary Schools held in Nyeri. The investigation revealed that the officer surrendered the imprest using false documents purporting to have spent the imprest that she had received for the intended purposes. The false documents included forged receipts for purchase of stationery, facilitators reimbursement schedules and false work tickets. The investigation also revealed that the suspect was accompanied by another officer who also used false documents to surrender the imprest she had received.

The file was forwarded to the Director of Public Prosecutions on 9<sup>th</sup> May 2011, with the recommendation that the suspects be charged with the following offences; deceiving principal under Anti Corruption and Economic Crimes Act, No.3 of 2003, and fraudulent false accounting by a public officer contrary to Section 331 (1) as read with section 331 (2) of penal code cap 43.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the proposed charges. The Director of Public Prosecutions accepted KACC's recommendations to prosecute.

## **STATUS**

The suspects were arrested and charged with the following offences:

- Deceiving principal contrary to Section 41 (2) of Anti-Corruptions and Economics Crimes Act, 2003
- In addition, fraudulent false accounting by a public officer contrary to Section 331 (1) as read with section 331 (2) of penal code cap 43.

Hearing on 5<sup>th</sup> March, 2012.

## **69. KACC/FI/INQ/7/2010**

### **NO.12. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that an Accounts Assistant Ministry of Education misappropriated an imprest of Kshs.2,414,700 to cater for a workshop held for TAC-Tutors at Kaimosi Teachers Training College. The investigations also revealed that the workshops were held in six sessions from 18<sup>th</sup> August, 2008 to 26<sup>th</sup> September, 2008 at the Kaimosi Teachers College. The investigation revealed that the officer properly accounted for the imprest that he had received and surrendered it using authentic documents. The investigation did not reveal any evidence of misappropriation of the imprest.

The file was forwarded to the Director of Public Prosecutions with recommendations that the inquest file be closed.

Upon perusal of the file, the Director of Public Prosecutions found no evidence to support any criminal charge against the suspects and concurred with KACC's recommendation that the file be closed.

#### **STATUS**

The file was returned to KACC with directions to close.

## **70. KACC. KSM/FI/01/2010**

### **NO.13. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that the principal of St. Theresa's Girls Secondary school, Kibuye misappropriated school funds and bought a lorry for the school in contravention of the public procurement rules and regulations. Investigations established that the lorry was single sourced by the school principal without competitive procurement as required by the Public Procurement and Disposal Act, 2005. As the Accounting Officer of the school, the principal was solely responsible for ensuring that there was compliance with the public procurement regulations. The investigation also established that the system of management of at the school was full of weaknesses that were prone to abuse; and thus would require urgent redress.

The file was forwarded to the Director of Public Prosecutions on 26<sup>th</sup> May, 2011 with the recommendation that the school principal be charged with the offence of careless failure to comply with the law relating to procurement

A further recommendation was made that the KACC's Preventive Services Directorate do examine the practices and procedures of the school with a view to advising the school on administrative loopholes that may be conducive to corrupt practices.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the proposed charges against the suspects. The Director of Public Prosecutions accepted KACC's recommendation to prosecute.

## **STATUS**

The suspect was arrested and charged with offence of careless failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with section 48 (1) of the Anti-Corruptions and Economics Crimes Act, 2003. Case part heard.

### **71. KACC/FI/INQ/163/2010 –**

#### **NO.14. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that a Senior Education Officer in the Department of Tertiary and Secondary Education embezzled an imprest of Kshs 3,446,362 received by him to carry out workshops on Infrastructure Needs Assessment in Nyanza and Western Provinces. The investigation revealed that no workshops were held, and the officer surrendered the imprest using false documents to purport to support the expenditure incurred.

The file was forwarded to the Director of Public Prosecutions on 8<sup>th</sup> June, 2011 with the recommendation that suspect be charged with the offences of knowingly deceiving the principal.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the proposed charges against the suspects. The Director of Public Prosecutions accepted KACC's recommendations to prosecute.

## **STATUS**

The suspect was arrested and charged with offence of knowingly deceiving the principal contrary to Section 41 (2) Anti-Corruption and Economics Crimes Act, 2003 Section 45 (1) (a) Anti-Corruptions and Economics Crimes Act, 2003. Case part heard.

### **72. KACC/INQ/FI/132/2010 –**

#### **NO.15. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that the MP for West Mugirango and the Director of a construction firm fraudulently acquired Kshs.2, 497,900 from the West Mugirango CDF kitty. Investigation established the area MP unilaterally engaged a construction company to carry out works on the Kebirigo-Mosobeti road without adherence to the applicable procurement procedures and regulations. The investigation further revealed that the contractor was paid with CDF funds allocated to the West Mugirango Constituency for a project that had not been planned for, nor approved by the Constituency Development Fund Board as provided for in the CDF Act.

The file was forwarded to the Director of Public Prosecutions on 8<sup>th</sup> June, 2011 with the recommendation that the MP be charged with the offences of willful failure to comply with applicable procurement procedures and

engaging in a project without prior planning as provided in law and the AIE holder for West Mugirango be charged with the offence of careless failure to comply with guidelines relating to incurring of expenditure both under of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the proposed charges against the suspects. The Director of Public Prosecutions accepted KACC's recommendations to prosecute.

## **STATUS**

The suspects were arrested and charged with the following offences:

- 1<sup>st</sup> suspect Willful failure to comply with applicable procurement procedures and engaging in a project without prior planning as provided in section 45 (2) (b) and (c) of Anti-Corruptions and Economics Crimes Act, 2003. Mention on 14<sup>th</sup> March, 2012,
- 2<sup>nd</sup> suspect careless failure to comply with guidelines relating to incurring of expenditure contrary to section 45 (2) (b) of Anti-Corruptions and Economics Crimes Act, 2003. Fresh matters hearing yet to commence. Hearing on 9<sup>th</sup> March, 2012

### **73. KACC/FI/INQ/164/2010**

#### **NO.16. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that the National Project Coordinator for Western Kenya Community Driven Development and Flood Mitigation Project received an imprest of Kshs. 940,200 and surrendered it using forged documents. The Investigation established that the Coordinator properly accounted for the imprest he received and used it for the purposes that it had been issued. The documents he used in the surrender were authentic. There was no evidence to support any action against him.

KACC forwarded the file to the Director of Public Prosecutions with recommendations to close.

Upon perusal of the file, the Director of Public Prosecutions found no evidence to support any criminal charge against the suspect and concurred with KACC's recommendation that the file be closed.

## **STATUS**

The file was returned to KACC with directions to close.

### **74. KACC/FI/INQ/182a/2010 –**

#### **NO.17. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that the Member of Parliament for Igembe South Constituency irregularly purchased a constituency vehicle at an exorbitant price of Kshs 4.2 thereby occasioning a loss to the CDF kitty.

Investigations established that the Igembe South Constituency Development Fund Committee resolved to buy a motor vehicle for use in the constituency. The purchase was approved and bought for a price that was within the range of Government negotiated price. Investigations also revealed that the payment of Kshs. 4,198,999 was approved. The investigations did not reveal any irregularity in the purchase of the vehicle. There was also no evidence obtained to show that the MP irregularly purchased the vehicle for an exorbitant price or benefited personally from the purchase, to warrant any action against him.

The file was forwarded to the Director of Public Prosecutions with recommendations to close.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to support charges of corruption against the suspect and accepted KACC's recommendations to close the file.

## **STATUS**

The file was returned to KACC with directions to close.

## **75. KACC/FI/INQ/165/09. CR.032/29/2010. CF. 483/2010**

### **NO.18. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations of embezzlement of Kshs. 961,500 of the World Bank funded Western Kenya Community Driven Project by the project's Human Resource Manager and Cashier. The investigation revealed that the Human Resource Manager received the money to pay participants attending a workshop on Customer Care held at Kisumu Hotel. Investigations revealed that the Human Resource Manager used false documents at the time of the surrender of the imprest, comprising of forged payment schedules with inflated amounts and fictitious names.

The file was forwarded to the Director of Public Prosecutions on 4<sup>th</sup> May, 2011 with the recommendation that the suspect be charged with the offence of fraudulent acquisition of public property under the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the recommended charges against the suspects and directed prosecution to ensue.

## **STATUS**

The suspects were charged with the offence of fraudulent acquisition of Public property contrary to section 45 (1) (a) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003. Case withdrawn under section 87 (a) of CPC upon death of the accused.

## **76. KACC CR.735/331/2010 CF NAKURU ACC. NO. 7/2010**

### **NO.19. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that a Quality Assurance and Standard Officer with the Ministry of Education corruptly solicited for a benefit from the complainant as a reward for having facilitated his appointment as a Supervisor in the 2010 K.C.S.E. The investigation established the solicitation and receipt of the benefit.

The file was forwarded to the Director of Public Prosecutions on 6<sup>th</sup> April, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions 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 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. Hearing on 01<sup>st</sup> March, 2012.

## **77. KACC CR.741/507/2010 CF KERICHO ACC. NO.20/2010**

### **NO.20. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that a Police Officer attached to Criminal Investigation Department, Eldoret corruptly solicited for a benefit from the complainant as an inducement to speed up investigations in a fraud case regarding his parcel of land in Lang as area in Eldoret Municipality. The investigation established the solicitation and receipt of the benefit.

The file was forwarded to the Director of Public Prosecutions on 27<sup>th</sup> April, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges.

#### **STATUS**

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

## **78. KACC CR.111/83/2011 CF NAIROBI ACC. NO.12/2011**

## **NO.21. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that employees of the City Council of Nairobi, City Inspectorate Department corruptly solicited for a benefit from the complainant as an inducement so as to facilitate the payment of fine in respect to two buses that had been impounded for violation of City Council's by-laws. The investigation established the solicitation and receipt of the benefit.

The file was forwarded to the Director of Public Prosecutions on 7<sup>th</sup> June, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charge of corruption against the suspect.

### **STATUS**

The suspect was charged with the offence 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. Hearing on 2<sup>nd</sup> March, 2012.

## **79. KACC CR. 141/791/2010 CF NO. NAIROBI ACC.48/2010**

### **NO.22. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that certain persons, posing as officers of KACC were going round soliciting money from High School Principals as an inducement to forbear charging them with corruption-related offences. One of the principals who are the complainant reported that three persons posing as investigators of KACC solicited for a benefit Kshs.200, 000 as inducement to provide the school with a "clearing certificate" from KACC and forbear charging the complainant with corruption offences. Upon receipt of the report from the complainant and investigations, the suspect was arrested and identified by the complainant as the person who had visited his school and presented himself as a KACC investigator. The investigation revealed that he suspect was not an investigator with KACC.

The suspect was arraigned before the Nairobi Anti- Corruption Court and charged with the offences of Impersonation contrary to section 34(1) of the Anti-Corruption and Economic Crimes Act and Attempt at extortion contrary to section 300(1) of the Penal Code. The file was forwarded to the Director of Public Prosecutions on 19<sup>th</sup> May, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

The file was forwarded to the Director of Public Prosecutions on 19<sup>th</sup> May, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case proceed to the logical end.

## **STATUS**

The suspect was charged with the offences of impersonation contrary to section 34(1) of the Anti-corruption and Economic Crimes Act 2003 and with extortion contrary to section 300 (1) of the penal code. Hearing on 22<sup>nd</sup> March, 2012.

### **80. KACC CR.218/147/2010 CF NYERI ACC. NO.2/2011**

#### **NO.23. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that a former employee of the Kenya Power & Lighting Company Ltd corruptly solicited and received a benefit from the complainant as an inducement not to disconnect his electricity supply on allegations that he was using the power supply for commercial purposes, yet it was intended only for domestic use. It was further alleged that the suspect was not an employee of KPLC as he had purported, and was unknown to the KPLC staff at Limuru. The investigation established the solicitation and receipt of the benefit. The suspect was duly charged with the offence of corruption.

The file was forwarded to the Director of Public Prosecutions on 29<sup>th</sup> April, 2011 with the recommendation that the case is prosecuted to its logical conclusion, but the charges of obtaining by false pretences be withdrawn.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support charges preferred and directed that the case proceed to the logical conclusion.

## **STATUS**

The suspect was charged with the offences of concealing evidence contrary to section 66 (1) of the Anti-Corruption and Economic Crimes Act 2003, and personating a person employed in the public service contrary to section 105 (b) of the penal code. The offence of obtaining money by false pretence contrary to section 313 of the penal code against the suspect was withdrawn. Hearing on 2<sup>nd</sup> March, 2012.

### **81. KACC CR. 437/14/2011 - CF EMBU ACC. NO.3/2011**

#### **NO.24. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that the Assistant Chief of Kathekani Sub-Location, Kibwezi District corruptly solicited and received a benefit from the complainant as an inducement to release a birth certificate that he had applied for. The investigation established the solicitation and receipt of the benefit. The suspect was duly charged with the offence of corruption.

The file was forwarded to the Director of Public Prosecutions on 9<sup>th</sup> May, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found evidence

sufficient to support preferred charges and directed that the case proceed to the logical conclusion.

## **STATUS**

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

### **82. KACC CR. 491/173/2010 CF EMBU ACC. NO. 6/2010**

#### **NO.25. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that the Mwingi District Land Surveyor corruptly solicited and received a benefit from the complainant as an inducement to facilitate the excision of land which the complainant intended to buy. The investigation established the solicitation and receipt of the benefit. The suspect was duly charged with the offence of corruption.

The file was forwarded to the Director of Public Prosecutions on 27<sup>th</sup> April, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support a charge of Corruption against the suspect.

## **STATUS**

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

### **83. KACC.CR.771/891/2010 CF KITALE ACC. NO. 2929/2010**

#### **NO.26. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that two Clerks at the Kapsabet Law Courts corruptly solicited and received a benefit from the complainant as an inducement to facilitate the processing of the release of a suspect on bond. The investigation established the solicitation and receipt of the benefit and the suspects were duly charged with the offence of corruption.

The file was forwarded to the Director of Public Prosecutions on 12<sup>th</sup> April, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case proceed to the logical end.

## **STATUS**

The suspect was charged with the offence 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. Hearing on 2<sup>nd</sup> March, 2012.

### **84. KACC.CR.141/764/2010 CF NAIROBI. ACC. NO.3/2010**

#### **NO.27. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that an Internal Motor Assessor, Blue Shield Insurance Company Limited corruptly solicited and received a benefit from the complainant as an inducement to prepare an assessors report to facilitate the complainant to obtain re-imburement for an insurance claim. The investigation established the solicitation and receipt of the benefit.

The file was forwarded to the Director of Public Prosecutions on 14<sup>th</sup> April, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case proceed to the logical end.

## **STATUS**

The suspect was charged with the offence of soliciting and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Ant-corruption and Economic Crimes Act, 2003. Hearing on 22<sup>nd</sup> February, 2012.

### **85. KACC CR.144/122/2011 CF NAIROBI ACC. NO. 10/2011**

#### **NO.28. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that Public health Officers with the City Council of Nairobi corruptly solicited and received a benefit from the complainant as an inducement to forbear charging him with an alleged offence of failing to comply with City Council of Nairobi by laws. The investigation established the solicitation and receipt of the benefit. The suspect was charged with the offence of corruption.

The file was forwarded to the Director of Public Prosecutions on 19<sup>th</sup> April, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case proceed to the logical end.

## **STATUS**

The suspect was charged with the offence 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. Ruling on 23<sup>rd</sup> February, 2012.

### **86. KACC CR. 141/147/2011 CF NAIROBI ACC NO. 11/2011**

#### **NO.29. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that employees of the National City Water and Sewerage Company Ltd solicited for a benefit from the complainant as an inducement so as to return two confiscated Water Meters and facilitate waiver of some alleged outstanding water bills owed by a company contracted by the complainant to carry out construction. The investigation established the solicitation and receipt of the benefit. The suspects were duly charged with the offence of corruption.

The file was forwarded to the Director of Public Prosecutions on 18<sup>th</sup> May, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case in court proceed to the logical conclusion.

## **STATUS**

The suspects were 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. Hearing on 10<sup>th</sup> and 11<sup>th</sup> April, 2012.

### **87. KACC CR.214/65/2011 CF NYERI ACC. NO.1/2011**

#### **NO.30. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that a Police Officer based at the Kikuyu Police Station and attached to Traffic duties solicited for a benefit from the complainant as an inducement to forebear charging the complainant with traffic offences arising from an accident that had occurred involving his vehicle and another. The investigation established the solicitation and receipt of the benefit. The suspect was duly charged.

The file was forwarded to the Director of Public Prosecutions on 8<sup>th</sup> June, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case proceed to the logical conclusion.

## **STATUS**

The suspect was charged with the offence of soliciting and receiving a benefit contrary to section 39 (3) (a) and concealing evidence contrary to section 66 (1) (c) as read with section 66 (2) of the Anti-corruption and Economic Crimes Act No.3 of 2003. Mention on 9<sup>th</sup> March, 2012.

### **88. KACC CR.021/121/2010 CF. MOMBASA ACC. NO. 18/2010**

#### **NO.31. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that the Chairman of Ziwa La Ng'ombe Squatters Settlement Scheme, Kilifi solicited for a benefit from the complainant as an inducement to facilitate the change of land records in respect of a plot belonging to the complainant. The investigation established the solicitation and receipt of the benefit. The suspect was duly charged.

The file was forwarded to the Director of Public Prosecutions on 11<sup>th</sup> May, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case proceed to the logical conclusion.

## **STATUS**

The suspect was charged with the offence of soliciting and receiving a benefit contrary to section 39 (3) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act No.3 of 2003. Hearing on 12<sup>th</sup> and 13<sup>th</sup> March, 2012.

### **89. KACC CR.032/37/2010 CF. KISUMU ACC. NO.554 /2010**

#### **NO.32. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that the Principal of Muhoroni Mixed Secondary School and the PTA Chairman solicited for a benefit from the complainant as an inducement to facilitate the approval of the Board of Governors for the payment of his outstanding claims arising out of a building construction contract with the school. The investigation established the solicitation and receipt of the benefit. The suspect was duly charged.

The file was forwarded to the Director of Public Prosecutions on 12<sup>th</sup> May, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case in court proceed to the logical conclusion.

## **STATUS**

The suspect was charged with the offence of soliciting and receiving a benefit contrary to section 39 (3) (a) and concealing evidence contrary to section 66 (1) (c) as read with section 66 (2) of the Anti-corruption and Economic Crimes Act No.3 of 2003. Mention 29<sup>th</sup> March, 2012. Hearing is yet to commence.

**90. KACC CR.021/30/2011 CF. MOMBASA ACC. NO. /2011**

**NO.33. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that the suspect herein offered a benefit to the complainant as an inducement to influence him to implicate the Member of Parliament for Makadara in a criminal case against the complainant. The investigation did not establish the solicitation and receipt of the benefit. Whereas the suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) and concealing evidence contrary to section 66 (1) (c) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003, the evidence obtained was not sufficient to prove the charges against him.

The file was forwarded to the Hon Director of Public Prosecutions on 23<sup>rd</sup> June, 2011 with the recommendation that the case against the accused be withdrawn under section 87(a) of the Criminal procedure Code.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to support charges of corruption against the suspect. He accepted KACC's recommendations to withdraw the case.

**STATUS**

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

**91. KACC CR. 141/289/2011 CF. NAIROBI ACC. NO.41/2011**

**NO.34. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that a Senior Clerical Officer and an Accountant, Ministry of Education solicited for a benefit from the complainant as an inducement to facilitate the waiver of an outstanding balance in salary overpayment to the complainant. The investigation established the solicitation and receipt of the benefit, and forgery. The suspects were duly charged.

The file was forwarded to the Director of Public Prosecutions on 30<sup>th</sup> June, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case proceed to the logical end.

## **STATUS**

The suspects were charged with the offences of soliciting and receiving a benefit contrary to section 39 (3) (a) and conspiracy to commit an offence of corruption contrary to section 47 A (3) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Acts of 2003 and forgery contrary to 349 of the penal code. Case part heard.

### **92. KACC CR. 021/2011 CF. MOMBASA ACC. NO.3/2011**

#### **NO.35. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that a Clerical Officer at the Coast provincial Land Disputes Appeal Committee, Mombasa solicited for a benefit from the complainant as an inducement so as to avail his file in respect of an appeal case pending before the Appeals Committee for purposes of allocating a hearing date. The investigation established the solicitation and receipt of the benefit. The suspect was duly charged.

The file was forwarded to the Director of Public Prosecutions on 30<sup>th</sup> June, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case proceed to the logical conclusion.

## **STATUS**

The suspect was charged with the offence 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. Hearing on 1<sup>st</sup> and 2<sup>nd</sup> March, 2012.

### **93. KACC CR. 141/021/26/2011 CF. MOMBASA ACC. NO.5/2011**

#### **NO.36. KACC SECOND (2<sup>ND</sup>) QUARTERLY REPORT**

This was an Inquiry into allegations that the CDF Account Manager, Garsen Constituency solicited for a benefit from the complainant as an inducement to facilitate the release of a cheque payable to the complainant in respect of a CDF project undertaken by him at Arap Moi primary School. The investigation established the solicitation of the benefit. The suspect was duly charged.

The file was forwarded to the Director of Public Prosecutions on 30<sup>th</sup> June, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the corruption charge filed against the suspect and directed

that the case proceed to the logical conclusion.

## **STATUS**

The suspect was charged with the offence of soliciting a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act No.3 of 2003. Hearing 16<sup>th</sup> March, 2012.

## **(C) FILES SUBMITTED IN THE THIRD (3<sup>RD</sup>) QUARTER OF THE YEAR - 1<sup>ST</sup> JULY TO 30<sup>TH</sup> SEPTEMBER, 2011**

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### **94. KACC/FI/INQ/11/2011**

#### **NO.1. KACC THIRD (3<sup>RD</sup>) QUARTELY REPORT**

This was an Inquiry into allegations that the Ministry of Water and Irrigation irregularly procured the services of a private contractor for the purposes of equipping five boreholes in Machakos and Makueni Districts under the Emergency Drought Programme in 2009. It was further alleged that during the implementation, there were irregular contract variations and payments of up to Kshs. 26 million by the Tanathi Water Services Board (TAWSB) for work not done. Investigation revealed that following severe drought that engulfed parts of the country during the period 2008-2009, an inter-ministerial committee met and set up a budget of Kshs.678, 680,000.00 to mitigate the effects of the drought in the affected areas. The Ministry of Finance approved the release of a sum of Kshs. 500 million to the Ministry of Water and Irrigation to facilitate the implementation of the government's initiative. Investigations revealed that following the release of the said funds, the Ministry of Water and Irrigation invited bidders to tender for a total of 58 contracts for drilling and equipping boreholes located all over the country. One of the tenders to equip 9 boreholes located in Machakos and Makueni Districts was awarded to a contractor at a corrected tender sum of Kshs.43, 421,783.75.

Investigations further revealed that the contractor awarded the said contract was the least qualified, since they did not meet all the requirements. It was also established that officials of the Ministry and the Tana Athi Water Services Board approved advance payments to the said contractor whereas no works had been carried out. The payments were based on fraudulent certificates contrary to laid down financial procedures. Investigations also revealed that one of the boreholes was commissioned by the Minister for Water and Irrigation whereas the project was not complete to serve the intended purpose.

EACC forwarded the file to the Director of Public Prosecutions on 18<sup>th</sup> August, 2011, with the recommendations that the suspects including the directors of the contractor company be charged with the offences of conspiracy to

commit an economic crime contrary to section 47 A (3) as read with section 48 of the Anti-Corruption & Economic Crimes Act, No.3 of 2003, conspiracy to defraud contrary to section 317 of the Penal Code; the Minister for Water and Irrigation be charged with abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No.3 of 2003 and breach of trust contrary to section 127(1) as read with section 127(2) of the Penal Code; the officials of the Ministry of Water and Irrigation and Tanathi Water Services Board be charged with willful failure to comply with the applicable procedures and guidelines relating to the tendering of contracts contrary to section 45(2)(b), fraudulently making payment from public revenues contrary to section 45 (2) (a ) (ii) and abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. It was further recommended that a financial audit be carried out to ascertain the proper costs incurred in the implementation of all the five borehole projects and thereafter the Commission to recover overpayments (if any) made to the contractor; and the Commission to carry out an examination of systems and procedures at the Ministry of Water and Irrigation in order to streamline its procurement process.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to prosecute the officials of the Ministry of Water and Irrigation and Tanathi Water Services Board; and the Directors of the contractor company that was awarded the tender to drill the boreholes and directed prosecution to ensure. With regard to the recommendations to prosecute the Minister for Water and Irrigation, the DPP directed that further investigations be carried out. The DPP further accepted the recommendation to carry out a financial audit to ascertain the proper costs incurred in the implementation of the boreholes and an examination of systems and procedures at the Ministry of Water be carried out in order to streamline the Ministry's procurement process.

## **STATUS**

The suspects were charged with the offences of conspiracy to commit an economic crime contrary to section 47 A (3) as read with section 48 of the Anti-Corruption & Economic Crimes Act, No.3 of 2003, conspiracy to defraud contrary to section 317 of the Penal Code;

The officials of the Ministry of Water and Irrigation and Tanathi Water Services Board were charged with:

- (i) willful failure to comply with the applicable procedures and guidelines  
Relating to the tendering of contracts contrary to section 45(2) (b),  
Fraudulently making payment from public revenues contrary to section 45  
(2) (a)
- (ii) and abuse of office contrary to section 46 as read with section 48(1) of  
the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Case part-heard further hearing on 22<sup>nd</sup> February, 2012, 19<sup>th</sup>, 20<sup>th</sup> and 28<sup>th</sup> March 2012. Further investigations to be carried out in the outlined areas and file be resubmitted for directions.

## **95. KACC/FI/INQ/13/2011**

### **NO. 2. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a private company was irregularly registered as a contractor in the Ministry of Water and Irrigation. The investigation revealed that the officer tasked with registration of contractors registered the company as a contractor without evaluating the competence and capability of the personnel in the said company. The recommendation letters attached to the application for registration by the contractor were also found to be false.

EACC forwarded the file to the Director of Public Prosecutions on 10<sup>th</sup> August, 2011 with the recommendation that the directors of the irregularly registered contractor and the company be charged with the offence of uttering a false document contrary to Section 353 of the Penal Code, and administrative action be taken against the public officers who registered the contractor for failing to discharge their duties as required.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

### **STATUS**

The suspect was charged with the offence of uttering a false document contrary to Section 353 of the Penal Code. Hearing on 22<sup>nd</sup> February 2012, 19<sup>th</sup> and 20<sup>th</sup> March, 2012.

## **96. KACC/FI/INQ/29/2010 - ACC NO.3/2011**

### **NO. 3. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORT**

This was an inquiry into allegations that a Senior Clerical Officer, Ministry of Education misappropriated Kshs.1,650,000/= received by him as imprest while carrying out workshops on Education Management Information System (EMIS) staff capacity building on data management at Egerton University and Nairobi. It was further alleged that he surrendered the imprest using false receipts and falsified payment schedules. The investigations revealed that the workshops in respect of which the suspect received the imprest were held in Nairobi and Egerton University. The suspect paid allowances to the participants and facilitators. However, the investigations revealed that he falsified the payment schedules and inflated the sums purportedly paid out, in a bid to justify expenditure of the imprest received.

EACC forwarded the file to the Director of Public Prosecutions on 4<sup>th</sup> July, 2011 with the recommendation that the suspect be charged with the offence of knowingly giving a false document to a principal contrary to Section 41(2) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act and in the alternative, false accounting by a public officer contrary to Section 331(1) as read with Section 331(2) of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found the evidence

sufficient to support the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspects were charged with the offence of knowingly giving a false document to a principal contrary to Section 41(2) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act and in the alternative, false accounting by a public officer contrary to Section 331(1) as read with Section 331(2) of the Penal Code. Hearing on 20<sup>th</sup> and 21<sup>st</sup> March, 2012.

### **97. KACC/FI/INQ/67/2010 - ACC NO.33/2011**

#### **NO. 4. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Quality Assurance Officer, Ministry of Education embezzled a sum of Kshs.2,934,600 received by him as imprest to facilitate Provincial/Regional Capacity Building Workshops on Management of Instructional Materials for Secondary Schools. It was further alleged that he surrendered the imprest using false documents. The money was part of the funds drawn from the World Bank funded kitty meant for the Kenya Education Sector Support Project (KESSP).

The investigations revealed that, whereas the suspect received the imprest, no workshop was held and he purported to account for the imprest received by surrendering it using forged documents.

EACC forwarded the file to the Director of Public Prosecutions on 13<sup>th</sup> July, 2011 with the recommendations that suspect be charged with the offences of knowingly giving a false document to a principal contrary to Section 41(2) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act and in the alternative, false accounting by a public officer contrary to Section 331(1) as read with Section 331(2) of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspect was charged with the offences of knowingly giving a false document to a principal contrary to Section 41(2) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act and in the alternative, false accounting by a public officer contrary to Section 331(1) as read with Section 331(2) of the Penal Code. Matter part heard. Further hearing on 16<sup>th</sup> and 17<sup>th</sup> April, 2012.

### **98. KACC/FI/INQ/142/2010 - ACC NO.**

#### **NO. 5. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegation that the Billing and Collection System of the Kenya Power and Lighting Company (KPLC) is being manipulated by some

KPLC staff by crediting the accounts of some customers without any payment being received by KPLC. Investigations revealed that on 25<sup>th</sup> and 30<sup>th</sup> June, 2010, an account of one of the KPLC customers was credited with a total sum of Kshs. 2 million yet KPLC did not receive any money towards the settlement of the account. The investigations revealed that the Chief Systems Analyst at KPLC had used his knowledge of the KPLC Billing System and Information Technology (IT) expertise to manipulate the system. He would conceal his identity and execute illegal and irregular transactions on the system. The investigation further revealed that it was the said officer who executed the suspect transactions on the 25<sup>th</sup> and 30<sup>th</sup> June, 2010 in which the account of a KPLC customer was credited with a sum of Kshs.1 million on each of the said dates without any money being received by KPLC.

EACC forwarded the file to the Director of Public Prosecutions on 11<sup>th</sup> July, 2011 with the following recommendations; the Chief Systems Analyst and the Directors of the company whose account was credited with the irregular amount and its Directors be charged with the offence of conspiracy to commit an economic crime contrary to Section 47A(3) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, the Chief Systems Analyst should also be charged with the offence of abuse of office contrary to Section 46 as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, access with intent to commit an offence contrary to section 83V(1) of the Kenya Information Communications Act, Chapter 411A and fraudulently causing loss of property to another contrary to Section 84B(a) of the Kenya Information Communications Act, Chapter 411A.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the recommended charges and directed prosecution to ensue.

## **STATUS**

The suspects were charged with the following offences:

- (i) The Chief systems Analyst and Directors of the Company: Conspiracy to commit an economic crime contrary to Section 47A (3) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.
- (ii) The Chief Systems Analyst was charged with the offence of abuse of office contrary to Section 46 as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.
- (iii) Chief Systems Analyst access with intent to commit an offence contrary to section 83V(1) of the Kenya Information Communications Act, Chapter 411A and fraudulently causing loss of property to another contrary to Section 84B(a) of the Kenya Information Communications Act, Chapter 411A. Mention on 28<sup>th</sup> February, 2012.

## **99. KACC/MSA/FI/INQ/19/10 ACC NO.**

### **NO. 6. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that the Head Teacher, Mbwaleni Primary School colluded with officials of the Co-operative Bank, Nkrumah Road Branch, Mombasa, to fraudulently withdraw Kshs.1.8 million Free Primary Education (FPE) funds meant for Mwabila Primary School that had been erroneously remitted by the Ministry of Education to Mbwaleni Primary School instead of Mwabila Primary School. Investigations revealed that in the 2008/2009 financial year, the Ministry of Education disbursed a sum of Kshs.2, 500,000/= and credited it in the account of Mbwaleni Primary School. The money was intended for school infrastructure development. However, out of the Kshs.2.5 million, a sum of Kshs.1.8 million was indicated in the schedules by the Ministry to have been meant for Mwabila Primary School. The Ministry deposited the money in an account held by Mbwaleni Primary School at the Co-operative Bank, Nkrumah Road Branch, and Mombasa. Attempts by the officials of Mwabila Primary School to have the money transferred from the account of Mbwaleni Primary School to their school were unsuccessful. Investigations further established that Mbwaleni Primary School spent the funds in construction of classrooms, staffroom, fabrication and fixing of a gate as well as construction of latrines. The money was put to proper use and the institution got value for money in the construction of the buildings in question. The evidence obtained did not establish that the head teacher of Mbwaleni Primary School colluded with the bank officials to withdraw the money from the bank. The error to deposit the money in the account of Mbwaleni Primary School was occasioned by officials from the Ministry of Education. No culpability was established against the head teacher.

EACC forwarded the file to the Director of Public Prosecutions on 2<sup>nd</sup> August, 2011 with the recommendation that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecution found the evidence insufficient to support any criminal offence and accepted EACC recommendation to close the inquiry.

## **STATUS**

The file was returned to EACC with directions to close.

## **100. KACC/FI/INQ/93A/2005**

### **NO.7. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORT**

This was an inquiry into allegations that a former Minister for Energy abused his office by irregularly influencing the Kenya Electricity Generating Company Limited (KenGen) and the Kenya Pipeline Company Limited (KPC) both parastatals under his Ministry to award tenders to a company he had an interest in to provide security services to KenGen premises at Lamu and Kipevu. It was also alleged that the Minister's father had been receiving monthly commission from KenGen and KPC through on behalf of the former Minister and the money was allegedly deposited in a bank account in Nairobi. The investigations revealed that the tenders were advertised publicly in the local dailies, and opened in the presence of all the tendering firms. The investigation further revealed that the tenders were evaluated and the

KenGen Tender Committee awarded the tender to the most responsive bidder. There was no evidence to show that the former Minister for Energy influenced the KenGen Tender Committee to award the contract to the successful bidder, nor that the Minister's father received payments on his behalf through the said company.

EACC forwarded the file to the Director of Public Prosecutions on 2<sup>nd</sup> August, 2011 with the recommendation that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecution found the evidence insufficient to support any criminal offence and accepted EACC recommendation to close the inquiry.

Upon perusal of the file, the Director of Public Prosecution found the evidence insufficient to support any criminal offence and accepted EACC recommendation to close the inquiry.

## **STATUS**

The file was returned to the EACC with directions to close.

### **101. KACC/FI/INQ/49/2005**

#### **NO. 8. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Businessman and a former District Commissioner Mombasa colluded with Senior KRA officials from the Customs & Excise Department to defraud the Government of revenue by clearing goods destined for foreign countries from the Mombasa Port and then diverting the same to the local market. Investigations confirmed that a motor vehicle, which was on transit to a foreign destination, was eventually registered locally, and donated to a private secondary school by the former President. However, the evidence obtained did not disclose any culpability of any criminal conduct on the part of the suspects to warrant prosecution.

The file was forwarded to the Director of Public Prosecutions on 26<sup>th</sup> September, 2011 with the recommendation that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecution found the evidence insufficient to support any criminal offence and accepted EACC recommendation to close the inquiry.

## **STATUS**

The file was returned to EACC with directions to close.

### **102. KACC/FI/INQ/119/2009 – ACC NO.39/2011**

#### **NO.9. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORT**

This was an inquiry into allegations of abuse of office against Ministry of State for Special Programmes officials by authorizing payments for services not adequately rendered. The investigations revealed that the Ministry officials

procured building materials for internally displaced persons living in various camps through Request for Quotations. The investigations established that there was no urgency to obtain the building materials and therefore the appropriate method of procurement should have been through open tendering. The investigations further revealed that whereas the successful suppliers were to deliver the building materials at the IDP camps, some of the goods were not delivered, yet the suppliers received full payment for services/goods not fully/satisfactorily rendered/delivered.

EACC forwarded the file to the Director of Public Prosecutions on 22<sup>nd</sup> September, 2011 with the recommendation that the Senior Deputy Secretary, Senior Procurement Officer and a Procurement Officer be charged with the offences of willful failure to comply with the law relating to procurement of goods contrary to section 45 (2) (b) and abuse of office contrary to section 46 as read with section 48 of the Anti- Corruption and Economic Crimes Act.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspects were charged with offences of willful failure to comply with the law relating to procurement of goods contrary to section 45 (2) (b) and abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act. Matter part heard. Further hearing on 30<sup>th</sup> April, 4<sup>th</sup>, 7<sup>th</sup> and 11<sup>th</sup> May 2012.

## **103. KACC/FI/INQ/178/2010**

### **NO. 10. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations of abuse of office against the Senior Managers of Chemelil Sugar Company Ltd (the CSCL) and the Directors of a private company. It was alleged that CSCL, having failed to secure an overdraft facility with Kenya Commercial Bank Ltd, turned to raising funds through advance sale of its sugar to its major customers including the aforementioned company. The investigations revealed that the Managing Director of the Sugar Company unilaterally entered into a Memorandum of Understanding (MOU) with the private company, for the sale of sugar at subsidized prices. This MOU was entered into without the approval of the Board of Directors as required. Investigations further revealed that whereas the company breached the terms of the MOU, it continued to receive sugar at the discounted price, when the same should have been sold at the prevailing market prices, which varied from day to day. As a result of this irregular sale of sugar to the private company, a loss of Kshs. 128, 770,000 was occasioned on the sugar company.

EACC forwarded the file to the Director of Public Prosecutions on 22<sup>nd</sup> September, 2011 with the recommendations that Managing Director of the Sugar Company be charged with the offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. In addition, it was recommended that Commission's Civil

Litigation and Asset Recovery Department institute recovery suit action for the amount lost in the irregular sale of sugar.

Upon perusal of the file, the Director of Public Prosecutions 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 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Further hearing on 2<sup>nd</sup> March, 2012.

### **104. KACC/P1/INQ/60/11**

#### **NO. 11. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that the Minister of State for Immigration and Registration of Persons unlawfully ordered the release of a South African National, who was due to be charged in court for working in the country without a valid permit. The investigations confirmed that indeed the South African National was working in Kenya without a valid permit. He was to be charged for breach of the immigration requirement. Investigations further revealed that instead of being charged, he was released and advised to regularize his work permit. Whereas it was alleged that the Minister influenced the release of the foreigner, the investigation did not establish this fact. There was no culpability established on the part of the Minister.

EACC forwarded the file to the Director of Public Prosecutions on 22<sup>nd</sup> September, 2011 with the recommendation that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecutions found no evidence to support a criminal charge and concurred with EACC's recommendation that the inquiry file be closed.

## **STATUS**

The file was returned to EACC with directions to close.

### **105. KACC CR.141/233/2011 CF NO. NAIROBI ACC. 15/2011**

#### **NO. 12. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Traffic Police Officer attached to Wilson Airport Police Station corruptly solicited for a benefit from the complainant as an inducement to forbear charging the complainant with the offence of driving an uninsured motor vehicle.

The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nairobi Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 6<sup>th</sup> July, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found that even though the evidence was sufficient to prosecute, the complainant was not available to testify. Accordingly, he directed that the case against the suspect be withdrawn under section 87(a) of the Criminal procedure code.

## **STATUS**

The file was returned to EACC with directions to withdraw the case under section 87 (a) of the Criminal procedure code. Mention 09<sup>th</sup> March 2012.

### **106. KACC CR.412/23/2011 CF EMBU ACC. NO.1/2011**

#### **NO. 13. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that the Land Adjudication and Settlement Officer, Maua Lands Office, corruptly solicited for a benefit from the complainant as an inducement to enforce a ruling in a land dispute in which the complainant was a party. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Embu Anti-Corruption Court 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.

The file was forwarded to the Director of Public Prosecutions on 11<sup>th</sup> July, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the same be prosecuted to the logical conclusion.

## **STATUS**

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

### **107. KACC CR.151/300/2011 CF NO. NAIROBI ACC. 21/2011**

#### **NO. 14. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Traffic Police Officer, attached to Industrial Area Police Station corruptly solicited for a benefit from the complainant as an inducement to facilitate the inspection of the complainant's motor vehicle, which had been involved in an accident. The investigation established the solicitation and receipt of the benefit. The

suspect was arrested and charged before the Nairobi Anti-Corruption Court 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.

The file was forwarded to the Director of Public Prosecutions on 14<sup>th</sup> July, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the same be prosecuted to the logical conclusion.

## **STATUS**

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

Case was withdrawn under section 87(a) of the criminal procedure code, following the Court of Appeal ruling. Suspect was re-arrested and re-charged on Director of Public Prosecutions directions.

### **108. KACC CR. 731/47/2011 CF. NAKURU ACC NO.2/2011**

#### **NO. 15. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that the District Officer, Namanga Division, corruptly solicited for a benefit from the complainant as an inducement to forbear arresting her for transporting charcoal without a permit. The suspect also solicited for a benefit as an inducement to release to the complainant a battery, sticker and number plates, which he had confiscated. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nakuru Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 14<sup>th</sup> July, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the same be prosecuted to the logical conclusion.

## **STATUS**

The suspect was charged with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Hearing on 9<sup>th</sup> March, 2012.

### **109. KACC CR. 741/236/2011 CF. KERICHU ACC NO. 1/2011**

## **NO. 16. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations of corruption against the Chief and the Assistant Chief of Abosi Location respectively corruptly solicited for a benefit from the complainant as an inducement to remove the name of the complainant's son from a list compiled of suspected cattle thieves. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Kericho Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 18<sup>th</sup> July, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of the Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the same be prosecuted to its logical end.

### **STATUS**

The suspects were 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. Mention on 15<sup>th</sup> February, 2012.

## **110. KACC CR.921/367/2011 CF. KAKAMEGA ACC NO.4/2011**

## **NO. 17. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that Medical Personnel at Navakholo Sub-District Hospital in Kakamega corruptly solicited for a benefit from patients as an inducement to prescribe good medicines take laboratory samples, issue laboratory results and prescribed drugs to patients. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged before the Kakamega Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and stealing by servant contrary to section 281 of the Penal Code.

EACC forwarded the file to the Director of Public Prosecutions on 2<sup>nd</sup> August, 2011 with the recommendation that the case be prosecuted to its logical conclusion, but the charges of stealing by servant be withdrawn under section 87(a) of the Criminal Procedure Code.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case proceed to the logical conclusion subject to the amendment of the charges.

### **STATUS**

The suspects were 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. Mention on 29<sup>th</sup> February, 2012 and hearing on 2<sup>nd</sup> April, 2012.

## **111. KACC (KSM) CR. 911/204/2011 CF BUNGOMA ACC. NO.507/2011**

### **NO. 18. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that two employees of the Kenya Power and Lighting Company Ltd corruptly solicited for a benefit from the complainant as an inducement to reconnect the complainant's power supply. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged before the Bungoma Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) and concealing evidence contrary to section 66(2) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

EACC forwarded the file to the Director of Public Prosecutions on 4<sup>th</sup> August, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed that the same be prosecuted to the logical conclusion.

### **STATUS**

The suspects were charged with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) and concealing evidence contrary to section 66(2) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Mention on 4<sup>th</sup> April, 2012.

## **112. KACC CR.142/47/2011 CF. NAIROBI ACC. NO.17/2011**

### **NO. 19. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that three employees of the City Council of Nairobi corruptly offered a benefit to the complainant as an inducement so as not to report the suspects to the City Council for licensing malpractices. The investigation established the offering and subsequent giving of a benefit. The suspects were arrested and charged before the Nairobi Anti-Corruption Court with the offences of offering and giving a benefit contrary to section 39(3)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

EACC forwarded the file to the Director of Public Prosecutions on 16<sup>th</sup> August, 2011 with the recommendation that the case be prosecuted to its logical conclusion, and the three suspects, together with another be charged with an alternative charge of conspiracy to commit an offence of corruption contrary to section 47A (3) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence

sufficient to support a charge of corruption, and further accepted the proposed minor amendments to the charge sheet and directed that the case be prosecuted to its logical conclusion.

## **STATUS**

The suspects were charged with the offences of offering and giving a benefit contrary to section 39(3) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. With an alternative charge of conspiracy to commit an offence of corruption contrary to section 47A (3) of the Anti-Corruption and Economic Crimes Act, 2003. Hearing on 12<sup>th</sup> April, 2012.

### **113. KACC CR.021/35/2011 CF MOMBASA ACC. NO. 8/2011**

#### **NO. 20. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Police Constable attached to the Criminal Investigations Department, Malindi, corruptly solicited for a benefit from the complainant as an inducement so as to forebear charging the complainant with an alleged offence of obtaining money by false pretences. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Mombasa Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 19<sup>th</sup> August, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director Public Prosecutions 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 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. Hearing on 15<sup>th</sup> and 16<sup>th</sup> March, 2012.

### **114. KACC/CR.141/109/2011 CF. NAIROBI ACC. NO.8/2011**

#### **NO. 21. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Clerical Officer working at Kenyatta National Hospital (KNH) had corruptly solicited for a benefit from the complainant as an inducement to issue him with an official receipt for Kshs.13,000/= from the Hospital for his mother to undergo a Magnetic Resonance Imaging (MRI) test. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nairobi

Anti-Corruption Court 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, forgery contrary to section 349 of the Penal Code and uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

EACC forwarded the file to the Director of Public Prosecutions on 14<sup>th</sup> September, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed prosecution to ensue subject to amendment of the charges.

## **STATUS**

The Suspect was charged with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, forgery contrary to section 349 of the Penal Code and uttering a false document contrary to section 353 as read with section 349 of the Penal Code. Hearing 28<sup>th</sup> February, 2012.

## **115. KACC/CR.714/21/2011 CF. NAKURU ACC. NO.3/2011**

### **NO. 22. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that two Administrative Police Officers at Olpusimoru Administration Police Camp in Narok North District had corruptly solicited for a benefit from the complainant as an inducement to release a power saw which they had detained. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged before the Nakuru Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, and escape from lawful custody contrary to Section 123 of the Penal code.

EACC forwarded the file to the Director of Public Prosecutions on 22<sup>nd</sup> September, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed prosecution to ensue subject to amendment of the charges.

## **STATUS**

The suspects were charged with the following offences:

- (i) Corruptly soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economics Crimes Act no. 3 of 2003.

- (ii) Escape from lawful custody contrary to section 123 of the Penal Code Cap 63 laws of Kenya.

Hearing on 23<sup>rd</sup> March, 2012.

#### **116. KACC/CR.831/537/2011 CF. KERICHO ACC. NO.2/2011**

##### **NO. 23. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Clinical Officer at Uasin Gishu East District Hospital had corruptly solicited for a benefit from the complainant as an inducement to facilitate the filling of his P3 form following an alleged assault. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Kericho Anti-Corruption Court with two counts of corruptly soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

EACC forwarded the file to the Director of Public Prosecutions on 22<sup>nd</sup> September, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file by the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and further accepted the proposed minor amendments of the charge sheet and directed that the case be prosecuted to its logical conclusion.

##### **STATUS**

The suspect was charged with two counts of corruptly soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Mention 9<sup>th</sup> March, 2011.

#### **117. KACC/CR.141/229/2011 CF. NAIROBI ACC. NO.16/2011**

##### **NO. 24. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that an officer working in the Ministry of Immigration, Department of Refugee Affairs had corruptly solicited for a benefit from the complainants as an inducement to process Refugee Passports. The investigation established the solicitation and receipt of the benefit. The suspect was charged before the Nairobi Anti-Corruption Court 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,

EACC forwarded the file to the Director of Public Prosecutions on 22<sup>nd</sup> September, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found there was

sufficient evidence to support the preferred charges and directed that the same be prosecuted to the logical conclusion.

## **STATUS**

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

### **118. KACC/CR.247/100/2011 CF. NYERI ACC. NO.3/2011**

#### **NO. 25. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that an officer working as a Secretary at Nyahururu law courts had corruptly solicited for a benefit from the complainant as an inducement to release court proceedings to the complainant. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nyeri Anti-corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, and destruction of evidence contrary to Section 66(1) (c) as read with Section 66(2) of the Anti-Corruption and Economic Crimes Act, 2003.

EACC forwarded the file to the Director of Public Prosecutions on 22<sup>nd</sup> September, 2011 with the recommendation that the case be prosecuted to its logical conclusion with some proposed amendments.

Upon perusal of the file the Director of Public Prosecutions, found that there was sufficient evidence to support the preferred charges and directed that the same be prosecuted to the logical conclusion, subject to amendment of the charge sheet.

## **STATUS**

The suspect was charged with the following offences:

- (i) 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 No. 3 of 2003.
- (ii) Destruction of evidence contrary to section 66(1) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Mention on 09<sup>th</sup> March, 2012.

### **119. KACC/CR.021/14/2011 CF. MOMBASA ACC. NO.3/2011**

#### **NO. 26. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Clearing Agent in Mombasa had corruptly solicited for a benefit from the complainant as an inducement to register an imported Motor Vehicle. The investigation established the solicitation and obtaining money by false pretences. The suspect was arrested

and charged before the Mombasa Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) of the Anti-Corruption and Economic Crimes Act, 2003 and an alternative count of obtaining by false pretences contrary to section 313 of the Penal Code. The Commission however established that the suspect was not acting for or behalf of any principal/employer when he solicited for a benefit, and therefore charges under section 39(3) (a) would not be sustained.

EACC forwarded the file to the Director of Public Prosecutions on 22<sup>nd</sup> September, 2011 with the recommendation that the charges of soliciting for and receiving a benefit be withdrawn under section 87 (a) of the Criminal Procedure Code, and instead the suspect be charged with two counts of obtaining money by false pretences.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support a charge of obtaining by false pretences contrary to section 313 of the Penal Code and directed prosecution to ensue.

## **STATUS**

The first charges were withdrawn under section 87 (a) of the Criminal Procedure Code and were substituted with a charge of obtaining by false pretences contrary to section 313 of the Penal Code. Case part heard. Hearing on 15<sup>th</sup> March 2012.

## **120. KACC/CR.652/127/2011 CF. KISUMU ACC. NO.247/2011**

### **NO. 27. KACC THIRD (3<sup>RD</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that the District Officer, Rigoma Division, and the Chief of Kitutu East Location had corruptly solicited for a benefit from the complainant as an inducement to write a favourable recommendation letter and forbear revealing the criminal records of the complainant's son. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged before the Kisumu Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 26<sup>th</sup> September, 2011, with the recommendation that the case is prosecuted to its logical conclusion and count three be amended to include the chief as an accused.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and further accepted the proposed amendment of the charge sheet and directed that the case be prosecuted to its logical conclusion.

## **STATUS**

The suspects were 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. Mention 1<sup>st</sup> March, 2012.

**121. KACC/KSM/FI/INQ/03/2011**

**NO. 1. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORT**

This was an inquiry into allegations of irregular procurement of road contractors by the Municipal Council of Kisii. Investigations revealed that the Kisii Town Clerk initiated the procurement process for the contractors to carry out rehabilitation works on two roads within Kisii Municipality. Investigations further established that although the works envisaged would cost between three million shillings and 16 million shillings, the Town Clerk and the Purchasing Officer did not use the appropriate procurement method as provided in the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations, 2006. They were thus culpable for breach of the procurement procedures.

EACC forwarded the file to the Director of Public Prosecutions on 26<sup>th</sup> October, 2011 with the recommendation that the two officers be charged with the offences of willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) and Abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

**STATUS**

The suspects were charged with the offences of willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) and abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act 2003. Case part heard.

**122. KACC/KSM/FI/INQ/05/2011**

**NO. 2. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations of misappropriation of Kshs. 5.5 million allocated for design and consultancy works in Rongo District Hospital and Nyarach Girls Secondary School by officials of Rongo Constituency Development Fund (CDF). Investigations established that the area Member of Parliament sought the assistance of the Ministry of Public Works in designing and carrying out survey works for the two institutions. The MP anticipated donor support to improve the two institutions. Investigations further revealed that most of the expenses relating to the said exercise were paid through per diem and imprests to the Ministry officials involved in the assignment. The investigations also established that the Treasurer of the CDF Committee took advantage and drew funds from the CDF kitty purportedly to pay per diem and related allowances. However, the alleged recipients of the money were interviewed and it was established that they did not receive the alleged payments. To account for the money that had been embezzled, the suspect

prepared false reimbursement schedules. As a result, the suspect misappropriated a sum of Kshs. 3,784,700 from the Rongo CDF.

EACC forwarded the file to the Director of Public Prosecutions on 10<sup>th</sup> November, 2011 with the recommendation that the suspect be charged with the offences of fraudulent acquisition of public property contrary to section 45 (1) (a) and giving a false document by agent contrary to section 41 (2) of the Anti- Corruption and Economic Crimes Act, 2003; meanwhile recovery by EACC of the misappropriated funds is underway.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecutions to ensue.

### **STATUS**

The suspect was charged with the offences of fraudulent acquisition of public property contrary to section 45(1) (a) and giving a false document by agent contrary to section 41(2) of the Anti-Corruption and Economic Act 2003. Case part heard.

### **123. KACC/FI/INQ/182/2009**

#### **NO. 3. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations of misappropriation of approximately Kshs. 4.8 Million from Igembe South Constituency Development Fund Kitty meant for the construction of Maua Municipal Stadium perimeter wall and dais in the 2008/2009 and 2009/2010 Financial Years. The investigation established that the Constituency Development Fund Committee (CDFC) allocated an initial sum of Kshs. 2.5 million for the project and the first phase was done by a construction company which was paid Kshs. 2 million. It was also established that after the 2007 General Elections, a new Constituency Development Fund Committee was put in place and it resolved to continue with the project but with another contractor. A new contractor was engaged at a contract price of Kshs. 4,148,000 and was paid the entire contract sum. Some of the payments were made without an Interim Payment Certificate. When the works undertaken by the contractor were evaluated, it was discovered that he had received payment for incomplete work and that a sum of Kshs. 1,799,750 was paid for works not done. Investigations further revealed that the officials of the Igembe South Constituency Development Fund Committee and the Fund Manager re-allocated CDF funds from one project to another without the authority of the National CDF Board.

EACC forwarded the file to the Director of Public Prosecutions on 26<sup>th</sup> October, 2011 with the recommendation that the officials of the Constituency Development Fund Committee be charged with the offences of willful failure to comply with the law relating to the management of funds contrary to section 45 (2) (b), fraudulently making excessive payment from public revenue for services not rendered contrary to section 45 (2) (a) (iii) and abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

### **STATUS**

The suspect were charged with the of offence of willful failure to comply with the law relating to the management of funds contrary to section 45(2) (b) fraudulent making excessive payment from public reserve for services not rendered contrary to section 45(2) (a) (iii) and abuse of office contrary to section 46 of the Anti-Corruption and Economic Crime Act 2002. Case part heard.

## **124. KACC/AT/INQ/143/2010**

### **NO. 4. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegation that the Chairperson of the Board of Trustees of the Kenya Railways Staff Retirement Benefits Scheme and the former Chief Executive Officer had colluded to use the Scheme funds and resources to pay for personal air travel and hotel accommodation for the Chairperson and her family members on the basis that there existed an official agreement that the costs incurred would be offset from chairperson's monthly honoraria of Kshs.40, 000 (Kshs.28, 000 after tax). Investigations revealed that the Chairperson on several occasions had her personal expenses catered for from the Scheme funds. These payments, totaling Kshs. 2,184,653, were authorized by the former Chief Executive Officer and the Finance Manager. This was contrary to the provisions of the Retirement Benefits Act, and the Kenya Railways Staff Retirement Benefits Scheme Trust Deed and Rules on the management of the scheme funds.

EACC forwarded the file to the Director of Public Prosecutions on 26<sup>th</sup> October 2011 with recommendation that the suspects be charged with the offences of abuse of office contrary to section 46, unlawful acquisition of public property contrary to section 45 (1) and willful failure to comply with the law relating to the management of funds contrary to section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003; and the recovery of the money that the chairperson of the Board unlawfully received from the Scheme.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

### **STATUS**

The suspects were charged with the offence of the abuse of office and willful failure to comply with the law relating to management of funds contrary to section 45 (2) (b) of the Anti-Corruption and Economic Crimes Act 2003. Case part heard.

## **125. KACC/MSA/FI/INQ/02/2011**

### **NO. 5. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an Inquiry into allegations that in January 2011, an exporter mis-

declared sheepskins as sheep wool in an attempt to underpay related export duty and livestock development levy. Investigations revealed that the exporter engaged the services of a clearing agent to facilitate the export of a consignment of hides and skins. The clearing agent lodged export entry and indicated the consignment as sheep wool, which attracts no excise duty and wrote to the Commissioner of Customs requesting him to provide an officer to attend stuffing of the wool into a container. When physical verification was conducted at the Kenya Ports Authority by various stakeholders, it was confirmed that the container contained sheepskin and not sheep wool. Investigation further revealed that persons working with public bodies, namely, Kenya Revenue Authority and Ministry of Livestock Development were involved and colluded with the exporter in this mis-declaration.

EACC forwarded the file to the Director of Public Prosecutions on 12<sup>th</sup> October, 2011 with recommendations that the concerned persons be charged with the offences of knowingly making a false statement to one's principal, abuse of office and fraudulent failure to pay taxes and levies payable to Kenya Revenue Authority and the Ministry of Livestock Development contrary to sections 41(1), 46 and 45(1) (d), respectively, of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

### **STATUS**

The suspects were charged with the offences of knowingly making a false statement to one's principal, abuse of office and fraudulent failure to pay taxes and levies payable to Kenya Revenue Authority and Ministry of Livestock Development contrary to sections 41 (1) and 45(1) and 46(d) respectively of Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

## **126. KACC/KISUMU/FI/INQ/04/2011**

### **NO. 6. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations of misappropriation of CDF funds allocated to Early Childhood Development (ECD) schools in Rangwe by officials of Rangwe Constituency Development Fund Committee (CDFC). The investigations revealed that sometime in October 2008, a sum of Kshs.500, 000 was allocated to five ECD schools in the constituency. This was an investigations further revealed that the five earmarked projects did not receive the sum allocated. The CDF officials deliberately refused to inform the officials of the beneficiary projects about the allocation, and instead purported to have appointed other officials for the projects. The CDF officials also reallocated the money for the projects to a road project that was not planned for, and purportedly paid the entire sum of Kshs. 500,000 to the contractor who carried out works on the road. Investigations however revealed that the purported payment was never made to the contractor, and the money was not utilized for the road project as alleged by the CDF officials. Instead, the CDF officials misappropriated the money, and are hence culpable.

EACC forwarded the file to the Director of Public Prosecutions on 26<sup>th</sup> September, 2011 with recommendation that the four suspects be charged with the offence of misappropriation of funds contrary to section 51 of the Constituencies Development Fund Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspects were charged with the offences of misappropriation of funds contrary to section 51 of the constituency development fund Act, 2003. Case part heard.

### **127. KACC/MSA/FI/INQ/15/2011**

#### **NO. 7. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that the Fund Account Manager of Ganze Constituency Development Fund took an imprest of Kshs. 300,000/= from the Ganze Constituency Development Fund (CDF) account at the Ganze District Treasury, purporting that she was going to use it to facilitate the exercise of baseline survey of all Constituency Development Fund projects within Ganze Constituency, during the period of 2003 to the month of June, 2011, as per the directions allegedly given by the Constituency Development Fund Board. Investigations revealed that the suspect had already received Kshs. 55,000/= from the National Programme Coordinator of the CDF Board for the same purpose but did not disclose that fact to the other CDF members. Investigations further revealed that after receiving the imprest of Kshs. 300,000, the suspect purported to account for the imprest using false payment schedules inflating the amounts paid to the persons who were involved in carrying out the baseline survey. The expenditure of the Kshs. 300,000 was authorized by the District Development Officer Ganze District, without appropriate documentary support to show that the expenditure had been approved by the Ganze Constituency Development Fund Committee as required under the provisions of the CDF Act.

EACC forwarded the file to the Director of Public Prosecutions on 26<sup>th</sup> October, 2011 with the recommendation that the Fund Manager be charged with the offences of abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003, uttering false documents contrary to section 353 and false accounting contrary to section 331 of the Penal Code as well as misappropriation of funds contrary to section 51 of the CDF Act; and that the District Development Officer be charged with the offence of willful failure to comply with the law relating to incurring of expenditure contrary to section 45 (2) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspects were charged with the offences of abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act 2003, uttering false documents contrary to section 353 and false account contrary to section 45 (2) of the Anti-Corruption and Economic Crimes Act, 2003. Case part heard.

### **128. KACC MSA/FI/INQ/19/2011**

#### **NO. 8. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that an Advocate practicing in Mombasa colluded with officials of the Ministry of Lands to defraud a businessman of Kshs. 1.6 million on the pretext of selling him two plots namely MN/1/5396 & MN/1/5397. Investigations revealed that the businessperson was informed that the two parcels of land were up for sale. On the belief that this was a clean sale, the businessman signed a sale agreement in the office of the lawyer whom he was informed was acting on behalf of the owner of the plots. Investigations revealed that the businessperson deposited a sum of Kshs. 1.6 million with the lawyer. Investigations further revealed that the purported sale of the land was done without the knowledge of the registered owner. The fraud involved a lawyer, auditor and a businessperson who was posing as the wife of the owner. Investigations also revealed that the title documents given to the buyer had anomalies, which were identified by the Registrar of Titles.

EACC forwarded the file to the Director of Public Prosecutions on 21<sup>st</sup> December 2011 with the recommendation that the three suspects involved in the conspiracy be charged with the offences of conspiracy to defraud contrary to section 317 and obtaining money by false pretences contrary to section 313 of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

## **STATUS**

The suspect was charged with the offences of conspiracy to defraud contrary to section 317 and obtaining money by false pretences contrary to section 313 of the Penal Code. Case part heard.

### **129. KACC/MSA/F1/INQ/016/2011**

#### **NO. 9. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Traffic Base Commander in Malindi, whilst declaring his wealth for the period of 1<sup>st</sup> November 2007 to 31<sup>st</sup> October 2009 submitted to the Public Service Commission false information regarding his assets and income. Investigations revealed that the Wealth Declaration form submitted to the Public Service Commission by the accused under the Public Officer Ethics Act No. 4 of 2003, for the period of November 2007 to October 2009, did not give the correct statement of the properties he

owned at the relevant time. Investigations further revealed that during the said period the suspect operated 3 bank accounts and that credit balances held in these three accounts were not declared in the Wealth Declaration form.

EACC forwarded the file to the Director of Public Prosecutions on 22<sup>nd</sup> December 2011 with recommendation that the suspect be charged with the offence of submitting misleading information in the Wealth Declaration of Income, Assets and Liabilities in contravention of Part VI of the Public Officers Ethics Act, No. 4 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found gaps and deficiencies in the investigations and directed that the same be covered/clarified before a decision could be made in the case.

## **STATUS**

The file was returned to EACC with directions to cover the outlined areas and resubmit for further directions.

### **130. KACC/MSA/INQ/FI/24/2010**

#### **NO. 10. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that land belonging to Kenya Meat Commission (KMC) was irregularly auctioned on instructions from a lawyer and then transferred to a private company. The investigations established that sometime in 2006, the Municipal Council of Mombasa through an advocate engaged by a company that was contracted by the Council to enhance revenue collection, sued Kenya Meat Commission, which was one of the rate defaulters. Investigations revealed that resultant to the said suit, the land was put up for sale through auction. Investigations further revealed that the sale of the property had irregularities. At the time of sale, the property was encumbered since KMC had charged it to a bank to secure a loan for the sum of Kshs. 160 million. This was not brought to the attention of the court. In addition, some of the proceeds of the sale were retained by the advocate and the auctioneer who carried out the sale. The retention of some of the proceeds of the sale was irregular and unjustifiable.

EACC forwarded the file to the Director of Public Prosecutions on 20<sup>th</sup> December 2011, with the recommendation that the inquiry file be closed; meanwhile the Ethics and Anti Corruption Commission to institute civil recovery proceedings in respect of the sums of money retained by the lawyer and the auctioneer.

Upon perusal of the file the Director of Public Prosecutions found evidence of criminality and declined the recommendation for closure and instead directed that criminal proceedings for stealing by agent contrary to section 283 of the Penal Code be instituted against the auctioneer, and that a complaint of misconduct be made against him to the Auctioneers Licensing Board under section 24 of the Auctioneers Act, Chapter 526 of the Laws of Kenya.

## **STATUS**

The suspect was charged with the offence of stealing by agent contrary to section 283 of the Penal Code. Case part heard.

### **131. KACC/FI/INQ/102/2009**

#### **NO. 11. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that the County Council of Narok made fictitious and/or fraudulent payments of professional legal fees to a firm of Advocates in the Financial Year 2007/2008. The investigations revealed that the firm of Advocates in question was in the panel of the Council's lawyers. In the 2007/2008, the said firm along with two others was appointed to provide legal services to the Council. The investigations further revealed that the law firm received payment of fees from the Council for services rendered. The said payments were neither fictitious nor fraudulent as alleged. There was therefore no culpability on the part of the Council or the law firm to warrant any criminal charges being preferred.

EACC forwarded the file to the Director of Public Prosecutions on 21<sup>st</sup> November 2011 with the recommendation that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to support any criminal charge and accepted EACC recommendation to close the inquiry file.

## **STATUS**

The file was returned to EACC with directions to close.

### **132. KACC/FI/INQ/15/2011**

#### **NO. 12. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations of irregular procurement of a motor grader by Thika Municipal Council. The investigations revealed that the Council invited tenders for the supply of a grader. Upon receipt of bids from several firms, an evaluation was carried out, and the tender was awarded to the most responsive evaluated bidder at a price of Kshs. 17,980,000. Investigations further revealed that prior to entry into a contract with the successful bidder; the Council's Tender Committee annulled the award after receiving a negative report from another local authority that the same bidder had supplied a grader, which had not performed satisfactorily. A further evaluation of the first three bidders was thus carried out and the award made to a bidder, other than the first successful bidder. Investigations also revealed that the aggrieved bidder appealed to the Public Procurement Oversight Authority (PPOA), which cancelled the award citing breach of the Procurement Regulations. The evidence obtained showed that since no contract had been signed between the first successful bidders, under the provisions of the PPDA, the Council was at liberty to cancel the award. Moreover, the Council exercised due caution to ensure that the grader they procured could

carry out the required works satisfactorily.

EACC forwarded the file to the Director of Public Prosecutions on 13<sup>th</sup> December, 2011 with the recommendation that the inquiry file be closed; meanwhile the Ethics and Anti-Corruption Commission to undertake a systems audit of the Thika Municipal Council in order to determine the level of compliance of their procedures with the Public Procurement and Disposal Act, 2005, for appropriate corrective action.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to charge the suspect with the offences of willful failure to comply with applicable procedures and guidelines relating to procurement and abuse of office contrary to section 45(2)(b) and 46 of the Anti-Corruption and Economic Crimes Act, 2003. DPP directed prosecution to ensure.

#### **STATUS**

The suspect was charged with the offences of willful failure to comply with applicable procedures and guidelines relating to procurement and abuse of office contrary to sections 45(2) (b) and 46 of the Ant-Corruption and Economic Crimes Act. Case part heard.

### **133. KACC (KSM) CR.032/17/2011 - CF. KAKAMEGA ACC. NO. 3/2011**

#### **NO. 13. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Public Health Officer at the Kisumu District Hospital solicited for a benefit from the complainant as an inducement to release a soft drink bottle which had been found to contain impurities. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Kakamega Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 5<sup>th</sup> October 2011 with the recommendation that the matter be prosecuted to its logical conclusion.

Upon perusal of file the Director of Public Prosecutions found the evidence sufficient to support the preferred charges and directed that the case be prosecuted to its logical conclusion

#### **STATUS**

The suspect was charged with the offences of soliciting 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. Hearing on 5<sup>th</sup> March, 2012.

### **134. KACC.CR.225/226/2011 - CF. NYERI ACC. NO.4/2011**

#### **NO. 14. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a State Counsel based at Nyeri State Law office had corruptly demanded a benefit from the complainant as an inducement so as to recommend prosecution in a case referred to him for perusal and advice by the Criminal Investigation Department (CID) Central Province. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nyeri Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 5<sup>th</sup> October 2011 with the recommendation that the case be prosecuted to its logical conclusion.

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

## **STATUS**

The suspect was charged with the offences of soliciting 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. Hearing on 24<sup>th</sup> February, 2012.

## **135. KACC.CR.141/411/2011 - CF NAIROBI (MILIMANI) ACC. NO. 22/2011**

### **NO. 15. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This is an inquiry into allegations that an employee of an Engineering Company in Nairobi corruptly solicited for a benefit from the complainant who was the Headmistress of a school in Nairobi, as an inducement to facilitate electricity connection to the school. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nairobi (Milimani) Anti-Corruption Court 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. However, upon careful consideration of the evidence on the file, EACC found that at the time the suspect solicited for the benefit, he was not an agent of the company. Therefore, the charges of soliciting and receiving a benefit as envisaged by section 39 of the Anti-Corruption and Economic Crimes Act, 2003 would not be tenable.

EACC forwarded the file to the Director of Public Prosecutions on 26<sup>th</sup> October, 2011 with the recommendation that the charges of corruption against the suspect be withdrawn and be substituted with the offence of obtaining money by false pretences contrary to section 313 of the Penal Code, and that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found that there was insufficient evidence to support the proposed charges and directed that the inquiry file be closed.

## **STATUS**

The file was returned to KACC with directions to close. Case withdrawn.

### **136. KACC.CR 021/62/2011 - CF/MSA/ACC.11/2011**

#### **NO. 16. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that an Administration Police Officer attached to Lutsangani Police Post in Kinango district within Kwale County corruptly solicited for a benefit from the complainant as an inducement so as to release his motor cycle, which had been detained on the suspicion of being stolen. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged before the Mombasa Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 26<sup>th</sup> October 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

## **STATUS**

The suspects were charged with the offences of soliciting and receiving a bribery contrary to section 39(3) (a) as read with section 39(3) (a) as read with section 43(1) of the Anti-Corruption and Economic Crimes Act 2003. Hearing on 16<sup>th</sup> March, 2012.

### **137. KACC (NYERI) CR.221/349/2011 - CF NYERI ACC. NO. 5/2011**

#### **NO. 17. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that two members of the Kirinyaga Land Disputes Tribunal corruptly solicited for a benefit from the complainant as an inducement to make a favorable ruling in a land dispute between the complainant and another. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged before the Nyeri Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 9<sup>th</sup> November 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was Sufficient to support the preferred charges and directed that the

case be prosecuted to its logical conclusion.

## **STATUS**

The suspects were charged with 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. Mention on 30<sup>th</sup> March, 2012.

### **138. KACC. CR. 5111/327/2011 - CF EMBU ACC NO. 8/2011**

#### **NO. 18. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that a Lecturer at the Kenya Medical Training College, Carissa, corruptly solicited for a benefit from the complainant as an inducement to give favorable results to the complainant in the College Qualifying Examinations. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Embu Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 15<sup>th</sup> November 2011, with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

## **STATUS**

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

### **139. KACC. CR. 313/546/2011 - CF. NO. MALINDI ACC 1/2011**

#### **NO. 19. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that the Chief of Mpeketoni Location, Lamu West District corruptly solicited for a benefit from the complainant as an inducement to release a liquor license which had been previously confiscated from his business premises situated within Mpeketoni Division. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Malindi Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 30<sup>th</sup> November 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found there was sufficient evidence to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

## **STATUS**

The suspect was charged with the offence of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) Anti-Corruption and Economic Crimes Act 2003. Hearing on 16<sup>th</sup> March, 2012.

### **140. KACC. CR.521/97/2011- CF NO. EMBU. ACC.7/2011**

#### **NO. 20. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

This was an inquiry into allegations that the District Registrar of Persons, Mandera East, corruptly solicited for a benefit from the complainant as an inducement to forward the complainant's application to the National Registration Bureau for issuance of an identity card. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Embu Anti-Corruption Court 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.

EACC forwarded the file to the Director of Public Prosecutions on 14<sup>th</sup> December 2011 with the recommendation that the case be prosecuted to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

## **STATUS**

The suspect was charged with the offences of soliciting and receiving a benefit contrary to section 39(9) (a) read with section 48(1) of the Anti-Corruption Economic Crimes Act 2003. Hearing on 16<sup>th</sup> March, 2012.

### **141. KACC. CR.141/536/2011- CF NAIROBI ACC. NO. 31/2011**

#### **NO. 21. KACC FOURTH (4<sup>TH</sup>) QUARTERLY REPORTS**

Inquiry into allegations that the accused person had solicited a benefit from the complainant as an inducement to release to her a Rescinding Order issued in a bankruptcy case that the accused was handling. The investigation established the elements of the offence of corruptly soliciting and receiving a benefit. The suspect was arrested and charged before the Nairobi (Milimani) Anti-Corruption Court 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.

EACC forwarded to the Director of Public Prosecutions on 22<sup>nd</sup> December 2011 with the recommendation that the case be prosecuted to its logical

conclusion.

Upon perusal of the file, the Director of Public Prosecutions found there was sufficient evidence to support the preferred charges and directed that the case be prosecuted to its logical conclusion.

### **STATUS**

The suspect was charged with the offence of soliciting and receiving benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crime Act 2003. Mention on 9<sup>th</sup> March, 2012.

**STATISTICAL SUMMARY OF CASES FORWARDED TO THE  
DIRECTOR OF PUBLIC PROSECUTIONS/ DIRECTOR OF PUBLIC PROSECUTIONS AND  
ACTION TAKEN**

<b>S/No.</b>	<b>PARTICULARS OF CASES</b>	<b>NUMBER</b>
1.	INVESTIGATION FILES SUBMITTED BY KACC TO THE DIRECTOR OF PUBLIC PROSECUTIONS/DPP FROM: KACC/EACC: JANUARY 2011 – 31 <sup>ST</sup> DECEMBER 2011.	<b>141</b>
2.	FILES WHERE DPP DIRECTED PROSECUTION TO ENSUE.	<b>108</b>
3.	FILES WHERE DPP DIRECTED FURTHER INVESTIGATIONS.	<b>9</b>
4.	FILES WHERE DPP DIRECTED ADMINISTRATIVE OR OTHER DEPARTMENTAL ACTION.	<b>7</b>
5.	FILES WHERE DPP DIRECTED CLOSURE.	<b>17</b>
6.	FILES AWAITING DPP'S DIRECTIONS	<b>NIL</b>
	<b>TOTAL</b>	<b>141</b>

**Key**

ACC	-	Anti-Corruption Court
ACECA	-	Anti-Corruption and Economic Crimes Act No.3 of 2003
DPP	-	Director of Public Prosecutions
CF	-	Court File
CID	-	Criminal Investigations Department
COMMISSION	-	Kenya Anti-Corruption Commission
C/S	-	Contrary to Section
EACC	-	Ethics and Anti-Corruption Commission
INQ	-	Inquiry
ODPP	-	Office of the Director of Public Prosecutions
CPC	-	Criminal Procedure Code

Dated at Nairobi this ..... day of ..... 2012

**MR. KERIAKO TOBIKO, CBS**  
**DIRECTOR OF PUBLIC PROSECUTIONS**

