

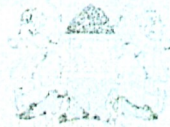
REPUBLIC OF KENYA



KENYA NATIONAL AUDIT OFFICE

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**REPORT OF  
THE  
AUDITOR-GENERAL**



KENYA NATIONAL AUDIT OFFICE  
**ON**

**THE FINANCIAL STATEMENTS  
OF THE JUDGES AND MAGISTRATES  
VETTING BOARD FOR THE YEAR  
ENDED 30 JUNE 2013**

REPUBLIC OF KENYA



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NAIROBI

## KENYA NATIONAL AUDIT OFFICE

### REPORT OF THE AUDITOR-GENERAL ON THE JUDGES AND MAGISTRATES VETTING BOARD FOR THE YEAR ENDED 30 JUNE 2013

#### REPORT ON THE FINANCIAL STATEMENTS

I have audited the financial statements of the Judges and Magistrates Vetting Board set out on pages 19 to 27, which comprise the statement of financial position as at 30 June 2013, statement of comprehensive Income, statement of changes in equity and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya, Section 20 of the Public Audit Act, 2003 and Section 28(2) of the Vetting of Judges and Magistrates Act, 2011. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

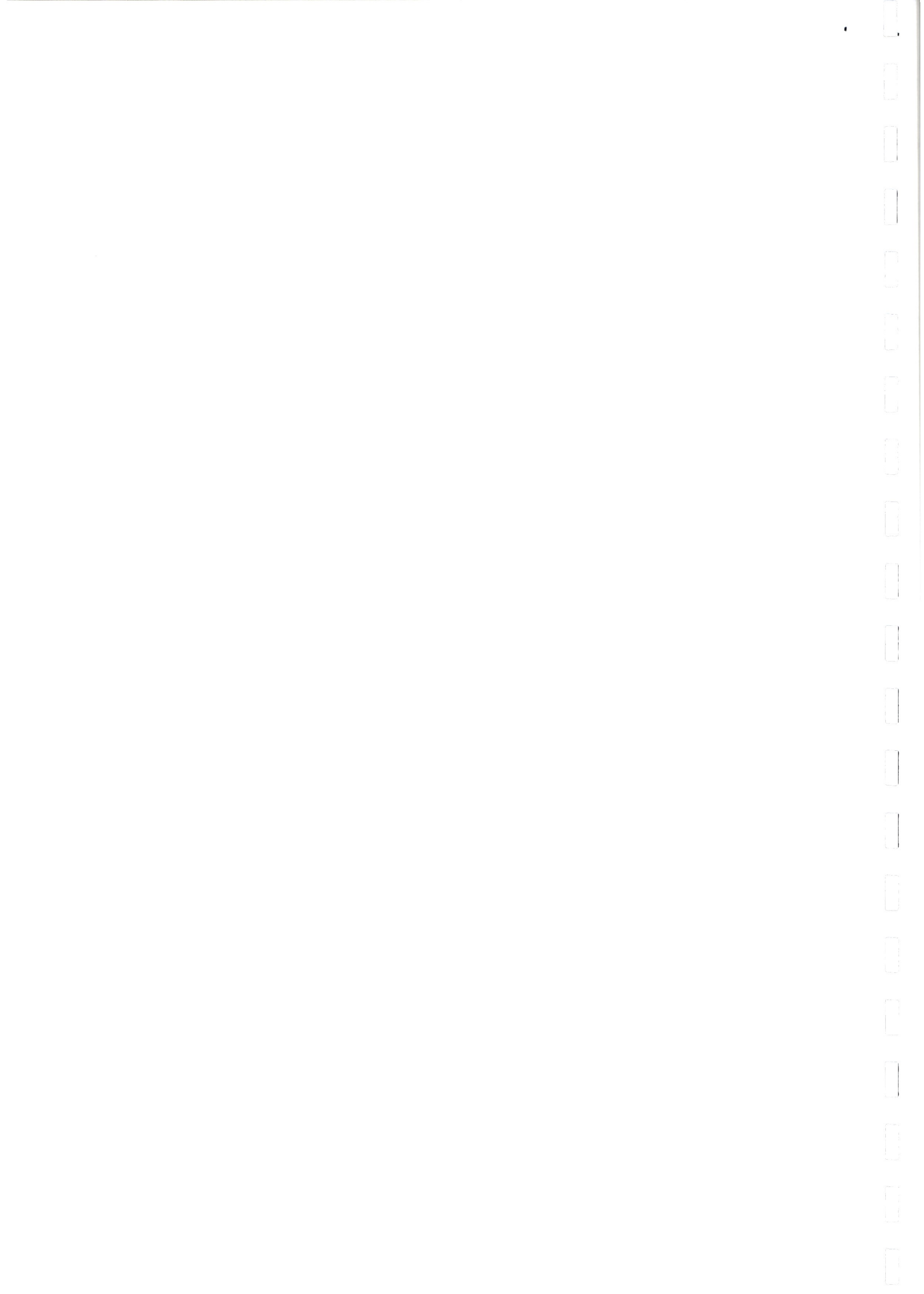
#### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of the financial statements in accordance with International Financing Reporting Standards and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of section 13 of the Public Audit Act, 2003.

#### **Auditor-General's Responsibility**

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 15 of the Public Audit Act, 2003. The audit was conducted in accordance with International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable



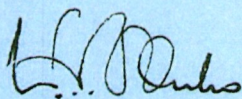
assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risk of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Board's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

### **Opinion**

In my opinion, proper books of account have been kept and the accompanying financial statements give a true and fair view of the state of the financial affairs of the Board as at 30 June 2013, and of its financial performance and its cash flows for the year then ended, in accordance with the International Financial Reporting Standards and comply with the Vetting of Judges and Magistrates Act, 2011.



**Edward R. O. Ouko, CBS**  
**AUDITOR-GENERAL**

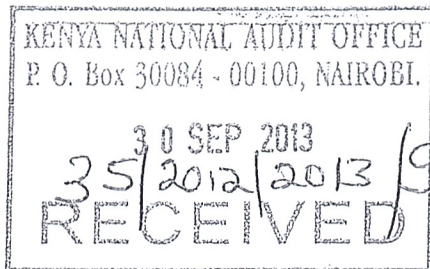
**Nairobi**

**28 January 2014**



JUDGES AND MAGISTRATES VETTING BOARD

Anniversary Towers – 22<sup>nd</sup> Floor  
BOX 103732-00101  
NAIROBI  
TEL. No.2216366



30<sup>th</sup> September, 2013

CONF/JMVB/AG/125

The Auditor General,  
Kenya National Audit Office,  
P.O. Box 30084 - 00100,  
NAIROBI

**RE: FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED  
30<sup>TH</sup> JUNE 2013**

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Section 4 of the Public Audit Act, 2003 and Sections 81, 82 and 84 of the Public Finance Management Act, 2012 requires the Accounting Officer to prepare and sign accounts for each financial year relating to areas of their responsibility and transmit them to the Auditor General for audit.

In reference to the aforementioned Sections, attached herewith, please find the financial statements for Judges and Magistrates Vetting Board for the period ended 30<sup>th</sup> June 2013.

Reuben K. Chirchir

SECRETARY/CHIEF EXECUTIVE OFFICER

Cc: National Treasury

The Commission on Revenue Allocation

Controller of Budget

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE YEAR ENDED 30TH JUNE 2013

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# JUDGES AND MAGISTRATES VETTING BOARD

## FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

### PART I: INTRODUCTION

#### 1.1 Mandate of the Board

The Judges and Magistrates vetting Board is established as a body corporate with perpetual succession and a common seal, capable of suing and being sued, and purchasing and holding property. The board consists of nine members, comprising of a chairperson, a deputy chairperson and seven other members. Six of the members are citizens of Kenya, of whom three are lawyers.

The Board is mandated to gather relevant information, interview any individual group or members of organization or institutions and to hold inquiries for the purposes of performing its functions under the Act.

#### 1.2 Functions

The function of the Board as per Section 13 of the Act is to vet judges and magistrates in accordance with the provisions of the Constitution and the Act.

The term 'vetting' is defined as 'the process by which the suitability of a serving judge or magistrate to continue serving in the judiciary is determined in accordance with this Act'. This is done with the aim of restoring confidence to the Judiciary.

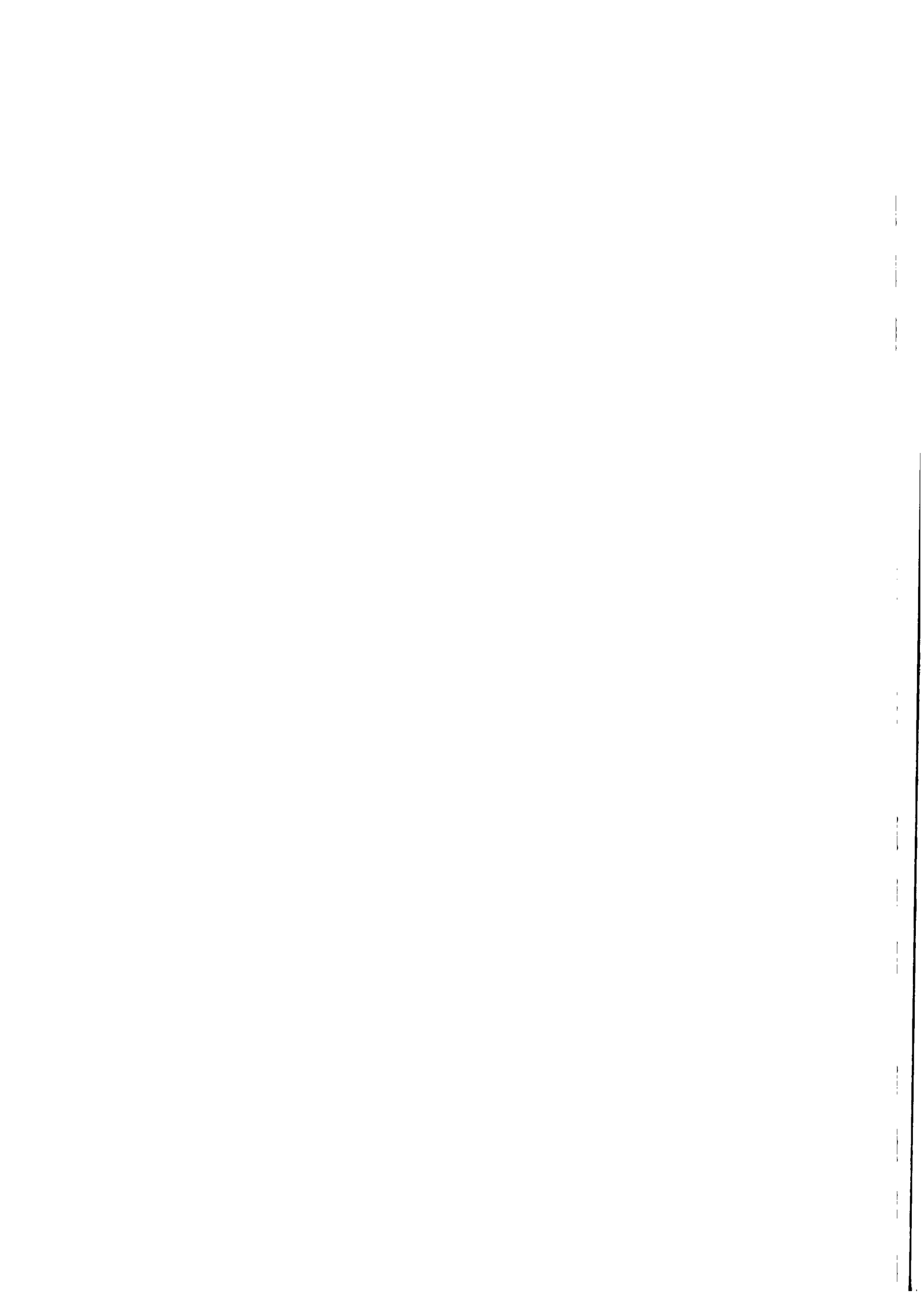
##### 1.2.1 Vision

To Restore Public Confidence in the Judiciary

##### 1.2.2 Mission

To vet all the Judges and Magistrates who were in office by August 2010 when the Constitution was promulgated in order to determine their suitability to continue serving in the judiciary.

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## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

#### 1.3 Core Values

The Board is guided by core values which enhance the smooth realization of its mandate. The Board's core values are as mentioned below:

##### i) Team Work

The employees shall act as a team for the fulfilment of JMVB overall mandate. It is the responsibility of every employee to render impartial service to all stakeholders and the general public. The Board will create an environment where people from diverse cultures and backgrounds work together effectively.

##### ii) Integrity

At all time, employees shall uphold high level of integrity. They shall be honest, trustworthy, impartial, fair and accountable. Employees shall exhibit boldness and loyalty in pursuing Board's mission and objectives. The Board will demonstrate the organization's values and conduct business in a manner that is honest and forthright. Employees shall keep their commitments regarding the core mandate of the Board to ensure the vetting process is completed on the due date.

##### iii) Respect

Employees shall respect the administrative chain of command, respect fellow employees and external customers. Employees shall advocate and strive for respect, equity, and justice in all of the operations and proceedings and shall treat each other with trust, dignity, and respect.

##### iv) Accountability and Transparency

Employees shall perform what is expected of them in an accountable manner and in conformity with the overall goals of the JMVB. ~~Also employees shall be open and transparent in their dealings.~~

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

#### v) Efficiency and effectiveness

Employees shall be expected to perform their duties effectively and to respond to issues promptly. In addition they shall be expected to use the Board's resources in an efficient manner and at all time ensure prudent management of resources. They shall act with a sense of urgency without sacrificing excellence.

#### vi) Professionalism

Employees shall be committed to observe professional ethics and standards in their operations and relationships with others. We demand of ourselves high standards of ethical behaviour.

#### 1.4 Key Strategic Objectives

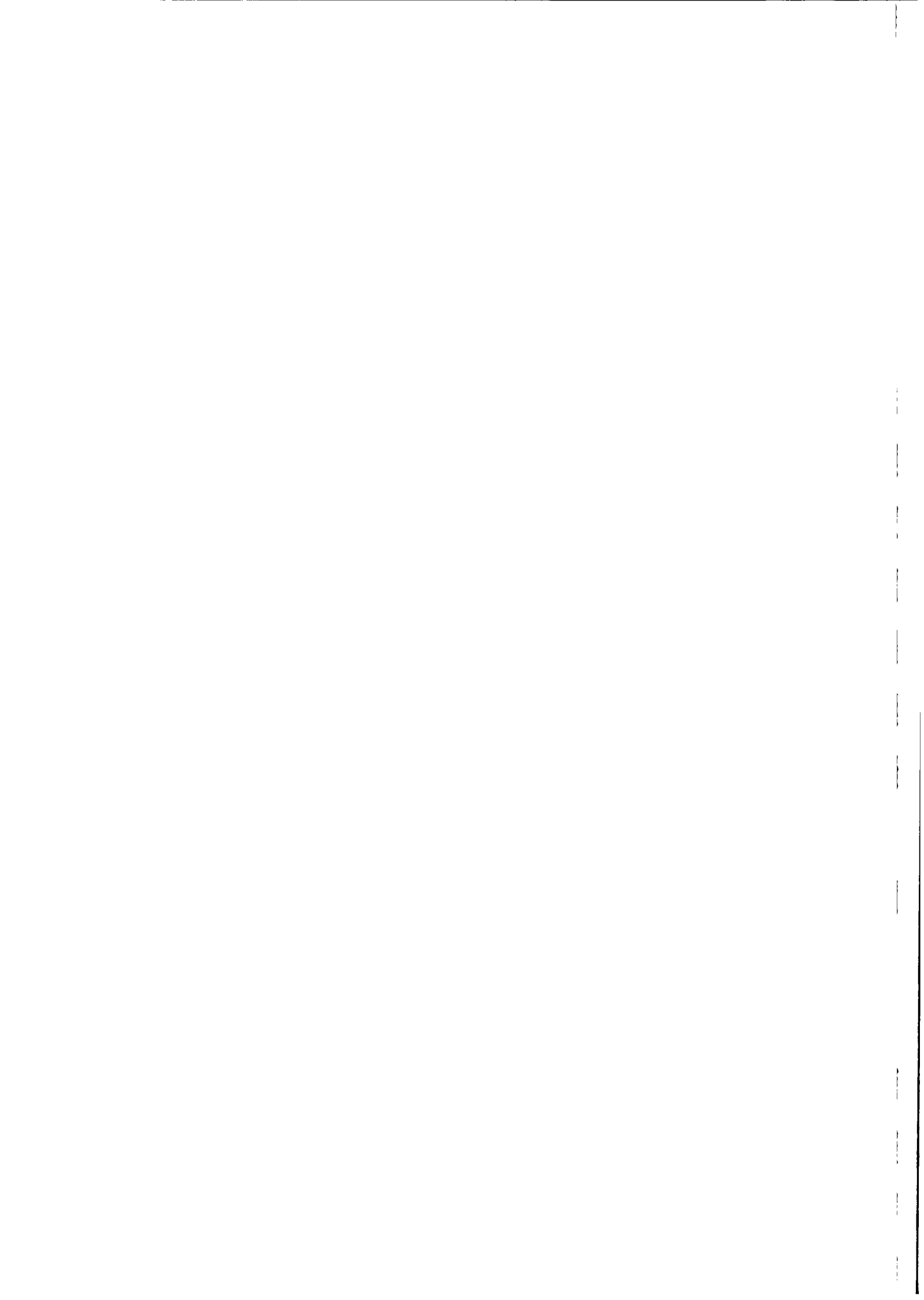
The Key Strategic objectives are

- To ensure Institutional renewal through a judiciary that is transparent and accountable; To ensure competence and professionalism in the Judiciary;
- To engender public confidence in the judiciary within the context of the new constitutional dispensation;
- Ensure that the judiciary serves the objectives of the values and principles expressed in the Constitution.

##### 1.4.1 Strategic Programmes

To be able to implement and achieve the key strategic priorities below, the Board implemented the following programmes; these programmes go alongside the core function of the Board and they are integral to the success of the vetting process.

The secretariat has the following programmes; Legal and Research, Finance and Accounts, Human Resources and Administration, Hansard and Documentation, Supply Chain Management, ICT, Internal Audit and Public Communications. All these programmes work together to support the Board in delivery on the mandate.



## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

#### 1.4.1.1 Legal and Research Department

The department consists of Assisting Counsels, Research Officers, legal assistants and legal clerks. Section 16(1)(a) of the Vetting of Judges and Magistrates Act provides that the staff of the Board shall comprise such number of assisting counsels and staff as the Board may appoint to assist it in the discharge of its functions under the Constitution and the Act.

The Assisting Counsel job entails diligence to ensure that rules of natural justice are met in the vetting as well as putting in place watertight evidence to ensure only suitable judges and magistrates continue in service. The officers being vetted are of high intellectual capacity who will be expected to hire experienced lawyers and as such matching skills and diligence from the Assisting Counsel is required to be successful. The Assisting Counsel thus will facilitate the Board in decision making by tabling facts and evidence on issues raised with the Judge/Magistrate. The Counsels also render legal advice on the various aspects of the vetting. The Assisting Counsels thus are key movers of the vetting process.

The Research officers carry out research and prepare reports on various aspects of the vetting as directed by assisting counsel. They are also expected to serve documents on the Judges for the vetting process. They will also obtain required court proceedings and decisions from the courts. They will assist in pagination and compilation of documents for use by the panel. The research officers are lawyers and other professionals in the research area.

Legal clerks on the other hand assist in documentation of complaints, photocopy and in preparation of panel files.

#### 1.4.1.2 Finance and Accounts

The Finance and Accounts ensure planning, organizing, and the management of resources of the Board to enable it deliver on its key objective and general purpose. The department controls the resources to ensure that all the programmatic goals and objectives of the Board are achieved. The department also identifies activities that will be funded by the government after which the Board will seek other support.

The Finance & Accounts department identifies and discusses possible areas of funding with donors in the light of the budgetary short-falls. The department also ensures that the budget will be strictly followed and any variances to it is explained and documented.

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

#### 1.4.1.3 Internal Audit

The department assist all levels of management in the effective discharge of their responsibilities through the submission of reports on their examination; this involves the review and evaluation of the following:

- The adequacy, soundness and applicability of accounting, financial and other operating controls
- The effectiveness and economy of these controls
- The extent of compliance with established policies, plans and procedures
- The extent of compliance with legislative mandates and restrictions embodied in the laws governing the various programmes
- The extent to which the Board's assets are accounted for and safeguarded from losses of all kinds
- The adequacy and reliability of financial reports and other accounting data emanating from the accounting units

#### 1.4.1.4 Human Resource and Administration

The department manages the human resource at the secretariat. Consequently, the department is responsible for placement of qualified staff in all other departments.

This department also ensures that the Board and its secretariat staff enjoy rights and benefits in accordance with their contracts and that staff members adhere to the regulations of the Board. It is also the responsibility of this department to ensure that machines and equipments for the delivery of the work of the Board and its staff are procured and well managed.

#### 1.4.1.5 ICT

The ICT Unit provides an ICT infrastructure and solutions that will ensure availability of accurate, reliable, and affordable ICT services and information. The Unit assesses JMVB's ICT requirements and align them to the overall mandate. It supports, maintains and upgrade LAN, WAN, Website and Computer Hardware and Software. The department also develops ICT specifications and advice on value added acquisition of ICT resources, and support and train JMVB staff on the use of ICT.

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

#### 1.4.1.6 Supply Chain Management

The supply chain management Unit is responsible for ensuring that the Public Procurement and disposal Act 2005 and Regulations 2006 is strictly complied with. The Procurement Unit liaises with the user departments who initiate the procurement. It works closely with the Procurement, Tender and Disposal Committees to ensure that all required approvals are obtained promptly.

#### 1.4.1.7 Hansard and Documentation

The Hansard Unit's core function is steering the production of verbatim reports of all proceedings of the Board during interviews with Judges of the Court of Appeal, High Court and Magistrates. The production of Hansard Reports involves digital verbatim recording of all the Board's proceedings after which the audio recordings are forwarded to the transcribers who type accurate transcripts which are forwarded to the editors for final editing and formatting. The final edited report is thereafter printed, bound and given to the Board members for reference when making determinations or reviews for the judicial officers concerned. To achieve this vital objective of supporting the Board to fulfil its mandate of successful vetting of the judicial officers, the Hansard Unit ensures efficient and timely production of high quality, accurate and reliable hansard reports. This is done by conducting prior run tests of the recording equipment before commencement of proceedings to ensure they are in good working condition.

#### 1.4.1.8 Public Communication

Public Communication Department is essential to the success of the vetting process; especially in as far as public awareness through sensitization of the Kenyan public during the vetting process. The core functions of the Public Communication Department are to develop and implement strategies of reaching out and effectively educating Kenyans on the vetting process. This is done through various activities to ensure that the public participates fully, meaningfully and effectively in the vetting process. The Public Communication department brings on board the media as a key stakeholder and partner in the dissemination of information on the vetting process. The department also formulates strategies for the ~~delivery of quality information and outreach materials and programmes to enhance public understanding~~ of the mandate of the vetting Board.

# JUDGES AND MAGISTRATES VETTING BOARD

## FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

It is important to ensure that all the stakeholders in the vetting process buy-in into the outcome of the process. The focus here is to have the Kenyan's old perception of the Judiciary positively changed through well informed communication.

### 1.5 Key Strategic Priorities

The Judges and Magistrates Vetting Board (JMVB) identified six (6) key strategic areas in the Operational Plan that would help and enhance in the completion of the mandate under the Vetting of Judges and Magistrates Act, 2011. The key strategic areas conducted are:

- i. A Financially independent and fully capacitated Secretariat
- ii. Stakeholder Consultation and Engagement
- iii. Public Sensitization
- iv. Capacity Building
- v. Technical Support to the Board to undertake its mandate
- vi. Public Inquiries
- vii. Conducting Vetting interviews in Counties out of the Board's main station (Nairobi)

#### 1.5.1 Rationale for the Key Strategic Priority Areas

The key strategic priority areas is driven by one key object or general purpose, which is "to complete an acceptable vetting process at the end of the Board's mandate .The identified areas have implication on the budget for the JMVB's work. The key strategic priority areas are broken down further to detailed key activities that need to be undertaken to drive the process to successful completion within the agreed time-frame. The key activities will form the budget lines that will form part of the global budget.

#### A Financially independent Secretariat

The primary challenge of this project is to achieve all of the Board's goals and objectives while honouring the constraints. ~~Typical constraints are scope, time and budget. It would be extremely difficult to operate~~ without adequate resources. A financially independent secretariat includes the full staffing of the secretariat with designated and allocated budget for the entire period of the vetting process.

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

#### Stakeholder Consultation and Engagement

Stakeholder Consultation and Engagement is considered important because it helps in informing the public on the process of vetting and in process buying-in in their constructive participation.

Below are some of activities that the Board undertook to ensure that the public is well prepared early enough to make informed decisions throughout the process:

#### **Consensus Building forum with Members of Parliament (MPs)**

This activity was geared at ensuring the process benefits from political will and consensus building. The forum focussed on awareness creation, and getting buy-in for the process by the MPs.

#### **Constitution Implementation Oversight Committee (CIOC)**

Among other responsibilities, the CIOC is responsible for the process of establishing the new commissions, including the Board. CIOC being the commission mandated to guide the implementation of the constitution is a key stakeholder to constantly engage with. It is imperative to continuously engage the committee by organizing meetings and conferences to ensure that the Board has a general consensus with CIOC on the process followed by the Board.

#### **Media / Editors / Journalists**

The media is the main channel of reaching out to the stakeholders of the vetting process. Breakfast meetings were organized to bring the media on board to secure their support and buy-in in publicizing its work at the earliest opportunity. The Board also scheduled structured and regular press engagements, including press conference and briefings to provide progress reports of the vetting process.

#### **Law Society of Kenya (LSK)**

The Board worked closely with the LSK considering that its members are constantly in contact with the members of the judiciary. The Vetting of Judges and Magistrates Act specifically mentions LSK as one of the bodies the Board will rely upon in getting information about the judges and magistrates being vetted.

The Board has had various meetings with LSK to brainstorm and see how they can assist the Board in meeting its mandate.

# JUDGES AND MAGISTRATES VETTING BOARD

## FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

### Private Sector

The private sector is one of the stakeholders in vetting process. Having suffered heavy losses during the 2007 post-election violence, stakeholders in the private sector are keen to see that some independence is restored in the judiciary to restore public trust, and thus avoid the repeat of 2007/2008 skirmishes which will adversely affect the economy. Some firms and/ or their owners have also been affected by the lack of impartial judiciary.

### Correction Centres (Prisons)

The Board conducted civic education and sensitization on its mandate and the vetting process in correctional centres. In addition, the Board educated the prisoners and remandees on how to fill and forward the Complaint forms to the Board.

Prisoners and remandees are people who have faced the Kenyan justice system. They have first-hand information about judges or magistrates character, temperament, legal thinking and or competence. They may also be having complaints about the Magistrates which should be looked into.

### Public Education and Sensitization

The bulk of the information which the Board will use to vet the Judges and Magistrates is expected to originate from the public. Mobilization of information from the public is a major tool for building up the issues and concerns on the suitability of Magistrates. It is therefore important that the public is informed on the mandate of the Board and how they can submit any information within their knowledge.

The Board therefore informed and sensitized the public on its mandate through civic education, dissemination of information and awareness-raising activities. This will was achieved by having public sensitization and awareness programmes across major towns countrywide, availing information/documents at various county offices and through the use of JMVB website.

### Capacity Building

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As part of enriching the vetting process, the Board held various retreats for its Board Members and staff. Resource persons from around the world who have participated in similar vetting processes were brought to assist the board members and staff towards the achievement of the Board's mandate. The retreats were also be used as a re-evaluation forum where the Board looked into ways of improving the process.

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

#### Technical Experts

To achieve its mandate, the Board requires external expertise from time to time. These will include:

- i) Analysts
- ii) Investigators
- iii) Editors
- iv) Media and communication consultants
- v) Valuers
- vi) Forensic accountants and auditors
- vii) Report drafters
- viii) Senior lawyers/advocates.

#### Technical Support to the Board to undertake its mandate

##### Production of the relevant reports

From time to time there will be a follow up on investigations on the complaints as necessary. There will be a budget required to cater for facilitation of investigators.

##### Printing of Submission forms

The information concerning the judges and magistrates is captured by the general public and submitted to the vetting Board via the FORM FOR SUBMITTING INFORMATION (Form JMVB. 1). These forms are availed to the public via various channels like the Boards' website downloads and various stakeholders' websites. Due to the fact that a good number of Kenyans, especially those outside the major urban areas have little or no access to the websites of computer link for that matter, it is important that some Form JMVB. 1 must be printed for distribution all over the country. The distribution of these forms is be done through among others, the Provincial Administration.

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##### Printing of Interim and Final JMVB Reports

The reports will explain the setting up of the Board, the problems and challenges encountered, the methodology used, the lessons learned and the way forward. Finally, they will provide a statistical overview of the vetting process. The interim report will only cover the vetting of the judges of the Court of Appeal and the High Court.

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

#### Conducting Public Inquiries

The Board intends conducted Public Inquiries as empowered under Section 14 (1) (c) of the Act. The inquiries created a forum where members of the public expressed their views on the vetting process, raised their concerns, sought clarification on controversial issues, raised general and specific complaints against judicial officers, gave complements on the judicial officers and / or highlighted their perception of the judiciary particularly in the wake of the new constitutional dispensation. In other words, the public inquiries allowed public participation and ensured widespread involvement and engagement of the public in the vetting process.

#### Conducting vetting interviews out of the Board's main station (Nairobi)

To ensure that the functioning of the Magistrate's courts is not interfered with by requiring the Magistrates to travel all the way to Nairobi for the vetting interviews, the Board intends to conduct the vetting interviews at the counties where such courts are situated. By doing so, the Board will ensure that the Courts are not paralysed during the interviews as the magistrates will only be required to be off duty only when they are set to appear before the Board.

#### 1.6 Key Management Staff

The Board recognizes the need for skilled, dedicated and responsive public servants who will deliver high-quality services throughout its departments. This will be achieved by attracting and retaining employees who are truly committed to its duty and creating a workplace that encourages its employees to take pride in their work while balancing the day to day challenges inherent in their professional and personal lives, by focusing on the development of a safe, supportive, and diverse workplace and providing a rewarding work experience.

The Board is facilitated by a secretariat with an approved staff establishment of 139. The staff are spread across the following departments; Legal and Research, Finance and Accounts, Internal Audit, Human Resources and Administration, Supply Chain Management, ~~Hansard and Documentation, Public~~ Communication, and Information Communication Technology (ICT).

The Key Management staff includes Board members, Secretary/CEO, Assisting Counsels, Heads of Departments (i.e. Finance Officer, HR Officer, Administrative Officer, Accountant, Public Relations Officer,

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

Internal Auditor, Supply Chain Management Officer, and ICT Officer). Other staff includes, Research Officers, Legal Assistants, Investigators, Hansard Editors and Transcribers, Audio Recorders and Technicians, Process Servers, Court Clerks, etc.

The Key management Staff functions include the following;

(i) Secretary/Chief Executive Officer (CEO)

The Secretary/CEOs duties include; Management, oversight and implementation of Board's Policies, programs and strategies. Providing strategic leadership and policy direction, Coordination of the Board's proceedings; Providing the Board with accurate records and information regarding the judges and magistrates undergoing vetting; Liaise with relevant stakeholders to ensure smooth operation of the Board; and supervising and providing guidance to staff.

(ii) Assisting Counsel

Assisting Counsel are responsible for all the technical matters in the Board. They are also responsible for; leading the vetting process, compiling of statistical cases for the board; undertaking Board Studies, review research and evaluation, filing of memoranda of appearance; and leading and administering oaths and affirmation to witnesses, receiving and analyzing submissions and memoranda from the public, extracting orders, decree, retrieving judgment and rulings.

(iii) Finance Officer

The Finance Officer will be responsible for financial and accounting activities of the Board. Specific duties include; administer the financial systems and approval of expenditure.; monitor all expenses and budgets within the Board to comply with the financial policies and procedures.; preparation of management and statutory financial reports; provision of timely quarterly finance and accounts services; approval of invoices; preparation of budgets and preparation of timely and accurate financial records.

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(iv) Human Resource Officer

The Human resource Officer is responsible for management of the employees of the Board. Other duties include; facilitating recruitments, appointment, discipline and communication of decisions; implementing

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

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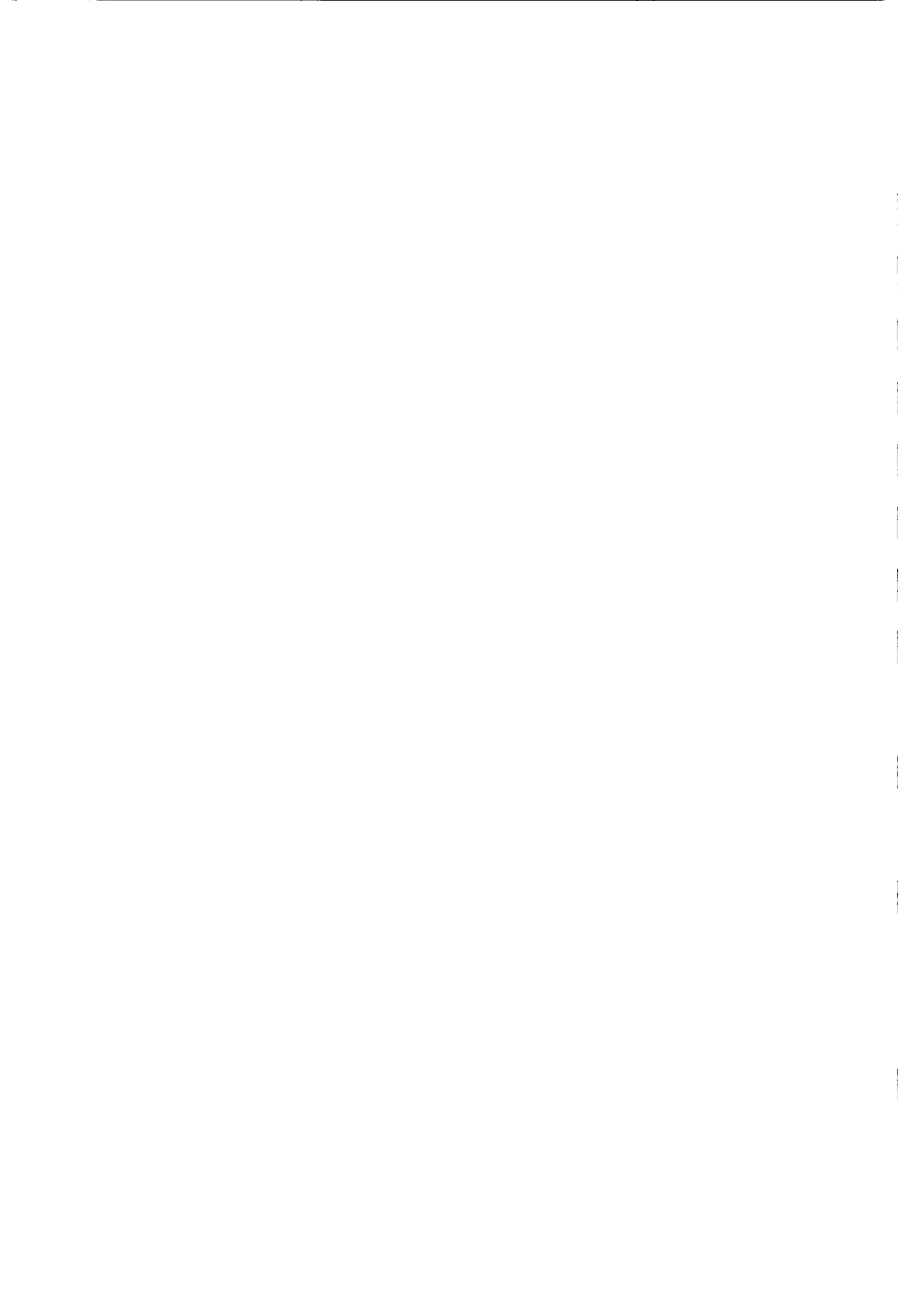
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## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

human resource management matters with established policies in the Board; maintaining up to date human resource information systems; Preparing and reviewing human resource plans; coordinating Boards annual and quarterly work plans and ensuring the board is in compliance with all Government regulations including legal and statutory requirements.

(v) Accountant

Accountant is in charge of the Accounts Unit of the Board. Duties include; verification of vouchers and committal documents In accordance with laid down rules and regulations; data capture, maintenance of primary records such as cashbooks, ledgers, vote books, registers and preparation of management reports such as imprest and expenditure returns; organizing for withdrawal of cash for office use and ensuring safety of the same at all times; receipting of all money due and payable to Government.

(vi) Information Communication Officer

ICT officer is responsible for storage, security and retrieval of information at the Board. Specific duties include; designing appropriate database for various activities; developing security systems for ensuring confidentiality of the information provided to the board; installation and maintenance of computer systems; configuration of Local Area Network (LAN) and Wide Area Network(WAN);developing and updating application systems and drawing up hardware specifications for Information Communication Technology equipment, verification, validation and certification of Information Communication Technology equipment.

(vii) Administrative Officer

Administrative officer is responsible for facilitating the target-setting and annual performance/ appraisal evaluation; coordinating Board's work plans and ensuring the Board is in compliance with all Government regulations including legal statutory requirements. providing administrative support services such as official transport, facilitating security, cleaning, hospitality, catering and office accommodation services.

(viii) Public Communications Officer

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

Public Communication Officer is responsible for a wide range of media issues which entail: preparing and organizing forums where Boards policies, programmes and projects can be propagated; and preparing media supplements and documentaries, press releases/ media features.

(ix) Internal Auditor

Internal Auditor is responsible for all audit matters in the Board. Specific duties; drawing up audit programmes and issuing audit reports queries and observations; undertaking independent reviews of internal control systems; risk management mechanisms and monitoring implementation and supporting other Departments in adhering to the audit control.

(x) Supply Chain Management Officer

Supply Chain Management Officer is responsible to the Board on all procurement issues of the Board. Other Duties include; preparation of annual procurement plans; procurement of the board equipments/items; providing technical advice to the Board on procurement.

# JUDGES AND MAGISTRATES VETTING BOARD

## FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

### PART II: MANAGEMENT REPORTS

#### 2.1 Chairman Statement

Judicial reforms in Kenya were anchored in the Constitution which came to effect on 27<sup>th</sup> August 2010. Chapter 10 of the Constitution, entitled 'Judiciary', contains a large number of provisions intended to create a Judiciary that would enjoy the confidence of the public. The Judges and Magistrates Vetting Board is established pursuant to Section 23 of the 6<sup>th</sup> Schedule of the Constitution and the Vetting of Judges and Magistrates Act, 1011 (as amended). The Board' mandate is to vet judges and magistrates who were in office on/before the promulgation of the new Constitution on 27<sup>th</sup> August 2010 and determine their suitability continue to serve in office.

The Judges and Magistrates Vetting Board has to date completed the vetting of Court of Appeal judges and judges of the High Court, which included three who were promoted to the Supreme Court. The Board received a total of 363 complaints against Court of Appeal judges and 1057 complaints against High Court judges. The Board has also made commendable progress in the execution of its mandate and in particular has:

- i) Completed the first phase of the vetting interviews, namely, that of vetting 53 judges including 9 Court of Appeal Judges 3 judges who presently sit in the Supreme Court.
- ii) Received and considered applications for Review by the four Judges of Court of Appeal who were found unsuitable;
- iii) Completed the second phase of vetting 44 Judges of the High Court where it has found Seven (7) of them unsuitable to continue serving in the Judiciary;
- iv) Received and considered applications for Review by the Seven (7) Judges of the High Court who were found unsuitable to continue serving in the Judiciary;
- v) Enacted Regulations of Procedure namely, the Vetting of Judges and Magistrates (Procedure) Regulations, 2011;
- ~~vi) Conducted successful public sensitization to educate, inform and sensitize the public on its role and mandate~~
- vii) Commenced the third phase of vetting of the 352 Magistrates whereby the Board has vetted 44 Magistrates. The Board is yet to vet 308 Magistrates of various ranks.

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

In furtherance of its mandate, the Board has encountered various challenges which have served to derail the vetting process. Some of the challenges encountered by the Board are; court cases against the Board, strict legal timelines and financial limitations. Notwithstanding the outlined challenges, the Board has continued to take measures to mitigate their effect and in particular the Board has adopted a compressed work plan, launched intensified public sensitization and outreach programme to enhance the understanding and appreciation of the Board's mandate and work amongst the public and various stakeholders, re-established and strengthened links with partners, collaborators and donors.

The Board has now begun the second phase of its work, which is the vetting of Magistrates. This phase presents its own challenges, since the Board must investigate complaints against and consider information received on magistrates throughout Kenya, some who serve in the most remote and rural parts of the country. The Board is however confident that the vetting process it has developed will enable it to meet this challenge.



**SHARAD RAO**  
**CHAIRMAN**

## JUDGES AND MAGISTRATES VETTING BOARD

### FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013

#### PART III: STATEMENT OF THE ACCOUNTING OFFICER'S RESPONSIBILITY

Section 4 of the Public Audit Act, 2003 and Sections 81, 82 and 84 of the Public Finance Management Act, 2012 requires the Accounting Officer to prepare accounts for each financial year which give a true and fair view of the state of affairs of the Board as at the end of the financial year and of the operating results of the Board for that year.

The Accounting Officer is also responsible for the propriety and regularity of the public finances, for keeping proper financial and accounting records, for safeguarding the assets within their responsibility and for ensuring funds entrusted to him are applied only for the purposes intended and approved by Parliament are set out in the Public Finance Management Act, 2012, various other laws, Government Financial Regulations and Procedures and Treasury Circulars issued from time to time.

The Accounting Officer accepts responsibility for the maintenance of accounting records which may be relied upon in preparation of the financial statements, as well as adequate systems of internal control.

The Accounting Officer further accepts responsibility for the attached annual accounts which have been prepared in conformity with Treasury directions and appropriate Government Financial Regulations and Procedures.

I am therefore of the opinion that the attached Appropriations and other financial statements present fairly the financial state of affairs of the Judges and Magistrates Vetting Board as at 30<sup>th</sup> June 2013.



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**REUBEN CHIRCHIR**  
**ACCOUNTING OFFICER**

**JUDGES AND MAGISTRATES VETTING BOARD**

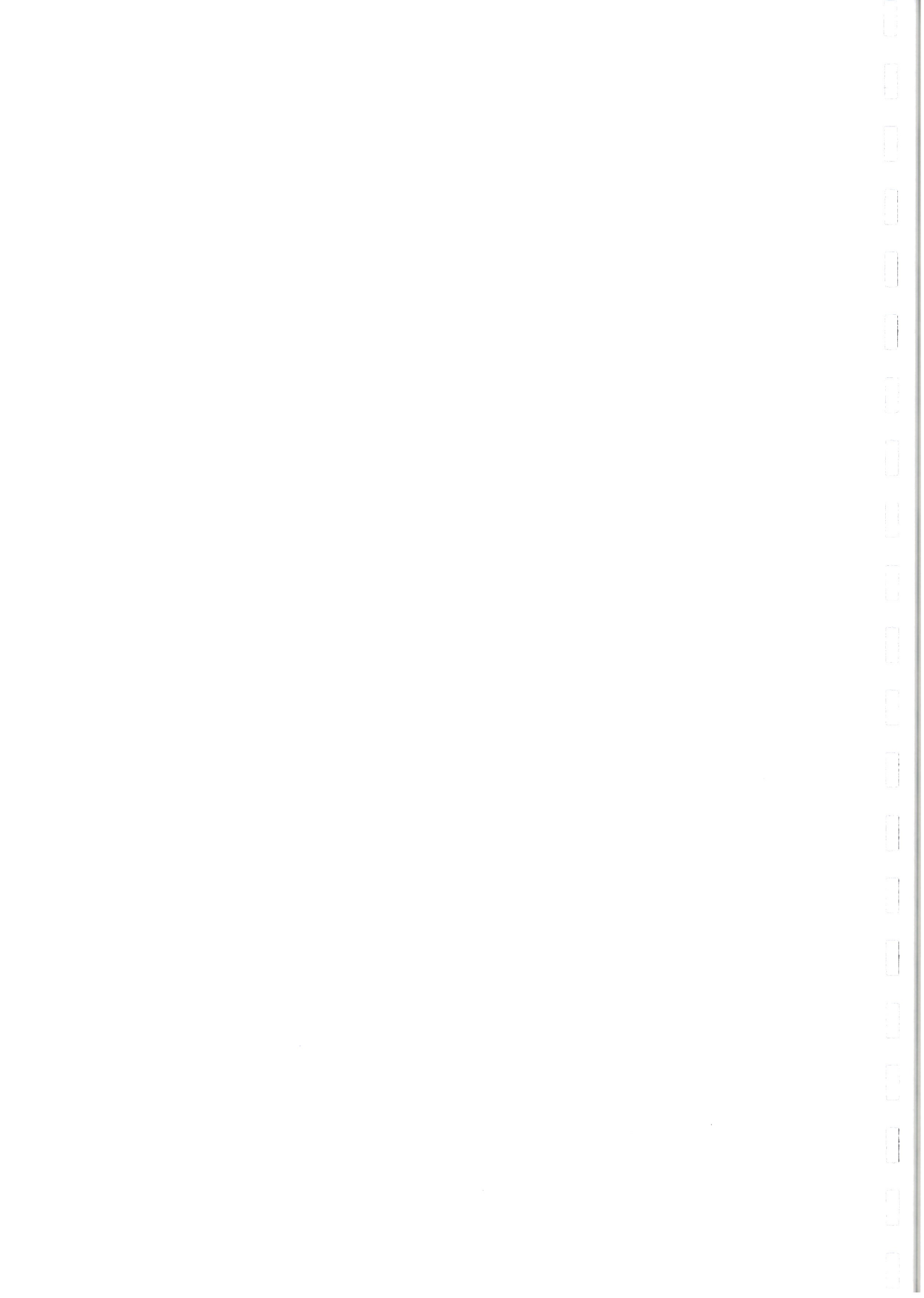
**FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE  
2013**

**PART IV: REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS AND  
REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013**

**JUDGES AND MAGISTRATES VETTING BOARD**

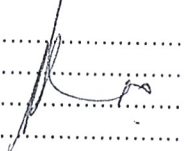
**FINANCIAL STATEMENTS AND REPORTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE  
2013**

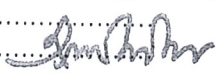
**PART V: THE FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2013**

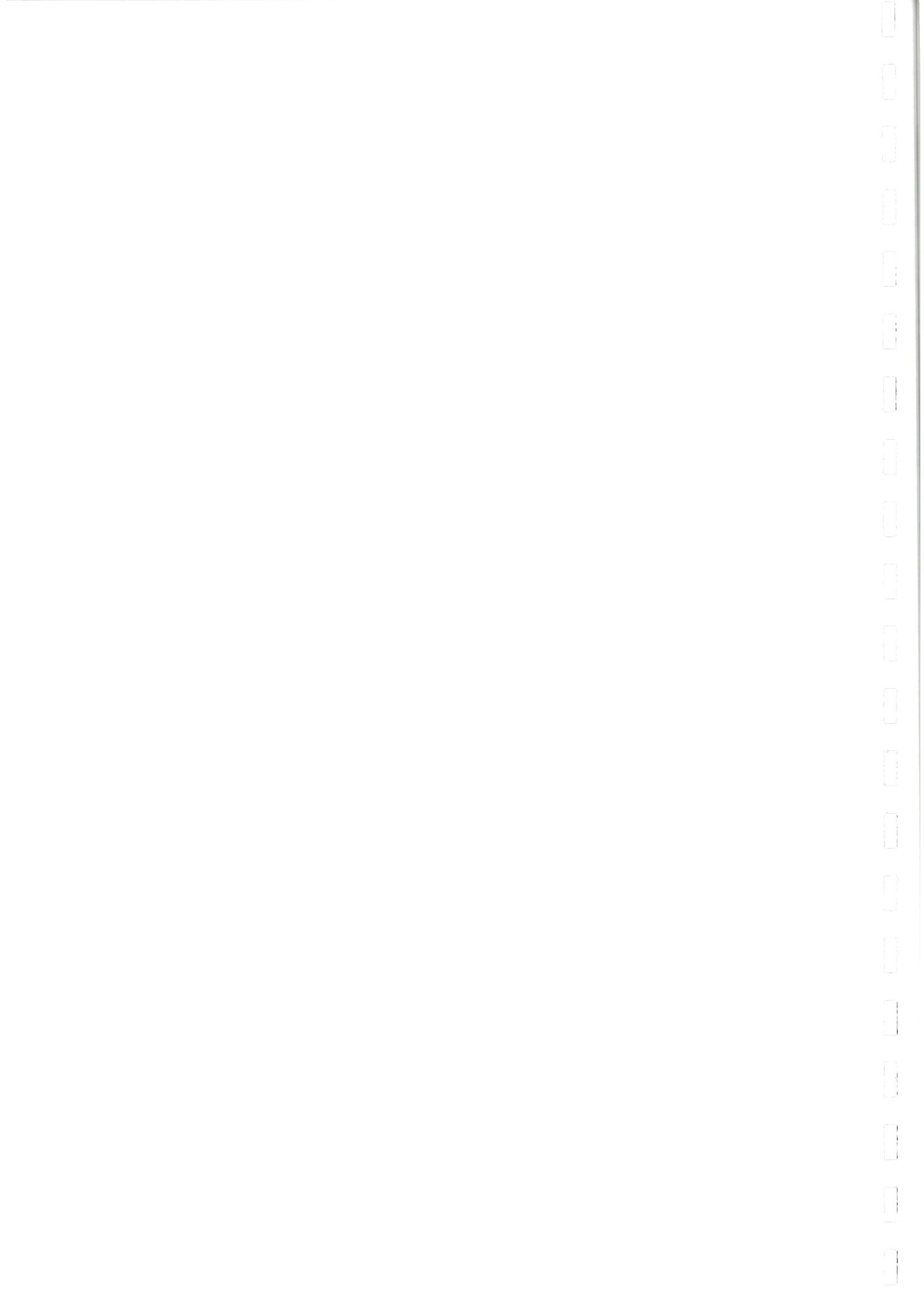


**JUDGES AND MAGISTRATES VETTING BOARD**  
**STATEMENT OF FINANCIAL POSITION AS AT 30TH JUNE 2013**

<b>ASSETS</b>	Notes	2012 - 2013 KES	2011 - 2012 (10 Months) KES
<b>Non-Current Assets</b>			
Plant and Equipment	2	24 903 291	4 751 083
<b>Current Assets</b>			
Inventories	7	1 507 065	546 234
Accounts Receivable	5	2 652 134	16 829 284
Staff Advances	6	23 333	55 000
Cash and Cash Equivalents	3	6 059 971	12 976 248
<b>Total Assets</b>		<b>35 145 794</b>	<b>35 157 849</b>
<b>EQUITY AND LIABILITIES</b>			
Accumulated Surplus (Deficit)		(19 915 606)	386 750
Accumulated Surplus (Deficit)		(19 915 606)	386 750
<b>Current Liabilities</b>			
Accounts and Other Payables	8	31 596 087	18 674 367
Service Gratuity and Pay in Lieu of Leave	11 (a)	23 465 313	15 296 733
Accrued Commuter Allowance		-	799 998
<b>Total Liabilities</b>		55 061 400	34 771 098
<b>Total Equity and Liabilities</b>		<b>35 145 794</b>	<b>35 157 849</b>

Name: Shamad Ras  
 Designation: Chair  
 Date: 30.9.2013  
 Signature: 

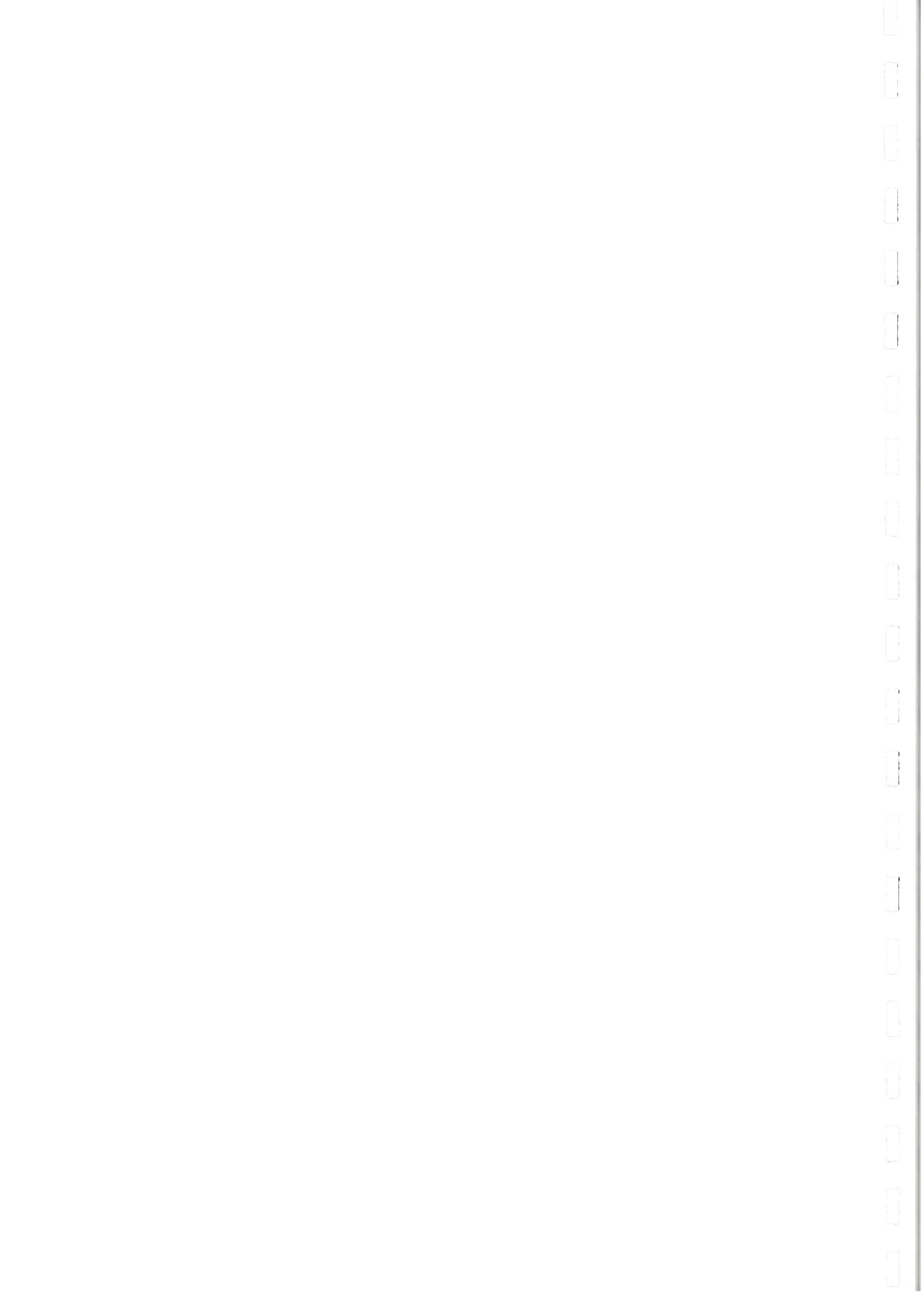
Name: REUBEN CHIRCHIP  
 Designation: SECRETARY / CHIEF EXECUTIVE OFFICER  
 Date: 30-9-2013  
 Signature: 



JUDGES AND MAGISTRATES VETTING BOARD

STATEMENT OF COMPREHENSIVE INCOME FOR YEAR ENDED 30TH JUNE 2013

REVENUE	Notes	2012 - 2013 KES	2011 - 2012 (10 Months) KES
Exchequer Contribution	9	444 000 000	150 000 000
Other Income	4	36 316 160	50 000
<b>Total Revenue</b>		<b>480 316 160</b>	<b>150 050 000</b>
<b>OPERATING EXPENSES</b>			
Wages, Salaries and Employee Benefits	10	277 596 978	45 542 226
Pay in Lieu of Leave	12	3 609 214	3 240 833
Gratuity	11(b)	34 587 386	12 055 900
Commuter Allowance		-	799 998
Relocation Allowance		55 780	1 500 000
Depreciation		8 517 627	2 159 019
Communication Supplies and Services		1 048 494	9 520 981
Domestic Travel and Subsistence		5 148 490	4 339 045
Foreign Travel		614 907	874 048
Printing , Advertisement and Information	13	12 194 321	4 870 464
Training Expenses		4 359 876	-
Hospitality, Supplies and Services		3 048 284	1 687 796
Medical Insurance Premium	14	18 034 787	561 807
Specialised Materials and Supplies		871 238	536 500
Office, General Supplies and Services		5 440 394	5 672 816
Fuel , Oil and Lubricants		7 519 316	4 363 729
Miscellaneous Expenses		792 555	145 187
Telephone and Airtime Expenses	15	4 025 000	2 304 500
Newspapers and Periodicals		568 700	74 800
Courier Charges		154 087	22 068
Internet Services		2 155 809	-
Fuel - Cooking Gas		-	1 400
Staff Retreat and Team Building		15 736 976	4 763 785
Public Sensitization		20 893 600	-
Bank Charges		50 627	24 700
Routine Maintenance - Vehicle and Other Assets		427 587	337 620
Rent	16	15 357 800	8 463 902
Witness Expenses		434 094	74 750
Car Rentals and Hire		41 929 497	17 333 899
Office Maintenance Services		313 775	345 070
Office Cleaning Services		1 465 577	803 516
Electricity and Gas		-	1 500
Hire of Conference Facility		216 000	524 841
Legal Fees and Charges		2 887 861	1 500 000
Consultancy Fees and Charges	17	4 498 716	116 000
Subscription and Licences		638 944	20 600
Hotel Accomodation and Subsistence Allowance		5 364 529	78 950
Expenditure through MONJNCCA	18	-	14 991 000
General Expenses		59 692	10 000
<b>Total Expenses</b>		<b>500 618 516</b>	<b>149 663 250</b>
<b>Deficit from Operating Activities</b>	19	<b>(20 302 356)</b>	<b>386 750</b>



JUDGES AND MAGISTRATES VETTING BOARD

CASHFLOW STATEMENT FOR THE YEAR ENDED 30TH JUNE 2013

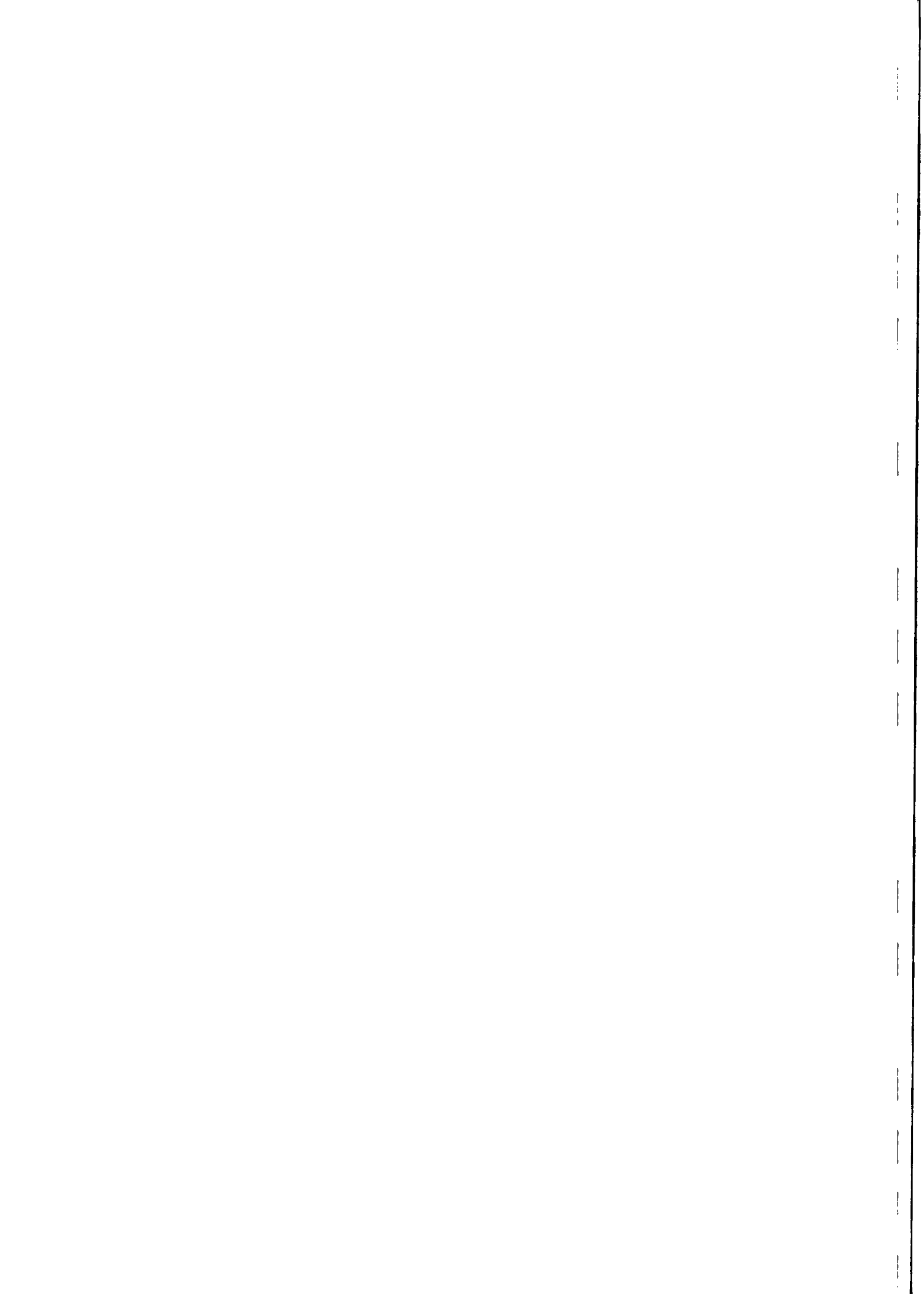
	Notes	2012 - 2013 KES	2011 - 2012 (10 Months) KES
Operating Surplus /(Deficit)		(20 302 356)	386 750
Adjustments for Depreciation		8 517 627	-
<b>Deficit Before Working Capital Adjustments</b>		<u>(11 784 729)</u>	<u>386 750</u>
Changes in Working Capital			
Increase/(Decrease) in Accounts Receivable		14 208 817	(16 884 284)
(Increase)/Decrease in Accounts Payable		20 290 302	34 771 098
(Increase)/Decrease in Inventory		(960 831)	(546 234)
<b>Net Cashflow from Ordinary Activities</b>		<u>21 753 559</u>	<u>17 727 330</u>
Purchase of Assets		(28 669 836)	(4 751 083)
<b>Net Cashflow from Investing Activities</b>		<u>(28 669 836)</u>	<u>(4 751 083)</u>
Cashflow from Financing Activities			-
<b>Net Cashflow from Financing Activities</b>		<u>-</u>	<u>-</u>
Net Cash Increase in Cash and Cash Equivalents		(6 916 277)	12 976 248
Opening Cash Balance		12 976 248	-
<b>Cash and Cash Equivalent as at 30th June 2013</b>	3	<u>6 059 971</u>	<u>12 976 248</u>



JUDGES AND MAGISTRATES VETTING BOARD

STATEMENT OF CHANGES IN EQUITY FOR THE YEAR ENDED 30TH JUNE 2013

	Notes	2012 - 2013 KES	2011 - 2012 (10 Months) KES
1. Balance as at 1st July 2012		386 750	.
Operating Deficit Financial Year 2012/2013		(20 302 356)	386 750
2. Balance as at 30th June 2013		<u>(19 915 606)</u>	<u>386 750</u>



**JUDGES AND MAGISTRATES VETTING BOARD**

**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE 2013**

**1. GENERAL INFORMATION**

**Accounting Policies  
Basis of Presentation**

The Financial statements have been prepared and comply with the International Financial Reporting Standards (IFRS).

**Revenue and Expense Recognition**

Revenue is recognized to the extent on receipt of authority to incur expenditure from Treasury through Judiciary and the Ministry of Justice, National Cohesion and Constitutional Affairs. Other Income is from sale of medical cover tender. Expenses are recognized when incurred.

**Plant and Equipment**

Plant and Equipment are stated at cost or valuation less depreciation and accumulated impairment in value. Depreciation is calculated on straight line basis and is recognized so as to write off the loss or valuation of assets less the residual value over their useful lives.

**Accounts Receivable**

Accounts Receivable are measured at cost. They comprise of amounts receivable from Government of Kenya.

**Cash and Cash Equivalents**

Cash and cash equivalents include cash in hand and bank account balances.

**Measurement Basis and Accounting Policies Applied**

The financial statements are prepared under the Historical Cost Convention.

**2. Plant and Equipment**

**a. Depreciation**

Class of Assets	Depreciation Rates
Furniture and Fittings	12.5%
Office Equipment	33.3%

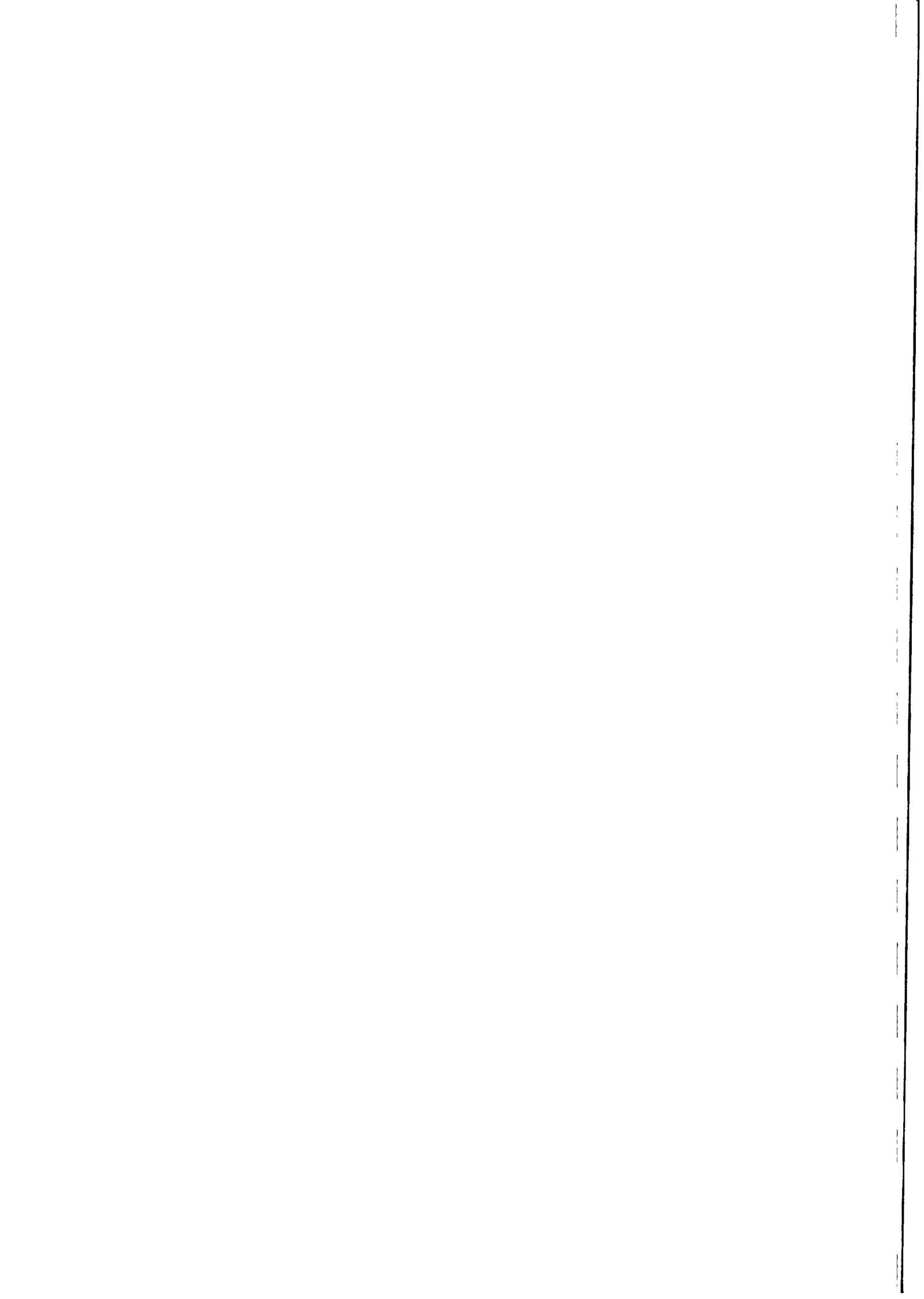
**b. Non Current Assets Schedule**

	Furniture & Fittings Ksh.	Office Equipment Ksh.	Assets Below KES 15,000 Ksh.	Total Ksh.
<b>As at 30th June 2012</b>				
<b>Cost</b>				
Balance as at 01.02.2012	-	-	-	-
Acquisitions during the year	577 502	6 266 759	65 840	6 910 101
Disposals	-	-	-	-
<b>Balance as at 30.06.2012</b>	<b>577 502</b>	<b>6 266 759</b>	<b>65 840</b>	<b>6 910 101</b>
<b>Depreciation</b>				
As at 01.02.2012	-	-	-	-
Charge for 2011/2012	72 188	2 086 831	-	2 159 019
<b>Net Book Value as at 30.06.2012</b>	<b>505 314</b>	<b>4 179 928</b>	<b>65 840</b>	<b>4 751 083</b>
<b>As at 30th June 2013</b>				
<b>Cost</b>				
Balance as at 01.07.2013	577 502	6 266 759	65 840	6 910 101
Acquisitions during the year	11 776 500	16 844 241	49 095	28 669 836
Disposals	-	-	-	-
<b>Balance as at 30.06.2013</b>	<b>12 354 002</b>	<b>23 111 000</b>	<b>114 935</b>	<b>35 579 937</b>
<b>Depreciation</b>				
As at 01.07.2013	72 188	2 086 831	-	2 159 019
Charge for 2012/2013	1 535 227	6 982 400	-	8 517 627
<b>Net Book Value as at 30.06.2012</b>	<b>10 746 587</b>	<b>14 041 769</b>	<b>114 935</b>	<b>24 903 291</b>

The non current assets are stated at cost less depreciation.

**Cash and Cash equivalents**

Kenya Commercial Bank	KES
Cash in Hand	6 001 257
<b>Total</b>	<u>58 714</u>
	<u>6 059 971</u>



**JUDGES AND MAGISTRATES VETTING BOARD**  
**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30TH JUNE 2013**

<b>4.</b>	<b>Other Income</b>	<b>2012/2013</b>	<b>2011/2012</b>
		<b>KES</b>	<b>KES</b>
	Tender Fees	105 000	50 000
	UNDP Contribution	36 211 160	-
	<b>Totals</b>	<b><u>36 316 160</u></b>	<b><u>50 000</u></b>

<b>5.</b>	<b>Accounts Receivable</b>	<b>2012/2013</b>	<b>2011/2012</b>
	<b>Description</b>	<b>KES</b>	<b>KES</b>
	Rent Deposit	2 652 134	-
	<b>Totals</b>	<b><u>2 652 134</u></b>	<b><u>-</u></b>

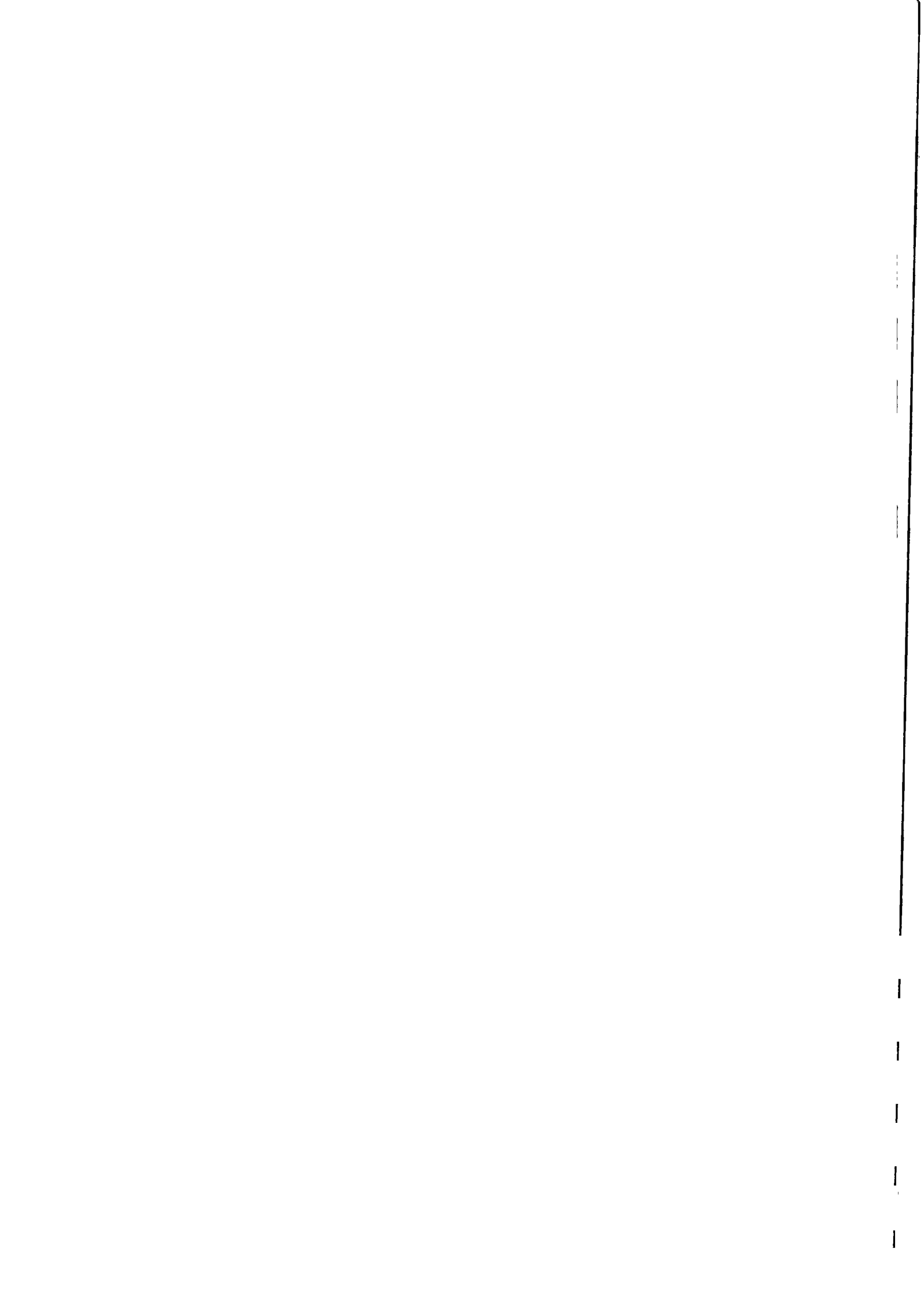
The rent deposit relates to Viewpark Towers premises. The deposit is refundable at the end of the contract period.

<b>6.</b>	<b>Staff Advances</b>	<b>2012/2013</b>	<b>2011/2012</b>
	<b>Name of Staff</b>	<b>KES</b>	<b>KES</b>
	Manase Wakala	23 333	-
	David Keter	-	40 000
	Andrew Swa	-	15 000
	<b>Totals</b>	<b><u>23 333</u></b>	<b><u>55 000</u></b>

These relate to salary advances to members of the secretariat.

<b>7.</b>	<b>Inventories</b>	<b>2012/2013</b>	<b>2011/2012</b>
		<b>KES</b>	<b>KES</b>
	Stationery for office use	1 507 065	546 234
	Inventories are valued at the lower of cost and net realisable value.		

<b>8.</b>	<b>Accounts and Other Payables</b>	<b>2012/2013</b>	
		<b>KES</b>	
	Salary Accrued	23 732 162	
	PAYE on Salary Accrued	7 863 925	
	<b>Totals</b>	<b><u>31 596 087</u></b>	



**JUDGES AND MAGISTRATES VETTING BOARD**

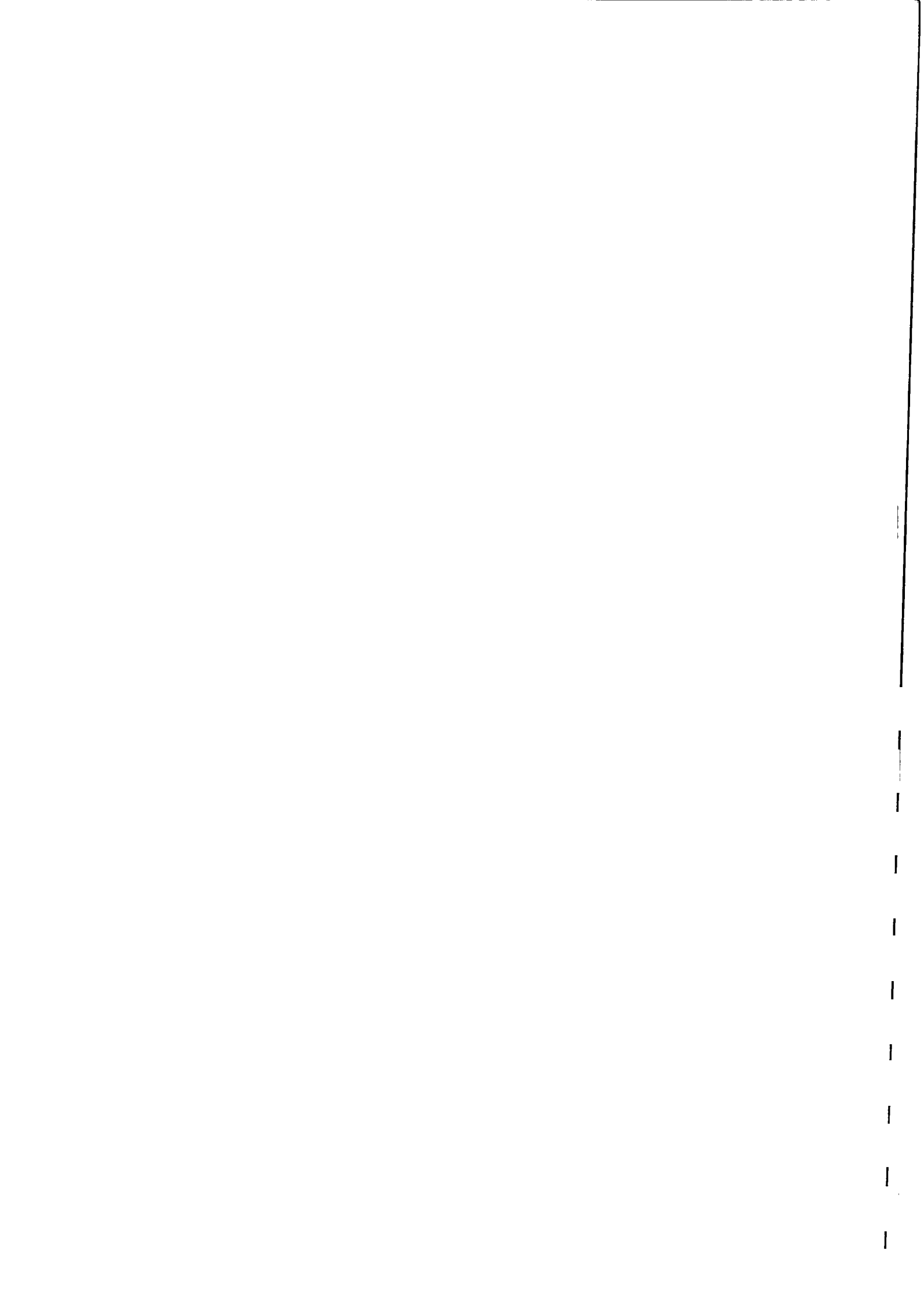
**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30TH JUNE 2013**

9. Exchequer Contribution AIE No./Description	2012/2013 KES	2011/2012 KES
331883	36 000 000	-
331953	36 000 000	-
JV No. 45	36 000 000	-
JV No. 46	36 000 000	-
331989	168 000 000	-
337573	132 000 000	-
598438	-	37 500 000
598399	-	37 500 000
Surrender of AIE Balance from MOJNCCA	-	31 887 057
1st and 2nd Qtr Allocation spent from MOJNCCA	-	43 112 943
<b>Totals</b>	<b>444 000 000</b>	<b>150 000 000</b>

10. Wages, Salaries and Employee Benefits Description	2012/2013 KES	2011/2012 KES
Net Pay	148 645 343	32 037 136
Salary Arrears	47 464 324	-
P.A.Y.E	65 104 738	13 307 970
P.A.Y.E Arrears	15 727 850	-
NSSF	296 400	105 600
NHIF	334 520	91 520
<b>Totals</b>	<b>277 573 175</b>	<b>45 542 226</b>

11. (a) Accrued Service Gratuity and Pay in Lieu of Leave	2012/2013 KES	2011/2012 KES
Accrued Gratuity	16 949 291	12 055 900
Accrued PAYE on Gratuity	6 516 022	-
Pay in Lieu of Leave	-	3 240 833
<b>Totals</b>	<b>23 465 313</b>	<b>15 296 733</b>

Gratuity has been calculated as 31 per cent of the basic salary from the date of staff member engagement upto 30th June 2013.



**JUDGES AND MAGISTRATES VETTING BOARD**

**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30TH JUNE 2013**

**11. (b) Gratuity Expense**

	2012/2013 KES	2011/2012 KES
Accrued Gratuity	16 949 291	-
Accrued PAYE on Gratuity	6 516 022	-
Paid Gratuity	11 122 073	12 055 900
<b>Totals</b>	<b>34 587 386</b>	<b>12 055 900</b>

KES 34.5 million is inclusive of accrued gratuity and accrued PAYE on gratuity of KES 16.9 million and KES 6.5 million respectively

**12. Pay in Lieu of Leave**

The Judges and Magistrates Vetting Board Act required the completion of all Judges and Magistrates vetting by 8th March 2013. This necessitated the commutation of leave days of some of the staff members.

**13. Printing, Advertisement and Information**

The expenses relate to media placements, informercials and printing of JMVB reports.

**14. Medical Insurance**

The Board operated a medical expense reimbursement policy in 2011/2012 financial year. This was however discontinued in favour of a medical cover in 2012/2013 financial year.

**5. Telephone and Airtime Expense**

The Board is yet to instal landline telephones for communication and has instead been relying on individual mobile telephones.

**6. Rent**

The Board rented more space in ViewPark Towers In 2012/2013 financial year to accommodate its staff members and also accomodate a second and third chamber in line the Vetting of Judges and Magistrates Act.

**7. Consultancy Fees and Charges**

The Board contracted consultants to assist in the provision of technical assistance. This was funded by UNDP.

**3. Expenses through MOJNCCA**

These relate to expenses incurred from the then Ministry of Justice and Constitutional Affairs in 2011/2012 financial year before the Board's operations became independent.

**Deficit from Operating Activities**

The deficit of KES 19.2 is as result of KES 23.4 million being provision of accrued gratuity as at 30th June 2013. The gratuity has been accrued in the current financial year but will be paid using the 2013/2014 budget funds (see note 10).

**Hotel Accomodation and Subsistence Allowance**

KES 15 million in 2011/2012 financial year relates to block expenses incurred from MOJNCCA where the Board's finances were being managed from. The reduction in expenses is as result of the financial autonomy.

**2. Taxation and Other Statutory Deductions**

The Board has complied to its statutory obligations in relation to remittance of PAYE, NSSF and NHIF.

**2. Currency**

These Financial statements are prepared in Kenya Shillings(KES) which is the Board's functional and presentation currency.

