

STANDARD

REPUBLIC OF KENYA



NATIONAL ASSEMBLY



TENTH PARLIAMENT – FOURTH SESSION

DEPARTMENTAL COMMITTEE
ON
AGRICULTURE, LIVESTOCK AND COOPERATIVES

REPORT
OF
THE COMMITTEE ON THE INQUIRY INTO ALLEGATIONS OF
MISMANAGEMENT AT THE HARAMBEE SACCO SOCIETY LIMITED

NATIONAL ASSEMBLY,
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER 2010

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PREFACE

Mr. Speaker, Sir,

On 31st August, the House debated on a response by the Hon. Attorney General (AG) to a question raised by the Hon. Martha Karua, MP, relating to the mismanagement of funds by the Central Management Committee (CMC) and Management of the Harambee SACCO Society Ltd. The AG's response generated interest in the matter among the Members in this House. In reference to documents tabled in the House over the subject matter, the speaker directed the Committee of Agriculture, Livestock and cooperatives to inquire into the matter and make a report to the House.

Of particular concern were the contests raised in a letter addressed to all Members of Parliament and which have been annexed to this report. After studying its contents, the Speaker noted that *'There are very grave matters canvassed in this letter. It will be necessary that these matters are investigated, if not interrogated, by the relevant Committee of Parliament because Harambee SACCO is the largest SACCO in the country'..... I, therefore, direct that this matter be referred to the Committee on Agriculture, Livestock and Cooperatives'.*

Subsequent to this ruling, the Departmental Committee during its sitting on Monday, 20th September, 2010, resolved to invite witnesses to give evidence on the issues raised during the debate. The Committee received oral and written evidence from Monday, 27th September, 2010, to Monday, 11th October, 2010, from witnesses involved in the matter: Hon. Martha Karua, MP; whistleblowers (complainants); Criminal Investigations Department (CID); Kenya Anti-Corruption Commission (KACC); Attorney General; Gina Din Communications SACCO Ltd; Harambee SACCO Management; and the Minister and officials of the Ministry of the Cooperative Development and Marketing.

The Committee comprises the following Members:-

The Hon. John Mututho, MP	-	Chairperson
The Hon. Lucas Chepkitony, MP	-	Vice Chairperson
The Hon. Peris Chepchumba, MP		
The Hon. Fred Outa, MP		
The Hon. John D. Pesa, MP		
The Hon. Benson I. Mbai, MP		
The Hon. Evans Akula, MP		
The Hon. Dr. Victor K. Munyaka, MP.		
The Hon. Erastus Mureithi, HSC, MBS, MP		
The Hon. Robert O. Monda, MP		

The Committee first heard the nature of the complaints made by some members of the Harambee SACCO who presented information relating to cases of mismanagement. Thereafter the Committee utilized the information to gather evidence in its subsequent meetings with the Harambee SACCO management, investigating and prosecuting agencies, and the oversight Ministry of Cooperative Development. The details of the evidence are explained in this report which the Committee urges all the Members of Parliament to peruse and acquaint with in order to grasp and understand if allegations of corruptions debated in the House have indeed been committed at the Harambee SACCO.

The Committee would like to record its appreciation and gratitude to all the witnesses who made contributions during the hearings. Special thanks go the Hon. Martha Karua, MP, who gave the Committee an insight into the allegations made against the Management of Harambee SACCO from the documents presented to her by the whistleblowers, and to all the persons the Committee encountered during this inquiry for their candid submissions. The Committee would also like to acknowledge the cooperation and assistance of those witnesses who had to appear before it more than once to clarify allegations that emerged in the course of the inquiry.

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support and services extended to the Members to enable the Committee expeditiously execute this inquiry and compile its report.

I thank all Members of the Committee for their patience, sacrifice and hard work despite their other commitments in their respective constituencies. The programme of sittings benefited from full participation and input from all the Members of the Committee.

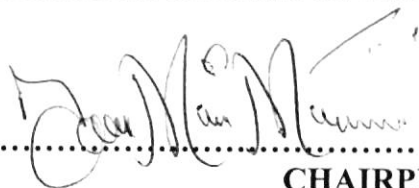
I further thank the secretariat staff of the National Assembly for their commitment to duty and without whose dedication, the work of the Committee would have been in jeopardy.

Mr. Speaker, Sir,

On behalf of the Committee, I now have the honour and pleasure to present this Report and Recommendations to the House for consideration and adoption.

Thank You

Signed



CHAIRPERSON

(HON. JOHN M. MUTUTHO, MP)

Date.....

26th. October 2010

EXECUTIVE SUMMARY

1. The Departmental Committee on Agriculture, Livestock and Cooperatives is one of the twelve (12) Departmental Committees established by the National assembly and operates in accordance with the Standing Order No. 198 and section 123 of the Constitution of Kenya. Its functions are stipulated in standing Order 198 (3) and are described in detail in chapter one, section 1.1, of this report.
2. The provisions of the Standing Order 198 (2), Second Schedule, state the Terms of Reference (TOR) for the Committee to include cooperative sector among its portfolio subjects. The others are agriculture, livestock, fisheries and production and marketing. Subsequently, Harambee SACCO falls within the oversight jurisdiction of the Committee.
3. On 31st August, 2010, the Speaker directed the Committee to interrogate the allegations on mismanagement at the Harambee SACCO after the House was drawn into a debate following a reply from the Attorney General to a question over alleged inability of his office to act on those found culpable in the alleged mismanagement of Harambee SACCO funds. Subsequently, the Committee commenced its work on Monday, 27th September, 2010, to gather evidence from witnesses deemed to hold crucial information to verify the allegations on fraud at the Society.
4. The Committee held a total of fourteen (14) sittings and received both oral and written information which it analyzed in making its report and recommendations. The hearings were conducted both in public and in camera depending on the sensitivity of the evidence being presented.
5. From the evidence presented, the Committee was of the opinion that the allegations were perennially being raised and they were not new in the SACCO. The Committee observed that investigations had been done on the allegations but lacked merit in law since the whistle blowers failed to record statements which would allow the prosecution to be expeditiously instituted. Subsequently, the Attorney General was handicapped in proceeding with prosecution against those thought to be culpable.
6. Interestingly, some of the whistle blowers peddling allegations of corruption at the SACCO were found to be persons who had been reprimanded by the members of SACCO in an Annual Delegates Meeting (ADM) sometimes in 2004 while others were former SACCO employees dismissed on grounds of gross misconduct. However, the Committee still proceeded to gather information on all matters that were raised when the complainants appeared before the Committee and whose issues are summarized in chapter two, paragraph 23, of this report. More interesting in the investigation was the discovery that a complainant, Mr. J.S Langat, whose letter

moved the House into the investigation, was found to be fictitious after the CID and SACCO management stated he could not be traced. The other complainants also reported the named person was not known to them.

7. The Committee observed that failure by the investigating and prosecuting agencies to successfully unearth if any corruption had indeed been committed was hampered by disappearance of vital documents which were thought to contain details of transactions between cashiers at the SACCO. Information made available to the Committee indicated a blame game between the Police and the SACCO Management. The latter explained the documents had been collected by the Anticorruption Police Unit (predecessor to KACC) in June 2009 while the former explained it was not among those they collected. The Committee therefore could not ascertain who bears the responsibility for the disappearance of the documents and the Committee therefore recommended for forensic audit to recover information relating to the missing files.
8. The other highlights of the conclusions made by the Committee on the allegations of mismanagement included the fact that the Committee noted that some of the employees were culprits in alleged fraudulent actions at the SACCO. Consequently, the affected employees were found to have been surcharged or dismissed and some cases pending in court (as presented in Chapter 3, sections 16 (d) and (i); and annex II of this report). The Committee also found that monies stated to have been irregularly loaned to CMC against sitting allowances was actually Kshs. 23,377,040.60 (not Kshs. 724,068,864.00 as alleged) and were found to have been approved and were regularly being serviced.
9. It was noted that some expenditure paid in allowances to the CMC and senior managers were due to workshops toward implementation of Mwaliko report and recommendations, and capacity building in the computerization of the SACCO's operations. The Committee therefore was of the view that the allegations being raised over such allowances were most unfortunate given the tremendous success the SACCO had recorded to move from its knees a decade ago. This is also a position shared by the Ministry and the understanding behind the failure by the complainants to record statements for prosecution to commence when CID and the Attorney General's office required them to do so.
10. The details of the major findings and recommendations of this inquiry are presented in Chapter Four. It is important to note that the recommendations presented were based on the evidence whose documents were thought sufficient to make progress in the investigation and where the Committee was in doubts recommended for forensic audit as an option. The Committee therefore calls upon the House to move to adopt the recommendations in this report to allow the Central Management Committee

(CMC) to continue with the smooth running of the affairs of the SACCO in its contribution to the economy of the country and improve the welfare of its members.

CHAPTER ONE

INTRODUCTION

1.0 THE CO-OPERATIVE MOVEMENT IN KENYA

1. Cooperative movement in Kenya began with the formation of the first cooperative society by the white settlers in 1908. The major objective of the cooperative society was to market agricultural produce and to procure farm inputs for the colonial settlers. The cooperative movement has recorded phenomenal growth in terms of number of cooperative societies and turnover, particularly following the enactment of Cooperative Society's Ordinance in 1946 and the Cooperative Societies Act, Cap 490, in 1966. The Cooperative Ordinance of 1946 led to the establishment of a Department of Cooperatives.
2. Today, the cooperative sector contributes significantly to the growth and development of the Kenya's economy. It accrued benefits include creation of employment, settlement of the people, and generation of income and acquisition of property. An estimated 63% of Kenyans draw their livelihood from cooperative-based enterprise. Cooperatives employ an estimated 500,000 people besides providing wealth of opportunities for self-employment.
3. Statistics by the Ministry of Cooperative Development and Marketing indicate that, while there were 1030 registered agro-based cooperative societies in 1963, this has to date increased to 12,500 with a membership estimated at over 8 million and a turnover of over Ksh. 200 billion. Cooperatives have recorded growth in every sector, including agriculture, finance, housing, construction, labour and industry.
4. The important role the cooperatives play in economies of countries around the world made the United Nations in 1994 to declare the 1st Saturday of July each year as the '**International Cooperative Day**'. This is celebrated in Kenya as '**Ushirika Day**'. The celebrations have become catalytic and galvanizing force in Kenya's vibrant cooperative movement which ranks first in Africa and the seventh in the world. The Savings and Credit Cooperative Societies (SACCOs) in particular have attracted international recognition. Kenya ranks one of the Group Ten most successful SACCOS in the world. In October 2009, Kenya hosted the International Cooperative Alliance African Regional Cooperative Ministers' Conference.
5. SACCOs have become valuable avenues through which small scale and low income earners mobilize their savings towards wealth creation. They are the most popular option in meeting financial needs of the Members due to the low interest rates charged on credits and ease with which to access them. The members access the credits from

SACCOs to cover development loans, emergencies, education, housing development, home improvement, among other products. Some SACCO Societies, such as the Harambee, Mwalimu, Afya and Magereza boast of large asset base exceeding some of the commercial banks. An estimated 5,000 SACCOs operate in the country, 230 of which offer Front Office Services Activity (FOSA) to their members.

6. In recognition of the potential benefits accruing from the development of the cooperative sector, the Government has continued to fast-track formulation and implementation of enabling policy and legal framework to guide the operations of cooperatives and especially the governance structures. The government delinked itself from the management of the cooperative societies following the implementation of the amendments to the cooperative societies Act Cap 490, of 1997 and the Cooperative Act No 12 of 1997. This was the time when Structural Adjustment Programmes were being implemented in Kenya and which subsequently paved way for committees and management of cooperatives to freely be in charge of their affairs.
7. Today, the day to day operation and management of the cooperative societies is run by an elective body of its members elected by the members themselves. The Ministry supports and facilitates for the development of cooperatives through promotion and registration of new cooperatives, exercise supervisory and advisory roles, and develop policies and laws governing the sector. The SACCO Act (2008) provides for the establishment of an independent SACCO Societies Regulatory Authority (SASSRA) to exercise oversight role over the SACCOs sub-sector.
8. Pursuant to Article 5 of the SACCO Act (2008), the specific functions of the Authority are to:-
 - i) license SACCO Societies to carry out deposit taking business in accordance with this Act*
 - ii) regulate and supervise SACCO Societies*
 - iii) hold, manage and apply the General Fund of the Authority in accordance with the provisions of this Act*
 - iv) levy contributions in accordance with this Act*
 - v) do such other things as may be lawfully directed by the Minister*
 - vi) perform such other functions as are conferred on it by this Act or by any other written law*
9. The SACCO sector contributes to an estimated 31 percent of the national savings and this investment needs to be reflected in its output in improving the welfare of the members, and achievements in the Millennium Development goals (MDGs) and the Vision 2030. Consequently all SACCO leaderships must significantly play their role in ensuring that strong and visionary cooperative leadership and management are

developed and maintained in order to build trust and confidence among members and to safeguard their savings.

10. Cooperatives are a hope of future growth and development in our effort to achieve sustainable development and to reduce poverty. The agenda behind cooperatives is usually to empower citizens to realize their socio-cultural and economic capacities using locally available or generated resources. Given the rapid growth of cooperatives in the country, certain guiding principles and values have been developed to guide and govern all their operations. According to the Ministry, these operational principles work to provide for improved and better governance in the cooperative sector. The International Cooperative Alliance (ICA) has crystallized them into seven principles, as follows:-

- i) Voluntary and open membership*
- ii) Democratic member control*
- iii) Member economic participation*
- iv) Autonomy and independence*
- v) Education, training and information*
- vi) Cooperation among cooperatives*
- vii) Community concern*

These values and ideals must be pursued if the cooperative societies have to make meaningful progress and make the cooperative movement become productive and move on the path to prosperity.

11. However widespread allegations over mismanagement of cooperative societies arising from poor leadership and mismanagement of funds are threatening the potential benefits accruing from investments in the sector. With particular reference to the giant Harambee SACCO Society Ltd, it has attracted three inquiries and several inspection reports since its inception in 1970 as a result of complaints by its members. These include:-

- i) Report of Inquiry into the By-Laws, Working and Financial Conditions of Harambee SACCO Society Limited in 2002, chaired by Mr. S. M. Mwaliko
- ii) Report of Inquiry on the By-Laws, Financial and Working Conditions of Harambee SACCO Society Ltd in 2000, chaired by Jeremiah Nyatichi
- iii) An inspection reports of 1994 and 2005 of the Ministry of Cooperative Development and Marketing

As a result of the findings of the Inspection Report of 1994, Commissions were appointed to briefly run the affairs of the SACCO in the period 1995-1997.

12. As a result of the findings of these inquiries and especially the Mwaliko Inquiry, Commissions were appointed to run the affairs of the SACCO in 1994-1997. All the inquiries, particularly the Mwaliko Inquiry identified weak governance system as an issue. This has remained contentious and a source of complaints of mismanagement at the cooperative society. The Management malpractices identified included '*high level negligence, self interest, partisan behaviour, role confusion, wrong priority setting, extravagance, misappropriation and incompetence*'. Therefore the SACCO management lacked professionalism and transparency in the way the affairs of the SACCO was being managed.

13. Subsequently, the Mwaliko Report made far-reaching recommendations necessary to help put the SACCO on a back to professional and prosperous path and to curb other malpractices that were hindering delivery of the services at the SACCO . The remedial measures proposed for implementation included:-

- i) strengthening loan recovery
- ii) retiring of overdraft
- iii) improving returns on members' investments
- iv) intensifying recruitment of members
- v) adherence to government procurement procedures
- vi) computerization of operations
- vii) developing election procedures
- viii) Amending of Bylaws of the society
- ix) delineating roles between the CMC and the Management
- x) creating security of tenure for CMC and the Management office holders

14. In 2003 the SACCO leadership developed a work plan to guide the implementation of the recommendations of the Mwaliko report. Although the implementation process is ongoing, allegations relating to mismanagement continue to persist in the Society. The debate on the allegation issues in Parliament informed the present inquiry by the parliamentary Committee on Agriculture, Livestock and Cooperatives. This was after the House debated the issue following a question in the House on Tuesday, 31st August 2010, when the Speaker directed the Committee to interrogate the matter further.

1.1 MANDATE AND TERMS OF REFERENCE (TOR) OF THE COMMITTEE

15. Subsequent to the Speaker's direction, the Committee commenced its work on Monday, 20th September, 2010, to deliberate on its TOR and invite key witnesses to appear before it. The Committee began receiving evidence on Monday, 27th September, 2010, which ended on Monday, 11th October, 2010.

16. The Committee's mandate in the inquiry is exercised pursuant to the provisions of the Standing Orders and the Constitution of Kenya. The Standing Order 198 (3) states, as follows-

'The functions of the Departmental Committee shall be-

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and Departments;*
- b) To study the programme and policy of the Ministries and Departments and the effectiveness for implementation;*
- c) To study and review all legislation after the First Reading, subject to the exemptions under Standing Order 101 A(4)*
- d) To study, assess and analyse the relative success of the Ministries and Departments as measured by the results as compared with its stated objectives;*
- e) To investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary and as may be referred to them by the House or a Minister; and*
- f) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation'.*

Section 124 (1) of the Constitution stipulates, as follows:-

'Each House of Parliament may establish committees, and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its Committees'.

17. In accordance with the Second Schedule of the Standing Order 198 (2), the Terms of Reference (TOR) for the Departmental Committee of Agriculture, Livestock and Cooperatives are as follows:-

- 1) Agriculture
- 2) Livestock
- 3) Fisheries Development
- 4) Cooperative development
- 5) Production and Marketing

Subsequently, the Committee exercises oversight role over the cooperative sector which the Harambee SACCO falls.

18. The Standing Orders and the Constitution also empower the Committee to make its own selection of the subjects regarding the policy, management, administration and other activities of the Ministries and Departments falling under its jurisdiction.
19. Therefore, following a question by the Hon. Martha Karua, MP, Gichugu Constituency, relating to alleged fraudulent actions by the management of the Harambee SACCO Society, the subsequent response from the Hon. Attorney General elicited lengthy deliberations in the House. By making reference to a letter from a complainant tabled in the house, the Speaker directed, as follows:-

‘There are very grave matters canvassed in this letter. It will be necessary that these matters are investigated, if not interrogated, by the relevant Committee of Parliament because Harambee SACCO is the largest SACCO in the country. Therefore, it is necessary that, as much as possible, it is given an injection of confidence at the earliest opportunity and action taken against any members of the public or members of Harambee SACCO, even if they be officials, who may be guilty of any wrong doing, so that the co-operative society is put at an even kiln at the earliest opportunity. I, therefore, direct that this matter be referred to the Committee on Agriculture, Livestock and Cooperatives. The Committee is obligated to inquire into the matter and file a report in this House within the next 21 days without fail’.

20. In undertaking the inquiry, the Committee sought to undertake public hearings with a view to:-
- i) undertake interrogations on the alleged mismanagement through hearings
 - ii) collect evidence relating to allegations
 - iii) identify the culprits
 - iv) recommend specific disciplinary actions (if any)
 - v) make recommendations to mitigate future mismanagement

1.2 MODUS OPERANDI OF THE COMMITTEE

21. The Committee undertook to conduct investigation by inviting all witnesses thought to have crucial evidence on the subject matter to appear before it at Parliament Buildings. The method and procedure of undertaking the inquiry included:-
- i) summoning witnesses to make appearances and give evidence before the Committee
 - ii) receiving oral and written evidence from the witnesses

- iii) making telephone calls and SMS to some witnesses, especially those complainants who had been dismissed, retired or interdicted and who could not be reached through the institutions' contacts
- iv) perusing of the reports of the inquiries and inspections on the Harambee SACCO

22. Consequently, the Committee received evidence from the following:-

- i. Hon. Martha Karua, MP, Gichugu Constituency
- ii. Complainants
- iii. Director, Banking Fraud
- iv. Director, Criminal Investigations Department (CID)
- v. Director, Kenya Anti-Corruption Commission (KACC)
- vi. Attorney General
- vii. Directors, Gina Din Communications SACCO Ltd
- viii. Harambee SACCO Management
- ix. Commissioner for Cooperatives
- x. Minister for Cooperative Development and Marketing

23. The Committee utilized the evidence (both written and oral) received, and other inquiry reports relating to the content in the matter under investigation in compiling its report. The Committee held a total of 14 sittings to receive evidence and to conclude the inquiry.

CHAPTER TWO

HARAMBEE SACCO SOCIETY LIMITED

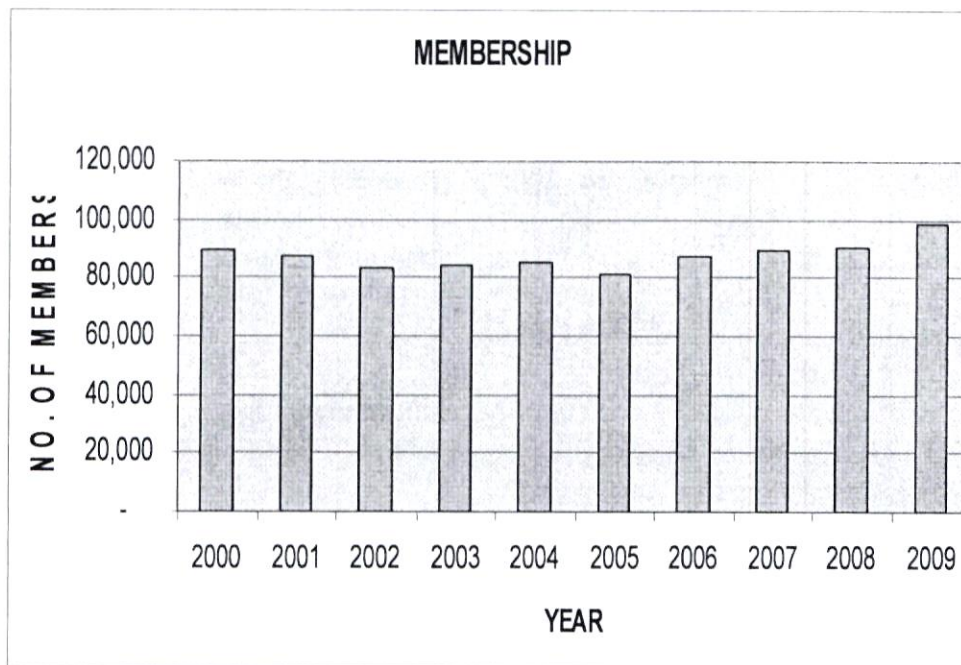
2.0 INTRODUCTION

1. Harambee SACCO Society Ltd is the largest in Kenya and in the African continent. It was officially registered in 1970 after it previously operated as a merry-go-round welfare organization among the low cadre staff in the Office of the President. Currently it host a total membership of 98,640 (2009 figures) drawn from the Government Ministries and Departments such as the Office of the President, Department of Defence, Police, Administration Police, Ministry of Youth Affairs, Ministry of Immigration, some parastatals and other state corporations. The major activity undertaken by the society is to promote members' savings in form of shares and grant loans to members at affordable rate.
2. The society is managed by an elected Central Management Committee (CMC) made up of 11 members drawn from Nairobi province as per the society's by-laws, and a supervisory committee comprising 3 members. Harambee SACCO serves its members through its 148 branches spread across the country in a provincial administrative set up.
3. Each branch elects delegates to represent them at the society headquarters and attend the society's Annual Delegates Meetings (ADM). In excess of 445 delegates from the branches usually attend the AGM. The branches are empowered to offer essential services such as the emergency loans and school fees.
4. Pursuant to its vision '**to be the leading SACCO in Kenya in Funds Mobilization, Credit and provision of Quality Services**' and its mission '**to improve the socio-economic conditions of Members through provision of affordable credit**', Harambee SACCO has continued to improve and diversify its products and services to its members to include:-
 - (a) **Savings**; to save for the future at minimum monthly contributions of Kshs. 1,000
 - (b) **Development loans**; granted at three times the members savings and is processed within a week
 - (c) **Emergency loans**; processed within 30 minutes of application subject to a maximum of Ksh. 50,000
 - (d) **School fees**; the maximum depends on members ability to repay in 12 months and processed in 30 minutes

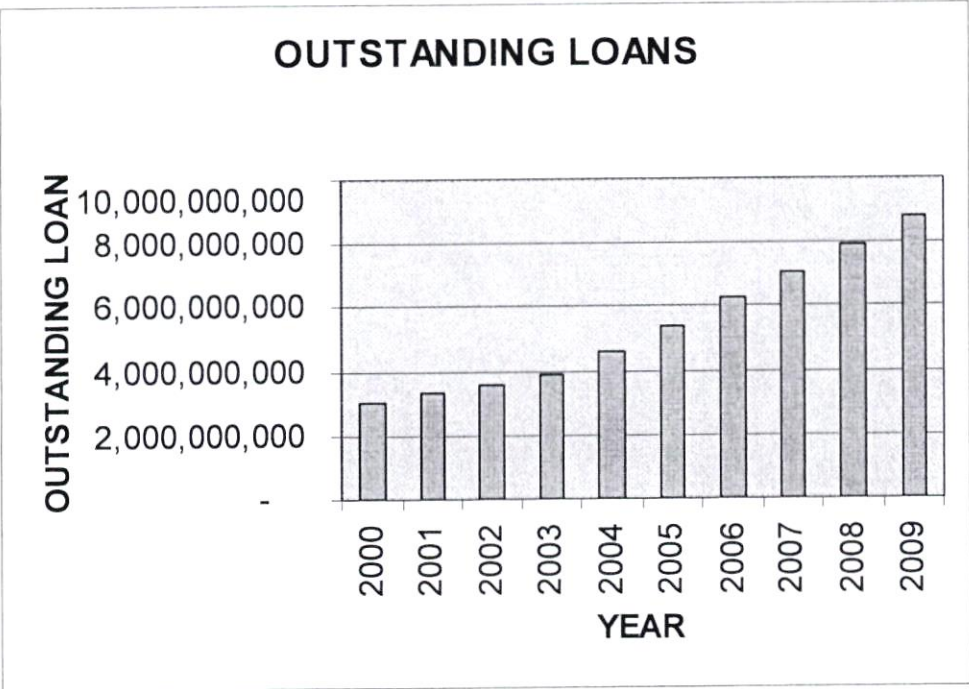
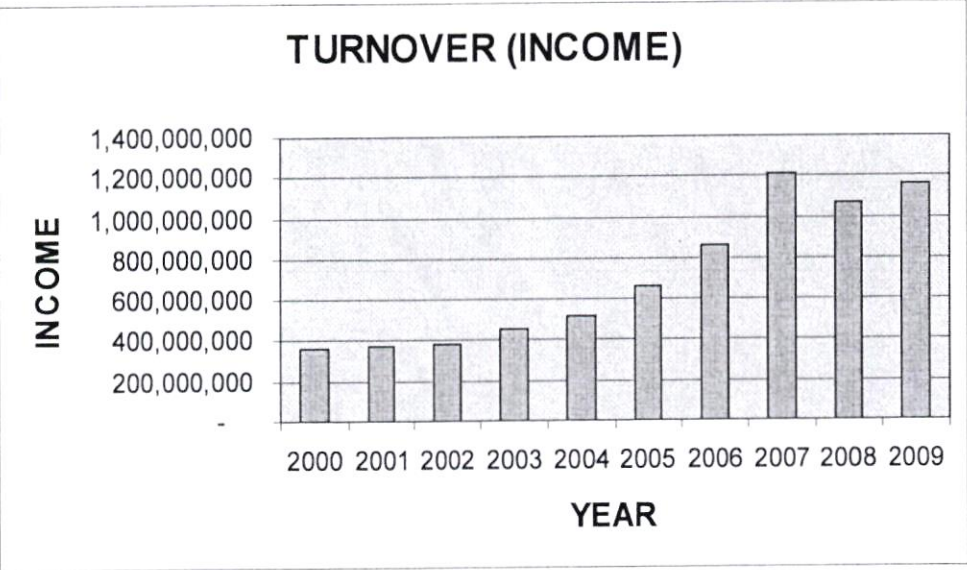
- (e) **Top-up loans**; to refinance the development loan once a member has repaid 50 percent of the existing loan
 - (f) **Jisaidie loan**; a new product granted at 4 times a member's share payable in 60 months
 - (g) **Mkombozi loan**; given at 1.2% per annum to cushion out a member's bank loans and avoid pecuniary embarrassment
5. The improvement in the delivery of services is worth noting considering that before 2001, members could not access loans in good time and processing of loans lasted 7 months while refunds could take a year.
 6. The Society also operates FOSA facilities to cover salary advances and personal loans to a maximum of 2 million payable in 72 months at an interest rate of 1.5% per month. FOSA also provides other services that include cheque encashment, payment of emergency loans, grant loans to the members and operate Savings Accounts, process ATM Cards and salary processing.
 7. Despite having suffered insolvency problems in 2001, the society has since recorded improved financial performance by about 300% in the last ten years as reflected in key performance indicators presented in Chapter Two of this report. Consequently the society has made a turn around from insolvency state (at negative 98 million in 2001) to being liquid (at 700million in 2009). According to the Central management Committee of the SACCO, the Society has recorded success in its growth against background of challenges which the management has outlined to include:-
 - (a) Competition from commercial banks
 - (b) Global economic meltdown
 - (c) Compliance to SACCO Act (2008) and its stringent rules
 - (d) HIV/AIDS scourge affecting members and staff
 - (e) Government freeze in employment
 - (f) Politics
 - (g) Diversified membership
 - (h) Fraudulent actions by members and staff
 - (i) Resistance to change
 - (j) Political bickering from power hungry members and delegates
 8. In this regard, the persistent complaints of mismanagement allegations threaten the success being achieved by the society. According to the CMC, the society has lately suffered panic withdrawals amounting to Ksh. 109.3 million between May 2010 and August 2010 as a result of claims of mismanagement. No meaningful progress can be enjoyed in an organization without support and loyalty of the customers.

2.1 PERFORMANCE OF THE HARAMBEE SACCO

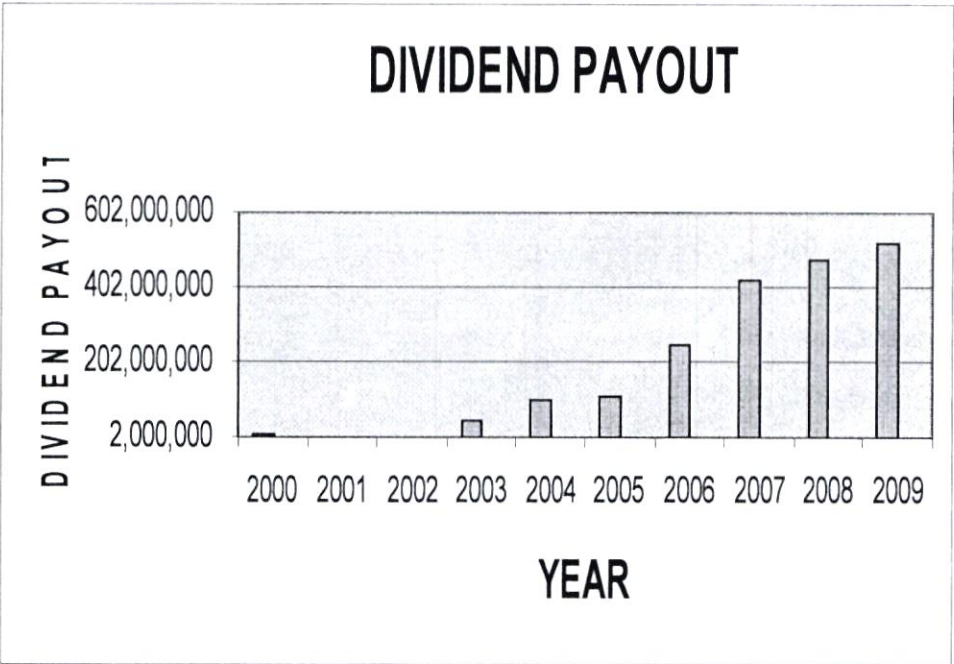
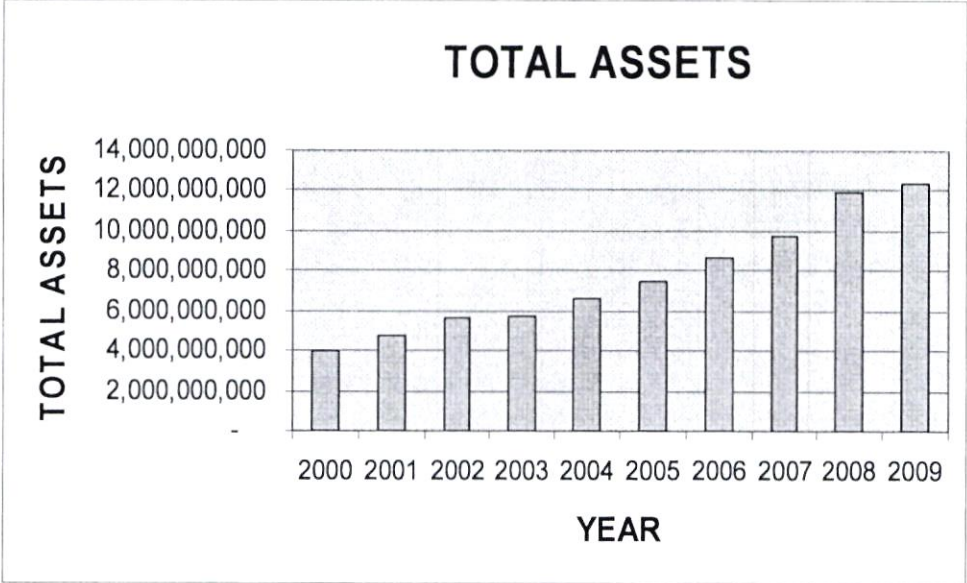
9. Prior to 2001, the Society was characterized by poor performance which informed the setting up of several inquiries and inspections by the Ministry of Cooperatives. As a result of the inquiries, appropriate steps have been taken to implement recommendations which have put the SACCO on a sound footing in its operations with desired results.
10. Except for the Membership which has remained generally constant, there had been notable increases in all the performance indicators (turnover, outstanding loans, total assets, dividends, deposits and surplus) since 2001. The SACCO also boasts of net worth of 3.5 billion as at 2009. The Tables (see Annex I) present data on comparative performance before and after 2001 which have been illustrated in graphical forms for ease of reference as shown below.



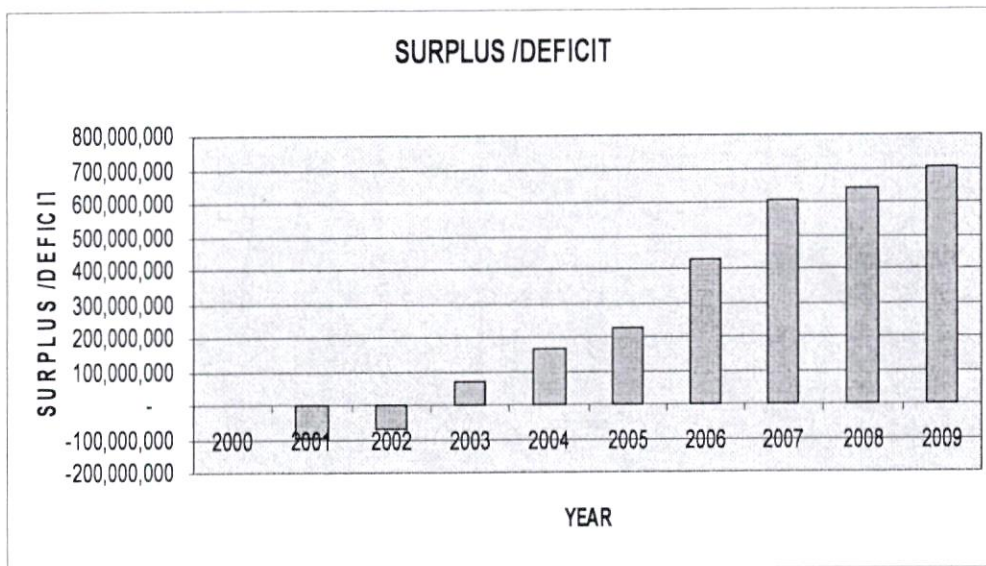
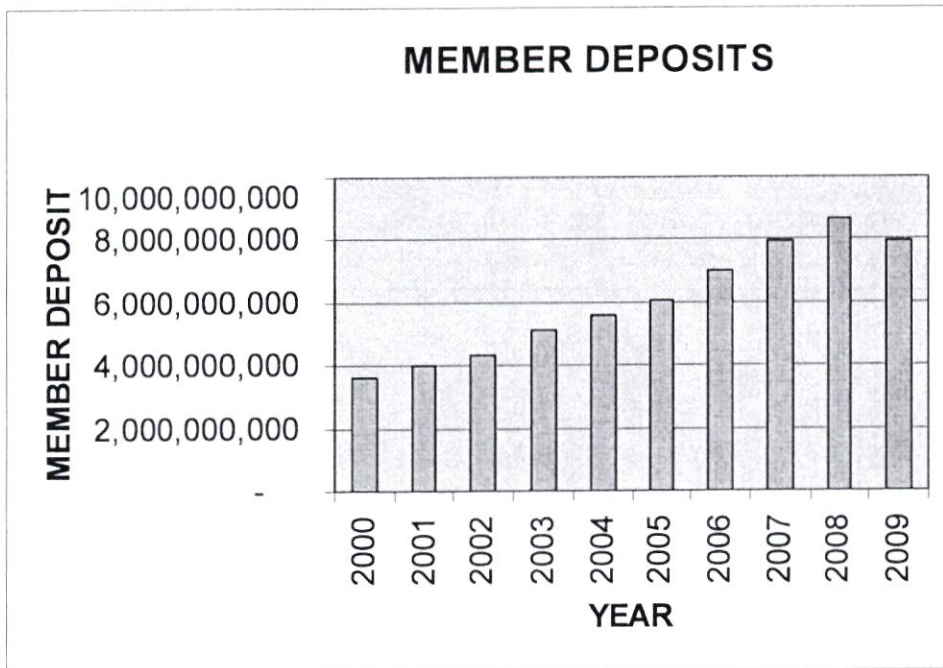
Source: Harambee Sacco Society Ltd



Source: Harambee Sacco Society Ltd



Source: Harambee Sacco Society Ltd



Source: Harambee Sacco Society Ltd

11. The total asset now stands at 12 billion up from 3.2 billion in 2001. According to the Central Management Committee (CMC), the liquidity problem faced by the society in

2001 was occasioned by accumulated debts amounting to 254 million, corruption and heavy investment in non-core projects such as land projects and real estate. The SACCO has since refrained from massive investments in fixed assets in accordance with the recommendations of the report of the Mwaliko Inquiry.

12. The satisfactory performance of the SACCO has consequently attracted positive feedback and good will from the members who have for the last ten (10) years re-elected the membership of the Central Management Committee and the Supervisory Committees to their respective offices. The re-election of the CMC and the Supervisory Committee has created stability in the SACCO which is in tandem with the recommendation of the Mwaliko Inquiry which had observed that stability in the SACCO was paramount in the efforts by the society to concentrate on improving the systems that had been recommended and if the society is to *'turn members doubts into abundant hope'*. This was after the Inquiry observed in the society that *'continued replacement of the CMC, Supervisory members and top Management staff will be disruptive and therefore undesirable'*.

13. The membership has changed since 1985 as follows:-

APRIL 2008 – TO DATE

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|-----------------------------|---|-------------------|
| 1. Mr. Macloud M. Malonza | - | National Chairman |
| 2. Mrs. Beldina Oguya | - | Vice Chairman |
| 3. Mr. Charles Konzolo | - | Hon. Secretary |
| 4. Mr. Meshack Nyang'ute | - | Hon. Treasurer |
| 5. Mr. Charles Geni | - | Member |
| 6. Ms. Nyambura Weru | - | Member |
| 7. Mr. Steve A. Oloo | - | Member |
| 8. Mr. V. P. Ocholla | - | Member |
| 9. Major Stephen M. Nganga | - | Member |
| 10. Mr. Daniel K. Sum | - | Member |
| 11. W O I Willian M. Thendi | - | Member |

SUPERVISORY COMMITTEE

- | | | |
|------------------------|---|-----------|
| 1. Mr. Perminus Ndiege | - | Chairman |
| 2. Mr. Charles Osore | - | Secretary |
| 3. Mr. Josephine Yamo | - | Member |

APRIL 2005 TO APRIL 2008

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|---------------------------|---|-------------------|
| 1. Mr. Macloud M. Malonza | - | National Chairman |
| 2. Mrs. Beldina Oguya | - | Vice Chairman |
| 3. Mr. Charles Konzolo | - | Hon. Secretary |

- | | | |
|--------------------------|---|----------------|
| 4. Mr. Meshack Nyang'ute | - | Hon. Treasurer |
| 5. Mr. Charles Geni | - | Member |
| 6. Ms. Nyambura Weru | - | Member |
| 7. Mr. Steve A. Oloo | - | Member |
| 8. Mr. V. P. Ocholla | - | Member |
| 9. Col Barmao | - | Member |
| 10. Col Richard Ngovi | - | Member |
| 11. Major Dennis Makau | - | Member |

SUPERVISORY COMMITTEE

- | | | |
|------------------------|---|-----------|
| 1. Mr. Perminus Ndiege | - | Chairman |
| 2. Mr. Charles Osore | - | Secretary |
| 3. Mr. Joseph Yamo | - | Member |

OCTOBER 2002 – APRIL 2005

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|---------------------------|---|-------------------|
| 1. Mr. Macloud M. Malonza | - | National Chairman |
| 2. Mr. Frankline Muchiri | - | Hon secretary |
| 3. Mrs. Beldina Oguya | - | Vice Chairman |
| 4. Mr. Meshack Nyang'ute | - | Hon. Treasurer |
| 5. Mr. Charles Konzolo | - | Member |
| 6. Mr. Charles Geni | - | Member |
| 7. Ms. Nyambura Weru | - | Member |
| 8. Mr. Steve A. Oloo | - | Member |
| 9. Mr. Joe K'ouko | - | Member |
| 10. Col Richard Ngovi | - | Member |
| 11. Major Dennies Makau | - | Member |

SUPERVISORY COMMITTEE

- | | | |
|------------------------|---|-----------|
| 1. Mr. Perminus Ndiege | - | Chairman |
| 2. Mr. Charles Osore | - | Secretary |
| 3. Mr. Joseph Yamo | - | Member |

NOVEMBER 2001 – OCTOBER 2002

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|---------------------------|---|-------------------|
| 1. Mr. Macloud M. Malonza | - | National Chairman |
| 2. Mr. Frankline Muchiri | - | Hon secretary |
| 3. Mrs. Beldina Oguya | - | Vice Chairman |
| 4. Mr. Meshack Nyang'ute | - | Hon. Treasurer |
| 5. Mr. Charles Geni | - | Member |
| 6. Mr. Nyambura Weru | - | Member |
| 7. Mr. Joe K'ouko | - | Member |

Mr. Dishon Gogo, Mr. Ben Akwara, Mr. Stephen Chege and Mr. Fred Barasa were suspended from the Central Management Committee in November 2001 due to fraud charges.

SUPERVISORY COMMITTEE

- | | | |
|------------------------|---|-----------|
| 1. Mr. Perminus Ndiege | - | Chairman |
| 2. Mr. Charles osore | - | Secretary |
| 3. Mr. Joseph Yamo | - | Member |

JUNE 2000 – NOVEMBER 2001

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|------------------------|---|----------------|
| 1. Brig. John Serem | - | Chairman |
| 2. Mrs. Beattie Masila | - | Vice Chairman |
| 3. Mr. Benson Okwayo | - | Hon. Secretary |
| 4. Mr. Leonard Orayo | - | Hon. Treasurer |
| 5. Mr. P. Wachira | - | Member |
| 6. Mr. Col E. Njeru | - | Member |
| 7. Mrs. J. Kinyua | - | Member |
| 8. Mr. H. F. Odhiambo | - | Member |
| 9. Mr. Ochieng | - | Member |
| 10. Mr. John Jogo | - | Member |
| 11. Mr. C Mutali | - | Member |
| 12. Mr. Z. daraja | - | Member |

Mr. Z. Daraja was appointed on 7th August 1999 to replace Mr. C. Mutali who resigned during the year.

SUPERVISORY COMMITTEE

- | | | |
|---------------------|---|-----------|
| 1. Mr. Alex chege | - | Chairman |
| 2. Mr. J. Obuya | - | Secretary |
| 3. Mr. Mwalimu Juma | - | Member |

1997-1998

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|------------------------|---|----------------|
| 1. Brig. John Serem | - | Chairman |
| 2. Mr. Ochieng Ogollo | - | Vice Chairman |
| 3. Mrs. Beattie Masila | - | Hon. Secretary |
| 4. Mr. Leonard Orayo | - | Hon. Treasurer |
| 5. Mr. P. Wachira | - | Member |
| 6. Mr. Col E. Njeru | - | Member |
| 7. Mrs. J. Kinyua | - | Member |
| 8. Mr. H. F. Odhiambo | - | Member |
| 9. Mr. Benson Okwaro | - | Member |
| 10. Mr. John Jogo | - | Member |

11. Mr. C Mutali - Member

SUPERVISORY COMMITTEE – 1998

1. Mr. B. Maragia - Chairman
2. Mr. P. Kinuthia - secretary
3. Mr. F. Barasa - Member

1996

COMMISSION MEMBERS

1. Mr. B. Akwara - Chairman
2. Mr. J. A. Okanda - Vice Chairman
3. Mr. D. Aradi - Hon. Secretary
4. Mr. D. R. Mutisya - Hon. Treasurer
5. Mr. S. Ndiwa - Member
6. Lt. Col. V. W. Ajumbo - Member
7. Mr. D. J. Mwasaga - Member
8. Mr. Jeremiah Matagaro - Member
9. Mr. O. F. Kibunja - Member
10. Mr. A. A. Musasia - Member

1995

COMMISSION MEMBER

1. Mr. B. Akwara - Chairman
2. Mrs. Francisca Otete - Vice Chairman
3. Mr. D. Aradi - Hon Secretary
4. Mr. D. R. Mutisya - Treasurer
5. Mr. S. Mutungi - Member
6. Brigadier John Serem - Member
7. Mr. A. K. Mwasserah - Member
8. Mr. O. F. Kibunja - Member
9. Mr. A. A. Musasia - Member
10. Mr. M. Ndiwa - Member

1994

COMMISSION MEMBERS

1. Mr. Mwashimba - Chairman
2. Col D. T. M. Nyagah - Vice Chairman
3. Mr. B. Akwara - Hon Secretary
4. Mr. D. R. Mutisya - Member
5. Mr. A. J. Okoth - Member
6. Mr. D. Aradi - Member
7. Mr. E. O. Ogutu - Member
8. Mr. Z. K. M'Mugwika - Member
9. Mr. J. R. M. Mwangi - Member

10. Mr. G. W. Mbutia - Member

1993

COMMISSION MEMBERS

1. Mr. A. J. Okoth	-	Chairman
2. Mr. Mwashimba	-	Vice Chairman
3. Col D. T. M. Nyagah	-	Hon. Secretary
4. Mr. D. R. Mutisya	-	Treasurer
5. Ms. Agnes Kamami	-	Member
6. Mr. B. Akwara	-	Member
7. Mr. E. O. Ogutu	-	Member
8. Mr. J. Matagaro	-	Member
9. Mrs. Fransisca Otete	-	Member
10. Mr. Z. K. M'Mugwika	-	Member
11. Mr. H. Wanjala	-	Member
12. Mr. G. W. Mbutia	-	Member

1992

COMMISSION MEMBERS

1. Mr. A. J. Okoth	-	Chairman
2. Mr. M. Mwashimba	-	Vice Chairman
3. Dr. R. O. Arunga	-	Hon. Secretary
4. Mr. P. C. A. Kilei	-	Treasurer
5. Mr. T. O. Ayim	-	Member
6. Mr. D. R. Mutisya	-	Member
7. Mr. S. Marala	-	Member
8. Mr. J. M. Mwilidza	-	Member
9. Mr. N. N. Obuba	-	Member
10. Mr. N. N. Obuba	-	Member
11. Mr. H. Wanjala	-	Member
12. Mr. G. W. Mbutia	-	Member

1985-1992

CENTRAL MANAGEMENT COMMITTEE MEMBERS

1. Mr. J. A. Gathenji	-	Chairman
2. Mr. Andrew Ligale	-	Vice Chairman
3. Mr. A. J. Okoth	-	Hon. Secretary
4. Mr. L. M. Mugo	-	Treasurer
5. Mr. S. W. S. Muchilwa	-	Member
6. Mr. Kamau Thuo	-	Member
7. Mr. J. S. Nyamato	-	Member
8. Mr. J. M. Mutungi	-	Member
9. Mr. J. O. Ndisi	-	Member
10. Mr. S. K. Kunango	-	Member

- 11. Mr. G. W. Akumu - Member
- 12. Mr. Z. K. Mugwika - Member
- 13. Mr. Ciira Cerere - Member

14. The remarkable progress being enjoyed by the society had been attributed to tremendous improvement in customer services delivery which has seen development loans processed and paid within three (3) days, emergency and school fees loans paid instantly and regular payments of dividends which amounted to Kshs. 560 million in 2009 at a rate of 6% compared to nil dividends in 2001 and 2002 years. It is predicted that this could rise to between 6% - 8% in 2010. As a result of the improved performance of the Harambee SACCO Society, it was awarded the best improved trophy by the Ushirika Council during the Annual International Cooperative day celebrations in July 2010.
15. It is therefore not understood how issues still linger on despite this noticeable achievements of the SACCO. This is what the Committee would want to unearth in the present inquiry.

2.3 PAST INQUIRIES ON HARAMBEE SACCO SOCIETY LTD

16. According to the Ministry of Cooperative Development and Marketing, the giant SACCO society has had the highest number of inquiries and inspections among all the cooperative societies. Persistent complaints by its members and staff have informed the basis of the investigations into the operations of the society.
17. The results of the inquiries and inspections pointed to certain weaknesses in the governance system of the society which provided wealth of opportunities for corrupt practices by those charged with the responsibility of the running of its affairs. This prompted the Ministry to put the society under the management of Commissions in 1992-1996 years.
18. In 2000, the Nyatichi Report on the Harambee SACCO recommended for the removal of the Central Management Committee soon after they were elected to office. This was however halted following withholding of deductions by members from some departments on the premise that they were not represented in the executive committees of the society.
19. Subsequently, the Government appointed the Mwaliko Inquiry in 2001 which among other objectives was to examine the mode of representation of the members of the CMC and general meetings, the society's by-laws and the implementation of previous reports and recommendations. The Inquiry was concluded in May 2002.

20. To implement the Mwaliko Report, the Harambee SACCO first adopted the recommendations with amendments in an Annual Delegates Meeting (ADM) held on 7th March 2003. The ADM is the supreme authority of the SACCO. Thereafter, the work plan was developed and regularly monitored and reports submitted to the Ministry of Cooperatives. Overall, the Ministry reports the implementation status at 95 percent.
21. From the recommendations of the past reports of inquiry, the society has undertaken transformative strategies to drive its performance. These include:-
- i. formulation and implementation of society strategic plans
 - ii. restructuring of human resources and hiring of competent key staff
 - iii. training of Central Management Committee in corporate governance principles
 - iv. implementation of integrated IT system
 - v. adoption of file-less system of operations in the processing of loans to members
 - vi. introduction and expansion of FOSA networks, product innovation and repackaging
 - vii. constant reviews of the loaning policies
 - viii. teamwork in the society among committees, and between the committees and the staff
 - ix. enabling policy and legal framework through involvement of government officials in policy formulation, high compliance with relevant laws and conflict resolutions
 - x. commitment to customer service
 - xi. education of the members
 - xii. Undertook a corruption risk assessment audit of the SACCO in 2004 with the assistance of KACC.
 - xiii. above all, ethical and professional conduct and integrity of the management of the Harambee SACCO in dealing with members, staff and stakeholders
22. The allegations of mismanagement therefore appear to interrupt the SACCO from the gained momentum towards the path of recovery. In this regard there is urgent need to unearth these allegations if the SACCO is to continue to record the gains made in the last decade.
23. After perusing the documents tabled in the House on 31st August, 2010, the Committee arrived at the following specific allegations with respect to the following players which it sought to receive evidence from:-

A. CMC and Senior Management

- 1) That, they concealed or destroyed vital files required for an inquiry by the Anti-banking fraud unit
- 2) That, they irregularly paid honoraria amounting to Kshs. 8.8million to Mwaliko Commission of Inquiry who were investigating corruption allegation at the SACCO, without the approval of the Annual Delegates Meeting (ADM)
- 3) That, they have failed to implement both the Kenya Ant-Corruption Commission (KACC) report of 2004 and the Mwaliko report of 2002.
- 4) That, they unfairly disciplined staff who raised or whistle blew cases of corruption, by either sacking them or transferring them outside Nairobi' that such cases include Mr. Tony Mayuku, Joseph Otanga, Paul Onyango.;
- 5) That, they fraudulently purchased shares worth Kshs 19.95million without the ADM's approval as required by the society's by-laws from a company – Gina Din Communications SACCO Ltd - closely associated with Hon. Joseph Nyagah, EGH, and MP, against advice of the finance staff of Harambee SACCO;
- 6) That, they pay the Minister for Cooperative Development and Marketing, the Hon. Nyagah Kshs. 200,000 as protection fees on weekly basis;
- 7) That, CMC irregularly advanced themselves loans amounting to Kshs 724,068,864 against sitting and travelling allowance, contravening the spirit of corporate law;
- 8) That, they colluded with cashiers No. 1, 2 and 3 to fraudulently transfer cash to non existing cashier No. 8 (Steve Mwanga) amounting to Kshs. 300 million
- 9) That, they fraudulent double encashed cheques at the FOSA worth Kshs 121million, and that evidence existed;
- 10) That, they irregularly used contingency monies which remain unaccounted for since 2006 in contravention of the law on interest
- 11) That, the SACCO directors were interdicted by court in January 2005 but remained in office;
- 12) That, CMC issued death threats to members and staff of the SACCO who raised alarm on corruption at the SACCO;
- 13) That, current CMC/ directors have served since 2002 in contravention of society's By-laws which provide for a limit of 2 terms;
- 14) That, CMC failed to step aside during corruption investigations undertaken by CID between 4th June, 2009 and 21st October, 2009 as required by law;
- 15) That, CMC members allocated themselves large sums of IOUs amounting to Kshs 700,000 and Kshs 67million;
- 16) That, CMC members Charles Geni and the Chairman, Maclond Malonza were accused of grabbing land of Plot No. 1093, title deed no. 4324 at Harambee field Estate

- 17) That, the audited accounts of 2005 failed to explain various expenses (repairs and purchase of computers), provision for bad debts amounting to Kshs 22,965,375 and income from rent, particularly at Nyali House;
- 18) That, there was late presentation of documents to delegates in 2005 AGM and immediate approval of audited accounts by the Commissioner of Cooperatives the same day the AGM took place, against the law which requires 14days;

B. Ministry of Cooperative Development and Marketing

- 1) That, the Hon. Minister, Hon. Joseph Nyagah, EGH, MP is associated with Gina Din Corporate Communications SACCO Ltd that fraudulently sold shares to Harambee SACCO worth Kshs 19.5Million at Kshs 7 per share without proper pricing and without due process of the law - not authorized by ADM and that the concerned members wrote to him on 1st July, 2009;
- 2) That, the Hon. Nyagah receives Kshs. 200,000 weekly to protect the CMC of the SACCO from wrong doing;
- 3) That, despite several correspondences from the aggrieved parties including meetings with the Hon. Martha Karua, MP, no assistance was forthcoming from the Minister;
- 4) That, the Hon. Nyagah has never met with Harambee SACCO delegates to listen to their concerns;
- 5) That, the Ministry failed to oversee full implementation of Mwaliko report because there are concerns the minister was involved in the Scam;
- 6) That, the Commissioner for Cooperatives has looted from SACCOs since 2004 and that he approved Harambee SACCO's audited accounts of 2005 immediately on receiving them at 5.00pm a day before the AGM;
- 7) That, the Minister and the Commissioner for Cooperatives did not act on the court order that interdicted the Directors in January 2005 and were therefore left in office;
- 8) That, the Minister for Cooperatives Development and Marketing did not act on complains vide letter 11th June 2000 concerning evidence of double cheque encashment and theft of petty cash; and
- 9) That, the Minister/Minister failed to take action with regards to Directors who have served since 2002 against the law that requires Directors to serve for only 2 terms.

C. Criminal Investigation Department (CID)

- 1) That, they conducted shoddy investigations and thereby resulting in the closure of the corruption file;
- 2) That, they confiscated crucial exhibits (bank records concerning cashier transfers) from the SACCO;

- 3) *That, they were compromised by the Harambee SACCO board while undertaking investigations between 4th June 2009 and 2nd October 2009; and*
- 4) *That, they took long despite the necessary evidence being made available to them by members of the Harambee SACCO*

D. Attorney General's Office

- 1) *That, the AG failed to act conclusively on the KACC report forwarded to him on the 12th August, 2003, as per the special Kenya Gazette of November 19th 2004 (ACPU/INQ14B/17.03.2003 ACPU/INQ14A/24.12.2003);*
- 2) *That, the AG failed to act on irregular allocation of Kshs 8.8million to the Mwaliko Commission of Inquiry and only imposed a charge of Kshs 246,000.*
- 3) *That, the AG is related to the General Manager of Harambee SACCO, Mr. J Wandera Maloba and therefore some level of bias was expected in the investigation*
- 4) *That, the AG misled the House on Tuesday, 17th August, 2010, that the Harambee SACCO ADM held on the 9th October 2003 had specifically discussed and approved payments of the Honoraria to Mwaliko Commission, as per the Minutes of the 32nd annual delegates Meeting; and*
- 5) *That, the AG failed to act on the complaints dated 8th December, 2009, presented to his office on 10th December, 2000, on corruption allegations within the SACCO by members of Harambee SACCO.*

E. Gina Din Communications SACCO

- 1) *That, SACCO initiated a process to sell 2,850,000 shares at Kshs 7 per share worth Kshs 19.5 million through a letter dated 4th June 2009 at a time the shares were trading at the NSE at Kshs 7.25 and Kshs 7.50, and that no further negotiations with regards to pricing was ever done;*
- 2) *That, Gina Din Corporate Communications SACCO is associated with Hon. Joseph Nyagah, Minister of Cooperative Development and Marketing; and*
- 3) *That, the SACCO failed to follow due process, by not following up on whether the CMC of Harambee SACCO had deliberated and approved the purchase of the said shares during ADM.*

CHAPTER THREE

PROCEEDINGS WITH WITNESSES AND SUMMARY OF THE EVIDENCE

3.0 INTRODUCTION

1. The Committee held hearings to gather first hand information from the witnesses invited to appear before it. The detailed evidence received from the witnesses during the proceedings are summarized and presented here below.

3.1 HON. MARTHA KARUA, MP

2. On Thursday, 23rd September, 2010, the Hon. Martha Karua, MP, Gichugu Constituency, informed the Committee that she had on different dates raised three questions in the House relating to the conduct of the Management of the Harambee SACCO Society Ltd. The parliamentary questions were:-

- (i) On Tuesday, 30th March, 2010, asked the Minister for Cooperative Development and Marketing, Question No. 029-

a) *'Whether the Minister is aware that the Chairman and his entire Management Team continue to hold office in contravention of the Public Officers Ethics Act after being charged with the theft of SACCO funds vide NRB Misc. Application No. 45 of 2004 and what action he plans to take against them'; and*

b) *'What action has the Minister taken on the Mwaliko Inquiry Report of May 2000 in respect of Harambee Plaza Investment Housing Cooperative Society Ltd and Harambee SACCO'*

- (ii) On Thursday, 26th August, 2010, asked the Minister of State for Provincial Administration and Internal Security, Question No. 018-

'What action has the Commissioner of Police taken on complaints lodged to him by staff of Harambee SACCO regarding grand corruption at the SACCO'

- (iii) On Tuesday, 31st August, 2010, asked the Attorney General, Question No. 006-

'What action has the Attorney General taken on the Harambee SACCO investigation file ACPU No.14B/17/3/2003?'

Subsequent to the response by the Attorney General to the question No. 006, on 31st August, 2010, the Speaker directed the Committee on Agriculture, Livestock and Cooperatives to further interrogate the matter after it attracted great interest among members.

3. Hon. Martha Karua further informed the Committee that some concerned members of Harambee SACCO Society visited NARC-Kenya offices late last year (2009) and presented documents relating to alleged corruption at the SACCO. She told the Committee that:-
 - i) After studying the documents, she sought audience with the Minister for Cooperative Development and Marketing to assist the complainants present their grievances for the necessary action by the Minister. This took place in March 2010.
 - ii) The information gathered from the complaints including inquiry reports and investigations by the relevant investigating agencies provided basis for her questions in Parliament.
 - iii) The final question was the one she asked the Attorney General whose response made the Speaker to direct the Committee to undertake inquiry over the matter.
4. At the end of her brief, she promised to provide all the documents in her possession on the subject to assist the Committee gain an insight into the matter and identify specific allegations raised by the complainants. The documents were utilized by the Committee to arrive at the allegations which have been presented in Chapter two, paragraph 22.

3.2 COMPLAINANTS/CONCERNED SACCO MEMBERS

5. On 30th September, 2010, the Committee received evidence from the complainants who presented their detailed submissions relating to the alleged mismanagement of the funds at the Harambee SACCO by the Central Management Committee (CMC). The Complainants comprised of:-

1. Geoffrey Ontieri, Government Chemist
2. Tony Matuku
3. Tom Odero, National Organizing Secretary of finance
4. Stanly Gikonyo, Retired chief
5. John Jogo, Ministry of Trade
6. Karanja Rimungi

7. Daniel Turibu
 8. Ben Sifuna, Consultant
 9. Joseck Otanga
 10. John Kamau, retired chief
 11. Kennedy Mageto, Ministry of Agriculture
6. Information gathered during the inquiry indicated that some of the complainants were former employees of the SACCO, former CMC officials, members of Harambee SACCO Plaza (and not members of the society) and a union representative. Subsequently, the Committee was concerned as to whether the allegations were genuine, and the integrity and sincerity of some of the complainants given that some of the complainants had contested for CMC positions in the SACCO.
 7. After seeking to understand the difference between members of the SACCO Society and Harambee SACCO Plaza, the Committee heard that:-
 - i) officials from the Ministry of Cooperative Development and Harambee SACCO have colluded in the mismanagement of funds through inducement as a way covering fraud at the SACCO;
 - ii) Harambee SACCO was losing member's savings through payment of hefty allowances to the Central Management Committee (CMC);
 - iii) cash advances to the CMC were being paid without due process being followed;
 - iv) double encashment of members' cheques were rampant;
 - v) Ministry officials including the Commissioner for Cooperatives who are mandated to provide oversight function on cooperative matters were being compromised through payment of hefty allowances; and
 - vi) the Kenya Anti-Corruption Commission (KACC) despite overwhelming evidence provided by the complainants have been unable to conclusively investigate reported cases of corruption at the SACCO.

The Committee heard evidence in respect of the allegations against the CMC and management of the SACCO which are presented here below.

3.2.1 Payment of allowances

8. The Committee was informed that:-
 - i) huge payments amounting to Kshs. 1,000,000 were made to the Commissioner of Cooperatives (the then Registrar of cooperatives) and other Ministry officials, and members of the CMC and Supervisory Committee during a **computer audit seminar** at Garden Hotel, Machakos;

- ii) the Ministry officials received the allowances yet they were charged with overseeing the functioning of the SACCOs in the country, and they had been tasked to follow up on the complaints made against the CMC;
- iii) the said sum of money had no budgetary provision and was subsequently never reflected in the books of accounts;

While receiving submissions from the CMC, the Committee heard the explanation that the said amount was authorized, expensed and reflected in the society's subsequent books of accounts as administrative expenses in the year 2003

9. The Committee was further informed that:-

- i) the officials of the SACCO were paid allowances when they appeared before the Anti Corruption Police Unit at Integrity Centre along Valley Road, and that a total sum of Kshs 10,000 was paid to the Chairman to attend such meeting on the 22nd and 23rd May 2003, and that;
- ii) an amount of Kshs 38,500 was paid to the CMC members as allowances on 1st July, 2003, when they toured the Green fields project (an initial housing project of the Harambee SACCO).

While responding to the above allegation, CMC informed the Committee that it was within the Society's policy to pay allowances to its officials attending Society's official businesses outside the Society premises. Hence the payment of Kshs 10,000 and Kshs 38,500 to officials was in order.

10. The Committee heard that senior management abuse their offices by issuing directives on processing of allowances and subsequently, a compliment note dated 22nd May 2003 by the General Manager was used to authorize a disbursement of Kshs 20,000 to the chairman of the SACCO as allowances to attend an official function.

3.2.2 Strategic Planning Retreat

11. The Committee heard that:-

- i) The Commissioner and other Ministry officials who attended a 'Strategic Planning Retreat' at Garden Hotel, Machakos on 13th January, 2003, on the same day they were conducting an audit seminar on acquisition of computer software at the SACCO were paid Kshs 859,950 in the form of consultancy fees.

- ii) A consultancy firm, TIPS MANAGEMENT SERVICES, was further paid a total of Kshs 617,400, eight days after receiving an earlier amount of Kshs 859,950 for facilitating a Strategic Planning Workshop on 22nd - 24th January, 2003.

While appearing before the Committee, the CMC and the Supervisory Committee acknowledged that the above payments of Kshs 859,950 and Kshs 617,400 to the company M/s TIPS Management Services were transacted after the said firm was retained by the Society's management in November 2002 to help formulate a strategic plan whose continual implementation was as recommended by the Mwaliko Inquiry Report. According to the CMC, the operationalization of the plan has contributed to the financial turnaround of the society

- iii) An amount of Kshs. 36,000 was paid as hotel accommodation at Bounty Hotel in addition to payment of allowances to management of staff at rate of Kshs 4,000- Kshs 8,000 per day.

As regards this allegation, the CMC later clarified that the accommodation expenses at the Hotel Bounty amounting to Kshs 36,000 was in respect of 15 senior management staff of the society at a rate of Kshs 800 per person per day when they were tasked to collate deliberations and issues as discussed during the Strategic management workshop from the 15th - 19th January, 2003, and ultimately develop a draft strategic plan document.

- iv) Allowances amounting to Kshs.402, 250 were paid to senior Management for attending a strategic Workshop at Garden Hotel, Machakos on 15th – 19th January, 2003, which reflected double payment since Kshs 469,600 had been paid to the same hotel as accommodation fees.

As regards this allegation, the Committee was informed by the CMC that the payment of Kshs 402,250 was made towards allowances for Senior Management Staff attending the Strategic Planning workshop held between 15th and 19th January, 2003, and that the cheque No.188079 dated 13th January, 2003, related to said allowances.

- v) While presenting evidence on alleged abuse of office, theft and corruption at the SACCO to the Kenya Anti-Corruption Commission for investigations in a letter dated 2nd April, 2004, by one, Ben Sifuna, KACC responded in their letter dated 27th October 2004, some 6 months later, that they were awaiting the outcome of the internal investigations by the SACCO which had requested the KACC to undertake corruption risk assessment at the society.

While responding to the allegation, CMC was categorical that they were not aware of any letter to KACC by Ben Sifuna as regards to intimidation and abuse of office.

3.2.3 Cash Advances (IOUs) without due process

12. The Committee was informed that:-

- i) Petty Cash advances amounting to Kshs 1,200,000 was paid to CMC Members made up of Mr. Malonza of Kshs. 700,000 on 2nd March, 2007, and Mr. Makau of Kshs. 500,000 in the form of IOU on the 18th April 2008. This the complainants explained contravened the Cooperative Act and Cooperative by-laws requiring any individual applying for a loan state the same in writing, and that the IOUs had been discontinued following the recommendations of the inquiry of June 2003.
- ii) The chairman accessed loans amounting to Kshs. 1,000,000 against his allowances despite being owed Kshs 216,652 at the time of application.

While responding to these allegations, the Committee was informed by CMC that FOSA personal loans were made to any member of the CMC who is at liberty to commit allowances towards repayment of loans as long as they are procedurally paid. Further the Committee heard that no member of the CMC and Supervisory Committee had defaulted on loans which amount to Kshs 23,377,040 as at August 2010. The Committee was further informed that the petty Cash slips purporting that the National Chairman, Mr. Malonza and the former CMC committee member, Major Makau were advanced cash amounting to Kshs 1,200,000 were a forgery and that the monies were not known to them.

3.2.4 Interdiction of some CMC Members

13. The Committee heard that some Members of the Central Committee (CMC) had been interdicted in their respective work places but continued to serve in the SACCO in their various capacities, and that the chairman, Mr. Macloud Malonza (of Personnel Management) and Ms. Nyambura Mugure Weru (of the Ministry of Home Affairs) had been interdicted on 20th and 27th January 2005, owing to criminal cases relating to SACCO affairs had been filed against them.

The CMC response was that the allegations were false as the cases stand stayed in court.

3.2.5 Transfer of Cash and Double encashment of cheques

14. The Committee heard from the complainants that:-

- i) FOSAs of the Harambee SACCO were conduit for embezzlement within the SACCO.
- ii) The chairman and his allies continue to defraud the SACCO through transfer of funds from the Front Office Services Activity (FOSA) amounting to Kshs 300 million and double encashment of cheques amounting to Kshs 121,609,468.

While responding to these allegations, the CMC informed the Committee regarding fraudulent transfer of cash and double encashment of cheques, this was the position of the SACCO that:

- a) Harambee SACCO does not practice transfer of money among cashiers but inter cash temporary borrowing is common upon which reconciliations were done before the end of the day and money reimbursed to the lending cashier.*
- b) They were untrue since there was no evidence of such transfers and that the cashiers do not maintain cash transfer registers in its FOSA.*
- c) The double encashment of cheques was not true since most of the alleged cases were not in the series of cheques in their books and that; there was no evidence of double encashment of cheques. Moreover, the paying cashiers and the recipients were not known*

3.3 HARAMBEE SACCO CENTRAL MANAGEMENT COMMITTEE (CMC)

15. On 4th October, 2010, the Committee heard evidence from the Central Management Committee (CMC) and the Supervisory Committee. After presenting their submissions relating to the subject matter of the investigation, the Committee raised issues covering numerous allegations leveled against them through the media, complainants and Parliamentary questions and subsequent debate on the matter. The detailed allegations were as presented paragraph 22 of chapter two.

16. While responding to the allegations, the CMC informed the Committee as follows-

a) Concealed/ destroyed files

- i) That, on the contrary, the police officers from the Economic Crimes Unit, while in possession of a court search warrant held FOSA Manager in June

2009 and confiscated all the documents from the society's FOSA offices which they continue to hold to date. This made it difficult for the said documents to be handed over to a team of investigators from the Banking Fraud Investigation Unit in the January 2010.

- ii) That, the said documents included the central processing unit of FOSA personal computers, manual treasury register (2003- 2007), manual cashier specifications (2003-2007), manual cashier daily report and the bank statements of 2003 – 2007).
- iii) That, the SACCO management had written letters to request for the confiscated documents including a letter requesting for the submission of the report on the findings of the previous inquiries undertaken by KACC. At this juncture, the Committee informed the CMC that the BFIU report on corruption allegations at the SACCO by Banking Investigation Fraud had been tabled in Parliament and which subsequently informed the investigation by the Committee.

b) Payment of honoraria to Mwaliko Commission

- i) That, the Mwaliko Commission was appointed by the Commissioner of Cooperative Development and Marketing as referenced in the letter NOCS/1916/ (133) dated 27th December 2001.
- ii) That, the Commission's terms of reference was to inquire into the By-laws, the working and financial conditions of Harambee SACCO Society Limited.
- iii) That, the cost of the inquiry was to be borne by the society as stated in the letter of appointment and as outlined in section 60 clause 1 of the Cooperative societies Act No.12 of 1997, and that the payments of honoraria was made after the Permanent Secretary, Ministry Of Cooperative Development and Marketing wrote a letter instructing the Society to pay.
- iv) That, the inquiry expenses which included the honoraria amounting to Kshs 9,572,200 were expensed on the audited accounts of 2002 (as inquiry expenses) subsequent to discussions and adoption of accounts during the 32nd Annual Delegates Meeting held on the 8th October, 2003.

c) Partial implementation of the KACC report of 2004 and the Mwaliko Report (2002)

- i) That, the KACC report done on the request by the Society was a culmination of a corruption risk assessment on the management and operations of the

Harambee SACCO instituted by Harambee SACCO management to streamline the society's operations as recommended in past inquiry reports particularly Mwaliko Report of May 2002.

ii) That, the findings by KACC thereof were that there existed weaknesses and loopholes in the management of the society which if not addressed would be exploited for corruption malpractices. The key recommendations were:-

- i. Hasten electronic transfer of approved loans
- ii. Discontinue IOU facility for prudent financial management and recovery of IOUs to be instituted
- iii. Develop clear guidelines, policies and procedures on the operations of FOSAs
- iv. Strengthen internal Audit capacity and eliminate interference
- v. Increase supervisory spot checks at the FOSA, recover and surcharge where shortage abound
- vi. Records to be stored in secure rooms and to be accessed only by designated officers
- vii. Payment to contractors to be based on performance
- viii. Ensure user department in the evaluation of tenders and quotations.

iii) That, the SACCO had implemented recommendations including :-

- i. Computerization of its operations and provision of electronic fund transfer
- ii. The IOU was abolished and if granted has to be authorized
- iii. The FOSA manual is under implementation
- iv. The internal Audit Department has been restructured and strengthened and qualified staff deployed
- v. Financial supervision and regular spot checks and daily reconciliations undertaken
- vi. A budget for record management consultancy was approved by the ADM
- vii. Adhere to Public Procurement and Disposal Act 2005 and hiring of a procurement officer
- viii. Computerized Loan policy and processing

iv) That, the Mwaliko report and recommendations were adopted with amendment at the ADM on the 7th March, 2003, and the Society developed a work plan on implementation which was ongoing.

v) That, in overall, the implementation status of the recommendations could be rated at 95percentage points.

- vi) That, the pending 5 percent included properties and land owned by the SACCO across the country yet to be disposed off but some lacked title deeds since they only have allotment letters.

d) Unfair disciplining of staff

- i) That, the society had at no time dismissed any employees without due process and staff were only dismissed or relieved of their duties with very substantial reasons.
- ii) That, redundancy exercise that was undertaken by the management in conjunction with M/s Federation of Kenya Employers in November 2007 was in conformity with the recommendation of the Mwaliko inquiry of May 2002.
- iii) That, disciplinary measures had been taken against staff alleged to have misappropriated society's funds or found guilty of gross misconduct were done as per existing labour laws and society's staff regulation.
- iv) That, some of the members of the SACCO and former members of staff who have continually written adverse stories about the society were not genuine as their profiles support(see annex II for details). In summary-
 - 1) **Geoffrey O. Ontieri** of Membership Number 2814, and currently a delegate has made attempts to be elected in the management team without success since he lacked a proposer and seconder. He was reinstated as member of the SACCO in June 2010 after suspension by the CMC as per the society's by-laws.
 - 2) **John Lewis Jogo** of Membership Number 39486 was a former CMC member upon the recommendations of the inquiry report of June 2000 was removed and barred from participation in society affairs for 10 years as per rule 30 (g) of the cooperative Societies Act of 1998.
 - 3) **Kenneth Mageto** of Membership Number 63694 was reinstated as a member in 2005 after expulsion in the same year.
 - 4) **Daniel Turibu** of Ex-membership number 123200 ceased to be a member on 15th April 2009 and former employee of the SACCO was dismissed on 6th January 2009 on gross misconduct.
 - 5) **Joseck Omuhinda Otanga** of Ex-Membership number 123182 ceased to be an employee and SACCO member on 2nd February 2010 and 1st July 2010 respectively on grounds of gross misconduct.

- 6) **Tony Mutuva Matuku** of Ex-Membership number 123270 ceased to be a member and employee of the SACCO from 8th march 2010 on accounts of desertion of duty while on a transfer in Kisumu.
 - 7) **Ben Simiyu Sifuna** of Ex-Membership number 123229 ceased his membership in January 2010 and dismissal from employment on charges relating to missing cheques.
 - 8) **Evans Bogonko Bosire** was dismissed on gross negligence after a loss of Kshs 1,28million at the SACCO Mombasa branch, and has a criminal case in Mombasa Court.
- v) That, the CID, CMC and Management of Harambee had no knowledge of Mr. J.S Langat within the SACCO but whose letter was widely circulated among the Members concerned the Committee(see Appendix III)

e) Fraudulent purchase of Gina Din SACCO shares

- i) That, the purchase of 2,850,000 shares worth Kshs 19,950,000 at a discounted fee of Kshs 7 per share from Gina Din Communications SACCO was procedurally executed and guided by the society's investment policy.
- ii) That, the purchase was approved by the CMC in a meeting held on the 11th June 2009 vide minute number 129/2009.

f) Weekly protection fee of Kshs 200,000 being paid to the Minister for Cooperative Development

That, this was unfounded and untrue and those circulating this serious allegation failed to substantiate this claim.

g) Irregular allocations of loans to CMC

- i) That, the CMC member had not been paid the amount Kshs 724,068,864 against their sitting and travelling allowances, and that, all members requiring loans including the management are obliged to comply as per the loaning policy of the SACCO.
- ii) That, the total loans owed by the CMC members amounts to Kshs 23,377,04 as at August 2010.

h) Fraudulent transfer of money to a non-existent cashiers

- i) That, the purported non-existent cashier number 8 (Steve Mwanga) is a former employee of the SACCO who was deployed at the FOSA as a data entry clerk and not as a cashier in question.
- ii) That, the transfer of cash from cashiers 1,2 and 3 was not true since the application for inter-cashier borrowing is ultimately authorized by the FOSA manager.

i) Fraudulent double encashment of cheques

- i) That, the existence of double encashment of cheques took place sometimes in 2007 when two employees of the SACCO, Ms Rodah Aluoch and Mr. Kennedy Obuya were involved and were surcharged.
- ii) That, because the investigations by management were not conclusive, the two employees were reprimanded administratively and were repaying loans amounting to Kshs. 2.047 million and Kshs.2 million respectively.
- iii) That, the investigations were undertaken by the management on receiving an anonymous letter alleging double encashment of cheques by cashiers at FOSA amounting to Kshs 21,609,468 but the allegation lacked substance.

j) Irregular use of contingency money

That, this was not possible to be misused since at the end of any official assignment, all monies were surrendered and accounted and ultimately the accounts were retrospectively approved and adopted by the ADM.

k) The indictment of some Directors

That, the alleged cases: Case No. 45 of 2004 and No. 330 of 2005 and a cooperative tribunal case No. 11 of 2005 against the CMC members and the General Manager, a Mr. Humphrey Ogeto, were stayed in court as per the court decision thus:-

'In His ruling the Chief magistrate observed that the 'proposed intended accused persons' were yet to take their plea and hence could not be referred to as accused persons.'

l) Issue of death threats by CMC and Directors

The Committee was informed that such allegations were unfounded and that no member of the CMC had been questioned relating the allegations. The Committee was further informed that, instead a member of the CMC had been a victim of the threats through text messaging by a retrenched former employee, Dorcas Isaboke, and that the matter was in court (criminal case No. 721 of 2010).

m) Expire of the term in office of CMC Members

The Committee heard that the current CMC assumed office when existing policy regarding elections was that members could only serve for not more that two terms of five years each. The Committee further heard that the policy had since been revised by the Ministry of Co-operative Development in 2004 and that up to 1/3 of the committee retire each year with eligibility of being re-elected

The Committee was informed that all the current CMC members took office after 2001 and regardless of the rotational provisions provided in the policy, the CMC comprising of only Messrs Macloud Malonza, Charles Konzolo, Meshack Nyangute, Charles Geni, Steve A. Oloo, V.P Ochollo, Ms Nyambura Weru and Beldina Oguya could only be regarded as being illegally in office after 2011, and that the others, comprising of Messrs Stephen Nganga, Daniel Sum and William Thendi would have left the office after 2014.

n) Stepping aside of CMC under investigation

The Committee was informed that the directors did not step aside since the basis for the allegations were unfounded and that, although stepping down is a matter of principle and not necessarily within the Cooperative society's Act and By-laws, it was not considered as an option. The Commissioner for Cooperatives later added that complaints over mismanagement of the SACCO was perennially being raised by the same group of people and were never substantive to cause serious prosecution.

o) CMC and IOUs

The Committee heard that the society does not advance IOUs to CMC and that any official in need of loans can only access the funds through loans and repay with interest as per the recommendations of the Mwaliko report. The Committee further heard that the material evidence presented before the Parliamentary Committee purportedly to support the CMC borrowing in the form of IOUs worth Kshs 67million was a forgery since it did not specify the name of the cashier, and that the signatures on the document were most likely superimposed as had happened in the SACCO before.

p) Land grabbing allegation

The CMC was categorical that the plot No. 1093, title deed No. 4324 at Harambee Field Estate allegedly grabbed by Charles Geni, a member of CMC, did not belong to Harambee SACCO and that no CMC member has ever been allocated Society's land and property.

q) Audited account of 2005 and late presentation to the ADM

The Committee was informed that the SACCO had consistently held its Annual Delegates Meetings and presented its accounts for approval, and that in the audited accounts of 2005, particular items stood out these were which were:-

- (i) the repairs and maintenance of computers, server licenses costing Kshs 15,540,675,
- (ii) bad and doubtful debts which were provisions for non-performing loans worth Kshs 22,965,375, and
- (iii) rental income relate to the Nyali house in Mombasa of Kshs 3,324,000

The Committee was further informed that the said accounts were exhaustively discussed and adopted by the ADM held on the 20th April 2005 after approval by CMC on the 6th April 2005 and subsequently displayed to members on the same day as provided for by the society's by-laws which provides for 14 days period.

3.4 MEETING WITH THE COMMISSIONER FOR COOPERATIVES

17. On 5th October, 2010, the Committee met with the Commissioner for Cooperatives when the Committee heard that the Ministry was committed to the immediate implementation of the SACCO Societies Act (2008) which provide for the establishment of the SACCO Society Regulatory Authority (SASRA) to support and regulate SACCOs and FOSAs across the country.
18. The Commissioner informed the Committee that the current CMC had done well to make a turnaround of the society. The Commissioner further informed the Committee that following the recommendations of the Mwaliko report aimed at salvaging the financial soundness of the SACCO, the Society developed an action plan for implementation which was on-going.
19. The Committee was informed that the Harambee SACCO was being continuously monitored after it has had several inquiries and that the Ministry was always represented in all the CMC meetings. The Committee was further informed that

SACCO Society was required to submit regular reports on implementation status of the action plan.

20. The Committee was briefed on the measures the Ministry was taking to ensure that the SACCO sustained its good performance against the background of corruption allegations. Subsequently, the Ministry made recommendations where it observed laxity in the internal controls of the SACCO.
21. The Committee was told that the CMC's operations had been found to be above board as evident by the growing capital base of Kshs. 4.9 Billion in 2001 to Kshs. 12.4 Billion in 2009, and that the Harambee SACCO woos were just a product of malicious complainants whom the Commissioner categorized them into five groups:-
 - i) *Some 5 Members comprising of former CMC members, John Jogo, Geoffrey Ontieri, Sammy Rioba, Peter Odundo, Livingstone Kinyanjui among other who have intentions to ascend to leadership.*
 - ii) *Promoters of the Proposed Harambee Plaza Investment Cooperative Society Limited who want to get to management positions through incitement after failing to do the same through the SACCO*
 - iii) *Former staff who lost their jobs through staff rationalization in 2007 on recommendation by the various inquiries*
 - iv) *Loan brokers whose 30% levy to loan applicants was terminated by the current CMC*
 - v) *Those interested in managing the growing funds of the SACCO.*

3.5 MEETING WITH THE CRIMINAL INVESTIGATIVE DEPARTMENT (CID)

22. The Committee held meetings with the Director of CID, on 6th and 11th October, 2010, when the Committee was informed that the investigations by the Economic Commercial Crimes Unit (ECCU) relating to the alleged mismanagement of funds at the Harambee SACCO commenced after two sets of letters dated 21st November 2008 and 18th May 2009 were received allegedly from a Mr. Wilfred Nyacheo (FOSA Manager). The Committee was further informed that the same letters were forwarded to the Officer in Charge, Banking Fraud Investigation Unit (BFIU), on the 20th August 2009.
23. The Committee was told that, on completion of the investigations by the ECCU, the file was forwarded to the Attorney General (AG) for perusal and direction. Thereafter, the AG concluded, in his letter dated 19th February, 2010, that the following allegations had no criminal offences:-

court since no evidence was available even after the resubmission of the file on 4th June, 2010, where crucial exhibits was found missing-

- i) Irregular loans to members of CMC amounting to Kshs 724,068,864
- ii) Default in payment of loans by CMC members
- iii) Irregular advances to management amounting to Kshs 67,200,000
- iv) Fraudulent transfer of funds to a non-existent cashier No. 8
- v) Overspending during AGM

The Committee heard explanations that the police's investigation lacked the cooperation from the complainants and as a result *'the credibility of the witnesses was in question since they preferred to be treated as whistle blowers as opposed to being witnesses'*. The Committee further heard that the letter that triggered the investigation, dated 21st November, 2008, by one, Wilfred Nyacheo (FOSA manager), was found to be *'fictitious, a lie and forgery'*. The police was also frustrated by lack of access to documents in possession of prime suspects.

(c) The third case file No. 1/2010, relating to investigations into allegations of mismanagement of funds of Harambee by CMC and Senior managers-

The Committee heard these comprised of 7 areas of allegations of fraud whose findings and recommendations by police were as follows-

- i. the purchase of shares from Gina Din Communication SACCO amounting to Kshs. 19.950 Million was said to be above board since all procedures were followed and hence required no further investigations;
- ii. irregular securing of loans by CMC members against sitting allowances was found to be without substance since loans were granted procedurally through approval by CMC members and granted vide minutes of CMC and hence warranted no further investigation
- iii. fraud transfer of money to the tune of Kshs. 300 Million by cashier No. 1, 2, & 3 to a non-existent cashier No. 8 (Steve Mwanga) was revealed that-
 - a) lacked key documents- treasury registers, cashier specifications forms - in respect to alleged fictitious transfers despite the fact that the SACCO was fully computerized effective 1st August 2007
 - b) there was no statement recorded from Steve Mwanga

Following the ensuing blame game between the management and the KACC on loss of documents, Wilfred Nyacheo was therefore accused of having destroyed evidence. Forensic audit by a reputable institution was further recommended.

- iv. regarding petty cash and contingency payments allegation, the Committee was informed that findings revealed that, in 2006-2009, most contingencies were not surrendered and that the account was in debit amount of Kshs. 8.5million, and that the Police recommendation was that Nahashon Wambua (petty cashier) and Benson Ojiambo (Finance manager) be dealt with administratively and be charged with neglect of duty
 - v. fraudulent transfer of Kshs. 8.8 million to a/c of Robert Nyongesa was found to be false since the findings revealed no funds were credited to the said account
 - vi. the fraudulent encashment of cheques according to the findings was detected by the FOSA manager, Mr. Wilfred Nyacheo, and led to surcharging of those involved, Rhoda Aluoch and Keneddy Obuya
 - vii. the allegation of irregular procurement was without material evidence and were found to comply with Public Procurement and Disposal Act (PPDA) and regulations by Public Procurement Oversight Authority (PPOA) and hence properly done
41. The CPP informed the Committee that the investigations therefore were incomplete and deficient in material respects and that the police were faced with challenges during the investigation which had been highlighted elsewhere in this report.
42. At the conclusion of the deliberations, the Committee was concerned by the directive given by the Attorney General instructing KACC to undertake a forensic audit of Harambee SACCO within 90 days and a report presented to him given that the Hon. Speaker had on Tuesday, 31st August 2010, directed the Committee to inquire into the allegations of mismanagement of funds at the Harambee SACCO Society Ltd and a report tabled in the House within 21 days.
43. In response, the CPP clarified that the directive made on the 6th September 2010 by the AG was well intended and that it was not meant to impede the mandate of the Committee. He stated the reasons that necessitated KACC's involvement in further investigation were that:-

- i) The police requested for external forensic assistance after the Kenya National Audit Office declined to undertake the Audit citing the SACCOs were outside their jurisdiction
- ii) KACC has the necessary capacity to institute an independent forensic audit of the SACCO
- iii) KACC had in 2004 conducted a risk assessment for Harambee and this would be an opportunity to ascertain the extent of implementation.

3.9 MEETING WITH THE MINISTER FOR COOPERATIVE DEVELOPMENT AND MARKETING

- 44. While giving the genesis and growth of Cooperatives in Kenya, the Minister explained that the cooperative societies and unions suffered 'period of chaos' in the 1990's and whose effects were being felt today.
- 45. With specific reference to the Harambee SACCO, the Ministry had taken appropriate actions to streamline its operations following reports of inquiries and inspection reports on the SACCO. However, a small group of former CMC officials and ex-staff continue to raise issues even after they have been discussed and concluded by Annual Delegates Meeting (ADM) which is the highest authority.
- 46. Despite this, the Minister stated the CMC team was doing a good job and supported by its over 90,000 members. The Minister however admitted there were few issues but which did not disrupt the success story being witnessed in the SACCO.
- 47. The Minister denied having knowledge of receiving weekly amount of Kshs. 200,000 in allowances from Harambee SACCO in order to protect SACCO officials in any wrong doing as alleged in the corruption allegations.
- 48. The Minister informed the Committee that he was a shareholder in Gina Din Communications Company which has set up its own SACCO. He explained that the SACCO bought Co-operative bank shares and eventually sold some to Harambee SACCO and that the transaction was above board.
- 49. In concluding, the Minister stated that the individuals making serious allegations against the Harambee SACCO were not credible, and they continued peddling false allegations against individuals including the Minister even after several meetings held with the Minister to explain the SACCO's operations. The Minister further stated that SACCOs operate on basis of trust and this must be encouraged by all in order for them to thrive without interference.

CHAPTER FOUR

SUMMARY OF THE FINDINGS AND RECOMMENDATIONS

The Committee received evidence relating to the allegations of corruption at the Harambee SACCO Society after they were debated in the House on 31st August, 2010. The sittings of the Committee were held on 20th September – 11th October, 2010. Upon receiving evidence, the Committee analyzed against background of complaints over compromised auditors, delayed prosecution by the AG, poor investigation by the CID and KACC and complacency by the Ministry officials.

The Committee observed that the allegations seemed to have had a common denominator which was under investigation. Thereafter, the evidence was fully analyzed and the Committee makes the following observations and recommendations:-

1. In respect of alleged concealed or destroyed vital files required by the Banking Fraud Investigation Unit, the Committee received submission from the Directors of KACC and the Director of the CID that indeed three files crucial to sustaining any criminal or civil case on various allegations were missing. These files were:-
 - i) Cheque counterfoils (2003-2007)
 - ii) Treasury registers (2003-7),
 - iii) Cashier daily specification reports summary (2003-2007) relating to cash transfers involving cashiers 1, 2, 3 and non-existent cashier number 8.

While Harambee SACCO explained they had been collected as material evidence by the CID, the Director (CID) categorically denied the allegation. Subsequently, the Committee called for all documents in the custody of the Director (CID) but none of the vital documents could be traced in their inventory at the point of raiding the Harambee SACCO premises. The Director CID further admitted that they did not have expertise to reconstruct documents that would lead to successful prosecution.

Based on this revelation, the Committee therefore recommends:-

- (a) The government strengthens the capacity of the CID and KACC to undertake forensic audits of this magnitude.**
- (b) As recommended by the Attorney General, the Committee reiterates that a Specialized Audit be undertaken by KACC.**
- (c) The report of the Specialized Audit in 1 (b) above be availed to the Committee.**

2. In respect to alleged fraudulent double encashment of cheques at the FOSA worth Kshs 121million and in the absence of cheque counterfoils, the Committee could not ascertain this amount of money had indeed been embezzled. However, where evidence was availed, the Committee observed that an amount of Kshs 4,047,000 was actually fraudulently cashed leading to surcharge of two employees namely Kennedy Obuya and Rhoda Aluoch.

While noting that punishment through surcharge on the culprits to recover the lost monies had been done, the Committee recommends that internal audit be strengthened at the SACCOs. The Committee further recommends that the government build capacity of the SACCO Society Regulatory Authority to effectively exercise its inspection activity over SACCOs.

3. On the allegation of the failure by the CMC to implement both the Kenya Anti-Corruption Commission (KACC) report of 2004 and the Mwaliko report of 2002, the Committee observed that the CMC had indeed prepared an action plan in 2003 which formed the basis for implementing the said reports and that the action plan had been implemented up to 95%, and that, the remaining 5% was held up in fixed assets such as land and housing which were yet to be disposed off as per the Mwaliko recommendations. The evidence further revealed that some land plots had no titles but had allotment letters issued.

The Committee therefore recommended that these properties be expeditiously disposed off so that the SACCO reverts to its core business. The Committee further recommended that the Lands Ministry fast tracks the issuance of title deeds for the SACCO once the surveying and valuation of their current commercial value has been undertaken. The Committee also recommended it be updated on final sale is concluded to ensure transparency and accountability.

4. In respect to allegation of unfair disciplinary action against staff who allegedly blew the whistle, the Committee would require additional evidence that this had been done. However, CMC and Director CID presented evidence that revealed that disciplinary action had only been taken against those with gross misconduct including preferred criminal charges against fraudulent cases and reprimanding of non performing staff.

The Committee observed that the transfers at the SACCO were caused as a result of the reorganization, rationalization, computerization and expansion programs by the SACCO in its effort to improve service delivery in its 148 branch network and in conformity to Mwaliko report. No documentary evidence was provided to the contrary, that staff were transferred on punitive grounds. This confirmed by the Director (CID) that no reports of death threats by the

complainants had been recorded at the department, and further that they (complainants) declined to record the same when requested to do so.

5. On the alleged fraudulent purchase of class A shares from Coop Bank holdings worth Kshs 19.95million from Gina Din Corporate Communication SACCO, the Committee observed that the transactions were within the mandate bestowed upon the CMC by the SACCO's By-laws to recommend prudent investment portfolios on behalf of the members. Material evidence presented before the Committee confirmed that the Minister for Cooperative Development and Marketing, Hon. Joseph Nyagah, as shareholder of the Gina Dina Corporate Communication SACCO did not in anyway influence the said transaction.

The Committee therefore concurred with the CID's findings and the Minister's response that the entire transaction was above board. A similar view was held by the CMC and the Commissioner of Cooperatives who confirmed there was no wrong doing in the trading in share with Gina Din Corporate Communication SACCO.

- ~~6.~~ As it regards to alleged weekly payment amounting to Kshs 200,000 to the Minister for Cooperative Development, the Hon. Nyagah, allegedly to protect the CMC management and senior manager from any investigation, the Committee found no evidence adduced to sustain this allegation.

The Committee therefore exonerates the Minister from these unfounded allegations since similar allegations of being compromised had been widely peddled against the CID, KACC, auditors, AG and other Ministry officials who have been involved directly or indirectly in investigation of the SACCO. The Committee recommended that the Director (CID) to pursue the complainants to give substantive evidence on the allegations and if found untrue they be charged in court.

7. On the alleged irregular payments of loans to CMC against sitting and travelling allowances amounting to Kshs 724,068,864, the Committee observed that the quoted figure was misleading. The material evidence indicated that the correct figure of loans owed by the Central Management Committee members was stated at Kshs. 23,377,040.60 as at August 2010 and were regularly being serviced. The Committee further observed that the payment of the loans had been approved in a meeting of CMC held in 2004 and subsequently approved by the ADM.

The Committee therefore was satisfied that the loans were being repaid and that there was no offence committed by CMC in taking loans if they had capability to repay. Further, the Committee appreciated that the amount held by the CMC

was a small fraction of what they had been able to raise in 8 years from inherited losses in 2001 to a total worth of 13.5 billion and a net surplus of 700 million.

8. As regards alleged irregular payment of honoraria amounting to Kshs. 8.8million to Mwaliko Commission of Inquiry, the Committee observed that this was discussed and approved retrospectively during the 32nd ADM meeting held on 9th October 2003.

While noting that this payment was irregular since the members had not ratified before it was paid but that it was conclusively addressed in the subsequent ADM, the Committee recommended that future expenditures be approved before payments were effected. The Committee further recommended that, in future, the cost of investigation and inquiries be met by the investigators, unless specified otherwise.

9. In regards to the alleged use of contingency monies and IOUs, the Committee observed that these monies had not been properly accounted for since 2006 – 2009.

The Committee therefore recommended prompt accounting of these monies whenever they were issued and that those who may still owe the SACCO outstanding contingences be surcharged.

10. In relation to allegation that CMC were interdicted in January 2005 but continue to be in office, the Committee observed that the matter in question was a private prosecution by an non-governmental organization which lacked '*a locus standi*' to prosecute and therefore the case was stayed by the courts. **In view of this, the Committee noted the case did not warrant the SACCO officials to step aside as claimed by the complainants.**

11. In relation to the claims that the CMC issue death threats to whistle blowers, the Committee received evidence that showed that the SACCO chairman, Mr. Macloud Malonza, had instead been threatened by a former employee of the SACCO and that the matter was active before court (criminal case no. 721 of 2010), and that, the CID confirmed there were no pending files on death threats in possession of the CID department.

Therefore, the Committee did not find any evidence to ascertain this was being done by the CMC and subsequently exonerates them from the allegation.

12. As relates to the allegation of CMC being in office after the expiry of their terms, the Committee observed that their being in office was in conformity with the Cooperative Societies Rules of 2004 as amended vide Legal Notice No. 3 of 2008 and in consonance with the recommendations of the Mwaliko report.

The Committee therefore noted the CMC was legally in office and has performed well in improving the service delivery in the SACCO as reflected in improved and diversified products and services described in details in chapter two, paragraph 4.

13. On the alleged land grabbing by SACCO officials, **the Committee found no material evidence to support this claim and as such the Committee made no further investigation on the matter.**
14. On the alleged shoddy investigative work by the CID and the Police and the inability for the AG to prosecute the cases thereof, this was explained to be due to lack of the vital documents (referred in paragraph 1) to support the investigations. In the absence of credible evidence, the Committee observed that indeed it would be difficult to institute any prosecution. **Subsequently the Committee recommended forensic audit to recover lost information as per recommendation in (1) above.**
15. In regard to the key complainants presented in Chapter 3 (section 3.2, para. 5), the Committee questioned the credibility of their character based on the profiles tabled by the CID, CMC and the AG. While the AG explained that the Complainants were not willing to record own statements regarding the allegations, the CID revealed that some had pending disciplinary cases, retired, dismissed, non-members of the SACCO, former CMC positions and/or failed to be elected to CMC.

The Committee observed that letters purporting to raise mismanagement claims were found to be fictitious. Of concern was a letter dated 21st November 2008 purportedly emanating from Wilfred Nyacheo (FOSA Manager) whose signature on verification by the forensic audit of the CID was found to be a forgery and in the words of the AG was **'forgery, lie and fictitious'** prompted investigations at the SACCO by the Police.

The Committee further observed that the letter tabled in the House on the 31st August, 2010, was also fictitious since the purported author, Mr. J.S Langat, could neither be traced from the records of the SACCO nor by the CID and the Committee. The complainants introduced to the Committee by the Hon. Martha Karua also disowned having any knowledge about him.

Further, forensic analysis on the two fictitious letters was found to originate from different sources whose contents were however similar (see annex IV).

With the foregoing, the Committee noted that the allegations could not have been driven by the genuine concern for the welfare of the SACCO but by conflict of

interest from the complainants, some of whom had earlier been reprimanded and pardoned by the ADM in 2004. This notwithstanding, the Committee went further to investigate all the allegations from the complainants.

The Committee therefore recommended that:-

- i) In respect of the letter by Mr. J.S Langat found in the pigeon holes of the Members of Parliament, full investigations should be carried out to establish the origin of the letter**
- ii) Investigations of such un-authorized access to Parliament and such malicious publications should be carried out.**
- iii) The complainants be investigated further to establish the motives behind their persistent accusations against the CMC, CID, AG, KACC, Ministry officials, Minister for Cooperatives and Auditors, among others.**

16. In relation to the allegation of payment of allowances to CMC members while on official duty, the Committee observed that the Annual Delegates Meeting (ADM), which is the Supreme Authority of the SACCO, determines when and how much the allowances are to be paid based on the business performance of the SACCO.

The Committee therefore recommends that the SACCO develops and implements a comprehensive policy on duty allowances to staff and CMC.

CHAPTER FIVE

CONCLUSION

The Committee examined all the evidence presented and concludes, as follows-

1. That, Harambee SACCO has had the highest number of inquiries of all the SACCOs in the country. These inquiries have been informed by corruption allegations which have been cyclic and a function of conflict of interest in the Harambee SACCO matters. The current allegations were noted to emanate from disgruntled members and non-members whose interest revolved around the struggle for leadership positions in the SACCO while others were former employees dismissed on grounds of gross misconduct.
2. That, given the inability of the complainants to record statement as evidence to cause any prosecution for any wrong doing was of great concern to the Committee. To the extent that the letter by mysterious Mr. J.S Langat, is utmost in bad faith and an abuse of privilege of whistle blowing and which points to the threat the SACCO faces from some of its members and non-members alike. In view of the Committee, the complaints were not genuine and not for the good of the SACCO which the ordinary members need to be educated about if the cooperative society is to continue on its path of prosperity.
3. That, the governance system at the SACCO had improved following the implementation of the past inquiries, particularly the Mwaliko report and its action plan, and stringent measures occasioned by the SASRA rules, was not in doubt. The achievements however need to be consciously applied to match the continued rapid growth and developments being witnessed in the SACCO. Although the Committee was not able to ascertain existence of gross mismanagement of SACCO funds due lack of vital documents explained in chapter 4, paragraph 1, the Committee notes of the good performance that had been achieved by the SACCO in the last decade notwithstanding the claims of the mismanagement. The CMC has made a turnaround of the society from inherited losses in 2001 to profitability at surplus of Kshs 700 million (2009 figures) with stated net worth of estimated 3.5 billion.
4. The Committee therefore holds the view that the CMC had been focused in efforts to salvage the SACCO and the recommendations made in chapter four of this report would help to enhance prudent financial management practices in the society. However, the Committee further recommends policy interventions for the future of SACCOs and other cooperatives in Kenya, as follows:-

- i. Development and implementation of an enabling policy and legal framework within SACCOs
- ii. Intensify supervision and inspections by strengthening of the oversight role of Sacco Society Regulatory Authority (SASRA)
- iii. Instituting surcharges and suits to those who have been found to misappropriate society funds and other resources
- iv. Strengthen cooperative governance, including stringent financial controls, in the SACCOs and FOSAs through the Cooperative Ethics Commission and institute half-yearly reports for SACCOs with FOSAs
- v. Intensify cooperative education and training of SACCO members.
- vi. Strengthen and encourage the use of dispute resolutions mechanisms being provided by the Cooperative Tribunal
- vii. Expeditious remittances of members' contributions to the SACCOs and FOSAs.

MINUTES

MINUTES OF THE SITTINGS OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES ON THE INQUIRY INTO ALLEGATIONS OF MISMANAGEMENT OF FUNDS AT PUBLIC HEARINGS HELD AT PARLIAMENT BUILDINGS BETWEEN 27TH SEPTEMBER, 2010 AND 11TH OCTOBER, 2010

MINUTES OF THE SEVENTY FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN THE COMMITTEE ROOM, CONTINENTAL HOUSE 4TH FLOOR, PARLIAMENT BUILDINGS ON MONDAY, 13TH SEPTEMBER, 2010, AT 1:00P.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. John D. Pesa, MP.
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Evans Akula, MP

APOLOGIES

Hon. Benson Mbai, MP
Hon. Erastus Mureithi, MBS, HSC, MP

ABSENT

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. Peris Simam, MP

INATTENDANCE

Mr. Evans Oanda - Third Clerk Assistant
Mr. Paul Ngetich - Senior Research Officer

MIN.NO. 177/2010: PRELIMINARY

The meeting opened with a word of prayer.

MIN.NO. 178/2010: PROGRAMMEE FOR HARAMBEE SACCO HEARING

The Committee deliberated on the programme on inquiry into the Harambee SACCO prepared in the last meeting and was in consensus that witnesses appear as follows:-

1. Hon. Martha Karua, MP on Thursday, 23rd September, 2010 at 10:00am
2. The Director Kenya Anti Corruption Commission (KACC) on Thursday, 23rd September, 2010 at 2:30pm
3. Director Criminal Investigation Department (CID) on Monday, 27th September, 2010 between 9:00am and 11:00am
4. Director Anti-Banking Fraud on Monday, 27th September, 2010 between 11:00am and 1:00pm
5. The Attorney General on Monday, 27th September, 2010 at 2:00pm
6. Gina Din Corporate Communications on Tuesday, 28th September, 2010 at 9:30am

7. The Harambee SACCO Central Management Committee together with other senior managers on Thursday, 30th September ,2010 at 9:30am
8. The Commissioner for Cooperatives on Tuesday, 5th October ,2010 at 9:30am
9. The Minister for Cooperative Development and Marketing on Thursday, 7th October ,2010 at 9:30am
10. Proceed to a retreat in Mombasa for report writing on Thursday, 7th October, 2010 till Tuesday, 12th October, 2010. While in Mombasa (Monday, 11th October, 2010), the Committee will also give an input into the bills from the Ministry of Livestock Development which had invited it to the function.

MIN. NO.179/2010: ADJOURNMENT

The meeting was adjourned at fifty minutes past one o'clock until Tuesday, 21st September, 2010 at 9:00am in the Main Conference Room, County Hall, Parliament Buildings to meet with KCB management over receivership of KCPU.

SIGNED

Joseph M. Mwangi

CHAIRPERSON

DATE

26th Oct. 2010

MINUTES OF THE EIGHTIETH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS ON THURSDAY, 23RD SEPTEMBER, 2010, AT 1:30P.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Peris Simam, MP
Hon. Evans Akula, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. Benson Mbai, MP
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. John D. Pesa, MP.

IN ATTENDANCE:

Hon. Martha Wangari Karua, MP

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant

MIN.NO. 196/2010: PRELIMINARY

The meeting was called to order at 1:30pm.

MIN.NO. 197/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

Following the speakers' directive on the 31/09/2010 for the Committee to investigate into the alleged mismanagement of Harambee SACCO funds, the Committee commenced the inquiry by receiving submissions from the Hon. Martha Karua who had earlier asked questions in the House relating to the mismanagement of SACCO funds. The following were highlight of her submission:

That she had asked three questions about mismanagement of Harambee SACCO which lead the speaker to direct the matter be investigated by the Committee on Agriculture, Livestock and Cooperatives.

That Harambee SACCO has membership of 90,000 drawn from the Kenya Police, Department of Defense and civil servants whose monthly income is over Khs.500 million.

That she got the information from the concerned members of Harambee SACCO lead by Geoffrey Ontieri at the Nark- Kenya headquarters. She promised to provide the Committee with the files and the phone numbers of the complainants to assist in the investigations.

That mismanagement of funds in the Harambee SACCO was being conducted through double encashment of cheques; irregular administration of rents; fraudulent cashier transfers and poor management of files among others.

That it is alleged that anybody trying to investigate the matter is always compromised by the Central Management Committee though she has not been approached in that effect.

That the reason as to why the vice is going on in the Harambee SACCO is failure to implement recommendations of both the Mwaliko and the KACC reports of inquiry.

The committee thanked Hon. Karua for her vital information and urged her to assist whenever she will be required during the exercise. The Committee maintained that any evidence provided before the Committee has to be primary and authentic.

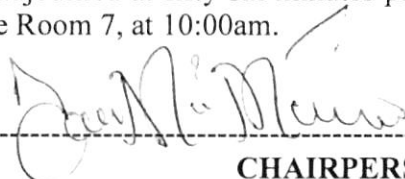
MIN. NO. 198/2010: ANY OTHER BUSINESS

The Committee congratulated the secretariat for a good work done during the hearings of KPCU receivership and urged that the same be done during the Harambee SACCO inquiry.

MIN. NO.199/2010: ADJOURNMENT

The meeting was adjourned at fifty six minutes past one o'clock until Monday 27th, September 2010 in Committee Room 7, at 10:00am.

SIGNED



CHAIRPERSON

DATE

26th. Oct. 2010

MINUTES OF THE EIGHTY FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON MONDAY, 27TH SEPTEMBER, 2010, AT 10:50A.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Peris Simam, MP
Hon. Evans Akula, MP
Hon. John D. Pesa, MP.

APOLOGIES

Hon. Benson Mbai, MP
Hon. Erastus Mureithi, MBS, HSC, MP

IN ATTENDANCE:

CRIMINAL INVESTIGATION DEPARTMENT (CID)

Mr. Ndegwa Muhoro - Director CID
Mr. Mohamed Amin
Corporal Martin Oduor
Mr. Janathan Mwaluko

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant

MIN.NO. 200/2010: PRELIMINARY

The acting Chair Hon. Dr. Monda called the meeting to order at 10:50am.

MIN.NO. 201/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Secretariat informed the Committee that a letter had been received from the Attorney General's office with information that the AG would be out of the country until 27/09/2010 and therefore may not be able to appear before the committee as earlier scheduled.

The Committee resolved to invite the complainants on Thursday, 30th October, 2010 at 9:00am lead by the key witness Mr. Geoffrey Ontieri who would then be interrogated in groups of threes.

The Director CID informed the Committee as follows:

That prior to his appointment as the CID director, he headed the Anti- fraud unit, while Mr. Mohammed Amin headed the investigation department. The two had investigated the said mismanagement matter and could conclusively represent both the Ant- Banking fraud and the CID departments. The Committee concurred and allowed him to proceed.

That since Mr. Mohamed Amin headed Harambee SACCO inquiry; it was prudent for him to take the Committee through its findings. The Committee obliged and Mr. Mohamed Amin informed the Committee as follows:

That in January, 2010, he was instructed by the Commissioner of Police to carry out investigations on the alleged mismanagement of Harambee SACCO. He carried out investigations by interviewing various players in the saga including analysis of documents, compiled a report and forwarded it to the Attorney General. These are the results of the investigations:

That purchase of 2,850,000 shares worth Kshs. 19.95 million from Gina Din Corporate Communications Sacco was above board.

That the allocation of loans to CMC members against their sitting and travelling allowances was a normal practice in the SACCO vide 32nd AGM resolution.

That procurement procedure was always in compliant with the Public procurement and Disposal Act except for the latest payment of goods worth Kshs. 1 million from Highbury Merchants before delivery.


That the alleged double encashment of cheques and cashier transfers from cashier numbers 1, 2, & 3 to a non existing cashier number 8 could not be ascertained since vital documentation were missing. The important missing documents include the Cashier daily specifications reports and summaries, Treasury registers and cheque counterfoils among others during the alleged period of 2006 and 2009. The FOSA manger is the custodian of these documents and should therefore be impressed upon to produce them in addition to undertaking a forensic audit of the Harambee SACCO operations.

That during the inquiry, they were guided by the following Complainants: Daniel Turibu, Geoffrey Ontieri, John Jogo and Kennedy Mageto. They did not however establish whether these were active members of the SACCO though they were aware that Mr. Daniel Turibu services were terminated owing to a pending criminal case against him. Members were concerned that the CID could engage with people they did not know and demanded that CID ascertain their identity.

MIN. NO.202/2010: ADJOURNMENT

The meeting was adjourned at fifty six minutes past noon to the same afternoon at 2:10pm in the same venue.

SIGNED



CHAIRPERSON

DATE

26th. Oct. 2010.

MINUTES OF THE EIGHTY SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON MONDAY, 27TH SEPTEMBER, 2010, AT 2.30 PM

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Peris Simam, MP
Hon. Evans Akula, MP
Hon. John D. Pesa, MP
Hon. Benson Mbai, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Erastus Mureithi, MBS, HSC, MP

IN ATTENDANCE:

CRIMINAL INVESTIGATION DEPARTMENT (CID)

Mr. Ndegwa Muhoro - Director CID
Mr. Mohamed Amin
Mr. Copral Martin Oduor
Mr. Janathan Mwaluko

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant

MIN.NO. 203/2010: PRELIMINARY

The meeting started with a word of prayer.

MIN.NO. 204/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee sought responses on the following issues:

The whereabouts and the contents of the files obtained by Criminal Investigation Department from Harambee SACCO when the premises were raided in two occasions, whether the investigation exercise was compromised, whether the CID can own the report of the investigations forwarded to the Attorney General and the exact characters of the complainants.

The Director, CID responses were as follows:

That the files obtained from the two raids on Harambee SACCO were forwarded to the Commissioner of Cooperatives. These files will be availed before the Committee on Wednesday 06th October, 2010.

That was within the CID's mandate to investigate any allegation without necessarily questioning the integrity of the complainant.

That the three complainants (Mr. Geoffrey Ontieri, Mr. Kennedy Mageto and John Jogo) ceased to be members of the Harambee SACCO vide the Nation and Standard adverts of 10/05/2005 place by Harambee SACCO (the advert was tabled). The Committee demanded a written submission on the credibility and characters of these complainants.

The complainants (Mr. Geoffrey Ontieri, Mr. Kennedy Mageto and John Jogo) cooperated during the investigations and were satisfied with the process of investigations and their degree of involvement vide a letter to the Commissioner of Police which was forwarded to the Director CID and Banking Fraud. The letter was tabled before the Committee

That investigation into the alleged double encashment of cheques and cashier transfer from cashier numbers 1, 2, and 3 to a non existing cashier number 8 to a tune of Kshs. 300 million could not be concluded since the cheque counterfoil book that shows daily cheque transactions and cashier specification reports and summaries book respectively could not be accessed from the FOSA manager.

That the CID director is not a member of the Harambee SACCO,

That the CID has capacity to investigate the Harambee SACCO matter

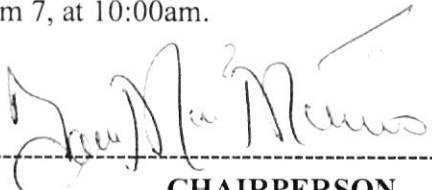
That the CID requires time to internalize the investigation file they forwarded to the Attorney General and respond appropriately when they reappear before the Committee on 06/10/2010.

MIN. NO. 2005/2010: ANY OTHER BUSINESS

The Committee resolved to seek three weeks extension from the speaker to be able to conclusively complete the Harambee SACCO Inquiry.

MIN. NO.2006/2010: ADJOURNMENT

The meeting was adjourned at eleven minutes past four o'clock until Wednesday 06th, October, 2010 in Committee Room 7, at 10:00am.

SIGNED -----

CHAIRPERSON

DATE -----
06th October 2010
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MINUTES OF THE EIGHTY THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON TUESDAY, 28TH SEPTEMBER, 2010, AT 10:40A.M.

PRESENT

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Benson Mbai, MP
Hon. John D. Pesa, MP.

APOLOGIES

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. Evans Akula, MP
Hon. Peris Simam, MP

IN ATTENDANCE:

GINA DIN CORPORATE COMMUNICATIONS SACCO (GDCC)

Mr. Japheth Kagondu - Chairman
Mr. Benson Njuki - Vice chairman
Ms. Lena Gatabaki - Secretary

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Mr. Mwathi - Hansard Reporter

MIN.NO. 207/2010: PRELIMINARY

The meeting commenced with a word of prayer. The acting Chairman Hon. Dr. Monda outlined the rules of conducting debate pursuant to the provisions of the Constitution and the Standing Orders followed by introductions.

MIN.NO. 208/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee received explanation from GDCC on the following issues:

- (i) Table a list of all shareholders of GDCC, and the amount of shares held by each since registration;
- (ii) Contents of the verbal communications between the GDCC and Mr. Mumina of Capital Markets Authority (CMA) concerning sale of shares to Harambee SACCO
- (iii) Whether due process of the law was followed in the sale of 2,850,000 to Harambee SACCO (approval of the transaction by the AGM of both parties in the transaction)
- (iv) Explanation on the change of the number of shares from 200,000 in the year 2007 to 20,000,000 currently.

Gina Din Corporate Communications SACCO responded as follows:

That Gina Din Corporate Communications SACCO was registered in March 2007 and started operations late that year. Membership of the Company then was 21 but has grown to 51 as at August 2010. That, GDCC SACCO purchased 200,000 class A shares from Cooperative Bank of Kenya and the said shares increased from 200,000 to 2,000,000 due to a share split of 1:100 during the Initial Public Offering (IPO) of Cooperative Bank.

That an AGM resolution of Gin Din Corporate Communications Sacco held on 20/02/2009 approved the sale of all the shares held thus commissioning the executive to look for the potential buyers. The shares were trading at Kshs. 9 per share at the Nairobi stock exchange thus presenting a profit if they were to be offloaded.

That Gin Din Corporate Communications followed the due process of the law in the sale of 2,850,000 shares worth Kshs. 19.95 to Harambee SACCO at a discounted rate of Kshs.7 per share. All the documentation of the transaction were tabled (letters between Harambee SACCO and GDCC, Share Certificates, Payment Cheques, correspondence with the registrar of Coop holdings).

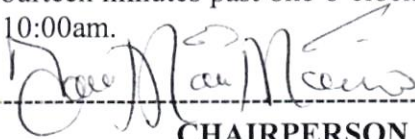
That the names of the shareholders of Gin Din Corporate Communications SACCO could not be accessed since the Treasurer (who is the custodian of these documents) was in Turkey on official duty. The Committee was concerned to hear that the Treasurer and not the Secretary (who was present) is the custodian of the documents). It therefore adjourned for one hour to allow Gin Din Corporate Communications time to avail those documents.

On resumption of the meeting, the Committee was informed that the sought documents could not be traced and therefore Gin Din Corporate Communications requested for one day to avail them; a time in which the Treasurer should have arrived and provided the same. The Committee obliged and ordered that the documents be delivered to the Secretariat without failure. It however indicated that Gin Din Corporate Communications will be called, if need be, upon analysis of those documents.

MIN. NO.209/2010: ADJOURNMENT

The meeting ended at fourteen minutes past one o'clock until Thursday, 30th November, 2010 in Committee Room 7, at 10:00am.

SIGNED



CHAIRPERSON

DATE

26th. October 2010.

MINUTES OF THE EIGHTY FOURTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON THURSDAY, 30TH SEPTEMBER, 2010, AT 10:37A.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Benson Mbai, MP
Hon. John D. Pesa, MP.
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Erastus Mureithi, MBS, HSC, MP

APOLOGIES

Hon. Peris Simam, MP
Hon. Evans Akula, MP

IN ATTENDANCE:

COMPLAINANTS OF HARAMBEE SACCO

Name	Department/Ministry	Membership number
Mr. Geoffrey Ontieri	Government Chemist	2814 (active)
Mr. Tony Matuku	Harambee Plaza Member	123270
Mr. Tom Odera	National organizing Sec of finance	not a member
Mr. Stanly Gikonyo	Retired chief (SACCO member, but	membership not given)
Mr. John Jogo	Ministry of Trade	39486 (active)
Mr. Karanja Rimungi	Harambee Plaza member	10885
Mr. Daniel Turibu	Harambee Plaza member	123200 (inactive)
Mr. Ben Sifuna	Consultant	123229 (active)
Mr. Joseck Otanga	Harambee Plaza member	123182 (active)
Mr. John Kamau	Harambee Plaza member	8176
Mr. Kennedy Mageto	Ministry of Agriculture	063964

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Ms. Marale Sande - Research Officer
Mr. Said - Hansard Reporter

MIN.NO. 210/2010: PRELIMINARY

The meeting started with a word of prayer. The acting Chairman Hon. Dr. Monda outlined the rules of conducting debate pursuant to the constitution and the Standing Orders followed by introductions.

MIN.NO. 211/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The complainants tabled their written submission and informed the Committee as follows:

That corruption in Harambee SACCO is real and well coordinated by the Central Management Committee members, Ministry officials and the senior managers of the Harambee SACCO.

That, the alleged cases had been reported to the Ministry of Cooperative Development and Marketing, KACC, CID, ICPAK and to the Attorney General, but very little action had been taken.

That, the Supervisory Committee, whose role is to oversee prudent management of the Harambee SACCO resources, had been compromised and that it was deemed effective during only in first two years of their tenure in office.

That, if the Mwaliko and KACC inquiry reports had been implemented, financial mismanagement could not be as rampant as is currently the case.

That independent investigation can only yield results if those vindicated have stepped aside. For instance, the Central Management Committee members had been interdicted on various occasions but failed to step aside (annexed BSS14 and BSS15 letters for Mr. Malonza and Nyambura Weru).

That, there has been fraudulent transfer of funds from the Front Office Services Activity (FOSA) up to a tune of Kshs. 300 million as well as double encashment of cheques to a tune of Kshs. 121,609,468. The analysis of withdrawals and double cheque encashment were annexed and tabled as BSS 16 and BSS 17.

That, the Petty Cash advances amounting to over one million shillings (Kshs 1,200,000) to CMC Members particularly one Mr. Macloud Malonza was advanced seven hundred thousand shillings (Kshs 700,000) on 2nd March 2000 while a Mr. Makau was advanced five hundred thousand shillings (Kshs 500,000) on 18th April 2008) was fraudulent.

That, the above arrangement contravenes the Cooperative Act and Cooperative by-laws requiring any individual applying for a loan state the same in writing. Members of CMC have therefore been accused to have contravened these rules and as a result have continued to advance themselves cash without clear indication as to whether they amount to loans or allowances and when their repayments are due.

That, the payment of allowances to the Commissioner of Cooperatives (the then Registrar of cooperatives) and other officials tasked to offer oversight roles over cooperatives as a way funds were being misused. The Committee heard that while the former had been tasked to follow up on complaints made against the CMC by undertaking a "computer audit seminar" at Garden Hotel Machakos they instead were treated to inducements also referred to as "allowances" amounting to one million Kenya shilling (Kshs 1,000,000). A payment voucher no. 28591 dated 13/01/2003 through cheque no. 188078 was used (annex BSS1).

That, this same seminar was called strategic planning and Kshs. 859,950 was used through a payment voucher No.28595 dated 13/01/2003 through a cheque number 188081 (annex BSS2). The tips Management consultancy that did a shoddy job that necessitated a strategic workshop was further paid Kshs. 617, 400 by a payment voucher No.46246 dated 22/01/2003 (annex BSS3). This sum of money was not budgeted for, was unlawful and was never reflected in subsequent books of accounts.

That, further allowances were awarded to officials summoned before the Anti Corruption Police Unit at Integrity Centre along Valley Road some 5 kilometers' from Cooperative Headquarters. A total sum of Kshs 10,000 was awarded to the Chairman to attend a meeting with the Anti-corruption and Prevention Unit (ACPU) on the 22nd and 23rd May 2003.

That, a further amount of Kshs 38,500 was awarded to the CMC members as allowances on 1st July 2003 as they toured the Green fields project (An initial project of the Harambee Cooperative) located some 15km from the SACCO headquarters.

That, the manner in which directives by the senior management issue allowances was being used to mismanage funds at the SACCO was of great concern. A compliment note dated 22nd May 2003 by the General Manager was used to request Kshs 20,000 on behalf of the national Chairman as allowances to attend an official function.

That, the Front Offices of the Harambee Sacco has for a long time been misused and therefore has been singled out as conduit for CMC and Senior Management of the Sacco to siphon out Members savings from the SACCO.

That, the officials of the Kenya Anti-Corruption Commission (KACC) had been compromised by Harambee SACCO management. While presenting the necessary evidence indicating abuse of office, theft and corruption at high level within the Ministry of Cooperatives to the Kenya Anti-Corruption Commission for investigations, the concerned members were advised to await the outcome of the probe being undertaken by the accused since apparently they were investigating themselves.

That, they do not know anybody by the name of Mr. J.S. Langat who petitioned parliament on the alleged corruption at Harambee SACCO

That most of the approved audited reports have a lot to be desired. This was an issue of contention in the 2005 where some concerned members left the Annual Delegates Meeting in the

first day i.e. Mr. Benson Sifuna. Amortization of Kshs. 600 million case was reported to ICPAK but never got a response to date.

That, Mr. Daniel Turibu was sacked on 6th January, 2009 for reporting corruption matters at Harambee SACCO on fraudulent cahier transfers to CID but charged seven months later in court. While demanding an authentic written submission from each and every complainant of what they know, the Committee learned that Mr. Daniel Turibu has never contested a CMC post but Mr. Geoffrey Ontieri has on a couple of times unsuccessfully. It was further revealed that Mr. Ontieri has not been taken to court by Harambee SACCO but rather he is the one who took it to court.

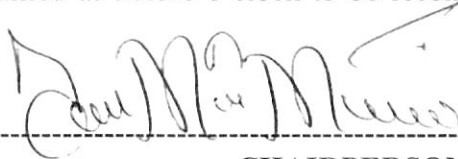
That, the complainants' effort to unearth corruption at Harambee SACCO had been frustrated by the following institutions who they termed as their aggressors:

- i Central Management Committee (CMC)
- ii Criminal Investigation Department (CID)
- iii Ministry of Cooperative Development and Marketing Officials
- iv Auditors
- v Supervisory Committee
- vi Judiciary
- vii Kenya Anti-Corruption Commission (KACC)

MIN. NO.212/2010: ADJOURNMENT

The meeting adjourned at twelve o'clock to be reconvened at 12:30 pm on the same day and venue

SIGNED



CHAIRPERSON

DATE

26th October 2010,-----

MINUTES OF THE EIGHTY FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON THURSDAY, 30TH SEPTEMBER, 2010, AT 12:30P.M.

PRESENT

Hon. John Mututho, MP	-	Chairperson
Hon. Lucas Chepkitony, MP	-	Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP		
Hon. Fredrick Outa, MP		
Hon. Benson Mbai, MP		
Hon. John D. Pesa, MP.		
Hon. (Dr.) Victor Kioko Munyaka, MP		
Hon. Erastus Mureithi, MBS, HSC, MP		
Hon. Peris Simam, MP		
Hon. Evans Akula, MP		

IN ATTENDANCE:

HARAMBEE SACCO CENTRAL MANAGEMENT COMMITTEE/ DIRECTORS AND SENIOUR MANAGERS

Mr. Macloud Malonza	-	National Chairman
Ms. Beldina Oguya	-	Vice Chairman
Mr. Charles Konzolo	-	Secretary
Mr. James Wandera	-	General Manager
Mr. Meshack Nyangute	-	Accountant
Mr. Charles Mongare	-	CMC member
Ms. Nyambura Weru	-	CMC member
Mr. Permenus Ndiege	-	Chairman, Supervisory Committee
Mr. Steven Nganga	-	CMC member
Mr. Nyamira Osore	-	Secretary, Supervisory Committee
Mr. Wiliam Maina	-	CMC member
Mr. Peter Ochola	-	CMC member
Mr. Benson Odhiambo	-	Accountant
Ms. Gladys Gichohi	-	Legal officer
Mr. Vitalis Ochalo	-	CMC member
Mr. Joseph Yamo	-	Member, supervisory Committee
Mr. Kipkoech Sum	-	CMC member

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich	-	Senior Research Officer
Mr. Evans Oanda	-	Third Clerk Assistant
Ms. Marale Sande	-	Research Officer
Mr. Said	-	Hansard Reporter

MIN.NO. 213/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting debate pursuant to provisions of the constitution and the Standing Orders followed by introductions.

MIN.NO. 214/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee was prepared to receive responses from the CMC on the following issues:

The background of the SACCO and where it is currently; to outline the allegations against the CMC as known to it; how it compare their performances with banks; the amount of money alleged to have been lost since the current management came to office and the challenges facing the organization.

The Chairman of Harambee SACCO responded as follows:

That Harambee SACCO was started in 1968 and registered as a society in 1970 drawing membership from the Government Ministries, Department of Defense, and Kenya Police among others. Currently its membership has grown to 110, 000 despite retrenchment and mortality rates.

That the SACCO has always grown economically and financially with the asset base standing at Kshs. 12,386,807,530 billion with a surplus of Kshs. 3.5 billion as at 2009 as compared to asset base of Kshs. 3.2 billion in November, 2001 when the current management came to office. This makes it the largest SACCO in Africa though ranked number 22 among the financial service providers in the Country by the financial post. This growth has been gradual with this year being targeted at 6 to 8%. For instance, last year, there was a Kshs. 700 million profit out of which Kshs. 518 million being distributed as dividends.

That in 2001, the sinking fund had a deficit of Kshs.98 million which has been turned around by the current management to a surplus of Kshs. as per last year

That, the SACCO has come up with best products to its members such as; school fees loans for 12 months, minimum time of 30 minutes in emergency loan processing; and offering different loan facilities that are up to date in collection as well as improvement of the check off system from Kshs.180 million to Kshs. 480 million.

That, Harambee SACCO has 159 FOSA branches with 456 delegates countrywide

That despite the continued growth of Harambee SACCO, various challenges of mismanagement have always ensued in the past and that is why it was always in commissions of inquiries. The first inquiry was done in 1978, followed by 2000, 2002 coupled with various ministerial inspections.

That, the Harambee SACCO has implemented 95% of the recommendations of the inquiry reports for instance operationalization of enterprise resource planning where 85% of the operations are computerized. Decrease of staff workers from 256 to 132 thus reducing expenditure in salaries that had consumed at one point 56% of the SACCO revenue.

That the amount of money lost during the current management's tenure is Kshs. 12.5 million (Kshs. 8.7 in Mombasa and Kshs. 3.8 in Nairobi branches). This represents only 0.001% of the asset base of the SACCO.

The Committee ordered a written submission of the following allegations from the Harambee SACCO when they reappear before the Committee on 4th, October, 2010:

- i. Whether it concealed/ destroyed vital files required for inquiry from Anti-banking fraud unit. Letter dated 4th January 2010 requesting for these documents from the SACCO has never been acted upon
- ii. Whether it irregularly paid honoraria of Kshs 8.8million to Mwaliko Commission of Inquiry. This was a concern during the 32nd AGM of 9th October 2003. (Page 5 of the minutes). This is Conflict of interest which reflected on page 14 of 2002 audited report (expense section)
- iii. Whether it failed to implement the KACC report of 2004 (implementation was partial) together with the Mwaliko report
- iv. Whether it unfairly disciplined staff who raised corruption alert and who provided information by either sacking them or transferring them outside of Nairobi. Examples are Mr. Tony Mayuku, Joseph Otanga, and Paul Onyango.
- v. Whether it fraudulently purchased shares worth Kshs 19.95million without the AGM's approval. This company (Gina Din Corporate Communications Sacco) that sold shares is closely associated with Hon. Joseph Nyagah, EGH, and MP. The finance staff of Harambee SACCO were against this said purchase
- vi. Whether it Pays the Minister for Cooperative Development and Marketing Hon. Nyagah Kshs 200,000 as protection fees weekly
- vii. Whether it irregularly allocates loans to CMC members against sitting and travelling allowances the alleged amount totals to Kshs 724,068,864. Corporate law is against these and members who have since left the SACCO have defaulted on payments.
- viii. Whether it fraudulently transferred money from cashiers No. 1, 2 and 3 to non existing cashier No. 8 (Steve Mwanga) up to a tune of Kshs 300million. Most of these transactions took place in 2007.
- ix. Whether it fraudulently cashed cheques more than once (double encashment) at the FOSA to a tune of Kshs 121million between the year 2006 and 2009.
- x. Whether it irregularly used contingency money whereby no return of such has been done since 2006. This is against the law.
- xi. Whether its directors were interdicted by court in January 2005 but continued to serve against the law
- xii. Whether the CMC and directors issue death threats to members and staff who are forces against corruption within the SACCO

- xiii. Whether the current CMC/ directors are in office illegally after their term of service had expired (they have been in office since 2001) Whether it was prudent for the directors/ CMC to be in office while corruption investigations were being done by CID between 4th June 2009 and 21st October 2009
- xiv. Whether the CMC members allocated themselves large sums of money in the form of IOU (Voucher worth Kshs 700,000 and Kshs 67million signed by chairman of the SACCO indicates such a transaction)
- xv. Land grabbing i.e. Plot no. 1093, title deed no. 4324 grabbed by Mr. Charles Geni (CMC member) at Harambee field Estate. Chairman, Mr. Maclond Malonza is also alleged to have grabbed land
- xvi. The Audited accounts of 2005 have a lot to be desired i.e. explanations of various expenses (repairs and purchase of computers, provision for bad debts amounting to Kshs. 22,965,375; income from rent particularly Nyali House)
- xvii. Whether it presented documents to delegates in 2005 AGM in which the audited accounts were immediately approved by the Commissioner of Cooperatives i.e. on the same day the AGM took place. (The law requires that 14days be provided)
- xviii. How the society has managed to register an impressive positive growth despite negative publicity and all sorts of corruption related inquiries.
- xix. Whether anyone is known to the SACCO by the names Mr. J.S. Langat.

MIN. NO.215/2010: ADJOURNMENT

The meeting was adjourned at forty minutes past one o'clock until Monday 4th, October, 2010 in Committee Room 7, at 9:00am.

SIGNED



CHAIRPERSON

DATE

26th October 2010

MINUTES OF THE EIGHTY SIXTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON MONDAY, 4TH OCTOBER, 2010, AT 9:20A.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Benson Mbai, MP
Hon. John D. Pesa, MP.
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. Peris Simam, MP
Hon. Evans Akula, MP
Hon. Charles Nyamai, MP - friend of the Committee

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP

IN ATTENDANCE:

HARAMBEE SACCO CENTRAL MANAGEMENT COMMITTEE/ DIRECTORS AND SENIOUR MANAGERS

Mr. Macloud Malonza - National Chairman
Ms. Beldina Oguya - Vice Chairman
Mr. Charles Konzolo - Secretary
Mr. James Wandera - General Manager
Mr. Meshack Nyangute - Accountant
Mr. Charles Mongare - CMC member
Ms. Nyambura Weru - CMC member
Mr. Permenus Ndiege - Chairman, Supervisory Committee
Mr. Steven Nganga - CMC member
Mr. Nyamira Osore - Secretary, Supervisory Committee
Mr. Wiliam Maina - CMC member
Mr. Peter Ochola - CMC member
Mr. Benson Odhiambo - Accountant
Ms. Gladys Gichohi - Legal officer
Ms. Vitalis Ochalo - CMC member
Mr. Joseph Yamo - Member, supervisory Committee
Mr. Kipkoech Sum - CMC member

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Ms. Marale Sande - Research Officer

MIN.NO. 216/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting debate pursuant to the provisions of the Constitution and the Standing Orders followed by introductions.

MIN.NO. 217/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Chairman of Harambee SACCO gave a written submission of the issues raised by the Committee during the earlier meeting of 30/09/2010 and took the Committee through its contents. He gave out a brief background of the SACCO with regard to activities, vision, mission, objectives, financial performance in the last ten years, loan disbursement, membership, branches and delegates. He responded to the allegations against the Harambee SACCO as put forward by the Committee as follows:

Concealed/ destroyed vital files required for inquiry from Anti-banking fraud unit.

The society had never destroyed or concealed any information from any investigatory body before. The alleged documents (Central Processing Units of FOSA Personal Computers; Manual Treasury Registers between the years 2003 and 2007; Manual Cashier Specifications 200-2007; Manual Cashier Daily Report and Bank Statement 2003-2007) were taken by the Police Officers from the Economic Crimes Unit under the department of the Criminal Investigations in June 2009.

Irregular payment of Honoraria worth Kshs 8.8 million to Mwaliko Commission of Inquiry

The inquiry expenses which included the said Honoraria in question were discussed and expensed in the year 2002 Audited Accounts on page 14 under Administrative expenses title. Inquiry expenses amounting to Kshs.9, 572,200 was duly approved in the 32nd Annual Delegates Meeting held on 9th October, 2010.

According to the letter of appointment of the Mwaliko Commission of inquiry by the former PS in the Ministry, the society was supposed to cater for the cost of inquiry as per section 60 Clause 1 of the Co-operative Societies Act No.12 of 1997. The society paid the requisite expenses based on the above. Documents pertaining to this payment are in the custody of the Kenya Anti Corruption Commission, that is:-

- i. The inquiry file for 2002
- ii. Authority to pay the Inquiry expenses
- iii. Authority to pay Honoraria
- iv. CMC minutes
- v. Payment Voucher
- vi. Inquiry payment expense file
- vii. Annual Delegates Meeting (ADM) minutes file for year 2002

The Committee resolved to demand these from KACC when it appears before it on 7th October, 2010

Partial Implementation of both the KACC report of 2004 and the Mwaliko report

The implementation of the recommendations of both KACC and Mwaliko reports of Inquiry is 95% complete. Harambee Sacco had drawn an implementation work plan which it strictly follows. Sale of Land projects which constitutes the remaining 5% has been elusive due to squatter invasion in Kilifi and change of name in Kisumu is just but a few. The plans to dispose Nanyuki and Siaya plots are in advanced stage so as to conform to the SACCO's core business.

Irregular discipline of staff who raise corruption alert by either sacking them or transferring them outside Nairobi

No member of staff has ever been victimised by raising a corruption alert. Staff can only be dismissed when they have been charged of gross misconduct under the employment Act. For instance, Mr. Daniel Turibu had seven charges one of which he embezzled funds in Mombasa which led to his dismissal. Mr. Otanga and Mr. Matuku were also dismissed due to poor performance as indicated by the warning letters they received from the Society's management.

The Harambee Sacco has a policy of decentralization whereby experienced staff can be transferred from Nairobi to go and open new branches. The complainants are disgruntled since they have been fighting for management positions in vain.

Fraudulent purchase of shares worth Kshs 19.95 million without the ADM's approval and against the advice of the finance staff workers

The said transaction was discussed and approved during the Central Management Committee meeting which is tasked to prudently invest the Sacco resources in a meeting held on 11th June 2009 vide minute number 129/2009. The due process of the law was followed from start to the end with regard to correspondences between the parties in question.

The Sacco bought these shares at a discounted rate of Kshs.7 at a time when they were trading between Kshs.7.25 and Kshs.7.50 in the Nairobi Stock Exchange. The total number of shares bought was 2,850,000 at a cost of Kshs.19.95 million. All the documentation regarding the transaction was tabled and annexed (Xi).

Paying the minister of Cooperative Development and Marketing Hon. Nyagah Kshs 200,000 as protection fees weekly

The CMC denied the above allegations and wanted the complainant to further substantiate the above.

Irregular allocation of loans to CMC members against their sitting and travelling allowances amounting to Kshs 724,068,864.

The Sacco grants loans to its members procedurally irrespective of whether they are CMC or not. The cardinal point here is the members' income and the ability to pay. There is no member of Central Management Committee and Supervisory Committee members with a defaulted loan and total loans owed by the Central Management Committee Members are Kshs. 23,377,040.60 as at

August 2010. (Tabled and classified as confidential under Appendix (IX) contains loans held by the CMC and Supervisory Committee Members).

Fraudulent cashier transfer of cash by cashiers' No. 1, 2 and 3 to non existing cashier No. 8 (Steve Mwanga) up to a tune of Kshs 300million

The Front Office Services (FOSA) has never maintained an alleged cashier number 8 in its records, though one Mr. Steve Mwanga was as a worker as a data entry clerk. Whenever there is inter-cashier borrowing, a debit note is filled and signed by both receiving and giving cashier and authorized by the manager. The allegations are misleading and unsubstantiated.

Fraudulent double encashment of cheques at the FOSA worth Kshs 121million between the year 2006 and 2009

There were only two cases that were discovered and charged in 2007 where Rodha Aluoch and Ken Obuya were involved. After investigations, the two were found guilty and are currently in the payroll servicing that money with Rodha Aluoch's charge being Kshs. 2,047,000; and Ken Obuya Kshs. 2,000,000. Apart from these, no other incidence has ever been detected.

Irregular use of contingency money (no return of such has been done since 2006)

This allegation is not true. All the expenses are accounted for in the audited accounts and retrospectively approved by the ADMs in each year.

The SACCO directors were interdicted by court in January 2005 but continued to serve

The alleged interdiction case was stayed and therefore not active. Furthermore, nobody had asked the charged directors to resign or step aside for them to do so.

CMC and directors issue death threats to members and staff of the SACCO who are forces against corruption.

The Society has never issued any death threats or killed any employee whether former or present. This allegation is a clear violation of the human rights and freedom of expression. The only known threat was directed at the national Chairman (Mr. Macloud Malonza) via an SMS by a redundant staff-Dorcas Isaboke. The case to that effect is in court.

Longer than required service of the current CMC/ directors (since 2001)

The current Central Management Committee is in office legally as per the previous and current law. When it assumed office, there was a rule that a Committee Member could not serve for more than two five year terms. However, this was revised by the Ministry of Co-operative Development in 2004 and the current status is that a third of the Committee retires each year but is eligible for re-election. Evidence of various elections was tabled to support the idea.

Directors/ CMC failed to step aside during corruption investigations undertaken by CID between 4th June 2009 and 21st October 2009 as is required by law.

The terms of reference for investigations were based on allegations which were unfounded and there was no need of stepping down. The issue of stepping down is a matter of principle but not legal.

CMC members allocated themselves large sums of money in the form of IOU. Voucher worth Kshs 700,000 and Kshs 67million signed by chairman of the SACCO for the same

The Society does not advance IOU's to members of the CMC but it is rather a lending institution and any official wanting money can access it through a loan and repay with interest. The document purporting CMC borrowing of Kshs.67 million is a forgery with a superimposed signature.

Land grabbing i.e. Plot no. 1093, title deed no. 4324 grabbed by Charles Geni (CMC member) at Harambee field Estate.

The alleged property has never been owned by the society and no CMC member has ever been allocated a plot of land.

The Audited accounts of 2005 have a lot to be desired i.e. explanations of various expenses (repairs and purchase of computers, provision for bad debts amounting to Kshs. 22,965,375; income from rent particularly Nyali House)

The accounts were prepared, audited and approved in the Annual Delegates Meeting as per the laid down law held on 20th April 2006 (minute no.10/2006).

Late presentation of documents to delegates in 2005 AGM and immediate approval of audited accounts by the Commissioner of Cooperatives i.e. on the same day the AGM took place. (The law requires that 14 days be provided)

The process of presenting documents to delegates to 2005 Annual Delegates Meeting (ADM) was duly done according to the law. The audited accounts were approved on 6th April, 2005 and displayed in the Society's branches the same day as provided by the Society's By-laws. The AGM was then held 14 days later on 20th April, 2005.

The identity of J.S. Langat (he wrote a memorandum to parliament complaining about corruption in Harambee Sacco).

The Society has no employee by such a name and is not in a position to explain anything about him. On membership of Harambee Sacco, the law requires that CMC members be between 5 & 11 members. Currently, there are 11 CMC members thus conforming to the law. All the CMC members must come from Nairobi.

On the characterization of the Complainants, the Committee was told that Mr. Daniel Turibu was once an employee of Harambee Sacco with a payroll number of 9205179 but was dismissed on 15/04/2009 because of gross misconduct. Mr. Geoffrey Ontieri is a member of the Harambee Sacco who has always contested for management position in the Sacco but failed to succeed and that is why he is disgruntled.

MIN.NO.218/2010: MANTAINANCE OF HARAMBEE PLAZA BUILDING

The Committee wanted to know why the lifts in Harambee plaza building are not serviced considering the fact that majority of it is leased thus subjecting the tenants to unnecessary discomfort. The Committee was told that various efforts have been made to address the matter over the years by seeking approval from the Annual Delegates Meeting (AGM) but always failed. This has however changed since the last year's ADM approved the funds for replacing the lifts. Plans are at an advanced stage towards this course.

The Committee learned that insecurity between Harambee Sacco and Continental is a major concern and that it requires urgent address.

MIN. NO.219/2010: ADJOURNMENT

The meeting ended at half past one o'clock until the same afternoon at 1:45 pm in the same venue.

SIGNED



CHAIRPERSON

DATE

26th October 2010.

MINUTES OF THE EIGHTY SEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON MONDAY, 4TH OCTOBER, 2010, AT 1:40P.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. John D. Pesa, MP.
Hon. Peris Simam, MP
Hon. Evans Akula, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. Benson Mbai, MP

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Ms. Marale Sande - Research Officer

MIN.NO. 220/2010: PRELIMINARY

The meeting commenced with a word of prayer.

MIN.NO. 221/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee assessed the progress it has made in the Harambee Sacco inquiry and resolved as follows:

That the Attorney General and the Minister for Co-operative Development and Marketing be invited to attend the Committee's meeting on Friday 8th October, 2010.

That the proposed report writing retreat in Mombasa will not be there since by then it will not have gathered all the required evidence from the witnesses. Members will therefore meet on Monday 11th October, 2010 to look at the progress of the draft report.

The Hon. Dr. Robert Monda and the Hon. John Pesa will not attend the Friday meeting on 8/10/2010 due to other commitments.

MIN. NO.222/2010: ADJOURNMENT

The meeting ended at fifty four minutes past one o'clock until Tuesday, 5th October, 2010 in Committee Room 7 at 9:00 am.

SIGNED



CHAIRPERSON

DATE

26th October 2010

MINUTES OF THE EIGHTY EIGHTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON TUESDAY, 5TH OCTOBER, 2010, AT 10:00A.M.

PRESENT

Hon. John Mututho, MP	-	Chairperson
Hon. Lucas Chepkitony, MP	-	Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP		
Hon. Fredrick Outa, MP		
Hon. John D. Pesa, MP.		
Hon. Peris Simam, MP		
Hon. Evans Akula, MP		
Hon. (Dr.) Victor Kioko Munyaka, MP		
Hon. Erastus Mureithi, MBS, HSC, MP		
Hon. Benson Mbai, MP		
Hon. Charles Nyamai, MP	-	friend of the Committee

IN ATTENDANCE:

MINISTRY OF CO-OPERATIVE DEVELOPMENT AND MARKETING

Mr. Fredrick Odhiambo	-	Commissioner for Co-operatives
Mr. Abuta	-	Head of Senior Counsel
Mr. Vincent Nyongesa	-	Auditor
Ms. Hellen Njuguna	-	DCO in charge of Co-operatives
Mr. Geoffrey Karuku	-	Deputy Commissioner
Mr. Kenduywa John	-	Deputy Commissioner in Charge of inspection
Mr. Enid Njeru	-	PCO in Nairobi

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich	-	Senior Research Officer
Mr. Evans Oanda	-	Third Clerk Assistant
Ms. Marale Sande	-	Research Officer
Ms. Pauline Nyambura	-	Office Assistant

MIN.NO. 223/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting debate pursuant to the provisions of the Constitution and the Standing Orders followed by introductions.

MIN.NO. 224/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Commissioner for Co-operatives gave a brief history of the Cooperative Movement in Kenya with respect to inception, registration and its financial status as at present. He indicated that there are over 12,000 registered Cooperatives with membership of over 8 million. There has been tremendous growth in the last five years witnessed in Sacco and as at now, it stands at 5000 with a membership of over 4 million having a financial base of Kshs. 200 billion.

That Saccos contribute about 31% of the national savings and currently provide financial services to about 17.6% of the Kenyan adult population of 19 million compared to Banks and Insurance companies which together serve about 22.5% of the same segment of the population.

On the implementation of the Sacco Societies Act, he indicated that the following have so far been achieved even though there is a challenge of inadequate funding:

- (i) Drawing and publishing Sacco Societies ((Deposit Taking Sacco Business) Regulations 2010.
- (ii) Developing organizational structure for Sacco Societies Regulatory Authority together with appointment of its Board, Chairman, Chief Executive Officer and few members of staff.
- (iii) Appointment of a team to draw model by laws has been done.
- (iv) Development of the Authority's Strategic Plan
- (v) Signing of the performance contract by the Authority with the with the Ministry

On oversight function of Sacco Society Regulatory Authority (SASRA), he indicated that it will regulate 230 Saccos representing 70% of the Kshs. 200 billion held by the 5,000 Saccos. Regulation will involve monitoring of liquidity and capital requirements, provision for loan delinquencies among others. Saccos will also be required to submit regular reports in spite of the Authority conducting On-site and Off-site inspections in the societies.

On Harambee Sacco Society limited, he informed the Committee that the Society is the largest in Africa with a membership of about 90,000 drawn mainly from the office of the president. The Society has had management problems in the past but it is doing well now. He further indicated that the Sacco has had the highest number of inquiries and inspections than any other in the country.

On Mwaliko Inquiry, the commissioner submitted that the terms of reference was to look into the implementation of past inquiry and inspection recommendations, and board representation among others. This followed contribution withdrawal from Department of Defense who were not represented in the Central Management Committee. The recommendations of the Mwaliko report are 95% implemented according to action plan that was drawn by the CMC to do it. The items left are on the disposal of site and service scheme projects whose implementation have delayed because of the processes involved but are in progress.

On the alleged mismanagement of funds in Harambee Sacco, he indicated that the Ministry officers have always been sent to the Society to investigate any alleged wrong doing. The findings of these visits have found the CMC operations above board. He further informed the Committee that there is always a DCO present to monitor what happens in the Society whenever the Central Management Committee sits. The false allegations against the CMC are advanced by disgruntled members who have either failed to get elected to the CMC or dismissed on gross misconduct. Some the Complainants are Mr. John Lewis Jogo who was a former CMC member, Mr. Geoffrey Ontieri, Mr. Sammy Chach Rioba, Mr. Peter Onyango Odundo, Mr. Livingstone Kinyanjui Ngugi among others.

Other motivating factors for complainants include taking offer Harambee Plaza building and to be allowed to continue loan broking after their services were terminated at Harambee Sacco.

The performance of Harambee Sacco Society has improved from levels of insolvency to a now surplus since the current management came to office in 2001. The Society now pays real dividends and not the political ones. Presently, the processing of development loan takes only 3 days while Emergency loan takes a record 1 hour at most. The Capital base grew from Kshs. 4.9 billion in 2001 to Kshs. 12.4 billion in 2009.

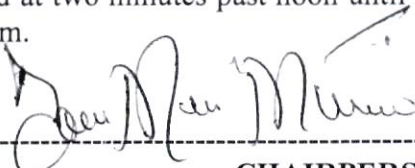
While thanking the Commissioner for eloquent presentation, the Committee demanded a written submission on the following issues:

- (i) Why the transaction regarding purchase of shares from Gina Din Co-operate Communications was allowed against the existing caveat barring Saccos from doing so for five years after the Initial Public Offering (IPO) of Cooperative Bank shares.
- (ii) Why the Ministry has not put in place stringent regulatory measures to FOSA which control a huge amount of money.
- (iii) The supervisory status of other Saccos across the country
- (iv) Why the previous inquiry recommendations have not been implemented fully (5% remaining)
- (v) To present evidence of 1 hour emergency loan processing
- (vi) What is happening with the maintenance of Harambee Plaza

MIN. NO.225/2010: ADJOURNMENT

The meeting ended at two minutes past noon until Wednesday, 6th October, 2010 in Committee Room 7 at 10:00 am.

SIGNED



CHAIRPERSON

DATE

26th. October 2010

MINUTES OF THE NINETIETH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON THURSDAY, 7TH OCTOBER, 2010, AT 3:00 P.M.

PRESENT

Hon. John Mututho, MP	-	Chairperson
Hon. Lucas Chepkitony, MP	-	Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP		
Hon. John D. Pesa, MP.		
Hon. Fredrick Outa, MP		
Hon. Benson Mbai, MP		
Hon. Erastus Mureithi, MBS, HSC, MP		
Hon. Evans Akula, MP		

APOLOGIES

Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Peris Simam, MP

IN ATTENDANCE:

KENYA ANTI-CORRUPTION COMMISSION

Prof. Patrick L.O. Lumumba	-	Director
Dr. John Mutonyi	-	Deputy Director
Mr. Henry Mwithia		

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich	-	Senior Research Officer
Mr. Evans Oanda	-	Third Clerk Assistant
Ms. Marale Sande	-	Research Officer
Mr. Charles Ayari	-	Hansard Reporter
Ms. Pauline Nyambura	-	Office Attendant

MIN.NO. 232/2010: PRELIMINARY

The meeting started with a word of prayer followed by introductions.

MIN.NO. 233/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

After congratulating the director for his appointment to the new job, the Committee demanded responses from KACC on the following issues concerning alleged mismanagement of Harambee Sacco:

- (i) Why KACC delayed in instituting investigations at the SACCO and only did that after receiving a directive from the attorney General.
- (ii) Whether KACC was in possession of documents belonging to Harambee Sacco such as The inquiry file for 2002; Authority to pay the Inquiry expenses; Authority to pay Honoraria; CMC minutes; Payment Voucher: Inquiry payment expense file; AGM minutes file for year 2002; cheque counterfoils; Treasury registers and the Cashier Daily Specifications reports and summaries, which were deemed useful in the inquiry
- (iii) To confirm whether KACC had received complaints from the concerned members of Harambee Sacco and what was the nature of the said complains

The Director, Kenya Anti- Corruption Commission responded as follows:

That up until KACC received a directive from the Attorney General on the 6th Sept 2010 to investigate alleged mismanagement of funds at the Harambee Sacco, no investigations or inquiries on the said Sacco has been ongoing since 2003. KACC has not been investigating Harambee Management. The letter read in part;

“On reviewing the Inquiry files, it became quite obvious that there are glaring gaps and deficiencies in the evidence gathered by police. Furthermore, in both files the police appear to acknowledge the difficulties in investigating those matters and have suggested that a forensic audit be done by an independent institutions”

According to the Director, on review of the CID and BFIU reports, KACC investigations would focus but not necessarily restrict itself to the following allegations;

- (i) Cash transfers of up to Kshs 900 million between 2006-2007 to a dummy cashier
- (ii) Fraudulent purchase of shares from Gina Din Corporate communications totaling Kshs 19.95Million
- (iii) Irregular and Unprocedural securing of loans by CMC against sitting allowances
- (iv) Transfer of up to Kshs 8.8Million to account of Robert Nyongesa by GM and FOSA Manager
- (v) Fraudulent sale of two plots belonging to Harambee Sacco by CMC

That the Harambee Sacco files forwarded to them by the Attorney General were duplicates. The above named documents were therefore not in the possession of KACC. The Committee was told that these documents will be sought from the archives and previous investigators if located, be availed to the Committee at any time

On investigations on Harambee Sacco, the Committee was told that the Kenya Anti corruption police had conducted investigations way back in 2004 when KACC had not be constitutionally instituted. The report was compiled to this effect and forwarded to the Attorney General for action. Among the findings, payment of Honoraria amounting to Kshs. 6.792 million to Mwaliko Commission of Inquiry was against the law and therefore recommended for prosecution and

surcharge of the parties involved. Upon perusal of the file, the Attorney General returned with further directions for investigations.

The Committee further learnt that though the payment of Honoraria was against the law, it was later ratified in the following Annual Delegates Meeting (ADM) held on the 8th October 2003. The Committee was therefore made to understand that much as the Commission was of the opinion that payments lacked requisite authority, the later ratification by the ADM regularized the payments and therefore the matter was closed.

The Committee was however uncomfortable with when an illegal transaction ended up being legal and what necessitated these.

With regards to the recommendations of the KACC corruption risk assessment report 2004, the Director acknowledged laxity in following up of the statues of the implementation of the same, much of which related to financial controls and mechanisms.

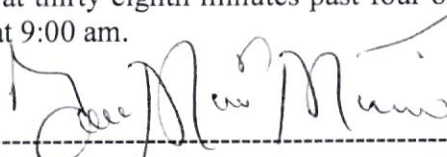
On whether any of the complainants had visited the KACC offices lately, the Committee heard that the Director has in at least five occasion played host to some of the Complainants, particularly Mr. Ontieri and Mr. Rioba whom he said were particularly concerned of their safety and were therefore requesting for some kind of protection. He also informed the Committee that no one by the name Mr. Langat has visited the KACC offices.

The Committee was uncomfortable as to why the Commission even on receiving a letter from one Mr. Ben Sifuna on the 27th October 2004 alleging intimidation and abuse of office by the CMC, no action was taken alleging that the matter was being dealt with internally by the CMC. The deputy director submitted that his response letter to Mr. Benson Sifuna was meant to explain to him that the cases reported were beyond the mandate of the CID at that particular time of raising the issue.

MIN. NO.234/2010: ADJOURNMENT

The meeting ended at thirty eighth minutes past four o'clock. Next meeting will be on Monday 11th October, 2010 at 9:00 am.

SIGNED



CHAIRPERSON

DATE

26th October 2010.

MINUTES OF THE NINETY FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS ON MONDAY, 11TH OCTOBER, 2010, AT 9:15A.M.

PRESENT

Hon. John Mututho, MP - **Chairperson**
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. John D. Pesa, MP.
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. Benson Mbai, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - **Vice Chairperson**
Hon. Peris Simam, MP
Hon. Evans Akula, MP
Hon. (Dr.) Victor Kioko Munyaka, MP

IN ATTENDANCE:

CRIMINAL INVESTIGATION DEPARTMENT (CID)

Mr. Ndegwa Muhoro - Director Criminal Investigation Department (CID)
Mr. Mohamed Amin - Head of investigations in CID
Mr. Copral Martin Oduor - Banking Fraud Investigation Unit
Mr. Jonathan Mwaluko - Banking Fraud Investigation Unit

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Ms. Marale Sande - Research Officer
Mr. Osman Mohamed - Hansard Reporter
Ms. Pauline Nyambura - Office Attendant

MIN.NO. 235/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting the meeting pursuant to the provisions of the standing Orders and the Constitution.

MIN.NO. 236/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee rescinded its earlier decision by asking for tabling of all the documents held by the CID regarding Harambee Sacco by close of the day's business. While presenting all the allegations against every player in the Harambee Sacco saga to the CID, the Committee invited presentation on the subject from the CID director who submitted as follows:

That, none of the complainant has recorded death threats to the police or the CID and that the alleged mysterious deaths purportedly claimed by the whistle blowers are not known to the police.

That he was surprised to hear accusations from the Attorney General alleging that the CID delayed investigations when indeed it was the Attorney General's office that kept the file open. He however submitted that a conclusive investigation was not possible due to lack of some documents namely: cheque Counterfoils, Treasury Registers, and Cashier specification reports and summaries. He indicated that these documents should be in the custody of the FOSA manager who should be held responsible if they were lost.

The Committee demanded to know why only one junior employee should be charged with respect to the missing documents without any evidence while those mandated to manage the Society are not obliged to account yet no policy exists within the Sacco regarding documentation. Further, the CID director informed the Committee that among the inventory received from the earlier investigators, the said documents were not among them and that the inventory list was signed by both Harambee Sacco and the investigators representatives. On how they recommended surcharge of the then FOSA manager Mr. Wilfred Nyacheo, he indicated that interviews with former employees revealed that those documents were always in the custody of the FOSA manager.

On the contents of the computers taken from Harambee Sacco, the CID director submitted that analysis by Cyber Crime Unit did not find anything relevant to assist in the course of the investigation. He further informed the Committee that these documents were duly taken with a search warrant by the Kenya Anti Corruption Police unit who were the first investigators into the saga.

On the Purchase of 2,850,000 Shares for Khs.19.95 million from Gina Din Corporate Communications Sacco, the CID maintained that the Process was above board and that is why they recommended closure of the file regarding the same. The Committee demanded know whether the process was endorsed by the AGMs of both parties and whether the CID was aware of the caveat that existed offloading of the Coop holding shares for 5 years after the Initial Public Offering (IPO) of Cooperative Bank shares.

The CID maintained that due process was followed in the share purchase with all the correspondences confirming the same. It however indicated that it was not aware of any caveat that existed prior to the said transactions. In a letter to the Capital markets Authority (CMA) inquiring on the same matter, CMA confirmed authenticity of the transaction in a letter dated 18th January, 2010 and referenced CMA/MRT/8/2.

On double encashment of cheques, the CID submitted that two instances had been discovered in 2007 by the then FOSA manager Mr. Wilfred Nyacheo who instituted internal administrative punitive measures against the culprits. The amount in question was totalling to Khs.4,047,000.

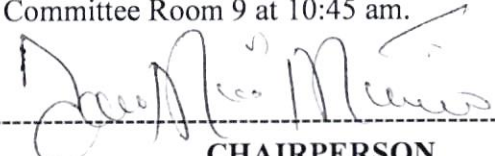
On a letter alleged to have originated from Mr. Wilfred Nyacheo complaining about mega fraud in the Sacco, the CID submitted that when it was subjected to forensic analysis, results indicated that its author was not Mr. Nyacheo confirming Nyacheo's denial statement earlier on with the police. In light of these revelations, the Committee ordered the CID to carry out a document analysis of the letter to Parliament from one anonymous J.S. Langat to see whether there is a correlation and report back on by Friday 15th October, 2010.

The Committee thanked the CID for finding time to share their investigations with the Committee and requested for the same when required.

MIN. NO.237/2010: ADJOURNMENT

The meeting ended at ten minutes past eleven o'clock. Next meeting will be on Monday 11th October, 2010 in the Committee Room 9 at 10:45 am.

SIGNED



CHAIRPERSON

DATE

26th October 2010.

MINUTES OF THE NINETY SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS ON MONDAY, 11TH OCTOBER 2010, AT 11:50A.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. John D. Pesa, MP.
Hon. Evans Akula, MP
Hon. Erastus Mureithi, MBS, HSC, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. Peris Simam, MP
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Benson Mbai, MP

IN ATTENDANCE:

MINISTRY OF COOPERATIVE DEVELOPMENT AND MARKETING

Hon. Joseph Nyagah, EGH, MP - Minister
Mr. Seno Nyakenyanya, CBS - Permanent Secretary
Mr. Symon Mburia - CCO/PA minister
Mr. Abuta - Legal counsel
Mr. Fredrick Odhiambo - Commissioner of Cooperatives
Mr. Vincent Nyongesa - Auditor in the Ministry

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Mr. Osman Mohamed - Hansard Reporter
Ms. Marale Sande - Research Officer
Ms. Pauline Nyambura - Office Attendant

MIN.NO. 238/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting debate pursuant to the Constitution and the Standing Orders followed by introductions.

MIN.NO. 239/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee briefed the Minister on the progress of the Harambee Sacco inquiry and invited his presentation on the matter. The Minister informed the Committee as follows:

That cooperative movement sector is the fastest growing sector in the country estimated at 20% in the last few years. That currently, there are about 4500 registered Saccos with membership of about 4 million. They hold deposits amounting to Kshs. 200 billion, and about 230 operate Front Office Services Activity (FOSA). The government has improved regulation of these Saccos with the enactment of the Sacco Societies Act creating Sacco Societies Regulatory Authority (SASRA).

On Harambee Sacco, the minister submitted that it is the largest in Kenya and indeed in Africa in terms of number of its members, and is also the oldest. Harambee Sacco has faced different challenges and as is evident from the various inspections and inquiries instituted by the Ministry. Despite this, the supreme decision making organ in the Sacco is the Annual Delegates Meeting (ADM).

The Minister submitted that the Current Central Management Committee members have improved the fortunes of the Society from the brink of collapse to where it is currently. He applauded the CMC for that and urged them to continue with the same spirits. He indicated that he is surprised a small group of former CMC and staff members out of 90,000 are making malicious allegations against this giant Sacco. He attributed these complaints as baseless and done out of frustration since some of the complainants have tried to get elected to the CMC in vain while others have been dismissed on gross misconduct.

On the alleged receipt of Khs. 200,000 weekly, the Minister denied it and indicated that he would consider some course against such malicious allegations.

The Committee demanded to know whether due process was followed when Harambee Sacco bought shares worth Kshs. 19.95 from Gina Din Corporate Communications Sacco and whether he was aware of a caveat barring cooperatives from offloading shares until an expiry of 5 years after the Initial Public Offering (IPO) of Cooperative Bank Shares.

The Minister indicated that there was no caveat to that effect and that the said transaction was above board. He further submitted that the slow pace of the transaction made Gina Din Corporate Communications Sacco almost pull out of the deal now that the share prices had gained substantially from Khs. 7.25 to about Khs.10. He informed the Committee that the CMC had discussed and endorsed the deal since it was under their mandate to look for good investment opportunities for the members' deposits while staying within its core business.

The Minister indicated that he knows Gina Din Corporate Communications limited's operations very well given that he is a share holder there. The Company is one of the best performing in Kenya and the world at large and that is why it recently won an international award in Turkey for the best Public Relations in Middle East and Africa region.

The Committee wanted to know whether the Minister has met with the Complainants before and what the outcome of that meeting was. It also required to be know the role of the Ministry now that the supreme decision making organ in the Sacco is the Annual Delegates Meeting (ADM).

The Minister informed the committee that he had met with the Complainants accompanied by the Hon. Martha Karua on 15th April, 2010 at 9:00 am. The meeting went smoothly despite their late appearance and each party went out satisfied with its outcome. The meeting mainly focused on share purchase by Harambee Sacco from Gina Din Corporate Communications Sacco.

On the role of the Ministry in the Saccos, the Minister submitted that it is purely on supervision and that is why various inspections have been commissioned on Harambee Sacco. For instance, the Ministry has seconded a DCO who sits in every CMC meeting to monitor its operations. He indicated that the Ministry is supportive of all the operations of Harambee Sacco provided they are done within the law.

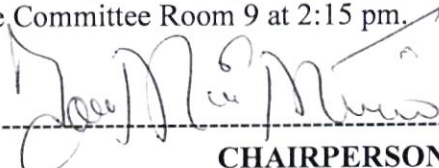
The Committee demanded to be told why the implementation of the Mwaliko report on Harambee Sacco has not been completed seven years down the line since it was done. The Minister informed the Committee that 95% of it has been implemented and that the Ministry is encouraging the process is expedited. The delay was due to problems in property titles (plots).

The Minister urged the Committee do expedite the Completion of the current and the previous reports to clear names of clean people who have been labeled otherwise. He informed the Committee that the Ministry will be organizing a workshop to inform it of the happenings in the Ministry and how the Committee can assist in that course. The Committee welcomed that move and requested to be involved all such forums whether here in Kenya or abroad.

MIN. NO.240/2010: ADJOURNMENT

The meeting ended at forty minutes past one o'clock. Next meeting will be on Monday 11th October, 2010 in the Committee Room 9 at 2:15 pm.

SIGNED



CHAIRPERSON

DATE

26th. October 2010.

MINUTES OF THE NINETY THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS ON MNDAY, 11TH OCTOBER 2010, AT 2:21P.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. John D. Pesa, MP.
Hon. Evans Akula, MP
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. Peris Simam, MP
Hon. Benson Mbai, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP

IN ATTENDANCE:

ATTORNEY GENERAL'S OFFICE

Mr. Kiriako Tobiko - Chief Public Prosecutor
Mr. John Onyango - Deputy Chief Public Prosecutor

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Mr. Said Walda - Hansard Reporter
Ms. Marale Sande - Research Officer
Ms. Pauline Nyambura - Office Attendant

MIN.NO. 241/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting debate pursuant to the provisions of the Constitution and the Standing Orders followed by introductions.

MIN.NO. 242/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

After welcoming the witnesses, the Committee sought responses from the AG as related delayed prosecution of Harambee Sacco presented for prosecution by the CID; whether he stands by the earlier assertions in the House that the Police did a shoddy investigation; whether commissioning an independent inquiry alongside the Committee will jeopardize the Committee work and whether there are gaping gaps in the law that needs amendment to expedite prosecution.

On Harambee Sacco cases, the Chief Public Prosecutor informed the Committee that three files had been opened at different time lines about the matter. The first case was regarding payment of Honoraria to the Mwaliko Commission of inquiry which was alleged to be against the law. The said commission was constituted by the then Permanent Secretary in the Ministry and it comprised of civil servants. By law, they were supposed to be paid by the Sacco but the approval came from the Permanent Secretary and that is what happened. The contention was the extra amount paid to them when they extended the inquiry.

Initial investigations on the matter by the Anti corruption police unit recommended to the AG that the Mwaliko Commission be surcharged in a forwarding letter dated 19/02/2004. Upon perusal of the file, it was clear that the evidence gathered was not sufficient for prosecution. The AG resubmitted the file to the KACC for further investigations. KACC returned the file on 28/03/2007 exonerating the CMC of this case. It indicated that the Harambee Sacco 32nd ADM had retrospectively sat on 9th October, 2003 and approved the expenses including the honoraria. It however recommended surcharge of Mwaliko for the extra honoraria received departmentally. Based on this evidence, the AG concurred and the file was closed.

Mr. Tobiko reminded the Committee that the KACC quarterly report of April, 2004 which was tabled before the August House had precisely covered this matter. The same information was tabled before the House by the AG in December, 2007.

The second case was a file number 53 of 2009 in which a letter purportedly emanating from Mr. Wilfred Nyacheo (FOSA manager) dated 21/11/2009 alleging mega fraud in the Harambee Sacco. The CID did investigations on the matter and submitted the file to the AG in October, 2009. In its report, they indicated difficulties in gathering sufficient evidence to warrant prosecution. Among this was refusal of complainants to record statements and authenticate them. Further analysis of the letter that triggered the investigations was found to be a forgery, lie and fictitious. From these revelations, the AG had no otherwise but closes the file.

The third case was undertaken by the BFIU under file number 1 of 2010. The matters raised were similar to those of the second case. The investigation results had a lot of flaws with unprecedented blame game between the investigators and the Harambee Sacco management concerning the whereabouts of documents which could unearth the whole saga. The AG's office could not determine who among the two parties was responsible for destroying or concealing the documents. Therefore with the absence of sufficient evidence, no prosecution can stand in any law and that is why the AG directed KACC to do a forensic audit and report within 90 days.

Mr. Tobiko informed the Committee that the BFIU had sought input from the Kenya National Audit during its investigations but was denied since Saccos are not within the mandate of National audit Act. He therefore submitted that this is a loophole in the law which requires amendments to allow audit across the board. He further denied allegations that the AG was trying to sabotage the Committee's investigations by ordering KACC to do a concurrent investigation by indicating that both process can go on without any problem. He further tabled a letter he did to KACC confirming the date as 6th September, 2010 and not on 16th September, 2010 as earlier indicated by the Committee.

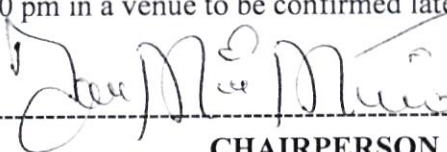
The Chief Public Prosecutor requested parliament to facilitate investigative agencies with required expertise and materials to enable them do their work to required standards to avoid similar cases as Harambee Sacco. He informed the Committee that 95% of the cases are investigated and prosecuted by the police. Where it requires further directions, the AG has always offered it promptly as in the case of Harambee Sacco.

While acknowledging the eloquent presentation from the Chief Public Prosecutor, the Committee demanded a written submission of his presentation by Wednesday for the purposes of compiling the report which he obliged.

MIN. NO.243/2010: ADJOURNMENT

The meeting ended at forty minutes past four o'clock. Next meeting will be on Wednesday 13th October, 2010 at 3:00 pm in a venue to be confirmed later.

SIGNED



CHAIRPERSON

DATE

26th. Oct. 2010

MINUTES OF THE NINETY FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN THE LIBRARY, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON THURSDAY 21ST OCTOBER 2010, AT 9:30A.M.

PRESENT

Hon. John Mututho, MP	-	Chairperson
Hon. Lucas Chepkitony, MP	-	Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP		
Hon. Fredrick Outa, MP		
Hon. John D. Pesa, MP.		
Hon. Erastus Mureithi, MBS, HSC, MP		

APOLOGIES

Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Evans Akula, MP
Hon. Peris Simam, MP
Hon. Benson Mbai, MP

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich	-	Senior Research Officer
Mr. Evans Oanda	-	Third Clerk Assistant
Ms. Marale Sande	-	Research Officer

MIN.NO. 246/2010: PRELIMINARY

The meeting started with a word of prayer.

MIN.NO. 247/2010: ADOPTION OF HARAMBEE SACCO INQUIRY REPORT

The Committee went through the draft report on Harambee Sacco Inquiry and adopted it by consensus with the following comments:-

Paragraph 8 in the Executive Summary should indicate that the vouchers presented as evidence by the complainants could not be verified whether they were authentic or not given that the three vital files named in recommendation 1 were missing.

The Government of Kenya should strengthen the CID capacity to do a forensic audit of the magnitude of Harambee Sacco case within a period of eighteen months in recommendation 1(i) of the alleged fraudulent cash transfers.

Under recommendation 1 (ii) on the alleged fraudulent cash transfers, the hiring of either a local or a foreign audit expert should be done by parliament through its relevant Departmental Committee on Agriculture, Livestock and Cooperatives.

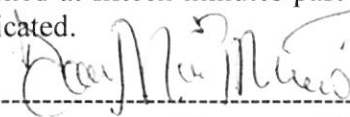
Under recommendation 6 regarding alleged payment of Kshs. 200,000 to the Minister, the CID should investigate such claims and the culprits be apprehended.

Under recommendation 3, the revaluation of the properties to be sold and their eventual disposal should be made open to parliament for transparency and accountability.

MIN. NO.148/2010: ADJOURNMENT

The meeting was adjourned at fifteen minutes past eleven o'clock until to a day and time to be confirmed and communicated.

SIGNED



CHAIRPERSON

DATE

26th October 2010

ANNEXES

ANNEX I

TABLE SHOWING TREND IN THE PERFORMANCE INDICATORS OF THE HARAMBEE SACCO SOCIETY LTD SINCE 2001

HARAMBEE SACCO KEY PERFORMANCE INDICATORS							
FINANCIAL INDICATORS							
PARTICULARS	1994	1995	1996	1997	1998	1999	2000
MEMBERSHIP	98,461	97,757	97,862	97,010	96,220	96,659	89,752
TURNOVER	187.255M	204.139M	220.943M	279,664M	358.596M	306.238M	362.075M
NET SURPLUS/(DEFICIT)	104.766M	121.806M	84.687M	107.687M	106.107M	(89.252M)	362,126
LOANS TO MEMBERS	1.543B	1.410B	1.872B	2.039B	2.639B	3.054B	3.037B
TOTAL ASSETS	1.865B	1,942B	2.517B	2.785B	3.871B	4.305B	3.643B
DIVIDEND PAYOUT	108.653M	122.945M	99.891M	99.954M	-	-	52M
MEMBER DEPOSITS	1.622B	1.861B	2.283B	2.583B	2.847B	3.346B	3.644B

SOURCE: HARAMBEE SACCO SOCIETY LTD

PERFORMANCE INDICATORS FOR THE LAST TEN (10) YEARS

PARTICULARS	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Membership	89,752	87,184	83,842	84,114	84,920	81,403	87,020	89,484	90,879	98,640
Turnover (Income)	362M	368.8M	379.8M	456M	514M	661M	861M	1.209B	1.065B	1.162B
Outstanding Loans	3B	3.3B	3.6B	3.9B	4.6B	5.431B	6.277B	7.055B	7.914B	8.844B
Total Assets	4B	4.8B	5.6B	5.8B	6.6B	7.478B	8.702B	9.767B	11.956B	12.387B
Dividend Payout	7.1M*	NIL	NIL	46M	102M	112M	243M	419M	478M	518M
Member Deposits	3.6B	4.0B	4.3B	4.6B	5.1B	5.616B	6.074B	6.992B	7.973B	8.632B

SOURCE: HARAMBEE SACCO SOCIETY LTD

*payment of dividend made out of capital

ANNEX II

SUMMARY OF THE PROFILE OF THE CONCERNED SACCO MEMBERS BY THE CRIMINAL INVESTIGATION DEPARTMENT AND MANAGEMENT OF THE HARAMBEE SACCO SOCIETY LTD

Persistent fights by Detractors of the Society (Former Employees and Members of Harambee Sacco)

The Management of Harambee Sacco upholds ethical professional behaviour/ conduct and integrity in all its dealings with members, staff, and stakeholders and expects the same from the members of staff in discharge of their duties. This has been the major strength in the turnaround performance of Harambee Sacco from a loss making organization to a profit making business enterprise, which is a departure from the past. In the process of upholding professionalism, integrity and commitment to execution of our official business transaction, some of the members of staff were found not ready to embrace change from their past malpractices and un-professional culture and attitude. As a result the Society management instituted administrative disciplinary action against such staff as per the existing labour laws and Society's Staff Regulations as is the practice in the labour market. Those involved were found guilty of having committed employment malpractices which are classified as gross misconduct. Therefore, the management dismissed them from employment of the Society as they were an embarrassment to the Society and its stakeholders.

The former staff in conjunction with some few members have also resorted to writing negative/adverse stories about the Society, in the gutter press.

SOCIETY'S DISGRUNTLED MEMBERS AND FORMER MEMBERS OF STAFF

1. GEOFFREY O. ONTIERI

Mr. Geoffrey O. Ontieri M/No.2814 joined the Society in 1983.

Leadership History

He is currently a delegate of the Society representing Government Chemist Department as a Branch Secretary, which has ten (10) members.

Persistent fights against the Society

Mr. Ontieri has harboured an ambition to be elected to the Central Management Committee (Board of Directors) of the Society. Mr. Ontieri is on record to have authored various letters of allegations of mismanagement against the Society leadership in both print and electronic media and circulating the same to various state and non state actors seeking for their intervention in the eyes of right thinking public.

It is also on record that he has tried to stop the Annual Delegates meetings on several occasions using the courts and has failed. In the year 2003 and 2010 he went to court to stop the Annual General Meetings, again citing allegation of mismanagement of the Society. Incidentally, he wrote to Gichugu Member of

Parliament Hon. Martha Karua, when she was the Minister for Constitution Affairs who at that time never acted on the matter as there was no substance in whatever Mr. Ontieri had raised.

In year 2004, Mr. Ontieri realized that he was about to retire from the service under 55 year rule and therefore he was not going to get an opportunity to serve on the Board of Harambee Sacco. He initiated a private prosecution in collaboration with Public Corruption, Ethics and Governance a Non-Governmental Organization (NGO) to file private prosecution against the members of the Central Management Committee (Board of Directors), Harambee Sacco and the Attorney General on grounds that the "value of the land in the books of Accounts was less than actual valuation done in 2004, whereas what was in books of Accounts were figures for 2003. In the above matter, the High Court, in misc. application No.330 of 2005 restrained the Chief Magistrate's court from preferring charges against our directors.

It is important to note that the time he filed the matter in court, he forwarded a list of his nominees he wanted to run the affairs of Sacco to the Commissioner of Co-operative & Marketing, which had his name. This is hypocrisy of the highest order that had happened at that time but never succeeded.

In the Annual Delegates meeting of year 2004, Mr. Ontieri and other disgruntled delegates were allowed to make presentations to the Annual Delegates Meeting about the alleged mismanagement of Society. The delegates reprimanded them as the allegations were unfounded and untrue. However, they apologized and they were pardoned by the Annual Delegates Meeting and advised not to transact Society business or complaints in the media as they were encouraged to exhaust Society's internal mechanism resolving any disputes arising and advised that they were not authorized to talk to the media on behalf of the Society as per the Society By-Laws 95 ©. During Annual Delegates meeting held on 30th June 2004, Mr. Geoffrey Ontieri (Secretary, Government Chemist Branch) and Mr. John Jogo (who was not in the meeting as he was not a delegate) among others were cautioned and reprimanded by the Delegates Meeting for carelessly handling Society's matters through the press *see Minute No. 16/2004 which specifically stated as follows:- (Marked appendix X).*

- i. Delegates advised the aggrieved members to endeavour to resolve issues in-house in future and not through the press.*
- ii. Delegates noted that adverse publicity has been damaging the Society's image. Further, they noted that the Society was losing membership due to the adverse publicity.*
- iii. Delegates noted that "compromise allegations" on Branch officials were wrong as it raised distrust between the delegates and their*

members. Accordingly, the affected branch officials demanded an apology from the said aggrieved members. They apologized as demanded.

In year 2005, the Society's Annual Delegates Meeting expelled Mr. Ontieri among others and subsequently his photos were published in the daily newspapers to alert the general public that he was no longer a member of the Society. He contested the expulsion and was reinstated as a member.

He has also contested on 18th April 2008 to be elected as a Central Management Committee member but never got a proposer and a seconder. This is proved by the attached photocopies of the minutes of Annual Delegates Meeting of 2004 (*see Minute No.14/2008. marked Appendix xi*). After failing to be elected he resorted to fighting the current committee (Board of Directors) through filing matters in court, to trying to stop Annual Delegates Meeting and writing to seek sympathy from top leadership in this country i.e. His Excellency the President, The First Lady, the Rt. Hon. Prime Minister and his immediate family, and has also written to all Government Agencies, and non Governmental Organizations (NGOs).

Having tried all avenues and failed, he has resorted to use Parliament to fight and get to the Boardroom of Harambee Sacco, now that the retirement age of Civil Servants has been reviewed from 55 years to 60 years.

In March 2010, Mr. Ontieri continued with his behaviour of making scandalous allegations against the Society management through the press and various letters to Government Ministries. The Central Management Committee suspended Mr. Ontieri as member as per the Society's By-laws. However, he appealed against the expulsion at the Co-operatives Tribunal which temporarily reinstated him in June 2010 and the matter is still pending at the Co-operative Tribunal.

The Management wishes to highlight that all these schemes are hatched by Mr. Ontieri with an intention of removing the current Central Management Committee from office.

Indeed if corruption was rampant as he alleges, why can't he withdraw and join another Sacco?

2. JOHN LEWIS JOGO

He is a member of the Society M/No.39486 since 22nd April 1998. He is currently employed by the Ministry of Trade Headquarters, Nairobi.

Leadership History

He was elected to the Central Management Committee in 1997 and served up to June 2000.

During his tenure in the office, the performance of the Society was dismal and loan backlog was up to seven (7) months a fact which forced the Ministry of Co-operative and Development to intervene and appoint an Inquiry into the operations of the Society in year 2000.

Mr. John Jogo was a member of the Central Management Committee when the entire committee was removed from Society's Management in June 2000 on a recommendation of Inquiry report June 2002 for mismanaging the Society and was barred from participation in society affairs for Ten (10) years as per Rule 30 - g of Co-operative Societies Act of 1998. The recommendation read as such "*The current Central Management Committee and Supervisory Committee members should be removed from office for mismanaging the Society resources at the expense of service delivery to the members. Those removed from leadership should be given a chance to reform by relaxing outside society leadership as per Rule 30 of the Co-operative Societies Rules of 1998, before they can be allowed to contest any leadership position in the Society*" (see copy of extracts of inquiry report on Harambee SACCO of June 2000). He has since held a grudge and has been fighting the Committee since then. (To get a better insight of Mr. Jogo's character please refer to Inquiry Report of June 2000 at the executive summary on pages (i) - (v), then pages 20 - 22 and 207- 209).

Persistent fights against the Society

Mr. Jogo is on record to have authored various letters of allegations of mismanagement against the Society leadership in both print and electronic media and circulating the same to various state and non state actors seeking for their intervention in the eyes of right thinking public.

Mr. John Lewis Jogo has co-authored various scandalous allegations against the Society's management committee.

In year 2005, the Society's Annual Delegates Meeting expelled Mr. Jogo among others and subsequently his photos were published in the daily newspapers to alert the general public that he was no longer a member of the Society. He contested the expulsion and was reinstated as a member.

It should be noted that during his tenure in office in the Society's Central Management Committee he employed his wife one Mrs. Catherine Kiage who has since left the Society through the Staff rationalization undertaken by M/s Federation of Kenya Employers after organizational analysis was done, as per the Inquiry of 2000 June and May 2002 recommendations. Mr. Jogo therefore holds a grudge against the Society leadership for the loss of employment of his wife.

Mr. John Jogo was among the Central Management Committee members who were removed from Society's management in June 2000, through an Inquiry by the Government for mismanaging the Society and were ordered to keep off the Society's affairs for the next ten (10) years as per Rule 30 of Co-operative Societies of 1998. (Refer to the Inquiry Report of June 2000 on recommendation page (vi) 12.

3. KENNEDY MAGETO

Kennedy Mageto is Society member number 63694. He was admitted into the Society membership in October 1995.

Leadership History

Mr. Mageto was a delegate in Moi Air Force Base Branch - DOD Civilian between 1998 - 2003. Currently he is employed by the Ministry of Transport (Headquarters)

Persistent fight

In year 2005, the Society's Annual Delegates Meeting expelled Mr. Mageto among others and subsequently his photos were published in the daily newspapers to alert the general public that he was no longer a member of the Society. He contested the expulsion and was reinstated as a member.

Mr. Mageto is on record with other disgruntled members who have authored various letters of allegations of mismanagement against the Society leadership in both print and electronic media and circulating the same to various state and non state actors seeking for their intervention in the eyes of right thinking public.

Filed civil cases together with others against the Society contesting expulsion from the Society membership.

NON EXISTENT MEMBERS

The following are disgruntled non-members whose interest in the Society is unknown to us:-

1. J. S. LANGAT

According to Society's records, we do not have a member previous or present going by the above names. He may be an imposter. Therefore the letter tabled on the Floor of the House on 31st August 2010 and the allegations raised therein should be treated as unfounded allegations and be dismissed accordingly.

2. MR. TOM ODERO

Mr. Tom Odero is a non member who is known as trade union activist who was one of the ring leaders of the infamous 1998 Bank strikes which had serious effects on Kenya's economy. Because of the incitement to strike he was dismissed from the National Bank of Kenya.

In our view, Mr. Odero is on a mission to destroy the member based SACCO's business. We are surprised that he has joined with a group fighting the SACCO Management and leadership.

DISGRUNTLED FORMER MEMBERS OF STAFF

The following is a profile of the said former employees of the Society:-

1. MR. DANIEL MUNGATHIA TURIBU - P/No.9205179

- (i) Mr. Daniel Turibu is a former employee of the Society P/no.9205179 and M/No.123200, ceased to be a member on 15th April 2009
- (ii) He was born in 1972 and employed by the society on 14/5/1992 as a clerk on temporary basis, there is no record to indicate whether he was interviewed or not.
- (iii) He was confirmed to clerk grade HC 11 on 11/5/1992 and thereafter rose through the rank to the post of Loans Officer iii HC 8 on 1st August 2003.
- (iv) He was given 30 days compulsory leave on 17/4/2001 - 17/5/2001 for poor performance of his duties and advised to go and reflect what was causing his poor performance.
- (v) He was issued with a warning letter on 31/8/2001 after the compulsory leave after he acknowledged his poor performance.

- (vi) He was dismissed from service on 21/9/2001 for fraudulent processing of a withdrawal case involving member no. 8290 - Teresa Muthoni Nthanje and was reinstated to duty on 26/4/2002.
- (vii) He was suspended from duty on 6/1/2009 on allegations of impropriety to allow investigations into his fraudulent Loan application processing of Loan for member no. 037954 Mr. Joseph K. Kagoh, of Kshs. 465,000.00 while he was a defaulter to another loan of Kshs. 400,000.00. Investigations revealed that he had manipulated the computer system to give many undeserving loans to members.
- (viii) He was dismissed from the service of the society with effect from 6/1/2009 upon having been found guilty of gross misconduct.
- (ix) Thereafter the Society initiated internal investigations which found him culpable and hence the management filed/registered a case against him with the Police.
- (x) The police arrested Mr. Turibu arraigned him in court and charged him with six counts of fraudulent false accounting contrary to section 330(a) of the penal code. (CR 111/466/2009 C.F. 1305/2009 refers). He was released on a cash bail of Kshs. 50,000.00 on 9/7/2009 and the criminal case is pending before Court 2, Nairobi Law Courts.
- (xi) He filed a Trade Dispute against the Society in industrial Court Cause no.787 (N) of 2009. The matter is still pending in Industrial Court.

2. MR. JOSECK OMUHINDA OTANGA EX. PNO. 9205179

- (i) Mr. Joseck Otanga is a former employee of the Society Ex. Pno. 9205179 and Ex. Mno. 123182, ceased to be an employee of the Society on 2nd February 2010.
- (ii) He was born in 1969 and employed by the Society on 10th July 1991 as a Clerical Officer, on recommendation by a Senior Government Official (Mr. Sheldon Muchilwa) who was a member of the Central Management Committee at Harambee SACCO at that time.
- (iii) He was confirmed to his appointment on 25th August 1992 and thereafter rose through the rank to a Senior Clerical Officer Job Group HC 9.

During his employment with the Society, his disciplinary record was very poor as indicated below:-

- On 28th October 1999 he reported for duty from lunch at 3.30 p.m. instead of 2.00 p.m.
 - On 30th March 2001, he reported for duty at 8.30 a.m. instead of 8.00 a.m.
 - He was a poor performer with negative attitude and ever confrontational
 - On 5th November 2009 he was issued a final letter of warning for a missing file which he had handled Mno. 27329 – Moses Okal Opuka, in which the member had withdrawn his shares irregularly.
 - On 21st December 2008 he accessed the Society's computer system and without authority printed classified information about the Society, and thereafter circulated the information to unauthorised person with ulterior motives. He was given a show cause letter on 2nd February 2010.
- (iv) He was suspended from duty on 2nd February 2010 for alleged gross misconduct to pave way for investigations.
- (v) Investigations carried out and system audit confirmed that without permission of the management of the SACCO, he illegally accessed the computer server and printed classified information and circulated it
- (vi) He was dismissed from the service of the Society with effect from 1st July 2010 –
- (vii) Thereafter the Union reported a trade dispute the issue in dispute being “wrongful dismissal from employment of Mr. Joseck Otanga”, on 7th July 2010.

3. MR. TONNY MUTUVA MATUKU EX PNO. 9508249

- (i) Mr. Tony Matuku is a former employee of the Society Ex. Pno. 9508249 and Ex Mno. 123270. Ceased to be an employee and a member of the Society with effect from 8th March 2010.
- (ii) He was born in 1971 and employed by the Society on 1st August 1995 as a Data Input/Output Controller. During his appointment, there is no record indicating that he was ever interviewed for the job.
- (iii) He was confirmed into his appointment on 31st January 1997 but his performance was not impressive at all until his date of dismissal because

of his incapacity, incompatibility in skills, negative attitude, insubordination, absenteeism and poor performance.

During his employment with the Society, his disciplinary record was very poor as indicated below:-

- a. He was issued with a letter on 27th March 1998; to explain why he insubordinated his supervisors on two occasions.
 - b. On 27th March 1998 he was given a show cause letter for non performance of duty and entertaining many visitors at his place of work.
 - c. On 3rd February 2010 he used abusive language against the Ag. Chief Accountant and the Senior Security Officer. He grossly insubordinated them, and was given the final warning letter.
 - d. He was given a show cause letter for late reporting/absenting himself on the following days:-
 - 12th January 2010 – reported for duty at 8.43 a.m.
 - 19th January 2010 – did not report for duty the whole day and did not sign the register.
 - 29th January 2010 – did not report for duty the whole day and did not sign the register.
 - 05th February 2010 – reported for duty at 8.30 a.m. instead of 8.00 a.m.
 - He had many dealings with suspicious characters and brokers.
- (iv) He was transferred to the Kisumu Branch on 12th February 2010 but reported to the Branch on 17th February 2010. The transfer was to enhance the operations in the Branch and was not a punishment.
- (v) He deserted duty from Kisumu on 8th March 2010 without notifying the Branch Manager his whereabouts. He was dismissed from the employment of Society on 26th March 2010 with effect from 8th March 2010, the day he deserted duty.

- (vi) He appealed against the dismissal in his letter dated 12th May 2010, but the appeal was declined vide our letter dated 20th May 2010.
- (vii) He thereafter reported a trade dispute in the Industrial Court the issue being “wrongful and unlawful summary dismissal of the claimant without notice, salary arrears, certificate of service and/or refusal and neglect to pay terminal dues/benefits” and the case was registered as cause 921 of 2010. The matter is still pending in the Industrial Court.
- (viii) Mr. Matuku did not have employer benefit payable to him but had liabilities amounting to Kshs.1,491,079.00. The Pension Scheme processed his Pension and paid him in May 2010.

4. MR. BEN PANPHILL SIMUYU SIFUNA FORMER EMPLOYEE - Ex- P/NO. 9312207

- (i) Mr. Simiyu Sifuna is a former member of staff of the Society ex-payroll no. 9312207 and ex. Mno 123229. He was employed in the Society in December 1993 as Clerk in the Records Department. He ceased to be a member of the Society in January 2010.
- (ii) He rose through the ranks to become a Records Officer II Job Grade HC 7..
- (iii) On 26th February 2004, he was given a show-cause letter for the disappearance of seven (7) cheque amounting to Kshs. 793,900.00 on 11th August 2003.
- (iv) He was interdicted on 10th March 2004 for the loss of seven (7) cheques.
- (v) He was dismissed from the service of the society with effect from 20th May 2004 vide a letter dated 3rd June 2004, for failing to perform his duties as expected (Loss of 7 Cheques amounting to Ksh.793,900.00 which resulted in a loss of kshs.793,900 to the Society and for communicating to outsiders on matters touching on the society without authority.
- (vi) Upon dismissal for gross misconduct, he reported the matter to the following bodies:-
 - o The Kenya Anti-Corruption Commission
 - o The Minister for C-operative Development and Marketing
 - o The Ethics and Governance – Office of the president
 - o The Kenya Police

- (vii) He appealed against the dismissal on 2nd July 2004 but his appeal was declined.

During his employment with the Society, he had several disciplinary cases as follows:-

- 3/3/1999- cautioned for going out during office hours
- 8/2/2000 -cautioned for not serving members over lunch break when he was officially supposed to do so
- 27/4/2000 -cautioned for not wearing the identification budge.
- He was a notorious perpetual late comer and a poor performer.

- (viii) He has engaged the society in endless court battles through various court cases that are still pending in court.

Mr. Sifuna has been fighting the Society because of the following:-

- (x) His summary dismissal from the employment of the Society for having committed a gross misconduct (lost 7 cheques amounting to Kshs. 793,900.00)
- (xi) The society's rejection of him being a branch official of KIRDI which is a branch of the Society, as he did not qualify.

He has taken the Society to court, lawyers, Parliament, Police and other Government Bodies on many occasion to revenge what he perceives to be unfair treatment by the Society

5. MR. EVANS BOGONKO BOSIRE EX.PNO. 200009312

- (i) Mr. Bosire is a former employee of the Society up to 29th October 2009 when he was dismissed for gross misconduct.
- (ii) He was born on in 1968 and employed by the Society on 13th March 1995 as a Clerical Officer. He was confirmed into his appointment on 31st January 1997.

His disciplinary record was very poor as indicated below:-

- On 7th February 1997, he was suspended from duty after he was implicated in the loss of huge amounts of money through fraudulent encashment of cheques amounting to Kshs.1,373,000.00 on various dates between 17th October 1996 and 22nd January 1997.He was arrested by the Police and charged before the Chief Magistrate court in case Ref. CF 746/97.

- He was summarily dismissed with effect 7th February 1998 on ground that the Society trust in him had been eroded.

Upon his appeal, he was re-employed a fresh with effect from 25th September 2000. He was confirmed to his appointment on 2nd November 2001 effect from 25th September 2000.

- (iii) On 23rd April 2007, he in subordinated the Senior Records Officer by bagging his phone on her.
- (iv) He was transferred to the FOSA Mombasa Branch with effect from 22nd November 2007 to strengthen and improve delivery of service.
- (v) On 6th August 2009, he was requested to make good Kshs.1,285,000.00 he could not account for within 24 hours.
- (vi) He was issued with a show cause letter to explain how he intended to repay the money to the Society. In his explanation dated 1st September 2009 he acknowledged he had used the money and requested that the money be recovered from his salary.
- (vii) He was suspended from duty with effect from 3rd March 2009 to pave way for further investigations.
- (viii) He was found culpable and dismissed from the service of the Society in a letter dated 17th November 2009.
- (ix) He was arrested of the Police on 29th November 2009 and taken to Mombasa where he was interrogated by the Police.
- (x) He was charged in a Mombasa court Police case No. 341/831/2009 OB No. 47/15/10/2009 for stealing by servant contrary to section 281 of the penal code. The matter has been partly heard.

6. MR. EVANS OBUYA NYATICH - EX.PNO. 20050339

- (i) Mr. Obuya was born in 1968 and joined the services of the Society on 11th March 2005 as a Finance Assistant Grade HC 8.
- (ii) He was confirmed in his appointment on 12th July 2008. His confirmation took long because of his poor performance.

- (iii) On 26th November 2007, he was appointed to be the in-charge of the FOSA Mombasa Branch operations following a result transcript that he had done well in his Master of Arts Degree from the University of Nairobi.
- (iv) An audit report carried out in August 2009 revealed he had between January 2008 and August 2009 misappropriated Kshs.4,119,500.00. The amount was misappropriated through the issue of unauthorised cash imprest.
- (v) He was recalled to the Headquarters with immediate effect from 7th August 2009.
- (vi) He was arrested by the Police on 29th October 2009 and taken to Mombasa where he was interrogated by the Police.
- (vii) He was arraigned in a Mombasa court and charged for stealing by servant contrary to section 281 of the penal code, case no. 341/83/2009, OB No. 47/15/10/2009.
- (viii) He was released on a cash bail and the matter is going on in court.
- (ix) He was dismissed from the service of the Society with effect from 29th October 2009. the day he was arrested by the Police.

7. **MR. THOMAS OBUOKO OKWAYO EX.PNO. 9910293**

- (i) Mr. Okwayo was an employee of the Society up to 29th October 2009 when he dismissed from the Society for misappropriation of funds.
- (ii) He was born on 10th April 1978 and employed by the Society on 18th October 1999 as a Clerical staff. During his appointment he was not interviewed but used his brother who was a Board Member then.
- (iii) Mr. Okwayo was a non performer. He did not have any other qualifications apart from KCSE certificate.
- (iv) An internal audit done in August 2009 established that while working in FOSA Mombasa Branch Mr. Okwayo had converted Kshs.1,435,000.00 money belonging to the Society for personal use through unauthorised cash imprest (IOU).
- (v) He was recalled from the branch to the Headquarters on 7th August 2009 and was asked to give a plan of how he intended to refund the Society the money he had misappropriated.

- (vi) In his explanation letter dated 28th September 2009 he said he incurred the shortages from the payments he made to customers and converted the shortages to I Owe You (IOU.)
- (vii) He was suspended from duty with effect from 29th September 2009 to pave way for further investigations. Intensive investigations carried out revealed that Mr. Okwayo misappropriated Kshs.1,435,000.00 in the form of unauthorised IOUS
- (viii) He was dismissed from the Employment of the Society with effect from 29th October 2009 in a letter dated 17th November 2009.
- (ix) He was arrested by the Police on 29th October 2009 and taken to Mombasa where he was interrogated by the Police.
- (x) He was charged in court on 11th November 2009 for stealing by servant contrary to section 281 of the penal code. Police case no 341/83/2009 and OB No. 47/15/10/2009. The matter is still in court pending determination.

8. MR. PAUL DEDAN OCHIENG EX.PNO. 8805091

- (i) Mr. Paul Ochieng was on employee of the Society up to 29th October 2009 when he was dismissed from the employment of the Society.
- (ii) He was born on 17th September 1965 and employed into the services of the Society on 3rd November 1988 as a Clerical Officer. Academically he had a KACE 2 Principals and 1 Subsidiary and CPA Part I Section 2.
- (iii) He was confirmed in the appointment with effect from 3rd November 1988 in a letter dated 5th December 1988.

His disciplinary record was very poor as indicated below:-

- On 10th July 1990 and 20th July 1990 he refused to sign the Attendance Register.
- On 26th May 1997, he was issued with a show cause letter fro back dating loan application forms and processing them contrary to the instructions given.
- He had serious domestic problems and in 2005 he had many cases with the Provincial Children's Office, Western Province.

- (iv) An audit report carried out in August 2009 revealed he had between January 2008 and August 2009 misappropriated Kshs.1,823,250.00. The amount was misappropriated through the issue of unauthorised cash imprest.
- (v) He was arrested by the Police on 29th October 2009 and arraigned in a Mombasa court and charged for stealing by servant contrary to section 281 of the penal code, case no. 341/83/2009, OB No. 47/15/10/2009. He was dismissed by the Society on 17th November 2009.

DISGRUNTLED CURRENT MEMBER OF STAFF

1. MR. PAUL ONYANGO PNO. 9312215

- (i) Mr. Paul Onyango is an employee of the Society Pno. 9312215 and Mno. 123237 deployed in FOSA Mombasa Branch.
- (ii) He was born in 1972 and employed by the Society on 6th December 1993 as a Clerk. There are no records that he was interviewed by the Society during his appointment. He is a holder of KCSE Grade D+ and a certificate for using Microsoft word 97, there is no record that he was interviewed for the job.

During his employment with the Society, his disciplinary record has been poor as indicated below:-

- a. On 4th April 1996, he was interdicted for receiving a bribe of Kshs.500.00 from Mno. 27021, a Mr. Vincent Mulili Kimotho in order to speed up his case.
- b. He was cautioned on 5th November 1999 for being found outside the office during working hours.
- c. On 14th June 2002, he released cheque no. 47966 for Mno. 61732 - Mr. Daniel Muiruri Ndungu of Kshs.187,500.00 to a wrong person who later encashed it. The Society lost the money
- d. On 15th January 2004, he was directed to re-assure the Society that he would continue doing his work diligently and with minimal complaints following many complaints from members and poor performance.
- e. He absented himself from duty without lawful excuse for the period 12th- 14th January 2009.

- f. He was given the final warning letter on 12th January 2009 for shouting the Chief Executive Officer in an official function on 19th December 2008.
- g. He had forged documents from the Metropolitan Hospital to the effect that he was admitted to the Hospital on 14th January 2009 and thereafter given 2 days sick off to cover absence.
- h. On 26th June 2009, he attempted to assault a Senior Officer in his office and had to be restrained by colleagues thereby causing a lot of unrest and disturbance.

REPORT ON MISAPPROPRIATION OF SOCIETY’S FUNDS IN FOSA MOMBASA BRANCH BY SOCIETY’S FORMER MEMBERS OF STAFF

As a financial procedure in the Society, the management undertook a surprise spot check on the financial operations at Mombasa Branch on 7th August 2009. At the end of the exercise, it was established that there was a discrepancy between cashier balances and the cash balances totaling to KShs. 8,704,750.00. The period covered was between November 2007 and August 2009.

Upon further scrutiny, it was established that the following staff irregularly advanced themselves unauthorized imprest as follows:

Mr. Evans Obuya	KShs. 4,119,500.00
Mr. Paul Dedan Ochieng	KShs. 1,823,250.00
Mr. Evans Bosire	KShs. 1,285,000.00
Mr. Solomon Okwayo	<u>KShs. 1,435,000.00</u>
TOTAL	KShs. 8,704,750.00

- The above stated amounts were misappropriated through the issue of unauthorized Imprest.
- They were arrested by the Police on 29th October 2009 and charged in court
- They appeared in the High court Mombasa 2nd November 2009 released on cash bail of KShs. 20,000.00 each for them to allow the Police carry out further investigations.
- The staff had earlier recorded statements with the management admitting that they had misappropriated the society’s funds. They further requested the management to recover the amounts from their salary, a request that is unacceptable because they irregularly advanced themselves colossal sums of

money knowing that they had over-committed their salaries and therefore could not be recovered.

- Under the Society's Terms & Conditions of Employment, the staff committed a classified Gross misconduct according to our Human Resource Division Staff Regulations and procedure manual Clause 2.3.1 (c), (h), and (f) actionable by summary dismissal from the service of the society. Their action was also contrary to the Employment Act clause 44 (4) actionable by dismissal.

They were summarily dismissed from the service of the society with effect from 29th October 2009, the day they were arrested by the police.

~~Appendices~~

- ~~(x) - Charge sheets of former members of staff~~
 - ~~- Minute No. 16/2004~~
 - ~~- Minute No. 14/2008~~

ANNEX III

A COPY OF MR. J.S. LANGAT'S LETTER ADDRESSED TO THE MEMBERS OF PARLIAMENT ON ALLEGATIONS OF MISAPPROPRIATION OF FUNDS AT HARAMBEE SACCO



A1

Harambee Sacco Members

28th August 2010

All Members of Parliament

*Paper law
by Hon J
Khalaf
in rela
to Q1
P11*

RE: MISAPPROPRIATION OF HARAMBEE SACCO MEMBER'S SAVINGS

Employees from the Armed Forces, Kenya Police, Administration Police, NISS and Civil Servants from Office of the President form the majority of the members of Harambee Sacco with a membership of over one hundred thousand and a total monthly contribution of over Kshs.500 million. We take this opportunity to thank most sincerely Hon. Martha Karua along with other MPs for highlighting and taking a firm and brave stand in defense of the exploited members of Harambee Sacco in the Parliament.

Consequently, during last Thursdays parliament proceedings, the speaker ruled that the Attorney should explain in parliament on Tuesday 31st August 2010, why the Harambee Sacco matter cannot be concluded once and for all. Following this ruling, we have subsequently alerted all our members countrywide to watch the day's proceedings.

The Harambee Sacco saga is now a matter of life and death that should no longer be taken lightly by anyone. Pointing out corruption at the Sacco has proved as dangerous as plunging into a crocodile infested waters. This can be attested to by some victimized members, delegates and Harambee Sacco employees. All those who exposed Harambee Sacco scandals were:

- (i) Sacked through Central Management Committee (CMC) instigations
- (ii) Died mysteriously
- (iii) Transferred outside Nairobi especially if they were branch officials. According to society's By-Laws once outside Nairobi one ceases to be a delegate. All the above, besides intimidation by the CMC, has been done in a bid to silence members in order to perpetuate corruption at the Sacco.

The intrigue style of silencing critics was first used by the CMC on five delegates and one member who had written to the P.S. Co-operatives in the year 2004 appealing to him to save the Sacco from rampant corruption. The CMC made a swift move by recommending their suspension during the AGM which indeed was misled to ratify their suspensions. In order to humiliate them further, the directors went ahead and circulated their passport size photographs, their ID numbers and other personal details through local daily newspapers. However, after the victims filed for a court ruling on the matter, the court reinstated them swiftly.

During the debate on Harambee Sacco in parliament the previous, we were disappointed when the AG stood to defend the looters of the Sacco! As the government's chief legal adviser, the AG cannot convince anyone that he has no files in his office on the society's ills and that he is unaware of the rot therein. In fact, the latest file in his office is the one by the Banking Fraud Investigation unit file ref no. CID/BFI/SEC/4/4 VOL.169/125 which contains all the details on the theft at the Sacco. It was forwarded to his office. The flopped CID HQS investigations had estimated that the directors had looted over Kshs.900 million within a period of two (2) years. In addition, the former Police Anti-corruption Unit had in 2003 forwarded another file to the AG regarding the same matter. We therefore believe that the AG is not ignorant about this issue or has been compromised.

We therefore request that the AG tables the report in parliament on Tuesday or else we will be convinced that what the directors (Central Management Committee) are bragging about is true that they have already compromised. We have revelation that the AG is failing to act because the general manager Mr. James Wandera Maloba is his cousin whom was employed through the influence of AG when CMC board of the Sacco were pursuing KACC 2003 case.

HON. JOSEPH NYAGA – MINISTER FOR CO-OPERATIVES

Instead discharging his ministerial duties and find a lasting solution to the Harambee Sacco, the minister for co-operatives Hon. Joseph Nyagah, has joined the perpetrators of corruption.

A company closely associated with him (Gina Din Corporate Communication Sacco) was paid Kshs. 19.5 million in June 2009 and August 2009 for purchase of shares. If this was a clean deal, the AGM would have authorized it. We have evidence that the minister is paid over Kshs.200, 000 weekly as protection fee and that when he defended them in parliament

(12)

he was rewarded with millions of shillings as a token of appreciation. Members countrywide are wondering why the minister, who campaigned on the platform of eradicating corruption, has instead encouraged it beyond limits! No wonder visits by several members and correspondence to his office has bore no fruits. The same explains why he made an absurd request in parliament when Hon. Martha Karua raised the matter in parliament. He had the audacity to request parliament to be allowed to meet aggrieved party and the CMC, which left everyone wondering why he does not want to crack the whip.

Again, when the members met him together with Hon. Karua he promised to take action which up to date he has not. Further, he had requested the delegates to allow him meet aggrieved party during the April 20th 2010 AGM at Kenya school of Monetary Studies which he has not done to date. All this is a clear indication that the minister has obviously something to hide and that is why we are crying to you to come to our rescue and demand action.

TO THE PRIME MINISTER

Evidence is available that Hon. Nyagah is fairly involved in the Harambee Sacco corruption. The minister is updated on day today activities at the Sacco. For example on 17/08/2010 after Hon. Karua raised the matter in parliament, the minister immediately summoned Central Management Committee led by National Chairman Macloud Malonza to his office to strategize on how to counter Hon. Martha Karua's move.

We would like you to know that those who are suffering as a result of the looting at Harambee are Askaris, civil servants who have been milked dry, by thirteen (13) directors (Central Management Committee) five Senior Managers and Commissioner of Co-operatives who have enriched themselves at the expense of members. They have been assisted by Hon. Nyagah, an ODM minister tarnishing the party's image. We would also like to mention that, the current CMC have been in office since the year 2000. They have been using the rooted funds to bribe delegates in order to remain in office. The voice of the poor member remains unheard because members cannot elect the CMC directly.

We petition to you to take a bold action and dissolve the CMC just as you did to the board of Nairobi Water Company. You should face the Harambee Sacco with the same boldness you used to face the Mau Forest issue.

Because Harambee Sacco has been investigated many times without any action being taken, we request you to suspend the CMC and call in reputable independent audit team such as PriceWater House Coopers to unearth the rot there. The question to you is, are you going to rescue the over one hundred thousand suffering Sacco members or let the 11 CMC, 3 Supervisory and Commissioner of Co-operatives continue to steal and go scot free?

Reminds
Members became frustrated and opted to prosecute privately. Refer to criminal case Misc. No. 45/04. The case is still pending in court after the accused board members of the Sacco filed a judicial review under MISC No. 330/05. The File has been missing from the High Court since the year 2007. Furthermore, since there is a criminal case against the board members, they are therefore not supposed to hold a public office as civil servants and also the CMC/Board members who are Civil Servants/State officers contravenes chapter 6, section 75 (2) a, b which deals with conduct of state offices.

You are our only hope to unravel the stealing/fraudulent deals at the Harambee Sacco.

Yours faithfully,



J.S. Langat

Members of Harambee Sacco

.cc. Prime Minister
Attorney General,
All media houses

ANNEX IV

**REPORT OF FORENSIC
EXAMINATION OF THE
QUESTIONED LETTERS BY MR. J.S.
LANGAT AND MR. WILFRED
NYACHEO AS REQUESTED BY THE
COMMITTEE ON AGRICULTURE**

OUR REF: CID/ORG/8/3/1/1118



The
Kenya Police
Criminal Investigations Department

Forensic Document Examiner's Report

*C.I.D. Headquarters, Kiambu Road, P.O. Box 30036 – 00100, Nairobi -
Kenya. Tel. + 254 20 8512090/6, E-Mail: antipaso@swiftkenya.com*



The Kenya Police
Criminal Investigations Department
Forensic Document Examiner's Report

The Case Work Diary:

Case Work Ref: **CID/ORG/8/3/1/1118**
Station: **B.F.I.U. Nairobi**
CR: **INQ No. 1/2010**
I/O: **Def. CI. Mwaluko**
Complainant: **Republic**
Accused: **PUI**
Offence: **Stealing C/S 275 of PC**
Date of Submission: **11/10/2010**
Date of Examination: **13/10/2010**
Request: **As Per the Exhibit Memo Form Annexed**
Examiner: **Antipas Nyanjwa,**
 (Forensic Document Examiner,
 Voice & Acoustics Analyst)

Statement of Qualification:

I wish to state that I am a qualified forensic document examiner of over fourteen years experience with the Kenya Police Forensic Department on a full time basis. I hold a masters degree in criminology and forensic science from the University of Sagar, India. I have also been trained as a forensic document examiner at among

other places the Interpol Headquarters Lyon, France, The National Police Headquarters, Jerusalem Israel, The Federal Police Headquarters, Sydney Australia, The National Authority for the Investigation and Prosecution of Economic and Environmental Crimes, Oslo, Norway, Zurich Canton Police Headquarters, Switzerland, Regional International Organization for Migration Training Academy, Moshi Tanzania, and Foster & Freeman, Evesham, United Kingdom.

I have been a practicing forensic document examiner in Kenya since 1996 where I have expressed expert opinion on handwriting in thousands of cases in various courtrooms countrywide. I am also an admitted handwriting expert at the United Nations International Court where I have expressed opinion in the same field and have been on retention since 1998 to date.

Report on Examination & Findings:

I have today examined and compared the questioned Letter dated **28th August 2010** with a better and clear copy of the letter also dated **21st November 2008** retrieved from our vaults. They are in my opinion made by different instruments. The print, print type, font type, font size, and format are in my opinion different.

Methodology:

In my examination I have subjected the questioned letters to image enhancement and magnification procedures on three platforms of

Stereo Microscopy, Video Spectral Comparator and the Projectina using infra red filters for better visibility and inspection of the miniature individual characteristics for absolute identification.

Characteristics & Similarities:

I have considered all the possibilities of natural variations resulting from the time span the letters were made, printer defects, wear and tear, and font type manipulations.

My considerations in arriving at my opinion are based on the peculiar individual characteristics in the print, print type, font type, font size, and format that had no similarity. I have attached herewith as an annexure, a comparison chart of image extracts from the two different letters as demonstrations of the peculiar differences observed in the letters under examination.

I forward herewith a copy of my report detailing my findings for your perusal and action. I also return herewith, all the documents that were submitted to me for your retention.

A handwritten signature in black ink, appearing to read 'Antipas Nyanjwa', with a large, stylized flourish above the name.

**ANTIPAS NYANJWA
FORENSIC DOCUMENT EXAMINER,
VOICE & ACOUSTICS ANALYST
FOR: DIRECTOR CRIMINAL INVESTIGATIONS**

A COMPARISON CHART OF THE PRINTS AND FONTS

RE:

Extracted from A1

RE:

Extracted from B1

MISAI

Extracted from A1

MISMA

Extracted from B1

Harambee

Extracted from A1

Harambee

Extracted from B1

Hon. Joseph Nyagah,

Extracted from A1

MESHACK NYANGUTE

Extracted from B1

Notes: There are differences in the font types used to make the two different letters. The letters were made by different instruments.



A1

Harambee Sacco Members

28th August 2010

All Members of Parliament

*Paper law
by Hon. J. Khal.
in rela
to Q
@
3*

RE: MISAPPROPRIATION OF HARAMBEE SACCO MEMBER'S SAVINGS

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(42)

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replied
Members became frustrated and opted to prosecute privately. Refer to criminal case Misc. No. 45/04. The case is still pending in court after the accused board members of the Sacco filed a judicial review under MISC No. 330/05. The File has been missing from the High Court since the year 2007. Furthermore, since there is a criminal case against the board members, they are therefore not supposed to hold a public office as civil servants and also the CMC/Board members who are Civil Servants/State officers contravenes chapter 6, section 75 (2) a, b which deals with conduct of state offices.

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Yours faithfully,



J.S. Langat

Members of Harambee Sacco

cc. Prime Minister
Attorney General,
All media houses



A2

Director
C/O

Annex
1

HARAMBEE CO-OPERATIVE SAVINGS & CREDIT SOCIETY LTD.

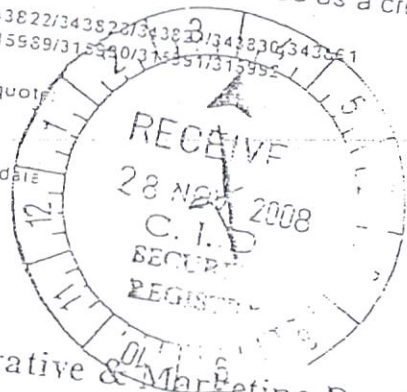
(Registered as a credit society)

Tel: 343766/343815/343822/343827/343832/343837/343842/343847
311047/318399/315989/315990/315991/315992/315993/315994/315995
Fax No. 216326
When replying please quote:

P.O. Box 47815
00100 - G.P.O.
NAIROBI

Ref. No. HARI /

and date



cc: B
Please find notes and let me have your comments!
Director
C.I. Kiruru
see ml

The Hon. Minister,
Ministry of Co-Operative & Marketing Development,
P.O. Box 30547,
N.S.S.F Building,
NAIROBI.

Dear Sir,

21st November 2008

RE: GENERAL MISMANAGEMENT & MEGA FRAUDING OF MEMBERS FUNDS AT HARAMBEE SACCO BY THE CENTRAL MANAGEMENT COMMITTEE (C.M.C.)

I refer to the above mentioned and wish to bring to the attention of your good office the fraudulent activities going on at Harambee Sacco Society. As you are well aware this society draws membership from all ministries and members of the disciplined forces.

The society gives three types of loans through the back office and one type of loan through the FOSA. However, the management committee has irregularly granted themselves FOSA Loans and coaxed the staff to process and pay their loans against sitting allowances in contravention of the co-operative act. The following is a schedule showing how the management committee has swindled the society of Sh. 724,068,864 in the last one year. Sir, this whole amount is in default and effort to recover it has been futile since they are our directors.

14

Sir, this is the amount of money stolen through a collusion between the CMC, Finance Manager and General Manager. However, the Chairman and Finance Manager continue stealing from FOSA since there are no proper record keeping.

Sir, in the last AGM, this year, the delegates were aware of the happenings at the Sacco but they were actually bought to re-elect the same CMC members. The society spent Ksh. 100,000,000.00 (One Hundred Million) on AGM expenses against a budget of Ksh. 14 million. Despite all these, the society has not paid any Loan to it's members for the last four months.

I call upon your office to launch investigations and unravel these fraudulent activities and save the society from collapsing.

Thanks in Advance.

WILFRED NYACHEO
FOSA MANAGER



CC: PERMANENT SECRETARY
MIN. OF CO-OP DEVT
P.O. BOX 30547
NAIROBI

✓ PERMANENT SECRETARY
OFFICE OF THE PRESIDENT
P.O. BOX 30510
NAIROBI

PERMANENT SECRETARY
& DIRECTOR OF PERSONNEL MANAGEMENT
HARAMBEE HOUSE,
NAIROBI

CHIEF OF GENERAL STAFF
MINISTRY OF STATE FOR DEFENCE
P.O. BOX 40668
NAIROBI



A2

Director
C/O

John
Anne
1

HARAMBEE CO-OPERATIVE SAVINGS & CREDIT SOCIETY LTD.

(Registered as a credit society)

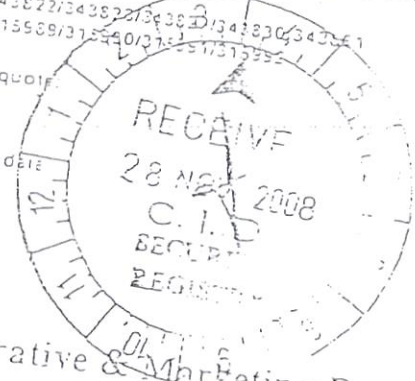
Tel: 343766/343815/343822/343827/343830/343834/343838
311047/311039/311558/311559/311560/311561
Fax No. 215326

When replying please quote

Ref. No. HARI /

and date

P.O. Box 47815
00100 - G.P.O.
NAIROBI



Handwritten notes:
Please find notes and
I have your consent
for this.

Signature: C.I. Kirera
Text: see ml

The Hon. Minister,
Ministry of Co-operative & Marketing Development,
P.O. Box 30547,
N.S.S.F Building,
NAIROBI.

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COMMISSIONER OF POLICE
PO BOX 30083
NAIROBI

DIRECTOR OF C.I.D.
PO BOX 30036
NAIROBI

MANAGING DIRECTOR
CO-OPERATIVE BANK OF KENYA
CO-OPERATIVE HOUSE
NAIROBI

CHAIRMAN-PUBLIC INVESTMENTS
PARLIAMENT BUILDINGS
PO. BOX 41842
NAIROBI

CHAIRMAN, PUBLIC ACCOUNTS COMMITTEE
PARLIAMENT BUILDING
PO. BOX 41842
NAIROBI

CHAIRMAN
HARAMBEE SACCO LTD
PO BOX 47815
NAIROBI



ANNEX V

**LETTER TO THE COMMISSIONER
OF POLICE BY MESSRS GEOFFREY
ONTIERI, KENNEDY MAGETO AND
JOHN JOGO ON THE ALLEGED
EMBEZZLEMENT OF FUNDS AT
HARAMBEE SACCO**

STANDARD

REPUBLIC OF KENYA



NATIONAL ASSEMBLY



TENTH PARLIAMENT – FOURTH SESSION

DEPARTMENTAL COMMITTEE
ON
AGRICULTURE, LIVESTOCK AND COOPERATIVES

REPORT
OF
THE COMMITTEE ON THE INQUIRY INTO ALLEGATIONS OF
MISMANAGEMENT AT THE HARAMBEE SACCO SOCIETY LIMITED

NATIONAL ASSEMBLY,
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER 2010

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PREFACE

Mr. Speaker, Sir,

On 31st August, the House debated on a response by the Hon. Attorney General (AG) to a question raised by the Hon. Martha Karua, MP, relating to the mismanagement of funds by the Central Management Committee (CMC) and Management of the Harambee SACCO Society Ltd. The AG's response generated interest in the matter among the Members in this House. In reference to documents tabled in the House over the subject matter, the speaker directed the Committee of Agriculture, Livestock and cooperatives to inquire into the matter and make a report to the House.

Of particular concern were the contests raised in a letter addressed to all Members of Parliament and which have been annexed to this report. After studying its contents, the Speaker noted that *'There are very grave matters canvassed in this letter. It will be necessary that these matters are investigated, if not interrogated, by the relevant Committee of Parliament because Harambee SACCO is the largest SACCO in the country'..... I, therefore, direct that this matter be referred to the Committee on Agriculture, Livestock and Cooperatives'.*

Subsequent to this ruling, the Departmental Committee during its sitting on Monday, 20th September, 2010, resolved to invite witnesses to give evidence on the issues raised during the debate. The Committee received oral and written evidence from Monday, 27th September, 2010, to Monday, 11th October, 2010, from witnesses involved in the matter: Hon. Martha Karua, MP; whistleblowers (complainants); Criminal Investigations Department (CID); Kenya Anti-Corruption Commission (KACC); Attorney General; Gina Din Communications SACCO Ltd; Harambee SACCO Management; and the Minister and officials of the Ministry of the Cooperative Development and Marketing.

The Committee comprises the following Members:-

The Hon. John Mututho, MP	-	Chairperson
The Hon. Lucas Chepkitony, MP	-	Vice Chairperson
The Hon. Peris Chepchumba, MP		
The Hon. Fred Outa, MP		
The Hon. John D. Pesa, MP		
The Hon. Benson I. Mbai, MP		
The Hon. Evans Akula, MP		
The Hon. Dr. Victor K. Munyaka, MP.		
The Hon. Erastus Mureithi, HSC, MBS, MP		
The Hon. Robert O. Monda, MP		

The Committee first heard the nature of the complaints made by some members of the Harambee SACCO who presented information relating to cases of mismanagement. Thereafter the Committee utilized the information to gather evidence in its subsequent meetings with the Harambee SACCO management, investigating and prosecuting agencies, and the oversight Ministry of Cooperative Development. The details of the evidence are explained in this report which the Committee urges all the Members of Parliament to peruse and acquaint with in order to grasp and understand if allegations of corruptions debated in the House have indeed been committed at the Harambee SACCO.

The Committee would like to record its appreciation and gratitude to all the witnesses who made contributions during the hearings. Special thanks go the Hon. Martha Karua, MP, who gave the Committee an insight into the allegations made against the Management of Harambee SACCO from the documents presented to her by the whistleblowers, and to all the persons the Committee encountered during this inquiry for their candid submissions. The Committee would also like to acknowledge the cooperation and assistance of those witnesses who had to appear before it more than once to clarify allegations that emerged in the course of the inquiry.

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support and services extended to the Members to enable the Committee expeditiously execute this inquiry and compile its report.

I thank all Members of the Committee for their patience, sacrifice and hard work despite their other commitments in their respective constituencies. The programme of sittings benefited from full participation and input from all the Members of the Committee.

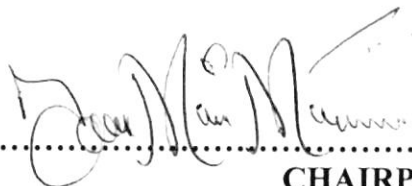
I further thank the secretariat staff of the National Assembly for their commitment to duty and without whose dedication, the work of the Committee would have been in jeopardy.

Mr. Speaker, Sir,

On behalf of the Committee, I now have the honour and pleasure to present this Report and Recommendations to the House for consideration and adoption.

Thank You

Signed



CHAIRPERSON

(HON. JOHN M. MUTUTHO, MP)

Date.....

26th. October 2010

EXECUTIVE SUMMARY

1. The Departmental Committee on Agriculture, Livestock and Cooperatives is one of the twelve (12) Departmental Committees established by the National assembly and operates in accordance with the Standing Order No. 198 and section 123 of the Constitution of Kenya. Its functions are stipulated in standing Order 198 (3) and are described in detail in chapter one, section 1.1, of this report.
2. The provisions of the Standing Order 198 (2), Second Schedule, state the Terms of Reference (TOR) for the Committee to include cooperative sector among its portfolio subjects. The others are agriculture, livestock, fisheries and production and marketing. Subsequently, Harambee SACCO falls within the oversight jurisdiction of the Committee.
3. On 31st August, 2010, the Speaker directed the Committee to interrogate the allegations on mismanagement at the Harambee SACCO after the House was drawn into a debate following a reply from the Attorney General to a question over alleged inability of his office to act on those found culpable in the alleged mismanagement of Harambee SACCO funds. Subsequently, the Committee commenced its work on Monday, 27th September, 2010, to gather evidence from witnesses deemed to hold crucial information to verify the allegations on fraud at the Society.
4. The Committee held a total of fourteen (14) sittings and received both oral and written information which it analyzed in making its report and recommendations. The hearings were conducted both in public and in camera depending on the sensitivity of the evidence being presented.
5. From the evidence presented, the Committee was of the opinion that the allegations were perennially being raised and they were not new in the SACCO. The Committee observed that investigations had been done on the allegations but lacked merit in law since the whistle blowers failed to record statements which would allow the prosecution to be expeditiously instituted. Subsequently, the Attorney General was handicapped in proceeding with prosecution against those thought to be culpable.
6. Interestingly, some of the whistle blowers peddling allegations of corruption at the SACCO were found to be persons who had been reprimanded by the members of SACCO in an Annual Delegates Meeting (ADM) sometimes in 2004 while others were former SACCO employees dismissed on grounds of gross misconduct. However, the Committee still proceeded to gather information on all matters that were raised when the complainants appeared before the Committee and whose issues are summarized in chapter two, paragraph 23, of this report. More interesting in the investigation was the discovery that a complainant, Mr. J.S Langat, whose letter

moved the House into the investigation, was found to be fictitious after the CID and SACCO management stated he could not be traced. The other complainants also reported the named person was not known to them.

7. The Committee observed that failure by the investigating and prosecuting agencies to successfully unearth if any corruption had indeed been committed was hampered by disappearance of vital documents which were thought to contain details of transactions between cashiers at the SACCO. Information made available to the Committee indicated a blame game between the Police and the SACCO Management. The latter explained the documents had been collected by the Anticorruption Police Unit (predecessor to KACC) in June 2009 while the former explained it was not among those they collected. The Committee therefore could not ascertain who bears the responsibility for the disappearance of the documents and the Committee therefore recommended for forensic audit to recover information relating to the missing files.
8. The other highlights of the conclusions made by the Committee on the allegations of mismanagement included the fact that the Committee noted that some of the employees were culprits in alleged fraudulent actions at the SACCO. Consequently, the affected employees were found to have been surcharged or dismissed and some cases pending in court (as presented in Chapter 3, sections 16 (d) and (i); and annex II of this report). The Committee also found that monies stated to have been irregularly loaned to CMC against sitting allowances was actually Kshs. 23,377,040.60 (not Kshs. 724,068,864.00 as alleged) and were found to have been approved and were regularly being serviced.
9. It was noted that some expenditure paid in allowances to the CMC and senior managers were due to workshops toward implementation of Mwaliko report and recommendations, and capacity building in the computerization of the SACCO's operations. The Committee therefore was of the view that the allegations being raised over such allowances were most unfortunate given the tremendous success the SACCO had recorded to move from its knees a decade ago. This is also a position shared by the Ministry and the understanding behind the failure by the complainants to record statements for prosecution to commence when CID and the Attorney General's office required them to do so.
10. The details of the major findings and recommendations of this inquiry are presented in Chapter Four. It is important to note that the recommendations presented were based on the evidence whose documents were thought sufficient to make progress in the investigation and where the Committee was in doubts recommended for forensic audit as an option. The Committee therefore calls upon the House to move to adopt the recommendations in this report to allow the Central Management Committee

(CMC) to continue with the smooth running of the affairs of the SACCO in its contribution to the economy of the country and improve the welfare of its members.

CHAPTER ONE

INTRODUCTION

1.0 THE CO-OPERATIVE MOVEMENT IN KENYA

1. Cooperative movement in Kenya began with the formation of the first cooperative society by the white settlers in 1908. The major objective of the cooperative society was to market agricultural produce and to procure farm inputs for the colonial settlers. The cooperative movement has recorded phenomenal growth in terms of number of cooperative societies and turnover, particularly following the enactment of Cooperative Society's Ordinance in 1946 and the Cooperative Societies Act, Cap 490, in 1966. The Cooperative Ordinance of 1946 led to the establishment of a Department of Cooperatives.
2. Today, the cooperative sector contributes significantly to the growth and development of the Kenya's economy. It accrued benefits include creation of employment, settlement of the people, and generation of income and acquisition of property. An estimated 63% of Kenyans draw their livelihood from cooperative-based enterprise. Cooperatives employ an estimated 500,000 people besides providing wealth of opportunities for self-employment.
3. Statistics by the Ministry of Cooperative Development and Marketing indicate that, while there were 1030 registered agro-based cooperative societies in 1963, this has to date increased to 12,500 with a membership estimated at over 8 million and a turnover of over Ksh. 200 billion. Cooperatives have recorded growth in every sector, including agriculture, finance, housing, construction, labour and industry.
4. The important role the cooperatives play in economies of countries around the world made the United Nations in 1994 to declare the 1st Saturday of July each year as the '**International Cooperative Day**'. This is celebrated in Kenya as '**Ushirika Day**'. The celebrations have become catalytic and galvanizing force in Kenya's vibrant cooperative movement which ranks first in Africa and the seventh in the world. The Savings and Credit Cooperative Societies (SACCOs) in particular have attracted international recognition. Kenya ranks one of the Group Ten most successful SACCOS in the world. In October 2009, Kenya hosted the International Cooperative Alliance African Regional Cooperative Ministers' Conference.
5. SACCOs have become valuable avenues through which small scale and low income earners mobilize their savings towards wealth creation. They are the most popular option in meeting financial needs of the Members due to the low interest rates charged on credits and ease with which to access them. The members access the credits from

SACCOs to cover development loans, emergencies, education, housing development, home improvement, among other products. Some SACCO Societies, such as the Harambee, Mwalimu, Afya and Magereza boast of large asset base exceeding some of the commercial banks. An estimated 5,000 SACCOs operate in the country, 230 of which offer Front Office Services Activity (FOSA) to their members.

6. In recognition of the potential benefits accruing from the development of the cooperative sector, the Government has continued to fast-track formulation and implementation of enabling policy and legal framework to guide the operations of cooperatives and especially the governance structures. The government delinked itself from the management of the cooperative societies following the implementation of the amendments to the cooperative societies Act Cap 490, of 1997 and the Cooperative Act No 12 of 1997. This was the time when Structural Adjustment Programmes were being implemented in Kenya and which subsequently paved way for committees and management of cooperatives to freely be in charge of their affairs.
7. Today, the day to day operation and management of the cooperative societies is run by an elective body of its members elected by the members themselves. The Ministry supports and facilitates for the development of cooperatives through promotion and registration of new cooperatives, exercise supervisory and advisory roles, and develop policies and laws governing the sector. The SACCO Act (2008) provides for the establishment of an independent SACCO Societies Regulatory Authority (SASSRA) to exercise oversight role over the SACCOs sub-sector.
8. Pursuant to Article 5 of the SACCO Act (2008), the specific functions of the Authority are to:-
 - i) license SACCO Societies to carry out deposit taking business in accordance with this Act*
 - ii) regulate and supervise SACCO Societies*
 - iii) hold, manage and apply the General Fund of the Authority in accordance with the provisions of this Act*
 - iv) levy contributions in accordance with this Act*
 - v) do such other things as may be lawfully directed by the Minister*
 - vi) perform such other functions as are conferred on it by this Act or by any other written law*
9. The SACCO sector contributes to an estimated 31 percent of the national savings and this investment needs to be reflected in its output in improving the welfare of the members, and achievements in the Millennium Development goals (MDGs) and the Vision 2030. Consequently all SACCO leaderships must significantly play their role in ensuring that strong and visionary cooperative leadership and management are

developed and maintained in order to build trust and confidence among members and to safeguard their savings.

10. Cooperatives are a hope of future growth and development in our effort to achieve sustainable development and to reduce poverty. The agenda behind cooperatives is usually to empower citizens to realize their socio-cultural and economic capacities using locally available or generated resources. Given the rapid growth of cooperatives in the country, certain guiding principles and values have been developed to guide and govern all their operations. According to the Ministry, these operational principles work to provide for improved and better governance in the cooperative sector. The International Cooperative Alliance (ICA) has crystallized them into seven principles, as follows:-

- i) Voluntary and open membership*
- ii) Democratic member control*
- iii) Member economic participation*
- iv) Autonomy and independence*
- v) Education, training and information*
- vi) Cooperation among cooperatives*
- vii) Community concern*

These values and ideals must be pursued if the cooperative societies have to make meaningful progress and make the cooperative movement become productive and move on the path to prosperity.

11. However widespread allegations over mismanagement of cooperative societies arising from poor leadership and mismanagement of funds are threatening the potential benefits accruing from investments in the sector. With particular reference to the giant Harambee SACCO Society Ltd, it has attracted three inquiries and several inspection reports since its inception in 1970 as a result of complaints by its members. These include:-

- i) Report of Inquiry into the By-Laws, Working and Financial Conditions of Harambee SACCO Society Limited in 2002, chaired by Mr. S. M. Mwaliko
- ii) Report of Inquiry on the By-Laws, Financial and Working Conditions of Harambee SACCO Society Ltd in 2000, chaired by Jeremiah Nyatichi
- iii) An inspection reports of 1994 and 2005 of the Ministry of Cooperative Development and Marketing

As a result of the findings of the Inspection Report of 1994, Commissions were appointed to briefly run the affairs of the SACCO in the period 1995-1997.

12. As a result of the findings of these inquiries and especially the Mwaliko Inquiry, Commissions were appointed to run the affairs of the SACCO in 1994-1997. All the inquiries, particularly the Mwaliko Inquiry identified weak governance system as an issue. This has remained contentious and a source of complaints of mismanagement at the cooperative society. The Management malpractices identified included '*high level negligence, self interest, partisan behaviour, role confusion, wrong priority setting, extravagance, misappropriation and incompetence*'. Therefore the SACCO management lacked professionalism and transparency in the way the affairs of the SACCO was being managed.

13. Subsequently, the Mwaliko Report made far-reaching recommendations necessary to help put the SACCO on a back to professional and prosperous path and to curb other malpractices that were hindering delivery of the services at the SACCO . The remedial measures proposed for implementation included:-

- i) strengthening loan recovery
- ii) retiring of overdraft
- iii) improving returns on members' investments
- iv) intensifying recruitment of members
- v) adherence to government procurement procedures
- vi) computerization of operations
- vii) developing election procedures
- viii) Amending of Bylaws of the society
- ix) delineating roles between the CMC and the Management
- x) creating security of tenure for CMC and the Management office holders

14. In 2003 the SACCO leadership developed a work plan to guide the implementation of the recommendations of the Mwaliko report. Although the implementation process is ongoing, allegations relating to mismanagement continue to persist in the Society. The debate on the allegation issues in Parliament informed the present inquiry by the parliamentary Committee on Agriculture, Livestock and Cooperatives. This was after the House debated the issue following a question in the House on Tuesday, 31st August 2010, when the Speaker directed the Committee to interrogate the matter further.

1.1 MANDATE AND TERMS OF REFERENCE (TOR) OF THE COMMITTEE

15. Subsequent to the Speaker's direction, the Committee commenced its work on Monday, 20th September, 2010, to deliberate on its TOR and invite key witnesses to appear before it. The Committee began receiving evidence on Monday, 27th September, 2010, which ended on Monday, 11th October, 2010.

16. The Committee's mandate in the inquiry is exercised pursuant to the provisions of the Standing Orders and the Constitution of Kenya. The Standing Order 198 (3) states, as follows-

'The functions of the Departmental Committee shall be-

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and Departments;*
- b) To study the programme and policy of the Ministries and Departments and the effectiveness for implementation;*
- c) To study and review all legislation after the First Reading, subject to the exemptions under Standing Order 101 A(4)*
- d) To study, assess and analyse the relative success of the Ministries and Departments as measured by the results as compared with its stated objectives;*
- e) To investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary and as may be referred to them by the House or a Minister; and*
- f) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation'.*

Section 124 (1) of the Constitution stipulates, as follows:-

'Each House of Parliament may establish committees, and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its Committees'.

17. In accordance with the Second Schedule of the Standing Order 198 (2), the Terms of Reference (TOR) for the Departmental Committee of Agriculture, Livestock and Cooperatives are as follows:-

- 1) Agriculture
- 2) Livestock
- 3) Fisheries Development
- 4) Cooperative development
- 5) Production and Marketing

Subsequently, the Committee exercises oversight role over the cooperative sector which the Harambee SACCO falls.

18. The Standing Orders and the Constitution also empower the Committee to make its own selection of the subjects regarding the policy, management, administration and other activities of the Ministries and Departments falling under its jurisdiction.
19. Therefore, following a question by the Hon. Martha Karua, MP, Gichugu Constituency, relating to alleged fraudulent actions by the management of the Harambee SACCO Society, the subsequent response from the Hon. Attorney General elicited lengthy deliberations in the House. By making reference to a letter from a complainant tabled in the house, the Speaker directed, as follows:-

‘There are very grave matters canvassed in this letter. It will be necessary that these matters are investigated, if not interrogated, by the relevant Committee of Parliament because Harambee SACCO is the largest SACCO in the country. Therefore, it is necessary that, as much as possible, it is given an injection of confidence at the earliest opportunity and action taken against any members of the public or members of Harambee SACCO, even if they be officials, who may be guilty of any wrong doing, so that the co-operative society is put at an even kiln at the earliest opportunity. I, therefore, direct that this matter be referred to the Committee on Agriculture, Livestock and Cooperatives. The Committee is obligated to inquire into the matter and file a report in this House within the next 21 days without fail’.

20. In undertaking the inquiry, the Committee sought to undertake public hearings with a view to:-
- i) undertake interrogations on the alleged mismanagement through hearings
 - ii) collect evidence relating to allegations
 - iii) identify the culprits
 - iv) recommend specific disciplinary actions (if any)
 - v) make recommendations to mitigate future mismanagement

1.2 MODUS OPERANDI OF THE COMMITTEE

21. The Committee undertook to conduct investigation by inviting all witnesses thought to have crucial evidence on the subject matter to appear before it at Parliament Buildings. The method and procedure of undertaking the inquiry included:-
- i) summoning witnesses to make appearances and give evidence before the Committee
 - ii) receiving oral and written evidence from the witnesses

- iii) making telephone calls and SMS to some witnesses, especially those complainants who had been dismissed, retired or interdicted and who could not be reached through the institutions' contacts
- iv) perusing of the reports of the inquiries and inspections on the Harambee SACCO

22. Consequently, the Committee received evidence from the following:-

- i. Hon. Martha Karua, MP, Gichugu Constituency
- ii. Complainants
- iii. Director, Banking Fraud
- iv. Director, Criminal Investigations Department (CID)
- v. Director, Kenya Anti-Corruption Commission (KACC)
- vi. Attorney General
- vii. Directors, Gina Din Communications SACCO Ltd
- viii. Harambee SACCO Management
- ix. Commissioner for Cooperatives
- x. Minister for Cooperative Development and Marketing

23. The Committee utilized the evidence (both written and oral) received, and other inquiry reports relating to the content in the matter under investigation in compiling its report. The Committee held a total of 14 sittings to receive evidence and to conclude the inquiry.

CHAPTER TWO

HARAMBEE SACCO SOCIETY LIMITED

2.0 INTRODUCTION

1. Harambee SACCO Society Ltd is the largest in Kenya and in the African continent. It was officially registered in 1970 after it previously operated as a merry-go-round welfare organization among the low cadre staff in the Office of the President. Currently it host a total membership of 98,640 (2009 figures) drawn from the Government Ministries and Departments such as the Office of the President, Department of Defence, Police, Administration Police, Ministry of Youth Affairs, Ministry of Immigration, some parastatals and other state corporations. The major activity undertaken by the society is to promote members' savings in form of shares and grant loans to members at affordable rate.
2. The society is managed by an elected Central Management Committee (CMC) made up of 11 members drawn from Nairobi province as per the society's by-laws, and a supervisory committee comprising 3 members. Harambee SACCO serves its members through its 148 branches spread across the country in a provincial administrative set up.
3. Each branch elects delegates to represent them at the society headquarters and attend the society's Annual Delegates Meetings (ADM). In excess of 445 delegates from the branches usually attend the AGM. The branches are empowered to offer essential services such as the emergency loans and school fees.
4. Pursuant to its vision '**to be the leading SACCO in Kenya in Funds Mobilization, Credit and provision of Quality Services**' and its mission '**to improve the socio-economic conditions of Members through provision of affordable credit**', Harambee SACCO has continued to improve and diversify its products and services to its members to include:-
 - (a) **Savings**; to save for the future at minimum monthly contributions of Kshs. 1,000
 - (b) **Development loans**; granted at three times the members savings and is processed within a week
 - (c) **Emergency loans**; processed within 30 minutes of application subject to a maximum of Ksh. 50,000
 - (d) **School fees**; the maximum depends on members ability to repay in 12 months and processed in 30 minutes

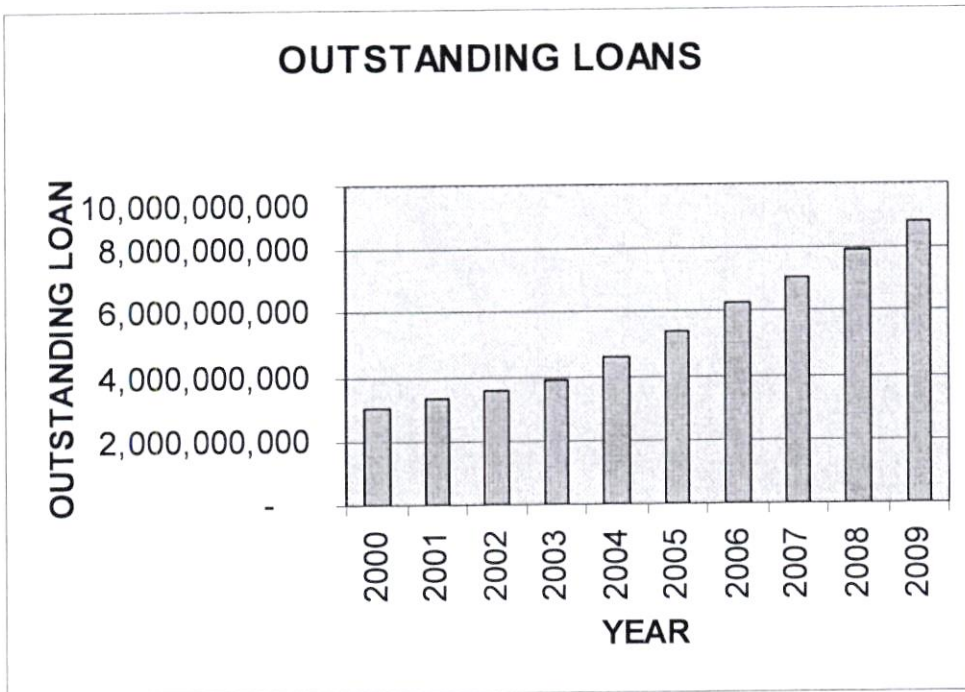
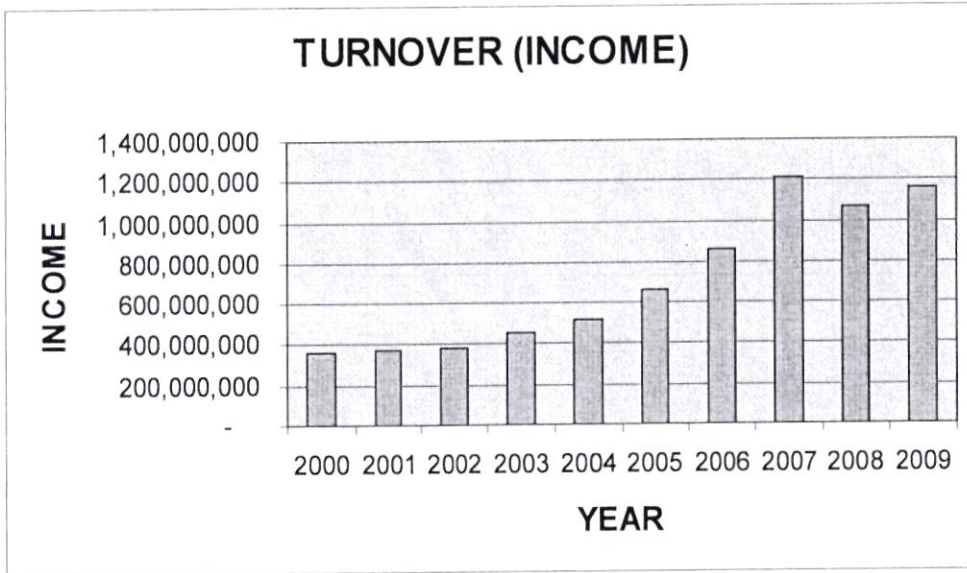
- (e) **Top-up loans**; to refinance the development loan once a member has repaid 50 percent of the existing loan
 - (f) **Jisaidie loan**; a new product granted at 4 times a member's share payable in 60 months
 - (g) **Mkombozi loan**; given at 1.2% per annum to cushion out a member's bank loans and avoid pecuniary embarrassment
5. The improvement in the delivery of services is worth noting considering that before 2001, members could not access loans in good time and processing of loans lasted 7 months while refunds could take a year.
 6. The Society also operates FOSA facilities to cover salary advances and personal loans to a maximum of 2 million payable in 72 months at an interest rate of 1.5% per month. FOSA also provides other services that include cheque encashment, payment of emergency loans, grant loans to the members and operate Savings Accounts, process ATM Cards and salary processing.
 7. Despite having suffered insolvency problems in 2001, the society has since recorded improved financial performance by about 300% in the last ten years as reflected in key performance indicators presented in Chapter Two of this report. Consequently the society has made a turn around from insolvency state (at negative 98 million in 2001) to being liquid (at 700million in 2009). According to the Central management Committee of the SACCO, the Society has recorded success in its growth against background of challenges which the management has outlined to include:-
 - (a) Competition from commercial banks
 - (b) Global economic meltdown
 - (c) Compliance to SACCO Act (2008) and its stringent rules
 - (d) HIV/AIDS scourge affecting members and staff
 - (e) Government freeze in employment
 - (f) Politics
 - (g) Diversified membership
 - (h) Fraudulent actions by members and staff
 - (i) Resistance to change
 - (j) Political bickering from power hungry members and delegates
 8. In this regard, the persistent complaints of mismanagement allegations threaten the success being achieved by the society. According to the CMC, the society has lately suffered panic withdrawals amounting to Ksh. 109.3 million between May 2010 and August 2010 as a result of claims of mismanagement. No meaningful progress can be enjoyed in an organization without support and loyalty of the customers.

2.1 PERFORMANCE OF THE HARAMBEE SACCO

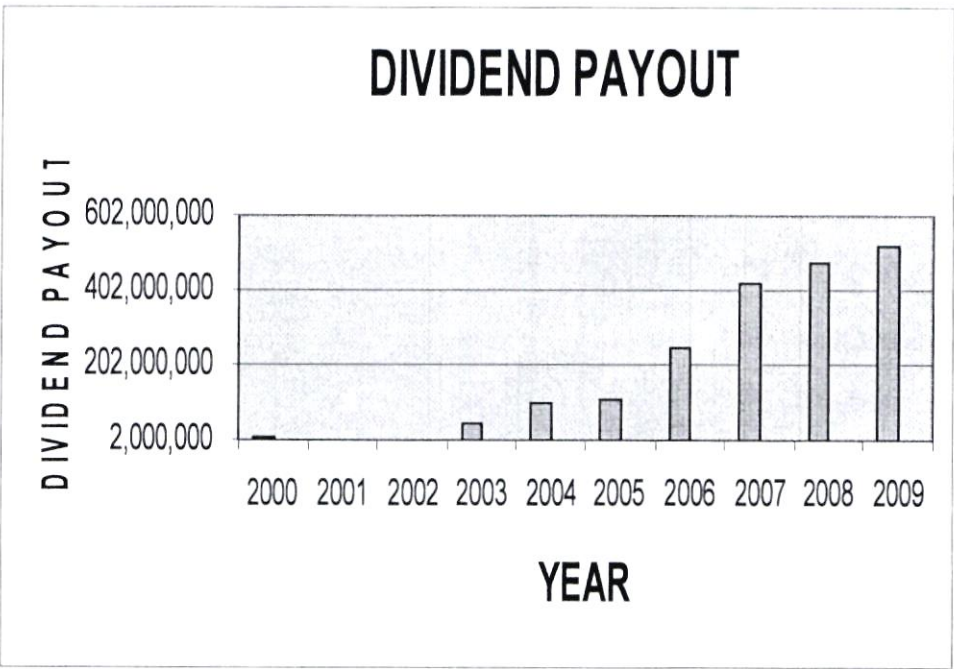
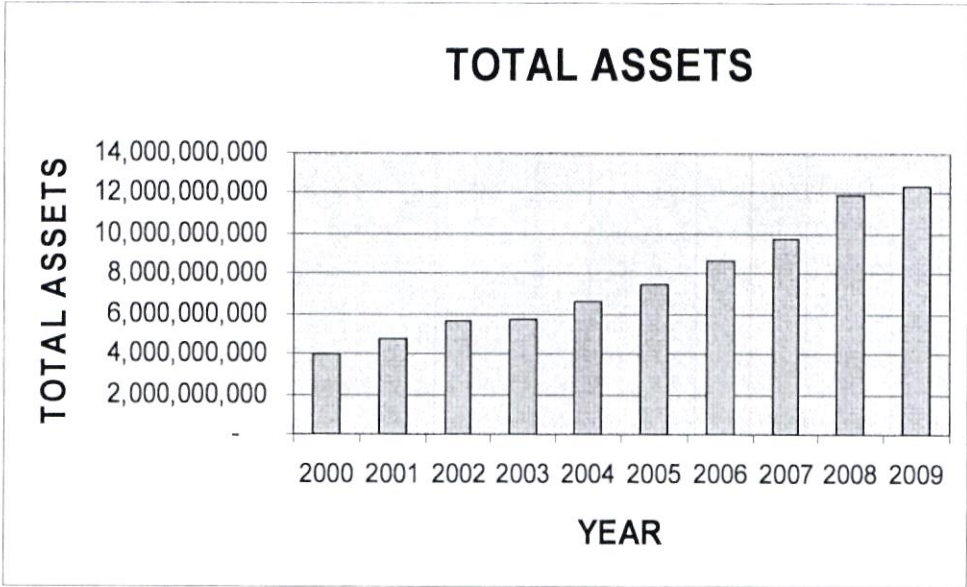
9. Prior to 2001, the Society was characterized by poor performance which informed the setting up of several inquiries and inspections by the Ministry of Cooperatives. As a result of the inquiries, appropriate steps have been taken to implement recommendations which have put the SACCO on a sound footing in its operations with desired results.
10. Except for the Membership which has remained generally constant, there had been notable increases in all the performance indicators (turnover, outstanding loans, total assets, dividends, deposits and surplus) since 2001. The SACCO also boasts of net worth of 3.5 billion as at 2009. The Tables (see Annex I) present data on comparative performance before and after 2001 which have been illustrated in graphical forms for ease of reference as shown below.



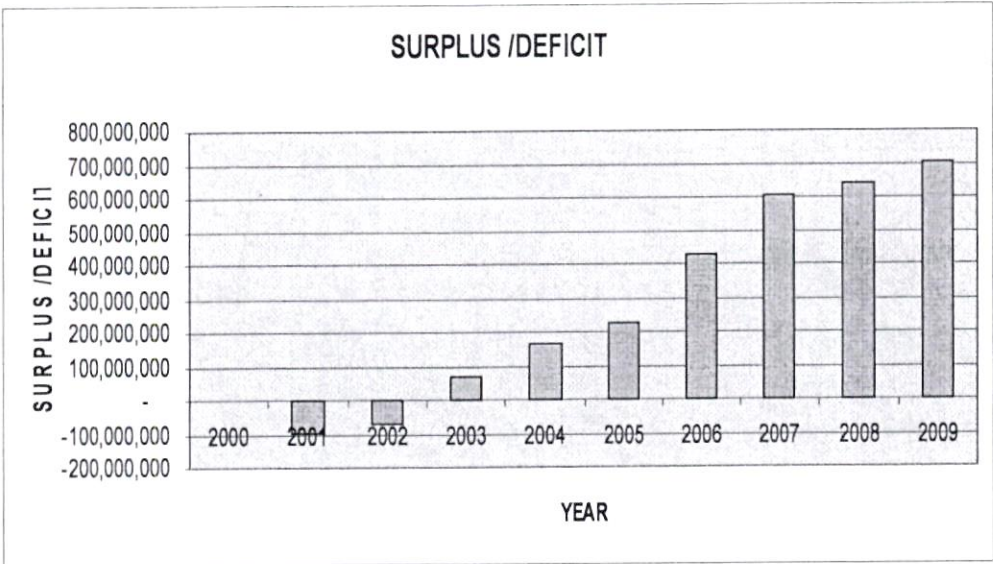
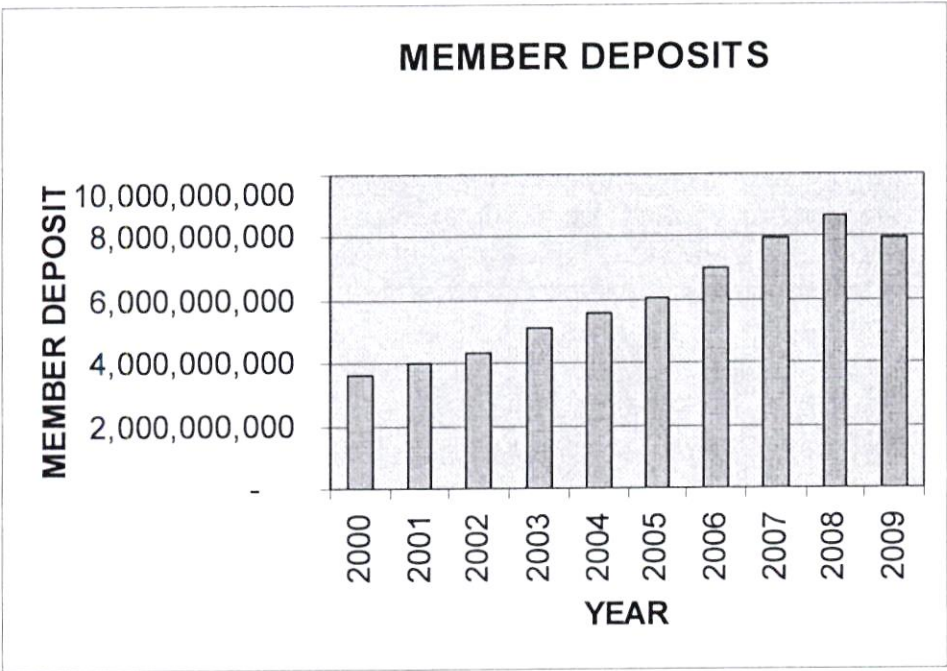
Source: Harambee Sacco Society Ltd



Source: Harambee Sacco Society Ltd



Source: Harambee Sacco Society Ltd



Source: Harambee Sacco Society Ltd

11. The total asset now stands at 12 billion up from 3.2 billion in 2001. According to the Central Management Committee (CMC), the liquidity problem faced by the society in

2001 was occasioned by accumulated debts amounting to 254 million, corruption and heavy investment in non-core projects such as land projects and real estate. The SACCO has since refrained from massive investments in fixed assets in accordance with the recommendations of the report of the Mwaliko Inquiry.

12. The satisfactory performance of the SACCO has consequently attracted positive feedback and good will from the members who have for the last ten (10) years re-elected the membership of the Central Management Committee and the Supervisory Committees to their respective offices. The re-election of the CMC and the Supervisory Committee has created stability in the SACCO which is in tandem with the recommendation of the Mwaliko Inquiry which had observed that stability in the SACCO was paramount in the efforts by the society to concentrate on improving the systems that had been recommended and if the society is to *'turn members doubts into abundant hope'*. This was after the Inquiry observed in the society that *'continued replacement of the CMC, Supervisory members and top Management staff will be disruptive and therefore undesirable'*.

13. The membership has changed since 1985 as follows:-

APRIL 2008 – TO DATE

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|-----------------------------|---|-------------------|
| 1. Mr. Macloud M. Malonza | - | National Chairman |
| 2. Mrs. Beldina Oguya | - | Vice Chairman |
| 3. Mr. Charles Konzolo | - | Hon. Secretary |
| 4. Mr. Meshack Nyang'ute | - | Hon. Treasurer |
| 5. Mr. Charles Geni | - | Member |
| 6. Ms. Nyambura Weru | - | Member |
| 7. Mr. Steve A. Oloo | - | Member |
| 8. Mr. V. P. Ocholla | - | Member |
| 9. Major Stephen M. Nganga | - | Member |
| 10. Mr. Daniel K. Sum | - | Member |
| 11. W O I Willian M. Thendi | - | Member |

SUPERVISORY COMMITTEE

- | | | |
|------------------------|---|-----------|
| 1. Mr. Perminus Ndiege | - | Chairman |
| 2. Mr. Charles Osore | - | Secretary |
| 3. Mr. Josephine Yamo | - | Member |

APRIL 2005 TO APRIL 2008

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|---------------------------|---|-------------------|
| 1. Mr. Macloud M. Malonza | - | National Chairman |
| 2. Mrs. Beldina Oguya | - | Vice Chairman |
| 3. Mr. Charles Konzolo | - | Hon. Secretary |

- | | | |
|--------------------------|---|----------------|
| 4. Mr. Meshack Nyang'ute | - | Hon. Treasurer |
| 5. Mr. Charles Geni | - | Member |
| 6. Ms. Nyambura Weru | - | Member |
| 7. Mr. Steve A. Oloo | - | Member |
| 8. Mr. V. P. Ocholla | - | Member |
| 9. Col Barmao | - | Member |
| 10. Col Richard Ngovi | - | Member |
| 11. Major Dennis Makau | - | Member |

SUPERVISORY COMMITTEE

- | | | |
|------------------------|---|-----------|
| 1. Mr. Perminus Ndiege | - | Chairman |
| 2. Mr. Charles Osore | - | Secretary |
| 3. Mr. Joseph Yamo | - | Member |

OCTOBER 2002 – APRIL 2005

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|---------------------------|---|-------------------|
| 1. Mr. Macloud M. Malonza | - | National Chairman |
| 2. Mr. Frankline Muchiri | - | Hon secretary |
| 3. Mrs. Beldina Oguya | - | Vice Chairman |
| 4. Mr. Meshack Nyang'ute | - | Hon. Treasurer |
| 5. Mr. Charles Konzolo | - | Member |
| 6. Mr. Charles Geni | - | Member |
| 7. Ms. Nyambura Weru | - | Member |
| 8. Mr. Steve A. Oloo | - | Member |
| 9. Mr. Joe K'ouko | - | Member |
| 10. Col Richard Ngovi | - | Member |
| 11. Major Dennies Makau | - | Member |

SUPERVISORY COMMITTEE

- | | | |
|------------------------|---|-----------|
| 1. Mr. Perminus Ndiege | - | Chairman |
| 2. Mr. Charles Osore | - | Secretary |
| 3. Mr. Joseph Yamo | - | Member |

NOVEMBER 2001 – OCTOBER 2002

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|---------------------------|---|-------------------|
| 1. Mr. Macloud M. Malonza | - | National Chairman |
| 2. Mr. Frankline Muchiri | - | Hon secretary |
| 3. Mrs. Beldina Oguya | - | Vice Chairman |
| 4. Mr. Meshack Nyang'ute | - | Hon. Treasurer |
| 5. Mr. Charles Geni | - | Member |
| 6. Mr. Nyambura Weru | - | Member |
| 7. Mr. Joe K'ouko | - | Member |

Mr. Dishon Gogo, Mr. Ben Akwara, Mr. Stephen Chege and Mr. Fred Barasa were suspended from the Central Management Committee in November 2001 due to fraud charges.

SUPERVISORY COMMITTEE

- | | | |
|------------------------|---|-----------|
| 1. Mr. Perminus Ndiege | - | Chairman |
| 2. Mr. Charles osore | - | Secretary |
| 3. Mr. Joseph Yamo | - | Member |

JUNE 2000 – NOVEMBER 2001

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|------------------------|---|----------------|
| 1. Brig. John Serem | - | Chairman |
| 2. Mrs. Beattie Masila | - | Vice Chairman |
| 3. Mr. Benson Okwayo | - | Hon. Secretary |
| 4. Mr. Leonard Orayo | - | Hon. Treasurer |
| 5. Mr. P. Wachira | - | Member |
| 6. Mr. Col E. Njeru | - | Member |
| 7. Mrs. J. Kinyua | - | Member |
| 8. Mr. H. F. Odhiambo | - | Member |
| 9. Mr. Ochieng | - | Member |
| 10. Mr. John Jogo | - | Member |
| 11. Mr. C Mutali | - | Member |
| 12. Mr. Z. daraja | - | Member |

Mr. Z. Daraja was appointed on 7th August 1999 to replace Mr. C. Mutali who resigned during the year.

SUPERVISORY COMMITTEE

- | | | |
|---------------------|---|-----------|
| 1. Mr. Alex chege | - | Chairman |
| 2. Mr. J. Obuya | - | Secretary |
| 3. Mr. Mwalimu Juma | - | Member |

1997-1998

CENTRAL MANAGEMENT COMMITTEE

- | | | |
|------------------------|---|----------------|
| 1. Brig. John Serem | - | Chairman |
| 2. Mr. Ochieng Ogollo | - | Vice Chairman |
| 3. Mrs. Beattie Masila | - | Hon. Secretary |
| 4. Mr. Leonard Orayo | - | Hon. Treasurer |
| 5. Mr. P. Wachira | - | Member |
| 6. Mr. Col E. Njeru | - | Member |
| 7. Mrs. J. Kinyua | - | Member |
| 8. Mr. H. F. Odhiambo | - | Member |
| 9. Mr. Benson Okwaro | - | Member |
| 10. Mr. John Jogo | - | Member |

11. Mr. C Mutali - Member

SUPERVISORY COMMITTEE – 1998

1. Mr. B. Maragia - Chairman
2. Mr. P. Kinuthia - secretary
3. Mr. F. Barasa - Member

1996

COMMISSION MEMBERS

1. Mr. B. Akwara - Chairman
2. Mr. J. A. Okanda - Vice Chairman
3. Mr. D. Aradi - Hon. Secretary
4. Mr. D. R. Mutisya - Hon. Treasurer
5. Mr. S. Ndiwa - Member
6. Lt. Col. V. W. Ajumbo - Member
7. Mr. D. J. Mwasaga - Member
8. Mr. Jeremiah Matagaro - Member
9. Mr. O. F. Kibunja - Member
10. Mr. A. A. Musasia - Member

1995

COMMISSION MEMBER

1. Mr. B. Akwara - Chairman
2. Mrs. Fransisca Otete - Vice Chairman
3. Mr. D. Aradi - Hon Secretary
4. Mr. D. R. Mutisya - Treasurer
5. Mr. S. Mutungi - Member
6. Brigadier John Serem - Member
7. Mr. A. K. Mwasserah - Member
8. Mr. O. F. Kibunja - Member
9. Mr. A. A. Musasia - Member
10. Mr. M. Ndiwa - Member

1994

COMMISSION MEMBERS

1. Mr. Mwashimba - Chairman
2. Col D. T. M. Nyagah - Vice Chairman
3. Mr. B. Akwara - Hon Secretary
4. Mr. D. R. Mutisya - Member
5. Mr. A. J. Okoth - Member
6. Mr. D. Aradi - Member
7. Mr. E. O. Ogutu - Member
8. Mr. Z. K. M'Mugwika - Member
9. Mr. J. R. M. Mwangi - Member

10. Mr. G. W. Mbuthia - Member

1993

COMMISSION MEMBERS

1. Mr. A. J. Okoth	-	Chairman
2. Mr. Mwashimba	-	Vice Chairman
3. Col D. T. M. Nyagah	-	Hon. Secretary
4. Mr. D. R. Mutisya	-	Treasurer
5. Ms. Agnes Kamami	-	Member
6. Mr. B. Akwara	-	Member
7. Mr. E. O. Ogutu	-	Member
8. Mr. J. Matagaro	-	Member
9. Mrs. Fransisca Otete	-	Member
10. Mr. Z. K. M'Mugwika	-	Member
11. Mr. H. Wanjala	-	Member
12. Mr. G. W. Mbuthia	-	Member

1992

COMMISSION MEMBERS

1. Mr. A. J. Okoth	-	Chairman
2. Mr. M. Mwashimba	-	Vice Chairman
3. Dr. R. O. Arunga	-	Hon. Secretary
4. Mr. P. C. A. Kilei	-	Treasurer
5. Mr. T. O. Ayim	-	Member
6. Mr. D. R. Mutisya	-	Member
7. Mr. S. Marala	-	Member
8. Mr. J. M. Mwilidza	-	Member
9. Mr. N. N. Obuba	-	Member
10. Mr. N. N. Obuba	-	Member
11. Mr. H. Wanjala	-	Member
12. Mr. G. W. Mbuthia	-	Member

1985-1992

CENTRAL MANAGEMENT COMMITTEE MEMBERS

1. Mr. J. A. Gathenji	-	Chairman
2. Mr. Andrew Ligale	-	Vice Chairman
3. Mr. A. J. Okoth	-	Hon. Secretary
4. Mr. L. M. Mugo	-	Treasurer
5. Mr. S. W. S. Muchilwa	-	Member
6. Mr. Kamau Thuo	-	Member
7. Mr. J. S. Nyamato	-	Member
8. Mr. J. M. Mutungi	-	Member
9. Mr. J. O. Ndisi	-	Member
10. Mr. S. K. Kunango	-	Member

- 11. Mr. G. W. Akumu - Member
- 12. Mr. Z. K. Mugwika - Member
- 13. Mr. Ciira Cerere - Member

14. The remarkable progress being enjoyed by the society had been attributed to tremendous improvement in customer services delivery which has seen development loans processed and paid within three (3) days, emergency and school fees loans paid instantly and regular payments of dividends which amounted to Kshs. 560 million in 2009 at a rate of 6% compared to nil dividends in 2001 and 2002 years. It is predicted that this could rise to between 6% - 8% in 2010. As a result of the improved performance of the Harambee SACCO Society, it was awarded the best improved trophy by the Ushirika Council during the Annual International Cooperative day celebrations in July 2010.
15. It is therefore not understood how issues still linger on despite this noticeable achievements of the SACCO. This is what the Committee would want to unearth in the present inquiry.

2.3 PAST INQUIRIES ON HARAMBEE SACCO SOCIETY LTD

16. According to the Ministry of Cooperative Development and Marketing, the giant SACCO society has had the highest number of inquiries and inspections among all the cooperative societies. Persistent complaints by its members and staff have informed the basis of the investigations into the operations of the society.
17. The results of the inquiries and inspections pointed to certain weaknesses in the governance system of the society which provided wealth of opportunities for corrupt practices by those charged with the responsibility of the running of its affairs. This prompted the Ministry to put the society under the management of Commissions in 1992-1996 years.
18. In 2000, the Nyatichi Report on the Harambee SACCO recommended for the removal of the Central Management Committee soon after they were elected to office. This was however halted following withholding of deductions by members from some departments on the premise that they were not represented in the executive committees of the society.
19. Subsequently, the Government appointed the Mwaliko Inquiry in 2001 which among other objectives was to examine the mode of representation of the members of the CMC and general meetings, the society's by-laws and the implementation of previous reports and recommendations. The Inquiry was concluded in May 2002.

20. To implement the Mwaliko Report, the Harambee SACCO first adopted the recommendations with amendments in an Annual Delegates Meeting (ADM) held on 7th March 2003. The ADM is the supreme authority of the SACCO. Thereafter, the work plan was developed and regularly monitored and reports submitted to the Ministry of Cooperatives. Overall, the Ministry reports the implementation status at 95 percent.
21. From the recommendations of the past reports of inquiry, the society has undertaken transformative strategies to drive its performance. These include:-
- i. formulation and implementation of society strategic plans
 - ii. restructuring of human resources and hiring of competent key staff
 - iii. training of Central Management Committee in corporate governance principles
 - iv. implementation of integrated IT system
 - v. adoption of file-less system of operations in the processing of loans to members
 - vi. introduction and expansion of FOSA networks, product innovation and repackaging
 - vii. constant reviews of the loaning policies
 - viii. teamwork in the society among committees, and between the committees and the staff
 - ix. enabling policy and legal framework through involvement of government officials in policy formulation, high compliance with relevant laws and conflict resolutions
 - x. commitment to customer service
 - xi. education of the members
 - xii. Undertook a corruption risk assessment audit of the SACCO in 2004 with the assistance of KACC.
 - xiii. above all, ethical and professional conduct and integrity of the management of the Harambee SACCO in dealing with members, staff and stakeholders
22. The allegations of mismanagement therefore appear to interrupt the SACCO from the gained momentum towards the path of recovery. In this regard there is urgent need to unearth these allegations if the SACCO is to continue to record the gains made in the last decade.
23. After perusing the documents tabled in the House on 31st August, 2010, the Committee arrived at the following specific allegations with respect to the following players which it sought to receive evidence from:-

A. CMC and Senior Management

- 1) That, they concealed or destroyed vital files required for an inquiry by the Anti-banking fraud unit
- 2) That, they irregularly paid honoraria amounting to Kshs. 8.8million to Mwaliko Commission of Inquiry who were investigating corruption allegation at the SACCO, without the approval of the Annual Delegates Meeting (ADM)
- 3) That, they have failed to implement both the Kenya Ant-Corruption Commission (KACC) report of 2004 and the Mwaliko report of 2002.
- 4) That, they unfairly disciplined staff who raised or whistle blew cases of corruption, by either sacking them or transferring them outside Nairobi' that such cases include Mr. Tony Mayuku, Joseph Otanga, Paul Onyango.;
- 5) That, they fraudulently purchased shares worth Kshs 19.95million without the ADM's approval as required by the society's by-laws from a company – Gina Din Communications SACCO Ltd - closely associated with Hon. Joseph Nyagah, EGH, and MP, against advice of the finance staff of Harambee SACCO;
- 6) That, they pay the Minister for Cooperative Development and Marketing, the Hon. Nyagah Kshs. 200,000 as protection fees on weekly basis;
- 7) That, CMC irregularly advanced themselves loans amounting to Kshs 724,068,864 against sitting and travelling allowance, contravening the spirit of corporate law;
- 8) That, they colluded with cashiers No. 1, 2 and 3 to fraudulently transfer cash to non existing cashier No. 8 (Steve Mwanga) amounting to Kshs. 300 million
- 9) That, they fraudulent double encashed cheques at the FOSA worth Kshs 121million, and that evidence existed;
- 10) That, they irregularly used contingency monies which remain unaccounted for since 2006 in contravention of the law on interest
- 11) That, the SACCO directors were interdicted by court in January 2005 but remained in office;
- 12) That, CMC issued death threats to members and staff of the SACCO who raised alarm on corruption at the SACCO;
- 13) That, current CMC/ directors have served since 2002 in contravention of society's By-laws which provide for a limit of 2 terms;
- 14) That, CMC failed to step aside during corruption investigations undertaken by CID between 4th June, 2009 and 21st October, 2009 as required by law;
- 15) That, CMC members allocated themselves large sums of IOUs amounting to Kshs 700,000 and Kshs 67million;
- 16) That, CMC members Charles Geni and the Chairman, Maclond Malonza were accused of grabbing land of Plot No. 1093, title deed no. 4324 at Harambee field Estate

- 17) That, the audited accounts of 2005 failed to explain various expenses (repairs and purchase of computers), provision for bad debts amounting to Kshs 22,965,375 and income from rent, particularly at Nyali House;
- 18) That, there was late presentation of documents to delegates in 2005 AGM and immediate approval of audited accounts by the Commissioner of Cooperatives the same day the AGM took place, against the law which requires 14days;

B. Ministry of Cooperative Development and Marketing

- 1) That, the Hon. Minister, Hon. Joseph Nyagah, EGH, MP is associated with Gina Din Corporate Communications SACCO Ltd that fraudulently sold shares to Harambee SACCO worth Kshs 19.5Million at Kshs 7 per share without proper pricing and without due process of the law - not authorized by ADM and that the concerned members wrote to him on 1st July, 2009;
- 2) That, the Hon. Nyagah receives Kshs. 200,000 weekly to protect the CMC of the SACCO from wrong doing;
- 3) That, despite several correspondences from the aggrieved parties including meetings with the Hon. Martha Karua, MP, no assistance was forthcoming from the Minister;
- 4) That, the Hon. Nyagah has never met with Harambee SACCO delegates to listen to their concerns;
- 5) That, the Ministry failed to oversee full implementation of Mwaliko report because there are concerns the minister was involved in the Scam;
- 6) That, the Commissioner for Cooperatives has looted from SACCOs since 2004 and that he approved Harambee SACCO's audited accounts of 2005 immediately on receiving them at 5.00pm a day before the AGM;
- 7) That, the Minister and the Commissioner for Cooperatives did not act on the court order that interdicted the Directors in January 2005 and were therefore left in office;
- 8) That, the Minister for Cooperatives Development and Marketing did not act on complains vide letter 11th June 2000 concerning evidence of double cheque encashment and theft of petty cash; and
- 9) That, the Minister/Minister failed to take action with regards to Directors who have served since 2002 against the law that requires Directors to serve for only 2 terms.

C. Criminal Investigation Department (CID)

- 1) That, they conducted shoddy investigations and thereby resulting in the closure of the corruption file;
- 2) That, they confiscated crucial exhibits (bank records concerning cashier transfers) from the SACCO;

- 3) That, they were compromised by the Harambee SACCO board while undertaking investigations between 4th June 2009 and 2nd October 2009; and
- 4) That, they took long despite the necessary evidence being made available to them by members of the Harambee SACCO

D. Attorney General's Office

- 1) That, the AG failed to act conclusively on the KACC report forwarded to him on the 12th August, 2003, as per the special Kenya Gazette of November 19th 2004 (ACPU/INQ14B/17.03.2003 ACPU/INQ14A/24.12.2003);
- 2) That, the AG failed to act on irregular allocation of Kshs 8.8million to the Mwaliko Commission of Inquiry and only imposed a charge of Kshs 246,000.
- 3) That, the AG is related to the General Manager of Harambee SACCO, Mr. J Wandera Maloba and therefore some level of bias was expected in the investigation
- 4) That, the AG misled the House on Tuesday, 17th August, 2010, that the Harambee SACCO ADM held on the 9th October 2003 had specifically discussed and approved payments of the Honoraria to Mwaliko Commission, as per the Minutes of the 32nd annual delegates Meeting; and
- 5) That, the AG failed to act on the complaints dated 8th December, 2009, presented to his office on 10th December, 2000, on corruption allegations within the SACCO by members of Harambee SACCO.

E. Gina Din Communications SACCO

- 1) That, SACCO initiated a process to sell 2,850,000 shares at Kshs 7 per share worth Kshs 19.5 million through a letter dated 4th June 2009 at a time the shares were trading at the NSE at Kshs 7.25 and Kshs 7.50, and that no further negotiations with regards to pricing was ever done;
- 2) That, Gina Din Corporate Communications SACCO is associated with Hon. Joseph Nyagah, Minister of Cooperative Development and Marketing; and
- 3) That, the SACCO failed to follow due process, by not following up on whether the CMC of Harambee SACCO had deliberated and approved the purchase of the said shares during ADM.

CHAPTER THREE

PROCEEDINGS WITH WITNESSES AND SUMMARY OF THE EVIDENCE

3.0 INTRODUCTION

1. The Committee held hearings to gather first hand information from the witnesses invited to appear before it. The detailed evidence received from the witnesses during the proceedings are summarized and presented here below.

3.1 HON. MARTHA KARUA, MP

2. On Thursday, 23rd September, 2010, the Hon. Martha Karua, MP, Gichugu Constituency, informed the Committee that she had on different dates raised three questions in the House relating to the conduct of the Management of the Harambee SACCO Society Ltd. The parliamentary questions were:-

- (i) On Tuesday, 30th March, 2010, asked the Minister for Cooperative Development and Marketing, Question No. 029-

a) *'Whether the Minister is aware that the Chairman and his entire Management Team continue to hold office in contravention of the Public Officers Ethics Act after being charged with the theft of SACCO funds vide NRB Misc. Application No. 45 of 2004 and what action he plans to take against them'*; and

b) *'What action has the Minister taken on the Mwaliko Inquiry Report of May 2000 in respect of Harambee Plaza Investment Housing Cooperative Society Ltd and Harambee SACCO'*

- (ii) On Thursday, 26th August, 2010, asked the Minister of State for Provincial Administration and Internal Security, Question No. 018-

'What action has the Commissioner of Police taken on complaints lodged to him by staff of Harambee SACCO regarding grand corruption at the SACCO'

- (iii) On Tuesday, 31st August, 2010, asked the Attorney General, Question No. 006-

'What action has the Attorney General taken on the Harambee SACCO investigation file ACPU No.14B/17/3/2003?'

Subsequent to the response by the Attorney General to the question No. 006, on 31st August, 2010, the Speaker directed the Committee on Agriculture, Livestock and Cooperatives to further interrogate the matter after it attracted great interest among members.

3. Hon. Martha Karua further informed the Committee that some concerned members of Harambee SACCO Society visited NARC-Kenya offices late last year (2009) and presented documents relating to alleged corruption at the SACCO. She told the Committee that:-
 - i) After studying the documents, she sought audience with the Minister for Cooperative Development and Marketing to assist the complainants present their grievances for the necessary action by the Minister. This took place in March 2010.
 - ii) The information gathered from the complaints including inquiry reports and investigations by the relevant investigating agencies provided basis for her questions in Parliament.
 - iii) The final question was the one she asked the Attorney General whose response made the Speaker to direct the Committee to undertake inquiry over the matter.
4. At the end of her brief, she promised to provide all the documents in her possession on the subject to assist the Committee gain an insight into the matter and identify specific allegations raised by the complainants. The documents were utilized by the Committee to arrive at the allegations which have been presented in Chapter two, paragraph 22.

3.2 COMPLAINANTS/CONCERNED SACCO MEMBERS

5. On 30th September, 2010, the Committee received evidence from the complainants who presented their detailed submissions relating to the alleged mismanagement of the funds at the Harambee SACCO by the Central Management Committee (CMC). The Complainants comprised of:-
 1. Geoffrey Ontieri, Government Chemist
 2. Tony Matuku
 3. Tom Odero, National Organizing Secretary of finance
 4. Stanly Gikonyo, Retired chief
 5. John Jogo, Ministry of Trade
 6. Karanja Rimungi

7. Daniel Turibu
 8. Ben Sifuna, Consultant
 9. Joseck Otanga
 10. John Kamau, retired chief
 11. Kennedy Mageto, Ministry of Agriculture
6. Information gathered during the inquiry indicated that some of the complainants were former employees of the SACCO, former CMC officials, members of Harambee SACCO Plaza (and not members of the society) and a union representative. Subsequently, the Committee was concerned as to whether the allegations were genuine, and the integrity and sincerity of some of the complainants given that some of the complainants had contested for CMC positions in the SACCO.
 7. After seeking to understand the difference between members of the SACCO Society and Harambee SACCO Plaza, the Committee heard that:-
 - i) officials from the Ministry of Cooperative Development and Harambee SACCO have colluded in the mismanagement of funds through inducement as a way covering fraud at the SACCO;
 - ii) Harambee SACCO was losing member's savings through payment of hefty allowances to the Central Management Committee (CMC);
 - iii) cash advances to the CMC were being paid without due process being followed;
 - iv) double encashment of members' cheques were rampant;
 - v) Ministry officials including the Commissioner for Cooperatives who are mandated to provide oversight function on cooperative matters were being compromised through payment of hefty allowances; and
 - vi) the Kenya Anti-Corruption Commission (KACC) despite overwhelming evidence provided by the complainants have been unable to conclusively investigate reported cases of corruption at the SACCO.

The Committee heard evidence in respect of the allegations against the CMC and management of the SACCO which are presented here below.

3.2.1 Payment of allowances

8. The Committee was informed that:-
 - i) huge payments amounting to Kshs. 1,000,000 were made to the Commissioner of Cooperatives (the then Registrar of cooperatives) and other Ministry officials, and members of the CMC and Supervisory Committee during a **computer audit seminar** at Garden Hotel, Machakos;

- ii) the Ministry officials received the allowances yet they were charged with overseeing the functioning of the SACCOs in the country, and they had been tasked to follow up on the complaints made against the CMC;
- iii) the said sum of money had no budgetary provision and was subsequently never reflected in the books of accounts;

While receiving submissions from the CMC, the Committee heard the explanation that the said amount was authorized, expensed and reflected in the society's subsequent books of accounts as administrative expenses in the year 2003

9. The Committee was further informed that:-

- i) the officials of the SACCO were paid allowances when they appeared before the Anti Corruption Police Unit at Integrity Centre along Valley Road, and that a total sum of Kshs 10,000 was paid to the Chairman to attend such meeting on the 22nd and 23rd May 2003, and that;
- ii) an amount of Kshs 38,500 was paid to the CMC members as allowances on 1st July, 2003, when they toured the Green fields project (an initial housing project of the Harambee SACCO).

While responding to the above allegation, CMC informed the Committee that it was within the Society's policy to pay allowances to its officials attending Society's official businesses outside the Society premises. Hence the payment of Kshs 10,000 and Kshs 38,500 to officials was in order.

10. The Committee heard that senior management abuse their offices by issuing directives on processing of allowances and subsequently, a compliment note dated 22nd May 2003 by the General Manager was used to authorize a disbursement of Kshs 20,000 to the chairman of the SACCO as allowances to attend an official function.

3.2.2 Strategic Planning Retreat

11. The Committee heard that:-

- i) The Commissioner and other Ministry officials who attended a 'Strategic Planning Retreat' at Garden Hotel, Machakos on 13th January, 2003, on the same day they were conducting an audit seminar on acquisition of computer software at the SACCO were paid Kshs 859,950 in the form of consultancy fees.

- ii) A consultancy firm, TIPS MANAGEMENT SERVICES, was further paid a total of Kshs 617,400, eight days after receiving an earlier amount of Kshs 859,950 for facilitating a Strategic Planning Workshop on 22nd - 24th January, 2003.

While appearing before the Committee, the CMC and the Supervisory Committee acknowledged that the above payments of Kshs 859,950 and Kshs 617,400 to the company M/s TIPS Management Services were transacted after the said firm was retained by the Society's management in November 2002 to help formulate a strategic plan whose continual implementation was as recommended by the Mwaliko Inquiry Report. According to the CMC, the operationalization of the plan has contributed to the financial turnaround of the society

- iii) An amount of Kshs. 36,000 was paid as hotel accommodation at Bounty Hotel in addition to payment of allowances to management of staff at rate of Kshs 4,000- Kshs 8,000 per day.

As regards this allegation, the CMC later clarified that the accommodation expenses at the Hotel Bounty amounting to Kshs 36,000 was in respect of 15 senior management staff of the society at a rate of Kshs 800 per person per day when they were tasked to collate deliberations and issues as discussed during the Strategic management workshop from the 15th - 19th January, 2003, and ultimately develop a draft strategic plan document.

- iv) Allowances amounting to Kshs.402, 250 were paid to senior Management for attending a strategic Workshop at Garden Hotel, Machakos on 15th – 19th January, 2003, which reflected double payment since Kshs 469,600 had been paid to the same hotel as accommodation fees.

As regards this allegation, the Committee was informed by the CMC that the payment of Kshs 402,250 was made towards allowances for Senior Management Staff attending the Strategic Planning workshop held between 15th and 19th January, 2003, and that the cheque No.188079 dated 13th January, 2003, related to said allowances.

- v) While presenting evidence on alleged abuse of office, theft and corruption at the SACCO to the Kenya Anti-Corruption Commission for investigations in a letter dated 2nd April, 2004, by one, Ben Sifuna, KACC responded in their letter dated 27th October 2004, some 6 months later, that they were awaiting the outcome of the internal investigations by the SACCO which had requested the KACC to undertake corruption risk assessment at the society.

While responding to the allegation, CMC was categorical that they were not aware of any letter to KACC by Ben Sifuna as regards to intimidation and abuse of office.

3.2.3 Cash Advances (IOUs) without due process

12. The Committee was informed that:-

- i) Petty Cash advances amounting to Kshs 1,200,000 was paid to CMC Members made up of Mr. Malonza of Kshs. 700,000 on 2nd March, 2007, and Mr. Makau of Kshs. 500,000 in the form of IOU on the 18th April 2008. This the complainants explained contravened the Cooperative Act and Cooperative by-laws requiring any individual applying for a loan state the same in writing, and that the IOUs had been discontinued following the recommendations of the inquiry of June 2003.
- ii) The chairman accessed loans amounting to Kshs. 1,000,000 against his allowances despite being owed Kshs 216,652 at the time of application.

While responding to these allegations, the Committee was informed by CMC that FOSA personal loans were made to any member of the CMC who is at liberty to commit allowances towards repayment of loans as long as they are procedurally paid. Further the Committee heard that no member of the CMC and Supervisory Committee had defaulted on loans which amount to Kshs 23,377,040 as at August 2010. The Committee was further informed that the petty Cash slips purporting that the National Chairman, Mr. Malonza and the former CMC committee member, Major Makau were advanced cash amounting to Kshs 1,200,000 were a forgery and that the monies were not known to them.

3.2.4 Interdiction of some CMC Members

13. The Committee heard that some Members of the Central Committee (CMC) had been interdicted in their respective work places but continued to serve in the SACCO in their various capacities, and that the chairman, Mr. Macloud Malonza (of Personnel Management) and Ms. Nyambura Mugure Weru (of the Ministry of Home Affairs) had been interdicted on 20th and 27th January 2005, owing to criminal cases relating to SACCO affairs had been filed against them.

The CMC response was that the allegations were false as the cases stand stayed in court.

3.2.5 Transfer of Cash and Double encashment of cheques

14. The Committee heard from the complainants that:-

- i) FOSAs of the Harambee SACCO were conduit for embezzlement within the SACCO.
- ii) The chairman and his allies continue to defraud the SACCO through transfer of funds from the Front Office Services Activity (FOSA) amounting to Kshs 300 million and double encashment of cheques amounting to Kshs 121,609,468.

While responding to these allegations, the CMC informed the Committee regarding fraudulent transfer of cash and double encashment of cheques, this was the position of the SACCO that:

- a) Harambee SACCO does not practice transfer of money among cashiers but inter cash temporary borrowing is common upon which reconciliations were done before the end of the day and money reimbursed to the lending cashier.*
- b) They were untrue since there was no evidence of such transfers and that the cashiers do not maintain cash transfer registers in its FOSA.*
- c) The double encashment of cheques was not true since most of the alleged cases were not in the series of cheques in their books and that; there was no evidence of double encashment of cheques. Moreover, the paying cashiers and the recipients were not known*

3.3 HARAMBEE SACCO CENTRAL MANAGEMENT COMMITTEE (CMC)

15. On 4th October, 2010, the Committee heard evidence from the Central Management Committee (CMC) and the Supervisory Committee. After presenting their submissions relating to the subject matter of the investigation, the Committee raised issues covering numerous allegations leveled against them through the media, complainants and Parliamentary questions and subsequent debate on the matter. The detailed allegations were as presented paragraph 22 of chapter two.

16. While responding to the allegations, the CMC informed the Committee as follows-

a) Concealed/ destroyed files

- i) That, on the contrary, the police officers from the Economic Crimes Unit, while in possession of a court search warrant held FOSA Manager in June

2009 and confiscated all the documents from the society's FOSA offices which they continue to hold to date. This made it difficult for the said documents to be handed over to a team of investigators from the Banking Fraud Investigation Unit in the January 2010.

- ii) That, the said documents included the central processing unit of FOSA personal computers, manual treasury register (2003- 2007), manual cashier specifications (2003-2007), manual cashier daily report and the bank statements of 2003 – 2007).
- iii) That, the SACCO management had written letters to request for the confiscated documents including a letter requesting for the submission of the report on the findings of the previous inquiries undertaken by KACC. At this juncture, the Committee informed the CMC that the BFIU report on corruption allegations at the SACCO by Banking Investigation Fraud had been tabled in Parliament and which subsequently informed the investigation by the Committee.

b) Payment of honoraria to Mwaliko Commission

- i) That, the Mwaliko Commission was appointed by the Commissioner of Cooperative Development and Marketing as referenced in the letter NOCS/1916/ (133) dated 27th December 2001.
- ii) That, the Commission's terms of reference was to inquire into the By-laws, the working and financial conditions of Harambee SACCO Society Limited.
- iii) That, the cost of the inquiry was to be borne by the society as stated in the letter of appointment and as outlined in section 60 clause 1 of the Cooperative societies Act No.12 of 1997, and that the payments of honoraria was made after the Permanent Secretary, Ministry Of Cooperative Development and Marketing wrote a letter instructing the Society to pay.
- iv) That, the inquiry expenses which included the honoraria amounting to Kshs 9,572,200 were expensed on the audited accounts of 2002 (as inquiry expenses) subsequent to discussions and adoption of accounts during the 32nd Annual Delegates Meeting held on the 8th October, 2003.

c) Partial implementation of the KACC report of 2004 and the Mwaliko Report (2002)

- i) That, the KACC report done on the request by the Society was a culmination of a corruption risk assessment on the management and operations of the

Harambee SACCO instituted by Harambee SACCO management to streamline the society's operations as recommended in past inquiry reports particularly Mwaliko Report of May 2002.

ii) That, the findings by KACC thereof were that there existed weaknesses and loopholes in the management of the society which if not addressed would be exploited for corruption malpractices. The key recommendations were:-

- i. Hasten electronic transfer of approved loans
- ii. Discontinue IOU facility for prudent financial management and recovery of IOUs to be instituted
- iii. Develop clear guidelines, policies and procedures on the operations of FOSAs
- iv. Strengthen internal Audit capacity and eliminate interference
- v. Increase supervisory spot checks at the FOSA, recover and surcharge where shortage abound
- vi. Records to be stored in secure rooms and to be accessed only by designated officers
- vii. Payment to contractors to be based on performance
- viii. Ensure user department in the evaluation of tenders and quotations.

iii) That, the SACCO had implemented recommendations including :-

- i. Computerization of its operations and provision of electronic fund transfer
- ii. The IOU was abolished and if granted has to be authorized
- iii. The FOSA manual is under implementation
- iv. The internal Audit Department has been restructured and strengthened and qualified staff deployed
- v. Financial supervision and regular spot checks and daily reconciliations undertaken
- vi. A budget for record management consultancy was approved by the ADM
- vii. Adhere to Public Procurement and Disposal Act 2005 and hiring of a procurement officer
- viii. Computerized Loan policy and processing

iv) That, the Mwaliko report and recommendations were adopted with amendment at the ADM on the 7th March, 2003, and the Society developed a work plan on implementation which was ongoing.

v) That, in overall, the implementation status of the recommendations could be rated at 95percentage points.

- vi) That, the pending 5 percent included properties and land owned by the SACCO across the country yet to be disposed off but some lacked title deeds since they only have allotment letters.

d) Unfair disciplining of staff

- i) That, the society had at no time dismissed any employees without due process and staff were only dismissed or relieved of their duties with very substantial reasons.
- ii) That, redundancy exercise that was undertaken by the management in conjunction with M/s Federation of Kenya Employers in November 2007 was in conformity with the recommendation of the Mwaliko inquiry of May 2002.
- iii) That, disciplinary measures had been taken against staff alleged to have misappropriated society's funds or found guilty of gross misconduct were done as per existing labour laws and society's staff regulation.
- iv) That, some of the members of the SACCO and former members of staff who have continually written adverse stories about the society were not genuine as their profiles support(see annex II for details). In summary-
 - 1) **Geoffrey O. Ontieri** of Membership Number 2814, and currently a delegate has made attempts to be elected in the management team without success since he lacked a proposer and seconder. He was reinstated as member of the SACCO in June 2010 after suspension by the CMC as per the society's by-laws.
 - 2) **John Lewis Jogo** of Membership Number 39486 was a former CMC member upon the recommendations of the inquiry report of June 2000 was removed and barred from participation in society affairs for 10 years as per rule 30 (g) of the cooperative Societies Act of 1998.
 - 3) **Kenneth Mageto** of Membership Number 63694 was reinstated as a member in 2005 after expulsion in the same year.
 - 4) **Daniel Turibu** of Ex-membership number 123200 ceased to be a member on 15th April 2009 and former employee of the SACCO was dismissed on 6th January 2009 on gross misconduct.
 - 5) **Joseck Omuhinda Otanga** of Ex-Membership number 123182 ceased to be an employee and SACCO member on 2nd February 2010 and 1st July 2010 respectively on grounds of gross misconduct.

- 6) **Tony Mutuva Matuku** of Ex-Membership number 123270 ceased to be a member and employee of the SACCO from 8th march 2010 on accounts of desertion of duty while on a transfer in Kisumu.
 - 7) **Ben Simiyu Sifuna** of Ex-Membership number 123229 ceased his membership in January 2010 and dismissal from employment on charges relating to missing cheques.
 - 8) **Evans Bogonko Bosire** was dismissed on gross negligence after a loss of Kshs 1,28million at the SACCO Mombasa branch, and has a criminal case in Mombasa Court.
- v) That, the CID, CMC and Management of Harambee had no knowledge of Mr. J.S Langat within the SACCO but whose letter was widely circulated among the Members concerned the Committee(see Appendix III)

e) Fraudulent purchase of Gina Din SACCO shares

- i) That, the purchase of 2,850,000 shares worth Kshs 19,950,000 at a discounted fee of Kshs 7 per share from Gina Din Communications SACCO was procedurally executed and guided by the society's investment policy.
- ii) That, the purchase was approved by the CMC in a meeting held on the 11th June 2009 vide minute number 129/2009.

f) Weekly protection fee of Kshs 200,000 being paid to the Minister for Cooperative Development

That, this was unfounded and untrue and those circulating this serious allegation failed to substantiate this claim.

g) Irregular allocations of loans to CMC

- i) That, the CMC member had not been paid the amount Kshs 724,068,864 against their sitting and travelling allowances, and that, all members requiring loans including the management are obliged to comply as per the loaning policy of the SACCO.
- ii) That, the total loans owed by the CMC members amounts to Kshs 23,377,04 as at August 2010.

h) Fraudulent transfer of money to a non-existent cashiers

- i) That, the purported non-existent cashier number 8 (Steve Mwanga) is a former employee of the SACCO who was deployed at the FOSA as a data entry clerk and not as a cashier in question.
- ii) That, the transfer of cash from cashiers 1,2 and 3 was not true since the application for inter-cashier borrowing is ultimately authorized by the FOSA manager.

i) Fraudulent double encashment of cheques

- i) That, the existence of double encashment of cheques took place sometimes in 2007 when two employees of the SACCO, Ms Rodah Aluoch and Mr. Kennedy Obuya were involved and were surcharged.
- ii) That, because the investigations by management were not conclusive, the two employees were reprimanded administratively and were repaying loans amounting to Kshs. 2.047 million and Kshs.2 million respectively.
- iii) That, the investigations were undertaken by the management on receiving an anonymous letter alleging double encashment of cheques by cashiers at FOSA amounting to Kshs 21,609,468 but the allegation lacked substance.

j) Irregular use of contingency money

That, this was not possible to be misused since at the end of any official assignment, all monies were surrendered and accounted and ultimately the accounts were retrospectively approved and adopted by the ADM.

k) The indictment of some Directors

That, the alleged cases: Case No. 45 of 2004 and No. 330 of 2005 and a cooperative tribunal case No. 11 of 2005 against the CMC members and the General Manager, a Mr. Humphrey Ogeto, were stayed in court as per the court decision thus:-

'In His ruling the Chief magistrate observed that the 'proposed intended accused persons' were yet to take their plea and hence could not be referred to as accused persons.'

l) Issue of death threats by CMC and Directors

The Committee was informed that such allegations were unfounded and that no member of the CMC had been questioned relating the allegations. The Committee was further informed that, instead a member of the CMC had been a victim of the threats through text messaging by a retrenched former employee, Dorcas Isaboke, and that the matter was in court (criminal case No. 721 of 2010).

m) Expire of the term in office of CMC Members

The Committee heard that the current CMC assumed office when existing policy regarding elections was that members could only serve for not more than two terms of five years each. The Committee further heard that the policy had since been revised by the Ministry of Co-operative Development in 2004 and that up to 1/3 of the committee retire each year with eligibility of being re-elected

The Committee was informed that all the current CMC members took office after 2001 and regardless of the rotational provisions provided in the policy, the CMC comprising of only Messrs Macloud Malonza, Charles Konzolo, Meshack Nyangute, Charles Geni, Steve A. Oloo, V.P Ochollo, Ms Nyambura Weru and Beldina Oguya could only be regarded as being illegally in office after 2011, and that the others, comprising of Messrs Stephen Nganga, Daniel Sum and William Thendi would have left the office after 2014.

n) Stepping aside of CMC under investigation

The Committee was informed that the directors did not step aside since the basis for the allegations were unfounded and that, although stepping down is a matter of principle and not necessarily within the Cooperative society's Act and By-laws, it was not considered as an option. The Commissioner for Cooperatives later added that complaints over mismanagement of the SACCO was perennially being raised by the same group of people and were never substantive to cause serious prosecution.

o) CMC and IOUs

The Committee heard that the society does not advance IOUs to CMC and that any official in need of loans can only access the funds through loans and repay with interest as per the recommendations of the Mwaliko report. The Committee further heard that the material evidence presented before the Parliamentary Committee purportedly to support the CMC borrowing in the form of IOUs worth Kshs 67million was a forgery since it did not specify the name of the cashier, and that the signatures on the document were most likely superimposed as had happened in the SACCO before.

p) Land grabbing allegation

The CMC was categorical that the plot No. 1093, title deed No. 4324 at Harambee Field Estate allegedly grabbed by Charles Geni, a member of CMC, did not belong to Harambee SACCO and that no CMC member has ever been allocated Society's land and property.

q) Audited account of 2005 and late presentation to the ADM

The Committee was informed that the SACCO had consistently held its Annual Delegates Meetings and presented its accounts for approval, and that in the audited accounts of 2005, particular items stood out these were which were:-

- (i) the repairs and maintenance of computers, server licenses costing Kshs 15,540,675,
- (ii) bad and doubtful debts which were provisions for non-performing loans worth Kshs 22,965,375, and
- (iii) rental income relate to the Nyali house in Mombasa of Kshs 3,324,000

The Committee was further informed that the said accounts were exhaustively discussed and adopted by the ADM held on the 20th April 2005 after approval by CMC on the 6th April 2005 and subsequently displayed to members on the same day as provided for by the society's by-laws which provides for 14 days period.

3.4 MEETING WITH THE COMMISSIONER FOR COOPERATIVES

17. On 5th October, 2010, the Committee met with the Commissioner for Cooperatives when the Committee heard that the Ministry was committed to the immediate implementation of the SACCO Societies Act (2008) which provide for the establishment of the SACCO Society Regulatory Authority (SASRA) to support and regulate SACCOs and FOSAs across the country.
18. The Commissioner informed the Committee that the current CMC had done well to make a turnaround of the society. The Commissioner further informed the Committee that following the recommendations of the Mwaliko report aimed at salvaging the financial soundness of the SACCO, the Society developed an action plan for implementation which was on-going.
19. The Committee was informed that the Harambee SACCO was being continuously monitored after it has had several inquiries and that the Ministry was always represented in all the CMC meetings. The Committee was further informed that

SACCO Society was required to submit regular reports on implementation status of the action plan.

20. The Committee was briefed on the measures the Ministry was taking to ensure that the SACCO sustained its good performance against the background of corruption allegations. Subsequently, the Ministry made recommendations where it observed laxity in the internal controls of the SACCO.
21. The Committee was told that the CMC's operations had been found to be above board as evident by the growing capital base of Kshs. 4.9 Billion in 2001 to Kshs. 12.4 Billion in 2009, and that the Harambee SACCO woos were just a product of malicious complainants whom the Commissioner categorized them into five groups:-
 - i) *Some 5 Members comprising of former CMC members, John Jogo, Geoffrey Ontieri, Sammy Rioba, Peter Odundo, Livingstone Kinyanjui among other who have intentions to ascend to leadership.*
 - ii) *Promoters of the Proposed Harambee Plaza Investment Cooperative Society Limited who want to get to management positions through incitement after failing to do the same through the SACCO*
 - iii) *Former staff who lost their jobs through staff rationalization in 2007 on recommendation by the various inquiries*
 - iv) *Loan brokers whose 30% levy to loan applicants was terminated by the current CMC*
 - v) *Those interested in managing the growing funds of the SACCO.*

3.5 MEETING WITH THE CRIMINAL INVESTIGATIVE DEPARTMENT (CID)

22. The Committee held meetings with the Director of CID, on 6th and 11th October, 2010, when the Committee was informed that the investigations by the Economic Commercial Crimes Unit (ECCU) relating to the alleged mismanagement of funds at the Harambee SACCO commenced after two sets of letters dated 21st November 2008 and 18th May 2009 were received allegedly from a Mr. Wilfred Nyacheo (FOSA Manager). The Committee was further informed that the same letters were forwarded to the Officer in Charge, Banking Fraud Investigation Unit (BFIU), on the 20th August 2009.
23. The Committee was told that, on completion of the investigations by the ECCU, the file was forwarded to the Attorney General (AG) for perusal and direction. Thereafter, the AG concluded, in his letter dated 19th February, 2010, that the following allegations had no criminal offences:-

- i) Irregular granting of loans to management amounting to Kshs 724,068,864
- ii) Defaulting in payment of the above mentioned loan
- iii) Fraudulent transfers of funds from cashiers 1, 2 and 3; to a non-existing cashier no.8

24. The Committee heard that the AG directed further investigations and submission of reports with regards to the following allegations:-

- i) The advances (IOUs) of Kshs 67,200,000
- ii) Overspending during the ADM (2009)
- iii) Purchase of shares amounting to Kshs 19.5Million from Gina Din Corporate Communications SACCO

25. Subsequently, the BFIU commenced on the investigation on the matter on the 21st December, 2009 under the leadership of the Officer In-Charge, Mr. Mohammed Amin. The team was handed over all exhibits earlier collected from Harambee SACCO by the initial investigative team. At the conclusion of investigation, the Committee heard that BFIU forwarded a file of findings and recommendations to the Chief Public Prosecutor (CPP) at the AG's office for perusal and advice.

26. The Committee was informed that investigators encountered some difficulties particularly with regards to retrieving vital documents from Harambee SACCO which could otherwise had helped to speed up the investigations. The Committee was further informed that not even meetings with the Harambee SACCO Management comprising of the General Manager, James Wandera; Security Manager, Moffat Odhiambo and the Legal Officer, Gladys Gichohi, were of valuable benefit.

27. Other challenges faced were outlined as they related to specific allegations as:-

- i) ***Fraudulent transfer by cashiers to a non-existing cashier at FOSA;*** the following documents were missing-

- i) Treasury registers (2006-9)
- ii) Cashier daily specification reports and summaries (2006-9)
- iii) Cheque – counterfoils (2006-9), System Back ups

- ii) ***FOSA Personal loans by the CMC members;*** that a statement from one, Helen Njuguna, who sat at the Harambee SACCO Board and at position to clarify on the position of sitting allowances was never forthcoming as she said she had never been involved in the investigations.

28. As a result of frustrations in getting the bottom of the allegations, the Committee was informed that the CID recommended that a forensic audit be carried out by a reputable audit firm and detailed report generated so as to facilitate further investigations. The Committee was further informed that BFIU Officer In-charge had thereafter received two letters through the Commissioner of Police from anonymous members and known members of the SACCO dated 17th and 18th March 2010 respectively, relating to the allegations.
29. The Committee was also informed that as at 20th September, 2010, the investigations relating to Harambee SACCO were being undertaken by the KACC on the advice of the Chief Public Prosecutor and so are the two inquiry files namely ECCU CID HQS 1.F. NO. 53/2009 and BFIU inquiry file No. 1/2010 in the custody of KACC.

3.6 MEETING WITH GINA DIN COMMUNICATION SACCO SOCIETY DIRECTORS

30. The meeting with the officials of the Gina Din Corporate Communications SACCO was held on the 30th September 2010. The Chairman of the SACCO informed the Committee that the SACCO acquired 200,000 Class 'A' shares of Kshs 100 each from Co-operative Bank of Kenya on 6th June 2008 which was further split and converted to 20,000,000 shares with Co-op holdings Co-operative society Ltd. The Committee was further informed that 2,850,000 Coop holdings Co-operative Society Ltd shares at a discounted price of Kshs 7.00 were sold to Harambee SACCO Society and that due process was followed and material evidence was presented relating to all the correspondences.

3.7 MEETING WITH THE KENYA ANTI-CORRUPTION COMMISSION

31. The Committee held a meeting with the Director and other officials of KACC on the 7th October, 2010, when the Committee was informed that until KACC received a directive from the AG on 6th September, 2010, to fast track investigation on alleged mismanagement of funds at the Harambee SACCO, no other investigations or inquiries on the said SACCO had been ongoing since 2003. The letter read in part:-

'On reviewing the Inquiry files, it became quite obvious that there are glaring gaps and deficiencies in the evidence gathered by police. Furthermore, in both files the police appear to acknowledge the difficulties in investigating those matters and have suggested that a forensic audit be done by an independent institution'

32. According to the Director, KACC investigations would focus but not necessarily restrict to the following allegations:-

- i) Cash transfers of up to Kshs 300million between 2006-2007 to a dummy cashier
 - ii) Fraudulent purchase of shares from Gina Din Corporate communications totaling Kshs 19.95Million
 - iii) Irregular and unprocedural securing of loans by CMC against sitting allowances
 - iv) Transfer of up to Kshs 8.8Million to account of Robert Nyongesa by GM and FOSA Manager
 - v) Fraudulent sale of two plots belonging to Harambee SACCO by CMC
33. While the Committee was concerned about a possible 'double jeopardy' relating two investigations running concurrently, one by KACC and the other by the Parliamentary Committee on Agriculture, the director assured the Committee of the total cooperation particularly with the regards to the surrender of all documents belonging to Harambee SACCO in possession of KACC.
34. The Committee was informed that the Anti-corruption Police Unit, the predecessor to the Commission in 2003, had instituted investigation relating to irregular payment of Kshs 6,792,600 purportedly as honoraria to a team from the Ministry on an inquiry mission. The Committee was further informed that the findings revealed that the payments were unprocedural since they were not inline with the Co-operative Act, Society By laws and that they were not authorized by the ADM
35. The Committee heard that it was recommended that the amount paid as honoraria be recovered, but this was rescinded by a letter from the AG, dated 26th November 2004 which observed that the ADM held on the 8th October 2003 approved the same. The Committee was told that as much as the Commission was of the opinion that payments lacked requisite authority, the later ratification by the ADM regularized the payments and therefore the matter was closed.
- The Committee was however uncomfortable with a point at which an illegal transaction ended up being legal through ratification, and what necessitated these.*
36. With regard to the recommendations of the KACC corruption risk assessment report 2004, the Director acknowledged laxity in following up of the status of the implementation of the same and which related to financial controls and mechanisms.
37. The Committee was informed that some of the complainants had visited the KACC offices and that the Director had in at least five occasion played host to them and particularly, Mr. Ontieri and Mr. Rioba, whom he said were particularly concerned of their safety and were therefore requesting for some kind of protection. The Committee

was further informed that a Mr. Langat (an author of one of the letters that triggered the investigation by Parliament) had never visited the KACC offices.

3.8 MEETING WITH THE ATTORNEY GENERAL

38. The Committee received evidence from the Attorney General's Office, represented at the meeting by the Chief Public Prosecutor, on the 11th October 2010. The CPP exonerated the AG's Office of laxity in prosecutions having been accused by the complainants of not taking action against individuals mismanaging funds at the Harambee SACCO. According to the CPP, the Office of the AG was not an investigative body and therefore relied entirely on agencies, such as KACC and CID, to provide adequate evidence to warrant prosecution.
39. The Committee heard that the power to prosecute by the AG is not without control and considering that the AG's office has lately been sued for malicious prosecutions, *prima facie evidence of criminal capability* is critical before any case is taken to court, including that of alleged mismanagement of funds at Harambee SACCO.
40. The Committee was informed that the Office of the AG had in the past years received and dealt with three investigative files relating to the Harambee SACCO submitted by KACC and CID for advice and direction. These were:-

(a) *The case relating to irregular payment of honoraria to members of the Harambee SACCO Mwaliko inquiry team investigated by KACC (ACPU) in 2004-*

The Committee heard KACC's recommendations that the members of the inquiry team be surcharged for the irregular allowances received from the SACCO was modified after the matter was referred back to KACC for verification and confirmation that delegates adopted payment of honoraria as it formed part of the audited accounts of 2002 during an ADM held on the 9th October, 2003. The Committee further heard that the modified recommendations were accepted by the AG and the case was therefore closed. The Committee also heard that the report on the matter was laid in Parliament through KACC Quarterly Report 1st April- June 2007 (page 2) and the AG's Annual Report 2007 (Page 60 Paragraph 93).

(b) *The second case relating to inquiry into mismanagement and mega fraud of funds at Harambee SACCO by CMC-*

The file was forwarded to the AG by CID on the 21st October, 2009. The following allegations under investigations could not warrant criminal case in

court since no evidence was available even after the resubmission of the file on 4th June, 2010, where crucial exhibits was found missing-

- i) Irregular loans to members of CMC amounting to Kshs 724,068,864
- ii) Default in payment of loans by CMC members
- iii) Irregular advances to management amounting to Kshs 67,200,000
- iv) Fraudulent transfer of funds to a non-existent cashier No. 8
- v) Overspending during AGM

The Committee heard explanations that the police's investigation lacked the cooperation from the complainants and as a result *'the credibility of the witnesses was in question since they preferred to be treated as whistle blowers as opposed to being witnesses'*. The Committee further heard that the letter that triggered the investigation, dated 21st November, 2008, by one, Wilfred Nyacheo (FOSA manager), was found to be *'fictitious, a lie and forgery'*. The police was also frustrated by lack of access to documents in possession of prime suspects.

(c) The third case file No. 1/2010, relating to investigations into allegations of mismanagement of funds of Harambee by CMC and Senior managers-

The Committee heard these comprised of 7 areas of allegations of fraud whose findings and recommendations by police were as follows-

- i. the purchase of shares from Gina Din Communication SACCO amounting to Kshs. 19.950 Million was said to be above board since all procedures were followed and hence required no further investigations;
- ii. irregular securing of loans by CMC members against sitting allowances was found to be without substance since loans were granted procedurally through approval by CMC members and granted vide minutes of CMC and hence warranted no further investigation
- iii. fraud transfer of money to the tune of Kshs. 300 Million by cashier No. 1, 2, & 3 to a non-existent cashier No. 8 (Steve Mwanga) was revealed that-
 - a) lacked key documents- treasury registers, cashier specifications forms - in respect to alleged fictitious transfers despite the fact that the SACCO was fully computerized effective 1st August 2007
 - b) there was no statement recorded from Steve Mwanga

Following the ensuing blame game between the management and the KACC on loss of documents, Wilfred Nyacheo was therefore accused of having destroyed evidence. Forensic audit by a reputable institution was further recommended.

- iv. regarding petty cash and contingency payments allegation, the Committee was informed that findings revealed that, in 2006-2009, most contingencies were not surrendered and that the account was in debit amount of Kshs. 8.5million, and that the Police recommendation was that Nahashon Wambua (petty cashier) and Benson Ojiambo (Finance manager) be dealt with administratively and be charged with neglect of duty
- v. fraudulent transfer of Kshs. 8.8 million to a/c of Robert Nyongesa was found to be false since the findings revealed no funds were credited to the said account
- vi. the fraudulent encashment of cheques according to the findings was detected by the FOSA manager, Mr. Wilfred Nyacheo, and led to surcharging of those involved, Rhoda Aluoch and Keneddy Obuya
- vii. the allegation of irregular procurement was without material evidence and were found to comply with Public Procurement and Disposal Act (PPDA) and regulations by Public Procurement Oversight Authority (PPOA) and hence properly done

41. The CPP informed the Committee that the investigations therefore were incomplete and deficient in material respects and that the police were faced with challenges during the investigation which had been highlighted elsewhere in this report.

42. At the conclusion of the deliberations, the Committee was concerned by the directive given by the Attorney General instructing KACC to undertake a forensic audit of Harambee SACCO within 90 days and a report presented to him given that the Hon. Speaker had on Tuesday, 31st August 2010, directed the Committee to inquire into the allegations of mismanagement of funds at the Harambee SACCO Society Ltd and a report tabled in the House within 21 days.

43. In response, the CPP clarified that the directive made on the 6th September 2010 by the AG was well intended and that it was not meant to impede the mandate of the Committee. He stated the reasons that necessitated KACC's involvement in further investigation were that:-

- i) The police requested for external forensic assistance after the Kenya National Audit Office declined to undertake the Audit citing the SACCOs were outside their jurisdiction
- ii) KACC has the necessary capacity to institute an independent forensic audit of the SACCO
- iii) KACC had in 2004 conducted a risk assessment for Harambee and this would be an opportunity to ascertain the extent of implementation.

3.9 MEETING WITH THE MINISTER FOR COOPERATIVE DEVELOPMENT AND MARKETING

- 44. While giving the genesis and growth of Cooperatives in Kenya, the Minister explained that the cooperative societies and unions suffered 'period of chaos' in the 1990's and whose effects were being felt today.
- 45. With specific reference to the Harambee SACCO, the Ministry had taken appropriate actions to streamline its operations following reports of inquiries and inspection reports on the SACCO. However, a small group of former CMC officials and ex-staff continue to raise issues even after they have been discussed and concluded by Annual Delegates Meeting (ADM) which is the highest authority.
- 46. Despite this, the Minister stated the CMC team was doing a good job and supported by its over 90,000 members. The Minister however admitted there were few issues but which did not disrupt the success story being witnessed in the SACCO.
- 47. The Minister denied having knowledge of receiving weekly amount of Kshs. 200,000 in allowances from Harambee SACCO in order to protect SACCO officials in any wrong doing as alleged in the corruption allegations.
- 48. The Minister informed the Committee that he was a shareholder in Gina Din Communications Company which has set up its own SACCO. He explained that the SACCO bought Co-operative bank shares and eventually sold some to Harambee SACCO and that the transaction was above board.
- 49. In concluding, the Minister stated that the individuals making serious allegations against the Harambee SACCO were not credible, and they continued peddling false allegations against individuals including the Minister even after several meetings held with the Minister to explain the SACCO's operations. The Minister further stated that SACCOs operate on basis of trust and this must be encouraged by all in order for them to thrive without interference.

CHAPTER FOUR

SUMMARY OF THE FINDINGS AND RECOMMENDATIONS

The Committee received evidence relating to the allegations of corruption at the Harambee SACCO Society after they were debated in the House on 31st August, 2010. The sittings of the Committee were held on 20th September – 11th October, 2010. Upon receiving evidence, the Committee analyzed against background of complaints over compromised auditors, delayed prosecution by the AG, poor investigation by the CID and KACC and complacency by the Ministry officials.

The Committee observed that the allegations seemed to have had a common denominator which was under investigation. Thereafter, the evidence was fully analyzed and the Committee makes the following observations and recommendations:-

1. In respect of alleged concealed or destroyed vital files required by the Banking Fraud Investigation Unit, the Committee received submission from the Directors of KACC and the Director of the CID that indeed three files crucial to sustaining any criminal or civil case on various allegations were missing. These files were:-
 - i) Cheque counterfoils (2003-2007)
 - ii) Treasury registers (2003-7),
 - iii) Cashier daily specification reports summary (2003-2007) relating to cash transfers involving cashiers 1, 2, 3 and non-existent cashier number 8.

While Harambee SACCO explained they had been collected as material evidence by the CID, the Director (CID) categorically denied the allegation. Subsequently, the Committee called for all documents in the custody of the Director (CID) but none of the vital documents could be traced in their inventory at the point of raiding the Harambee SACCO premises. The Director CID further admitted that they did not have expertise to reconstruct documents that would lead to successful prosecution.

Based on this revelation, the Committee therefore recommends:-

- (a) The government strengthens the capacity of the CID and KACC to undertake forensic audits of this magnitude.**
- (b) As recommended by the Attorney General, the Committee reiterates that a Specialized Audit be undertaken by KACC.**
- (c) The report of the Specialized Audit in 1 (b) above be availed to the Committee.**

2. In respect to alleged fraudulent double encashment of cheques at the FOSA worth Kshs 121million and in the absence of cheque counterfoils, the Committee could not ascertain this amount of money had indeed been embezzled. However, where evidence was availed, the Committee observed that an amount of Kshs 4,047,000 was actually fraudulently cashed leading to surcharge of two employees namely Kennedy Obuya and Rhoda Aluoch.

While noting that punishment through surcharge on the culprits to recover the lost monies had been done, the Committee recommends that internal audit be strengthened at the SACCOs. The Committee further recommends that the government build capacity of the SACCO Society Regulatory Authority to effectively exercise its inspection activity over SACCOs.

3. On the allegation of the failure by the CMC to implement both the Kenya Ant-Corruption Commission (KACC) report of 2004 and the Mwaliko report of 2002, the Committee observed that the CMC had indeed prepared an action plan in 2003 which formed the basis for implementing the said reports and that the action plan had been implemented up to 95%, and that, the remaining 5% was held up in fixed assets such as land and housing which were yet to be disposed off as per the Mwaliko recommendations. The evidence further revealed that some land plots had no titles but had allotment letters issued.

The Committee therefore recommended that these properties be expeditiously disposed off so that the SACCO reverts to its core business. The Committee further recommended that the Lands Ministry fast tracks the issuance of title deeds for the SACCO once the surveying and valuation of their current commercial value has been undertaken. The Committee also recommended it be updated on final sale is concluded to ensure transparency and accountability.

4. In respect to allegation of unfair disciplinary action against staff who allegedly blew the whistle, the Committee would require additional evidence that this had been done. However, CMC and Director CID presented evidence that revealed that disciplinary action had only been taken against those with gross misconduct including preferred criminal charges against fraudulent cases and reprimanding of non performing staff.

The Committee observed that the transfers at the SACCO were caused as a result of the reorganization, rationalization, computerization and expansion programs by the SACCO in its effort to improve service delivery in its 148 branch network and in conformity to Mwaliko report. No documentary evidence was provided to the contrary, that staff were transferred on punitive grounds. This confirmed by the Director (CID) that no reports of death threats by the

complainants had been recorded at the department, and further that they (complainants) declined to record the same when requested to do so.

5. On the alleged fraudulent purchase of class A shares from Coop Bank holdings worth Kshs 19.95million from Gina Din Corporate Communication SACCO, the Committee observed that the transactions were within the mandate bestowed upon the CMC by the SACCO's By-laws to recommend prudent investment portfolios on behalf of the members. Material evidence presented before the Committee confirmed that the Minister for Cooperative Development and Marketing, Hon. Joseph Nyagah, as shareholder of the Gina Dina Corporate Communication SACCO did not in anyway influence the said transaction.

The Committee therefore concurred with the CID's findings and the Minister's response that the entire transaction was above board. A similar view was held by the CMC and the Commissioner of Cooperatives who confirmed there was no wrong doing in the trading in share with Gina Din Corporate Communication SACCO.

- ~~6.~~ As it regards to alleged weekly payment amounting to Kshs 200,000 to the Minister for Cooperative Development, the Hon. Nyagah, allegedly to protect the CMC management and senior manager from any investigation, the Committee found no evidence adduced to sustain this allegation.

The Committee therefore exonerates the Minister from these unfounded allegations since similar allegations of being compromised had been widely peddled against the CID, KACC, auditors, AG and other Ministry officials who have been involved directly or indirectly in investigation of the SACCO. The Committee recommended that the Director (CID) to pursue the complainants to give substantive evidence on the allegations and if found untrue they be charged in court.

7. On the alleged irregular payments of loans to CMC against sitting and travelling allowances amounting to Kshs 724,068,864, the Committee observed that the quoted figure was misleading. The material evidence indicated that the correct figure of loans owed by the Central Management Committee members was stated at Kshs. 23,377,040.60 as at August 2010 and were regularly being serviced. The Committee further observed that the payment of the loans had been approved in a meeting of CMC held in 2004 and subsequently approved by the ADM.

The Committee therefore was satisfied that the loans were being repaid and that there was no offence committed by CMC in taking loans if they had capability to repay. Further, the Committee appreciated that the amount held by the CMC

was a small fraction of what they had been able to raise in 8 years from inherited losses in 2001 to a total worth of 13.5 billion and a net surplus of 700 million.

8. As regards alleged irregular payment of honoraria amounting to Kshs. 8.8million to Mwaliko Commission of Inquiry, the Committee observed that this was discussed and approved retrospectively during the 32nd ADM meeting held on 9th October 2003.

While noting that this payment was irregular since the members had not ratified before it was paid but that it was conclusively addressed in the subsequent ADM, the Committee recommended that future expenditures be approved before payments were effected. The Committee further recommended that, in future, the cost of investigation and inquiries be met by the investigators, unless specified otherwise.

9. In regards to the alleged use of contingency monies and IOUs, the Committee observed that these monies had not been properly accounted for since 2006 – 2009.

The Committee therefore recommended prompt accounting of these monies whenever they were issued and that those who may still owe the SACCO outstanding contingences be surcharged.

10. In relation to allegation that CMC were interdicted in January 2005 but continue to be in office, the Committee observed that the matter in question was a private prosecution by an non-governmental organization which lacked '*a locus standi*' to prosecute and therefore the case was stayed by the courts. **In view of this, the Committee noted the case did not warrant the SACCO officials to step aside as claimed by the complainants.**

11. In relation to the claims that the CMC issue death threats to whistle blowers, the Committee received evidence that showed that the SACCO chairman, Mr. Macloud Malonza, had instead been threatened by a former employee of the SACCO and that the matter was active before court (criminal case no. 721 of 2010), and that, the CID confirmed there were no pending files on death threats in possession of the CID department.

Therefore, the Committee did not find any evidence to ascertain this was being done by the CMC and subsequently exonerates them from the allegation.

12. As relates to the allegation of CMC being in office after the expiry of their terms, the Committee observed that their being in office was in conformity with the Cooperative Societies Rules of 2004 as amended vide Legal Notice No. 3 of 2008 and in consonance with the recommendations of the Mwaliko report.

The Committee therefore noted the CMC was legally in office and has performed well in improving the service delivery in the SACCO as reflected in improved and diversified products and services described in details in chapter two, paragraph 4.

13. On the alleged land grabbing by SACCO officials, **the Committee found no material evidence to support this claim and as such the Committee made no further investigation on the matter.**
14. On the alleged shoddy investigative work by the CID and the Police and the inability for the AG to prosecute the cases thereof, this was explained to be due to lack of the vital documents (referred in paragraph 1) to support the investigations. In the absence of credible evidence, the Committee observed that indeed it would be difficult to institute any prosecution. **Subsequently the Committee recommended forensic audit to recover lost information as per recommendation in (1) above.**
15. In regard to the key complainants presented in Chapter 3 (section 3.2, para. 5), the Committee questioned the credibility of their character based on the profiles tabled by the CID, CMC and the AG. While the AG explained that the Complainants were not willing to record own statements regarding the allegations, the CID revealed that some had pending disciplinary cases, retired, dismissed, non-members of the SACCO, former CMC positions and/or failed to be elected to CMC.

The Committee observed that letters purporting to raise mismanagement claims were found to be fictitious. Of concern was a letter dated 21st November 2008 purportedly emanating from Wilfred Nyacheo (FOSA Manager) whose signature on verification by the forensic audit of the CID was found to be a forgery and in the words of the AG was **'forgery, lie and fictitious'** prompted investigations at the SACCO by the Police.

The Committee further observed that the letter tabled in the House on the 31st August, 2010, was also fictitious since the purported author, Mr. J.S Langat, could neither be traced from the records of the SACCO nor by the CID and the Committee. The complainants introduced to the Committee by the Hon. Martha Karua also disowned having any knowledge about him.

Further, forensic analysis on the two fictitious letters was found to originate from different sources whose contents were however similar (see annex IV).

With the foregoing, the Committee noted that the allegations could not have been driven by the genuine concern for the welfare of the SACCO but by conflict of

interest from the complainants, some of whom had earlier been reprimanded and pardoned by the ADM in 2004. This notwithstanding, the Committee went further to investigate all the allegations from the complainants.

The Committee therefore recommended that:-

- i) In respect of the letter by Mr. J.S Langat found in the pigeon holes of the Members of Parliament, full investigations should be carried out to establish the origin of the letter**
- ii) Investigations of such un-authorized access to Parliament and such malicious publications should be carried out.**
- iii) The complainants be investigated further to establish the motives behind their persistent accusations against the CMC, CID, AG, KACC, Ministry officials, Minister for Cooperatives and Auditors, among others.**

16. In relation to the allegation of payment of allowances to CMC members while on official duty, the Committee observed that the Annual Delegates Meeting (ADM), which is the Supreme Authority of the SACCO, determines when and how much the allowances are to be paid based on the business performance of the SACCO.

The Committee therefore recommends that the SACCO develops and implements a comprehensive policy on duty allowances to staff and CMC.

CHAPTER FIVE

CONCLUSION

The Committee examined all the evidence presented and concludes, as follows-

1. That, Harambee SACCO has had the highest number of inquiries of all the SACCOs in the country. These inquiries have been informed by corruption allegations which have been cyclic and a function of conflict of interest in the Harambee SACCO matters. The current allegations were noted to emanate from disgruntled members and non-members whose interest revolved around the struggle for leadership positions in the SACCO while others were former employees dismissed on grounds of gross misconduct.
2. That, given the inability of the complainants to record statement as evidence to cause any prosecution for any wrong doing was of great concern to the Committee. To the extent that the letter by mysterious Mr. J.S Langat, is utmost in bad faith and an abuse of privilege of whistle blowing and which points to the threat the SACCO faces from some of its members and non-members alike. In view of the Committee, the complaints were not genuine and not for the good of the SACCO which the ordinary members need to be educated about if the cooperative society is to continue on its path of prosperity.
3. That, the governance system at the SACCO had improved following the implementation of the past inquiries, particularly the Mwaliko report and its action plan, and stringent measures occasioned by the SASRA rules, was not in doubt. The achievements however need to be consciously applied to match the continued rapid growth and developments being witnessed in the SACCO. Although the Committee was not able to ascertain existence of gross mismanagement of SACCO funds due lack of vital documents explained in chapter 4, paragraph 1, the Committee notes of the good performance that had been achieved by the SACCO in the last decade notwithstanding the claims of the mismanagement. The CMC has made a turnaround of the society from inherited losses in 2001 to profitability at surplus of Kshs 700 million (2009 figures) with stated net worth of estimated 3.5 billion.
4. The Committee therefore holds the view that the CMC had been focused in efforts to salvage the SACCO and the recommendations made in chapter four of this report would help to enhance prudent financial management practices in the society. However, the Committee further recommends policy interventions for the future of SACCOs and other cooperatives in Kenya, as follows:-

- i. Development and implementation of an enabling policy and legal framework within SACCOs
- ii. Intensify supervision and inspections by strengthening of the oversight role of Sacco Society Regulatory Authority (SASRA)
- iii. Instituting surcharges and suits to those who have been found to misappropriate society funds and other resources
- iv. Strengthen cooperative governance, including stringent financial controls, in the SACCOs and FOSAs through the Cooperative Ethics Commission and institute half-yearly reports for SACCOs with FOSAs
- v. Intensify cooperative education and training of SACCO members.
- vi. Strengthen and encourage the use of dispute resolutions mechanisms being provided by the Cooperative Tribunal
- vii. Expeditious remittances of members' contributions to the SACCOs and FOSAs.

MINUTES

**MINUTES OF THE SITTINGS OF THE
DEPARTMENTAL COMMITTEE ON AGRICULTURE,
LIVESTOCK AND COOPERATIVES ON THE INQUIRY
INTO ALLEGATIONS OF MISMANAGEMENT OF
FUNDS AT PUBLIC HEARINGS HELD AT
PARLIAMENT BUILDINGS BETWEEN 27TH
SEPTEMBER, 2010 AND 11TH OCTOBER, 2010**

MINUTES OF THE SEVENTY FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN THE COMMITTEE ROOM, CONTINENTAL HOUSE 4TH FLOOR, PARLIAMENT BUILDINGS ON MONDAY, 13TH SEPTEMBER, 2010, AT 1:00P.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. John D. Pesa, MP.
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Evans Akula, MP

APOLOGIES

Hon. Benson Mbai, MP
Hon. Erastus Mureithi, MBS, HSC, MP

ABSENT

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. Peris Simam, MP

INATTENDANCE

Mr. Evans Oanda - Third Clerk Assistant
Mr. Paul Ngetich - Senior Research Officer

MIN.NO. 177/2010: PRELIMINARY

The meeting opened with a word of prayer.

MIN.NO. 178/2010: PROGRAMMEE FOR HARAMBEE SACCO HEARING

The Committee deliberated on the programme on inquiry into the Harambee SACCO prepared in the last meeting and was in consensus that witnesses appear as follows:-

1. Hon. Martha Karua, MP on Thursday, 23rd September, 2010 at 10:00am
2. The Director Kenya Anti Corruption Commission (KACC) on Thursday, 23rd September, 2010 at 2:30pm
3. Director Criminal Investigation Department (CID) on Monday, 27th September, 2010 between 9:00am and 11:00am
4. Director Anti-Banking Fraud on Monday, 27th September, 2010 between 11:00am and 1:00pm
5. The Attorney General on Monday, 27th September, 2010 at 2:00pm
6. Gina Din Corporate Communications on Tuesday, 28th September, 2010 at 9:30am

7. The Harambee SACCO Central Management Committee together with other senior managers on Thursday, 30th September ,2010 at 9:30am
8. The Commissioner for Cooperatives on Tuesday, 5th October ,2010 at 9:30am
9. The Minister for Cooperative Development and Marketing on Thursday, 7th October ,2010 at 9:30am
10. Proceed to a retreat in Mombasa for report writing on Thursday, 7th October, 2010 till Tuesday, 12th October, 2010. While in Mombasa (Monday, 11th October, 2010), the Committee will also give an input into the bills from the Ministry of Livestock Development which had invited it to the function.

MIN. NO.179/2010: ADJOURNMENT

The meeting was adjourned at fifty minutes past one o'clock until Tuesday, 21st September, 2010 at 9:00am in the Main Conference Room, County Hall, Parliament Buildings to meet with KCB management over receivership of KCPU.

SIGNED

Joseph M. Mwangi

CHAIRPERSON

DATE

26th Oct. 2010

MINUTES OF THE EIGHTIETH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS ON THURSDAY, 23RD SEPTEMBER, 2010, AT 1:30P.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Peris Simam, MP
Hon. Evans Akula, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. Benson Mbai, MP
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. John D. Pesa, MP.

IN ATTENDANCE:

Hon. Martha Wangari Karua, MP

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant

MIN.NO. 196/2010: PRELIMINARY

The meeting was called to order at 1:30pm.

MIN.NO. 197/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

Following the speakers' directive on the 31/09/2010 for the Committee to investigate into the alleged mismanagement of Harambee SACCO funds, the Committee commenced the inquiry by receiving submissions from the Hon. Martha Karua who had earlier asked questions in the House relating to the mismanagement of SACCO funds. The following were highlight of her submission:

That she had asked three questions about mismanagement of Harambee SACCO which lead the speaker to direct the matter be investigated by the Committee on Agriculture, Livestock and Cooperatives.

That Harambee SACCO has membership of 90,000 drawn from the Kenya Police, Department of Defense and civil servants whose monthly income is over Khs.500 million.

That she got the information from the concerned members of Harambee SACCO lead by Geoffrey Ontieri at the Nark- Kenya headquarters. She promised to provide the Committee with the files and the phone numbers of the complainants to assist in the investigations.

That mismanagement of funds in the Harambee SACCO was being conducted through double encashment of cheques; irregular administration of rents; fraudulent cashier transfers and poor management of files among others.

That it is alleged that anybody trying to investigate the matter is always compromised by the Central Management Committee though she has not been approached in that effect.

That the reason as to why the vice is going on in the Harambee SACCO is failure to implement recommendations of both the Mwaliko and the KACC reports of inquiry.

The committee thanked Hon. Karua for her vital information and urged her to assist whenever she will be required during the exercise. The Committee maintained that any evidence provided before the Committee has to be primary and authentic.


MIN. NO. 198/2010: ANY OTHER BUSINESS

The Committee congratulated the secretariat for a good work done during the hearings of KPCU receivership and urged that the same be done during the Harambee SACCO inquiry.

MIN. NO.199/2010: ADJOURNMENT

The meeting was adjourned at fifty six minutes past one o'clock until Monday 27th, September 2010 in Committee Room 7, at 10:00am.

SIGNED



CHAIRPERSON

DATE

26th. Oct. 2010

MINUTES OF THE EIGHTY FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON MONDAY, 27TH SEPTEMBER, 2010, AT 10:50A.M.

PRESENT

Hon. John Mututho, MP - **Chairperson**
Hon. Lucas Chepkitony, MP - **Vice Chairperson**
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Peris Simam, MP
Hon. Evans Akula, MP
Hon. John D. Pesa, MP.

APOLOGIES

Hon. Benson Mbai, MP
Hon. Erastus Mureithi, MBS, HSC, MP

IN ATTENDANCE:

CRIMINAL INVESTIGATION DEPARTMENT (CID)

Mr. Ndegwa Muhoro - Director CID
Mr. Mohamed Amin
Corporal Martin Oduor
Mr. Janathan Mwaluko

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant

MIN.NO. 200/2010: PRELIMINARY

The acting Chair Hon. Dr. Monda called the meeting to order at 10:50am.

MIN.NO. 201/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Secretariat informed the Committee that a letter had been received from the Attorney General's office with information that the AG would be out of the country until 27/09/2010 and therefore may not be able to appear before the committee as earlier scheduled.

The Committee resolved to invite the complainants on Thursday, 30th October, 2010 at 9:00am lead by the key witness Mr. Geoffrey Ontieri who would then be interrogated in groups of threes.

The Director CID informed the Committee as follows:

That prior to his appointment as the CID director, he headed the Anti- fraud unit, while Mr. Mohammed Amin headed the investigation department. The two had investigated the said mismanagement matter and could conclusively represent both the Ant- Banking fraud and the CID departments. The Committee concurred and allowed him to proceed.

That since Mr. Mohamed Amin headed Harambee SACCO inquiry; it was prudent for him to take the Committee through its findings. The Committee obliged and Mr. Mohamed Amin informed the Committee as follows:

That in January, 2010, he was instructed by the Commissioner of Police to carry out investigations on the alleged mismanagement of Harambee SACCO. He carried out investigations by interviewing various players in the saga including analysis of documents, compiled a report and forwarded it to the Attorney General. These are the results of the investigations:

That purchase of 2,850,000 shares worth Kshs. 19.95 million from Gina Din Corporate Communications Sacco was above board.

That the allocation of loans to CMC members against their sitting and travelling allowances was a normal practice in the SACCO vide 32nd AGM resolution.

That procurement procedure was always in compliant with the Public procurement and Disposal Act except for the latest payment of goods worth Kshs. 1 million from Highbury Merchants before delivery.

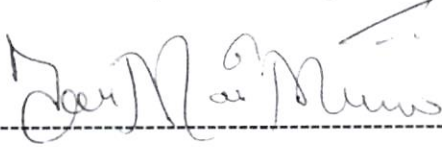
That the alleged double encashment of cheques and cashier transfers from cashier numbers 1, 2, & 3 to a non existing cashier number 8 could not be ascertained since vital documentation were missing. The important missing documents include the Cashier daily specifications reports and summaries, Treasury registers and cheque counterfoils among others during the alleged period of 2006 and 2009. The FOSA manger is the custodian of these documents and should therefore be impressed upon to produce them in addition to undertaking a forensic audit of the Harambee SACCO operations.

That during the inquiry, they were guided by the following Complainants: Daniel Turibu, Geoffrey Ontieri, John Jogo and Kennedy Mageto. They did not however establish whether these were active members of the SACCO though they were aware that Mr. Daniel Turibu services were terminated owing to a pending criminal case against him. Members were concerned that the CID could engage with people they did not know and demanded that CID ascertain their identity.

MIN. NO.202/2010: ADJOURNMENT

The meeting was adjourned at fifty six minutes past noon to the same afternoon at 2:10pm in the same venue.

SIGNED



CHAIRPERSON

DATE



MINUTES OF THE EIGHTY SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON MONDAY, 27TH SEPTEMBER, 2010, AT 2.30 PM

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Peris Simam, MP
Hon. Evans Akula, MP
Hon. John D. Pesa, MP.
Hon. Benson Mbai, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Erastus Mureithi, MBS, HSC, MP

IN ATTENDANCE:

CRIMINAL INVESTIGATION DEPARTMENT (CID)

Mr. Ndegwa Muhoro - Director CID
Mr. Mohamed Amin
Mr. Copral Martin Oduor
Mr. Janathan Mwaluko

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant

MIN.NO. 203/2010: PRELIMINARY

The meeting started with a word of prayer.

MIN.NO. 204/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee sought responses on the following issues:

The whereabouts and the contents of the files obtained by Criminal Investigation Department from Harambee SACCO when the premises were raided in two occasions, whether the investigation exercise was compromised, whether the CID can own the report of the investigations forwarded to the Attorney General and the exact characters of the complainants.

The Director, CID responses were as follows:

That the files obtained from the two raids on Harambee SACCO were forwarded to the Commissioner of Cooperatives. These files will be availed before the Committee on Wednesday 06th October, 2010.

That was within the CID's mandate to investigate any allegation without necessarily questioning the integrity of the complainant.

That the three complainants (Mr. Geoffrey Ontieri, Mr. Kennedy Mageto and John Jogo) ceased to be members of the Harambee SACCO vide the Nation and Standard adverts of 10/05/2005 place by Harambee SACCO (the advert was tabled). The Committee demanded a written submission on the credibility and characters of these complainants.

The complainants (Mr. Geoffrey Ontieri, Mr. Kennedy Mageto and John Jogo) cooperated during the investigations and were satisfied with the process of investigations and their degree of involvement vide a letter to the Commissioner of Police which was forwarded to the Director CID and Banking Fraud. The letter was tabled before the Committee

That investigation into the alleged double encashment of cheques and cashier transfer from cashier numbers 1, 2, and 3 to a non existing cashier number 8 to a tune of Kshs. 300 million could not be concluded since the cheque counterfoil book that shows daily cheque transactions and cashier specification reports and summaries book respectively could not be accessed from the FOSA manager.

That the CID director is not a member of the Harambee SACCO,

That the CID has capacity to investigate the Harambee SACCO matter

That the CID requires time to internalize the investigation file they forwarded to the Attorney General and respond appropriately when they reappear before the Committee on 06/10/2010.

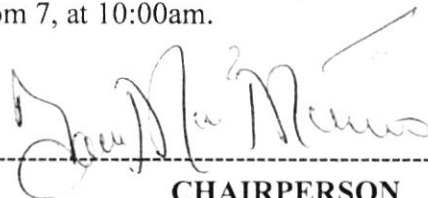
MIN. NO. 2005/2010: ANY OTHER BUSINESS

The Committee resolved to seek three weeks extension from the speaker to be able to conclusively complete the Harambee SACCO Inquiry.

MIN. NO.2006/2010: ADJOURNMENT

The meeting was adjourned at eleven minutes past four o'clock until Wednesday 06th, October, 2010 in Committee Room 7, at 10:00am.

SIGNED



CHAIRPERSON

DATE

06th October 2010
70

MINUTES OF THE EIGHTY THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON TUESDAY, 28TH SEPTEMBER, 2010, AT 10:40A.M.

PRESENT

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Benson Mbai, MP
Hon. John D. Pesa, MP.

APOLOGIES

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. Evans Akula, MP
Hon. Peris Simam, MP

IN ATTENDANCE:

GINA DIN CORPORATE COMMUNICATIONS SACCO (GDCC)

Mr. Japheth Kagondu - Chairman
Mr. Benson Njuki - Vice chairman
Ms. Lena Gatabaki - Secretary

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Mr. Mwathi - Hansard Reporter

MIN.NO. 207/2010: PRELIMINARY

The meeting commenced with a word of prayer. The acting Chairman Hon. Dr. Monda outlined the rules of conducting debate pursuant to the provisions of the Constitution and the Standing Orders followed by introductions.

MIN.NO. 208/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee received explanation from GDCC on the following issues:

- (i) Table a list of all shareholders of GDCC, and the amount of shares held by each since registration;
- (ii) Contents of the verbal communications between the GDCC and Mr. Mumina of Capital Markets Authority (CMA) concerning sale of shares to Harambee SACCO
- (iii) Whether due process of the law was followed in the sale of 2,850,000 to Harambee SACCO (approval of the transaction by the AGM of both parties in the transaction)
- (iv) Explanation on the change of the number of shares from 200,000 in the year 2007 to 20,000,000 currently.

Gina Din Corporate Communications SACCO responded as follows:

That Gina Din Corporate Communications SACCO was registered in March 2007 and started operations late that year. Membership of the Company then was 21 but has grown to 51 as at August 2010. That, GDCC SACCO purchased 200,000 class A shares from Cooperative Bank of Kenya and the said shares increased from 200,000 to 2,000,000 due to a share split of 1:100 during the Initial Public Offering (IPO) of Cooperative Bank.

That an AGM resolution of Gin Din Corporate Communications Sacco held on 20/02/2009 approved the sale of all the shares held thus commissioning the executive to look for the potential buyers. The shares were trading at Kshs. 9 per share at the Nairobi stock exchange thus presenting a profit if they were to be offloaded.

That Gin Din Corporate Communications followed the due process of the law in the sale of 2,850,000 shares worth Kshs. 19.95 to Harambee SACCO at a discounted rate of Kshs.7 per share. All the documentation of the transaction were tabled (letters between Harambee SACCO and GDCC, Share Certificates, Payment Cheques, correspondence with the registrar of Coop holdings).

That the names of the shareholders of Gin Din Corporate Communications SACCO could not be accessed since the Treasurer (who is the custodian of these documents) was in Turkey on official duty. The Committee was concerned to hear that the Treasurer and not the Secretary (who was present) is the custodian of the documents). It therefore adjourned for one hour to allow Gin Din Corporate Communications time to avail those documents.

On resumption of the meeting, the Committee was informed that the sought documents could not be traced and therefore Gin Din Corporate Communications requested for one day to avail them; a time in which the Treasurer should have arrived and provided the same. The Committee obliged and ordered that the documents be delivered to the Secretariat without failure. It however indicated that Gin Din Corporate Communications will be called, if need be, upon analysis of those documents.

MIN. NO.209/2010: ADJOURNMENT

The meeting ended at fourteen minutes past one o'clock until Thursday, 30th November, 2010 in Committee Room 7, at 10:00am.

SIGNED

Joe MacNeen

CHAIRPERSON

DATE

26th. October 2010.

MINUTES OF THE EIGHTY FOURTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON THURSDAY, 30TH SEPTEMBER, 2010, AT 10:37A.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Benson Mbai, MP
Hon. John D. Pesa, MP.
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Erastus Mureithi, MBS, HSC, MP

APOLOGIES

Hon. Peris Simam, MP
Hon. Evans Akula, MP

IN ATTENDANCE:

COMPLAINANTS OF HARAMBEE SACCO

Name	Department/Ministry	Membership number
Mr. Geoffrey Ontieri	Government Chemist	2814 (active)
Mr. Tony Matuku	Harambee Plaza Member	123270
Mr. Tom Odera	National organizing Sec of finance	not a member
Mr. Stanly Gikonyo	Retired chief (SACCO member, but	membership not given)
Mr. John Jogo	Ministry of Trade	39486 (active)
Mr. Karanja Rimungi	Harambee Plaza member	10885
Mr. Daniel Turibu	Harambee Plaza member	123200 (inactive)
Mr. Ben Sifuna	Consultant	123229 (active)
Mr. Joseck Otanga	Harambee Plaza member	123182 (active)
Mr. John Kamau	Harambee Plaza member	8176
Mr. Kennedy Mageto	Ministry of Agriculture	063964

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Ms. Marale Sande - Research Officer
Mr. Said - Hansard Reporter

MIN.NO. 210/2010: PRELIMINARY

The meeting started with a word of prayer. The acting Chairman Hon. Dr. Monda outlined the rules of conducting debate pursuant to the constitution and the Standing Orders followed by introductions.

MIN.NO. 211/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The complainants tabled their written submission and informed the Committee as follows:

That corruption in Harambee SACCO is real and well coordinated by the Central Management Committee members, Ministry officials and the senior managers of the Harambee SACCO.

That, the alleged cases had been reported to the Ministry of Cooperative Development and Marketing, KACC, CID, ICPAK and to the Attorney General, but very little action had been taken.

That, the Supervisory Committee, whose role is to oversee prudent management of the Harambee SACCO resources, had been compromised and that it was deemed effective during only in first two years of their tenure in office.

That, if the Mwaliko and KACC inquiry reports had been implemented, financial mismanagement could not be as rampant as is currently the case.

That independent investigation can only yield results if those vindicated have stepped aside. For instance, the Central Management Committee members had been interdicted on various occasions but failed to step aside (annexed BSS14 and BSS15 letters for Mr. Malonza and Nyambura Weru).

That, there has been fraudulent transfer of funds from the Front Office Services Activity (FOSA) up to a tune of Kshs. 300 million as well as double encashment of cheques to a tune of Kshs. 121,609,468. The analysis of withdrawals and double cheque encashment were annexed and tabled as BSS 16 and BSS 17.

That, the Petty Cash advances amounting to over one million shillings (Kshs 1,200,000) to CMC Members particularly one Mr. Macloud Malonza was advanced seven hundred thousand shillings (Kshs 700,000) on 2nd March 2000 while a Mr. Makau was advanced five hundred thousand shillings (Kshs 500,000) on 18th April 2008) was fraudulent.

That, the above arrangement contravenes the Cooperative Act and Cooperative by-laws requiring any individual applying for a loan state the same in writing. Members of CMC have therefore been accused to have contravened these rules and as a result have continued to advance themselves cash without clear indication as to whether they amount to loans or allowances and when their repayments are due.

That, the payment of allowances to the Commissioner of Cooperatives (the then Registrar of cooperatives) and other officials tasked to offer oversight roles over cooperatives as a way funds were being misused. The Committee heard that while the former had been tasked to follow up on complaints made against the CMC by undertaking a "computer audit seminar" at Garden Hotel Machakos they instead were treated to inducements also referred to as "allowances" amounting to one million Kenya shilling (Kshs 1,000,000). A payment voucher no. 28591 dated 13/01/2003 through cheque no. 188078 was used (annex BSS1).

That, this same seminar was called strategic planning and Kshs. 859,950 was used through a payment voucher No.28595 dated 13/01/2003 through a cheque number 188081 (annex BSS2). The tips Management consultancy that did a shoddy job that necessitated a strategic workshop was further paid Kshs. 617, 400 by a payment voucher No.46246 dated 22/01/2003 (annex BSS3). This sum of money was not budgeted for, was unlawful and was never reflected in subsequent books of accounts.

That, further allowances were awarded to officials summoned before the Anti Corruption Police Unit at Integrity Centre along Valley Road some 5 kilometers' from Cooperative Headquarters. A total sum of Kshs 10,000 was awarded to the Chairman to attend a meeting with the Anti-corruption and Prevention Unit (ACPU) on the 22nd and 23rd May 2003.

That, a further amount of Kshs 38,500 was awarded to the CMC members as allowances on 1st July 2003 as they toured the Green fields project (An initial project of the Harambee Cooperative) located some 15km from the SACCO headquarters.

That, the manner in which directives by the senior management issue allowances was being used to mismanage funds at the SACCO was of great concern. A compliment note dated 22nd May 2003 by the General Manager was used to request Kshs 20,000 on behalf of the national Chairman as allowances to attend an official function.

That, the Front Offices of the Harambee Sacco has for a long time been misused and therefore has been singled out as conduit for CMC and Senior Management of the Sacco to siphon out Members savings from the SACCO.

That, the officials of the Kenya Anti-Corruption Commission (KACC) had been compromised by Harambee SACCO management. While presenting the necessary evidence indicating abuse of office, theft and corruption at high level within the Ministry of Cooperatives to the Kenya Anti-Corruption Commission for investigations, the concerned members were advised to await the outcome of the probe being undertaken by the accused since apparently they were investigating themselves.

That, they do not know anybody by the name of Mr. J.S. Langat who petitioned parliament on the alleged corruption at Harambee SACCO

That most of the approved audited reports have a lot to be desired. This was an issue of contention in the 2005 where some concerned members left the Annual Delegates Meeting in the

first day i.e. Mr. Benson Sifuna. Amortization of Kshs. 600 million case was reported to ICPAK but never got a response to date.

That, Mr. Daniel Turibu was sacked on 6th January, 2009 for reporting corruption matters at Harambee SACCO on fraudulent cahier transfers to CID but charged seven months later in court. While demanding an authentic written submission from each and every complainant of what they know, the Committee learned that Mr. Daniel Turibu has never contested a CMC post but Mr. Geoffrey Ontieri has on a couple of times unsuccessfully. It was further revealed that Mr. Ontieri has not been taken to court by Harambee SACCO but rather he is the one who took it to court.

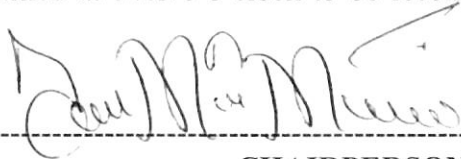
That, the complainants' effort to unearth corruption at Harambee SACCO had been frustrated by the following institutions who they termed as their aggressors:

- i Central Management Committee (CMC)
- ii Criminal Investigation Department (CID)
- iii Ministry of Cooperative Development and Marketing Officials
- iv Auditors
- v Supervisory Committee
- vi Judiciary
- vii Kenya Anti-Corruption Commission (KACC)

MIN. NO.212/2010: ADJOURNMENT

The meeting adjourned at twelve o'clock to be reconvened at 12:30 pm on the same day and venue

SIGNED



CHAIRPERSON

DATE

26th October 2010,-----

MINUTES OF THE EIGHTY FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON THURSDAY, 30TH SEPTEMBER, 2010, AT 12:30P.M.

PRESENT

Hon. John Mututho, MP	-	Chairperson
Hon. Lucas Chepkitony, MP	-	Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP		
Hon. Fredrick Outa, MP		
Hon. Benson Mbai, MP		
Hon. John D. Pesa, MP.		
Hon. (Dr.) Victor Kioko Munyaka, MP		
Hon. Erastus Mureithi, MBS, HSC, MP		
Hon. Peris Simam, MP		
Hon. Evans Akula, MP		

IN ATTENDANCE:

HARAMBEE SACCO CENTRAL MANAGEMENT COMMITTEE/ DIRECTORS AND SENIOUR MANAGERS

Mr. Macloud Malonza	-	National Chairman
Ms. Beldina Oguya	-	Vice Chairman
Mr. Charles Konzolo	-	Secretary
Mr. James Wandera	-	General Manager
Mr. Meshack Nyangute	-	Accountant
Mr. Charles Mongare	-	CMC member
Ms. Nyambura Weru	-	CMC member
Mr. Permenus Ndiege	-	Chairman, Supervisory Committee
Mr. Steven Nganga	-	CMC member
Mr. Nyamira Osore	-	Secretary, Supervisory Committee
Mr. Wiliam Maina	-	CMC member
Mr. Peter Ochola	-	CMC member
Mr. Benson Odhiambo	-	Accountant
Ms. Gladys Gichohi	-	Legal officer
Mr. Vitalis Ochalo	-	CMC member
Mr. Joseph Yamo	-	Member, supervisory Committee
Mr. Kipkoech Sum	-	CMC member

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich	-	Senior Research Officer
Mr. Evans Oanda	-	Third Clerk Assistant
Ms. Marale Sande	-	Research Officer
Mr. Said	-	Hansard Reporter

MIN.NO. 213/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting debate pursuant to provisions of the constitution and the Standing Orders followed by introductions.

MIN.NO. 214/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee was prepared to receive responses from the CMC on the following issues:

The background of the SACCO and where it is currently; to outline the allegations against the CMC as known to it; how it compare their performances with banks; the amount of money alleged to have been lost since the current management came to office and the challenges facing the organization.

The Chairman of Harambee SACCO responded as follows:

That Harambee SACCO was started in 1968 and registered as a society in 1970 drawing membership from the Government Ministries, Department of Defense, and Kenya Police among others. Currently its membership has grown to 110, 000 despite retrenchment and mortality rates.

That the SACCO has always grown economically and financially with the asset base standing at Kshs. 12,386,807,530 billion with a surplus of Kshs. 3.5 billion as at 2009 as compared to asset base of Kshs. 3.2 billion in November, 2001 when the current management came to office. This makes it the largest SACCO in Africa though ranked number 22 among the financial service providers in the Country by the financial post. This growth has been gradual with this year being targeted at 6 to 8%. For instance, last year, there was a Kshs. 700 million profit out of which Kshs. 518 million being distributed as dividends.

That in 2001, the sinking fund had a deficit of Kshs.98 million which has been turned around by the current management to a surplus of Kshs. as per last year

That, the SACCO has come up with best products to its members such as; school fees loans for 12 months, minimum time of 30 minutes in emergency loan processing; and offering different loan facilities that are up to date in collection as well as improvement of the check off system from Kshs.180 million to Kshs. 480 million.

That, Harambee SACCO has 159 FOSA branches with 456 delegates countrywide

That despite the continued growth of Harambee SACCO, various challenges of mismanagement have always ensued in the past and that is why it was always in commissions of inquiries. The first inquiry was done in 1978, followed by 2000, 2002 coupled with various ministerial inspections.

That, the Harambee SACCO has implemented 95% of the recommendations of the inquiry reports for instance operationalization of enterprise resource planning where 85% of the operations are computerized. Decrease of staff workers from 256 to 132 thus reducing expenditure in salaries that had consumed at one point 56% of the SACCO revenue.

That the amount of money lost during the current management's tenure is Kshs. 12.5 million (Kshs. 8.7 in Mombasa and Kshs. 3.8 in Nairobi branches). This represents only 0.001% of the asset base of the SACCO.

The Committee ordered a written submission of the following allegations from the Harambee SACCO when they reappear before the Committee on 4th, October, 2010:

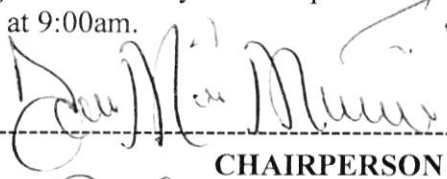
- i. Whether it concealed/ destroyed vital files required for inquiry from Anti-banking fraud unit. Letter dated 4th January 2010 requesting for these documents from the SACCO has never been acted upon
- ii. Whether it irregularly paid honoraria of Kshs 8.8million to Mwaliko Commission of Inquiry. This was a concern during the 32nd AGM of 9th October 2003. (Page 5 of the minutes). This is Conflict of interest which reflected on page 14 of 2002 audited report (expense section)
- iii. Whether it failed to implement the KACC report of 2004 (implementation was partial) together with the Mwaliko report
- iv. Whether it unfairly disciplined staff who raised corruption alert and who provided information by either sacking them or transferring them outside of Nairobi. Examples are Mr. Tony Mayuku, Joseph Otanga, and Paul Onyango.
- v. Whether it fraudulently purchased shares worth Kshs 19.95million without the AGM's approval. This company (Gina Din Corporate Communications Sacco) that sold shares is closely associated with Hon. Joseph Nyagah, EGH, and MP. The finance staff of Harambee SACCO were against this said purchase
- vi. Whether it Pays the Minister for Cooperative Development and Marketing Hon. Nyagah Kshs 200,000 as protection fees weekly
- vii. Whether it irregularly allocates loans to CMC members against sitting and travelling allowances the alleged amount totals to Kshs 724,068,864. Corporate law is against these and members who have since left the SACCO have defaulted on payments.
- viii. Whether it fraudulently transferred money from cashiers No. 1, 2 and 3 to non existing cashier No. 8 (Steve Mwanga) up to a tune of Kshs 300million. Most of these transactions took place in 2007.
- ix. Whether it fraudulently cashed cheques more than once (double encashment) at the FOSA to a tune of Kshs 121million between the year 2006 and 2009.
- x. Whether it irregularly used contingency money whereby no return of such has been done since 2006. This is against the law.
- xi. Whether its directors were interdicted by court in January 2005 but continued to serve against the law
- xii. Whether the CMC and directors issue death threats to members and staff who are forces against corruption within the SACCO

- xiii. Whether the current CMC/ directors are in office illegally after their term of service had expired (they have been in office since 2001) Whether it was prudent for the directors/ CMC to be in office while corruption investigations were being done by CID between 4th June 2009 and 21st October 2009
- xiv. Whether the CMC members allocated themselves large sums of money in the form of IOU (Voucher worth Kshs 700,000 and Kshs 67million signed by chairman of the SACCO indicates such a transaction)
- xv. Land grabbing i.e. Plot no. 1093, title deed no. 4324 grabbed by Mr. Charles Geni (CMC member) at Harambee field Estate. Chairman, Mr. Maclond Malonza is also alleged to have grabbed land
- xvi. The Audited accounts of 2005 have a lot to be desired i.e. explanations of various expenses (repairs and purchase of computers, provision for bad debts amounting to Kshs. 22,965,375; income from rent particularly Nyali House)
- xvii. Whether it presented documents to delegates in 2005 AGM in which the audited accounts were immediately approved by the Commissioner of Cooperatives i.e. on the same day the AGM took place. (The law requires that 14days be provided)
- xviii. How the society has managed to register an impressive positive growth despite negative publicity and all sorts of corruption related inquiries.
- xix. Whether anyone is known to the SACCO by the names Mr. J.S. Langat.

MIN. NO.215/2010: ADJOURNMENT

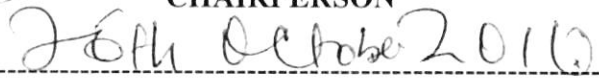
The meeting was adjourned at forty minutes past one o'clock until Monday 4th, October, 2010 in Committee Room 7, at 9:00am.

SIGNED



CHAIRPERSON

DATE



MINUTES OF THE EIGHTY SIXTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON MONDAY, 4TH OCTOBER, 2010, AT 9:20A.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. Benson Mbai, MP
Hon. John D. Pesa, MP.
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. Peris Simam, MP
Hon. Evans Akula, MP
Hon. Charles Nyamai, MP - friend of the Committee

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP

IN ATTENDANCE:

HARAMBEE SACCO CENTRAL MANAGEMENT COMMITTEE/ DIRECTORS AND SENIOUR MANAGERS

Mr. Macloud Malonza - National Chairman
Ms. Beldina Oguya - Vice Chairman
Mr. Charles Konzolo - Secretary
Mr. James Wandera - General Manager
Mr. Meshack Nyangute - Accountant
Mr. Charles Mongare - CMC member
Ms. Nyambura Weru - CMC member
Mr. Permenus Ndiege - Chairman, Supervisory Committee
Mr. Steven Nganga - CMC member
Mr. Nyamira Osore - Secretary, Supervisory Committee
Mr. William Maina - CMC member
Mr. Peter Ochola - CMC member
Mr. Benson Odhiambo - Accountant
Ms. Gladys Gichohi - Legal officer
Ms. Vitalis Ochalo - CMC member
Mr. Joseph Yamo - Member, supervisory Committee
Mr. Kipkoech Sum - CMC member

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Ms. Marale Sande - Research Officer

MIN.NO. 216/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting debate pursuant to the provisions of the Constitution and the Standing Orders followed by introductions.

MIN.NO. 217/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Chairman of Harambee SACCO gave a written submission of the issues raised by the Committee during the earlier meeting of 30/09/2010 and took the Committee through its contents. He gave out a brief background of the SACCO with regard to activities, vision, mission, objectives, financial performance in the last ten years, loan disbursement, membership, branches and delegates. He responded to the allegations against the Harambee SACCO as put forward by the Committee as follows:

Concealed/ destroyed vital files required for inquiry from Anti-banking fraud unit.

The society had never destroyed or concealed any information from any investigatory body before. The alleged documents (Central Processing Units of FOSA Personal Computers; Manual Treasury Registers between the years 2003 and 2007; Manual Cashier Specifications 200-2007; Manual Cashier Daily Report and Bank Statement 2003-2007) were taken by the Police Officers from the Economic Crimes Unit under the department of the Criminal Investigations in June 2009.

Irregular payment of Honoraria worth Kshs 8.8 million to Mwaliko Commission of Inquiry

The inquiry expenses which included the said Honoraria in question were discussed and expensed in the year 2002 Audited Accounts on page 14 under Administrative expenses title. Inquiry expenses' amounting to Kshs.9, 572,200 was duly approved in the 32nd Annual Delegates Meeting held on 9th October, 2010.

According to the letter of appointment of the Mwaliko Commission of inquiry by the former PS in the Ministry, the society was supposed to cater for the cost of inquiry as per section 60 Clause 1 of the Co-operative Societies Act No.12 of 1997. The society paid the requisite expenses based on the above. Documents pertaining to this payment are in the custody of the Kenya Anti Corruption Commission, that is:-

- i. The inquiry file for 2002
- ii. Authority to pay the Inquiry expenses
- iii. Authority to pay Honoraria
- iv. CMC minutes
- v. Payment Voucher
- vi. Inquiry payment expense file
- vii. Annual Delegates Meeting (ADM) minutes file for year 2002

The Committee resolved to demand these from KACC when it appears before it on 7th October, 2010

Partial Implementation of both the KACC report of 2004 and the Mwaliko report

The implementation of the recommendations of both KACC and Mwaliko reports of Inquiry is 95% complete. Harambee Sacco had drawn an implementation work plan which it strictly follows. Sale of Land projects which constitutes the remaining 5% has been elusive due to squatter invasion in Kilifi and change of name in Kisumu is just but a few. The plans to dispose Nanyuki and Siaya plots are in advanced stage so as to conform to the SACCO's core business.

Irregular discipline of staff who raise corruption alert by either sacking them or transferring them outside Nairobi

No member of staff has ever been victimised by raising a corruption alert. Staff can only be dismissed when they have been charged of gross misconduct under the employment Act. For instance, Mr. Daniel Turibu had seven charges one of which he embezzled funds in Mombasa which led to his dismissal. Mr. Otanga and Mr. Matuku were also dismissed due to poor performance as indicated by the warning letters they received from the Society's management.

The Harambee Sacco has a policy of decentralization whereby experienced staff can be transferred from Nairobi to go and open new branches. The complainants are disgruntled since they have been fighting for management positions in vain.

Fraudulent purchase of shares worth Kshs 19.95 million without the ADM's approval and against the advice of the finance staff workers

The said transaction was discussed and approved during the Central Management Committee meeting which is tasked to prudently invest the Sacco resources in a meeting held on 11th June 2009 vide minute number 129/2009. The due process of the law was followed from start to the end with regard to correspondences between the parties in question.

The Sacco bought these shares at a discounted rate of Kshs.7 at a time when they were trading between Kshs.7.25 and Kshs.7.50 in the Nairobi Stock Exchange. The total number of shares bought was 2,850,000 at a cost of Kshs.19.95 million. All the documentation regarding the transaction was tabled and annexed (Xi).

Paying the minister of Cooperative Development and Marketing Hon. Nyagah Kshs 200,000 as protection fees weekly

The CMC denied the above allegations and wanted the complainant to further substantiate the above.

Irregular allocation of loans to CMC members against their sitting and travelling allowances amounting to Kshs 724,068,864.

The Sacco grants loans to its members procedurally irrespective of whether they are CMC or not. The cardinal point here is the members' income and the ability to pay. There is no member of Central Management Committee and Supervisory Committee members with a defaulted loan and total loans owed by the Central Management Committee Members are Kshs. 23,377,040.60 as at

August 2010. (Tabled and classified as confidential under Appendix (IX) contains loans held by the CMC and Supervisory Committee Members).

Fraudulent cashier transfer of cash by cashiers' No. 1, 2 and 3 to non existing cashier No. 8 (Steve Mwangi) up to a tune of Kshs 300million

The Front Office Services (FOSA) has never maintained an alleged cashier number 8 in its records, though one Mr. Steve Mwangi was as a worker as a data entry clerk. Whenever there is inter-cashier borrowing, a debit note is filled and signed by both receiving and giving cashier and authorized by the manager. The allegations are misleading and unsubstantiated.

Fraudulent double encashment of cheques at the FOSA worth Kshs 121million between the year 2006 and 2009

There were only two cases that were discovered and charged in 2007 where Rodha Aluoch and Ken Obuya were involved. After investigations, the two were found guilty and are currently in the payroll servicing that money with Rodha Aluoch's charge being Kshs. 2,047,000; and Ken Obuya Kshs. 2,000,000. Apart from these, no other incidence has ever been detected.

Irregular use of contingency money (no return of such has been done since 2006)

This allegation is not true. All the expenses are accounted for in the audited accounts and retrospectively approved by the ADMs in each year.

The SACCO directors were interdicted by court in January 2005 but continued to serve

The alleged interdiction case was stayed and therefore not active. Furthermore, nobody had asked the charged directors to resign or step aside for them to do so.

CMC and directors issue death threats to members and staff of the SACCO who are forces against corruption.

The Society has never issued any death threats or killed any employee whether former or present. This allegation is a clear violation of the human rights and freedom of expression. The only known threat was directed at the national Chairman (Mr. Macloud Malonza) via an SMS by a redundant staff-Dorcas Isaboke. The case to that effect is in court.

Longer than required service of the current CMC/ directors (since 2001)

The current Central Management Committee is in office legally as per the previous and current law. When it assumed office, there was a rule that a Committee Member could not serve for more than two five year terms. However, this was revised by the Ministry of Co-operative Development in 2004 and the current status is that a third of the Committee retires each year but is eligible for re-election. Evidence of various elections was tabled to support the idea.

Directors/ CMC failed to step aside during corruption investigations undertaken by CID between 4th June 2009 and 21st October 2009 as is required by law.

The terms of reference for investigations were based on allegations which were unfounded and there was no need of stepping down. The issue of stepping down is a matter of principle but not legal.

CMC members allocated themselves large sums of money in the form of IOU. Voucher worth Kshs 700,000 and Kshs 67million signed by chairman of the SACCO for the same

The Society does not advance IOU's to members of the CMC but it is rather a lending institution and any official wanting money can access it through a loan and repay with interest. The document purporting CMC borrowing of Kshs.67 million is a forgery with a superimposed signature.

Land grabbing i.e. Plot no. 1093, title deed no. 4324 grabbed by Charles Geni (CMC member) at Harambee field Estate.

The alleged property has never been owned by the society and no CMC member has ever been allocated a plot of land.

The Audited accounts of 2005 have a lot to be desired i.e. explanations of various expenses (repairs and purchase of computers, provision for bad debts amounting to Kshs. 22,965,375; income from rent particularly Nyali House)

The accounts were prepared, audited and approved in the Annual Delegates Meeting as per the laid down law held on 20th April 2006 (minute no.10/2006).

Late presentation of documents to delegates in 2005 AGM and immediate approval of audited accounts by the Commissioner of Cooperatives i.e. on the same day the AGM took place. (The law requires that 14 days be provided)

The process of presenting documents to delegates to 2005 Annual Delegates Meeting (ADM) was duly done according to the law. The audited accounts were approved on 6th April, 2005 and displayed in the Society's branches the same day as provided by the Society's By-laws. The AGM was then held 14 days later on 20th April, 2005.

The identity of J.S. Langat (he wrote a memorandum to parliament complaining about corruption in Harambee Sacco).

The Society has no employee by such a name and is not in a position to explain anything about him. On membership of Harambee Sacco, the law requires that CMC members be between 5 & 11 members. Currently, there are 11 CMC members thus conforming to the law. All the CMC members must come from Nairobi.

On the characterization of the Complainants, the Committee was told that Mr. Daniel Turibu was once an employee of Harambee Sacco with a payroll number of 9205179 but was dismissed on 15/04/2009 because of gross misconduct. Mr. Geoffrey Ontieri is a member of the Harambee Sacco who has always contested for management position in the Sacco but failed to succeed and that is why he is disgruntled.

MIN.NO.218/2010: MANTAINANCE OF HARAMBEE PLAZA BUILDING

The Committee wanted to know why the lifts in Harambee plaza building are not serviced considering the fact that majority of it is leased thus subjecting the tenants to unnecessary discomfort. The Committee was told that various efforts have been made to address the matter over the years by seeking approval from the Annual Delegates Meeting (AGM) but always failed. This has however changed since the last year's ADM approved the funds for replacing the lifts. Plans are at an advanced stage towards this course.

The Committee learned that insecurity between Harambee Sacco and Continental is a major concern and that it requires urgent address.

MIN. NO.219/2010: ADJOURNMENT

The meeting ended at half past one o'clock until the same afternoon at 1:45 pm in the same venue.

SIGNED



CHAIRPERSON

DATE

26th October 2010.

MINUTES OF THE EIGHTY SEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON MONDAY, 4TH OCTOBER, 2010, AT 1:40P.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. John D. Pesa, MP.
Hon. Peris Simam, MP
Hon. Evans Akula, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. Benson Mbai, MP

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Ms. Marale Sande - Research Officer

MIN.NO. 220/2010: PRELIMINARY

The meeting commenced with a word of prayer.

MIN.NO. 221/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee assessed the progress it has made in the Harambee Sacco inquiry and resolved as follows:

That the Attorney General and the Minister for Co-operative Development and Marketing be invited to attend the Committee's meeting on Friday 8th October, 2010.

That the proposed report writing retreat in Mombasa will not be there since by then it will not have gathered all the required evidence from the witnesses. Members will therefore meet on Monday 11th October, 2010 to look at the progress of the draft report.

The Hon. Dr. Robert Monda and the Hon. John Pesa will not attend the Friday meeting on 8/10/2010 due to other commitments.

MIN. NO.222/2010: ADJOURNMENT

The meeting ended at fifty four minutes past one o'clock until Tuesday, 5th October, 2010 in Committee Room 7 at 9:00 am.

SIGNED



CHAIRPERSON

DATE

26th October 2010

MINUTES OF THE EIGHTY EIGHTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON TUESDAY, 5TH OCTOBER, 2010, AT 10:00A.M.

PRESENT

Hon. John Mututho, MP	-	Chairperson
Hon. Lucas Chepkitony, MP	-	Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP		
Hon. Fredrick Outa, MP		
Hon. John D. Pesa, MP.		
Hon. Peris Simam, MP		
Hon. Evans Akula, MP		
Hon. (Dr.) Victor Kioko Munyaka, MP		
Hon. Erastus Mureithi, MBS, HSC, MP		
Hon. Benson Mbai, MP		
Hon. Charles Nyamai, MP	-	friend of the Committee

IN ATTENDANCE:

MINISTRY OF CO-OPERATIVE DEVELOPMENT AND MARKETING

Mr. Fredrick Odhiambo	-	Commissioner for Co-operatives
Mr. Abuta	-	Head of Senior Counsel
Mr. Vincent Nyongesa	-	Auditor
Ms. Hellen Njuguna	-	DCO in charge of Co-operatives
Mr. Geoffrey Karuku	-	Deputy Commissioner
Mr. Kenduywa John	-	Deputy Commissioner in Charge of inspection
Mr. Enid Njeru	-	PCO in Nairobi

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich	-	Senior Research Officer
Mr. Evans Oanda	-	Third Clerk Assistant
Ms. Marale Sande	-	Research Officer
Ms. Pauline Nyambura	-	Office Assistant

MIN.NO. 223/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting debate pursuant to the provisions of the Constitution and the Standing Orders followed by introductions.

MIN.NO. 224/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Commissioner for Co-operatives gave a brief history of the Cooperative Movement in Kenya with respect to inception, registration and its financial status as at present. He indicated that there are over 12,000 registered Cooperatives with membership of over 8 million. There has been tremendous growth in the last five years witnessed in Sacco and as at now, it stands at 5000 with a membership of over 4 million having a financial base of Kshs. 200 billion.

That Saccos contribute about 31% of the national savings and currently provide financial services to about 17.6% of the Kenyan adult population of 19 million compared to Banks and Insurance companies which together serve about 22.5% of the same segment of the population.

On the implementation of the Sacco Societies Act, he indicated that the following have so far been achieved even though there is a challenge of inadequate funding:

- (i) Drawing and publishing Sacco Societies ((Deposit Taking Sacco Business) Regulations 2010.
- (ii) Developing organizational structure for Sacco Societies Regulatory Authority together with appointment of its Board, Chairman, Chief Executive Officer and few members of staff.
- (iii) Appointment of a team to draw model by laws has been done.
- (iv) Development of the Authority's Strategic Plan
- (v) Signing of the performance contract by the Authority with the with the Ministry

On oversight function of Sacco Society Regulatory Authority (SASRA), he indicated that it will regulate 230 Saccos representing 70% of the Kshs. 200 billion held by the 5,000 Saccos. Regulation will involve monitoring of liquidity and capital requirements, provision for loan delinquencies among others. Saccos will also be required to submit regular reports in spite of the Authority conducting On-site and Off-site inspections in the societies.

On Harambee Sacco Society limited, he informed the Committee that the Society is the largest in Africa with a membership of about 90,000 drawn mainly from the office of the president. The Society has had management problems in the past but it is doing well now. He further indicated that the Sacco has had the highest number of inquiries and inspections than any other in the country.

On Mwaliko Inquiry, the commissioner submitted that the terms of reference was to look into the implementation of past inquiry and inspection recommendations, and board representation among others. This followed contribution withdrawal from Department of Defense who were not represented in the Central Management Committee. The recommendations of the Mwaliko report are 95% implemented according to action plan that was drawn by the CMC to do it. The items left are on the disposal of site and service scheme projects whose implementation have delayed because of the processes involved but are in progress.

On the alleged mismanagement of funds in Harambee Sacco, he indicated that the Ministry officers have always been sent to the Society to investigate any alleged wrong doing. The findings of these visits have found the CMC operations above board. He further informed the Committee that there is always a DCO present to monitor what happens in the Society whenever the Central Management Committee sits. The false allegations against the CMC are advanced by disgruntled members who have either failed to get elected to the CMC or dismissed on gross misconduct. Some the Complainants are Mr. John Lewis Jogo who was a former CMC member, Mr. Geoffrey Ontieri, Mr. Sammy Chach Rioba, Mr. Peter Onyango Odundo, Mr. Livingstone Kinyanjui Ngugi among others.

Other motivating factors for complainants include taking offer Harambee Plaza building and to be allowed to continue loan broking after their services were terminated at Harambee Sacco.

The performance of Harambee Sacco Society has improved from levels of insolvency to a now surplus since the current management came to office in 2001. The Society now pays real dividends and not the political ones. Presently, the processing of development loan takes only 3 days while Emergency loan takes a record 1 hour at most. The Capital base grew from Kshs. 4.9 billion in 2001 to Kshs. 12.4 billion in 2009.

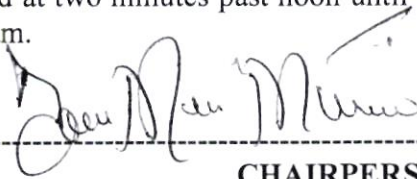
While thanking the Commissioner for eloquent presentation, the Committee demanded a written submission on the following issues:

- (i) Why the transaction regarding purchase of shares from Gina Din Co-operate Communications was allowed against the existing caveat barring Saccos from doing so for five years after the Initial Public Offering (IPO) of Cooperative Bank shares.
- (ii) Why the Ministry has not put in place stringent regulatory measures to FOSA which control a huge amount of money.
- (iii) The supervisory status of other Saccos across the country
- (iv) Why the previous inquiry recommendations have not been implemented fully (5% remaining)
- (v) To present evidence of 1 hour emergency loan processing
- (vi) What is happening with the maintenance of Harambee Plaza

MIN. NO.225/2010: ADJOURNMENT

The meeting ended at two minutes past noon until Wednesday, 6th October, 2010 in Committee Room 7 at 10:00 am.

SIGNED



CHAIRPERSON

DATE

26th. October 2010

MINUTES OF THE NINETIETH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON THURSDAY, 7TH OCTOBER, 2010, AT 3:00 P.M.

PRESENT

Hon. John Mututho, MP	-	Chairperson
Hon. Lucas Chepkitony, MP	-	Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP		
Hon. John D. Pesa, MP.		
Hon. Fredrick Outa, MP		
Hon. Benson Mbai, MP		
Hon. Erastus Mureithi, MBS, HSC, MP		
Hon. Evans Akula, MP		

APOLOGIES

Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Peris Simam, MP

IN ATTENDANCE:

KENYA ANTI-CORRUPTION COMMISSION

Prof. Patrick L.O. Lumumba	-	Director
Dr. John Mutonyi	-	Deputy Director
Mr. Henry Mwithia		

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich	-	Senior Research Officer
Mr. Evans Oanda	-	Third Clerk Assistant
Ms. Marale Sande	-	Research Officer
Mr. Charles Ayari	-	Hansard Reporter
Ms. Pauline Nyambura	-	Office Attendant

MIN.NO. 232/2010: PRELIMINARY

The meeting started with a word of prayer followed by introductions.

MIN.NO. 233/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

After congratulating the director for his appointment to the new job, the Committee demanded responses from KACC on the following issues concerning alleged mismanagement of Harambee Sacco:

- (i) Why KACC delayed in instituting investigations at the SACCO and only did that after receiving a directive from the attorney General.
- (ii) Whether KACC was in possession of documents belonging to Harambee Sacco such as The inquiry file for 2002; Authority to pay the Inquiry expenses; Authority to pay Honoraria; CMC minutes; Payment Voucher: Inquiry payment expense file; AGM minutes file for year 2002; cheque counterfoils; Treasury registers and the Cashier Daily Specifications reports and summaries, which were deemed useful in the inquiry
- (iii) To confirm whether KACC had received complaints from the concerned members of Harambee Sacco and what was the nature of the said complains

The Director, Kenya Anti- Corruption Commission responded as follows:

That up until KACC received a directive from the Attorney General on the 6th Sept 2010 to investigate alleged mismanagement of funds at the Harambee Sacco, no investigations or inquiries on the said Sacco has been ongoing since 2003. KACC has not been investigating Harambee Management. The letter read in part;

“On reviewing the Inquiry files, it became quite obvious that there are glaring gaps and deficiencies in the evidence gathered by police. Furthermore, in both files the police appear to acknowledge the difficulties in investigating those matters and have suggested that a forensic audit be done by an independent institutions”

According to the Director, on review of the CID and BFIU reports, KACC investigations would focus but not necessarily restrict itself to the following allegations;

- (i) Cash transfers of up to Kshs 900 million between 2006-2007 to a dummy cashier
- (ii) Fraudulent purchase of shares from Gina Din Corporate communications totaling Kshs 19.95Million
- (iii) Irregular and Unprocedural securing of loans by CMC against sitting allowances
- (iv) Transfer of up to Kshs 8.8Million to account of Robert Nyongesa by GM and FOSA Manager
- (v) Fraudulent sale of two plots belonging to Harambee Sacco by CMC

That the Harambee Sacco files forwarded to them by the Attorney General were duplicates. The above named documents were therefore not in the possession of KACC. The Committee was told that these documents will be sought from the archives and previous investigators if located, be availed to the Committee at any time

On investigations on Harambee Sacco, the Committee was told that the Kenya Anti corruption police had conducted investigations way back in 2004 when KACC had not be constitutionally instituted. The report was compiled to this effect and forwarded to the Attorney General for action. Among the findings, payment of Honoraria amounting to Kshs. 6.792 million to Mwaliko Commission of Inquiry was against the law and therefore recommended for prosecution and

surcharge of the parties involved. Upon perusal of the file, the Attorney General returned with further directions for investigations.

The Committee further learnt that though the payment of Honoraria was against the law, it was later ratified in the following Annual Delegates Meeting (ADM) held on the 8th October 2003. The Committee was therefore made to understand that much as the Commission was of the opinion that payments lacked requisite authority, the later ratification by the ADM regularized the payments and therefore the matter was closed.

The Committee was however uncomfortable with when an illegal transaction ended up being legal and what necessitated these.

With regards to the recommendations of the KACC corruption risk assessment report 2004, the Director acknowledged laxity in following up of the statues of the implementation of the same, much of which related to financial controls and mechanisms.

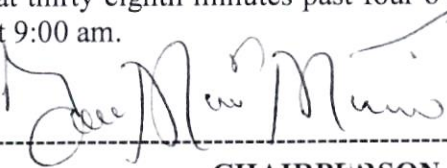
On whether any of the complainants had visited the KACC offices lately, the Committee heard that the Director has in at least five occasion played host to some of the Complainants, particularly Mr. Ontieri and Mr. Rioba whom he said were particularly concerned of their safety and were therefore requesting for some kind of protection. He also informed the Committee that no one by the name Mr. Langat has visited the KACC offices.

The Committee was uncomfortable as to why the Commission even on receiving a letter from one Mr. Ben Sifuna on the 27th October 2004 alleging intimidation and abuse of office by the CMC, no action was taken alleging that the matter was being dealt with internally by the CMC. The deputy director submitted that his response letter to Mr. Benson Sifuna was meant to explain to him that the cases reported were beyond the mandate of the CID at that particular time of raising the issue.

MIN. NO.234/2010: ADJOURNMENT

The meeting ended at thirty eighth minutes past four o'clock. Next meeting will be on Monday 11th October, 2010 at 9:00 am.

SIGNED



CHAIRPERSON

DATE

26th October 2010

MINUTES OF THE NINETY FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS ON MONDAY, 11TH OCTOBER, 2010, AT 9:15A.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. John D. Pesa, MP.
Hon. Erastus Mureithi, MBS, HSC, MP
Hon. Benson Mbai, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. Peris Simam, MP
Hon. Evans Akula, MP
Hon. (Dr.) Victor Kioko Munyaka, MP

IN ATTENDANCE:

CRIMINAL INVESTIGATION DEPARTMENT (CID)

Mr. Ndegwa Muhoro - Director Criminal Investigation Department (CID)
Mr. Mohamed Amin - Head of investigations in CID
Mr. Copral Martin Oduor - Banking Fraud Investigation Unit
Mr. Jonathan Mwaluko - Banking Fraud Investigation Unit

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Ms. Marale Sande - Research Officer
Mr. Osman Mohamed - Hansard Reporter
Ms. Pauline Nyambura - Office Attendant

MIN.NO. 235/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting the meeting pursuant to the provisions of the standing Orders and the Constitution.

MIN.NO. 236/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee rescinded its earlier decision by asking for tabling of all the documents held by the CID regarding Harambee Sacco by close of the day's business. While presenting all the allegations against every player in the Harambee Sacco saga to the CID, the Committee invited presentation on the subject from the CID director who submitted as follows:

That, none of the complainant has recorded death threats to the police or the CID and that the alleged mysterious deaths purportedly claimed by the whistle blowers are not known to the police.

That he was surprised to hear accusations from the Attorney General alleging that the CID delayed investigations when indeed it was the Attorney General's office that kept the file open. He however submitted that a conclusive investigation was not possible due to lack of some documents namely: cheque Counterfoils, Treasury Registers, and Cashier specification reports and summaries. He indicated that these documents should be in the custody of the FOSA manager who should be held responsible if they were lost.

The Committee demanded to know why only one junior employee should be charged with respect to the missing documents without any evidence while those mandated to manage the Society are not obliged to account yet no policy exists within the Sacco regarding documentation. Further, the CID director informed the Committee that among the inventory received from the earlier investigators, the said documents were not among them and that the inventory list was signed by both Harambee Sacco and the investigators representatives. On how they recommended surcharge of the then FOSA manager Mr. Wilfred Nyacheo, he indicated that interviews with former employees revealed that those documents were always in the custody of the FOSA manager.

On the contents of the computers taken from Harambee Sacco, the CID director submitted that analysis by Cyber Crime Unit did not find anything relevant to assist in the course of the investigation. He further informed the Committee that these documents were duly taken with a search warrant by the Kenya Anti Corruption Police unit who were the first investigators into the saga.

On the Purchase of 2,850,000 Shares for Khs.19.95 million from Gina Din Corporate Communications Sacco, the CID maintained that the Process was above board and that is why they recommended closure of the file regarding the same. The Committee demanded know whether the process was endorsed by the AGMs of both parties and whether the CID was aware of the caveat that existed offloading of the Coop holding shares for 5 years after the Initial Public Offering (IPO) of Cooperative Bank shares.

The CID maintained that due process was followed in the share purchase with all the correspondences confirming the same. It however indicated that it was not aware of any caveat that existed prior to the said transactions. In a letter to the Capital markets Authority (CMA) inquiring on the same matter, CMA confirmed authenticity of the transaction in a letter dated 18th January, 2010 and referenced CMA/MRT/8/2.

On double encashment of cheques, the CID submitted that two instances had been discovered in 2007 by the then FOSA manager Mr. Wilfred Nyacheo who instituted internal administrative punitive measures against the culprits. The amount in question was totalling to Khs.4,047,000.

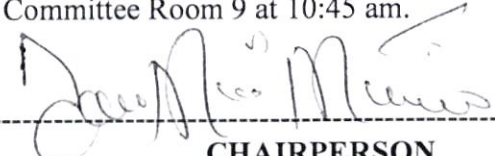
On a letter alleged to have originated from Mr. Wilfred Nyacheo complaining about mega fraud in the Sacco, the CID submitted that when it was subjected to forensic analysis, results indicated that its author was not Mr. Nyacheo confirming Nyacheo's denial statement earlier on with the police. In light of these revelations, the Committee ordered the CID to carry out a document analysis of the letter to Parliament from one anonymous J.S. Langat to see whether there is a correlation and report back on by Friday 15th October, 2010.

The Committee thanked the CID for finding time to share their investigations with the Committee and requested for the same when required.

MIN. NO.237/2010: ADJOURNMENT

The meeting ended at ten minutes past eleven o'clock. Next meeting will be on Monday 11th October, 2010 in the Committee Room 9 at 10:45 am.

SIGNED



CHAIRPERSON

DATE

26th October 2010.

MINUTES OF THE NINETY SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS ON MONDAY, 11TH OCTOBER 2010, AT 11:50A.M.

PRESENT

Hon. John Mututho, MP - Chairperson
Hon. (Dr.) Robert O. Monda, MP
Hon. Fredrick Outa, MP
Hon. John D. Pesa, MP.
Hon. Evans Akula, MP
Hon. Erastus Mureithi, MBS, HSC, MP

APOLOGIES

Hon. Lucas Chepkitony, MP - Vice Chairperson
Hon. Peris Simam, MP
Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Benson Mbai, MP

IN ATTENDANCE:

MINISTRY OF COOPERATIVE DEVELOPMENT AND MARKETING

Hon. Joseph Nyagah, EGH, MP - Minister
Mr. Seno Nyakenyanya, CBS - Permanent Secretary
Mr. Symon Mburia - CCO/PA minister
Mr. Abuta - Legal counsel
Mr. Fredrick Odhiambo - Commissioner of Cooperatives
Mr. Vincent Nyongesa - Auditor in the Ministry

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich - Senior Research Officer
Mr. Evans Oanda - Third Clerk Assistant
Mr. Osman Mohamed - Hansard Reporter
Ms. Marale Sande - Research Officer
Ms. Pauline Nyambura - Office Attendant

MIN.NO. 238/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting debate pursuant to the Constitution and the Standing Orders followed by introductions.

MIN.NO. 239/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

The Committee briefed the Minister on the progress of the Harambee Sacco inquiry and invited his presentation on the matter. The Minister informed the Committee as follows:

That cooperative movement sector is the fastest growing sector in the country estimated at 20% in the last few years. That currently, there are about 4500 registered Saccos with membership of about 4 million. They hold deposits amounting to Kshs. 200 billion, and about 230 operate Front Office Services Activity (FOSA). The government has improved regulation of these Saccos with the enactment of the Sacco Societies Act creating Sacco Societies Regulatory Authority (SASRA).

On Harambee Sacco, the minister submitted that it is the largest in Kenya and indeed in Africa in terms of number of its members, and is also the oldest. Harambee Sacco has faced different challenges and as is evident from the various inspections and inquiries instituted by the Ministry. Despite this, the supreme decision making organ in the Sacco is the Annual Delegates Meeting (ADM).

The Minister submitted that the Current Central Management Committee members have improved the fortunes of the Society from the brink of collapse to where it is currently. He applauded the CMC for that and urged them to continue with the same spirits. He indicated that he is surprised a small group of former CMC and staff members out of 90,000 are making malicious allegations against this giant Sacco. He attributed these complaints as baseless and done out of frustration since some of the complainants have tried to get elected to the CMC in vain while others have been dismissed on gross misconduct.

On the alleged receipt of Kshs. 200,000 weekly, the Minister denied it and indicated that he would consider some course against such malicious allegations.

The Committee demanded to know whether due process was followed when Harambee Sacco bought shares worth Kshs. 19.95 from Gina Din Corporate Communications Sacco and whether he was aware of a caveat barring cooperatives from offloading shares until an expiry of 5 years after the Initial Public Offering (IPO) of Cooperative Bank Shares.

The Minister indicated that there was no caveat to that effect and that the said transaction was above board. He further submitted that the slow pace of the transaction made Gina Din Corporate Communications Sacco almost pull out of the deal now that the share prices had gained substantially from Kshs. 7.25 to about Kshs.10. He informed the Committee that the CMC had discussed and endorsed the deal since it was under their mandate to look for good investment opportunities for the members' deposits while staying within its core business.

The Minister indicated that he knows Gina Din Corporate Communications limited's operations very well given that he is a share holder there. The Company is one of the best performing in Kenya and the world at large and that is why it recently won an international award in Turkey for the best Public Relations in Middle East and Africa region.

The Committee wanted to know whether the Minister has met with the Complainants before and what the outcome of that meeting was. It also required to be know the role of the Ministry now that the supreme decision making organ in the Sacco is the Annual Delegates Meeting (ADM).

The Minister informed the committee that he had met with the Complainants accompanied by the Hon. Martha Karua on 15th April, 2010 at 9:00 am. The meeting went smoothly despite their late appearance and each party went out satisfied with its outcome. The meeting mainly focused on share purchase by Harambee Sacco from Gina Din Corporate Communications Sacco.

On the role of the Ministry in the Saccos, the Minister submitted that it is purely on supervision and that is why various inspections have been commissioned on Harambee Sacco. For instance, the Ministry has seconded a DCO who sits in every CMC meeting to monitor its operations. He indicated that the Ministry is supportive of all the operations of Harambee Sacco provided they are done within the law.

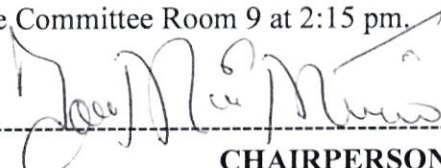
The Committee demanded to be told why the implementation of the Mwaliko report on Harambee Sacco has not been completed seven years down the line since it was done. The Minister informed the Committee that 95% of it has been implemented and that the Ministry is encouraging the process is expedited. The delay was due to problems in property titles (plots).

The Minister urged the Committee do expedite the Completion of the current and the previous reports to clear names of clean people who have been labeled otherwise. He informed the Committee that the Ministry will be organizing a workshop to inform it of the happenings in the Ministry and how the Committee can assist in that course. The Committee welcomed that move and requested to be involved all such forums whether here in Kenya or abroad.

MIN. NO.240/2010: ADJOURNMENT

The meeting ended at forty minutes past one o'clock. Next meeting will be on Monday 11th October, 2010 in the Committee Room 9 at 2:15 pm.

SIGNED



CHAIRPERSON

DATE

26th. October 2010.

MINUTES OF THE NINETY THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS ON MNDAY, 11TH OCTOBER 2010, AT 2:21P.M.

PRESENT

Hon. John Mututho, MP	-	Chairperson
Hon. (Dr.) Robert O. Monda, MP		
Hon. Fredrick Outa, MP		
Hon. John D. Pesa, MP.		
Hon. Evans Akula, MP		
Hon. Erastus Mureithi, MBS, HSC, MP		
Hon. Peris Simam, MP		
Hon. Benson Mbai, MP		

APOLOGIES

Hon. Lucas Chepkitony, MP	-	Vice Chairperson
Hon. (Dr.) Victor Kioko Munyaka, MP		

IN ATTENDANCE:

ATTORNEY GENERAL'S OFFICE

Mr. Kiriako Tobiko	-	Chief Public Prosecutor
Mr. John Onyango	-	Deputy Chief Public Prosecutor

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich	-	Senior Research Officer
Mr. Evans Oanda	-	Third Clerk Assistant
Mr. Said Walda	-	Hansard Reporter
Ms. Marale Sande	-	Research Officer
Ms. Pauline Nyambura	-	Office Attendant

MIN.NO. 241/2010: PRELIMINARY

The meeting started with a word of prayer. The Chairman outlined the rules of conducting debate pursuant to the provisions of the Constitution and the Standing Orders followed by introductions.

MIN.NO. 242/2010: HARAMBEE SACCO MISMANAGEMENT INQUIRY

After welcoming the witnesses, the Committee sought responses from the AG as related delayed prosecution of Harambee Sacco presented for prosecution by the CID; whether he stands by the earlier assertions in the House that the Police did a shoddy investigation; whether commissioning an independent inquiry alongside the Committee will jeopardize the Committee work and whether there are gaping gaps in the law that needs amendment to expedite prosecution.

On Harambee Sacco cases, the Chief Public Prosecutor informed the Committee that three files had been opened at different time lines about the matter. The first case was regarding payment of Honoraria to the Mwaliko Commission of inquiry which was alleged to be against the law. The said commission was constituted by the then Permanent Secretary in the Ministry and it comprised of civil servants. By law, they were supposed to be paid by the Sacco but the approval came from the Permanent Secretary and that is what happened. The contention was the extra amount paid to them when they extended the inquiry.

Initial investigations on the matter by the Anti corruption police unit recommended to the AG that the Mwaliko Commission be surcharged in a forwarding letter dated 19/02/2004. Upon perusal of the file, it was clear that the evidence gathered was not sufficient for prosecution. The AG resubmitted the file to the KACC for further investigations. KACC returned the file on 28/03/2007 exonerating the CMC of this case. It indicated that the Harambee Sacco 32nd ADM had retrospectively sat on 9th October, 2003 and approved the expenses including the honoraria. It however recommended surcharge of Mwaliko for the extra honoraria received departmentally. Based on this evidence, the AG concurred and the file was closed.

Mr. Tobiko reminded the Committee that the KACC quarterly report of April, 2004 which was tabled before the August House had precisely covered this matter. The same information was tabled before the House by the AG in December, 2007.

The second case was a file number 53 of 2009 in which a letter purportedly emanating from Mr. Wilfred Nyacheo (FOSA manager) dated 21/11/2009 alleging mega fraud in the Harambee Sacco. The CID did investigations on the matter and submitted the file to the AG in October, 2009. In its report, they indicated difficulties in gathering sufficient evidence to warrant prosecution. Among this was refusal of complainants to record statements and authenticate them. Further analysis of the letter that triggered the investigations was found to be a forgery, lie and fictitious. From these revelations, the AG had no otherwise but closes the file.

The third case was undertaken by the BFIU under file number 1 of 2010. The matters raised were similar to those of the second case. The investigation results had a lot of flaws with unprecedented blame game between the investigators and the Harambee Sacco management concerning the whereabouts of documents which could unearth the whole saga. The AG's office could not determine who among the two parties was responsible for destroying or concealing the documents. Therefore with the absence of sufficient evidence, no prosecution can stand in any law and that is why the AG directed KACC to do a forensic audit and report within 90 days.

Mr. Tobiko informed the Committee that the BFIU had sought input from the Kenya National Audit during its investigations but was denied since Saccos are not within the mandate of National audit Act. He therefore submitted that this is a loophole in the law which requires amendments to allow audit across the board. He further denied allegations that the AG was trying to sabotage the Committee's investigations by ordering KACC to do a concurrent investigation by indicating that both process can go on without any problem. He further tabled a letter he did to KACC confirming the date as 6th September, 2010 and not on 16th September, 2010 as earlier indicated by the Committee.

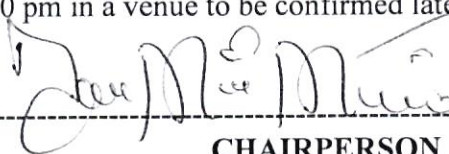
The Chief Public Prosecutor requested parliament to facilitate investigative agencies with required expertise and materials to enable them do their work to required standards to avoid similar cases as Harambee Sacco. He informed the Committee that 95% of the cases are investigated and prosecuted by the police. Where it requires further directions, the AG has always offered it promptly as in the case of Harambee Sacco.

While acknowledging the eloquent presentation from the Chief Public Prosecutor, the Committee demanded a written submission of his presentation by Wednesday for the purposes of compiling the report which he obliged.

MIN. NO.243/2010: ADJOURNMENT

The meeting ended at forty minutes past four o'clock. Next meeting will be on Wednesday 13th October, 2010 at 3:00 pm in a venue to be confirmed later.

SIGNED



CHAIRPERSON

DATE

26th. Oct. 2010

MINUTES OF THE NINETY FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD IN THE LIBRARY, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON THURSDAY 21ST OCTOBER 2010, AT 9:30A.M.

PRESENT

Hon. John Mututho, MP	-	Chairperson
Hon. Lucas Chepkitony, MP	-	Vice Chairperson
Hon. (Dr.) Robert O. Monda, MP		
Hon. Fredrick Outa, MP		
Hon. John D. Pesa, MP.		
Hon. Erastus Mureithi, MBS, HSC, MP		

APOLOGIES

Hon. (Dr.) Victor Kioko Munyaka, MP
Hon. Evans Akula, MP
Hon. Peris Simam, MP
Hon. Benson Mbai, MP

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

Mr. Paul Ngetich	-	Senior Research Officer
Mr. Evans Oanda	-	Third Clerk Assistant
Ms. Marale Sande	-	Research Officer

MIN.NO. 246/2010: PRELIMINARY

The meeting started with a word of prayer.

MIN.NO. 247/2010: ADOPTION OF HARAMBEE SACCO INQUIRY REPORT

The Committee went through the draft report on Harambee Sacco Inquiry and adopted it by consensus with the following comments:-

Paragraph 8 in the Executive Summary should indicate that the vouchers presented as evidence by the complainants could not be verified whether they were authentic or not given that the three vital files named in recommendation 1 were missing.

The Government of Kenya should strengthen the CID capacity to do a forensic audit of the magnitude of Harambee Sacco case within a period of eighteen months in recommendation 1(i) of the alleged fraudulent cash transfers.

Under recommendation 1 (ii) on the alleged fraudulent cash transfers, the hiring of either a local or a foreign audit expert should be done by parliament through its relevant Departmental Committee on Agriculture, Livestock and Cooperatives.

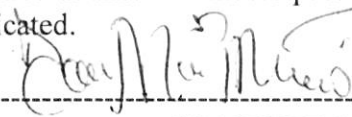
Under recommendation 6 regarding alleged payment of Kshs. 200,000 to the Minister, the CID should investigate such claims and the culprits be apprehended.

Under recommendation 3, the revaluation of the properties to be sold and their eventual disposal should be made open to parliament for transparency and accountability.

MIN. NO.148/2010: ADJOURNMENT

The meeting was adjourned at fifteen minutes past eleven o'clock until to a day and time to be confirmed and communicated.

SIGNED



CHAIRPERSON

DATE

26th October 2010.

ANNEXES

ANNEX I

TABLE SHOWING TREND IN THE PERFORMANCE INDICATORS OF THE HARAMBEE SACCO SOCIETY LTD SINCE 2001

HARAMBEE SACCO KEY PERFORMANCE INDICATORS							
FINANCIAL INDICATORS							
PARTICULARS	1994	1995	1996	1997	1998	1999	2000
MEMBERSHIP	98,461	97,757	97,862	97,010	96,220	96,659	89,752
TURNOVER	187.255M	204.139M	220.943M	279,664M	358.596M	306.238M	362.075M
NET SURPLUS/(DEFICIT)	104.766M	121.806M	84.687M	107.687M	106.107M	(89.252M)	362,126
LOANS TO MEMBERS	1.543B	1.410B	1.872B	2.039B	2.639B	3.054B	3.037B
TOTAL ASSETS	1.865B	1,942B	2.517B	2.785B	3.871B	4.305B	3.643B
DIVIDEND PAYOUT	108.653M	122.945M	99.891M	99.954M	-	-	52M
MEMBER DEPOSITS	1.622B	1.861B	2.283B	2.583B	2.847B	3.346B	3.644B

SOURCE: HARAMBEE SACCO SOCIETY LTD

PERFORMANCE INDICATORS FOR THE LAST TEN (10) YEARS

PARTICULARS	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Membership	89,752	87,184	83,842	84,114	84,920	81,403	87,020	89,484	90,879	98,640
Turnover (Income)	362M	368.8M	379.8M	456M	514M	661M	861M	1.209B	1.065B	1.162B
Outstanding Loans	3B	3.3B	3.6B	3.9B	4.6B	5.431B	6.277B	7.055B	7.914B	8.844B
Total Assets	4B	4.8B	5.6B	5.8B	6.6B	7.478B	8.702B	9.767B	11.956B	12.387B
Dividend Payout	7.1M*	NIL	NIL	46M	102M	112M	243M	419M	478M	518M
Member Deposits	3.6B	4.0B	4.3B	4.6B	5.1B	5.616B	6.074B	6.992B	7.973B	8.632B

SOURCE: HARAMBE SACC SOCIETY LTD

*payment of dividend made out of capital

ANNEX II

SUMMARY OF THE PROFILE OF THE CONCERNED SACCO MEMBERS BY THE CRIMINAL INVESTIGATION DEPARTMENT AND MANAGEMENT OF THE HARAMBEE SACCO SOCIETY LTD

Persistent fights by Detractors of the Society (Former Employees and Members of Harambee Sacco)

The Management of Harambee Sacco upholds ethical professional behaviour/ conduct and integrity in all its dealings with members, staff, and stakeholders and expects the same from the members of staff in discharge of their duties. This has been the major strength in the turnaround performance of Harambee Sacco from a loss making organization to a profit making business enterprise, which is a departure from the past. In the process of upholding professionalism, integrity and commitment to execution of our official business transaction, some of the members of staff were found not ready to embrace change from their past malpractices and un-professional culture and attitude. As a result the Society management instituted administrative disciplinary action against such staff as per the existing labour laws and Society's Staff Regulations as is the practice in the labour market. Those involved were found guilty of having committed employment malpractices which are classified as gross misconduct. Therefore, the management dismissed them from employment of the Society as they were an embarrassment to the Society and its stakeholders.

The former staff in conjunction with some few members have also resorted to writing negative/adverse stories about the Society, in the gutter press.

SOCIETY'S DISGRUNTLED MEMBERS AND FORMER MEMBERS OF STAFF

1. GEOFFREY O. ONTIERI

Mr. Geoffrey O. Ontieri M/No.2814 joined the Society in 1983.

Leadership History

He is currently a delegate of the Society representing Government Chemist Department as a Branch Secretary, which has ten (10) members.

Persistent fights against the Society

Mr. Ontieri has harboured an ambition to be elected to the Central Management Committee (Board of Directors) of the Society. Mr. Ontieri is on record to have authored various letters of allegations of mismanagement against the Society leadership in both print and electronic media and circulating the same to various state and non state actors seeking for their intervention in the eyes of right thinking public.

It is also on record that he has tried to stop the Annual Delegates meetings on several occasions using the courts and has failed. In the year 2003 and 2010 he went to court to stop the Annual General Meetings, again citing allegation of mismanagement of the Society. Incidentally, he wrote to Gichugu Member of

Parliament Hon. Martha Karua, when she was the Minister for Constitution Affairs who at that time never acted on the matter as there was no substance in whatever Mr. Ontieri had raised.

In year 2004, Mr. Ontieri realized that he was about to retire from the service under 55 year rule and therefore he was not going to get an opportunity to serve on the Board of Harambee Sacco. He initiated a private prosecution in collaboration with Public Corruption, Ethics and Governance a Non-Governmental Organization (NGO) to file private prosecution against the members of the Central Management Committee (Board of Directors), Harambee Sacco and the Attorney General on grounds that the "value of the land in the books of Accounts was less than actual valuation done in 2004, whereas what was in books of Accounts were figures for 2003. In the above matter, the High Court, in misc. application No.330 of 2005 restrained the Chief Magistrate's court from preferring charges against our directors.

It is important to note that the time he filed the matter in court, he forwarded a list of his nominees he wanted to run the affairs of Sacco to the Commissioner of Co-operative & Marketing, which had his name. This is hypocrisy of the highest order that had happened at that time but never succeeded.

In the Annual Delegates meeting of year 2004, Mr. Ontieri and other disgruntled delegates were allowed to make presentations to the Annual Delegates Meeting about the alleged mismanagement of Society. The delegates reprimanded them as the allegations were unfounded and untrue. However, they apologized and they were pardoned by the Annual Delegates Meeting and advised not to transact Society business or complaints in the media as they were encouraged to exhaust Society's internal mechanism resolving any disputes arising and advised that they were not authorized to talk to the media on behalf of the Society as per the Society By-Laws 95 ©. During Annual Delegates meeting held on 30th June 2004, Mr. Geoffrey Ontieri (Secretary, Government Chemist Branch) and Mr. John Jogo (who was not in the meeting as he was not a delegate) among others were cautioned and reprimanded by the Delegates Meeting for carelessly handling Society's matters through the press *see Minute No. 16/2004 which specifically stated as follows:- (Marked appendix X).*

- i. *Delegates advised the aggrieved members to endeavour to resolve issues in-house in future and not through the press.*
- ii. *Delegates noted that adverse publicity has been damaging the Society's image. Further, they noted that the Society was losing membership due to the adverse publicity.*
- iii. *Delegates noted that "compromise allegations" on Branch officials were wrong as it raised distrust between the delegates and their*

members. Accordingly, the affected branch officials demanded an apology from the said aggrieved members. They apologized as demanded.

In year 2005, the Society's Annual Delegates Meeting expelled Mr. Ontieri among others and subsequently his photos were published in the daily newspapers to alert the general public that he was no longer a member of the Society. He contested the expulsion and was reinstated as a member.

He has also contested on 18th April 2008 to be elected as a Central Management Committee member but never got a proposer and a seconder. This is proved by the attached photocopies of the minutes of Annual Delegates Meeting of 2004 (*see Minute No.14/2008. marked Appendix xi*). After failing to be elected he resorted to fighting the current committee (Board of Directors) through filing matters in court, to trying to stop Annual Delegates Meeting and writing to seek sympathy from top leadership in this country i.e. His Excellency the President, The First Lady, the Rt. Hon. Prime Minister and his immediate family, and has also written to all Government Agencies, and non Governmental Organizations (NGOs).

Having tried all avenues and failed, he has resorted to use Parliament to fight and get to the Boardroom of Harambee Sacco, now that the retirement age of Civil Servants has been reviewed from 55 years to 60 years.

In March 2010, Mr. Ontieri continued with his behaviour of making scandalous allegations against the Society management through the press and various letters to Government Ministries. The Central Management Committee suspended Mr. Ontieri as member as per the Society's By-laws. However, he appealed against the expulsion at the Co-operatives Tribunal which temporarily reinstated him in June 2010 and the matter is still pending at the Co-operative Tribunal.

The Management wishes to highlight that all these schemes are hatched by Mr. Ontieri with an intention of removing the current Central Management Committee from office.

Indeed if corruption was rampant as he alleges, why can't he withdraw and join another Sacco?

2. JOHN LEWIS JOGO

He is a member of the Society M/No.39486 since 22nd April 1998. He is currently employed by the Ministry of Trade Headquarters, Nairobi.

Leadership History

He was elected to the Central Management Committee in 1997 and served up to June 2000.

During his tenure in the office, the performance of the Society was dismal and loan backlog was up to seven (7) months a fact which forced the Ministry of Co-operative and Development to intervene and appoint an Inquiry into the operations of the Society in year 2000.

Mr. John Jogo was a member of the Central Management Committee when the entire committee was removed from Society's Management in June 2000 on a recommendation of Inquiry report June 2002 for mismanaging the Society and was barred from participation in society affairs for Ten (10) years as per Rule 30 - g of Co-operative Societies Act of 1998. The recommendation read as such "*The current Central Management Committee and Supervisory Committee members should be removed from office for mismanaging the Society resources at the expense of service delivery to the members. Those removed from leadership should be given a chance to reform by relaxing outside society leadership as per Rule 30 of the Co-operative Societies Rules of 1998, before they can be allowed to contest any leadership position in the Society*" (see copy of extracts of inquiry report on Harambee SACCO of June 2000). He has since held a grudge and has been fighting the Committee since then. (To get a better insight of Mr. Jogo's character please refer to Inquiry Report of June 2000 at the executive summary on pages (i) - (v), then pages 20 - 22 and 207- 209).

Persistent fights against the Society

Mr. Jogo is on record to have authored various letters of allegations of mismanagement against the Society leadership in both print and electronic media and circulating the same to various state and non state actors seeking for their intervention in the eyes of right thinking public.

Mr. John Lewis Jogo has co-authored various scandalous allegations against the Society's management committee.

In year 2005, the Society's Annual Delegates Meeting expelled Mr. Jogo among others and subsequently his photos were published in the daily newspapers to alert the general public that he was no longer a member of the Society. He contested the expulsion and was reinstated as a member.

It should be noted that during his tenure in office in the Society's Central Management Committee he employed his wife one Mrs. Catherine Kiage who has since left the Society through the Staff rationalization undertaken by M/s Federation of Kenya Employers after organizational analysis was done, as per the Inquiry of 2000 June and May 2002 recommendations. Mr. Jogo therefore holds a grudge against the Society leadership for the loss of employment of his wife.

Mr. John Jogo was among the Central Management Committee members who were removed from Society's management in June 2000, through an Inquiry by the Government for mismanaging the Society and were ordered to keep off the Society's affairs for the next ten (10) years as per Rule 30 of Co-operative Societies of 1998. (Refer to the Inquiry Report of June 2000 on recommendation page (vi) 12.

3. KENNEDY MAGETO

Kennedy Mageto is Society member number 63694. He was admitted into the Society membership in October 1995.

Leadership History

Mr. Mageto was a delegate in Moi Air Force Base Branch - DOD Civilian between 1998 - 2003. Currently he is employed by the Ministry of Transport (Headquarters)

Persistent fight

In year 2005, the Society's Annual Delegates Meeting expelled Mr. Mageto among others and subsequently his photos were published in the daily newspapers to alert the general public that he was no longer a member of the Society. He contested the expulsion and was reinstated as a member.

Mr. Mageto is on record with other disgruntled members who have authored various letters of allegations of mismanagement against the Society leadership in both print and electronic media and circulating the same to various state and non state actors seeking for their intervention in the eyes of right thinking public.

Filed civil cases together with others against the Society contesting expulsion from the Society membership.

NON EXISTENT MEMBERS

The following are disgruntled non-members whose interest in the Society is unknown to us:-

1. J. S. LANGAT

According to Society's records, we do not have a member previous or present going by the above names. He may be an imposter. Therefore the letter tabled on the Floor of the House on 31st August 2010 and the allegations raised therein should be treated as unfounded allegations and be dismissed accordingly.

2. MR. TOM ODERO

Mr. Tom Odero is a non member who is known as trade union activist who was one of the ring leaders of the infamous 1998 Bank strikes which had serious effects on Kenya's economy. Because of the incitement to strike he was dismissed from the National Bank of Kenya.

In our view, Mr. Odero is on a mission to destroy the member based SACCO's business. We are surprised that he has joined with a group fighting the SACCO Management and leadership.

DISGRUNTLED FORMER MEMBERS OF STAFF

The following is a profile of the said former employees of the Society:-

1. MR. DANIEL MUNGATHIA TURIBU - P/No.9205179

- (i) Mr. Daniel Turibu is a former employee of the Society P/no.9205179 and M/No.123200, ceased to be a member on 15th April 2009
- (ii) He was born in 1972 and employed by the society on 14/5/1992 as a clerk on temporary basis, there is no record to indicate whether he was interviewed or not.
- (iii) He was confirmed to clerk grade HC 11 on 11/5/1992 and thereafter rose through the rank to the post of Loans Officer iii HC 8 on 1st August 2003.
- (iv) He was given 30 days compulsory leave on 17/4/2001 - 17/5/2001 for poor performance of his duties and advised to go and reflect what was causing his poor performance.
- (v) He was issued with a warning letter on 31/8/2001 after the compulsory leave after he acknowledged his poor performance.

- (vi) He was dismissed from service on 21/9/2001 for fraudulent processing of a withdrawal case involving member no. 8290 - Teresa Muthoni Nthanje and was reinstated to duty on 26/4/2002.
- (vii) He was suspended from duty on 6/1/2009 on allegations of impropriety to allow investigations into his fraudulent Loan application processing of Loan for member no. 037954 Mr. Joseph K. Kagoh, of Kshs. 465,000.00 while he was a defaulter to another loan of Kshs. 400,000.00. Investigations revealed that he had manipulated the computer system to give many undeserving loans to members.
- (viii) He was dismissed from the service of the society with effect from 6/1/2009 upon having been found guilty of gross misconduct.
- (ix) Thereafter the Society initiated internal investigations which found him culpable and hence the management filed/registered a case against him with the Police.
- (x) The police arrested Mr. Turibu arraigned him in court and charged him with six counts of fraudulent false accounting contrary to section 330(a) of the penal code. (CR 111/466/2009 C.F. 1305/2009 refers). He was released on a cash bail of Kshs. 50,000.00 on 9/7/2009 and the criminal case is pending before Court 2, Nairobi Law Courts.
- (xi) He filed a Trade Dispute against the Society in industrial Court Cause no.787 (N) of 2009. The matter is still pending in Industrial Court.

2. MR. JOSECK OMUHINDA OTANGA EX. PNO. 9205179

- (i) Mr. Joseck Otanga is a former employee of the Society Ex. Pno. 9205179 and Ex. Mno. 123182, ceased to be an employee of the Society on 2nd February 2010.
- (ii) He was born in 1969 and employed by the Society on 10th July 1991 as a Clerical Officer, on recommendation by a Senior Government Official (Mr. Sheldon Muchilwa) who was a member of the Central Management Committee at Harambee SACCO at that time.
- (iii) He was confirmed to his appointment on 25th August 1992 and thereafter rose through the rank to a Senior Clerical Officer Job Group HC 9.

During his employment with the Society, his disciplinary record was very poor as indicated below:-

- On 28th October 1999 he reported for duty from lunch at 3.30 p.m. instead of 2.00 p.m.
 - On 30th March 2001, he reported for duty at 8.30 a.m. instead of 8.00 a.m.
 - He was a poor performer with negative attitude and ever confrontational
 - On 5th November 2009 he was issued a final letter of warning for a missing file which he had handled Mno. 27329 - Moses Okal Opuka, in which the member had withdrawn his shares irregularly.
 - On 21st December 2008 he accessed the Society's computer system and without authority printed classified information about the Society, and thereafter circulated the information to unauthorised person with ulterior motives. He was given a show cause letter on 2nd February 2010.
- (iv) He was suspended from duty on 2nd February 2010 for alleged gross misconduct to pave way for investigations.
- (v) Investigations carried out and system audit confirmed that without permission of the management of the SACCO, he illegally accessed the computer server and printed classified information and circulated it
- (vi) He was dismissed from the service of the Society with effect from 1st July 2010 -
- (vii) Thereafter the Union reported a trade dispute the issue in dispute being "wrongful dismissal from employment of Mr. Joseck Otanga", on 7th July 2010.

3. MR. TONNY MUTUVA MATUKU EX PNO. 9508249

- (i) Mr. Tony Matuku is a former employee of the Society Ex. Pno. 9508249 and Ex Mno. 123270. Ceased to be an employee and a member of the Society with effect from 8th March 2010.
- (ii) He was born in 1971 and employed by the Society on 1st August 1995 as a Data Input/Output Controller. During his appointment, there is no record indicating that he was ever interviewed for the job.
- (iii) He was confirmed into his appointment on 31st January 1997 but his performance was not impressive at all until his date of dismissal because

of his incapacity, incompatibility in skills, negative attitude, insubordination, absenteeism and poor performance.

During his employment with the Society, his disciplinary record was very poor as indicated below:-

- a. He was issued with a letter on 27th March 1998; to explain why he insubordinated his supervisors on two occasions.
 - b. On 27th March 1998 he was given a show cause letter for non performance of duty and entertaining many visitors at his place of work.
 - c. On 3rd February 2010 he used abusive language against the Ag. Chief Accountant and the Senior Security Officer. He grossly insubordinated them, and was given the final warning letter.
 - d. He was given a show cause letter for late reporting/absenting himself on the following days:-
 - 12th January 2010 - reported for duty at 8.43 a.m.
 - 19th January 2010 - did not report for duty the whole day and did not sign the register.
 - 29th January 2010 - did not report for duty the whole day and did not sign the register.
 - 05th February 2010 - reported for duty at 8.30 a.m. instead of 8.00 a.m.
 - He had many dealings with suspicious characters and brokers.
- (iv) He was transferred to the Kisumu Branch on 12th February 2010 but reported to the Branch on 17th February 2010. The transfer was to enhance the operations in the Branch and was not a punishment.
- (v) He deserted duty from Kisumu on 8th March 2010 without notifying the Branch Manager his whereabouts. He was dismissed from the employment of Society on 26th March 2010 with effect from 8th March 2010, the day he deserted duty.

- (vi) He appealed against the dismissal in his letter dated 12th May 2010, but the appeal was declined vide our letter dated 20th May 2010.
- (vii) He thereafter reported a trade dispute in the Industrial Court the issue being “wrongful and unlawful summary dismissal of the claimant without notice, salary arrears, certificate of service and/or refusal and neglect to pay terminal dues/benefits” and the case was registered as cause 921 of 2010. The matter is still pending in the Industrial Court.
- (viii) Mr. Matuku did not have employer benefit payable to him but had liabilities amounting to Kshs.1,491,079.00. The Pension Scheme processed his Pension and paid him in May 2010.

4. MR. BEN PANPHILL SIMUYU SIFUNA FORMER EMPLOYEE - Ex- P/NO. 9312207

- (i) Mr. Simiyu Sifuna is a former member of staff of the Society ex-payroll no. 9312207 and ex. Mno 123229. He was employed in the Society in December 1993 as Clerk in the Records Department. He ceased to be a member of the Society in January 2010.
- (ii) He rose through the ranks to become a Records Officer II Job Grade HC 7..
- (iii) On 26th February 2004, he was given a show-cause letter for the disappearance of seven (7) cheque amounting to Kshs. 793,900.00 on 11th August 2003.
- (iv) He was interdicted on 10th March 2004 for the loss of seven (7) cheques.
- (v) He was dismissed from the service of the society with effect from 20th May 2004 vide a letter dated 3rd June 2004, for failing to perform his duties as expected (Loss of 7 Cheques amounting to Ksh.793,900.00 which resulted in a loss of kshs.793,900 to the Society and for communicating to outsiders on matters touching on the society without authority.
- (vi) Upon dismissal for gross misconduct, he reported the matter to the following bodies:-
 - o The Kenya Anti-Corruption Commission
 - o The Minister for C-operative Development and Marketing
 - o The Ethics and Governance – Office of the president
 - o The Kenya Police

- (vii) He appealed against the dismissal on 2nd July 2004 but his appeal was declined.

During his employment with the Society, he had several disciplinary cases as follows:-

- 3/3/1999- cautioned for going out during office hours
 - 8/2/2000 -cautioned for not serving members over lunch break when he was officially supposed to do so
 - 27/4/2000 -cautioned for not wearing the identification budge.
 - He was a notorious perpetual late comer and a poor performer.
- (viii) He has engaged the society in endless court battles through various court cases that are still pending in court.

Mr. Sifuna has been fighting the Society because of the following:-

- (x) His summary dismissal from the employment of the Society for having committed a gross misconduct (lost 7 cheques amounting to Kshs. 793,900.00)
- (xi) The society's rejection of him being a branch official of KIRDI which is a branch of the Society, as he did not qualify.

He has taken the Society to court, lawyers, Parliament, Police and other Government Bodies on many occasion to revenge what he perceives to be unfair treatment by the Society

5. MR. EVANS BOGONKO BOSIRE EX.PNO. 200009312

- (i) Mr. Bosire is a former employee of the Society up to 29th October 2009 when he was dismissed for gross misconduct.
- (ii) He was born on in 1968 and employed by the Society on 13th March 1995 as a Clerical Officer. He was confirmed into his appointment on 31st January 1997.

His disciplinary record was very poor as indicated below:-

- On 7th February 1997, he was suspended from duty after he was implicated in the loss of huge amounts of money through fraudulent encashment of cheques amounting to Kshs.1,373,000.00 on various dates between 17th October 1996 and 22nd January 1997.He was arrested by the Police and charged before the Chief Magistrate court in case Ref. CF 746/97.

- He was summarily dismissed with effect 7th February 1998 on ground that the Society trust in him had been eroded.

Upon his appeal, he was re-employed a fresh with effect from 25th September 2000. He was confirmed to his appointment on 2nd November 2001 effect from 25th September 2000.

- (iii) On 23rd April 2007, he in subordinated the Senior Records Officer by bagging his phone on her.
- (iv) He was transferred to the FOSA Mombasa Branch with effect from 22nd November 2007 to strengthen and improve delivery of service.
- (v) On 6th August 2009, he was requested to make good Kshs.1,285,000.00 he could not account for within 24 hours.
- (vi) He was issued with a show cause letter to explain how he intended to repay the money to the Society. In his explanation dated 1st September 2009 he acknowledged he had used the money and requested that the money be recovered from his salary.
- (vii) He was suspended from duty with effect from 3rd March 2009 to pave way for further investigations.
- (viii) He was found culpable and dismissed from the service of the Society in a letter dated 17th November 2009.
- (ix) He was arrested of the Police on 29th November 2009 and taken to Mombasa where he was interrogated by the Police.
- (x) He was charged in a Mombasa court Police case No. 341/831/2009 OB No. 47/15/10/2009 for stealing by servant contrary to section 281 of the penal code. The matter has been partly heard.

6. MR. EVANS OBUYA NYATICH - EX.PNO. 20050339

- (i) Mr. Obuya was born in 1968 and joined the services of the Society on 11th March 2005 as a Finance Assistant Grade HC 8.
- (ii) He was confirmed in his appointment on 12th July 2008. His confirmation took long because of his poor performance.

- (iii) On 26th November 2007, he was appointed to be the in-charge of the FOSA Mombasa Branch operations following a result transcript that he had done well in his Master of Arts Degree from the University of Nairobi.
- (iv) An audit report carried out in August 2009 revealed he had between January 2008 and August 2009 misappropriated Kshs.4,119,500.00. The amount was misappropriated through the issue of unauthorised cash imprest.
- (v) He was recalled to the Headquarters with immediate effect from 7th August 2009.
- (vi) He was arrested by the Police on 29th October 2009 and taken to Mombasa where he was interrogated by the Police.
- (vii) He was arraigned in a Mombasa court and charged for stealing by servant contrary to section 281 of the penal code, case no. 341/83/2009, OB No. 47/15/10/2009.
- (viii) He was released on a cash bail and the matter is going on in court.
- (ix) He was dismissed from the service of the Society with effect from 29th October 2009. the day he was arrested by the Police.

7. **MR. THOMAS OBUOKO OKWAYO EX.PNO. 9910293**

- (i) Mr. Okwayo was an employee of the Society up to 29th October 2009 when he dismissed from the Society for misappropriation of funds.
- (ii) He was born on 10th April 1978 and employed by the Society on 18th October 1999 as a Clerical staff. During his appointment he was not interviewed but used his brother who was a Board Member then.
- (iii) Mr. Okwayo was a non performer. He did not have any other qualifications apart from KCSE certificate.
- (iv) An internal audit done in August 2009 established that while working in FOSA Mombasa Branch Mr. Okwayo had converted Kshs.1,435,000.00 money belonging to the Society for personal use through unauthorised cash imprest (IOU).
- (v) He was recalled from the branch to the Headquarters on 7th August 2009 and was asked to give a plan of how he intended to refund the Society the money he had misappropriated.

- (vi) In his explanation letter dated 28th September 2009 he said he incurred the shortages from the payments he made to customers and converted the shortages to I Owe You (IOU.)
- (vii) He was suspended from duty with effect from 29th September 2009 to pave way for further investigations. Intensive investigations carried out revealed that Mr. Okwayo misappropriated Kshs.1,435,000.00 in the form of unauthorised IOUS
- (viii) He was dismissed from the Employment of the Society with effect from 29th October 2009 in a letter dated 17th November 2009.
- (ix) He was arrested by the Police on 29th October 2009 and taken to Mombasa where he was interrogated by the Police.
- (x) He was charged in court on 11th November 2009 for stealing by servant contrary to section 281 of the penal code. Police case no 341/83/2009 and OB No. 47/15/10/2009. The matter is still in court pending determination.

8. **MR. PAUL DEDAN OCHIENG EX.PNO. 8805091**

- (i) Mr. Paul Ochieng was on employee of the Society up to 29th October 2009 when he was dismissed from the employment of the Society.
- (ii) He was born on 17th September 1965 and employed into the services of the Society on 3rd November 1988 as a Clerical Officer. Academically he had a KACE 2 Principals and 1 Subsidiary and CPA Part I Section 2.
- (iii) He was confirmed in the appointment with effect from 3rd November 1988 in a letter dated 5th December 1988.

His disciplinary record was very poor as indicated below:-

- On 10th July 1990 and 20th July 1990 he refused to sign the Attendance Register.
- On 26th May 1997, he was issued with a show cause letter fro back dating loan application forms and processing them contrary to the instructions given.
- He had serious domestic problems and in 2005 he had many cases with the Provincial Children's Office, Western Province.

- (iv) An audit report carried out in August 2009 revealed he had between January 2008 and August 2009 misappropriated Kshs.1,823,250.00. The amount was misappropriated through the issue of unauthorised cash imprest.
- (v) He was arrested by the Police on 29th October 2009 and arraigned in a Mombasa court and charged for stealing by servant contrary to section 281 of the penal code, case no. 341/83/2009, OB No. 47/15/10/2009. He was dismissed by the Society on 17th November 2009.

DISGRUNTLED CURRENT MEMBER OF STAFF

1. MR. PAUL ONYANGO PNO. 9312215

- (i) Mr. Paul Onyango is an employee of the Society Pno. 9312215 and Mno. 123237 deployed in FOSA Mombasa Branch.
- (ii) He was born in 1972 and employed by the Society on 6th December 1993 as a Clerk. There are no records that he was interviewed by the Society during his appointment. He is a holder of KCSE Grade D+ and a certificate for using Microsoft word 97, there is no record that he was interviewed for the job.

During his employment with the Society, his disciplinary record has been poor as indicated below:-

- a. On 4th April 1996, he was interdicted for receiving a bribe of Kshs.500.00 from Mno. 27021, a Mr. Vincent Mulili Kimotho in order to speed up his case.
- b. He was cautioned on 5th November 1999 for being found outside the office during working hours.
- c. On 14th June 2002, he released cheque no. 47966 for Mno. 61732 - Mr. Daniel Muiruri Ndungu of Kshs.187,500.00 to a wrong person who later encashed it. The Society lost the money
- d. On 15th January 2004, he was directed to re-assure the Society that he would continue doing his work diligently and with minimal complaints following many complaints from members and poor performance.
- e. He absented himself from duty without lawful excuse for the period 12th- 14th January 2009.

- f. He was given the final warning letter on 12th January 2009 for shouting the Chief Executive Officer in an official function on 19th December 2008.
- g. He had forged documents from the Metropolitan Hospital to the effect that he was admitted to the Hospital on 14th January 2009 and thereafter given 2 days sick off to cover absence.
- h. On 26th June 2009, he attempted to assault a Senior Officer in his office and had to be restrained by colleagues thereby causing a lot of unrest and disturbance.

REPORT ON MISAPPROPRIATION OF SOCIETY’S FUNDS IN FOSA MOMBASA BRANCH BY SOCIETY’S FORMER MEMBERS OF STAFF

As a financial procedure in the Society, the management undertook a surprise spot check on the financial operations at Mombasa Branch on 7th August 2009. At the end of the exercise, it was established that there was a discrepancy between cashier balances and the cash balances totaling to KShs. 8,704,750.00. The period covered was between November 2007 and August 2009.

Upon further scrutiny, it was established that the following staff irregularly advanced themselves unauthorized imprest as follows:

Mr. Evans Obuya	KShs. 4,119,500.00
Mr. Paul Dedan Ochieng	KShs. 1,823,250.00
Mr. Evans Bosire	KShs. 1,285,000.00
Mr. Solomon Okwayo	<u>KShs. 1,435,000.00</u>
TOTAL	KShs. 8,704,750.00

- The above stated amounts were misappropriated through the issue of unauthorized Imprest.
- They were arrested by the Police on 29th October 2009 and charged in court
- They appeared in the High court Mombasa 2nd November 2009 released on cash bail of KShs. 20,000.00 each for them to allow the Police carry out further investigations.
- The staff had earlier recorded statements with the management admitting that they had misappropriated the society’s funds. They further requested the management to recover the amounts from their salary, a request that is unacceptable because they irregularly advanced themselves colossal sums of

money knowing that they had over-committed their salaries and therefore could not be recovered.

- Under the Society's Terms & Conditions of Employment, the staff committed a classified Gross misconduct according to our Human Resource Division Staff Regulations and procedure manual Clause 2.3.1 (c), (h), and (f) actionable by summary dismissal from the service of the society. Their action was also contrary to the Employment Act clause 44 (4) actionable by dismissal.

They were summarily dismissed from the service of the society with effect from 29th October 2009, the day they were arrested by the police.

~~Appendices~~

- ~~(x) - Charge sheets of former members of staff~~
 - ~~- Minute No. 16/2004~~
 - ~~- Minute No. 14/2008~~

ANNEX III

A COPY OF MR. J.S. LANGAT'S LETTER ADDRESSED TO THE MEMBERS OF PARLIAMENT ON ALLEGATIONS OF MISAPPROPRIATION OF FUNDS AT HARAMBEE SACCO

HII

VERY URGENT

A1

Harambee Sacco Members

28th August 2010

All Members of Parliament

*Paper law
by Hon J
Khalaf
in rela
to Q1*

RE: MISAPPROPRIATION OF HARAMBEE SACCO MEMBER'S SAVINGS

Employees from the Armed Forces, Kenya Police, Administration Police, NISS and Civil Servants from Office of the President form the majority of the members of Harambee Sacco with a membership of over one hundred thousand and a total monthly contribution of over Kshs.500 million. We take this opportunity to thank most sincerely Hon. Martha Karua along with other MPs for highlighting and taking a firm and brave stand in defense of the exploited members of Harambee Sacco in the Parliament. 31

Consequently, during last Thursdays parliament proceedings, the speaker ruled that the Attorney should explain in parliament on Tuesday 31st August 2010, why the Harambee Sacco matter cannot be concluded once and for all. Following this ruling, we have subsequently alerted all our members countrywide to watch the day's proceedings.

The Harambee Sacco saga is now a matter of life and death that should no longer be taken lightly by anyone. Pointing out corruption at the Sacco has proved as dangerous as plunging into a crocodile infested waters. This can be attested to by some victimized members, delegates and Harambee Sacco employees. All those who exposed Harambee Sacco scandals were:

- (i) Sacked through Central Management Committee (CMC) instigations
- (ii) Died mysteriously
- (iii) Transferred outside Nairobi especially if they were branch officials. According to society's By-Laws once outside Nairobi one ceases to be a delegate. All the above, besides intimidation by the CMC, has been done in a bid to silence members in order to perpetuate corruption at the Sacco.

The intrigue style of silencing critics was first used by the CMC on five delegates and one member who had written to the P.S. Co-operatives in the year 2004 appealing to him to save the Sacco from rampant corruption. The CMC made a swift move by recommending their suspension during the AGM which indeed was misled to ratify their suspensions. In order to humiliate them further, the directors went ahead and circulated their passport size photographs, their ID numbers and other personal details through local daily newspapers. However, after the victims filed for a court ruling on the matter, the court reinstated them swiftly.

During the debate on Harambee Sacco in parliament the previous, we were disappointed when the AG stood to defend the looters of the Sacco! As the government's chief legal adviser, the AG cannot convince anyone that he has no files in his office on the society's ills and that he is unaware of the rot therein. In fact, the latest file in his office is the one by the Banking Fraud Investigation unit file ref no. CID/BFI/SEC/4/4 VOL.169/125 which contains all the details on the theft at the Sacco. It was forwarded to his office. The flopped CID HQS investigations had estimated that the directors had looted over Kshs.900 million within a period of two (2) years. In addition, the former Police Anti-corruption Unit had in 2003 forwarded another file to the AG regarding the same matter. We therefore believe that the AG is not ignorant about this issue or has been compromised.

We therefore request that the AG tables the report in parliament on Tuesday or else we will be convinced that what the directors (Central Management Committee) are bragging about is true that they have already compromised. We have revelation that the AG is failing to act because the general manager Mr. James Wandera Maloba is his cousin whom was employed through the influence of AG when CMC board of the Sacco were pursuing KACC 2003 case.

HON. JOSEPH NYAGA – MINISTER FOR CO-OPERATIVES

Instead discharging his ministerial duties and find a lasting solution to the Harambee Sacco, the minister for co-operatives Hon. Joseph Nyagah, has joined the perpetrators of corruption.

A company closely associated with him (Gina Din Corporate Communication Sacco) was paid Kshs. 19.5 million in June 2009 and August 2009 for purchase of shares. If this was a clean deal, the AGM would have authorized it. We have evidence that the minister is paid over Kshs.200, 000 weekly as protection fee and that when he defended them in parliament

(112)

he was rewarded with millions of shillings as a token of appreciation. Members countrywide are wondering why the minister, who campaigned on the platform of eradicating corruption, has instead encouraged it beyond limits! No wonder visits by several members and correspondence to his office has bore no fruits. The same explains why he made an absurd request in parliament when Hon. Martha Karua raised the matter in parliament. He had the audacity to request parliament to be allowed to meet aggrieved party and the CMC, which left everyone wondering why he does not want to crack the whip.

Again, when the members met him together with Hon. Karua he promised to take action which up to date he has not. Further, he had requested the delegates to allow him meet aggrieved party during the April 20th 2010 AGM at Kenya school of Monetary Studies which he has not done to date. All this is a clear indication that the minister has obviously something to hide and that is why we are crying to you to come to our rescue and demand action.

TO THE PRIME MINISTER

Evidence is available that Hon. Nyagah is fairly involved in the Harambee Sacco corruption. The minister is updated on day today activities at the Sacco. For example on 17/08/2010 after Hon. Karua raised the matter in parliament, the minister immediately summoned Central Management Committee led by National Chairman Macloud Malonza to his office to strategize on how to counter Hon. Martha Karua's move.

We would like you to know that those who are suffering as a result of the looting at Harambee are Askaris, civil servants who have been milked dry, by thirteen (13) directors (Central Management Committee) five Senior Managers and Commissioner of Co-operatives who have enriched themselves at the expense of members. They have been assisted by Hon. Nyagah, an ODM minister tarnishing the party's image. We would also like to mention that, the current CMC have been in office since the year 2000. They have been using the rooted funds to bribe delegates in order to remain in office. The voice of the poor member remains unheard because members cannot elect the CMC directly.

We petition to you to take a bold action and dissolve the CMC just as you did to the board of Nairobi Water Company. You should face the Harambee Sacco with the same boldness you used to face the Mau Forest issue.

Because Harambee Sacco has been investigated many times without any action being taken, we request you to suspend the CMC and call in reputable independent audit team such as PriceWater House Coopers to unearth the rot there. The question to you is, are you going to rescue the over one hundred thousand suffering Sacco members or let the 11 CMC, 3 Supervisory and Commissioner of Co-operatives continue to steal and go scot free?

Reminds
Members became frustrated and opted to prosecute privately. Refer to criminal case Misc. No. 45/04. The case is still pending in court after the accused board members of the Sacco filed a judicial review under MISC No. 330/05. The File has been missing from the High Court since the year 2007. Furthermore, since there is a criminal case against the board members, they are therefore not supposed to hold a public office as civil servants and also the CMC/Board members who are Civil Servants/State officers contravenes chapter 6, section 75 (2) a, b which deals with conduct of state offices.

You are our only hope to unravel the stealing/fraudulent deals at the Harambee Sacco.

Yours faithfully,



J.S. Langat

Members of Harambee Sacco

.cc. Prime Minister
Attorney General,
All media houses

ANNEX IV

**REPORT OF FORENSIC
EXAMINATION OF THE
QUESTIONED LETTERS BY MR. J.S.
LANGAT AND MR. WILFRED
NYACHEO AS REQUESTED BY THE
COMMITTEE ON AGRICULTURE**

OUR REF: CID/ORG/8/3/1/1118



The
Kenya Police
Criminal Investigations Department

Forensic Document Examiner's Report

*C.I.D. Headquarters, Kiambu Road, P.O. Box 30036 – 00100, Nairobi -
Kenya. Tel. + 254 20 8512090/6, E-Mail: antipaso@swiftkenya.com*



**The Kenya Police
Criminal Investigations Department
Forensic Document Examiner's Report**

The Case Work Diary:

Case Work Ref: **CID/ORG/8/3/1/1118**
Station: **B.F.I.U. Nairobi**
CR: **INQ No. 1/2010**
I/O: **Det. CI. Mwaluko**
Complainant: **Republic**
Accused: **PUI**
Offence: **Stealing C/S 275 of PC**
Date of Submission: **11/10/2010**
Date of Examination: **13/10/2010**
Request: **As Per the Exhibit Memo Form Annexed**
Examiner: **Antipas Nyanjwa,
(Forensic Document Examiner,
Voice & Acoustics Analyst)**

Statement of Qualification:

I wish to state that I am a qualified forensic document examiner of over fourteen years experience with the Kenya Police Forensic Department on a full time basis. I hold a masters degree in criminology and forensic science from the University of Sagar, India. I have also been trained as a forensic document examiner at among

other places the Interpol Headquarters Lyon, France, The National Police Headquarters, Jerusalem Israel, The Federal Police Headquarters, Sydney Australia, The National Authority for the Investigation and Prosecution of Economic and Environmental Crimes, Oslo, Norway, Zurich Canton Police Headquarters, Switzerland, Regional International Organization for Migration Training Academy, Moshi Tanzania, and Foster & Freeman, Evesham, United Kingdom.

I have been a practicing forensic document examiner in Kenya since 1996 where I have expressed expert opinion on handwriting in thousands of cases in various courtrooms countrywide. I am also an admitted handwriting expert at the United Nations International Court where I have expressed opinion in the same field and have been on retention since 1998 to date.

Report on Examination & Findings:

I have today examined and compared the questioned Letter dated **28th August 2010** with a better and clear copy of the letter also dated **21st November 2008** retrieved from our vaults. They are in my opinion made by different instruments. The print, print type, font type, font size, and format are in my opinion different.

Methodology:

In my examination I have subjected the questioned letters to image enhancement and magnification procedures on three platforms of

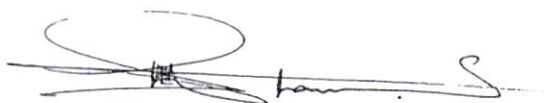
Stereo Microscopy, Video Spectral Comparator and the Projectina using infra red filters for better visibility and inspection of the miniature individual characteristics for absolute identification.

Characteristics & Similarities:

I have considered all the possibilities of natural variations resulting from the time span the letters were made, printer defects, wear and tear, and font type manipulations.

My considerations in arriving at my opinion are based on the peculiar individual characteristics in the print, print type, font type, font size, and format that had no similarity. I have attached herewith as an annexure, a comparison chart of image extracts from the two different letters as demonstrations of the peculiar differences observed in the letters under examination.

I forward herewith a copy of my report detailing my findings for your perusal and action. I also return herewith, all the documents that were submitted to me for your retention.



**ANTIPAS NYANJWA
FORENSIC DOCUMENT EXAMINER,
VOICE & ACOUSTICS ANALYST
FOR: DIRECTOR CRIMINAL INVESTIGATIONS**

A COMPARISON CHART OF THE PRINTS AND FONTS

RE:

Extracted from A1

RE:

Extracted from B1

MISAI

Extracted from A1

MISMA

Extracted from B1

Harambee

Extracted from A1

Harambee

Extracted from B1

Hon. Joseph Nyagah,

Extracted from A1

MESHACK NYANGUTE

Extracted from B1

Notes: There are differences in the font types used to make the two different letters. The letters were made by different instruments.

HII



A1

Harambee Sacco Members

28th August 2010

All Members of Parliament

*Paper law
by Hon
Khal.
in rela
to Q
3*

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Yours faithfully,



J.S. Langat

Members of Harambee Sacco

cc. Prime Minister
Attorney General,
All media houses



A2

Director
C/O

Annex
1

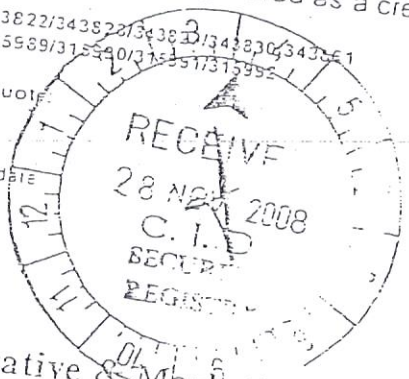
HARAMBEE CO-OPERATIVE SAVINGS & CREDIT SOCIETY LTD.
(Registered as a credit society)

Tel: 343766/343815/343822/343828/343833/343838/343843/343848
311047/318399/315989/315990/315991/315992
Fax No. 216326
When replying please quote

P.O. Box 47815
00100 - G.P.O.
NAIROBI

Ref. No. HARI /

and date



cc: B
Prop for matter as to
we have your consent
to proceed.

C.I. Kiruru
see ml

The Hon. Minister,
Ministry of Co-operative & Marketing Development,
P.O. Box 30547,
N.S.S.F Building,
NAIROBI.

Dear Sir,

21st November 2008

RE: GENERAL MISMANGEMENT & MEGA FRAUDING OF MEMBERS FUNDS AT
HARAMBEE SACCO BY THE CENTRAL MANAGEMENT COMMITTEE (C.M.C.)

I refer to the above mentioned and wish to bring to the attention of your good office the fraudulent activities going on at Harambee Sacco Society. As you are well aware this society draws membership from all ministries, and members of the disciplined forces.

The society gives three types of loans through the back office and one type of loan through the FOSA. However, the management committee has irregularly granted themselves FOSA Loans and coaxed the staff to process and pay their loans against sitting allowances in contravention of the co-operative act. The following is a schedule showing how the management committee has swindled the society of Sh. 724,068,864 in the last one year. Sir, this whole amount is in default and effort to recover it has been futile since they are our directors.

14

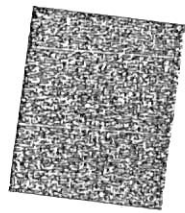
Sir, this is the amount of money stolen through a collusion between the CMC, Finance Manager and General Manager. However, the Chairman and Finance Manager continue stealing from FOSA since there are no proper record keeping.

Sir, in the last AGM, this year, the delegates were aware of the happenings at the Sacco but they were actually bought to re-elect the same CMC members. The society spent Ksh. 100,000,000.00 (One Hundred Million) on AGM expenses against a budget of Ksh. 14 million. Despite all these, the society has not paid any Loan to it's members for the last four months.

I call upon your office to launch investigations and unravel these fraudulent activities and save the society from collapsing.

Thanks in Advance.

WILFRED NYACHEO
FOSA MANAGER



CC: PERMANENT SECRETARY
MIN. OF CO-OP DEVT
P.O. BOX 30547
NAIROBI

✓ PERMANENT SECRETARY
OFFICE OF THE PRESIDENT
P.O. BOX 30510
NAIROBI

PERMANENT SECRETARY
& DIRECTOR OF PERSONNEL MANAGEMENT
HARAMBEE HOUSE,
NAIROBI

CHIEF OF GENERAL STAFF
MINISTRY OF STATE FOR DEFENCE
P.O. BOX 40668
NAIROBI



A2

Director
C/O

John
Amey
1

HARAMBEE CO-OPERATIVE SAVINGS & CREDIT SOCIETY LTD.
(Registered as a credit society)

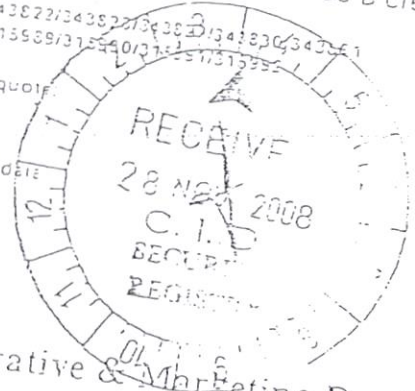
Tel: 343756/343815/343822/343827/343830/343834/343838
311047/3110395/3115588/3115540/3115513/3115552

Fax No. 215326
When replying please quote

Ref. No. HAPI /

and date

P.O. Box 47315
00100 - G.P.O.
NAIROBI



Handwritten notes:
Please find notes attached
I have your comments
on the document

Handwritten signature:
C. Kirera
see ml

The Hon. Minister,
Ministry of Co-operative & Marketing Development,
O Box 30547,
N.S.S.F Building,
NAIROBI.

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21st November 2008

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COMMISSIONER OF POLICE
PO BOX 30083
NAIROBI

5 of 3

DIRECTOR OF C.I.D
PO BOX 30036
NAIROBI

MANAGING DIRECTOR
CO-OPERATIVE BANK OF KENYA
CO-OPERATIVE HOUSE
NAIROBI

CHAIRMAN-PUBLIC INVESTMENTS
PARLIAMENT BUILDINGS
P.O. BOX 41842
NAIROBI

CHAIRMAN, PUBLIC ACCOUNTS COMMITTEE
PARLIAMENT BUILDING
P.O. BOX 41842
NAIROBI

CHAIRMAN
HARAMBEE SACCO LTD
PO BOX 47815
NAIROBI

ANNEX V

**LETTER TO THE COMMISSIONER
OF POLICE BY MESSRS GEOFFREY
ONTIERI, KENNEDY MAGETO AND
JOHN JOGO ON THE ALLEGED
EMBEZZLEMENT OF FUNDS AT
HARAMBEE SACCO**

(4)

CONFIDENTIAL

OFFICE OF THE PRESIDENT

Telegrams: "VIGILANCE", Nairobi
Telephone: Nairobi 341411/17
When replying please quote

Ref. No. and date

SEC.POL.4/3/1 VOL.X/2



Annexure #7
38
POLICE HEADQUARTERS
P.O. Box 30083-00100
NAIROBI


22nd March, 2010

Officer Commanding,
Banking Fraud Investigation Unit,
P.O.Box 30036,
NAIROBI.

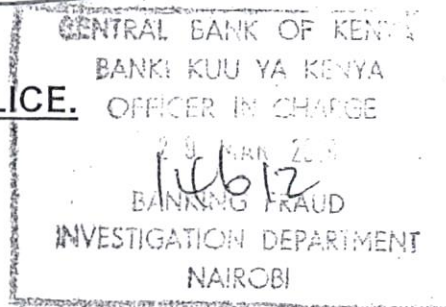
RE: HARAMBEE SACCO INVESTIGATIONS

Forwarded herewith, Please find a letter dated 18th March, 2010 regarding the above subject.

The Commissioner of Police has directed that let the team give you the information and ensure those mentioned are prosecuted.


**(NOOR Y. GABOW), OGW
FOR: COMMISSIONER OF POLICE.**

Encl.



CONFIDENTIAL

10th March, 2010

THE COMMISSIONER OF POLICE
VIGILANTE HOUSE
P.O. BOX 30083
NAIROBI

ATT: COMMISSIONER MATHEW ITEERE

Dear Sir,

RE: INVESTIGATIONS INTO THE EMBEZZLEMENT OF MEMBERS FUNDS AT HARAMBEE SACCO

- This is in appreciation for the good work you are doing to ensure justice prevails to the members of Harambee Sacco.
- After numerous complaints by some members and staff of Harambee Sacco you ordered fresh investigations into the mega fraud of members' funds of the said Sacco. The case was transferred from the CID (Economic and Commercial Crimes Unit) headquarters and taken over by the Banking Fraud Investigations Unit in the month of December 2009..
- We were called by the officer in charge of BFIU - Mr. Mohammed Amin and recorded statements as complainants to the best of our knowledge and the extent of embezzled funds and other malpractices.
- We walked the journey together with the investigators and offered valuable direction on where to get the documentary evidence. Mr. Mohammed (Officer in charge) together with his team did an excellent and quality investigation. He also gave us daily updates.
- We agreed on the obstacles in one critical area of the FOSA bank where we believe the Sacco lost over 1.2 Billion. This is derived from the fact that this theft has gone on over a long time without being abated. In the course of investigations the suspects could not account for huge withdrawals. One night between 2:00am and 3:00am FOSA bank documents were carted away in a pick up by the Finance Manager and FOSA Bank Manager. The same was reported to the investigating officers. We believe they are hidden in their houses or were destroyed. This was the detriment of investigating suspects while in office.
- When investigations were completed Mr. Mohammed called us and briefed us on the areas he had recommended for prosecution. We were all in agreement that crimes were committed.

Sir, we would like to have an audience with you for the following reasons:

- i) While investigations were going on and currently there has been panicky looting which might be more damaging to the Sacco, than we thought thus need to be stopped urgently.
- ii) The suspects i.e. board members (CMC) have greatly intimidated/frustrated the staff by sacking and transferring them to far areas as a disciplinary measure. Majority of the affected staff are the only ones who co-operated with the investigating officers. You can confirm this in the report as they all made statements.
- iii) To add salt to injury, the Sacco managers are boasting around saying that they have bribed high offices with millions of shillings to stop the investigations. Sir, it is important to note, the suspects were investigated while in office and this is a proof that they have high connections in the relevant ministries including the Attorney General's office, where previous cases recommended by the ACPU were never prosecuted since 2003.
- iv) The suspects have gone to an extent of threatening us and we seek protection from your office.

We kindly request you to give us audience so that we can give a detailed report on what transpired during the investigations and what is happening currently at the Sacco.

Thank you Sir.

Yours faithfully,

Signed by:



GEOFFREY O. ONTIERI

[Signature] 0721931270

JOHN L. JOGO

[Signature] 0722-308785

DANIEL M. TURIBU

[Signature] 0717907142

KENNEDY B. MAGETO

[Signature] 0727833865

Date: 18th March 2010



Commissioner of Police

ATTN: COMMISSIONER MATHEW ITEERE

Subject: Harambee Sacco Investigations

Dear Sir,

RE: APPOINTMENT DATE

We kindly request for an audience with you as follow up to the issues raised in the attached copy of our letter submitted to your office on 10th March 2010.

Yours faithfully,

GEOFREY O. ONTIERI

JOHN L. JOGO

DANIEL M. TURIBU

KENNEDY B. MAGETO