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QUARTERLY REPORT BY THE KENYA ANTI-CORRUPTION COMMISSION

JULY TO SEPTEMBER 2004

Tumalize Ufisadi

PREAMBLE

The Kenya Anti- Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act to prepare quarterly reports.

Section 35 provides that:

- (1) Following an investigation the Commission shall report to the Attorney General on the results of the investigation.
- (2) The Commission's report shall include any recommendation the Commission may have that a person be prosecuted for corruption or economic crime.

Section 36 provides that:

- (1) The Commission shall prepare quarterly reports setting out the number of reports made to the Attorney General under section 35 and such other statistical information relating to those reports as the Commission considers appropriate.
- (2) A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was not accepted.
- (3) The Commission shall give a copy of each quarterly report to the Attorney General.
- (4) The Attorney General shall lay a copy of each quarterly report before the National Assembly.
- (5) The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of the Anti-Corruption and Economic Crimes Act.

INVESTIGATIONS CONCLUDED IN THE PERIOD JULY- SEPTEMBER 2004

1. **ACPU/86/12.11.02**

This was an inquiry into allegations of illegal sale of Kiamokama Farmers Society plot no. 11/23 in Kisii town by the former officials of the Society.

Investigations established that some committee members conspired to defraud the Society by hurriedly proceeding to sell a plot at a throw away price without approval from members.

Recommendations

- a) That the former Chairman, Secretary and Treasurer be charged with the offence of conspiracy to defraud contrary to section 317 of the Penal Code, Cap 63 Laws of Kenya.
- b) That the former Chairman and Secretary be further charged with the offence of making a false document contrary to section 347 (a) of the Penal Code.

The file was forwarded to the Attorney General on 23rd July 2004 and action is awaited.

2. **KACC/INQ55/27.11.03**

This was an inquiry into allegations of abuse of office by a former Senior Litigation Counsel.

Investigation established that there was no abuse on the part of the former Senior Litigation Counsel and the money alleged to have been taken by her was returned to the Teachers Service Commission (TSC).

Recommendation

That the allegations were unfounded and evidence on record did not reveal any criminal offence. It was recommended that the file be closed with no further action.

The file was forwarded to the Attorney General on 11th August 2004 and action is awaited.

3. KACC NO.1/1/2/03 ACC NO. 39/03

This was an inquiry into an alleged bribe demand of Kshs. 7,000/- by a clerical officer attached to the motor vehicles registration section so as to assist in the registration of a motor vehicle.

Investigations established that the clerical officer had solicited for a bribe and a trap was laid. The clerical officer was arrested and arraigned in court.

Recommendation

There was sufficient evidence to warrant a charge of corrupt transaction by agent contrary to section 39(3)(a) as read with section 48 (1)(a) of the Anti- Corruption and Economic Crimes Act, 2003 against the clerical officer.

The file was forwarded to the Attorney General on 2nd August 2004, in the meantime the matter is pending before court.

4. KACC NO.1/1/1/04 ACC2/04

This was an inquiry into an alleged bribe demand of Kshs. 100,000/- by police officers based at Kamukunji Police Station so that they could release items they had confiscated from the complainant.

Investigations established that the police officers had solicited for a bribe and a trap was laid. The police officers were arrested and arraigned in court.

Recommendation

There was sufficient evidence to warrant a charge of corrupt transaction by agent contrary to section 39(3)(a) as read with section 48 (1)(a) of the Anti- Corruption and Economic Crimes Act, 2003 against the four police officers.

The file was forwarded to the Attorney General on 2nd August 2004, in the meantime the matter is pending before court.

5. **KACC/INQ/47(A)/17.12.2003**

This was an inquiry into allegations of abuse of office at the National Cereals and Produce Board in the purchase of Computers.

Investigations established that the General Manager Finance and Administration, the Supplies Manager and the Computer Operator abused their offices by disregarding the procurement regulations and engaged in direct procurement for the purchase of computers printers.

Recommendation

That the General Manager Finance and Administration, the Supplies Manager and the Computer Operator be charged with the offence of abuse of office contrary to section 101(1) of the Penal Code (Cap 63 Laws of Kenya).

The file was forwarded to the Attorney General on 17th August 2004.

The Attorney General forwarded the file to the Director of Criminal Investigations for independent investigations.

6. **KACC/INQ/44/1.10.03**

This was an inquiry into allegations of abuse of office at the National Social Security Fund in the procurement of Actuarial Services.

Investigations established that the former Managing Trustee and the Chairman of the Board abused their offices by procuring actuarial services in total disregard of the procurement rules.

Recommendation

That the former Managing Trustee and the Chairman of the Board be charged with the offence of abuse of office contrary to section 101(1) of the Penal Code (Cap 63 Laws of Kenya).

The file was forwarded to the Attorney General on 23rd August 2004 and action is awaited.

7. KACC/INQ/5/4.02.2004

This was an inquiry into allegations of bribery of delegates to the Constitution of Kenya Review Conference.

Investigations failed to establish any offence.

Recommendation

That the evidence on record did not reveal any criminal offence and it was recommended that the file be closed with no further action.

The file was forwarded to the Attorney General on 22nd September 2004 and action is awaited.

STATISTICAL SUMMARY

No. of files forwarded to the Attorney General	7
No. of files recommended for prosecution	5
No. of files recommended for administrative or other action	0
No. of files recommended for closure	2
No. of files where recommendation for prosecution accepted	0
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	0
No. of files where recommendation for prosecution not accepted	1

No. of files where recommendation for administrative or other action not accepted	0
No. of files where recommendation for closure not accepted	0
No. of files awaiting Attorney General's action	6

DATED at Nairobi this *9th* day of *November,* 2004



JUSTICE (RTD) AARON G. RINGERA
DIRECTOR/ CHIEF EXECUTIVE
KENYA ANTI-CORRUPTION COMMISSION