

THE ETHICS AND ANTI-CORRUPTION COMMISSION

THE FIRST QUARTERLY REPORT COVERING THE PERIOD FROM
1ST JANUARY 2022 TO 31ST MARCH 2022

THE NATIONAL ASSEMBLY	
DATE: 07 JUN 2022	
DAY: Tuesday	
TABLED BY:	Lern
CLERK AT THE TABLE:	Maonah Moom

of Dealing with Suspect Property contrary to Section 47(1) all as read together with Section 48 of the ACECA; and One (1) Count of Forgery contrary to Section 349 of the Penal Code.

Awaiting DPP's response.

2. EACC/FI/INQ/13/2021

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN A TENDER FOR CONSTRUCTION OF NON-MOTORIZED TRANSPORT FACILITIES AND PARKING BAYS ALONG KITUI ROAD-GRAGON-SYOKIMAU AVENUE IN MACHAKOS AMOUNTING TO KSHS. 45,407,649/= BY THE COUNTY GOVERNMENT OF MACHAKOS.

Investigations by the Commission commenced following complaint alleging that the County Government of Machakos had engaged in procurement irregularities in a tender for the construction of non-motorized transport facilities and parking bays along Kitui Road-Gragon-Syokimau Avenue in Machakos, amounting to Kshs. 45,407,649/=. The complainant also alleged that the said tender No/ GMC/KUSP/023/2018-2019 was awarded to Wisdom Holdings Ltd, a company associated to an employee of Machakos County Government.

Investigations established that the said project was implemented by Machakos County Government through the Department of Housing and Urban Development. The project was funded by a World Bank Loan of USD 300 Million, through Kenya Urban Support Programme (KUSP) that sought to improve infrastructure in municipalities and cities in 45 Counties.

Investigations further established that when Machakos County Government was implementing the project for the construction of non-motorized transport facilities and parking bays along Kitui Road-Gragon-Syokimau Avenue in Machakos, a project under the KUSP, the contract for the said tender was awarded to Wisdom Holdings Ltd, a company in which the County Executive Committee Member for Public Works held indirect interest in and was the signatory. It was also revealed that the Resident Engineer was not appointed through a competitive process, and that he, together with the Assistant Resident Engineer, failed to ensure that the work done by the contractor met the technical standards that were stipulated in

the contract. The Resident and Assistant Resident Engineers also certified and confirmed excess payments of Kshs. 29,618,836.48 to be paid to this contractor. Investigations further revealed that the said contractor had submitted false documents to the County when bidding for the said tender.

On 21st March, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the County Executive Member for Public Works, the project Engineers and the Contractors with the following offences: One (1) Count of Conflict of Interest contrary to Section 46; One (1) Count of Deceiving Principal contrary to Section 42(3); One (1) Count of Unlawful Acquisition of Public Property contrary to Section 45(1); Two (2) Counts of Willful Failure to Comply with Procurement Laws contrary to Section 45(2)(b); and Deceiving Principal contrary to Section 41(1) all as read together with Section 48 of ACECA; and One (1) Count of Fraudulent Practice contrary to Section 66(1) and (2), of the Public Procurement and Asset Disposal Act.

Awaiting DPP's response.

3. EACC/NYR/FI/INQ/07/2020

ALLEGATIONS OF CONFLICT OF INTEREST AND IRREGULAR AWARD OF TENDER FOR THE PROPOSED WATER WORKS FOR RIAGICHERU WATER PROJECT TO EVA TRADING AGENCIES LTD BY THE COUNTY GOVERNMENT OF KIRINYAGA.

The Commission commenced investigations following a report alleging that there were probable irregularities in the award of the contract for the proposed water works for Riagicheru Water Project to Eva Trading Agencies Ltd by the County Government of Kirinyaga. The allegations were that the said company was associated to the brother of the County's Chief Officer Finance.

Investigations established that Kirinyaga County Government adhered to the budgetary, planning and procurement procedures and laws in the Riagicheru Water Project. The tender was reserved for AGPO group. Investigations however revealed that the company which was awarded the contract (Eva Trading Agencies) is related to the Chief Officer Finance, and that directors of the said company were his brother's wife and children. Investigations therefore revealed

that there was conflict of interest by the Chief Officer Finance because he approved the Professional Opinion, awarded the tender, signed the contract and approved payment to the said company owned by his brother's wife. The Chief Officer did not declare interest in the said contract.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Officer Finance for conflict of interest in the following offences: One (1) Count of Knowingly Holding a Private Interest in A Contract Connected to a Public Body contrary to Section 42(3); One (1) Count of ~~Fraudulent Acquisition of Public Property contrary to Section 45(1)~~ all as read together with Section 48 of the ACECA; and One (1) Count of Fraudulent Practice in Procurement Process contrary to Section 66(1) of Public Procurement and Asset Disposal Act 2015.

On 12th April, 2022 the DPP returned the inquiry file recommending further investigations.

4. EACC/NYR/FI/INQ/06/2020

ALLEGATIONS OF CONFLICT OF INTEREST AND IRREGULAR AWARD OF TENDER FOR THE PROPOSED WATER WORKS FOR MWEA MAKIMA WATER PROJECT TO EVA TRADING AGENCIES LTD BY THE COUNTY GOVERNMENT OF KIRINYAGA

The Commission commenced investigations following a report alleging that there were probable irregularities in the award of the contract for the proposed water works for Mwea Makima Water Project to Eva Trading Agencies Ltd by the County Government of Kirinyaga. The allegations were that the said company was associated to the brother of the County's Chief Officer Finance.

Investigations established that Kirinyaga County Government adhered to the budgetary, planning and procurement procedures and laws in the Mwea Makima Water Project. The tender was reserved for AGPO group. Investigations however revealed that the company which was awarded the contract (Eva Trading Agencies) is related to the Chief Officer Finance, and that directors of the said company were his brother's wife and children. Investigations consequently revealed that there was conflict of interest by the Chief Officer Finance, because

he approved the Professional Opinion, awarded the tender, signed the contract and approved payment to the said company owned by his brother's wife. The Chief Officer did not declare interest in the said contract. Investigations also established that Eva trading Agencies Ltd presented false AGPO Certificate in support of their bid.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Officer Finance and the directors of Eva Trading Agencies Ltd with the following offences: One (1) Count of Knowingly Holding a Private Interest in A Contract Connected to a Public Body contrary to Section 42(3) of ACECA; One (1) Count of Fraudulent Acquisition of Public Property contrary to Section 45(1) of ACECA as read together with Section 48 of ACECA; and One (1) Count of Fraudulent Practice in Procurement Process contrary to Section 66(1) of Public Procurement and Asset Disposal Act 2015.

Awaiting DPP's response.

5. EACC/NYR/FI/INQ/05/2020

ALLEGATIONS OF CONFLICT OF INTEREST AND IRREGULAR AWARD OF TENDER FOR THE PROPOSED WATER WORKS FOR SOUTH NGARIAMA WATER PROJECT TO EVA TRADING AGENCIES LTD BY THE COUNTY GOVERNMENT OF KIRINYAGA

The Commission commenced investigations following a report alleging that there were probable irregularities in the award of the contract for the proposed water works for South Ngariama Water Project to Eva Trading Agencies Ltd by the County Government of Kirinyaga. The allegations were that said company was associated to the brother of the County's Chief Officer Finance.

Investigations established that Kirinyaga County Government adhered to the budgetary, planning and procurement procedures and laws in the South Ngariama Water Project. The tender was reserved for AGPO group. Investigations however revealed that the company which was awarded the contract (Eva Trading Agencies) is related to the Chief Officer Finance, and that directors of the said company were his brother's wife and children. Investigations consequently revealed that there was conflict of interest by the Chief Officer Finance, because

he approved the Professional Opinion, awarded the tender, signed the contract and approved payment of Kshs. 11,943,820/= to the said company. The Chief Officer did not declare interest in the said contract. Investigations also established that Eva trading Agencies Ltd presented false AGPO Certificate in support of their bid.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Officer Finance and the directors of Eva Trading Agencies Ltd with the following offences: One (1) Count of Knowingly Holding a Private Interest in A Contract Connected to a Public Body contrary to Section 42(3) of ACECA; One (1) Count of Fraudulent Acquisition of Public Property contrary to Section 45(1) of ACECA all read together with Section 48 of ACECA; and One (1) Count of Fraudulent Practice in Procurement Process contrary to Section 66(1) of Public Procurement and Asset Disposal Act 2015.

Awaiting DPP's response.

6. EACC/BGM/FI/INQ/10/2019

ALLEGATIONS OF IRREGULAR AWARD OF CONSTRUCTION WORKS OF KUYWA JUNCTION – LIKHUNA ROAD AT A COST OF KSHS. 8,967,400/= BY THE COUNTY GOVERNMENT OF BUNGOMA.

The Commission commenced investigations following a report on allegations that the County Government of Bungoma awarded a tender for the construction of Kuywa Junction – Likhuna road to Wa and Wa Limited at an inflated cost of Kshs. 8,967,400.400, and that the said company that was awarded the tender had never bid for the said road construction tender.

Investigations established that there were procurement irregularities in the award of the tender for the construction of Kuywa Junction – Likhuna road, because the company that was awarded the tender (Wa & Wa Limited) did not bid for the said tender. Investigations also revealed that the directors of Wa & Wa Limited were not involved in the bidding, contract signing and implementation of the said contract. Instead, three (3) private parties had colluded to fraudulently use the company's name, documents and information, without authorization, to apply for

the said tender and benefit from the project. Investigations however revealed that the County Government of Bungoma is yet to pay the contract amount of Kshs. 7 Million to the contractor.

On 10th January 2022 a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee members and the Head of Procurement at Bungoma County Government who were involved in the said procurement, as well as the individuals who signed the contract on behalf of Wa & Wa Limited with the following offences: One (1) Count of Committing a Fraudulent Act contrary to Section 66(i) of ACECA; One (1) Willful Failure to comply with Procurement Laws contrary to Section 45(2) of ACECA; and One (1) Count of Deceiving Principal contrary to Section 41 as read with Section 48 of ACECA.

On 18th march 2022 the DPP returned the inquiry file recommending further investigations.

7. EACC/GSA/FI/INQ/26/2018

INQUIRY INTO ALLEGATIONS THAT THE COUNTY GOVERNMENT OF MANDERA PAID SOME COMPANIES KSHS. 107, 481, 060/= DURING THE FINANCIAL YEAR 2013/2014 FOR THE CONSTRUCTION OF THE GOVERNOR'S RESIDENCE, WHICH PROJECT WAS ABANDONED BEFORE COMPLETION.

The Commission commenced investigations following a media report on allegations that the County Government of Mandera had paid some companies a sum of Kshs. 274,509,312/= for the construction of the Governor's residence and the County Headquarters, but the construction was abandoned before its completion.

Investigations established that the procurement process was followed and the tender was awarded to M/S Seo and Sons Limited. However, after the contractor commenced the project, Mandera County introduced revised construction plans which changed the design and varied the works. A delay in the approvals of variations occurred, thereby causing a delay in the completion of the works. The contractor raised invoices for the works done, and the County undertook inspection and acceptance. The contractor was paid Kshs. 110,987,045.69 by

Mandera County Government in 3 tranches. However due to the delays, Mandera County Government terminated the contract.

After termination of the contract, the a valuer from the Ministry of Transport, Infrastructure, Public Works, Housing and Development under State Department of Public Works valued the works done at Kshs. 110,037,609/-. From this valuation, it was established that the monies paid to the contractor were commensurate to the works done by and the monies paid to the contractor at the time contract termination.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations for closure of the inquiry file for lack of sufficient evidence to sustain criminal action.

On 30th March 2022, the DPP returned the inquiry file accepting the commission's recommendation for closure.

8. EACC/KSM/FI/INQ/23/2015

AN INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND EMBEZZLEMENT OF FUNDS BY THE COUNTY GOVERNMENT OF HOMA BAY IN RESPECT OF THE PROPOSED AGRI-CITY PROJECT IN THE AMOUNT OF KSHS. 200 MILLION.

The Commission commenced investigations following report from a complainant alleging that the County Government of Homa Bay had irregularly paid Kshs. 200 Million to an investor in respect to a proposed Agri City Project, without conducting a feasibility study, as a ploy to embezzle funds from the stalled project. It was alleged that the investors disappeared after receiving the said funds.

Investigations established that around June 2013, the County Government of Homa Bay entered into a Memorandum of Understanding with Good Earth Power Limited) to develop 1,000 acres of land in Homa Bay into an Agri-City. In the MOU, the Investor would develop modern housing, clean power generation, clean water purification, sewerage treatment, waste management, modern communication and modern roads at its own cost; while the County Government

would avail 50% of the land required for a 30-year lease at no charge, ensure that all the necessary licenses and government approvals would be issued.

The project was launched, and the County Government availed 1000 acres of land that was donated by two communities for use in the project. However, the two communities later rejected the said project on their land, and therefore the said project did not take off. Investigations revealed that no money was paid out by the County Government of Homa Bay in the project.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations for closure of the inquiry file for insufficient evidence to support criminal proceedings. It was also recommended that an advisory be issued to the County Government of Homa Bay to adhere to the law set out in the Public Private Partnership Act, 2013 (PPPA) for similar future projects.

On 5th May 2022, the DPP returned the inquiry file recommending further investigations.

9. EACC/MCKS/FI/INQ/8/2021

AN INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES BY THE MAKUENI COUNTY CHIEF OFFICER FOR HEALTH SERVICES IN THE AWARD OF A TENDER FOR THE SUPPLY AND DELIVERY OF 8 POWER SPRAYS AND 300 HAND SPRAYS

The Commission commenced investigations following a report of procurement irregularities allegations by the Makueni County Chief officer for Health Services in the award of a tender for the supply and delivery of 8 power sprays and 300 hand sprays to help in combatting the spread of COVID 19 disease.

Investigations established that the procurement of power spray pumps and hand sprayers was captured in the budget and the procurement plan for financial year 2019/2020, and the procurement method of 'request for quotation' was sent out through e-procurement method. Investigations established that the process of procurement from requisition to the point of payment was done in accordance to public procurement laws. The allegations of irregular procurement by Makueni County Government were therefore unfounded.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed for insufficient evidence to prove the allegations of procurement irregularities against the Chief Officer Health Services at Makueni County Government.

On 13th April, 2022 the DPP returned the inquiry file recommending administrative action to be taken against the suspect.

10. EACC/FI/INQ/87/2017

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF PREFABRICATED STAFF HOUSES AT LAKE NAKURU NATIONAL PARK AT A COST OF KSHS 34,980,001/= BY SENIOR KENYA WILDLIFE SERVICE OFFICERS.

The Commission commenced investigations following complaints that there was irregular procurement of pre-fabricated staff houses at Lake Nakuru National Park at a cost of Kshs 34,980,001/= by Senior Kenya Wildlife Service (KWS) Officers.

Investigations established that the procurement of the pre-fabricated staff houses was necessary because heavy rains had caused flooding in the KWS staff houses at Lake Nakuru National Park. Therefore, the procurement was not planned under the 2012/2013 procurement plan and budget. However due to the situation, the requisition for 10 pre-fabricated houses made by the user department was approved for direct procurement. The Tender Committee was requested to approve Wood Products Limited as the supplier of the pre-fabricated houses, and this was done. Wood Products Limited was awarded the contract, supplied the said houses and raised an LPO of Kshs. 34,980,000/= which was paid to them. Investigations revealed that the required documentation for direct procurement was obtained, save for the report to Public Procurement Oversight Authority (PPOA).

However, a valuation of the houses established that the amount quoted by Wood Products Limited was overpriced by the quantity surveyor, the Engineer and the Architect in the project, leading to KWS not getting value for money. Further, the direct procurement was also not reported to the PPOA. In spite of these issues,

financial investigations did not indicate irregular flow of funds between Wood Products Limited and KWS officers.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations that administrative action be taken against the quantity surveyor, the Engineer and the Architect in the project for failing to undertake due diligence, and issuing certificates without considering the value of the project, thereby causing KWS to incur wasteful expenditure. It was also recommended that an advisory be issued to KWS on following procurement laws and procedures.

Awaiting DPP's response.

11. EACC/MCKS/FI/INQ/19/2018

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE AREA CHIEF OF KALAMBA LOCATION, NZAU DISTRICT, DURING THE REGISTRATION EXERCISE IN ORDER TO FACILITATE THE ISSUANCE OF A NATIONAL IDENTIFICATION CARD (ID) TO ANOTHER WITHIN MAKUENI COUNTY.

The Commission commenced investigations following a report from a complainant alleging that the area Chief of Kalamba Location, Nzau District, Makueni County had received a bribe in order to facilitate registration of an applicant in a registration for a Kenyan National Identity Card (ID) at Kalamba Location.

Investigations established that a lady who was born in Kenya, but had schooled in Uganda in her Primary and Secondary school levels, had applied for a Kenyan ID, but that her application for the ID included a Kenyan school 'leaving certificate' was included. This meant that the 'leaving certificate' information was falsely provided. However, investigations were not able to determine who had produced and issued the said school 'leaving certificate'. The evidence obtained did not establish the bribe request or receipt by the said chief. However, it was established that the said lady was issued with a 'Waiting Card' for the ID.

On 21st February, 2022 a report was compiled and forwarded to the DPP, with recommendations for closure of the inquiry file due to insufficient evidence to prove the bribery and abuse of office allegation against the said chief. However, the Commission referred the matter to the National Registration Bureau to

determine whether or not the said ID was issued in accordance with the laid down procedures, and depending in their inquiry, take appropriate action.

Awaiting DPP's response.

12. EACC/BGM/PI/INQ/01/2021

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF FUNDS AND ABUSE OF OFFICE BY THE PRINCIPAL OF LWANDANYI ACK SECONDARY SCHOOL DURING COVID 19 PERIOD IN 2020.

The Commission commenced investigations following a report by the Chair of the Board of Management (BOM) of Lwandanyi ACK Secondary School, alleging that the former (retired) school Principal had mismanaged and misappropriated school funds during the Covid 19 pandemic. The report alleged that the former (retired) school Principal withdrew school funds without the proper approvals, and that he also failed to account for the said funds. It was also alleged that the said withdrawals were made with the collusion of 2 board members who were signatories to the said school accounts, and that the said former (retired) school Principal procured items for the school and didn't pay them, thereby causing an accumulated debt of Kshs. 3 Million owed to suppliers.

The investigations established that indeed Kshs. 385,000/= was withdrawn from two (2) different school bank accounts, and the money was deposited into the said former (retired) school Principal two bank accounts. However, it was established this withdrawal and deposit was as a response to the COVID 19 pandemic travel restrictions, since he could not carry the money in cash from one County to another to make purchases. The retired principal also explained that he made use of mobile banking during the pandemic by linking the school account his mobile phone so as to ensure that the school remained operational.

Despite the explanations investigations established that BOM members were irregularly paid sitting allowances and Per Diems amounting to Kshs. 81,000/=, which ought to be recovered. However, no procurement irregularities were revealed, and the money withdrawn was noted to have been accounted even though the school's cash books had not been updated.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations for closure of the inquiry file for lack of sufficient evidence to sustain criminal charges against the former principal. The Commission will however recover Kshs. 81,000/=, being irregularly acquired allowances by the BOM Members. An advisory to the Ministry of Education would also be issued in relation to procurement laws and procedures in schools.

Awaiting DPP's response.

13. EACC/PI/INQ/4/2021

AN INQUIRY INTO ALLEGATIONS OF FRAUDULENT ALLOCATION OF LAND BELONGING TO REA VIPINGO DEVELOPMENT COMPANY LIMITED BY A MINISTRY OF LAND OFFICER AND THREE PRIVATE INDIVIDUALS.

The Commission commenced investigations following a report on allegations of unethical conduct and fraud against Ministry of Land Officers, relating to double registration of two (2) land parcels in Kilifi to Four (4) private individuals, and to Rea Vipingo Development Company Limited (RVDCL).

Investigations established that the land belonged to Vipingo Development PLC, and that the Certificate of Title was to Vipingo Development PLC had been duly issued to them. Therefore the said land was not available for allocation to other persons. Investigations also revealed that the Land Administration Officer at Ardhi House colluded with the four (4) private citizens to un-procedurally issue the second Certificate of Title to the said four (4) citizens, and in so doing did a double allocation.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations that the Land Administration Officer and the private citizens be charged with the offences of: Abuse of Office contrary to Section 46 as read together with Section 48 of ACECA; Fraud by Person Employed in the Public Service contrary to Section 127 of the Penal Code; and Conspiracy to Defraud contrary to Section 317 of the Penal Code.

The Commission commenced investigations following a complaint from a bar owner in Turi Centre in Molo Sub-County, alleging that a Chief Inspector of Police and Officer Commanding Station (OCS) solicited Kshs. 15,000/= from her so that the OCS could allow her to continue operating her bar in breach of the COVID protocols and guidelines.

Investigations established that the said Chief Inspector and OCS solicited a total of Kshs. 25,000/=, on two different occasions, from the bar owner. In soliciting, the said OCS offered to allow her to re-open the bar, and to operate it in breach of the COVID protocols. The said OCS received a bribe of Kshs. 10,000/= from the complainant, and the money was recovered. However, on an order by the said OCS, police officers at the police station took away the recovered money and concealed it from the EACC officers. They also detained the EACC officers at the Police Station.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the OCS and the abetting Police Officers with one (1) Count of Concealing Evidence contrary to Section 66(1)(c) of the Anti-Corruption and Economic Crimes Act (ACECA) as read with Section 48 of ACECA; three (3) Counts of Receiving a Bribe contrary to Section 6 (1) (1) as read with Section 16 (1) and (2) of the Bribery Act; one (1) Count of obstruction of Commission investigators contrary to Section 46(1)(a) of the Leadership and Integrity Act (LIA); and one (1) Count of Escape from Lawful Custody contrary to Section 123 of the Penal Code.

Awaiting DPP's response.

17. EACC/OPS/INQ/171/2019

AN INVESTIGATION INTO ALLEGATIONS OF RECEIVING A BRIBE AND ABUSE OF OFFICE BY A PROSECUTION COUNSEL FROM THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP) STATIONED AT KILUNGU LAW COURTS AT MAKUENI COUNTY.

The Commission commenced investigations following a complaint that a prosecutor working with the Office of the Director of Public Prosecutions (ODPP) at Kilungu law courts demanded a bribe of Kshs. 30,000/= from the said complainant,

in return for facilitating a favourable ruling and a withdrawal of the criminal case against that complainant.

Investigations established that the said prosecutor was stationed at the Kilungu Law Courts, and that she was the prosecuting counsel in a case against the person who made this report to EACC. It was also established that the said prosecutor operated two phone numbers, the first being under her name and the second being in the name of her co-conspirator. Using these phones, the said prosecutor solicited for and received a bribe of Kshs. 30,000/ from the complainant. Financial investigations also established that the prosecutor also used these two phones to solicit and receive financial benefits from other accused persons in other cases as well.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the prosecutor and the co-conspirator with one (1) Count of Conspiracy to Commit an Offence of Corruption contrary to Section 47(a)(3) as read with Section 48 of the Anti-Corruption and Economic Crimes Act (ACECA); and five (5) Counts of Receiving a Bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 6th May 2022, the DPP returned the inquiry file recommending further investigations.

18. EACC/OPS/INQ/90/2019

ALLEGATIONS OF DEMANDING A BRIBE OF KSHS. 260,000 BY A PRIVATE SURVEYOR, FOR PURPOSES OF FAST TRACKING THE PROCESSING OF ISSUANCE OF TITLE DEEDS FOR VARIOUS PARCELS OF LAND.

The Commission commenced investigations following a report from a complainant alleging that a private surveyor was demanding a bribe of Kshs. 260,000/= from him, on behalf of officials from the Nairobi Lands registry at Ardhi House, in order to bribe the said land officials to fast track the process of subdivision of her land parcel.

Investigations established that the private surveyor, who was an employee at Jomo Kenyatta University of Agriculture and Technology (JKUAT), was not a registered surveyor with the Land Surveyor's Board. The private surveyor solicited for Kshs. 260,000/= from the complainant, for the purpose of bribing a Land Administrator working at the Nairobi Lands Registry. The purpose for the bribe solicited was to fast-track the process of subdivision of the complainant's private land located in Narok, and to also fast track the release of title deeds. The private surveyor received a bribe of Kshs. 100,000/= from the complainant, and the money was recovered from him when he was arrested. There was however insufficient evidence to show that the land administrator at Ardhi House had solicited to receive the bribe amount.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the surveyor with two (2) Counts of Receiving a Bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 5th April 2022, the DPP returned the inquiry file recommending further investigations

19. EACC/KSM/OPS/INQ/17/2019

ALLEGATIONS OF BRIBERY AGAINST KONDELE POLICE OFFICERS FOR DEMANDING AND RECEIVING BRIBES FROM MOTORISTS.

The Commission commenced investigations following a report from a complainant who alleged there were police officers who were collecting bribes along the Kisumu-Kakamega road at the Mambo Leo Fly Over and near Kondele Police Station, from road users such as matatus, tuktuks, pickups and lorries. The complainant reported that his business had lost cumulatively Kshs. 20,000/= in August 2019 through these bribes.

Investigations from surveillance established that vehicle conductors/drivers were indeed giving bribes to the police officers and that after they did so, the vehicles passed without any inspection. However, on the day of arrest, only three (3) of the police officers that were captured in surveillance photos could be identified by

the investigators. The rest could not be identified by the arresting officers. Secondly, out of the bribes that were seen to be collected by the police officers, only Kshs. 300/= was recovered from the pocket of one of the officers.

On 21st February, 2022 a report was compiled and forwarded to the DPP with a recommendation that the National Police Service takes administrative action against the Police Officers who were captured in the surveillance footage.

Awaiting DPP's response.

20. EACC/BGM/OPS/INQ.5/2020

ALLEGATIONS OF BRIBERY AGAINST AN ASSISTANT CHIEF OF SITIKHO SUB LOCATION, WEBUYE WEST SUB-COUNTY, BUNGOMA COUNTY.

The Commission commenced investigations following a report from a complainant alleging that the Assistant Chief of Sitikho Sub-Location had requested for a financial advantage of Kshs. 10,000/= in order to sign land succession documents.

Investigations established that the Assistant Chief demanded for a bribe of Kshs. 8,000/= from the said complainant before he could sign a sale agreement for him. They also established that this Assistant Chief received Kshs. 6,000/= from the said complainant, after which he signed the said document.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the Assistant Chief with two (2) Counts of Receiving a Bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

Awaiting DPP's response.

21. EACC/MCKS/OPS/INQ/52/2019

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN OFFICER AT THE PROSECUTION OFFICE AT MAKINDU LAW COURTS.

The Commission commenced investigations following a report from a complainant alleging that a Prosecution Officer based at Makindu Law Courts office had

requested for a financial benefit of Kshs. 50,000/= as an inducement to facilitate the withdrawal of an assault case where the complainant was an accused.

Investigations established that the prosecution officer demanded for and received a bribe of Kshs. 30,000/= from the said complainant for him to withdraw the case against him. The bribe received was however not recovered since the suspect concealed it.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the Prosecution Counsel with one (1) count of Concealing Evidence contrary to Section 66(1) as read with Section 66 (2) of ACECA; and two (2) Counts of Receiving a Bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

Awaiting DPP's response.

22. EACC/OPS/INQ/14/2021

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST ENGAGE ENGAGE BURSON COHN & WOLFE (ENGAGE BCW) STAFF CONTRACTED TO UNDERTAKE SOME WORK FOR BAT (K) LTD.

The Commission commenced investigations following a report from British American Tobacco-Kenya (BAT-K) alleging that an employee of Engage Burson Cohn & Wolfe (Engage BCW), while acting for BAT-K, attempted to bribe a journalist working for Nation Media Group (NMG) to withhold information contained in a publication by the said journalist, regarding questions that had been raised on the regulatory status of a product that had been launched by BAT-K.

Investigations established that the evidence did not offer conclusive proof that the journalist had been offered a bribe, or that he had received a bribe. Furthermore, the journalist declined to record a statement to provide further evidence to substantiate the bribery allegations.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations for closure of the inquiry file for lack of sufficient evidence.

Awaiting DPP's response.

23. EACC/OPS/INQ/57/2021

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A KENYA REVENUE AUTHORITY OFFICER.

The Commission commenced investigations following a complaint from an Administrator at Infinity Benefits Limited alleging that an employee of Kenya Revenue Authority (KRA) had requested for a financial advantage of Kshs. 2,000,000/= which amount was meant to assist the complainant's employer, Infinity Benefits Limited, write-off tax arrears of Kshs. 25,213,378/= owed to Kenya Revenue Authority.

Investigations established that the KRA officer indeed requested for a bribe of Kshs 7,000,000/= on two different events from the complainant for purposes of writing off his employer's tax arrears of Kshs. 25,213,378/= owed to Kenya Revenue Authority. The KRA officer received a bribe of Kshs. 200,000/= from the complainant, which was recovered upon his arrest.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the KRA officer with three (3) Counts of Receiving a Bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

Awaiting DPP's response.

24. EACC/OPS/INQ/68/2021

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST OFFICER COMMANDING STATION ZIMMERMAN POLICE POST AND A FORMER OCS KASARANI POLICE STATION.

The Commission commenced investigations following a report from a complainant alleging that the Officer Commanding Station (OCS) of Zimmerman Police Post had requested and received a financial advantage of Kshs. 10,000/= from a relative of the complainant, to facilitate the complainant's release from police custody.

Investigations established that the complainant together with another person were arrested for stealing and were detained in police custody at Zimmerman Police Post and Kasarani Police Station. The OCS Zimmerman Police Post requested for a bribe of Kshs 10,000/= to facilitate the release of the two of the complainants from police custody. Investigations also revealed that the said OCS received the said money as bribe through mobile money.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the OCS with two (2) Counts of Receiving a Bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

Awaiting DPP's response.

25. EACC/OPS/INQ/24/2021

AN INQUIRY INTO ALLEGATIONS THAT A PERSON IMPERSONATING A KENYA DEFENCE FORCES OFFICER DEMANDED A BRIBE OF KSHS. 300,000.

The Commission commenced investigations following a report from a complainant alleging that he had been defrauded over Kshs. 300,000/= by a person allegedly working at Kenya Defense Forces (KDF), and who had indicated that he was in a position to assist the complainant's son to get recruited by KDF.

Investigations established that a former civilian officer in the Ministry of Defense conspired with another person who claimed to be a KDF officer, to solicit for a bribe of Kshs. 600,000/= from the said complainant in the February 2021 KDF recruitment exercise. The investigations revealed that the two suspects negotiated the amount downwards to Kshs. 300,000/=:, and that they received a bribe of Kshs. 364,000/= on diverse dates through their bank and mobile money accounts. The said bribe was intended to be facilitation in order to provide the complainant's son with a 'special recruitment' letter written by senior government officials for him to report to the KDF Training School in Eldoret.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the two suspects with three (3) Counts of Receiving a Bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act; 1

Count of obtaining money by false pretence contrary to Section 313; one (1) Count of Uttering a False Document contrary to Section 349; and one (1) Count of Impersonating a Person Employed in the Public Service contrary to Section 105 (b), all of the Penal Code.

On 5th April 2022, the DPP returned the inquiry file recommending further investigations

26. EACC/ISL/OPS/INQ.40/2019

INQUIRY INTO ALLEGATIONS THAT THREE SUSPECTS OFFERED A BRIBE OF KSHS. 29,000/= TO POLICE OFFICERS SO AS TO FOREGO CHARGING FOR A CRIMINAL OFFENCE OF BEING IN POSSESSION OF BHANG.

The Commission commenced investigations following the case being handed over to the Commission by Isiolo Police Station, who had initiated the investigations and charged three suspects with offering a bribe vide ACC No. 2/2019. However, the matter was withdrawn under Section 87(a) of the Criminal Procedure Code (CPC) and forwarded to the Commission for further investigations and advise.

Investigations established that Multi-Agency Special Operations Officers manning a barrier at the Kinna- Garbatulla road junction recovered fifteen kilograms (15Kgs) of bhang from a lorry, and two of the occupants were arrested and later charged at Isiolo Law Courts with being in possession of narcotic drugs, in Criminal case No. 581/19. However a third party approached the arresting officers and offered them a bribe of Kshs. 29,000/= to facilitate the release of the two arrested persons. Investigations also established the third party gave the Kshs. 29,000/= to the arresting officers, and this money was recovered.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the third party who gave the bribe to the arresting officers with two (2) counts of Giving a bribe contrary to Section 5(1)(a) as read with Section 18 of the Bribery Act.

On 28th march 2022 the DPP returned the inquiry file recommending further investigations.

27. EACC/NYR/OPS/INQ/45/2019

INVESTIGATIONS INTO ALLEGATIONS OF REQUESTING AND RECEIVING A BRIBE BY ADMINISTRATION POLICE OFFICERS FROM EMBU ADMINISTRATION POLICE STATION.

The Commission commenced investigations following a report from a complainant that an Administration Police Officer from Embu Administration Police Station had demanded a bribe of Kshs. 15,000/=, payable monthly, from the the said complainant, who owned liquor selling businesses in Siakago, Embu. The purpose of the bribe was for the police officer to stop enforcing the law against the said complainant for allegedly carrying out his liquor selling business unlawfully, by operating outside authorized hours.

Investigations established that the Administration Police Officer requested for Kshs. 20,000/= from the complainant, and that he received Kshs. 15,000/=. It was also established that the purpose of the money was for the police officer to forego enforcing the law against the liquor stores owned by the said complainant.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations to charge the police officer who requested and received the Kshs. 15,000/= with three (3) Counts of Receiving a Bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

Awaiting DPP's response.

28. EACC/OPS/INQ/74/2020

INQUIRY INTO ALLEGATIONS OF BRIBERY AND FORGERY BY OFFICIALS OF THE KENYA RUGBY ASSOCIATION IN ORDER TO OBTAIN A REGISTRATION CERTIFICATE FOR THE INTERNATIONAL RUGBY LEAGUE FEDERATION.

The Commission commenced investigations following anonymous reports that two officials from the Kenya Rugby Association had given bribes to Kenya's Sports Registrar so as to obtain a registration certificate to enable them receive a legal affiliation to the International Rugby League Federation (IRLF). The received report also alleged that the chairman of the Kenya Rugby League Association had forged documents of certification from the Sports Registrar and the EACC.

Investigations established that there were two rival organizations namely Kenya Rugby League Federation (KRLF) and Kenya Rugby League Association (KRLA), and that of the two, KRLF had been registered by the Sport's Registrar and issued with a certificate. They also established that both KRLF and KRLA made applications to the International Rugby League Federation. However, in the KRLA application, they attached a forged registration certificate, and investigations established that the Sport's Registrar had not issued the said registration certificate to KRLA. However, it was revealed that the authors of the forged documents could not be identified, since crucial witnesses in the case who are suspected to possess information on the forged documents do not reside within the Kenyan jurisdiction.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations that the file be closed for lack of sufficient evidence to prove the forgery.

Awaiting DPP's response.

29. EACC/OPS/INQ/13/2021

INQUIRY INTO ALLEGATIONS THAT KENYA AFRICAN NATIONAL UNION (KANU) LIFE MEMBERS IN SAMBURU COUNTY, WHO WERE IN THE PARTY NOMINATION LIST THAT WAS FORWARDED TO THE IEBC IN 2017 WROTE LETTERS OF RESIGNATION FROM THE PARTY TO THE SECRETARY GENERAL OF KANU IN 2020 WHILE THEY HAD NOT DONE SO.

The Commission commenced investigations following a report from Independent Elections and Boundaries Commission (IEBC) and three (3) party members Kenya African National Union (KANU) who had complained that there were forged letters addressed to the Chairperson of IEBC, claiming these three (3) Party members had resigned from the KANU Party. In forging the said resignation letters, these KANU members complained they were removed from being the next in line to replace the deceased Samburu County Assembly Member as Party nominees, and that they were replaced with new Party nominees.

Investigations established that the signatures on the resignation letters from the three (3) KANU Party members were indeed forged. However, these the three (3)

KANU Party members later withdrew the forgery allegations regarding the resignation letters. Therefore, there were no crucial witnesses to prove the forgery case.

On 21st February, 2022 a report was compiled and forwarded to the DPP with recommendations that the file be closed for lack of crucial witnesses in the forgery case against KANU.

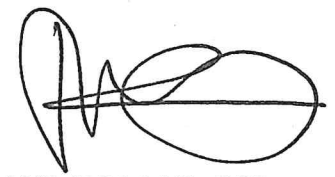
Awaiting DPP's response.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

1.	Total No. of files forwarded to the Director of Public Prosecutions	29
2.	No. of files recommended for prosecution	18
3.	No. of files recommended for administrative or other action	2
4.	No. of files recommended for closure	9
5.	No. of files recommended for prosecution and the cases are already lodged before Court	0
6.	No. of files where recommendation to prosecute accepted	0
7.	No. of files where recommendation for administrative or other action accepted	0
8.	No. of files where recommendation for closure accepted	1
9.	No. of files returned for further investigations	9
10.	No. of files where recommendation to prosecute not accepted	0
11.	No. of files where recommendation for administrative or other action not accepted	0
12.	No. of files where closure not accepted	1
13.	No. of files where prosecution declined but administrative action recommended	0
14.	No. of files awaiting the DPP's advice	18

DATED AT NAIROBI THIS 17th DAY OF May 2022


ARCHBISHOP (RTD) ELIUD WABUKALA, EBS
CHAIRPERSON
 /ewg


TWALIB MBARAK, CBS
SECRETARY/CHIEF EXECUTIVE OFFICER

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