

SPECIAL ISSUE



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THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT

(No. 3 of 2003)

THE KENYA ANTI-CORRUPTION COMMISSION

ANNUAL REPORT 2007

MISSION STATEMENT

OUR MANDATE

To combat corruption and economic crime in Kenya through law enforcement, prevention and public education as stipulated in The Anti-Corruption and Economic Crimes Act, 2003.

OUR VISION

To be a world class institution fostering zero-tolerance to corruption in Kenya.

OUR MISSION

To combat corruption and economic crime through law enforcement, prevention and public education.

OUR CORE VALUES

Courage, Integrity, Teamwork, Professionalism, Fidelity to the law, Excellence in service.

MESSAGE FROM THE CHAIRMAN

It is my pleasure once again, on behalf of the Advisory Board, to give this message to Kenyans in this publication of the Annual Report 2006-2007 of the Kenya Anti-Corruption Commission.

The principal duty of the Advisory Board is to advise the Commission generally on the exercise of its powers and the performance of its functions under *The Anti-Corruption and Economic Crimes Act 2003*. The Advisory Board therefore plays the role of an overseer and advisor, superintending the management of the Commission by the Director and Assistant Directors, and giving such advice as the Board deems necessary to assist the Commission to execute its mandate.

The Advisory Board was the implementing organ in the establishment of the Commission after the promulgation of *The Anti-Corruption and Economic Crimes Act* in May 2003. Indeed, not only did the Board undertake the recruitment of the Director and Assistant-Directors, but it also set out a general operating framework for the new institution. This preparatory work enabled the Commission to launch into its activities without delay, once the Director and Assistant Directors were in place from September 2004.

After successfully recruiting a Director and Assistant Directors, the Board did not retreat into an advisory cocoon. Instead, the Board worked tirelessly with the new management to recruit staff, to develop a Strategic Plan for the Commission, to develop a National Anti-Corruption Plan for the country and to steer the Commission through the critical establishment phase.

Apart from regular meetings, the Board also operates through Committees established along the main functional divisions: investigations and asset tracing; legal services; corruption prevention; and finance and administration. Indeed, it has been another very busy year for the members of the Advisory Board. I salute their selflessness, sacrifice and contribution to the success of the Commission and its programmes as reflected in the contents of this Annual Report.

On my part, as Chairman of the Advisory Board, I am happy to report that the Commission has acquitted itself well vis-à-vis its statutory mandate in the Act. A strong institutional and operational foundation has been carefully set up and put in place to sustain the war against corruption and economic crime in our country for many years to come. It behoves all Kenyans to realize that the Kenya Anti-Corruption Commission is an institution in the national interest, and that it is deserving of maximum active support from all quarters as it undertakes what is undoubtedly a challenging mandate.

On more in-house issues, the Advisory Board was pleased to welcome two new members, Mr. Eric Okong'o Omogeni who was subsequently elected the Chairman of the Law Society of Kenya and the nominee of the International Federation of Women Lawyers, Kenya Chapter, Ms Naomi Nyambura Wagereka. I take this opportunity to welcome both to the Advisory Board, and look forward to their contribution which, I am sure, will enrich and strengthen the Board.

As the Commission begins to mature in its existence and in its work, it is my fervent hope that more Kenyans will continue to better understand its mandate. It is also my sincere wish that more and more Kenyans will continue to see the Commission as their partner in the war on corruption and economic crime as reflected in the increased number of reports made and requests from members of the public for intervention by the Commission.

From persistent experience where many complaints forwarded to the Commission invariably fall outside its statutory mandate, I am particularly pleased that His Excellency the President has set up the Public Complaints Committee. This has been the missing link in efforts to address and deal with improper conduct by public officers. The Commission looks forward to a successful partnership with them.

I would also like to extend the Advisory Boards tremendous relief and deep appreciation of His Excellency the President's support for robust anti-corruption laws in the face of spirited efforts by the 9th Parliament to mutilate and weaken The Anti Corruption and Economic Crimes Act 2003 and related Acts. If it were not for His Excellency's refusal to give his assent to The Statute Law (Miscellaneous Amendments) Bill 2007 as first passed by the National Assembly, these laws would have been rendered almost completely ineffective and the implementing institutions rendered almost completely impotent.

It remains only for us all, as Kenyans, to continue nurturing the Commission as a bulwark against the impunity of the past, and against any possible impunity in the future. The success of the Commission is our collective, national success. Conversely, any failure of the Commission whether for lack of critical public support or other causes, would be a national tragedy. It is for this reason that I call upon each and every Kenyan to play his or her part in taking personal ownership of the war on corruption and economic crime, for our own good, and for the benefit of our children and their children in years to come.

Happy reading!

ALLAN N NGUGI, OGW
Chairman
Kenya Anti-Corruption Advisory Board

MESSAGE FROM THE DIRECTOR

The Kenya Anti-Corruption Commission turned three years old in September 2007, as September is the anniversary of the appointment to office of the Director and Assistant Directors by the President.

Statutory Requirement

Significantly, this Annual Report is the third such Report in keeping with Section 15 of *The Anti-Corruption and Economic Crimes Act 2003*, which requires the Director to cause an Annual Report to be prepared for each financial year. It is therefore my pleasure to publish this Annual Report covering the period 1st July 2006 to 30th June 2007.

Regional Office

The year under review has seen significant consolidation of the gains of the last two years. The Commission has successfully completed its staff recruitment. The increase in staff complement has enabled the Commission to execute its mandate on a wider scale, notching up a higher output than was possible before. It has also enabled the Commission to establish a branch office in Kenya's second largest city, Mombasa, thereby taking the Commission's services out of Nairobi for the first time. The Commission is committed to the rolling out of regular mobile anti-corruption outreach to other parts of the country in the short to medium term and to the opening of other permanent offices outside Nairobi in the longer term to enable those who may not be able to reach the Commission on phone, email and the internet to access the Commission by personal contact.

Operationally, the Commission has discharged its mandate with vigour under the aegis of the Strategic Plan 2006-2009 through the three key Strategic functions of law enforcement, corruption prevention and public education. This is better spelt out in the body of the Report as a considerable amount of work has been done and much achieved.

National Integrity Review

On the national front, the Commission successfully organized sectoral workshops to review the implementation of the National Anti-Corruption Plan (NACP) in preparation for the 2nd National Integrity Review Conference set for July 2007. As a nation-wide anti-corruption blue-print involving all sectors of Kenya's society, the NACP is and remains a seminal effort to have the country read from one script in the fight against corruption and economic crime. While the review revealed that there is good progress in the implementation of the NACP's objectives, I would encourage all citizens and friends of Kenya to increase their support for the NACP for faster achievement of its objectives. I remain convinced that if the objectives of the NACP were met sooner rather than later, the hydra of corruption would be dealt a crippling blow from which it would find it hard to recover.

International Engagement

On the international front, the Commission has made significant contributions in conferences, workshops and seminars. While participation in internationals' events is important as an avenue for the importation and migration of international best practices for the Commission, it is also important because the experiences and challenges of the Commission, while in many ways being peculiar to Kenya are also inspiring to other

countries which are far behind the Commission in terms of institutional development achievement. Indeed, the Commission has provided expert assistance, through its staff, to the anti-corruption agencies in Swaziland, Botswana and Uganda, as well as to multi-national organizations and working groups such as the Commonwealth Secretariat's Working Group on the United Nations Convention Against Corruption. The Commission recently signed the "Kampala Declaration of the East African Association of Anti-Corruption Authorities" with the Inspector General of Government of Uganda and Prevention and Combating of Corruption Bureau of Tanzanian which would encourage respective Governments to deny safe-haven to corrupt persons, ill-gotten wealth and investment of tainted funds in their countries. The Association will adopt its constitution in the near future.

Challenges

The flip side of success is challenge. In this regard, it may not be inaccurate to say that the Commission's cup overfloweth. Invariably, as between law enforcement, corruption prevention and public education, it is law enforcement that must breast the tape first where challenges are concerned. This is no doubt because the investigation and punishment of corruption, as contrasted with public education and corruption prevention, is what lawyers would call an *in personam* undertaking, affecting specific individuals and their specific rights and obligations to society, and thereby attracting resistance that is not abstract, but highly focused and individualised. The recent declaration by the High Court of Kenya holding as unconstitutional that Section 31¹ of *The Anti-Corruption and Economic Crimes Act 2003* is unconstitutional is one such setback that has dealt a blow to the Commission's capacity to investigate complex corruption and economic crimes especially when they have an international dimension, which is more often than not the case. The Commission intends to appeal the decision. The Commission has also suffered other legal setbacks in that Judicial Orders have been sought and obtained by persons under investigation barring the Commission from investigating some of the 'Anglo-Leasing' type contracts locally and abroad. The Commission is contesting those Orders in the courts.

Wrong Perception

A continuing challenge to the Commission is the misplaced perception on prosecution of offences, and on the efficacy of Government's efforts to fight corruption to date. Beginning with prosecution, I cannot tire to remind Kenyans that the prosecution and trial of corruption cases is not the responsibility of the Commission. Once the Commission passes the ball in the form of an Inquiry File to the Attorney General, the latter enters the Judicial arena and plays against the suspects and their lawyers. The Judiciary as umpire gives the verdict. The Commission's short experience is that capacity constraints in these institutions and a stiff determination by the accused persons, especially the rich ones, to ensure that trial of their cases on merits does not take place expeditiously or at all, are veritable challenges in the expeditious and successful enforcement of anti-corruption laws.

Country Governance Achievement

Another major misconception is that the Government has not done much to fight corruption. Nothing could be further from the truth. The formerly ubiquitous 'harambee' contribution books in most Government offices are no more. The rampant corruption around illegal and irregular allocation of public land, better known as 'land grabbing', is no more. State Corporations have turned the corner from loss-making conduits for theft of public funds and resources, to profit-making contributors to the exchequer. Service delivery in public offices has undergone considerable improvement, as can be attested by any citizen seeking services in Government offices. To underscore this achievement, the Government recently won a United Nations Public Service Award for the Year 2007 for successful implementation of Performance Contracting in the public sector. In matters fiscal, revenue collection has almost trebled, enabling the Government to adequately fund its recurrent expenditure and increasing the development vote available for projects throughout the country. All these positive results are significantly attributable to the success of corruption prevention measures in the public sector.

Citizen Awareness and Participation

Significantly, it is the Commission's experience that citizen awareness of corruption, and citizen participation in anti-corruption, is on the increase. The Commission's Rapid Response Unit that responds to bribe-demands and that catches bribe-takers *in flagrante delicto* is one of the busiest units in the Commission. When citizens receive bribe-demands, they are increasingly turning to the Commission as a partner to assist them to remove the public officer demanding a bribe from their office.

Increased Reporting

Regarding reports of corruption and economic crime actually made and received by the Commission, it may be noted that in the financial year 2005/2006, there were 7,888 such reports. In the financial year 2006-2007, there was a slight increase to 8,183 reports. As a daily average, this translates to 22 reports of corruption and economic crime received by the Commission every single day of the year, weekends and public holidays included. These statistics, more than anything else that could be said or written, go to prove the effectiveness of the Commission's public education programmes and the increasing willingness of the public to partner with the Commission to fight corruption.

Big Fish, Small Fish

It is important to bear in mind that the Commission responds directly to complaints made by ordinary persons, Government agencies, civil society, the business community, and to detection attributable to its own intelligence. When the Commission is accused of dealing only with 'small fish', this belies the fact that the overwhelming majority of complaints made by citizens concern the so-called 'small fish'. Yet, by law, the Commission ~~must~~ investigate any matter reported to it. In this regard, it is also important to remember that corruption perception indices and surveys, whether by third parties such as Transparency International or by the Commission, are driven by the actual experience of ordinary persons as they go about their daily business. Consequently, if a person who has just been asked for a bribe by a traffic policeman, an administration officer, an immigration officer or a health service worker is polled, he will strongly state that there is still a lot of corruption in Kenya and, depending on how soon after the incident he is polled, that things are probably worse than they ever were before. This is why it is very important to deal methodically and scientifically with low-level corruption that is perpetrated by the so-called 'small fish'. Indeed, even statistically, in the general population few Kenyans will ever encounter or be involved in grand corruption in their lives. Having said that, I must hasten to add that the Commission continues to deal with equal zeal with cases of grand corruption that come to its attention from time to time.

Old Corruption, New Corruption

Overall, any honest, objective assessment of Kenya today would admit that corruption and economic crime are much lower than before. It is equally important for Kenyans to distinguish between 'old' corruption, signified by such markers as 'Goldenberg, Land-grabbing and Anglo Leasing', and 'current' or 'new' corruption. Public dissatisfaction and opinion on the war against corruption today revolves around 'old' corruption. The fact is that the impunity that led to these cases of 'old' corruption no longer exists today. This is augmented by the fact that the mere existence of the Kenya

¹ The section enables the Commission to make an application in court requiring a person reasonably suspected for corruption or economic crime to surrender his travel documents.

Anti-Corruption Commission, and the knowledge people have that the Commission will take appropriate action when cases of suspected corruption come to its attention, has converted the Commission into an effective institutional deterrent against corruption, especially in the Public Sector.

Resolving 'old' corruption cases itself is a complex matter involving the entire justice chain and hampered by the weaknesses and capacity problems of the actors in the chain as well as technical and legal barriers to civil recovery efforts in cases where the limitation periods prescribed by law have expired. What this means is that our country should be careful to consolidate the many anti-corruption gains already achieved, while seeking innovative solutions to the Gordian knot of 'old' corruption. Kenyans must be prepared to dig in for a protracted war while occasionally celebrating victory in the many battles ahead.

Legal Environment

The legislative environment and platform that anchors the war on corruption deserves special mention. Beginning with the better news, I am happy to report that in early October 2007, the National Assembly passed The Statute Law (Miscellaneous Amendments) Bill 2007, thereby addressing some legal loopholes of considerable concern to the Commission. The National Assembly addressed The Limitation of Actions Act to remove statutory limitation to civil recovery proceedings and proceedings for forfeiture of unexplained assets instituted by the Commission for cases of past corruption going back longer than six years; widened the jurisdiction of Special Magistrates appointed by the Honourable The Chief Justice to hear all corruption and economic crime cases, including related offences; conferred to the Commission necessary Police powers; granted powers to the Commission to appoint receivers of suspect property, and granted powers to negotiate out-of-court settlements with persons who qualify following full disclosure and restitution.

Commission Powers Eroded

In the same breath however, I am sad to report that the Commission's powers to conduct robust and wide-ranging investigations under Sections 26, 27 and 28 of The Anti-Corruption and Economic Crimes Act 2003 have been considerably eroded and weakened by the National Assembly. The investigative tools provided under these sections are now blunted by new statutory requirements to first obtain court orders and to disclose to the suspect the basis of the Commission's reasonable suspicion of him. This is at the risk of disclosing confidential information and sources, compromising the Commission's intelligence and evidence gathering capacities. Even worse is that any information eventually obtained from a suspect through these difficult circumstances is inadmissible in any legal proceedings against the suspect.

Conscientious Supporters

I must express my appreciation to His Excellency The President who, by referring back the Bill to the National Assembly for further debate, took away the worst of the sting of the National Assembly's proposed amendments to The Anti-Corruption and Economic Crimes Act 2003. I must also thank the international community, the media, civil society and supporters and friends of the Commission for opposing these amendments by the National Assembly, thereby helping to educate the public on the real, debilitating and backwards-facing effect of the proposed amendments on the war on corruption in Kenya.

Further necessary Action

It must be said that the anti-corruption legislative platform and environment has, overall, been improved by the 9th Parliament. It is my fervent hope that the 10th Parliament will see it fit to improve further the legal framework for fighting corruption and economic crime.

It is therefore my pleasure to welcome you to read this Annual Report with an open mind. Do so without forgetting the larger picture in the war on corruption and economic crime. You will find that remarkable achievements have been recorded in a very short span of time, and that with continued support, even more remarkable achievements are on course.

Feedback

Your feedback remains an invaluable part of the process. Recommendations, advice and tip-offs are welcome to the contact offices in the Commission, over the internet through the Commission's 100% anonymous whistle-blower system, and directly to my office if necessary. Communicate with the Commission. Blow the whistle on corruption and economic crime in your office and in your place of work, residence or business. Test the Commission's commitment to fighting corruption by engaging us usefully, and practically.

God Bless Kenya.

JUSTICE (RTD) AARON G. RINGERA
Director/Chief Executive
Kenya Anti-Corruption Commission

1. BACKGROUND

1.1 INTRODUCTION

Corruption in Kenya is deeply rooted and will require skill, diligence and patience to overcome. The vice tends to mutate and change form from time to time with new actors emerging where the old have been vanquished. Also perpetrators of corruption keep developing complex corruption networks locally, regionally and globally.

Appreciating this endemic nature of the vice, Kenyans established the Kenya Anti-Corruption Commission under The Anti-Corruption and Economic Crimes Act, 2003 with the mandate to spearhead the fight against corruption through law enforcement, prevention and public education.

This Annual Report is an account of the anti-corruption programmes and activities undertaken by the Commission during the 2006-2007 financial year through this three-pronged approach.

1.2 MANDATE OF THE COMMISSION

The Commission is mandated to combat corruption and economic crime through law enforcement, prevention and public education as stipulated in The Anti-Corruption and Economic Crimes Act, 2003. More specifically, Section 7 of the Act mandates the Commission do the following:-

- a) To investigate any matter that, in the Commission's opinion, raises suspicion that any of the following have occurred or are about to occur:
 - i) Conduct constituting corruption or economic crime;
 - ii) Conduct liable to allow, encourage or cause conduct constituting corruption or economic crime;
 - b) To investigate the conduct of any person that, in the opinion of the Commission, is conducive to corruption or economic crime;
 - c) To assist any law enforcement agency of Kenya in the investigation of corruption or economic crime;
 - d) At the request of any person, to advise and assist the person on ways in which the person may eliminate corrupt practices;
 - e) To examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures that in the opinion of the Commission, may be conducive to corrupt practices;
 - f) To advise heads of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such bodies that the Commission thinks necessary to reduce the likelihood of the occurrence of corrupt practices;
 - g) To educate the public on the dangers of corruption and economic crime and to enlist and foster public support in combating corruption and economic crime;
 - h) To investigate the extent of liability for the loss of or damage to any public property and: -
 - i) To institute civil proceedings against any person for the recovery of such property or for compensation; and
 - ii) To recover such property or enforce an order for compensation even if the property is outside Kenya or the assets that could be used to satisfy the order are outside Kenya; and
 - i) To carry out any other functions conferred on the Commission by or under this Act or any other law.

1.3 STRUCTURE

1.3.1 The Advisory Board

The Advisory Board is an unincorporated body which is independent and answerable only to Parliament. It consists of twelve members nominated by various sectors and interests through civic, religious, professional and business organizations/ associations, and the Director, as enumerated in section 16 of The Anti-Corruption and Economic Crimes Act, 2003 (hereinafter referred to as the Act). The Chairman and board members are nominated by the specified organizations, then vetted by Parliament and appointed by the President. Currently, the members are:

- 1. Mr. Allan N. Ngugi - Kenya Association of Manufactures
- 2. Mrs. Shehnaz Sumar - the Federation of Kenya Employers;
- 3. Mr. Charles Kariuki Wambugu - the Joint Forum of Religious Organizations;
- 4. Mr. Francis Atwoli - the Central Organization of Trade Unions;
- 5. Mrs. Mariamu El-Maawy - the Architectural Association of Kenya;
- 6. Mr. Kipng'etich Bett - the Kenya Bankers Association;
- 7. Mrs. Anna Muchungu - the Association of Professional Societies of East Africa;
- 8. Mr. Richard Boro Ndung'u - the Institute of Certified Public Accountants of Kenya;
- 9. Professor Alfred Otieno the Institute of Engineers of Kenya;
- 10. Professor Miriam Were the Kenya Medical Association;
- 11. Mr. Eric Okong'o Omogeni - the Law Society of Kenya;
- 12. Mrs. Naomi Nyambura Wagereka - the International Federation of Women Lawyers (FIDA) Kenya Chapter; and
- 13. Hon. Justice Aaron Ringera - Secretary to the Advisory Board.

The Board's functions are to:

- Advise the Commission generally on the exercise of its powers and the performance of its functions under the Act;
- Recommend to Parliament persons to be appointed as Director or Assistant Directors of the Commission;
- Initiate the process of removal from office of the Director or Assistant Directors for specified reasons; and
- Approve grants and donations to the Commission.

1.3.2 The Commission

The Kenya Anti-Corruption Commission is established by the Act as a body corporate. It comprises of the Director, the Assistant Directors and the staff. The Commission is organized into four directorates based on its mandate as follows:

- Investigation and Asset Tracing;
- Legal Services and Asset Recovery;
- Preventive Services; and
- Finance and Administration.

1.3.2.1 The Office of the Director/Chief Executive

The Director/Chief Executive of the Commission is Hon. Justice Aaron Ringera and is responsible for the Commission direction and management. He is assisted by a Deputy Director, Mrs. Fatuma Sichale in-charge of Legal Services and Asset Recovery and Finance and Administration. There are two Assistant Directors, Dr. John Mutonyi in-charge of Investigation and Asset Tracing and Dr. Smokin Wanjala in-charge of Preventive Services.

1.3.2.2 Directorate of Investigation and Asset Tracing

The Investigation and Asset Tracing Directorate is responsible for investigation of corruption and economic crimes and tracing of corruptly acquired assets. It comprises of four (4) departments namely: Report and Data Centre; Intelligence Production; Special Operations; and Forensic Investigation.

1.3.2.3 Directorate of Legal Services and Asset Recovery

The Directorate has the responsibility of providing legal advice to the Commission, instituting all litigation undertaken by the Commission either on its own behalf or on behalf of third parties, and to recover on behalf of public bodies losses suffered by those bodies as a result of corruption and economic crime.

The Directorate is responsible for auditing completed investigation files and preparing reports to the Attorney-General on each completed investigation file and preparation of the Quarterly Reports stipulated by the Act. The Directorate is divided into three (3) departments, namely: Civil Litigation and Asset Recovery; Crime Reading; and Legal Research & Documentation.

1.3.2.4 Directorate of Preventive Services

The Directorate of Preventive Services is tasked to carry out corruption prevention mandate of the Commission as provided for under the Act, i.e. advising any person upon request on issues relating to the fight against corruption and economic crime; examining practices and procedures of public bodies; advising heads of public bodies; educating the public and enlisting their support in the fight against corruption; conducting research on corruption and governance related issues; and engendering co-operation with other persons or bodies in the fight against corruption and economic crime.

The Directorate is organized into three (3) departments, namely: Research and Planning; Education; and Prevention.

1.3.2.5 Directorate of Finance and Administration

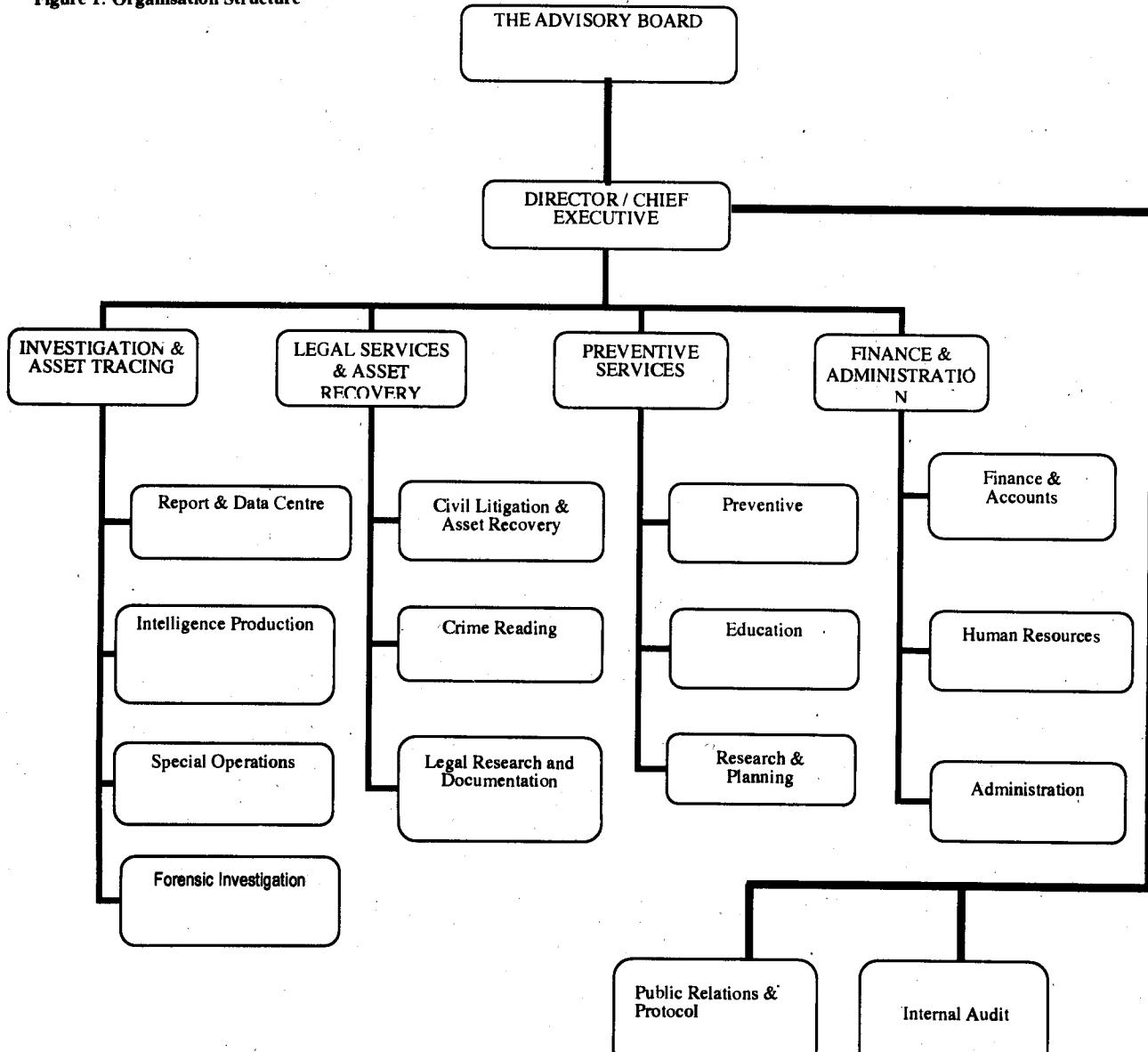
The Directorate of Finance and Administration provides administrative services to the other Directorates. It is tasked with the following responsibilities: providing efficient and effective human resource management; managing financial resources; procuring all goods and services; providing general office management; providing Information and Communication Technology (ICT) services; and creating and sustaining the proper corporate image of the Commission.

The Directorate comprises of three departments, namely: Finance and Accounts; Administration; and Human Resources. Internal Audit and Public Relations and Protocol functions fall administratively under the directorate even though functionally the officers report to the Director.

1.3.2.6 Organisation Structure

Figure 1 below represents the Organization Structure of KACC.

Figure 1: Organisation Structure



2. INVESTIGATION AND ASSET TRACING

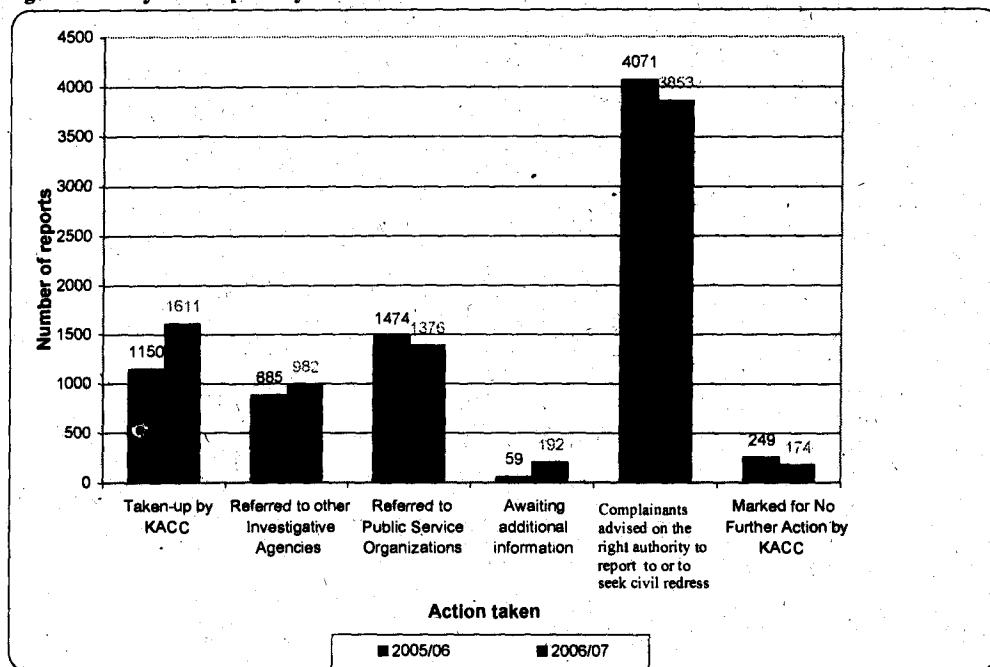
2.1 INTRODUCTION

The Commission is charged with the responsibility of conducting investigations into all corruption and economic crimes and related matters reported to or unearthed by the Commission. Upon completion, the files are forwarded to the Attorney-General with recommendation for prosecution, administrative action or closure for want of evidence. A matter may be investigated by the Commission at the request of the National Assembly, the Minister in charge of Ethics, or the Attorney-General, or upon receipt of a complaint, or on its own initiative. In the year under review, the Commission received 8,188 complaints of which 1,611 were within its mandate. It also continues to investigate the 18 security related contracts which are valued at Ksh.60 billion; completed 53 forensic investigations on numerous cases involving an estimated Ksh.2.4 billion; traced assets amounting to Ksh.620 million which are frozen in overseas accounts; and arrested 99 suspects through trap operations.

2.2 REPORTS RECEIVED

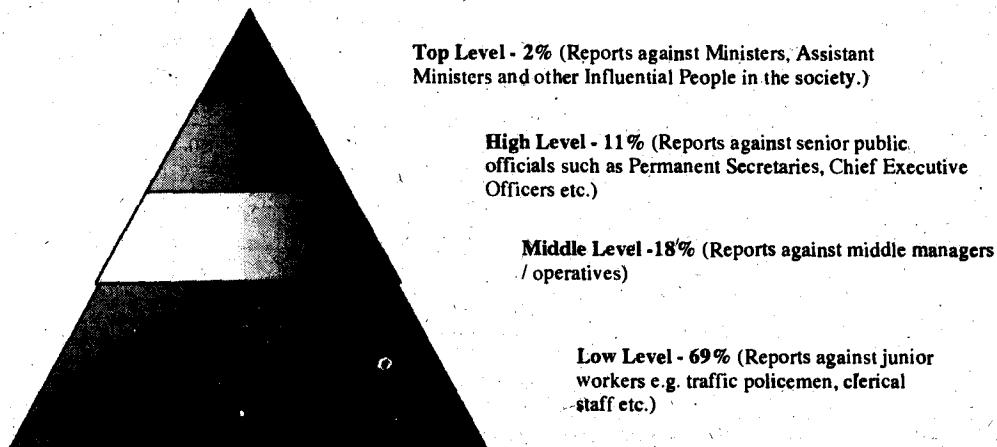
During the year under review the Commission received 8,188 complaints, reports and other matters from members of the public, public service, and watchdog agencies, as compared to 7,888 in the previous year, reflecting an increase of 300 reports or 3.8%. There was also an overwhelming increase of anonymous reports owing to the introduction of the Web-based anonymous reporting system. Anonymous reports increased by 53% from 750 in the previous year to 1,151. Out of the reports received during the year, 1,611 were corruption related and were taken up for investigations. This reflected an increase of cases taken up for investigation from 15% last year to 20% during the year under review. The rest of the reports received fell outside the Commission's mandate and were referred to appropriate authorities for action. Figure 2 below shows how the reports were acted upon.

Figure 2: Analysis of Reports by Action Taken – 2005-06 and 2006-07



Although the Kenya Anti-Corruption Commission encourages reporting of corruption and potential corrupt conduct via a variety of channels including the Web-based anonymous whistleblower system, reporting on high-level corruption was significantly low (See figure 3 below). This indicates that the type of corruption that the ordinary Kenyan is most likely to become aware of is low-level, direct corruption. The overwhelming majority of the cases reported concerned bribe demands by junior officers (69%). The largest number of these reports were against policemen on our public roads (55%), and the rest concerned officers of other government departments.

Figure 3: Analysis of Reports by Seniority of Suspects



The Commission ensured that all reports received were acted upon within an average time frame of 14 calendar days. This included acknowledging the receipt of all matters in writing, and advising the reporting person or agency of the Commission's action on the matter.

2.3 INVESTIGATIONS

The Commission conducts investigations at three levels. The first level involves analysis or screening of the report received. The second level involves preliminary investigation with a view to ascertaining the veracity of the report. This assists to establish whether an offence is disclosed. The final level entails full investigation to obtain evidence to support a prosecution and/or other action.

The investigation process considers a range of factors which include:

- maintaining the integrity of the investigation (it may be prejudicial to the investigation to publicly divulge the fact that the Commission is conducting an investigation, for example by identifying witnesses or making known the extent of evidence obtained);
- protecting the reputation of people implicated in untested or unverified evidence;
- obtaining information so as to determine whether further investigation is required; and
- protecting the identity of a witness or an informant.

The success of Commission investigations is measured not only by the number of recommendations made for prosecution, but also by the number of persons exonerated from wrongfull implication in alleged corrupt activities.

2.3.1 Investigation Cases

During the year under review, the Commission took up 1,611 reports for investigation. Out of these reports, 28% were handled through preliminary investigation, 26% special operations, 13% forensic investigation, and 33% were taken for intelligence development. During the year, 237 investigations were completed while 115 were referred to external agencies for investigation. In addition, the Commission carried forward 857 cases from the previous years. Detailed breakdown of cases handled by the Commission is shown in table I below:

Table 1: Breakdown of Cases for 2005-06 and 2006-07

| | Category | No. of Cases | |
|------------|---|--------------|-----------|
| | | 2005-2006 | 2006-2007 |
| I | Preliminary Investigations | | |
| | Received During the Year | - | 454 |
| | Investigated and Closed NFA | - | 46 |
| | Referred to Forensic Investigation | - | 34 |
| | Referred to Other Agencies | - | 63 |
| | Pending Under Investigation | - | 311 |
| II | Forensic Investigation | | |
| | Brought Forward From Previous Year | 393 | 362 |
| | Received During the Year | 327 | 211 |
| | Investigated and Forwarded to Crime Reading | 49 | 53 |
| | Referred To Other Agencies | 17 | 5 |
| | Pending Under Investigation | 362 | 465 |
| III | Special Operations | | |
| | Received During the Year | 423 | 414 |
| | Investigated and Closed NFA | 229 | 218 |
| | Investigated and Forwarded to Crime Reading | 82 | 88 |
| | Referred to Other Agencies | 28 | 27 |
| | Pending Under Investigation | 84 | 81 |
| IV | Intelligence Production | | |
| | Brought Forward From Previous Year | - | 286 |
| | Received During the Year | 365 | 532 |
| | Investigated and Closed NFA | 23 | 50 |
| | Referred to Forensic Investigation | 7 | 21 |
| | Referred to Special Operations | 3 | 19 |
| | Referred to Other Agencies | 35 | 20 |
| | Cases taken for Intelligence Development | 286 | 422 |

Table 1 above indicates that during the year under review, a total of 414 special operation cases were undertaken as compared to 423 in the previous year. These were bribe demand cases mainly against junior civil servants. They led to the arrest of 99 suspects through traps and another 11 through sting operations, respectively. A total of 53 forensic investigation cases were successfully investigated in 2006-2007 as compared to 49 cases in the previous year.

Some of the forensic investigations during the year under review include the following:

i) Security Contracts (Anglo Leasing Contracts)

The term 'Anglo Leasing' is a generic term that has come to refer to 18 'security' contracts irregularly awarded to various suppliers and financiers by some officers in the government. The contracts were for supply or installation of various 'security' equipment and accessories. The first two contracts to be exposed were the Immigration Security Control System contract for the Immigration Department under the Ministry of Home Affairs, and the Forensic Laboratories Contract for the Criminal Investigation Department under the Office of the President. Both contracts were awarded to Anglo Leasing & Finance Ltd. The exposure of 16 other contracts with the same characteristics led to them being referred to collectively as Anglo Leasing contracts.

Some of the common features in all these contracts were that:-

- a) They were awarded to ghost companies.
- b) The preferred security procurement provisions were exploited to circumvent procurement procedures and other legal requirements.
- c) The contracts were grossly overpriced.

In total there are 18 contracts all bearing the same characteristics, 11 of which were awarded between the year 1998-2002 and 7 were awarded during the year 2003-2004 collectively all are worth about Kshs. 60 billion.

Investigations with regard to local aspects of the two projects which were first to be discovered were completed and suspects charged in court in February 2005. Those charged were senior public officials who included the then serving Permanent Secretaries in the Ministry of Finance, Ministry of Home Affairs, and the Office of the President. Trial of these cases has not yet commenced due to several constitutional applications. International investigations in the two cases have been long drawn owing to tedious and cumbersome process of gathering evidence abroad. However, significant progress has been made lately where crucial statements have been obtained from France and are being evaluated even as more evidence is being pursued.

Investigations with regard to local aspects into the other 16 contracts have largely been completed. The Attorney-General has, however, indicated his wish that both local and international aspects of the investigations must be completed before the investigation files are forwarded to him for advice and direction. The international investigations of the 16 contracts have been initiated and the Commission is glad to report that it has established crucial contacts and collaboration with several European and American investigating agencies which have been providing much-needed assistance in these investigations. Such agencies include the Serious Fraud Office of United Kingdom, the Federal Bureau of Investigations of United States of America, the Swiss and Dutch Authorities. It is expected that with the assistance of these agencies, the process of obtaining evidence abroad will be more efficient and thus facilitate faster conclusion of the investigations.

ii) The Sugar Sector

The Commission investigated a number of cases in the sugar sector. Some of these cases include:-

- a) Allegations that Chief Executives of Kenya Sugar Board and Kenya Agricultural Research Institute irregularly initiated and implemented a sugar cane tissue culture programme which resulted in the making of fraudulent payments amounting to Kshs. 540 million.
- b) Allegations that officials of Chemelil Sugar Company and Kenya Sugar Authority colluded to sell their sugar import quota of 26700 metric tonnes valued at Kshs. 600 million to Matt International who subcontracted an offshore company at a much lower price and the difference pocketed by officials of the two organisations.
- c) Irregular payments of Kshs. 8 million to a firm of lawyers by Kenya Sugar Board over an alleged registration of debentures over the assets of Sony Outgrowers Company Ltd.
- d) Irregular procurement of cane haulage trailers by Sony Sugar at a cost of Kshs. 22 million.
- e) Irregular advancing of Kshs. 10 million to contracted farmers against standing cane without board approval.

iii) Pending Bills

In the year under review the Commission has opened inquiries into 6 major cases with outstanding claims worth Kshs. 647,100,838. These contracts were mainly in the roads and building sectors. This followed the recommendations made to the Commission from the Pending Bills Completion Committee (PBCC) to investigate cases of fraudulent claims, payments and irregularities in the award of tenders to various contractors by the government.

iv) Urban Development Department of the Ministry of Local Government

The Commission investigated irregular award of tenders by the Urban Development Department of the Ministry of Local Government. The investigations focussed on the contracts awarded for the construction of Migori, Awendo and Kisii Bus Parks at a cost of Kshs. 144 million. One contractor has already been charged in court for forging tender documents submitted with regard to the contracts while other cases are still under investigation.

v) Health Sector

Several investigations were initiated in the health sector, including irregular tendering for drugs at Kenya Medical Supplies Agency (KEMSA), irregular payments for supply of bedside lockers at the Kenyatta National Hospital and bid rigging at the Ministry of Health Headquarters. These are contracts worth Kshs. 356 million.

vi) Misappropriation of NACC funds

These are investigations involving misappropriation of funds obtained from the National Aids Control Council by Community Based Organisations. The investigations involve 4 Community Based Organizations fronted by prominent personalities for a total amount of Kshs. 18.8 million.

vii) Local Authority Transfer Fund (LATF)

The Commission embarked on investigations in 7 local authorities with regard to reported cases of misuse of LATF. The combined value of the reported misuse amounts to about Kshs. 34.4 million.

viii) Constituency Development Fund (CDF)

The Commission undertook 5 investigations on misuse of the CDF. Out of these investigations one has been completed leading to the prosecution of one Member of Parliament. The reported misuse amounts to about Kshs. 30 million.

ix) Kenya Re-Insurance Corporation

The Commission conducted investigation into abuse of office allegations and economic crime by the former Managing Director and Finance Director. The investigation centred on diversion of Kshs. 13.9 million reinsurance cheques to pay mortgages and purchase houses for the officers and fraudulent transfer and sale of corporation property worth Kshs. 21 million. Investigations on two inquiries relating to diversion of reinsurance

cheques were concluded speedily resulting in the prosecution of the two senior executives. Investigation on irregular transfer and sale of the corporation property are nearing completion.

x) Postal Corporation of Kenya (PCK)- PostaPay Project

The Commission initiated investigations into allegations of procurement irregularities and conflict of interest in the recently launched Money Transfer facility for Postal Corporation of Kenya, PostaPay. The Commission also investigated allegations that fraudsters were manipulating the system to make irregular payments. Preliminary investigations indicated that an estimated Kshs. 2.7 million may have been irregularly paid out.

2.3.2 Asset Tracing Investigations

During the period under review, the Commission opened 74 inquiry case files. Out of these cases, the following assets were traced:

- 162 developed properties comprising of hospitals, hotels, blocks of flats, residential houses in various towns, etc, amounting to an estimated value of Kshs 2.5 billion
- 8 farms estimated to be worth Kshs 10million
- 61 undeveloped plots with value estimated at Kshs 12 million
- 8 vehicles with an estimated value of Kshs 10m
- Cash amounting to **Kshs 625.9 million**, out of which kshs 5 million was local, the rest frozen in overseas accounts.

Table 2: Asset Tracing Investigations

| No. | Categories of investigations undertaken | No of persons or firms investigated | Number of plots traced | Number of developed properties traced | No of farms traced | No. of cars traced | Approximate value of assets traced |
|-----|--|-------------------------------------|------------------------|---------------------------------------|--------------------|--------------------|------------------------------------|
| 1. | Complaints lodged pursuant to investigations under Section 26 of ACECA (those suspected to have corruptly acquired their wealth) and other corruption related complaints | 48 | 8 | 20 | 8 | 8 | |
| 2. | Complaints currently under investigations relating to public property irregularly allocated | 13 | 150 | 41 | | | 3,000,000,000 |
| 3. | Investigations completed, forwarded to Legal Services for Preservation Orders, those preserved by placing of caveats | 100 | | | | | |
| 4. | Files forwarded to Legal Services for Recovery | 3 | | | | | |
| 5. | Files pending under investigations since 2005 | 129 | 4 | | | | |
| 6. | Money frozen in accounts | | | | | | 625,904,000 |
| 7. | Complaints related to or misappropriation of public funds | 8 | | | | | 281,387,000 |

Some of the asset tracing investigations are highlighted below:-

- a) **Complaints lodged pursuant to investigations under Section 26 of ACECA (those suspected to have corruptly acquired their wealth) and other corruption related complaints**
 - i) Investigations into allegations that a former cabinet minister suspected to have amassed wealth after his appointment as Minister that cannot be explained by his known sources of income. The Minister challenged the Section 26, 27 and 28 investigative powers of the Commission in the Court of Appeal and the Constitutional Court. The Court of Appeal started the criminal proceedings but subsequently the Constitutional Court ruled in favour of KACC and found that the disputed Sections of the law were not unconstitutional. The protracted litigation occasioned delays of the investigation but, that notwithstanding, the investigations have subsequently progressed well.
 - ii) Investigations into allegations that a junior customs officer acquired unexplained wealth. In a sting operation, the officer was arrested with over Kshs 500,000 in cash which he could not effectively account for. Subsequently his accounts were traced and Kshs 5m frozen.
 - iii) Investigations into allegations that 5 government officers had corruptly acquired wealth during the implementation of the Kenya Urban Transport Infrastructure Programme (KUTIP). One case has been recommended for closure and the other 4 are pending under investigation.
 - iv) Investigations into allegations that a senior military official involved in security projects may have corruptly benefited therefrom.
- b) **Complaints under investigations relating to public property irregularly allocated**
 - i) The Commission embarked on investigation into irregular allocation of a considerable portion of Racecourse Primary School in Nairobi to a private developer.
 - ii) Irregular allocation of 5 public utility plots in Eldoret by Council officials.
 - iii) Irregular allocation of land at Wilson Airport belonging to the Kenya Airports Authority to a private developer.

- iv) Irregular disposal of over 17 houses by the Municipal Council of Nakuru.
- v) Irregular allocation of 7.9 acres of public land to a private developer at Imara Daima.
- vi) Irregular blocking of Tom Mboya Road in Mombasa town and subsequent allocation of road as plot parcels to private developers.
- c) Complaints relating to misappropriation of public funds
 - i) Allegations of theft of Kshs 36.4m of LATF funds in 2004 by a Treasury official and various County Council Officials (Nyando, Maragua and Thika).
 - ii) Misappropriation of funds ranging from Kshs 200,000 to Kshs 5.5 million by senior officials of various County and Municipal Councils namely: Kisumu, Bomet, Migori, Homabay, Wareng, Kakamega and Transmara.
- d) Payment for services not rendered:
 - i) Investigations into allegations that a contractor was overpaid Kshs. 57,230,433.04 in a road construction project.
 - ii) Investigations into allegations that an NSSF contractor was overpaid by Kshs 1 billion for an incomplete project which was the construction of a Building on Monrovia Street, Nairobi.
 - iii) Investigations into allegations that Homa Bay County Council Clerk irregularly paid Kshs 16 million for a truck that was never delivered.
 - iv) Investigations into allegations that the City Council of Nairobi irregularly hired a lorry at Kshs 12,000 a day, which it hardly used. The Council made payments totaling Kshs 9,718,068 for services not rendered.

2.3.3 Major Developments in Investigations

i) **Web-based Whistleblower System**

During the period under review, the Commission enhanced its corruption reporting avenues. Part of this initiative was the introduction of the web-based whistleblower system referred to as Business Keeper Management System (BKMS). This system is designed to facilitate anonymous reporting of corrupt activities in a secure and seamless manner.

ii) **Inter-Agency Forum**

The Commission continued to expand its operational capability through the establishment of an Inter-Agency Forum. This is a collaborative partnership which brings together eleven key investigative and oversight public agencies in Kenya on a common platform for sharing information and coordination of joint investigations into corruption, economic and related crimes. Through the Coordinating Committee established under the Forum and for which KACC acts as the Secretariat, information-sharing and tasking activities are going on. Under this arrangement, the Commission has worked closely with, and obtained enormous operational support, from the partner agencies.

iii) **Integrity Testing Programme**

The Commission in conjunction with the Kenya Revenue Authority (KRA), simultaneously introduced the Integrity Testing Programme in the two organizations which became operational in August 2006. This is a proactive method of robustly dealing with issues of corruption and unacceptable behaviour and a tool for encouraging integrity at all levels. The three main objectives of the programme are:

- To identify particular officers who engage in corrupt practices or unacceptable behaviour and determine appropriate courses of action.
- To increase the actual and perceived risk to corrupt officials that they may be detected, thereby deterring corrupt behaviour and encouraging officials to report instances when they are offered bribes; and
- To identify officials who are honest and trustworthy, and therefore likely to be suitable for assignment to sensitive areas.

These are major milestones which have definitely enhanced information-gathering and investigative capacity of the Commission. They have, and will continue to, increase operational efficiency and effectiveness in the investigation of corruption and economic crimes.

3. LEGAL SERVICES AND ASSET RECOVERY

3.1 INTRODUCTION

One of the Commission's core activities is to investigate the extent of liability of individuals for the loss of or damage to any public property and institute civil proceedings against such persons and recover the lost or stolen property. The Commission has in the past year accelerated its pace in tracing and recovering stolen public property. It has recovered 19 pieces of illegally acquired public properties with an estimated value of Ksh. 109 million, recovered public funds in the sum of 2.9 million, filed 50 applications for warrants to investigate bank accounts, filed 112 cases for restitution/recovery of property estimated to be valued at Ksh.1.4 billion, and forwarded 152 reports to the Attorney-General.

3.2 INVESTIGATORY APPLICATIONS

The Commission in its endeavor to enhance investigations filed 50 applications for warrants to investigate bank accounts and search premises of persons suspected of corruption or economic crime. In all the applications, the orders applied for were granted by the Courts and the necessary searches undertaken.

Table 3: Investigatory Applications

| No. | Date | Application No. | Nature of Application |
|-----|---------|---------------------------|---|
| 1 | 18.8.06 | Misc. Cr. App. No. 115/06 | An application for warrant to investigate accounts held in different local banks by a private company suspected to have dumped goods in the local market. |
| 2 | 18.8.06 | Misc. Cr. App. No. 117/06 | An application for warrant to investigate accounts held in different local banks by a private company suspected to have dumped goods in |

| No. | Date | Application No. | Nature of Application |
|-----|----------|--|---|
| 3 | 18.8.06 | Misc. Cr. App. No. 118/06 | the local market. An application for warrant to investigate accounts held in different local banks by a private company suspected to have dumped goods in the local market. |
| 4 | 18.8.06 | Misc. Cr. App. No. 119/06 | An application for warrant to investigate accounts held in different local banks by a private company suspected to have dumped goods in the local market. |
| 5 | 18.8.06 | Misc. Cr. App. No. 120/06 | An application for warrant to investigate accounts held in different local banks by a private company suspected to have dumped goods in the local market. |
| 6 | 18.8.06 | Misc. Cr. App. No. 116/06 | An application to investigate account held by a private limited liability company over alleged fraudulent payment involving Kshs 12 million made to it by a public body |
| 7 | 9. 06 | Kibera Cm. Cr. No.134/06 | Application for warrant to investigate account held by a doctor who continued to draw a salary despite having left employment with the Ministry of Health. |
| 8 | 9. 06 | Kibera Cm. Cr. No.135/06 | Application for warrant to investigate an account held by a doctor who continued to draw a salary despite having left employment with the Ministry of Health. |
| 9 | 9. 06 | Kibera Cm. Cr. No.136/06 | Application for warrant to investigate an account held by a doctor who continued to draw a salary despite having left employment with the Ministry of Health. |
| 10 | 9. 06 | Kibera Cm. Cr. No.137/06 | Application for warrant to investigate an account held by a doctor who continued to draw a salary despite having left employment with the Ministry of Health. |
| 11 | 9. 06 | Kibera Cm. Cr. No.138/06 | Application for warrant to investigate an account held by a doctor who continued to draw a salary despite having left employment with the Ministry of Health. |
| 12 | 9. 06 | Kibera Cm. Cr. No.139/06 | Application for warrant to investigate an account held by a doctor who continued to draw a salary despite having left employment with the Ministry of Health. |
| 13 | 23.11.06 | Misc. Cr. App. No. 163/ 06 | An application to investigate hire purchase accounts held by a state corporation. |
| 14 | 23.11.06 | Misc. Cr. App. No. 164/ 06 | An application to investigate hire purchase accounts held by a state corporation. |
| 15 | 23.11.06 | Misc. Cr. App. No. 165/ 06 | An application to investigate hire purchase accounts held by a state corporation. |
| 16 | 4.12.06 | Kibera Misc. Cr. App. No. 169/ 06 | An application to investigate accounts held by an employee of a state corporation. |
| 17 | 5.12.06 | Kibera Misc. Cr. App. No. 167/ 06 | An application to investigate accounts held by engineers involved in the Migori / Awendo Bus park project |
| 18 | 5.12.06 | Kibera Misc. Cr. App. No. 168/ 06 | An application to investigate accounts held by engineers involved in the Migori / Awendo Bus park project |
| 19 | 15.12.06 | Kibera Misc. Cr. App. No. 170/ 06 | An application to investigate bank account in which cheque No. 112342 for Kshs. 150,000/= was banked on 11.9.1989 |
| 20 | 15.12.06 | Kibera Misc. Cr.App. No. 171/06 | An application for warrant to investigate accounts of a local authority in relation to allegations over payments of insurance premiums for which no cover was provided |
| 21 | 15.12.06 | Kibera Misc. Cr.App. No. 172/06 | An application for warrant to investigate accounts of a local authority in relation to allegations over payments of insurance premiums for which no cover was provided by a local insurance broker. |
| 22 | 26.2.07 | Kibera Cm. Cr. No. 39/ 07 | Application for warrant to investigate accounts in relation to alleged payments made in respect of the acquisition of the Woodley/ Joseph Kangeth Estate. |
| 23 | 1.3.07 | Kibera Misc. Cr.App. No. 43/07 | An application for warrant to search the premises of a local company and its officials in relation to the acquisition of clinker at a local cement manufacturing company. |
| 24 | 21.3.07 | Kibera Misc. Cr.App. No. 73/07 | An application for warrant to investigate premises of persons suspected to have been involved and or benefited from security contracts. |
| 25 | | Kibera Misc. Criminal App. No. 150/07 | An application for warrant to investigate an account held by an employee of a local university, in the investigation into allegations of misappropriation of funds donated to the University by a foreign government. |
| 26 | | Kibera Misc. Criminal App. No. 151/07 | An application for warrant to investigate accounts held by an employee of a local university, in the investigation into allegations of misappropriation of funds donated to the University by a foreign government. |
| 27 | | Kibera Misc. Criminal App. No. 152/07 | An application for warrant to investigate accounts held by an employee of a local authority, in the investigation into allegations of misappropriation of funds granted to the said local authority. |
| 28 | | Kibera Misc. Criminal App. No. 153/07 | An application for warrant to investigate accounts held by employees of a Government Ministry, in the investigation into allegations of misappropriation of grants made through the Government of Kenya to the said Ministry. |
| 29 | 10.1.07 | Kibera Misc. Criminal Application Nos. 5,6, 7, 8, 9 & 10 of 2007 | Applications to investigate bank accounts in respect of transactions involving former employees of a public corporation in an investigation concerning allegations of fraudulently acquiring public property. |

| No. | Date | Application No. | Nature of Application |
|-----|----------|---|---|
| 30 | 26.1.07 | Kibera Misc. Criminal Appli. No. 15 of 2007 | Application for warrant to investigate accounts of CDF of a constituency in Nairobi |
| 31 | 26.1.07 | Kibera Misc. Criminal Applic. No 16 of 2007 | Application for warrant to investigate accounts of a business entity allegedly awarded a tender through irregular process by a public body |
| 32 | 6.3.07 | Kibera Misc. Criminal Application No. 45 of 2007 | Application to investigate bank accounts in respect of transactions involving a former employee of a public corporation in an investigation concerning allegations of fraudulently acquiring public property. |
| 33 | 12.4.07 | Kibera Misc. Criminal Application Nos. 120, 121 & 122 of 2007 | Applications for warrants to investigate accounts of a public officer alleged to have awarded a public tender to a business entity owned by his wife |
| 34 | 25.4.07 | Kibera Misc. Criminal Application Nos. 137 of 2007 | An application to search the business and residential premises of an employee of a bank in respect of allegations that she took part in falsifying accounts of a suspect in one of the security-related contracts. |
| 35 | 18.4.07 | Kibera Misc. Criminal Appli. No. 131 of 2007 | Application for warrant to investigate the accounts of a public corporation over allegations that it had made double payments for goods. |
| 36 | 19.4.07 | Kibera Misc. Criminal Application number 132 of 2007 | Application for warrant to investigate an account of a public body on allegations that it made fraudulent payments to its employees and other persons. |
| 37 | 14.5.07 | Kibera Misc. Criminal Application number 145 of 2007 | Application for warrant to investigate accounts in relation to alleged payments made in respect of the acquisition of the Woodley/ Joseph Kangethe Estate |
| 38 | 14.5.07 | Kibera Misc. Criminal Application 146of 2007 | Application for warrant to investigate accounts in relation to alleged payments made in respect of the acquisition of the Woodley/ Joseph Kangethe Estate. |
| 39 | 14.5.07 | Kibera Misc. Criminal Application number 147 of 2007 | Application for warrant to investigate accounts in relation to alleged payments made in respect of the acquisition of the Woodley/ Joseph Kangethe Estate. |
| 40 | 14.5.07 | Kibera Misc. Criminal Application number 148 of 2007 | Application for warrant to investigate accounts in relation to alleged payments made in respect of the acquisition of the Woodley/ Joseph Kangethe Estate. |
| 41 | 14.5.07 | Kibera Misc. Criminal Application number 149 of 2007 | Application for warrant to investigate accounts in relation to alleged payments made in respect of the acquisition of the Woodley/ Joseph Kangethe Estate. |
| 42 | 6.6.07 | Kibera Misc Criminal Application number. 175 of 2007 | Application for warrant to investigate accounts of a Kenya Revenue Authority employee suspected of corruption. |
| 43 | 27.6.07 | Kibera Misc. No.194 of 2007 | Application for warrant to investigate accounts of an employee of Machakos Municipal Council suspected of corruption. |
| 44 | 11.04.07 | Kibera Misc. Cr. App. No. 118/07 | An application to search the business and residential premises of former employees of a state corporation in an investigation concerning allegations of fraudulently acquiring public property. |
| 45 | 11.04.07 | Kibera Misc. Cr. App. No. 119/07 | An application to search the business and residential premises of former employees of a state corporation in an investigation concerning allegations of fraudulently acquiring public property. |
| 46 | 21.3.07 | Kibera Misc. Cr. Appl. 76 of 2007 | Application for warrant to investigate an account in the name of Bungoma District Deposit Account on allegation that some officers at the District Commissioner's office misappropriated funds held on behalf of third parties. |
| 47 | 6.307 | Kibera Misc. Cr. Appl. 44 of 2007 | Application for warrant to investigate an account held by Kenya Posts and Telecommunication on allegations that some funds were not accounted for at the time of the split of the corporation. |
| 48 | 30.3.07 | Kibera Misc. Cr. Appl. 90of 2007 | Application for warrant to investigate an account on suspicion that the holder, who is a public officer, has amassed wealth which cannot be reasonably explained by his known source of income. |
| 49 | 30.3.07 | Kibera Misc. Cr. Appl. 91 of 2007 | Application for warrant to investigate an account on suspicion that the holder, who is a public officer, has amassed wealth which cannot be reasonably explained by his known source of income. |
| 50 | 30.3.07 | Kibera Misc. Cr. Appl. 92 of 2007 | Application for warrant to investigate an account on suspicion that the holder, who is a public officer, has amassed wealth which cannot be reasonably explained by his known source of income. |

3.3 PROCEEDINGS FOR ASSET RECOVERY

The Commission is mandated under Section 7 (1)(h) of ACECA to investigate the extent of liability for the loss of or damage to any public property and institute civil proceedings against such persons and recover the lost or stolen property.

In the course of the period under review, the Commission filed 112 cases for restitution / recovery or preservation of illegally alienated, lost or damaged property. The estimated value of the property being recovered is Kshs. 1.4 billion. The cases are as shown in table 4 below.

Table 4: Cases/ Preservation Proceedings before Court

| No. | Name of Debtor/ Defendant | Particulars of Claim | Amount (Kshs) | Status |
|-----|------------------------------|---|---------------|-------------------------------|
| 1 | George Wambua | Nairobi HCCC No. 8427of 96 KACC -Vs -George Wambua for the recovery of rent illegally paid by the | 187,000 | The matter is pending hearing |

| No. | Name of Debtor/ Defendant | Particulars of Claim | Amount (Kshs) | Status |
|-----|--|--|---------------|-------------------------------|
| | | Council for his accommodation. | | |
| 2 | Stone Industries Ltd & Another. | Nairobi HCCC No. 871 of 2006 KACC -Vs- Stone Industries limited & Another. The claim is for recovery of L. R. 209/14387 which had been reserved for road reserve/bypass. | 20,000,000 | Property recovered |
| 3 | Job Keittany & Michael Chelashaw | Nairobi HCCC No. 897 of 2006 KACC -Vs- Job Keittany and Michael Chelashaw a claim for Kshs. 7.5 million granted to the Defendants by the National Aids Control Council to execute a project proposal. The money was misappropriated and the project was not implemented. | 7,500,000 | The matter is pending hearing |
| 4 | Lima Limited & Another | Nairobi HCCC No. 882 of 2006 KACC Vs Lima Ltd. and Another, a claim to recover Government land reserved for the Administration Police and the Municipal Council of Eldoret which was illegally allocated to the 1 st Defendant. | 150,000,000 | The matter is pending hearing |
| 5 | Onesmus Githinji & Others | Nairobi HCCC No. 885 of 2006 KACC -Vs- Onesimus Githinji and Others a claim for recovery of public utility land allocated fraudulently. | 5,000,000 | Property recovered |
| 6 | Praise Place Ltd & Another | Nairobi HCCC No. 949 of 2006 KACC Vs Praise Place Ltd. & Another a claim for recovery of an irregularly alienated Woodley/ Joseph Kang'ethe Estate house | 6,000,000 | The matter is pending hearing |
| 7 | Noel Koki Wambua | Nairobi HCCC No. 948 of 2006 KACC -Vs- Noel Koki Wambua a claim for recovery of an irregularly alienated Woodley/ Joseph Kang'ethe Estate house. | 6,000,000 | The matter is pending hearing |
| 8 | Dr. Mohamed Isahakia | Nairobi HCCC No. 947 of 2006 KACC Vs. Mohamed Isahakia a claim for recovery of an irregularly alienated Woodley/ Joseph Kang'ethe Estate house. | 6,000,000 | Property recovered |
| 9 | Eva M. Gaitha | Nairobi HCCC No. 1126 of 06 KACC vs. Eva M. Gaitha a claim for recovery of L. R. NO. 209/ 13539/ 152 situated in Woodley/Joseph Kang'ethe Estate | 6,000,000 | The matter is pending hearing |
| 10 | Joseph Otunga | Nairobi HCCC No.1142 of 06 KACC vs. Joseph Otunga a claim for recovery of L. R. No. 209/13539/214 situated in Woodley/Joseph Kang'ethe Estate. | 6,000,000 | Property recovered |
| 11 | Paul Moses Ngetha | Nairobi HCCC No.1143 of 06 KACC vs. Paul Moses Ngetha, a claim for recovery of L. R. No. 209/13539 /154 situated in Woodley Estate. | 6,000,000 | The matter is pending hearing |
| 12 | Geoffrey Chege Kirundi | Nairobi HCCC No. 1144 of 06 KACC vs. Geoffrey Chege Kirundi, a claim for recovery of L.R. No. 209/ 13539/17 situated in Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 13 | Zipporah Naisenya Waiyaki | Nairobi HCCC No. 1145 of 06 KACC vs. Zipporah Naisenya Waiyaki, a claim for recovery of L.R. No.209/13539/18 situated in Woodley/ Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 14 | Francis Maritim | Nairobi HCCC No. 1146 of 06 KACC vs. Francis Maritim, a claim for recovery of L.R. No. 209/13539/110 situated in Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 15 | Virginia Turuka | Nairobi HCCC No. 1147 of 06 KACC vs. Virginia Turuka, a claim for recovery of L.R. No. 209/13539/85 situated in Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 16 | Kapsoen Estates Limited | Nairobi HCCC No. 1255 of 2006 KACC vs. Kapsoen Estates Limited, a claim for recovery of L.R. No. 209/13539/106 situated in Woodley/ Joseph Kang'ethe Estate | 6,000,000 | The matter is pending hearing |
| 17 | Jack Mbute Mbugua | Millmani CMCC No. 13306 of 2006 KACC vs. Jack Mbute Mbugua for restitution of excess rent paid for his residential house by the City Council of Nairobi. | 180,000 | The matter is pending hearing |
| 18 | Kimumu Service Station Ltd. & 2 Others | Nairobi HCCC No. 1204 of 2006 KACC vs. Kimumu Service Station Ltd and 2 others, a claim for recovery of L. R. NO. 20927 (I.R. No. 5356) situated in North East of Eldoret town on the grounds that it constituted a road reserve | 6,000,000 | The matter is pending hearing |
| 19 | Lucy W. Wanjohi | Nairobi HCCC No. 1333 of 2006 KACC vs. Lucy W. Wanjohi, a claim for recovery of L.R. No. 209/13539/136, being part of Woodley/Joseph Kang'ethe Estate. | 6,000,000 | Property recovered |
| 20 | Wak Limited Redwood Properties Sammy Komen & S.K. Wangila | Nairobi HCCC No. 1334 of 2006 KACC vs. Wak Ltd, Redwood Properties, Sammy Komen and S. K. Wangila, a claim for recovery of public land reserved for public utilities [road reserve] illegally allocated to the Defendants. | 6,000,000 | The matter is pending hearing |
| 21 | Noah Arap Too | Nairobi HCCC No. 88 of 2007 KACC vs. Noah Arap Too, a claim for recovery of L.R. No. 209/13539/121 being a portion excised from Woodley/Joseph Kang'ethe Estate and irregularly allocated to the Defendant. | 6,000,000 | Property recovered |

| No. | Name of Debtor/ Defendant | Particulars of Claim | Amount (Kshs) | Status |
|-----|--|--|---------------|--------------------------------|
| 22 | Rosemary Gachiku Mugo | Nairobi HCCC No. 102 of 2007 KACC vs. Rosemary Gachiku Mugo, a claim for recovery of L.R. No. 209/13539/27 being a portion excised from Woodley/Joseph Kang'ethe Estate and irregularly allocated to the Defendant. | 6,000,000 | The matter is pending hearing |
| 23 | Muthoni Mwithiga | Nairobi CMCC No. 277 of 2007 KACC vs. Muthoni Mwithiga, a claim for recovery of a total sum of Kshs. 675,187.00 on behalf of National Aids Control Council. | 675,187 | The matter is pending hearing |
| 24 | Anne Njoroge | Nairobi CMCC No. 276 of 2007 KACC vs. Anne Njoroge, a claim for recovery on behalf of National Aids Control Council. | 767,687 | The matter is pending hearing |
| 25 | Esther Getambu | Nairobi CMCC No. 275 of 2007 KACC vs. Esther Getambu, a claim for recovery on behalf of National Aids Control Council. | 734,838 | The matter is pending hearing |
| 26 | Bethsheba Osoro | Nairobi CMCC No. 274 of 2007 KACC vs. Bethsheba Osoro, a recovery claim on behalf of National Aids Control Council. | 1,134,750 | The matter is pending hearing |
| 27 | Edward Kasaya | Nairobi CMCC No. 278 of 2007 KACC vs. Edward Kasaya, a recovery claim on behalf of National Aids Control Council | 620,100 | The matter is pending hearing |
| 28 | F. M. Nzioki | Nairobi CMCC No. 279 of 2007 KACC vs. F.M Nzioka, a recovery claim on behalf of National Aids Control Council. | 208,000 | The matter is pending hearing. |
| 29 | Joshua Ng'elu | Nairobi CMCC No. 280 of 2007 KACC vs. Joshua Ng'elu, a recovery claim on behalf of National Aids Control Council. | 878,000 | The matter is pending hearing. |
| 30 | Peter Anyango Orege | Nairobi CMCC No. 281 of 2007 KACC vs. Peter Anyango Orege, a recovery claim on behalf of National Aids Control Council. | 1,233,825 | The matter is pending hearing. |
| 31 | KARI | Nairobi HCCC No. 208 of 2007 KACC vs. KARI, a claim for recovery of L. R. No. 22418 at Tigoni measuring approximately 40 acres. | 40,000,000 | The matter is pending hearing |
| 32 | Kechelas Company Ltd | Nairobi HCCC No. 147 of 2007 KACC versus Kechelas Company Limited. This is a suit for recovery of property L.R No. 209/13539/112 Woodley/Joseph Kan'gethe Estate. | 6,000,000 | Property recovered |
| 33 | Mary Jerusha Ong'ele | Nairobi HCCC No. 146 of 2007 KACC vs. Mary Jerusha Ong'ele, a suit for recovery of property L. R No. 209/13539/189 Woodley Estate | 6,000,000 | Property recovered |
| 34 | Peter Macharia Nduati | Meru CMCC No. 35 of 2007 KACC vs. Peter Macharia Nduati, a claim for the sum of Kshs. 764,797.00 which was embezzled by the Defendant who was a cashier at Isiolo District Treasury. | 764,797 | The matter is pending hearing |
| 35 | Johnson Jackson Githaka | Nairobi HCCC No. 97 of 2007 KACC vs. Johnson Jackson Githaka a claim for the sum of Kshs. 3,494,638.00 which the Defendant had fraudulently misrepresented to the Kenya Reinsurance Corporation that he had deposited towards the redemption of his mortgage in respect of the purchase of L. R. No. 209/359/15 (Original Number 209/359/2/2). | 3,494,638 | The matter is pending hearing |
| 36 | Dr. Victor Maina Kipyegon | Nairobi CMCC No. 112 of 2007 (Eldoret) KACC vs. Dr. Victor Maina Kipyegon, a claim for Kshs. 415,575 being salaries/allowances paid to him whilst he was not on government service having absconded duty and secured employment elsewhere. | 415,575 | The matter is pending hearing |
| 37 | Francis Gitau | Nairobi CMCC No. 1031 of 2007 KACC vs. Francis Gitau, a suit seeking restitution of Kshs. 665,047.80 unlawfully paid to Defendant by National AIDS Control Council during his tenure as a Finance Manager. | 665,047 | The matter is pending hearing |
| 38 | Johnson Jackson Githaka | Nairobi HCCC No. 145 of 2007 KACC vs. Johnson Githaka, a claim for restitution of Kshs. 3,300,000/- being money embezzled from Kenya Reinsurance Corporation by its Managing Director/Chief Executive. | 3,300,000 | The matter is pending hearing |
| 39 | Major General Dedan Gichuru & Wilson Gacanja | Nairobi HCCC No. 253 of 2007 KACC vs. Major General Dedan Gichuru and Wilson Gacanja, a claim for recovery of L. R. No. 14703, a parcel of 30 acres hived off public land comprised in L.R. No. 164/4 (164/3/1) registered in the name of Lands Ltd, a wholly owned subsidiary of ADC. | 30,000,000 | The matter is pending hearing |
| 40 | Rebecca Njeri & 2 Others | Nairobi HCCC No. 13 of 2007 KACC v. Rebecca Njeri Karanja and 2 others, a claim for recovery of L.R. Nos. 14918 & 14919, parcels measuring 25 acres illegally excised from L.R. No. 164/4 (O.N. 164/3/1) registered in the name of Lands Limited, a wholly owned subsidiary of ADC. | 25,000,000 | The matter is pending hearing |
| 41 | W. Musalia Mudavadi | Nairobi HCCC No. 280 of 2007 KACC vs. W. Musalia Mudavadi, a claim for recovery of L. R. No. 209/13539/129, being a portion excised from Woodley/Joseph Kan'gethe Estate. | 6,000,000 | The matter is pending hearing |
| 42 | Albina Gichuku Koskey | Nairobi HCCC No. 295 of 2007 KACC vs. Albina Gichuku Koskey. This is a recovery suit for property L.R. | 6,000,000 | The matter is pending hearing |

| No. | Name of Debtor/ Defendant | Particulars of Claim | Amount (Kshs) | Status |
|-----|--|--|---------------|-------------------------------|
| | | No. 209/13539/203 Woodley/Joseph Kan'gethe Estate. | | |
| 43 | Peter Meienberg & Another | Nairobi HCCC No. 4 of 2007 KACC vs. Peter Meienberg & Another, a claim for recovery of L. R. No. 209/13539/156 Woodley/Joseph Kan'gethe Estate. | 6,000,000 | The matter is pending hearing |
| 44 | Ambrose Anangwe & Another | Nairobi CMCC No. 2343 of 2007 KACC vs. Ambrose Anangwe and Another, a Claim for funds misappropriated by the Defendants who were Chief Cashier and Chief Internal Auditor with the City Council of Nairobi. | 2,555,201.70 | The matter is pending hearing |
| 45 | Michael Kibuchi Gituto | Nyeri CMCC No. 161 of 2007 KACC vs. Michael Kibuchi Gituto, a claim for Kshs. 2,068,462/ being public funds due to the Director, Veterinary Services which was misappropriated by the Defendant who was Cashier/Accounts Assistant at Kirinyaga District Treasury. | 2,068,462 | The matter is pending hearing |
| 46 | George Giteri Muchiri | Nyeri CMCC No. 162 of 2007 KACC vs. George Giteri Muchiri. The claim is for Kshs. 1,908,096 which was misappropriated/not surrendered by the Defendant who was a Revenue Clerk at Baricho Law Courts. | 1,908,096 | The matter is pending hearing |
| 47 | Kirichwa Ltd | Nairobi HC Land & Env. Law Div. Case No. 66 of 2007 KACC vs. Kirichwa Limited, a claim for recovery of L.R. No. 209/13539/160 a portion excised from Woodley/Joseph Kangethe Estate. | 6,000,000 | The matter is pending hearing |
| 48 | Abishax Heights Limited | Nairobi HC Land & Env. Law Div. Case No. 67 of 2007 KACC vs. Abishax Heights Limited, a claim for recovery of L. R. No. 209/13539/148 a portion excised from Woodley/Joseph Kangethe Estate. | 6,000,000 | The matter is pending hearing |
| 49 | Catherine R. Njeri | Nairobi HCCC No. 70 of 2007 KACC vs. Catherine R. Njeri, a claim for recovery of L.R. No. 209/13539/108 a portion excised from Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 50 | Philip K. Wainaina | Nairobi HCCC No. 71 of 2007 KACC vs. Philip K. Wainaina, a claim for recovery of L. R. No. 209/13539/109 in Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 51 | Arga Ltd | Nairobi (L&ED) HCCC No. 85 of 2007 KACC vs. Arga Ltd., a claim for recovery of L.R. No. 209/13539/25 Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 52 | Chrisna | Nairobi (L&ED) HCCC No. 84 of 2007 KACC vs. Chrisna Ltd, a claim for recovery of L.R. No. 209/13539/13 Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 53 | Gitwany Investments Ltd | Nairobi (L & ED) HCCC No. 86 of 2007 KACC v. Gitwany Investments Ltd., a claim for recovery of L.R. No. 209/13539/201 Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 54 | Eunice Kyanda & Martin N. Kyanda sued as personal representatives of the late Dickson Kyanda | Nairobi (L & ED) HCCC No. 83 of 207 KACC vs. Eunice Wanjira Kyanda sued as Legal Representatives of the estate of Dickson Kyanda(deceased), a claim for recovery of L. R. No. 209/13539/78 Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 55 | Michael Kibuchi Gituto | Nyeri CMCC No. 285 of 2007 KACC versus Michael Kibuchi Gituto. The claim is for Kshs. 961,462.25 which was misappropriated by the Defendant who was an Accounts Assistant with the Ministry of Finance attached to Kirinyaga District Treasury. | 961,462.25 | The matter is pending hearing |
| 56 | Mwangi H. C Wang'ondu | Nairobi (L & ED) HCCC 100 of 2007, KACC vs. Mwangi H.C. Wang'ondu, a claim for recovery of L. R. No. 209/13539/57 a portion excised from Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 57 | Peter Kipkosgei Kiprono, Joseph Kipruto & Ernest Kiprotich Kimitei | Eldoret HCCC No. 96 of 2007 KACC vs. Peter Kipkosgei Kiprono, Joseph Kipruto, Ernest Kiprotich Kimitei, a claim to recover public funds embezzled from the Eldoret East Constituency Development Fund. | 1,050,000 | The matter is pending hearing |
| 58 | Kizito Chessesio, Ernest Kimitei & Peter Kiprono. | Eldoret HCCC No. 97 of 2007 KACC vs. Kizito Chessesio, Ernest Kimitei, Peter Kiprono, a claim to recover public funds embezzled from Eldoret East Constituency Development Fund. | 700,000 | The matter is pending hearing |
| 59 | Kizito Chessesio, Ernest Kimitei & Peter Kiprono | Eldoret HCCC No. 98 of 2007 KACC vs. Kizito Chessesio, Ernest Kimitei and Peter Kiprono a claim to recover public funds embezzled from Eldoret East Constituency Development Fund. | 400,000 | The matter is pending hearing |
| 60 | Kizito Chessesio, Ernest Kimitei and Peter Kiprono | Eldoret HCCC No. 99 of 2007 KACC vs. Kizito Chessesio, Ernest Kimitei and Peter Kiprono a claim to recover public funds embezzled from Eldoret East Constituency Development Fund. | 700,000 | The matter is pending hearing |
| 61 | Kizito Chessesio, Peter Kiprono & Noah Barmao | Eldoret HCCC No. 100 of 2007 KACC vs. Kizito Chessesio, Peter Kiprono and Noah Barmao a claim to recover public funds embezzled from Eldoret East Constituency Development Fund. | 800,000 | The matter is pending hearing |
| 62 | Kizito Chessesio, Ernest Kimitei & Peter Kiprono | Eldoret HCCC No. 101 of 2007 KACC vs. Kizito Chessesio, Ernest Kimitei, Peter Kiprono a claim to | 400,000 | The matter is pending hearing |

| No. | Name of Debtor/Defendant | Particulars of Claim | Amount (Kshs) | Status |
|-----|---|--|---------------|---|
| | | recover public funds embezzled from Eldoret East Constituency Development Fund. | | |
| 63 | Kizito Chessebio t/a Dumella Investments | Eldoret HCCC No. 102 of 2007 KACC vs. Kizito Chessebio t/a Dumella Investments, a claim to recover public funds embezzled from Eldoret East Constituency Development Fund. | 19,402,248 | The matter is pending hearing |
| 64 | Brookside Studios Ltd | Nairobi HCCC No. 103 of 2007 KACC vs. Brookside Studios Ltd, a claim for recovery of L. R. No. 209/13359/82 Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 65 | Industrial Collaborative Ltd | Nairobi HCCC No. 101 of 2007 KACC vs. Industrial Collaborative Ltd, a claim for recovery of L. R. No. 209/13539/113 Woodley/Joseph Kang'ethe Estate | 6,000,000 | The matter is pending hearing |
| 66 | Moses Ngetha & 102 Others | Nairobi HC. Misc. App. No. 781 of 2006 KACC vs. Moses Ngetha and 102 Others, an application for an order prohibiting dealings with Woodley/Joseph Kan'gethe Estate under section 56 of ACECA. | 140,000,000 | Preservation orders granted on 12 th October, 2006 for six months and extended on 10 th April, 2007 for a further six months. |
| 67 | Mbuya Farms & John Faustin Kinyua | Nairobi HC. Misc. App. No. 6 of 2007 KACC vs. Mbuya Farms & John Faustin Kinyua, an application for preservation of funds held by the first Respondent at Suntra Investment Bank Limited and shares held by the second Respondent in various companies, which were acquired using Kenya Reinsurance Corporation's money. The second Respondent was the Financial Director at Kenya Reinsurance Corporation and a director in the first Respondent company. | 18,000,000 | The matter is pending hearing |
| 68 | Johnson Jackson Githaka | Nairobi HC. Misc. App. No. 12 of 2007 KACC vs. Johnson Jackson Githaka, an application for preservation of L. R. No. 209/359/15 (Original Number 209/359/2/2) File No. 17469, a parcel of land acquired by the Respondent under the Kenya Re Staff Mortgage Scheme. The Respondent in abuse of his office misappropriated money due to the Kenya Reinsurance Corporation to redeem the mortgage. | 5,100,000 | Preservation orders granted on 15 th January, 2007 for six months. Recovery proceedings filed before expiry of the six months. |
| 69 | John Kinyua & Rockhound Properties Ltd | Nairobi HC. Misc. App. No. 22 of 2007 KACC vs. John Kinyua & Rockhound Properties Ltd, an application for preservation of a developed and prime property referred to as House No. 8, L.R. NO. 1160/113 at Karen in the city of Nairobi, which was fraudulently acquired from Kenya Reinsurance Corporation Ltd. | 22,000,000 | Preservation orders granted on 18 th January, 2007 for six months. Recovery proceedings filed before expiry of the six months. |
| 70 | Wilson Gacanja & 4 Others | Nairobi HC. Misc. App. No. 42 of 2007 KACC vs. Wilson Gacanja & 4 Others, an application for preservation of a Government House No. HG/613, Land Reference No. 209/6238 belonging to Kenya School of Law. | 50,000,000 | Preservation orders granted on 29 th January 2007 for six months and orders extended on the 30 th July, 2007 |
| 71 | Judith Marilyn Okungu, Dakane Abdullahi & Another | Nairobi HC. Misc. C. App. No. 186 of 2007, KACC vs. Judith Marilyn Okungu, Dakane Abdullahi and another, an application seeking preservation of L.R. 209/16441 I.R. 100691 land belonging to Racecourse Primary School. | 225,000,000 | Preservation orders granted on 23 rd March, 2007 for six months. Orders extended on the 20 th September, 2007. |
| 72 | Bhangra Limited | Mombasa HC. Misc. App. No.183 of 2007 KACC vs. Bhangra Limited and others, an application for an order to prohibit any transfer or disposal of Mombasa Island/Block XI/934 | 7,500,000 | Preservation orders granted on 25 th April 2007 for six months. |
| 73 | Bhangra Limited & Another | Mombasa HC. Misc App. No.175 of 2007 KACC vs. Bhangra Limited and another, an application for an order to prohibit any transfer or disposal of Mombasa Island/Block XI/935 | 7,500,000 | Preservation orders granted on 25 th April 2007 for six months. |
| 74 | Masala Skajjah Supermarkets Limited & Hammerheads Limited | Nairobi (L&ED) Misc. App. No. 2 of 2007 KACC v Masala Skajjah Supermarkets Limited and Hammerheads Limited, an application for an order to prohibit the transfer or disposal of L.R. No. 209/11850 and L.R. No.209/11851, parcels irregularly excised from open spaces in Woodley Estate. | 5,000,000 | Preservation orders granted on 2.5.07. for six months |
| 75 | Paul Kamau Mani & 4 Others | Nairobi (L&ED) Misc. App. No. 3 of 2007 KACC vs. Paul Kamau Mani & 4 others, an application for an order to prohibit the transfer or disposal of L.R. No. 209/11852, 209/11853, 209/11854 and 209/11855, parcels irregularly excised from open spaces in Woodley Estate. | 10,000,000 | Preservation orders granted on 2.5.07. for six months |
| 76 | Bhangra Limited & | Mombasa HC. Misc. App. No.176 of 2007 KACC vs. | 7,500,000 | Preservation |

| No. | Name of Debtor/ Defendant | Particulars of Claim | Amount (Kshs) | Status |
|-----|---|--|---------------|---|
| | Another | Bhangra Limited and another, an application for an order to prohibit any transfer or disposal of Mombasa Island/Block XI/949, a parcel irregularly excised from a road reserve. | | orders granted 25 th April, 2007 for six months. |
| 77 | Ali Gulleid | Mombasa HC. Misc. App. No. 177 of 2007 KACC vs. Ali Gulleid, an application for an order to prohibit any transfer or disposal of Mombasa Island/Block XI/983, a parcel irregularly excised from a road reserve. | 10,500,000 | Preservation orders granted on 25 th April 2007 for six months. |
| 78 | Ali Bunow Korane & Another | Mombasa HC. Misc. App. No. 178 of 2007 KACC vs. Ali Bunow Korane & another, an application for preservation of land fraudulently excised from land belonging to the Kenya Airports Authority, Mombasa. | 7,500,000 | Preservation orders granted on 25 th April 2007 for six months. |
| 79 | James Gichohi Ngari & Another | Mombasa HC. Misc. App. No. 179 of 2007 KACC vs. James Gichohi Ngari & another, an application for preservation of land belonging to the Kenya Airports Authority, Mombasa. | 7,500,000 | Preservation orders granted on 25 th April 2007 for six months. |
| 80 | Agil Mahamoud & Another | Mombasa HC. Misc. App. No. 180 of 2007 KACC vs. Agil Mahamoud & another, an application for preservation of land belonging to the Kenya Airports Authority, Mombasa. | 7,500,000 | Preservation orders granted on 25 th April 2007 for six months. |
| 81 | J.S.K (Cargo) Ltd. | Mombasa HC. Misc. App. No. 181 of 2007 KACC vs. J.S.K (Cargo) Ltd, an application for preservation of land belonging to the Kenya Airports Authority, Mombasa. | 2,000,000 | Preservation orders granted on 25 th April 2007 for six months. |
| 82 | Succo Enterprises Ltd. & Another | Mombasa HC. Misc. App. No. 182 of 2007 KACC vs. Succo Enterprises Ltd. & another, an application for preservation of land belonging to the Kenya Airports Authority, Mombasa. | 72,000,000 | Preservation orders granted on 25 th April 2007 for six months. |
| 83 | Bhangra Limited & Barclays Bank Kenya Limited | Mombasa HC. Misc. App. No. 206 of 2007 KACC vs. Bhangra Limited and Barclays Bank Kenya Limited, an application seeking preservatory orders to prohibit the transfer or disposal of or other dealing with Mombasa Island/Block XI/939, which was excised from Tom Mboya Avenue (formerly Tudor Road). | 8,500,000 | Preservation orders granted on 21 st May, 2007 for six months. |
| 84 | Bhangra Limited | Mombasa HC. Misc. App. No. 208 of 2007 KACC vs. Bhangra Limited, an application seeking preservatory orders to prohibit the transfer or disposal of or other dealing with Mombasa Island/Block XI/937, which was excised from Tom Mboya Avenue (formerly Tudor Road). | 6,200,000 | Preservation orders granted on 21 st May, 2007 for six months. |
| 85 | Ahmed S. Mwidani & 4 Others | Mombasa HC. Misc. App. No. 205 of 2007 KACC vs. Ahmed S. Mwidani and 4 others, an application to preserve all that parcel of land known as Mombasa Island/ Block XI/940 being a road reserve that was illegally alienated and allocated to the respondents. | 7,000,000 | Preservation orders granted on 21 st May, 2007 for six months. |
| 86 | Bhangra Limited | Mombasa HC. Misc. App. No. 208 of 2007 KACC vs. Bhangra Limited, an application to preserve all that parcel of land known as Mombasa Island/ Block XI/936 being part of Tom Mboya Road which was illegally alienated and allocated to the respondent. | 6,200,000 | Preservation orders granted on 21 st May, 2007 for six months. |
| 87 | E.A Gas Limited and 9 Others. | Mombasa HC. Misc. App. No. 184 of 2007 KACC vs. E.A Gas Limited and 9 others, an application seeking orders to prohibit the transfer or other dealings with nine (9) parcels of land within Mombasa Municipality. | 102,000,000 | Preservation orders granted on 25 th April, 2007 for six months. |
| 88 | Asis Stores Ltd. & 2 Others | Nakuru HC. Misc. App. No. 386 of 2007 KACC vs. Asis Stores Ltd, William Njoroge & Barclays Bank Kenya Limited, an application for preservation of land parcel Nakuru/ Municipality Block 6/158 which was illegally curvend out of land parcel Nakuru/ Municipality Block 6/42 belonging to Kenya National Trading Corporation. The portion was illegally allocated to Asis Stores Limited who instantaneously transferred it to William Njoroge. The land was subsequently charged to Barclays Bank Kenya Limited. | 25,000,000 | Preservation orders granted on 29 th June, 2007 for six months. |
| 90 | Jonathan B. Chebet | Eldoret HC. Misc. Application No. 115 of 2007 KACC vs. Jonathan B. Chebet, an application for preservation of land reference No. Eldoret Block 10/420 fraudulently excised from land belonging to the Kenya Airports Authority within Eldoret Municipality. | 600,000 | Preservation orders granted on 18 th June, 2007 for six months. |
| 91 | Simon Sacho & Another | Eldoret HC. Misc. App. No. 116 of 2007 KACC vs. Simon Sacho & Another, an application for preservation of land reference No. Eldoret Block 10/415 fraudulently excised from land belonging to the Kenya Airports Authority within Eldoret Municipality. | 350,000 | Preservation orders granted on 18 th June, 2007 for six months. |
| 92 | Peter Kipkorir | Eldoret HC. Misc. App. No. 117 of 2007 KACC vs. Peter Kipkorir, an application for preservation of land reference No. Eldoret Block 10/421 fraudulently excised from land belonging to the Kenya Airports Authority within Eldoret Municipality. | 350,000 | Preservation orders granted on 18 th June, 2007 for six months. |
| 93 | Joseph Kibiy | Eldoret HC. Misc. App. No. 118 of 2007 KACC vs. | 350,000 | Preservation |

| No. | Name of Debtor/ Defendant | Particulars of Claim | Amount (Kshs) | Status |
|-----|--|--|---------------|--|
| | | Joseph Kibiy an application for preservation of land reference No. Eldoret Block 10/233 fraudulently excised from land belonging to the Kenya Airports Authority within Eldoret Municipality. | | orders granted on 18 th June, 2007 for six months. |
| 94 | Richard Chepkonga & Others | Eldoret HC. Misc. App. No. 119 of 2007 KACC vs. Richard Chepkonga & Others an application for preservation of land reference No. Eldoret Block 10/173 fraudulently excised from land belonging to the Kenya Airports Authority within Eldoret Municipality. | 2,500,000 | Preservation orders granted on 18 th June, 2007 for six months. |
| 95 | Johnson Kibey & Another | Eldoret HC. Misc. App. No. 120 of 2007 KACC vs. Johnson Kibey & Another, an application for preservation of land reference No. Eldoret Block 10/418 fraudulently excised from land belonging to the Kenya Airports Authority within Eldoret Municipality. | 600,000 | Preservation orders granted on 18 th June, 2007 for six months. |
| 96 | Paul Kipkurui | Eldoret HC. Misc. App. No. 121 of 2007 KACC vs. Paul Kipkurui, an application for preservation of land reference No. Eldoret Block 10/416 fraudulently excised from land belonging to the Kenya Airports Authority within Eldoret Municipality. | 600,000 | Preservation orders granted on 18 th June, 2007 for six months. |
| 97 | The Estate of the Late Stephen K. Kipsaita | Kitale HC. Misc. App. No. 27 of 2007 KACC vs. The Estate of the Late Stephen K. Kipsaita an application for preservation of land reference No. 21807 measuring 13.02 ha which was fraudulently excised from land belonging to the Kenya Airports Authority within Kitale Municipality. | 11,000,000 | Preservation orders granted on 25 th June, 2007 for six months. |
| 98 | The Estate of the Late Stephen K. Kipsaita | Kitale HC. Misc. App. No. 28 of 2007 KACC vs. The Estate of the late Stephen K. Kipsaita, an application for preservation of land reference No. 21808 measuring 5.20 ha which was fraudulently excised from land belonging to the Kenya Airports Authority within Kitale Municipality. | 5,000,000 | Preservation orders granted on 25 th June, 2007 for six months. |
| 99 | Jackson Gikandi Ngibuni & Anor | Mombasa HC. Misc. App. No. 257 of 2007 KACC vs. Jackson Gikandi Ngibuni & Anor, an application to preserve all that parcel of land known as Mombasa Island/ Block XI/938 being part of Mutwasi Road which was illegally alienated and allocated to the Respondents. | 16,000,000 | Preservation orders granted on 18 th June, 2007 for six months. |
| 100 | Ahmed Karama Said & Anor | Mombasa HC. Misc. App. No. 258 of 2007 KACC vs. Ahmed Karama Said & Anor, an application to preserve all that parcel of land known as Mombasa Island/ Block XI/839 being part of Tom Mboya Road which was illegally alienated and allocated to the respondents. | 14,000,000 | Preservation orders granted on 18 th June, 2007 for six months |
| 101 | Doudala Enterprises | Mombasa HC. Misc. App. No. 259 of 2007 KACC vs. Doudala Enterprises, an application to preserve all that parcel of land known as Mombasa Island/ Block XI/948 being part of Tom Mboya Road which was illegally alienated and allocated to the respondent. | 8,000,000 | Preservation orders granted on 18 th June, 2007 for six months |
| 102 | Abdilahi Farah & 2 Others | Mombasa HC. Misc. App. No. 260 of 2007 KACC vs. Abdilahi Farah & 2 Others an application to preserve all that parcel of land known as Mombasa Island/ Block XI/946 being part of Tom Mboya Road which was illegally alienated and allocated to the respondent. | | Preservation orders granted on 18 th June, 2007 for six months |
| 103 | Harith Swaleh | Mombasa HC. Misc. App. No. 261 of 2007 KACC vs. Harith Swaleh, an application to preserve all that parcel of land known as Mombasa Island/ Block XI/950 being part of Tom Mboya Road which was illegally alienated and allocated to the respondent. | 8,100,000 | Preservation orders granted on 18 th June, 2007 for six months |
| 104 | Kruss Investments | Mombasa HC. Misc. App. No. 262 of 2007 KACC vs. Kruss Investments an application to preserve all that parcel of land known as Mombasa Island/ Block XI/841 being part of Tom Mboya Road which was illegally alienated and allocated to the respondent. | 11,000,000 | Preservation orders granted on 18 th June, 2007 for six months |
| 105 | Michael Akoko Mbero | Mombasa HC. Misc. App. No. 397 of 2007 KACC vs. Michael Akoko Mbero, an application to freeze an account holding over 5 million shillings under Section 56 of ACECA against a Customs officer arrested by KACC while receiving bribes at Kilindini, Mombasa. | 5,000,000 | Preservation orders granted |
| 106 | Kennedy Nyabuti Ogeto | Nairobi HCCC No. 169 of 2007 KACC vs. Kennedy Nyabuti Ogeto a claim for recovery of L.R. No. 209/13539/65 Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 107 | Michael Kibuchi Gituto | Nyeri HCCC No. 45 of 2007 KACC vs. Michael Kibuchi Gituto being a claim for Kshs 3,773,032/- embezzled by the Defendant who was an Accounts Assistant at Kirinyaga District Treasury. The funds had been received by the Defendant on account of the AHITI -Ndomba, a public institution based in Kirinyaga. | 3,773,032 | The matter is pending hearing |
| 108 | Michael Kibuchi Gituto | Filed Nyeri HCCC No. 46 of 2007 KACC vs. Michael Kibuchi Gituto being a claim for Kshs 2,309,962/= embezzled by the Defendant who was an Accounts Assistant at Kirinyaga District Treasury. The funds had been received | 2,309,962 | The matter is pending hearing |

| No. | Name of Debtor/ Defendant | Particulars of Claim | Amount (Kshs) | Status |
|--------------------|--|--|----------------------|---|
| 109 | John Kinyua & Rockhound Properties Limited | by the Defendant on account of the Judicial Department. Nairobi HCCC No. 176 of 2007 KACC vs. John Kinyua & Rockhound Properties Limited, a claim for recovery of a prime property owned by Kenya Reinsurance Company Limited, being House No. 1160/613, off Ndege Road, at Karen in Nairobi, but illegally transferred and registered in the name of Rockhound Properties Limited. | 20,000,000 | Preservation orders granted on 28 th June, 2007 for six months |
| 110 | Marewa Plantations Ltd | Eldoret HCCC 68 of 2007 KACC vs. Marewa Plantations, a claim for recovery of L. R. No. 209/13539/114, Woodley/Joseph Kang'ethe Estate. | 6,000,000 | The matter is pending hearing |
| 111 | Rose Wanjiku Kimani | Eldoret HCCC 69 of 2007 KACC vs. Rose Wanjiku Kimani, a claim for recovery of LR. No. 209/13539/174, Woodley/Joseph Kang'ethe Estate | 6,000,000 | The matter is pending hearing |
| 112 | Maurice Kilonzo | Mombasa CMCC No. 738 of 2007 KACC vs. Maurice Kilonzo, a claim for recovery of stamp duty not paid by the Defendant, a Lawyer in a transaction chargeable with duty. | 760,000 | Amount recovered. |
| GRAND TOTAL | | | 1,381,887,477 | |

3.4 RECOVERED PUBLIC PROPERTIES/ SETTLEMENTS

As a result of its accelerated pace of investigating and tracing stolen and embezzled public property, the Commission has in the course of the year recovered nineteen pieces of illegally acquired public properties with an estimated value of Ksh. 109,000,000 and public funds in the sum of Ksh. 2,906,018 as shown in table 5 below.

Table 5: Recovered Public Properties

| Name of Person/Company | Property | Place | Amount (Kshs) | Status of Settlement |
|---|--|-------------------------------|---------------|----------------------|
| Ruth Wagaki Maina | LR No. 209/13539/165 | Woodley Estate | 6,000,000 | Recovered |
| Johnson M.K. Ondieki | LR No. 209/13539/60 | Woodley Estate | 6,000,000 | Recovered |
| Noah Arap Too | L.R. No. 209/13539/121 | Woodley Estate | 6,000,000 | Recovered |
| Lucy Wanjohi | L. R No. 209/13539/136 | Woodley Estate | 6,000,000 | Recovered |
| Kechelas Company Ltd | L. R No. 209/13539/112 | Woodley Estate | 6,000,000 | Recovered |
| Chemusian Company Ltd | L.R No. 209/13539/186 | Woodley Estate | 6,000,000 | Recovered |
| Tradeworld Ltd | L.R No. 209/13539/186 | Woodley Estate | 6,000,000 | Recovered |
| Elizabeth Mibey | L.R No. 209/13539/186 | Woodley Estate | 6,000,000 | Recovered |
| James Reriani Gachagua | L.R No. 209/13539/186 | Woodley Estate | 6,000,000 | Recovered |
| Dr. Mohamed Isahakia | L.R No.209/13539/53 | Woodley Estate | 6,000,000 | Recovered |
| Dneamus Githinji | L.R No.7785/1213 | Northern By-Pass | 5,000,000 | Recovered |
| Joseph Otunga | L.L.R No.209/13539/214. | Woodley Estate | 6,000,000 | Recovered |
| Abdulrazak Faryd Sheikh | L.R. No. 57785/1214 | Northern By-Pass | 5,000,000 | Recovered |
| Stones Industries Ltd. & Sammy Silas Komen Mwaita | L.R. No 209/387. | Northern By-Pass | 5,000,000 | Recovered |
| Joseph Mutuota | L.R. No. 209/13539/10 | Woodley Estate | 6,000,000 | Recovered |
| Richard Ethan Ndubai | Nairobi/Block 60/470 | South C | 9,000,000 | Recovered |
| Edward Muchai | L.R No. 22008/8 | KARI (Tigoni, Limuru) | 6,000,000 | Recovered |
| Cones Machinery Ltd | L.R. No. 22008/6 | KARI (Tigoni, Limuru) | 6,000,000 | Recovered |
| Andrew Gikonyo Ndegwa | L.R. No. 209/13539/3 | Woodley Estate | 6,000,000 | Recovered |
| CASH RECOVERED | | | | |
| Dr.Justus Njage | Rent Paid Illegally on Behalf of the MoH By the Council | City Council of Nairobi | 1,500,000 | Recovered |
| Dr Daniel M. Nguku | Rent Paid Illegally on Behalf of the Deputy MoH By the Council | City Council of Nairobi | 420,000 | Recovered |
| Peter Anyango Orege | Irregular payment of allowance | National Aids Control Council | 748,500 | Recovered |
| On Behalf of National Aids Control Council | Irregular payment of allowance | National Aids Control Council | 237,518 | Recovered |

3.5 QUARTERLY REPORTS

Section 35 of the Act requires the Commission to report to the Attorney-General on the results of every investigation. Under Section 36, the Commission is further required to prepare quarterly reports setting out the number of reports made to the Attorney-General and such other statistical information relating to those reports as the Commission considers appropriate.

During the period under review, the Commission prepared and published four Quarterly Reports as required by law. Figure 4 below shows that a total of 152 reports on investigations were made to the Attorney-General. Out of these, 111 reports recommended for prosecution of named suspects, 30 recommended closure of files and 8 recommended administrative action. [This reflects an increase of 81% of the cases forwarded to the Attorney-General, compared to 2005-2006. In that year, 84 investigation reports were made to the Attorney-General. Out of these, 70 reports recommended for prosecution of named suspects, 12 recommended closure of files and 2 recommended administrative action.]

Figure 4: Comparison of Quarterly Reports 2005-2006 and 2006-2007

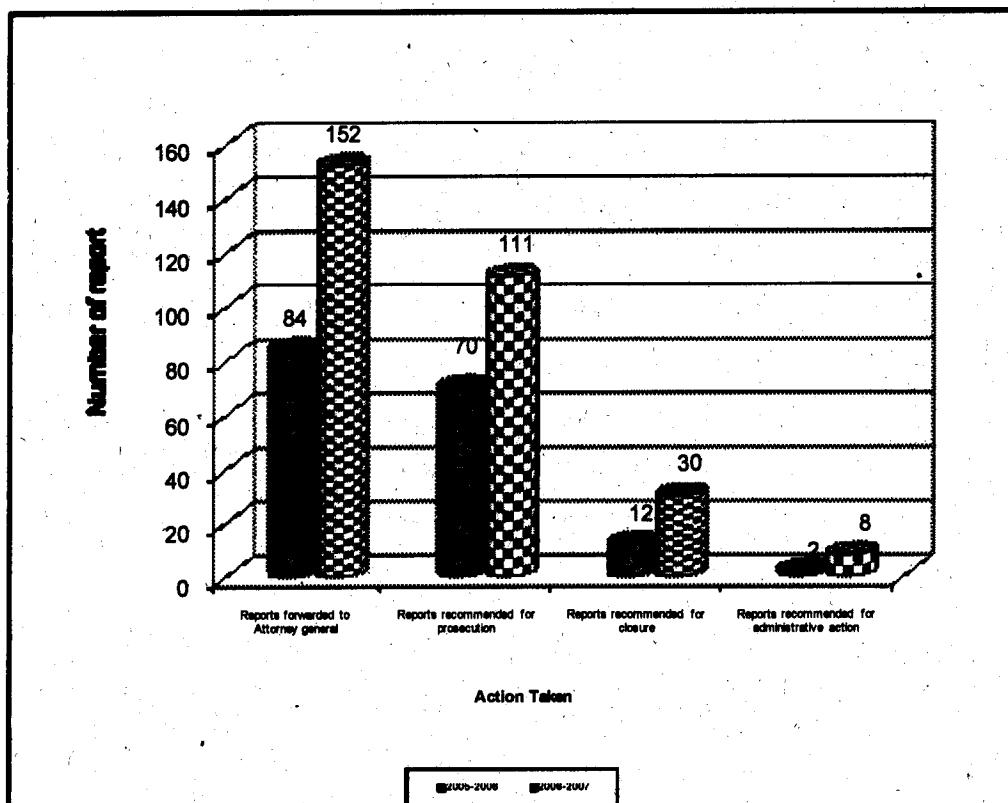


Table 6: Statistical Summary of Files Forwarded to the Attorney-General in 2006-2007

| Cases | July – September 2006 | October – December 2006 | January – March 2007 | April – June 2007 | Total No. of Files |
|---|-----------------------|-------------------------|----------------------|-------------------|--------------------|
| No. of files forwarded to the Attorney General | 52 | 33 | 42 | 25 | 152 |
| No. of files recommended for prosecution | 35 | 20 | 36 | 20 | 111 |
| No. of files forwarded to the Attorney General with recommendation to withdraw cases already before court | 4 | 0 | 0 | 0 | 4 |
| No. of files recommended for administrative or other action (One file previously before Court) | 3 | 2 | 2 | 1 | 8 |
| No. of files recommended for closure | 11 | 11 | 4 | 4 | 30 |
| No. of files where recommendation to prosecute accepted | 0 | 20 | 31 | 19 | 70 |
| No. of files forwarded to the Attorney General with recommendation to prosecute and the cases are already lodged in Court | 27 | 17 | 28 | 19 | 91 |
| No. of files where recommendation for administrative or other action accepted | 3 | 2 | 2 | 1 | 8 |
| No. of files where recommendation for closure accepted | 9 | 9 | 3 | 1 | 22 |
| No. of files returned for further investigations | 0 | 2 | 2 | 0 | 4 |
| No. of files where recommendation to prosecute not accepted | 0 | 0 | 1 | 0 | 1 |

| | | | | | |
|---|---|---|---|---|----|
| No. of files where recommendation for administrative or other action not accepted | 0 | 0 | 0 | 0 | 0 |
| No. of files forwarded in previous quarters and received during this quarter | 0 | 9 | 2 | 2 | 13 |
| No. of files where closure not accepted | 0 | 0 | 0 | 0 | 0 |
| No. of files awaiting Attorney General's action | 9 | 0 | 3 | 4 | 16 |

During the reporting period, the Commission continued with its investigation of the irregular contracts entered into between Anglo Leasing & Finance Company and the Government of Kenya and six files were forwarded to the Attorney General. In five of the files, it was the recommendation of the Commission that certain serving and former Ministers and Permanent Secretaries who presided over the various Anglo Leasing projects be charged with various offences of abuse of office and economic crime.

The files were however returned by the Attorney General with recommendation that further investigations be undertaken. The Attorney General, however, agreed with the recommendation for closure of one of the files where the investigation established that the evidence was not sufficient to sustain a prosecution. The local aspects of the investigations have been concluded while the international component is still ongoing. However, the Commission has no control of the duration the foreign investigations will take.

Some of the prominent cases investigated and reported in the quarterly reports during the period under review are as follows:

a) **KACC/FI/INQ/109B/05**

Investigation into an allegation that the Kenya Tourist Development Corporation (KTDC) management made a loan advance of Kshs. 100 million to Jacaranda Hotel (Mombasa) from Divestiture proceeds contrary to Treasury regulations and guidelines, the KTDC Act and Lending policy. Investigations established that the MD did not adhere to the lending policy of KTDC with regard to the loan appraisal, valuation of securities, lending ceilings and interest rates chargeable. He also used divestiture proceeds in contravention of the guidelines issued by Treasury.

It was recommended that the MD of KTDC be charged with five counts of economic crime contrary to Section 45 of The Anti-Corruption and Economic Crimes Act, 2003. The recommendation was however rejected by the Attorney-General.

b) **KACC/FI/INQ/88/2005**

Investigation into an allegation of irregular procurement of electronic tax registers and approval of electronic tax register suppliers by Kenya Revenue Authority. Investigations established that identification of potential suppliers was an open process which began with the placement of an advertisement by KRA in the local dailies on 5th October 2004. The criteria of evaluation of the machines were in the public domain, as the same was set out in the Value Added (Electronic Tax Registers) Regulations, 2004. The implementation process was well thought out and extensively researched. There was thus no evidence of irregularities as alleged. Recommendations were made that the inquiry file be closed. The Attorney-General accepted the recommendation.

c) **KACC/FI/INQ/11(C)/2005**

Investigation into allegations of irregular procurement of legal services by National Environmental Management Authority (NEMA). The inquiry was as a result of a report by Efficiency Monitoring Unit (EMU) that was prepared after a general audit on NEMA's activities. The report by EMU pointed at various wrong doings by the former Director-General of NEMA. The Commission has undertaken various investigations as a result of findings in the said report, one of which was with regard to procurement of legal services from the firm of S. Musalia Mwenesi & Co. Advocates at an estimated fee of Kshs. 15 million. The brief for which the services were procured was with regard to an application filed by the developers and managers of Village Market for judicial review orders against NEMA.

Investigations established that though the services were never tendered for or discussed by the Tender Committee, the suit for which the services were required was urgent and it was impractical to start procurement process from the beginning. Recommendation for administrative action was made. The Board members were reminded of their responsibility and the need to have a list of pre-qualified candidates for provision of legal services. The current Director-General was also advised to have the advocate/client bill taxed at the end of the proceedings. The Attorney-General accepted the recommendation.

d) **KACC/FI/INQ. 63/2005**

Investigation into allegations of abuse of office by three senior officers of Kenya Revenue Authority. They are alleged to have colluded with Aberdare Freight Ltd to evade tax on sugar imported from Brazil. It was also alleged that officers made false entries that the sugar was imported from Egypt so as to enable importers enjoy reduced import tariffs available to COMESA members. Investigations established that the sugar was indeed imported from Egypt. Further, on 30th April 2004 when the import was declared, the sugar was eligible for zero rating, but quota allocated for the year 2004 was exhausted, hence the rate had reverted to 100%. Confusion was further added to the matter by the filing of HC Misc. Application No. 646 of 2004 to compel KRA to release the sugar which had been detained as a result of complaints raised by Kenya Sugar Board and other stakeholders against importers. Due to the court order, there was an attempted release of the sugar, but the release order was reversed pending payment of duty. It was recommended that the inquiry file be closed as there was no evidence of impropriety by the KRA officers. The Attorney-General accepted the recommendation.

e) **KACC/FI/INQ. 100A/05**

Investigation into allegations of financial irregularities at the Ministry of Energy. It was alleged that a sum of kshs. 70 million received by the Ministry of Energy from KPLC and Kshs. 399 million received by the Ministry of Energy through the REP account was banked for 3 months and Kshs. 400 million was withdrawn on instructions of the PS, Ministry of Energy and these transactions were not disclosed in the Ministry's accounts. The investigations established that the transactions surrounding the said sums were legitimate and there was no evidence of wrong doing. It was thus recommended that the inquiry file be closed. The Attorney-General accepted the recommendation.

f) KACC/FI/INQ.5/05/25.1.05

Inquiry into allegations that the former Assistant Minister for Manpower Development, presently Minister for Housing and Member of Parliament for Malava Constituency, made false mileage claims amounting to Kshs. 285,984/- . Investigations established that the said MP made mileage claims although he had used a GK motor vehicle in four instances when claims were made in the month of July and August 2004, and which were the focus of the investigation. The false claims totalled Kshs. 285,984, and the claim forms purported that motor vehicle registration No. KAL 291B had been used, yet the MP does not own such a vehicle.

It was the recommendation of the Commission that the Minister be charged with four counts of economic crime for fraudulent acquisition of public property by making false mileage claims. The Attorney-General declined to prosecute the Minister.

g) KACC/FI/INQ./05/2006

Investigation into an allegation of theft of Kshs. 2,255,201.70 being part of the revenue collection for 29th December, 2005 that was lost while in the custody of the Chief Cashier and other officers in the Cash Office Section of the City Council of Nairobi. Investigations established that the acting Chief Cashier and Internal Auditor, respectively, had stolen Kshs. 2,254,706/= belonging to the City Council of Nairobi.

It was recommended that the two officers be jointly charged with the offence of stealing by persons employed in the public service contrary to section 280 of the Penal Code, Chapter 63, Laws of Kenya. The case is pending before Court.

h) KACC/FI/INQ/55A/2005

Investigation into an allegation that a former Managing Director of Kenya Wine Agencies Ltd was irregularly advanced a house purchase loan of Kshs. 6,000,000= . Investigations established the irregularity. The Commission made a recommendation that the former Managing Director and his deputy be charged with the offences of economic crime and abuse of office under sections 45 and 46 of The Anti-Corruption and Economic Crimes Act, 2003. The case is pending before Court

i) KACC/FI/INQ./03/2006

Inquiry into allegations that a construction company fraudulently obtained a consent judgment in its favour in Nairobi High Court Civil Suit number 1323 for Kshs. 121,708,169.73 against the City Council of Nairobi. Investigations revealed that the consent judgment was regularly obtained and was based on five certificates of payment raised by the contractor and authenticated by the responsible officers of the City Council of Nairobi for goods supplied and services rendered. The Commission made a recommendation that the inquiry file be closed. The Attorney-General returned the file with recommendation that further investigations be carried out. The Commission undertook the recommended further investigations and re-submitted the file to the Attorney-General, who concurred with the recommendation to close file.

j) KACC. CR. 141/448/2006 – COURT FILE: NAIROBI ACC. NO. 35/06

Inquiry into allegation that two employees of the Kenya Revenue Authority had solicited for a benefit of Kshs. 600,000= from the complainant as inducement to resolve a dispute in respect of the 1993 tax returns for his company. Investigations established that the officers did corruptly solicit and receive a benefit from the complainant for which they were arrested and arraigned before the Nairobi Anti-Corruption Court. The case against the accused persons is pending before Court.

j) KACC/INQ.20/30.07.03

Inquiry into allegations of corruption by M/s Don-Woods Company Ltd in the award and execution of a contract for the construction of the Kenya Pipeline Co. Ltd Headquarters, Nairobi (KPC.) Investigations revealed that the two former Managing Directors engaged various consultants for the project without following the laid down procurement procedures. One of them also awarded a tender for additional works for construction of two extra floors of KPC Headquarters at a cost of Kshs. 340,972,850/- to Don-Woods Company Ltd without subjecting it to open tender, in total disregard of the procurement regulations.

It was recommended that the two former Managing Directors be charged with various counts of abuse of office contrary to section 101(1) of the Penal Code, Chapter 63, Laws of Kenya. The Attorney-General returned the file on 30th March 2007 with recommendation that further investigations be carried out. The Commission undertook the recommended further investigations and re-submitted the file to the Attorney-General. His advice on the matter is awaited.

l) KACC/FI/INQ./55D/2005

Inquiry into allegations that a former Managing Director and Deputy Managing Director of Kenya Wine Agencies Ltd fraudulently acquired motor vehicles belonging to the company. The investigation established that the two ordered for the purchase of Motor vehicles Registration KAR 505B Toyota Prado and KAN 143R Mercedes Benz without following the laid down procedures and indeed fraudulently acquired the said Motor Vehicles.

The file was forwarded to the Attorney-General with a recommendation that the suspects be charged with economic crime and abuse of office under sections 45(2)(b) and 46 of The Anti-Corruption and Economic Crimes Act, 2003. The Attorney-General concurred with the recommendation.

m) KACC/FI/INQ/37/200

Inquiry into allegations that a Chief Economist in the Ministry of Planning and National Development received an imprest amounting to Kshs. 2,554,657 from the Ministry of Water and Irrigation where he previously served, to attend a Diploma course in Management at the Global Training and Development Institute, United States of America, but allegedly neither attended nor surrendered the imprest. Investigations carried out by the Commission revealed that the officer was nominated to attend the training, and the course was to run from 3rd May, 2004 to 30th July 2004. His nomination was approved by the Permanent Secretary concerned, whereupon he was paid his tuition fees and per diem allowances to cater for the ninety four days that he was to be out of the country. It was established that the officer indeed travelled to the USA to undertake the course but was out of the country for only fifty four days because his course was interrupted to enable him finalize a work assignment for which he did return to Kenya after he was recalled by the Ministry.

It was recommended that, since the said officer was paid for the full duration, the excess per diem paid be recovered from the officer through monthly deductions from his salary. A letter to that effect was written to the Permanent Secretary, Ministry of Planning and National Development.

n) KACC/FI/INQ/53A/2005

Inquiry into allegations of misappropriation of public funds in respect of the contract between the Ministry of Local Government and M/s Binlaw Construction Co. Ltd. Investigations established that though the procurement process was transparent, the successful tenderer, M/s Binlaw Construction Co. Ltd used a forged Bank Guarantee to qualify for the contract. It was also established that in the course of implementation of the contract certain payments were made to the contractor which were not deducted from the ensuing certificates of payment.

It was recommended that the Managing Director of M/s Binlaw Construction Co. Ltd be charged with the offence of uttering a false document contrary to section 353 of the Penal Code, Chapter 63, Laws of Kenya. It was further recommended that the outstanding sums be recovered from the contractor. The case against the Managing Director is pending before Court.

o) KACC/FI/INQ.85/05

Inquiry into allegations that the property of the City Council of Nairobi, LR. No. 3734/261 – IR 11173, situated in Lavington and reserved as the Mayoral Residence, was fraudulently acquired by the wife of a former Minister. Investigations established that there was no resolution of the Council authorizing the transfer. There was also no approval of any such transfer by the Minister for Local Government. The documents in the possession of the Minister's wife are totally different from those in the Lands office. The Commission reached the conclusion that the former Minister used his office as the Minister for Lands to manipulate records and to fraudulently seize ownership of the Mayor's house in his wife's name.

The file was forwarded to the Attorney-General on the 23rd March, 2007 with a recommendation that the former Minister and his wife be charged with the offences of uttering a false document and perjury contrary to sections 353 and 108 of the Penal Code, Chapter 63, Laws of Kenya, respectively. The advice of the Attorney-General is awaited.

p) KACC/FI/INQ.69 (B)/2006

Inquiry into allegations that the former Finance and Corporate Services Director of the Kenya Reinsurance Corporation diverted Kshs. 1,835,978.00 meant for the Corporation to his personal use. Investigations confirmed that the said Finance and Corporate Services Director instructed a Cashier to credit his mortgage account with a sum of Kshs. 1,835,978.00, which sum had been paid by an insurance company as part of its 18% compulsory treaty shares. The former Director has been charged with economic crime under section 45(1) (a) of The Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before Court.

q) KACC/INQ. 69(A)/2006

Inquiry into an allegation that the former Managing Director of Kenya Reinsurance Corporation Ltd converted cheques totaling to Kshs. 6,730,291.20 meant for the Corporation to pay his personal mortgage. There was also another allegation to the effect that the former Finance Director of the said Corporation obtained Kshs. 5,423,183 from the Corporation by falsely pretending that the money was a refund of a deposit paid by M/S Rockhound Properties Ltd towards purchase of the Corporation's property at Villa Franca Estate.

Investigations established that two cheques totaling to Kshs. 6,730,291.20 were remitted to Kenya Reinsurance Corporation for payment of premiums due and office renovation expenses, but the proceeds thereof were diverted and posted as credits into the mortgage account of the Managing Director. Investigations have also established that a company called Rockhound Properties Ltd had expressed interest to purchase House No. 307 at Villa Franca Estate and was expected to raise a deposit of Kshs. 5,466,383. However, the sum of Kshs. 5,466,383 that was purportedly paid by Rockhound Properties Ltd as deposit was money remitted by an Insurance Company as re-insurance premiums due to the Corporation. Out of the said sum, Kshs. 3,000,000 was used as part payment for a house for the Managing Director and Kshs. 2,000,000 was used to purchase stocks at the Nairobi Stock Exchange for the Finance Director and his wife.

The former Managing Director and the Finance Director have been charged with various counts of economic crime contrary to Section 45(1)a of The Anti-Corruption and Economic Crimes Act. The former Finance Director has also been charged with abuse of office, forgery and uttering a false document. The case is pending before Court.

r) KACC/INQ/FI/90A/2005

Inquiry into allegations of misappropriation of Kshs. 7,500,000/- granted to M/S Par Aid (Herbalists & Researchers) by the National AIDS Control Council (NACC) for purposes of funding research on the efficacy of herbal treatment of HIV/Aids. Investigations revealed that the sum of Kshs. 7,500,000/- was a grant alleged to be for the purposes of funding a research on the efficacy of a herbal treatment of HIV/Aids.

It was also noted that the research proposal was drafted with the assistance of two Doctors based at Moi University and a Professor at the University of Nairobi, who jointly vouched for the positive results of an alleged earlier study. Investigations disclosed that some forged receipts allegedly issued by Moi University were tendered to NACC in support of expenses incurred as laboratory test fees in the sum of Kshs. 3,833,800/-.

It was the recommendation of the Commission that the two partners of Par Aid be prosecuted with the offences of obtaining money by false pretences and uttering false documents. Further recommendations were made to the Director, NACC to lodge a complaint with the Medical Practitioners and Dentists Board against the two Doctors working at the Moi University and the Professor based at the University of Nairobi for professional misconduct. The Attorney-General concurred with the recommendation.

3.6 CRIMINAL CASES TAKEN TO COURT

After successful completion of investigations, the following persons have been charged before various courts with offences of corruption and economic crime and other related offences.

Table 7: Criminal Cases taken to Court

| No. | Case Number | Name of Accused | Position/Institution | Nature of Charge | Date of Plea | Status |
|-----|---|--|---|--|-----------------|---|
| 1 | 141/584/06 MAKADARA CF 3645/06 | Norah Anindo Owino, Richard Okello Neri | Principal Magistrate - Business Premises Rent Tribunal, Court Clerk | Soliciting for and receiving a benefit contrary to Section 39(3)(a) of ACECA | 6.7.06 | Hearing on 8/9.11.07 |
| 2 | CR 141/599/06 ACC | Jason Kiambi Mungania | Teachers Service Commission | Soliciting for and receiving a benefit contrary to Section 39(3)(a) of ACECA | 11.7.06 | Hearing on 9.10.07 |
| 3 | CR 141/598/06 ACC 44/06 | Jared Munene Mathenge | Chief, Kirumukuyu Location | Soliciting for and receiving a benefit contrary to Section 39(3)(a) of ACECA | 11.7.06/4.10.06 | Defence Hearing on 6.11.07 |
| 4 | CR 1267/06 | Paul Chemweno | MD, Kerio Valley Development Authority | Abuse of office C/S 101(1) of the Penal Code | 14.7.06 | Hearing on 9/11.10.07 |
| 5 | CR 141/626/06 ACC 47/06 | Peter Muili Ndeto | Clerical Officer, Pensions Dept., Ministry of Finance | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 25.7.06 | Hearing on 30.10.07 |
| 6 | CR 141/674/06 ACC49/06 | Hellen Nthenya Munene | Copy Typist II, Registrar of Persons | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 27.7.06 | Accused was convicted on the 3 counts on 20.7.07. She was fined Kshs. 50,000/= on each count in default 6 months imprisonment. |
| 7 | CR 341/579/06 ACC 4/06 MOMBASA | Hon. Tola Kofa, Baffin Sumbule, Bakari Omari Komora | Member of Parliament & Officials of Galole CDF | Economic Crime C/S 45(2)(b) of AC&ECA | 25.7.06 | Hearing on 11 th /12 th October 2007 |
| 8 | CR 141/668/06 ACC 48/06 | John Bosco Mwangi | Acting Director, Govt. Information Technology Dept., Min. of Finance | Economic Crime C/S 45(2)(b) of AC&ECA | 27.7.06 | Hearing on 28.11.07 |
| 9 | CR 141/668/06 ACC 51/06 | Robinson Njiru Gitabi | Chief, Baricho Location | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 31.7.06 | Hearing on 7/8.11.07 |
| 10 | CR 141/687/06 CF 4270/06 | Paul Koinange | Businessman | Deceiving a person acting under AC&ECA | 1.8.06 | Hearing on 8.10.07 |
| 11 | CR 141/688/06 CF 4271/06 | George Wambua, Harnisi Mboga | Treasurer Deputy Town Clerk, City Council of Nairobi | Abuse of office c/s 46 of AC&ECA | 1.8.06 | Hearing stayed to await outcome of Constitutional Application by Accused. |
| 12 | CR 141/700/06 ACC 57/06 | Joseph Kiptanui Serem | Principal Hides & Skins Officer, Min. of Livestock & Fisheries | Abuse of office c/s 46 of AC&ECA | 7.8.06 | Defence Hearing on 12.11.07 |
| 13 | CR 141/698/06 | George Fred Onyango, Valeria Akuku Onyino, Sammy Musila | Senior Lands Officer | Abuse of office c/s 46 and Economic Crime C/S 45(2)(b) of AC&ECA | 7.8.06 | Hearing on 16.11.07 |
| 14 | CR 141/709/06 CF 1431/06 | Charles Ndungu Karanja, Nathan Mulinge, Fredrick Chepkwony, Joel. K. Too, David Michoti, George Mwangi, Joseph Ruita, Livingstone Sigei | Workshop Manager, Director, Housing Devp. Department, 3 Accountants, & Treasurer, City Council of Nairobi Proprietor, Stonegate Products | Abuse of Office c/s 101(1) of the Penal Code & Obtaining by false pretences c/s 313 of the Penal Code | 9.8.06 | Hearing on 13.11.2007 |
| 15 | CR 142/131/06 ACC 56/06 | Joshua Miano Ndegwa | Police Officer | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 2.8.06 | Acquitted under Section 210 CPC |
| 16 | CR 141/710/06 ACC 60/06 | Samson Ndeto Nguli | Employee, City Council of Nairobi | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 8.9.06 | Hearing on 4.12.07 |
| 17 | CR 142/148/06 ACC71/06 | Elizabeth Chelangat Lomachar | City Inspectorate, City Council of Nairobi | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 21.8.06 | Hearing on 2.11.07 |
| 18 | CR 921/595/06 CF 2059/06 KAKAMEGA | Wycliffe George Alubokho | Chief, Marama North Location | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 4.7.2006 | Hearing on 25.10.2007 |
| 19 | CR 141/599/06 ACC 99/06 | John Kamwaki Muhoro | Teachers Service Commission | Soliciting for and receiving a bribe C/S | 7.11.06 | Hearing on 9.10.07 |

| No. | Case Number | Name of Accused | Position/ Institution | Nature of Charge | Date of Plea | Status |
|-----|------------------------------|---|--|--|--------------|---|
| | | | | 39(3)(a) of ACECA | | |
| 20 | CR 141/739/06 ACC 75/06 | Edwin Moruri Otwori | Chief Ruaraka | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 22.8.06 | Case withdrawn under Section 87(a) of the CPC |
| 21 | CR 142/147/06 ACC 72/06 | Jane Gatwiri Mburugu, Richard Henry Konde | Public health Officers, City Council of Nairobi | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 22.8.06 | Hearing on 11/12.10.07 |
| 22 | CR 911/487/06 ACC 87/06 | Sakayo Wandeyi Otieno | Senior Executive Officer, Bungoma Law Courts | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 22.9.06 | Case transferred from Kakamega to Kisumu hearing date yet to be fixed |
| 23 | CR 142/143/06 ACC 43/06 | Dismus Wekesa Barasa | Technician, KPLC | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 16.8.06 | Hearing on 8.10.07 |
| 24 | CR 141/703/06 ACC 3/06 | Paul Wanjohi | Businessman | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 7.8.06 | Hearing on 27.11.07 |
| 25 | CR 141/696/06 ACC 14/06 | Raphael Kipkoech Rono | OCS, Ongata Rongai | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 4.8.06 | Hearing on 30.11.2007 |
| 26 | CR 142/159/06 ACC 78/06 | Charles Magondu Wachinga & Edward Mwangi Kamau | Security Manager, Cooperative Bank | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 31.8.06 | Hearing on 2.10.07 |
| 27 | CR 141/570/06 ACC 70/06 | Joseph Masinde Ngaira | Environmental Management and Information Officer, NEMA | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 1.9.06 | Hearing on 30/31.10.07 |
| 28 | CR 142/160/06 ACC 82/06 | Nicholas Kaloki Kasolya | Children's Department, Muranga | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 4.9.06 | Hearing on 14/15/16.1.08 |
| 29 | CR 141/793/06 ACC 93/06 | Nicholas Kangangi | CID Police Officer, Embakasi | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 9.12.06 | Hearing on 19/20.12.07 |
| 30 | CR 141/794/06 ACC 5161/06 | Sammy Mutavi | Police Officer Div Crime, Buru Buru | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 9.12.06 | Hearing on 30.10.07 |
| 31 | CR 141/800/06 ACC 5053/06 | Joseph Muteti Musoi | Probation Officer, Nyayo House | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 9.12.06 | Hearing on 30.10.07 |
| 32 | CR 142/170/06 ACC 5342/06 | Boniface Kasongo Tumbo | Chief, Thitani Location | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 20.9.06 | Hearing on 28/29.1.08 |
| 33 | CR 141/815/06 ACC 5341/06 | Joseph Kimeli Kiptoo | Police Officer attached to Muthangari Police Station | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 20.9.06 | Hearing on 16.11.07 |
| 34 | CR 170 329/06 ACC 91/06 | Andrew Mutuku Muoki | Public Health Officer, Langata Division, City Council of Nairobi | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 25.9.06 | Hearing on 2.10.07 |
| 35 | CR 141/855/06 ACC 96/06 | Jackson Chepyator Kiptum | Senior Systems Analyst, Kenyatta National Hospital | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 5.10.06 | Hearing on 8/9.11.07 |
| 36 | CR 141/861/06 ACC 97/06 | Caleb Gichana Masila | Private Person | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 10.9.06 | Hearing on 14.12.07 |
| 37 | CR 032/45/06 ACC 850/06 | PC Jackline Kadogo Makemba & PC John Muthee Njoroge | Police Officers | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 13.10.06 | Hearing on 7.11.07 |
| 38 | CR 141/891/06 ACC 98/06 | Judith Anyango Odhiambo | Police Officer | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 19.10.06 | Hearing on 9.10.07 |
| 39 | CR 170/377/06 ACC 99/06 | Peninah Kimuyu | Police Officer Kilimani | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 23.10.06 | Hearing on 16.11.07 |
| 40 | CR 141/892/06 ACC 100/06 | Thomas Tuva Kenga | Immigration Officer | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 23.10.06 | Hearing on 17.11.07 |
| 41 | CR 123/608/06 ACC 101/06 | Gabriel Raphael Njagi | Police Officer Kerugoya | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 23.10.06 | Hearing on 3.10.07 |
| 42 | ACC KISUMU | Isaac Tirop (C.I) | Police Officer Kakamega | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 27.10.06 | Hearing on 5/7.11.07 |

| No. | Case Number | Name of Accused | Position/Institution | Nature of Charge | Date of Plea | Status |
|-----|--|---|--|--|--------------|---|
| 43 | ACC 104/06 CR 141/921/06 | Faith Gacheri Ithinji | Process Server, Judiciary | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 3.11.06 | Nolle prosequi entered on 4.6.07 |
| 44 | ACC 105/06 CR 141/917/06 | Kennedy Donde Masiga | Police Constable, Tourist Police | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 3.11.06 | Hearing on 3.10.07 |
| 45 | ACC 3368/06 CR 921/931/06 KAKAMEGA | Alfred Kizito Aput | Auditor in the DEO's office Kakamega | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 7.11.06 | Hearing on 9.10.07 |
| 46 | ACC 22/06 CR 831/784/06 | Violet Wambui Mbugua | Clerical Officer, (Judiciary) | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 10.11.06 | Hearing on 23.10.07 |
| 47 | ACC 7/07 CR 802/697/06 KERICHO | Joyce Chepkorir Mutai Elizabeth Cheptoo | Clerical Officer, Registrar of Persons and Clerical officer, Judiciary | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 22.11.06 | Acquitted under Section 210 on 11.5.07 |
| 48 | ACC 109/06 CR 141/997/06 | Jackson Otenyo Mandale | Supervisor, City Inspectorate, NCC | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 4.12.06 | Hearing on 5.10.07 |
| 49 | ACC 111/06 CR 141/1016/06 | Protus Wamalwa Musoba | Police Officer attached to CID, Kasarani | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 11.12.06 | Hearing on 16.11.07 |
| 50 | ACC 110/06 CR 141/1017/06 | Isaac Kamau Kamande | Police Officer (Prosecutor, Limuru Law Courts) | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 11.12.06 | Hearing on 18/19.10.07 |
| 51 | ACC 113/06 CR 141/1018/06 | Caroline Naisola & Grace Njeri Kigathi | City Askaris NCC | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 13.12.06 | Hearing on 1/6.11.07 |
| 52 | EMBU ACC 41/06 CR 411/178/06 | Joseph Munyaka Makau | Police officer CID Embu | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 19.12.06 | Withdrawn on 17.8.07 as complainant is deceased |
| 53 | ACC 115/06 CR 142/1035/06 | Salim Ilali | Prison Headquarters | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 18.12.06 | Hearing on 19/20.1.08 |
| 54 | KERICHO ACC CR 802/751/06 | Erick Kiprono Kering | Administration Police | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 9.1.07 | Hearing on 22.10.07 |
| 55 | ACC 118/06 CR 141/1061/06 | Kennedy Osiako Obora | Police Officer Muthangari | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 29.12.06 | Hearing on 8/9.11.07 |
| 56 | NAIROBI ACC 2/07 CR 122/6/07 | Nassur Mohammed, Hussein Roba & Moses Wanyoike | Chief, Eastleigh NCC employee Private person | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 11.1.07 | Hearing on 22.11.07 |
| 57 | KERICHO CR 741/23/07 | John Nyabonda & Samuel Mayaka | Court Clerks, Bomet Law Courts | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 11.1.07 | Hearing on 7.11.07 |
| 58 | KERICHO CR 741/38/07 | Raphael Kungu Gaa & Evans Otieno | OCS, Eldoret Police Officer, Eldoret | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 22.1.07 | Mention on 29/30.10.07 for fixing of hearing date |
| 59 | EMBU ACC 3/07CR 411/15/07 | John Mwaniki Mvungu | Assistant Land Registrar, Embu | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 25.1.07 | Hearing on 4.10.07 |
| 60 | ACC 8/07 CR 141/79/07 | Taabu Dismas Dalmas | Police Officer attached to Juja Police Station | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 26.1.07 | Hearing on 8.10.07 |
| 61 | NAKURU CR 760/153/07 | David Gitari Thatu | Police Officer, Kajiado Traffic Office | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 2.2.07 | Mention on 19.10.07 to fix a hearing date |
| 62 | KISUMU CR 032/7/07 | Emmanuel Mukhwana | Police Officer Awendo Traffic Sub Base | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 2.2.07 | Hearing on 8.11.07 |
| 63 | ACC 18/07 CR 141/91/07 | Pison Kanina | Nairobi Water Company | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 5.2.06 | Hearing on 29.11.07 |
| 64 | ACC 19/07 CR 141/102/07 | Christoper Kamau-Mwangi alias Ngumba | Nairobi City Council Askari | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 9.2.07 | Hearing on 14/19.11.07 |
| 65 | NAKURU CF 402/07 CR 3070/7/07 | Sammy Musili Muangi | OCS Olenguruone Police Station | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 14.2.07 | Hearing on 22.10.07 |
| 66 | MOMBASA ACC 7/07; CR 342/102/207 | Paul Kombo Kenyatta, Cyrilis Joseph Olongo Obiro, | CDF Committee Members | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 19.2.07 | Hearing on 3.10.07 |

| No. | Case Number | Name of Accused | Position/Institution | Nature of Charge | Date of Plea | Status |
|-----|----------------------------------|---|--|---|--------------|---|
| | | Edwin Lawrence Demla | | | | |
| 67 | MOMBASA ACC 3/07; CR 021/4/07 | Francis Kauli Nguta | Town Clerk, Kwale County Council | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 19.2.07 | Hearing on 17.10.07 |
| 68 | CR 141/118/07 MAKADARA ACC 8/07 | Peter Delumana Adenge | Police Officer, Kabati Police Station | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 21.2.07 | Hearing on 27.11.07 |
| 69 | CR 032/6/07 KISIMU CF 141/07 | Fredrick Wanjala Maelo | Deputy OCS, Isebania | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 23.2.07 | Hearing on 8.11.07 |
| 70 | CR 132/29/07 MAKADARA ACC 11/07 | Andrew Omol Mboto | Water Conservation and Pipeline Corporation | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 13.3.07 | Hearing on 25.10.07 |
| 71 | CR 141/175/07 ACC 13/07 | Fredrick Njenga | Chief, Kabete Location | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 13.3.07 | Hearing on 13/14. 11.07 |
| 72 | CR 132/29/07 MAKADARA ACC 11/07 | Rose Agwang Otieno | Clerk, Registrar of Persons, Makadara | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 13.3.07 | Hearing on 23.10.07 |
| 73 | CR 132/34/07 MAKADARA ACC 15/07 | James Kamande Njogu & John Murichu Munyui | Public Health Technicians, Min. of Health | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 14.3.07 | Hearing on 8/9.11.07 |
| 74 | CR 141/193/07 MAKADARA ACC 17/07 | Mohamed Kuriow Nur | Businessman | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 16.3.07 | Case against accused stayed pending hearing of constitutional application. Mention on 15.11.07 |
| 75 | CR 132/37/07 MAKADARA ACC 18/07 | Nyabuto Arambe Abusa | Routine Inspector, Kenya Power & Lighting | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 16.3.07 | Hearing on 7.12.07 |
| 76 | CR 141/302/07 MAKADARA ACC 19/07 | George Muchene Mukuria | Chief, Riruta Location | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 14.3.07 | Hearing on 28/29.11.07 |
| 77 | NAIROBI ACC 20/07 | Francis Emmanuel Oyugi and John N. Ndungu | Former Managing Director and Deputy MD of Kenya Wine Agencies | Economic Crime and Abuse of Office | 12.3.07 | Hearing on 14/15/16/17.1.08 |
| 78 | MAKADARA ACC 21/07 | Job Kipkemei Kilach | Director of Foreign Department, Central Bank of Kenya | Failure to comply with a notice under Section 26 of ACECA | 29.3.07 | Hearing stayed pending hearing of the High Court Petition No. 1076/07 |
| 79 | MAKADARA ACC 22/07 | Dr. Wilfred Karuga Koinange | Former Ps, Treasury | Failure to comply with a notice under Section 26 of ACECA | 29.3.07 | Ruling on 3 rd October 2007 |
| 80 | MAKADARA ACC 23/07 | Eliphaz Riungu | Former Deputy Governor of CBK | Failure to comply with a notice under Section 26 of ACECA | 30.3.07 | Application for constitutional reference rejected by Court. Hearing of main case on 15.11.07 |
| 81 | MAKADARA ACC 24/07 | Joseph Mbui Magari | Former PS, Treasury | Failure to comply with a notice under Section 26 of ACECA | 30.3.07 | Proceedings stayed pending hearing of Constitutional reference |
| 82 | MAKADARA ACC 25/07 | Michael Wanjihia | Chief Dealer, Central Bank of Kenya | Failure to comply with a notice under Section 26 of ACECA | 30.3.07 | Hearing of application for constitutional reference on 16 th October 2007 |
| 83 | MAKADARA ACC 26/07 | James Kanyotu | Former head of Intelligence | Failure to comply with a notice under Section 26 of ACECA | 30.3.07 | Plea and hearing stayed by HCCC 318/07 |
| 84 | MAKADARA ACC 27/07 | Collins Owayo | Former Commissioner for Mines | Failure to comply with a notice under Section 26 of ACECA | 30.3.07 | Application by accused seeking constitutional reference rejected on 14. 8.07. Hearing on 30.10.07 |
| 85 | MAKADARA ACC 40/2007 | Johnson Jackson Githaka & John Faustin Kinyua | Former MD & Former Finance Director of Kenya Reinsurance Corporation | Joint charge of fraudulent acquisition of public property C/S 45(1)a of ACECA, Additional charge of abuse of office, forgery & uttering a false document against Mr. Kinyua | 20.4.07 | Hearing on 29 th to 31 st January 2008 |

| No. | Case Number | Name of Accused | Position/ Institution | Nature of Charge | Date of Plea | Status |
|-----|-------------------------------------|---|---|---|--------------|--|
| 86 | NAIROBI ACC 23/2007 | Reuben Owino Ndolo | Member of Parliament for Makadara Constituency | Obstructing an investigator and assault C/S 66 of ACECA | 24.4.07 | Hearing on 8/9.10.07 |
| 87 | NAIROBI ACC 24/2007 | John Faustin Kinyua | Former Finance Director, Kenya Reinsurance Corporation | Fraudulent acquisition of public property C/S 45(1)a of ACECA | 24.4.07 | Hearing on 15 th , 16 th and 18 th October 2007 |
| 88 | CR 112/227/07 MAKADARA ACC 28/07 | Richard Otieno Onyango | District Officer, Kikuyu | Soliciting and receiving a benefit C/S 39(3)(a) of ACECA | 31.10.07 | Hearing on 31.10.07 |
| 89 | CR 142/55/07 MAKADARA ACC 29/07 | David Waitara Kanyangi & Charles Chelanga Chesang | Police Officers attached to Ndakaini Police Post | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 27.3.07 | Hearing on 17.12.07 |
| 90 | CR 121/277/07 MAKADARA ACC 30/07 | Milliton M. Kimanzi | Businessman | Impersonating an investigator C/S 34(1) of ACECA | 29.3.07 | Hearing on 14.12.07 |
| 91 | CR 011/45/07 MAKADARA ACC 32/07 | Jackson Mwania Kiima | Assistant Chief, Muthingiine, Kibwezi | Soliciting and receiving a benefit C/S 39(3)(a) of ACECA | 2.4.07 | Hearing on 3/4.12.07 |
| 92 | CR 214/129/07 MAKADARA ACC 34/07 | Daniel Ndambari, James Kiragu Mathenge, Isaac Makau Mue & Ali Barre | Adm Police attached to DO's Office, Kikuyu | Obstruction C/S 66(1)(a) of ACECA | 5.4.07 | Hearing on 5/6.12.07 |
| 93 | CR 911/177/07 BUNGOMA CF 904/07 | Samson Temu Omayia & Patrick Mbiya Mwisati | Resident Magistrate, Kakamega | Soliciting and receiving a benefit C/S 39(3)(a) of ACECA | 23.4.07 | Hearing on 5/6.11.07 |
| 94 | CR 111/205/07 MAKADARA ACC 37/07 | Raphael Kasyula Muli & George Musyoka Mwilu | City Council of Nairobi Askaris | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 18.4.07 | Hearing on 18/19.12.07 |
| 95 | 973/150/07 BUNGOMA CF 932/07 | Patrick Onukunda Omungala | Chief, Marenjo Location | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 11.5.07 | Hearing on 5 th October, 2007 |
| 96 | CR 030/10/07 KISUMU ACC 21/07 | John Gititu Mununu, Nathan Amboga & Westley Cheruiyot Sitiuni | Police Officers, Kabarnet | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 13.4.07 | Case withdrawn under section 204 CPC |
| 97 | CR 141/287/07 ACC 2/07 | Cl Jason Mworia | Police Officer | Obstruction C/S 66(1)(a) | 2.5.07 | Hearing on 22/23.10.07 |
| 98 | CF 769/07 | John Moguche Zackariah | Director, Binlaw Construction Co. Ltd | Uttering a false document | 8.5.07 | Submissions on 9.10.07 |
| 99 | CR 411/83/07 EMBU ACC 4/07 | Wilson Gitonga Wachira | CID Officer attached to Kerugoya | Soliciting and receiving a benefit C/S 39(3)(a) of ACECA | 24.5.07 | Hearing on 15.10.07 |
| 100 | CR 141/265/07 MAKADARA ACC 35/07 | Patrick Ooko Abonyo | Police Officer attached to Kilimani | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 16.4.07 | Hearing on 10.12.07 |
| 101 | CR 346/199/07 MOMBASA ACC 7/07 | Michael Akoko Mbero | Acting Assistant Revenue | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 28.5.07 | Hearing on 1/11/07 |
| 102 | CR 411/85/07 EMBU ACC 5/07 | Tobias Musyoki Mutua | Police Officer, Kirinyaga | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 28.5.07 | Hearing on 12.10.07 |
| 103 | CR 142/101/07 NAIROBI ACC 28/07 | Josphat Omwenga Sagero & Ahmed Maalim Osman | Police officers attached to Kasarani | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 22.6.07 | Hearing on 19/20.12.07 |
| 104 | CR 011/73/07 NAIROBI ACC 26/07 | Peter Karanja Kimani & Peter Irungu Maina | Police Officer based in Langata Police Station Private Person | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 7.6.07 | Hearing on 17/18.12.07 |
| 105 | CR 021/53/07 MOMBASA ACC | Elvin Charo Changawa | Police Prosecutor attached to Kwale Law Courts | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 25.6.07 | Hearing on 8.11.07 |
| 106 | CR 141/411/07 NAIROBI ACC 29/07 | Wilson Nahashon Karani | City Planning Officer, Ministry of Local Government | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 27.6.07 | Hearing on 13.11.07 |
| 107 | CR 032/28/07 | Kennedy | Police officers | Soliciting for and | 29.06.07 | 1.11.07 |

| No. | Case Number | Name of Accused | Position/Institution | Nature of Charge | Date of Plea | Status |
|-----|------------------------------------|--------------------------|---|--|--------------|--|
| | KISUMU CF 361/07 | Chandai & Edward Ambeng | attached to Migori CID | receiving a bribe C/S 39(3)(a) of ACECA | | |
| 108 | CR 141/411/07 NAIROBI ACC | Fredrick Maina | APC Butere | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 29.6.07 | Hearing on 7.11.07 |
| 109 | CR 142/72/07 MAKADARA ACC 22/07 | Moses Kipchirchir Tanui | Nairobi Water Company | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 24.4.07 | Hearing on 11 th /12 th October 2007 |
| 110 | CR 111/348/07 NAIROBI ACC 32 | Stephen Ouma Aboyo | Police Officer attached to Banking Fraud Unit | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 3.7.07 | Hearing on 30/31.1.08 1/4/5.2.08 |
| 111 | CR 141/443/07 | Ephantus Maina Mutonyi | Probation Officer I | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 12.7.07 | Hearing on 31.10.07 and 1.11.07 |
| 112 | CR 141/448/07 NAIROBI ACC 35/07 | Ferdinand Ndungu Waititu | Deputy Mayor | Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA | 12.7.07 | Hearing on 1 st and 2 nd November 2007 |

3.7 LEGAL RESEARCH

In appreciation of the need to enhance the legal framework in order to boost the fight against corruption, the Commission analysed The Anti-Corruption and Economic Crimes Act, 2003 and The Public Officer Ethics Act, 2003 and made various recommendations to the Attorney-General for amendment. Among the recommendations on amendments to The Anti Corruption and Economic Crimes Act, 2003 include provisions to:

- (a) Give the Commission powers to take over investigations commenced by the police into an offence involving corruption;
- (b) Empower the Commission in consultation with the Minister and the Attorney-General to tender an undertaking in a form prescribed by the Minister, not to institute or continue with investigations against any person suspected of an offence under the Act. Such an undertaking will be given upon the Commission giving notice in the media for such interested persons to approach it and the said undertaking will be made upon such persons making full disclosure of all material facts relating to past corruption or economic crime, paying or refunding with the Commission any property or money irregularly obtained, making reparations to any person affected by his corrupt conduct and paying for loss of public property occasioned by his corrupt conduct;
- (c) Introduce the offence of attempting to commit an offence involving corruption or an economic crime;
- (d) Give the Commission power to appoint a receiver for property that is suspected by the Commission to have been acquired through corrupt conduct;
- (e) Allow the Commission to institute civil proceedings without the necessity of investigating a criminal offence;
- (f) Allow the Commission to enter into an out-of-court settlement before or after filing a civil suit;
- (g) Exempt the Commission from the award of costs for or against it in any civil proceedings instituted by it in the exercise of its functions under the Act; and,
- (h) Exempt the Commission from execution or attachment where judgment has been given against it for payment of money by way of damages or otherwise.

Among the recommendations on amendments to The Public Officer Ethics Act, 2003 include provisions that:

- (a) Wealth declarations be submitted once every two years;
- (b) The Minister may, whenever necessary, by notice in the Gazette appoint and assign function to a public body or other suitably qualified person to verify declarations, clarifications or returns made under the Act;
- (c) Information on wealth declarations be retained for five years instead of thirty years after a person ceases to be a public officer;
- (d) The Commission be empowered to investigate and determine whether a public officer has contravened the Code of Conduct and Ethics; and,
- (e) Upon conducting investigations, the Commission shall make its recommendations thereon to the person or body that exercises disciplinary control over the public officer who was the subject of investigation.

Several legal opinions were also prepared on various litigious and non-litigious issues touching on the operations of the Commission. In addition, a comparative study on the anti -corruption laws of other jurisdictions vis a vis the Kenyan anti-corruption laws was undertaken.

The Commission perused several contracts which it had entered into with other parties to determine the propriety of such contracts to ensure its interests are protected. The Commission also participated in the review of immigration laws in conjunction with other key stakeholders culminating in the formulation of the Draft Immigration and Nationality Bill. The Bill is awaiting gazettement and introduction in Parliament.

3.8 INTERNATIONAL CO-OPERATION

In the period under review, the Commission co-operated with various countries in its fight against corruption. The United Nations Convention Against Corruption requires State Parties to cooperate with one another on all aspects of fighting corruption, including prevention, investigation and the prosecution of corruption, and asset recovery. This is necessary in view of the trans-national nature of corruption and economic crime. Towards this effort, the Commission participated and presented three papers during an Anti-Corruption Seminar organized by the Commonwealth Secretariat in Swaziland attended by anti-corruption investigators and prosecutors from Central and Southern Africa region namely; Swaziland, Zambia, Namibia, Botswana, Malawi and Lesotho.

The Commission sought assistance from various foreign countries by way of Mutual Legal Assistance (MLA). In this respect, Letters of Request (Letters Roggatoire) were sent to the US, France, UK, the Netherlands, Switzerland and the Channel Islands in relation to various investigations being carried out by the Commission.

3.9 CHALLENGES IN ASSET TRACING AND RECOVERY

Some of the challenges faced in the course of asset tracing and recovery are as follows;

1. Lack of data and information on the processes of alienation and /or acquisition of public properties at the various public registries, thus rendering the paper trail very difficult. In some cases, the problem emanates from disorganized record keeping in the various public offices rather than unavailability of information and records.
2. The Commission is often required to investigate and trace lost/ stolen public property involving transactions dating back over ten years. Obtaining documents to back up such cases becomes difficult due to the time lapse.
3. Tracing of assets in the multi-billion cases in which the Commission has been undertaking investigations involve cross-border and international transactions which require gathering of evidence abroad. Without an elaborate legal framework for mutual legal assistance to facilitate gathering of evidence abroad, the Commission has been greatly hampered in its endeavours.
4. Slow determination and/or disposal of restitution proceedings and corruption and economic crime cases.
5. The institution of constitutional and judicial review applications by parties under investigation and those whom criminal cases have been preferred against has further complicated asset tracing and prosecution of corruption and economic crime cases. Below is a table 8 of the constitutional and judicial applications filed against the Commission.

Table 8: Schedule of Constitutional and Judicial Review Applications Filed by Defendants charged with corruption and/or economic crime.

| Item | Name of Complainant | Nature of Case | Status | Remarks |
|------|---|--|--|--|
| 1 | H. C. Misc. App. No.1630/2005 Godfrey Muhuri Muchiri & others Vs. KACC & others | Judicial Review application challenging the prosecution of the complainants for failure to hold statutory meetings under the Companies Act. Filed on 15.11.05 | Application dismissed on 24.4.2007 | Prosecution of suspects to proceed |
| 2 | H.C.C.C No. 834/2005 Anthony Gachoka & 3 others Vs. KACC & 3 others | Suit against the Director, KACC among others, founded on defamation. Filed on 6.7.05 | Commission's application to strike out suit coming on 8.10.2007 | Pending hearing |
| 3 | H.C. Misc. App. No. 34 of 2006 Rep. VS. KACC & Ano. Ex-parte- Josphat Konzolo | Judicial Review application to quash abuse of office charges founded on breach of procurement rules against the complainant. Filed on 25.1.06 | Application Withdrawn | File closed |
| 4 | H. C. Misc. App. No. 387 of 2006 Rep. VS. KACC & Ano. Ex-parte- Josphat Konzolo | Judicial Review application to quash abuse of office charges founded on breach of procurement rules against the complainant. Filed on 12.7.06 | Application struck out on 4.8.2006 | The Commission is Pursuing costs |
| 5 | H. C. Misc. App. No. 384 of 2006 Rep Vs. KACC & Egerton University Ex-parte Sylvester Kiptoo & others | Judicial Review application for Mandamus to compel the Commission to act on their complaint. Filed on 14.7.07 | Pending hearing | Pending hearing |
| 6 | H. C.P. No. 390 of 2006 Nedermar Technology BV Ltd Vs. KACC & A.G. | Constitutional petition challenging the constitutionality of KACC's investigations in security type contracts. Filed on 14.7.06 | Conservatory order given on 28.11.2006. Petition pending hearing | Investigation by KACC stopped |
| 7 | H.C. Misc. App. No. 54 of 2006 Dr. C. Murungaru Vs. KACC & others | Constitutional petition challenging the constitutionality of KACC's notice under section 26 calling upon the Applicant to declare sources of his wealth. Filed on 1.2.06 | Petition dismissed in respect of all but the prayer that the notice was defective. | Constitutionality of Ss. 26, 27 & 28 upheld. |
| 8. | H.C. Misc. App. No. 366 of 2006 Rep. Vs. KACC & 2 others Ex-parte -Nyandoro Yambesh | Judicial Review application to stop the prosecution of the applicant on corruption charges. Filed on 5.7.06 | Pending hearing | Pending hearing |

| | Kambi | | | |
|----|---|---|---|---|
| 9 | H.C. Misc. App. No. 483 of 2006 Rep. Vs. KACC & A.G. Ex-parte Guy Spencer Elms | Judicial Review application challenging the propriety of Warrant to Search advocates premises in security type contract investigations. Filed on 31.8.06 | Conservatory order refused on 1.9.2006. Pending hearing. | Pending hearing |
| 10 | H.C. Misc. App. No. 273 of 2006 Rep. Vs. KACC & others P.S., Min. of Health, Ex-parte Dol International (K) Ltd | Judicial Review application challenging the propriety of investigations into the Ministry of Health tender process by the Commission. Filed on 26.5.06 | Commission's application to strike out ex-parte Applicants Affidavit for hearing on 22/1/08 | Pending hearing |
| 11 | H.C. Misc. App. No. 498 of 2006 Rep. Vs. KACC & others Ex-parte MHA Ltd | Judicial Review application challenging action by KACC & KRA in retrieval of documentary evidence from the Ex-parte applicant's premises. Filed on 8.9.06 | Pending hearing | Pending hearing |
| 12 | H.C. Misc. App. No. 499 of 2006 Rep. Vs. KACC & others Ex-parte, East African Hides Ltd | Judicial Review application challenging action by KACC & KRA in retrieval of documentary evidence from the Ex-parte applicant's premises. Filed on 8.9.06 | Pending hearing | Pending hearing |
| 13 | Hc. Misc. App. 626 of 2005 Reneg Project Ltd. Vs. The Republic, Commissioner of Lands, KARI & KACC | Constitutional application for declarations against the Commissioner of Lands, The Republic, KARI and KACC not to interfere with L.R. No. 22008/1 -Tigoni. Filed on 28.4.05 | Hearing on 23.10.07 | Pending hearing |
| 14 | H.C. C. Petition No. 468 of 2006 Reneg Project Ltd. Vs. KACC & A.G. | Constitutional petition challenging the constitutionality of KACC's demand notice and investigations aimed at recovery of L.R. No. 22008/1 | Hearing on 23.10.2007 | Pending hearing |
| 15 | H.C. C. Petition No. 469 of 2006 Kuria Greens Ltd. Vs. KACC & others. | Constitutional petition challenging the constitutionality of KACC's demand notice and investigations aimed at recovery of L.R. No. 15410/1 | Hearing on 29.1.2008 | Pending hearing |
| 16 | H.C. Misc. App. No. 569 of 2006 Rep. Vs. KACC & A.G. Ex-parte George Wambua | Judicial Review application challenging abuse of office charges preferred against the applicant. Filed on 5.10.06 | Mention on 2.10.2007 | Pending hearing |
| 17 | H.C. Petition No. 359 of 2007 Midland Finance& Securities & Ano. Vs. KACC & A.G. | Constitutional petition challenging the constitutionality of KACC's investigations into security type contracts entered into with the Government. Filed on 4.4.07 | Hearing on 14.12.2007 | Pending hearing |
| 18 | H.C. Petition No. 114 of 2007 Alldean Satellite Networks Ltd. Vs. KACC & A.G. | Constitutional petition challenging the constitutionality of KACC's investigations into security type contracts entered into with the Government. Filed on 19.2.07 | Mention 17.12.2007 | Pending hearing |
| 19 | H.C. Petition No. 575 of 2006 Euro Marine Industries & others Vs. KACC & Another | Constitutional petition challenging the constitutionality of KACC's investigations into security type contracts entered into with the Government. Filed on 6.10.06 | Pending filing and exchanging of skeletal arguments | Pending hearing |
| 20 | H.C. Misc. App. No. 647 of 2007 Rep. Vs. KACC Ex-parte Wilson Kipkoti & others | Judicial Review application challenging investigations by KACC in respect of a property formerly owned by Kenya School of Law. Filed on 20.6.07 | Awaiting Chief Justice's directions | Pending hearing |
| 21 | H.C. Petition No. 199 of 2007 Deepak C. Kamani Vs. KACC & 2 others | Constitutional petition challenging the constitutionality of section 31 of ACECA. Filed on 7.3.07 | Petition allowed on 29.7.2007 | S. 31 of ACECA declared unconstitutional. |
| 22 | H.C. Petition No. 200 of 2007 Rashmin C. Kamani Vs. KACC & 2 others | Constitutional petition challenging the constitutionality of section 31 of ACECA. Filed on 7.3.07 | Petition allowed on 29.7.2007 | Ditto |
| 23 | H.C. Petition No. 318 of 2007 James Kanyotu Vs. KACC & Ano. | Constitutional petition challenging the constitutionality of notices issued under sections 26 of ACECA. Filed on 28.3.07 | Mention on 26.10.2007 | Pending hearing |
| 24 | H.C. Petition No. 61 of 2007 Kenya (RTF) Ltd. Vs. P.S., Min. of Lands & KACC – Interested Party. | Constitutional petition challenging the constitutionality of investigations by the Commission relative to L.R. No. 209/10777. Filed on 5.2.07 | Mention on 5.12.07 | Pending hearing |
| 25 | H.C. Misc. App. No. 291 of 2007 Rep. Vs. KACC & 3 others, Ex-parte-Jason Mworia | Judicial Review application challenging termination of employment contract with the KACC. Filed on 22.3.07 | Awaiting Chief Justice's directions | Pending hearing |
| 26 | H.C. Petition. No. 742 of 2007 KACC Vs. Michelle M. Doobay | Constitutional petition challenging the constitutionality of section 31 and the Commission's retention of her | Matter settled on 27.9.2007. | Passport returned to the applicant. |

| | | | | |
|----|--|---|---|----------------------|
| | | passport. Filed on 12.7.07 | | |
| 27 | H.C. Petition No. 584 of 2006 Anthony Cherogony Vs. CDF, KACC & 5 others | Constitutional petition challenging the constitutionality of the laws passed by the 9th Parliament for failure to take oath of office | Awaiting Chief Justice's directions on 5.11.2007 | Pending hearing |
| 28 | H.C. Petition No. 459 of 2006 Joshua Kulei Vs. KACC & others | Constitutional petition challenging the constitutionality of sections 26, 27, and 28 of ACECA | Partly heard. Further hearing on 29/30, October, 2007 | Pending hearing |
| 29 | H.C. Petition No. 695 of 2007 First Mercantile Securities Vs. KACC & Ano. | Constitutional petition challenging the constitutionality of a Mutual Legal Request made by the Commission to Swiss authorities. | Ruling by the Court of Appeal on 12.10.2007 | Pending hearing |
| 30 | H.C. Misc. App. No. 800 of 2007 Rep. Vs. KACC & Ano. Ex-parte Mohamed K. Nur | Judicial Review application challenging the propriety of evidence collected on entrapment and the prosecution for corruption charges ensuing there from. Filed on 30.7.07 | Hearing on 11.10.2007 | Pending hearing |
| 31 | H.C. Pet. No. 875 of 2007 Eliphas Riungu Vs. KACC & 2 others | Constitutional Petition challenging the propriety of the proceedings taken before the Makadara Anti-Corruption court on account of failure to honour a notice served under section 26 of ACECA. Filed on 10.8.07 | Petition stood over generally on 27.9.2007. Application for Conservatory order struck out on 19.9.2007 | Pending hearing |
| 32 | HCCC. No.726 of 2007 Kenugat Publishers & Stationers Ltd. Vs. KACC & C.C.N. | A suit in which the plaintiff is seeking declaratory orders on ownership of a parcel hived off an open space within Woodley estate. KACC obtained prohibitory orders in respect of the same land but the plaintiff contends it had bought the land from the first allottee. Filed on 8.8.07 | Awaiting service of summons to enter appearance | Pending before court |
| 33 | H.C. Pet. No. 864 of 2007 Isaac Kamande Kamau Vs. KACC & others. | Constitutional application seeking declarations that evidence obtained through entrapment is unconstitutional and in violation of fundamental rights and the charges ensuing therefrom should be quashed | Pending hearing | Pending hearing |
| 34 | H.C. Pet. No. 328 of 2007 Joseph Magari Vs. KACC & Ano. | Constitutional Petition challenging the propriety of the proceedings taken before the Makadara Anti-Corruption court on account of failure to honour a notice served under section 26 of ACECA. Filed on 29.3.07 | Parties to file and exchange skeletal arguments in 21 days from 25.9.2007. There after the file to be mentioned before C.J. for empanelling of a bench. | Pending hearing |
| 35 | H.C. Pet. No. 1076/07 Job K. Kilach Vs. KACC & 2 others. | Constitutional Petition challenging propriety of the proceedings taken before the Makadara A. C. court on failure to honour notice under section 26 of ACECA. Filed 24.9.07 | Preparing our reply to the petition and application for conservatory order set for hearing on 24th October, 2007. | Pending hearing |

4. PREVENTIVE SERVICES

4.1 INTRODUCTION

In the period under review, the Commission continued to implement corruption prevention, education and research programmes through provision of advice on corruption issues to persons upon request; examination of practices and procedures of public bodies; provision of advice to heads of public bodies; research and policy reviews; public education to enlist public support in the fight against corruption; and through cooperation with other persons or bodies in the fight against corruption.

4.2 RESEARCH AND POLICY PROGRAMMES

The Commission conducted three major research projects - the 2006 National Enterprise Survey on Corruption, the National Corruption Perception Survey 2006, and the Public Officers' Integrity Survey 2007. In addition, one study on *Corruption and Public Welfare* was conducted.

4.2.1 National Enterprise Survey on Corruption 2006

The main objective of the survey was to generate data and information to help KACC and other stakeholders to understand the nature, form, extent, intensity and effects of corruption on enterprise development in Kenya. The 2006 Survey examined the extent to which government policies and public services facilitate or impede the business development. It also sought to identify government policies, regulations and procedures which have the potential to drive corruption, thus inhibiting business development.

The findings of National Enterprise Survey on Corruption are useful to the Commission and the law enforcement agencies in developing effective anti-corruption policies, strategies and programmes. The results of the survey indicate that corruption in the public sector has declined in the last 3 years as shown in figure 5 below.

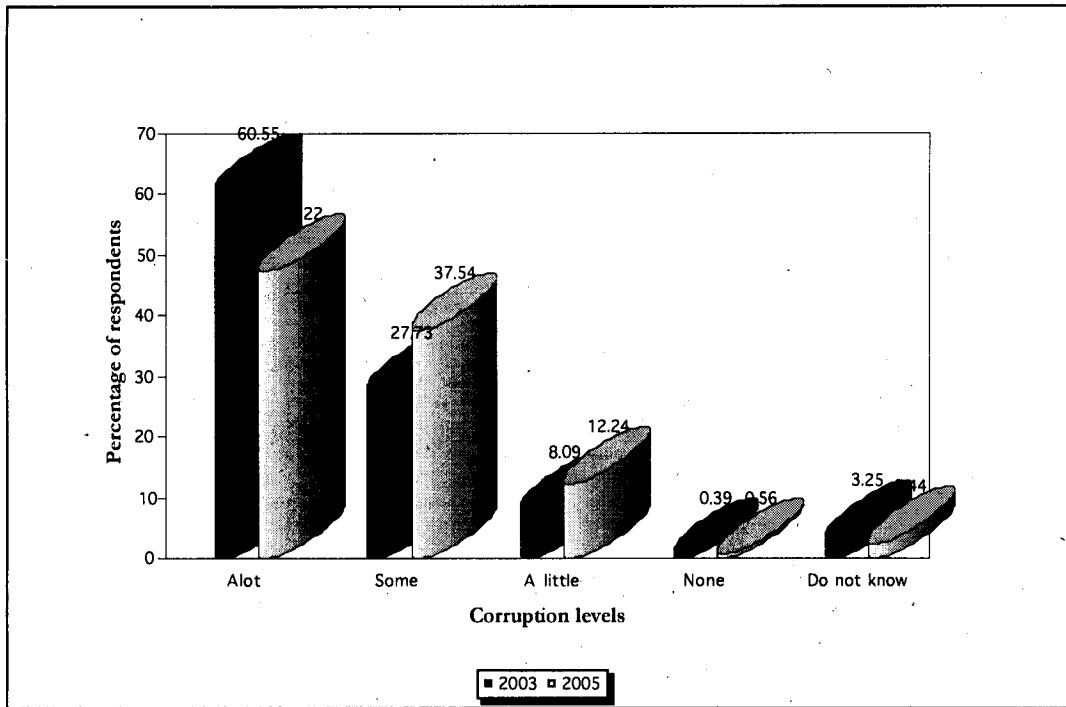
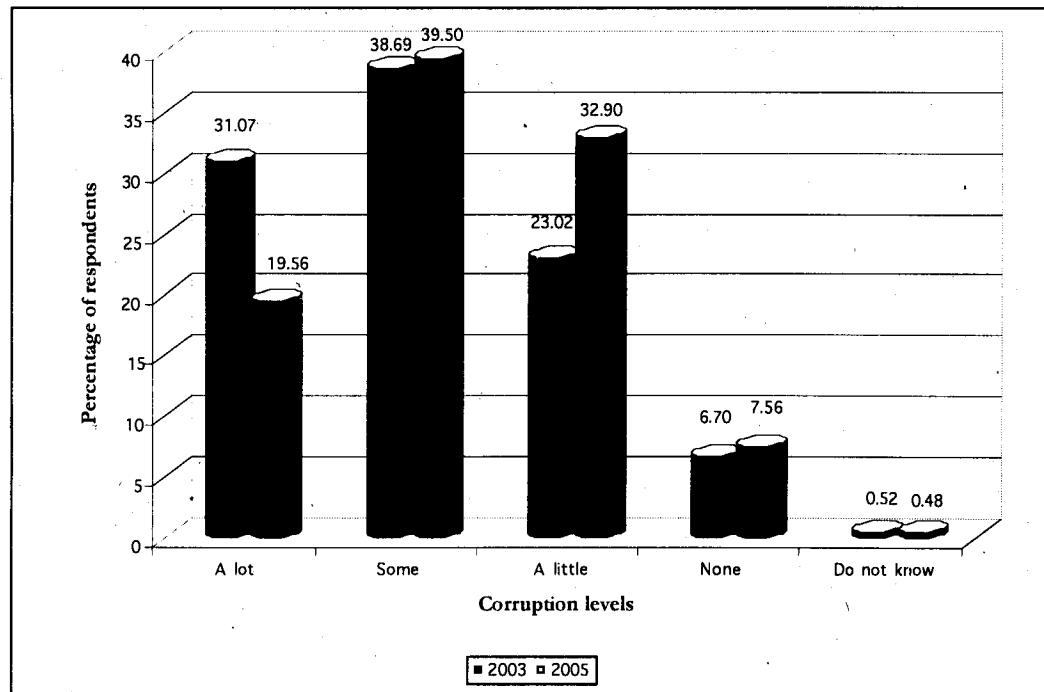


Figure 5: Public Sector Corruption Trend 2003 – 2005 (% of respondents)

The findings also show that corruption is declining in the private sector as shown in Figure 6 below.

Figure 6: Corruption Trend in the Private Sector 2003 – 2005 (% of respondents)

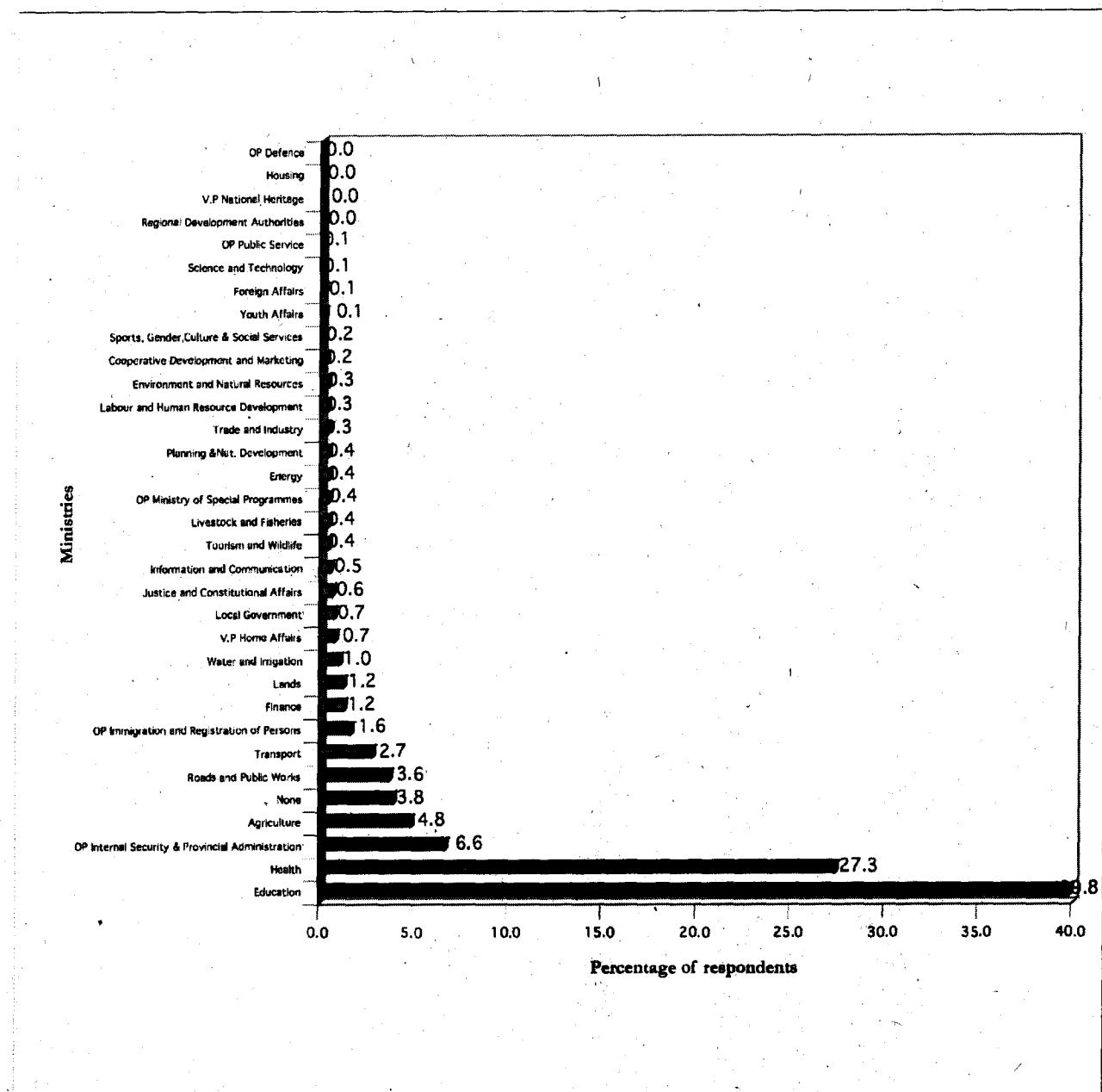


4.2.2 National Corruption Perception Survey 2006

The National Corruption Perception Survey is an annual Commission undertaking with the aim to provide KACC and Stakeholders with information needed to guide intervention measures and to prioritize on anti-corruption programmes being implemented. The Survey gives voice to

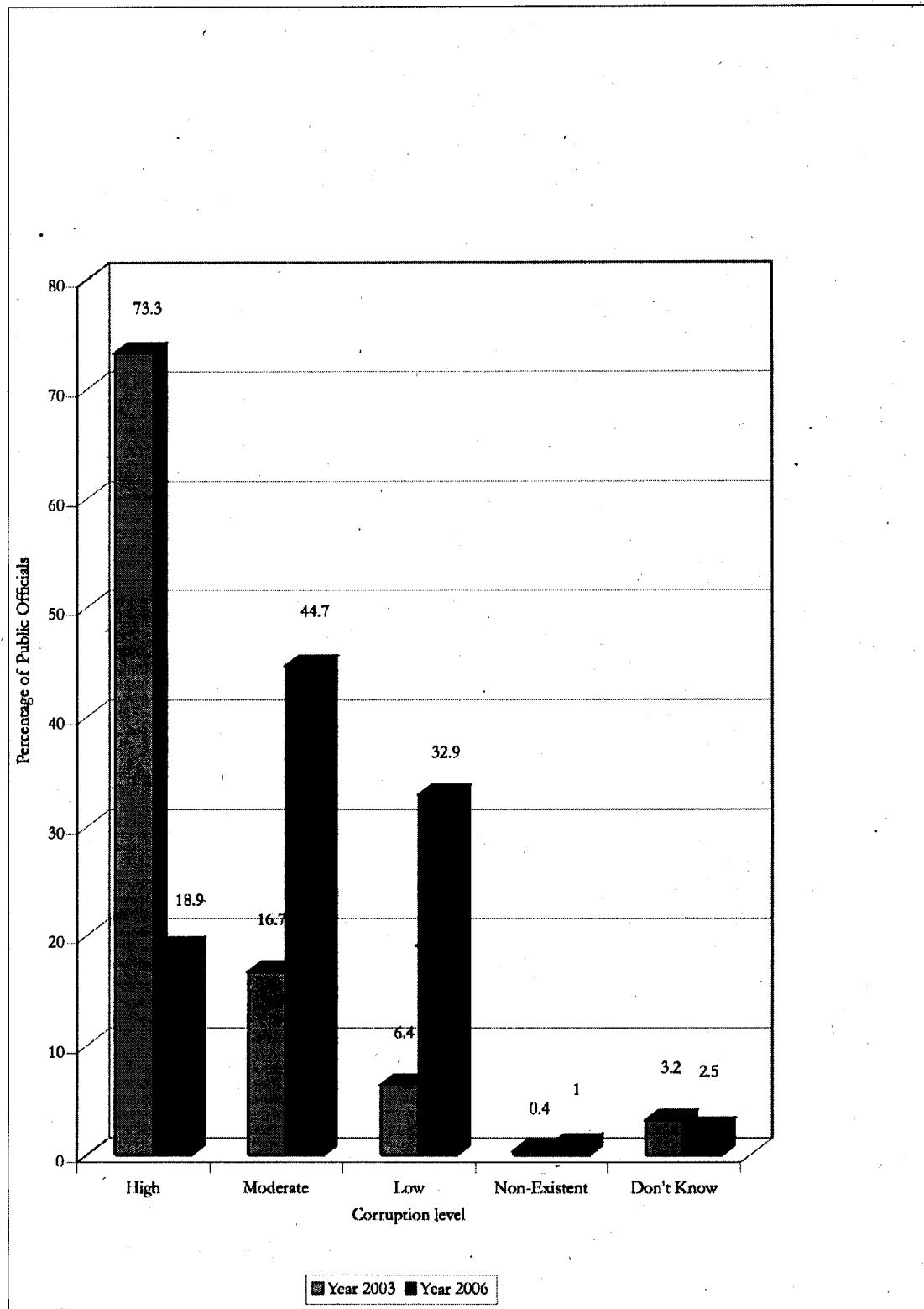
The survey shows that, compared to 2005, corruption is perceived to have decreased in public institutions as indicated by over 50 percent of the respondents. In assessing service delivery by Ministries, the respondents indicated that the Ministry of Education (39.8 percent) and Ministry of Health are the most improved Ministries during the period. Other ministries perceived by Kenyans to have started improving include Office of the President- Internal Security and Provincial Administration (6.6%), Ministry of Agriculture (4.8 %) and Ministry of Roads and Public Works (3.6%). This is presented in figure 7 below.

Figure 7: Most Improved Ministries



4.2.3 Public Officers' Integrity Survey 2007

The Public Officers' Integrity Survey was carried out with the purpose to create a solid empirical base for developing effective strategies to combat corruption within the public sector. The Survey shows a decline in corruption as perceived by public officers as shown in figure 8 below.

Figure 8: Corruption Levels in Kenya

4.2.4 Policy Formulation and Reform

In the period under review, the Commission conducted reviews and assessment on the implementation of policy, legal, regulatory and systemic reforms geared towards sealing corruption loopholes in three public institutions, namely Kenya Medical Supplies Agency (KEMSA), Motor Vehicle Inspection Unit and the Immigration Department.

i) Kenya Medical Supplies Agency (KEMSA)

An assessment was done in August/September 2006 on the implementation of the recommendations of the examination of KEMSA. It helped determine the level and extent of implementation of the recommendations; identify any shortcomings/challenges in the implementation process; identify new intervention strategies, if any, and to recommend further improvement in KEMSA's service delivery strategy. The assessment findings show an improvement in KEMSA operations. The Agency has employed qualified personnel to manage operations at the headquarters and the depots and has developed and is implementing a 5 year Strategic Plan.

ii) The Motor Vehicle Inspection Unit

A preliminary review of the implementation of the recommendations geared towards sealing corruption loopholes was undertaken at the Motor Vehicle Inspection Unit (MVIU) to determine whether it was on track. The review showed that the MVIU was progressing well and on track in re-engineering its processes and computerizing its service delivery systems.

iii) Immigration Department

A country-wide assessment of the Immigration Department services at headquarters and field stations was undertaken to determine how it was addressing corruption loopholes that were identified in the examination of its policies, systems and procedures. The preliminary findings indicate that the Immigration Department remains committed and on course in implementing the examination recommendations. The Department has initiated a review of the legal framework and formulation of a policy proposal to transform into a semi autonomous body, among other service delivery initiatives.

4.3 CORRUPTION PREVENTION

4.3.1 Partnerships and Coalitions

The key partnership and coalition programmes undertaken during the year under review were mainly in the management of Records and Documentation systems in Public Institutions, Public Procurement, Training of Constituency Development Fund Committees, formulation of benchmarks for the "Corruption Eradication Category" for Performance Contracts, development of the Integrity Award Scheme and enhancing ethics among the private sector/professional associations.

i) Management of Records in Public Institutions

The Commission facilitated the following activities:

- Streamlining Records and Documentation Systems in Public Institutions in collaboration with the Kenya National Archives and Documentation Services (KNA&DS). Both developed and implemented a joint programme to address the issue of records management in public institutions in Nairobi, Central and Eastern Provinces. This involved training, induction and sensitization of over 200 officers and heads of department as well as reorganization, indexing and developing retention schedules in a number of registries. The programme elicited positive reaction from the officers where it has been implemented. It has enhanced service delivery and good governance due to reduced time in retrieval of files through streamlined systems and minimal loss of files and information.
- In collaboration with KNA&DS, the Commission set up a Committee to develop a framework for a National Policy on Records Management. A draft Policy document was formulated by the Committee and will be subjected to a stakeholder forum in the course of the year 2007 before finalization.

ii) Public Procurement

The Commission, in collaboration with the Public Procurement Oversight Authority (PPOA), identified the following key areas to enhance efficiency and transparency of the public procurement system.

- Information sharing and reviewing decisions of the Public Procurement Complaints and Appeals Board and instituting further investigation where appropriate
- Review of the standard procurement documents and forms
- Education and capacity building for procuring entities and stakeholders on the Act and Regulations
- Identification of loopholes within the public procurement process/system and addressing the same
- Development of codes of conduct for procurement officers and suppliers, and
- Development of procurement guidelines for the CDF Committees.

During the year under review, the Commission participated in the review of four (4) documents and forms out of fifteen (15) standard procurement documents and forms to address loopholes which have been exploited for corrupt practices. The reviews covered procurement of goods and services, business questionnaire form (for vetting of suppliers) and the Anti-Corruption declaration form. In the area of education, capacity building was undertaken through a workshop for 101 participants drawn from procurement professionals and other stakeholders to increase understanding of the Public Procurement and Disposal Act 2005 and Public Procurement Regulations 2006, and to identify corruption loopholes in the procurement processes. The workshop also provided a forum to address concerns in respect to procurement of professional services.

iii) Constituency Development Fund (CDF)

The Commission trained CDF committees in Kisii, Nyamira, Gucha and Makueni Districts on corruption prevention strategies. The key objective of the training was to help the CDF committees to appreciate and adopt corruption prevention strategies in the areas of financial and procurement management and provided general sensitization on integrity issues.

iv) Corruption Eradication Indicators for the Performance Contracts

The Commission, in collaboration with the Performance Contract Steering Committee secretariat (PCSC), formulated clear and measurable indicators for the Corruption Eradication Category in the Performance Contracts (PC). The adoption of the indicators is expected to impact significantly on improving institutional governance and eradicating corruption in public institutions. The indicators were incorporated in the 4th cycle of performance contracts for all public institutions and will become operational from 1st July 2007.

v) Integrity Award Scheme

An Integrity Award Scheme was developed by the Commission in collaboration with the Office of the President (Cabinet office); Ministry of State for Public Service; Performance Contract Steering Committee; and the State Corporations Advisory Committee. The Commission further developed the integrity awards evaluation checklist for 38 Ministries and State Corporations and carried out a comprehensive assessment of qualifying organizations to determine the winners for the awards.

vi) Enhancing Governance and Integrity among the Private Sector/Professional Associations

A workshop on "Ethics and Integrity for Professionals" was conducted for 70 participants drawn from the Association of Professional Societies in East Africa (APSEA) to map ways of addressing low professional ethics and integrity and enhance quality services by the professionals. Another Forum on *Development of Governance Instruments*, mainly Codes of Ethics and Guidelines for formulating customer service charters was also conducted. In this spirit, at the request of Family Finance Bank, the Commission held consultative forums and developed a draft Code of Ethics for consideration by the Bank. The Commission initiated discussions with such institutions as the Kenya National Audit Office (KENAO), Kenya Private Sector Alliance (KEPSA) and Institute of Certified Public Accountants of Kenya (ICPAK) to identify areas for collaboration.

4.3.2 Liaison and Quality Assurance

i) Integrity Assurance Officers (IAO) Training Programme

The Commission conducts training for integrity and quality assurance officers in the Public and Private sectors and undertakes follow-up activities to determine the efficacy of the training under the Public Service Integrity Programme (P.S.I.P.). In the year under review, the planned activities included training of AIOs and Managers from both public and private sector institutions, and facilitating the development and enforcement of codes of conduct in the public and private institutions. Other related activities were training of Corruption Prevention Committees, institutionalizing codes of conduct and development of governance instruments.

A total of 417 IAOs from all regions of the country were trained by the Commission.

Table 9: Integrity Assurance Officers Training 2006/2007

| Institution/Province | No. of officers |
|---|-----------------|
| Administration Police Department | 41 |
| Coast Province Public Officers | 36 |
| Nairobi Province Public Officers | 41 |
| Nyanza Province Public Officers | 47 |
| Western Province Public Officers | 42 |
| Central Province Public Officers | 40 |
| Eastern Province Public Officers | 46 |
| Kenya Revenue Authority (KRA) | 30 |
| Ministry of Science and Technology Officers | 24 |
| Sugar Sector- KSB, Chemelil, Sony & KESREF | 32 |
| NSSF | 38 |
| Total | 417 |

The institutions that benefited from the IAO training are listed in Table 10 below.

Table 10: Beneficiaries of Integrity Assurance Officers Training 2006/07

| | |
|--|---|
| 1. Kenya Industrial Research and Development Institute (KIRDI) | 11. Electoral Commission of Kenya |
| 2. Kenya Literature Bureau | 12. National Management Committee on CDF |
| 3. Kenya Institute of Public Policy Research and Analysis (KIPPRA) | 13. National Environmental Management Authority (NEMA) |
| 4. Kenyatta International Conference Centre (KICC) | 14. New KCC |
| 5. Nyayo Tea Zones Development Authority | 15. Nairobi Water & Sewerage Company |
| 6. Jomo Kenyatta Foundation | 16. Kenya Ferry Services |
| 7. Kenya Wildlife Services | 17. Coast Water Services |
| 8. Coffee Research Foundation | 18. Ministry of Justice and Constitutional Affairs |
| 9. Coffee Board of Kenya | 19. Kenyatta University |
| 10. Kenya Power & Lighting Company (KPLC) | 20. Kenya Tea Development Agency |
| | 21. Malindi Water Services Company |
| | 22. Major Municipal councils and town councils |
| | 23. Kenya National Audit Office |
| | 24. Government Printer |

ii) The AIOs Follow-Up

This activity was informed by an evaluation of Integrity Assurance Officers programme carried out by the Commission in August 2006 that identified gaps in need of intervention. It is also part of the programmes monitoring and evaluation to determine the impact of the training. The follow up was conducted in Eldoret Municipal Council, Nzoia Sugar Company, Chemelil Sugar Company and Malindi Municipal Council.

iii) Training of Corruption Prevention Committee Members

This training targeted management and members of Corruption Prevention Committees. The objective is to foster support for the implementation of the Public Service Integrity Programme. The following institutions benefited from the training.

1. Kerio Valley Development Authority
2. Kenya Bureau of Standards
3. Ministry of Cooperative Development and Marketing
4. Office of the President
5. Kenya Industrial Research and Development Institute
6. Ministry of Justice and Constitutional Affairs
7. Ministry of State for Special Programmes
8. New Kenya Cooperative Creameries
9. Kenya Revenue Authority

v) Training in Corporate Governance

Three Corporate Governance trainings were conducted namely, at Moi Teaching and Referral Hospital, Eldoret (Board members and senior management), at Embu, (Kirinyaga and Nyeri Municipal Councilors and Chief Officers) and in the Education Sector for top Management and Board members. The trainings were aimed at equipping Board Members to adopt objective processes to the formulation and implementation of policies that can help prevent corruption in their organizations.

vi) Development of Governance Instruments and Guidelines

The Commission undertook the following:

- Drafted Anti-corruption Policy formulation guidelines for ease of reference by institutions. It is expected that institutions will prepare their policies in consultation with staff members and stakeholders, for ownership of the policies once adopted. The draft guidelines will be subjected to further scrutiny by the Commission and stakeholders before dissemination.
- Prepared draft Corruption Prevention Guidelines in Procurement and Stores Management. This will augment regulations that have been made pursuant to legislation on public procurement. The draft is being fine tuned and will be discussed with various stakeholders. The guidelines are meant to equip all stakeholders to tackle the challenge of curbing corruption in procurement.
- Prepared a draft Internal Audit Charter for the Municipal Council of Mombasa as a way of enhancing the capacity of the Council.

4.3.4 Advisory and Consultancy Services

i) Examination of Public Bodies

The Commission conducted examinations and presented examination reports for the following institutions

- *The City Council of Nairobi:* The official presentation of the Examination Report into systems, policies, procedures and practices of the City Council of Nairobi took place on 4th April 2007. The report indicates that NCC has poor financial management systems, poor records management practices, does not adhere to procurement regulations, irregularities in the management of Council housing, and LASDAP funds are misused. Feedback from the Council indicates that the Report has had a positive response leading to concrete actions on several recommendations. An Implementation Plan of the Commission's Report was developed and will be discussed with the Council soon. It will serve as a monitoring tool for both the Council and the Commission to assess progress.
- *The Roads Sub-sector:* The Commission conducted an examination of the roads sub sector between October and December 2006 as a result of numerous complaints by members of the public through the media and persistent reports to the Commission, which alluded to prevalence of corrupt practices in the Sub-Sector. The corruption reports indicated irregularities in planning, breach of procedures in procurement, questionable dealings and payment for work not done, incomplete or substandard work, and variation of project costs, among others. The examination covered major players in the Roads Sub-sector including the Ministry of Roads and Public Works through the Roads Department, Kenya Roads Board (KRB), Kenya Wildlife Service (KWS), Local Authorities, District Roads Committees, Kenya Sugar Board (KSB) through sugar companies and Kenya Tea Development Agency (KTDA) through tea factories.
- *The Teachers Service Commission (TSC):* The Commission carried out an examination of the TSC between October and December 2006 in response to a request by the TSC Secretary for technical guidance and advice particularly in the areas of staff training and development. In addition, numerous reports and complaints of corrupt practices and inefficiencies of the TSC had been made to KACC. Reports alleged various forms of corruption in recruitment, promotions, transfers and discipline processes for both teachers and Secretariat staff among others. The Report covers a wide range of findings and gives recommendations aimed at augmenting on going reforms in the education sector.
- *Department of Pensions:* The Commission embarked on an examination into the Pensions Department in response to persistent complaints by members of the public of various forms of corrupt practices at the Department. At the time of commencement, the Commission had received over 70 reports concerning various inefficiencies and corrupt practices in the Department. Complaints ranged from delays in processing pension, irregularities in payments such as payments being diverted to wrong accounts, demand for bribes, among others. Arising from this, KACC compiled a list of cases for the attention of the Director of Pensions who has already replied indicating that the cases are being addressed.

ii) Follow-Up Activities

- *Mombasa Municipal Council:* The purpose of the follow-up was to establish the progress made by the Council in development of various governance and process manuals which had been agreed on during the capacity building exercise undertaken in 2005/2006. It was noted that the Council was putting in place measures to improve planning, finance, procurement, records management, garbage collection etc., that could effectively address corruption problems affecting its service delivery.
- *Kenya Medical Supplies Agency (KEMSA):* The follow-up activity was carried out in March 2007 to review administrative issues and establish progress made in other functional areas. It was found that the Agency has recruited substantial number of officers in almost all its functional and operational areas. Several governance instruments such as the scheme of work and Code of Ethics have been developed. The Agency has also put in place corruption prevention initiatives such as constituting a Corruption Prevention Committee (CPC), and training AIOs. KEMSA has prepared a procurement plan and carried out a supplier pre-qualification process through open tender, among others.
- *Registration and Licensing of Motor Vehicles and Enforcement of Traffic Laws:* The Commission had a number of meetings with key stakeholders - Ministry of Transport, Kenya Revenue Authority, Transport Licensing Board, Motor Vehicle Inspection Unit, and the

Traffic Police - on the review and adoption of the implementation and monitoring and evaluation framework for the Examination recommendations. It was noted that these institutions had implemented a number of the recommendations which would translate into reduced corruption and better services.

iii) Advisory Services

The Commission made advisory briefs to various organizations on various corruption prevention methods. Some of these were in the form of correspondence, discussions and presentations made in workshops, meetings, official launches of Corruption Prevention committees and seminars. These organizations included:

- **Kenya Ports Authority (KPA).** KPA is in the process of reviewing the strategies used in the implementation of its various codes of conduct. The Commission shared experiences and advised KPA on the critical issues for consideration in the development of an appropriate code. KPA was also given a specimen Code of Conduct developed by the Commission for guidance.
- **Kenya National Examination Council (KNEC).** The Commission consulted with the Kenya National Examination Council on preparation of the institutional Corruption Prevention Plan. The officers from KNEC were taken through the process of carrying out a Corruption Risk Assessment (CRA) and in the preparation of the Corruption Prevention Plan (CPP).
- **Municipal Council of Mombasa:** The Commission offered advisory services relating to an agreement on street lighting with a private entity on the need to carry out a feasibility study to determine the appropriateness of entering into the agreement with a private entity and to ensure that the agreement was in its best interests and in conformity with existing public procurement regulations. It is noteworthy that the Council's decisions on procurement of services under the agreement were later challenged by an aggrieved party who sued the Council and other interested parties on several grounds including violation of public procurement rules. The ruling of the High Court in the case (*Mombasa Miscellaneous Civil Application No.1015 of 2006, Re-vs-The Municipal Council of Mombasa, the Minister for Local Government and Adopt-A-Light Limited Ex-Parte Uniken Marketing Services*) took account of the Commission's advice in quashing the agreement which the Council had entered into with Adopt A Light Company.
- **Moi Teaching and Referral Hospital (MTRH):** The advisory was to provide appropriate ways and means of promoting and sustaining transparency, accountability and integrity through application of systems of work that minimize corrupt practices in the Hospital.
- **Advisory Brief to Public Health Institutions:** The Commission prepared an advisory brief for dissemination to all public health institutions, outlining the existence of generic corruption loopholes that they all need to address, namely, conflict of interest; waiver of hospital fee; revenue collection; cash handling; billing; stores management; and records management. Corruption in these areas not only accounts for large losses in resources, but also has direct effect on quality of care and access to services. The advisory provides suggestions on corruption prevention strategies within the specified functional areas in health sector institutions.
- **Advisory on ICT:** The Commission prepared an advisory based on experiences gathered in the course of systems reviews of public institutions. The advisory aims at minimising corrupt practices in the implementation and sustainability of ICT within public institutions. It will be disseminated to all public institutions.
- **Review of Fraud Risk Management Policy for Action Aid International Kenya:** Action Aid International Kenya requested the Commission to review its draft fraud risk management policy and offer appropriate advice. The Commission reviewed the policy and incorporated anti-corruption aspects in its recommendations.

4.4 EDUCATION PROGRAMMES

4.4.1 Public Integrity Education

The Commission is mandated to educate the public on the dangers of corruption and economic crime and to enlist public support in combating corruption and economic crime. During the year under review, the Commission carried out Media Education activities; IEC Materials Development; Education Sector Strategic Interventions; Training and Workshops; and Corporate Branding of the Commission.

i) Media Education Programme

The Commission broadcast tailor-made integrity messages, sponsorships, and launched a 15-minute pre-recorded radio programme entitled *This Thing Called Corruption*. The purpose of these programmes is to educate the public on the Commission's mandate; the anti-corruption legal framework; how to report corruption; how corruption reports are processed; achievements in anti-corruption and the challenges encountered; and case studies to illustrate corruption offences and penalties meted out to offenders. These are aimed at encouraging and supporting positive behaviour and attitude change among Kenyans and enlisting them in the fight against corruption.

ii) Sensitization Seminar

Presenters in the regional media houses were brought together in a seminar on the Phenomenon of Corruption and its Various Forms and Manifestations. The Commission was able to explain its mandate; how to infuse anti-corruption, ethics and integrity content in media houses' schedules programmes and operations; and how to initiate, develop and consolidate proactive collaboration between the media houses and the Commission in the fight against corruption. Participants from 13 media houses attended the seminar.

iii) Nairobi International Trade Fair (NITF)

The Commission participated in the Nairobi International Trade Fair and used the opportunity to raise the level of awareness and provide factual information to empower citizens to take a proactive role in the fight against corruption and unethical conduct.

The total number of people who visited the stand was 17,579 and IEC materials were distributed.

iv) World Anti-Corruption Day

The Commission commemorated the World Anti-Corruption Day (9th December) with dissemination of information through Radio, a Newspaper Supplement and distributing IEC materials.

4.4.2 Sectoral Integrity Education

Sectoral Integrity Education was undertaken through a number of activities which targeted the public, private and civil society sectors.

i) Development of Law Enforcement Agencies Anti-Corruption Curriculum

As a strategy in mainstreaming anti-corruption, integrity and ethics education in the public sector, the Commission spearheaded the development of an anti-corruption, integrity and ethics curriculum at the Kenya Institute of Administration (KIA) for use by law enforcement agencies in their regular training.

ii) Spiritual Sector Anti-Corruption Education

The Commission started sensitization and training seminars to mainstream anti-corruption, ethics and integrity education in the religious sector. The first seminars were hosted for the Kenya Episcopal Conference (KEC) Plenary Assembly and Evangelical Alliance of Kenya (EAK).

iii) Kenya Prisons Provincial Integrity Seminars

In collaboration with the Kenya Prisons Service, the Commission conducted several two-day provincial level integrity seminars for all cadres of prison officers. A total of 439 officers comprising of Officers in-Charge (OIC) and other field managers representing functional areas of Kenya Prisons Service such as procurement, farms and industries were sensitized on the Concept of Corruption, Anti-Corruption-Legal Framework, Organizational Culture, Corruption Risk Assessment and Corruption Prevention Plans.

iv) Development, Production and Distribution of IEC Materials

The Commission developed, produced and disseminated IEC materials to members of the public in various fora. Twenty different types of posters containing simplified messages and illustrations on anti-corruption laws, the evils of corruption and benefits of good governance were developed and produced. A total of 400,500 assorted IEC materials were issued. In addition, the Commission prepared simplified versions of the anti-corruption laws for easier comprehension and use by the public. These included; *The Anti-Corruption and Economic Crimes Act 2003*; *The Public Officer Ethics Act 2003*; and, *The Public Procurement and Disposal Act 2005*. Furthermore an illustrated version of case studies on Kenyan anti-corruption laws was developed and produced.

v) Anti-Corruption Sensitization Seminars

The Commission facilitated in a number of anti-corruption training and sensitization seminars for public officers and other stakeholders on improved service delivery and ethical conduct. These seminars and trainings were conducted for the following institutions: Kenya Police College, Kiganjo; Action Aid International Kenya; Ministry of Justice and Constitutional Affairs; Ecumenical Centre for Justice and Peace; Coffee Research Foundation; Kenya Broadcasting Corporation; and Communication Commission of Kenya.

4.4.3 Formal Integrity Education

i) Co-Curricula Interventions

The Commission has partnered with the Ministry of Education in co-curricula activities like drama and music to educate and create awareness on dangers and challenges of corruption. These festivals bring together schools and colleges— both public and private ranging from early childhood development level to university.

- **Kenya National Music Festival 2006:** The Commission sponsored special categories in the Kenya National Music and Kenya National Drama Festivals. During the festival, whose theme was "A Corruption Free Nation is A Prosperous Nation," the Commission sponsored six classes, namely: choral verse, public speaking, choir and dance, both in English and Kiswahili. The sponsorship of the Music Festival involved: donations of trophies; book vouchers for schools obtaining position 1 to 3; certificates and T-shirts awarded to the best producer and to the participating students. An estimated 24,000 boys, 47,000 girls, and 38,000 adults attended the National Music Festival with a total of about 119,000 attendants. St. Cecilia Misikhi High School were the overall winners in the Festival.
- **Kenya National Drama Festival 2007:** The Commission's sponsorship of Kenya Schools and Drama festivals involved sensitizing playwrights, producers, directors, and choreographers on anti-corruption, ethics and integrity. The Commission also distributed various IEC materials and presented trophies, and book vouchers worth Kshs. 540,000.

ii) Trainings, Seminars and Workshops

The Commission conducted a number of seminars and training workshops for Provincial Directors of Education (PDEs); Thespians; Training, Research, Advocacy and Governance (TRAG) Programme; University of Nairobi; and Curriculum Support Materials Development. The training sessions focused on mainstreaming anti-corruption, ethics and Integrity content in these key sectors.

- **Education Sector Field Managers Seminars:** The Commission organized two seminars for Provincial Directors of Education, District Education Officers and Municipal Education Officers. The theme of the seminars was: Enhancing Ethics, Integrity and Good Governance in the Public Education Sector. The participants identified formal curriculum and co-curricula activities as suitable avenues of mainstreaming ethics, integrity and character education in schools.
- **Playwrights and Producers Workshop:** The Commission conducted a seminar for 170 participants to develop a critical mass of playwrights, producers, directors and actors who would be opinion shapers and change agents in the process of cultural re-engineering.
- **TRAG Certificate Course:** The Commission trained 49 officers drawn from different public institutions and other stakeholders on governance, investigations, prosecution and research. A total of 145 officers including officers trained during the previous year graduated on 20 December 2006. The TRAG Programme graduands are expected to spearheaded the fight against corruption in their organizations by; organizing sensitization seminars, developing/initiating anti-corruption policies, and being change agents in their organizations.
- **Curriculum Support Materials Production Workshop:** The purpose of the workshop was to design and develop curriculum support materials for use in primary schools to enhance the teaching and learning of ethics and integrity in the fight against corruption. The workshop helped the Commission develop four booklets, four brochures, bookmarks, radio messages, two teacher Guides, patriotic songs, booklets containing stories, puzzles, tongue twisters, proverbs, sayings, reflections, key messages and activities. These materials will be used in the introduction of Character Education in the formal education system.
- **University of Nairobi Sensitization Programme:** The Commission organized a two- day seminar for the School of Built Environment, University of Nairobi. The objective of the seminar was to focus the participants on the role that professionals play in the perpetration of corruption and how this can be remedied through curriculum intervention. The School of Built Environment undertook to establish an ethics and integrity module that will be taught from the first year to the final year. It was also recommended that more sensitization seminars for students, lecturers, administrators and the wider university community be organized in the near future and regularly thereafter.

4.5 IMPACT OF CORRUPTION PREVENTION PROGRAMMES

The Corruption prevention programmes being implemented by the Commission are intended to enhance good corporate governance, seal loopholes for corruption in public and private institutions, and engender behaviour and attitude changes through education and to generate new knowledge through research to contribute to effective and efficient process of fighting corruption and economic crime in Kenya.

Over time, recommended corruption prevention initiatives are continually contributing to the sealing of corruption loopholes, strengthening of financial management and procurement systems, capacity development, and service delivery in many institutions across the country. In the year under review, marked changes included improvements in records management systems in public institutions, adoption of new corporate governance instruments, policies and procedures such as Corruption Prevention Plans, Service Charters, Codes of Conduct, financial policies and procedures etc now increasingly common in various operational areas. Generally, these measures have started to redeem the image of affected institutions or bodies such as the Nairobi City Council, the Departments of Immigration and the Provincial Administration.

The Transparency International's Kenya Bribery Index Report 2007 showed improved governance with notable exits from previous rankings. These are mainly the institutions that have worked with KACC in integrity training and implemented advice on sealing corruption loopholes and enhancing good corporate governance. These include the Kenya Revenue Authority, the City Council of Nairobi, and the Municipal Council of Mombasa. The report also showed notable improvements on the part of the Teachers Service Commission, Prisons Department, Ministry of Health and Local Authorities.

Due to widespread adoption of targeted and effective corruption prevention strategies, Kenyans are now acknowledging that corruption has decreased. Such initiatives have also led to improved service delivery. The 2006 National Corruption Perception Survey confirms that services in government hospitals, educational institutions, transport and construction and maintenance of roads have improved significantly.

The level of knowledge and awareness about corruption in Kenya is now very high. As revealed by the 2006 National Corruption Perception Survey, over 96 percent of Kenyans were aware of corruption in 2006, as compared to 87 percent in 2003 and 85 percent in 2000. This is attributable to the effective education programmes that have been mounted by KACC and other stakeholders. These activities include media output, training in good governance, outreach campaigns, music, drama, and distribution of effective information, education and communication materials. Information disseminated provides key actors and the general public an improving knowledge base on corruption, economic crime, and integrity issues.

Kenyans are now better able to share their experience on the type of corruption they encounter in the pursuit of public goods and services. Over 79 percent of Kenyans know that giving and taking bribes are corruption. Kenyans acknowledge that the frequency of bribe giving has reduced, pointing to either increasing intolerance with this form of act or systemic changes that have made it more difficult to engage in the acts.

There is marked and continued improvement in attitude and behavior among Kenyans regarding corruption. According to the 2006 Survey, 80.5 percent of Kenyans assert that corruption is a more significant problem facing the country compared to other problems. Over 40 percent of Kenyans now believe that all forms of corruption, whether petty or not, are worth reporting. Another 39 percent believe corruption is not beneficial and that those who are engaged in it should be caught. Over 64.8 percent acknowledge that it is everyone's responsibility to fight corruption, while 40 percent believe that they should avoid being corrupt.

This increased awareness and change in attitude is stoking up levels of intolerance to corruption and steadily converting into readiness and empowerment to act against corruption. Thus, the efforts by the Commission and other stakeholders need to be sustained and, where necessary, escalated in order to reach the desired levels sooner.

5. FINANCE AND ADMINISTRATION

5.1 INTRODUCTION

During the year under review, finance and administration operations were guided by the urgent need to develop the Commission's institutional capacity in order to effectively and efficiently deliver on its mandate. The Commission placed emphasis on efficient use of resources, strengthening governance and management systems, efficient communication system, and enhancing physical organizational and operational security.

5.2 FINANCE AND ACCOUNTS SERVICES

5.2.1 Budget Implementation

The Commission prepared and submitted expenditure and revenue estimates to the Treasury. The Commission was allocated KShs 1,472,689,000 out of which KShs 210,689,000 was development expenditure earmarked for the purchase of land and construction of office premises for KACC Headquarters.

In addition, the Governance, Justice, Law and Order Sector (GJLOS) Reform Programme directly funded Commission activities to the tune of KShs 127 million in areas of capacity building, curriculum development, public awareness and educative programmes, as well as consolidation of stakeholders governance coalition. Implementation of the annual budget was focused on achieving objectives set out in the Commission's Strategic Plan.

5.2.2 Financial Compliance

The Commission endeavoured to prudently and efficiently manage the financial resources allocated and maintained proper books of accounts, adequate financial control and ensured timely reporting, while adhering to the requirements of the Government Financial Management Act, 2004 and other set financial guidelines. To help achieve this, during the year the Commission finalized computerization of all operational and reporting areas, using an Integrated Financial Management System which greatly enhanced operational effectiveness and efficiency.

5.2.3 Procurement Compliance

The Public Procurement and Disposal Act, (2005) and the Public Procurement and Disposal Regulations (2007) came into effect on 1st January, 2007. The Commission immediately started implementing both the Act and the Regulations to ensure full compliance. The implementation of the Act and the Regulations has brought about full participation in a transparent manner of all stakeholders, i.e. user departments, technical experts, procurement/tender committee members, and the suppliers. In line with the Act, the Commission has established the following committees, Procurement, Tender, Inspection and Acceptance, Disposal, and Adhoc committees. In addition the Commission also further elaborated the

procurement process by setting up a Specifications Committee whose role is to vet and moderate specifications that have been given by user departments before tendering.

5.3 HUMAN RESOURCE SERVICES

5.3.1 Staff Establishment

During the year under review, the Commission's staff strength grew by 22% bringing the staff complement to 259. This followed a series of successful recruitments to fill vacant positions in all the four Directorates to utilize the Commission's full establishment. This included timely filling of nine (9) vacancies occasioned by normal attrition.

5.3.2 Training & Development:

Over the period under review, the Commission strived to ensure that staff received specialized training in their respective operational areas. Trainings were undertaken in forensic investigations, asset tracing and recovery, policy and operational review as well as governance and general management.

A total of ninety (90) officers were trained in various fields as follows:

Table 11: Trainings Conducted from July 2006 – June 2007

| Course | No. |
|---|------------|
| Fighting Corruption and Safeguarding Integrity (Public Sector) | 2 |
| Prevention, Analysis & Detection of Corporate Fraud | 3 |
| Management Skills Development for Supervisors | 1 |
| Management Development Programme for Executive Assistants | 2 |
| Computer Crimes and Forensics | 2 |
| Public Procurement and Disposal Act and Regulations | 3 |
| Media Relations | 1 |
| General Management | 4 |
| Corruption Studies | 2 |
| Critical Skills in the Fight Against Corruption | 3 |
| Management of Intelligence Equipment | 3 |
| Financial Investigation | 2 |
| Asset Recovery and International Co - operation in the Context of Anti - Corruption Investigation | 4 |
| Investigation and Asset Tracing | 47 |
| Financial Forensic Techniques | 2 |
| Balanced Score Card | 7 |
| Leadership Development & Change Management | 2 |
| Total | 90 |

5.3.3 Internal Policy Instruments

The Commission appointed a committee to review and update its operating policies, guidelines and procedures to ensure adherence to best practices. In the period under review the Committee received views/recommendations for consideration in the review of the existing governance instruments and development of new ones.

5.4 INFORMATION COMMUNICATION TECHNOLOGY (ICT)

The Commission maintained and upgraded its ICT to support its business processes effectively. An ICT hardware capacity enhancement plan was developed and is being implemented to ensure optimal resource facilitation for systems and applications, including the formulation of a disaster mitigation, management and recovery infrastructure.

During the period under review two projects were initiated, namely; the installation of an Internet Protocol (IP) based Telephone communication system and the Intelligence and Case Management System. The Integrated Financial Management System that comprises of the General Ledger, Cash Book Management, Purchase Processing, Assets Management, Inventory Management, Human Resources & Payroll and the Fleet Management modules was also finalized to harmonize all management information.

5.5 CORPORATE COMMUNICATION

5.5.1 Newsletter

The first quarterly KACC Newsletter, titled "Spear of Integrity" was developed and over 10,000 copies distributed. This is an easy to read newsletter that informs, educates and provides guidance on corruption prevention and reporting. It highlights cases under investigations and programmes being undertaken by the Commission and also encourages wider interactive contact and discourse for the Commission staff and readers.

5.5.2 Calendars

During the period under review, the Commission developed and distributed 30,000 calendars. The calendars are part of the Commission IEC materials with anti-corruption messages. They were widely distributed to public institutions, the private sector and other stakeholders.

5.5.3 Press Releases and Media Appearances

The Commission issued several press releases during the period under review on various issues. The Director, Assistant Directors and Staff also participated in media programmes, both on radio and television, where they articulated various governance and anti-corruption issues.

5.6 FIELD SERVICES

In June 2007, the Commission opened an office in Mombasa to serve the Coast region and its environs. This is the first of the proposed regional offices intended to bring the Commission services closer to the public across the country. Operations at the office have taken off well and the Commission's presence is beginning to be felt at the Coast.

6. NATIONAL AND INTERNATIONAL ENGAGEMENTS

6.1 SEMINARS/WORKSHOPS PRESENTATIONS

Public speaking forums have proved to be an important platform to interact with targeted audiences who have a bearing on the Commission's work. The Commission has responded positively to many invitations to forums that provide occasion to enlighten the public, not only on the achievements and challenges facing the Commission, but also on topical issues on corruption and governance. During the period under review, there were presentations by the Director, Assistant Directors, members of the Advisory Board, and the commission staff in public fora in Kenya and abroad.

6.2 NATIONAL GOVERNANCE AND ANTI-CORRUPTION COALITION

6.2.1 Implementation of the National Anti-Corruption Plan (NACP)

Corruption is a multi-faceted phenomenon which requires to be addressed by multiple actors. Corruption remains an all-pervading social and economic vice which cannot be defeated without the joint collaboration of the government, the private sector, civil society, the media, development partners, the international community and, above all, the people of Kenya themselves in their individual and capacity and group formations.

The Commission in partnership with other stakeholders, launched the National Anti-Corruption Plan (NACP) on 5th July 2006 at the national level and thereafter in all the eight provinces. The Plan is a product of extensive and intensive sectoral consultations involving 12 sectors namely:- The Legislature; Judiciary; the Executive; Enforcement Agencies; Watchdog Agencies; the Media; Kenya Anti-Corruption Commission; Private Sector; Religious Sector; Civil Society; Labour and Education. It identifies problems/issues besetting each of these sectors and prescribes solutions for their elimination/alleviation.

For the Commission, the key issues initially identified focus on:

1. Insufficient knowledge of anti corruption laws among the public;
2. Inadequate specialized skills;
3. Absence of a strategic plan;
4. Lack of coordination of various anti-corruption and governance agencies;
5. Lack of anti-corruption curriculum/materials in the education system; and
6. Lack of entrenchment in the constitution.

The Commission continues to address these issues in its implementation of the Plan.

6.2.1 Kenya Integrity Forum (KIF)

During the National Stakeholders Conference held on 30th May 2006 at the Bomas of Kenya, the Plan was endorsed and the stakeholders resolved and constituted themselves into a Kenya Integrity Forum. The Forum is a coalition embracing all the sectoral actors and convenes once a year in a National Integrity Review Conference where Kenyans have an opportunity to publicly audit the entire range of actions and responsibilities necessary to restore good governance and fight corruption in all sectors.

The Commission facilitated the setting up of the Kenya Integrity Forum Secretariat - in July 2006 after the launch of the Plan and continues to support the Secretariat. The Secretariat supports the sectoral actors to facilitate the implementation of the Plan and also services the National Anti-Corruption Plan National Coordinating Committee and the KIF Annual Integrity Review Conferences.

The Commission facilitated the printing of Proceedings of the National Anti-corruption Plan Stakeholders Conference and the Report on the Launch of the National Anti-Corruption Plan, which have been circulated to all stakeholders.

6.3 STRENGTHENING GLOBAL ANTI-CORRUPTION NETWORKS

The Commission recognizes the need to forge strong anti-corruption networks across borders. The Commission has visited various sister institutions who have also reciprocated the visits to the Commission. Over 30 guests from various countries have made study tours to the Commission. The purpose was to share ideas on best practices in fighting corruption, exchange experiences from other parts of the world and build partnerships. Some recently established Anti-Corruption agencies also showed interest to study the structures, policies and procedures of KACC that they could learn from.

Some of the guests the Commission hosted were:

- i) A delegation of Ugandan Police Officers
- ii) A delegation from South African Ministry of Foreign Affairs
- iii) H.E. the Singapore Ambassador to Kenya (based in Singapore)
- iv) A delegation from the Anti-Corruption Commission in Southern Sudan
- v) A team of Commonwealth Secretariat Consultants
- vi) A representative from the United Nations Office on Drugs and Crime

7. FINANCIAL STATEMENT**7.1 REPORT OF THE DIRECTOR****For the year ended 30 June 2007**

The Director presents the report together with the audited financial statements for the year ended 30th June 2007.

Activities

The principal activities of the Commission are to investigate corruption and economic crimes, recover lost public property and obtain compensation for damaged public property, prevent corruption and conduct public education on the dangers of corruption.

Results

The results for the year are set out on page 83

Members of the Advisory Board

The members of the KACC advisory Board who served during the year are listed on page vi.

Auditors

The auditor of the Commission for the year ended was the Controller and Auditor General in line with the Public Audit Act, 2003 and Anti-Corruption and Economic Crimes Act, 2003. The auditor for the Commission continues to be the Controller and Auditor General.

On behalf of the Commission

Justice Aaron Ringera
Director/Chief Executive

4th October 2007

7.2 STATEMENT OF THE DIRECTOR'S RESPONSIBILITIES

The Anti-Corruption and Economic Crimes Act 2003, requires the Director to cause to be prepared financial statements for each financial year which give a true and fair view of the financial affairs of the Commission as at the end of the financial year and the operating results for the year.

The Director is also responsible for keeping proper accounting records which disclose with reasonable accuracy the financial position of the Commission in addition to ensuring that the assets are safeguarded.

The Director accepts responsibility for the annual report together with the financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgments and estimates, in conformity with the International Financial Reporting Standards and with the requirements of the Public Audit Act, 2003. The Director is of the opinion that the annual report together financial statements give a true and fair view of the state of the financial affairs of the Commission and of its operating results. The Director further accepts responsibility for the maintenance of accounting records which may be relied upon in the preparation of financial statements, as well as adequate systems of the internal financial control.

Nothing has come to the attention of the Director to indicate that the Commission will not remain a going concern for at least twelve months from the date of this statement.

Signed on behalf of the Commission by:

Justice Aaron Ringera
Director/Chief Executive

4th October 2007

7.3 REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA ANTI-CORRUPTION COMMISSION FOR THE YEAR ENDED 30 JUNE 2007

REPUBLIC OF KENYA

Telephone: +254-20-342330
Fax: +254-20-311482
E-mail: cag@kenyaweb.com



P.O. Box 30084-00100
NAIROBI

KENYA NATIONAL AUDIT OFFICE

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA ANTI-CORRUPTION COMMISSION FOR THE YEAR ENDED 30 JUNE, 2007

I have audited the financial statements of the Kenya Anti-Corruption Commission set out on pages 6 to 17 which comprise the balance sheet as at 30 June, 2007, the income statement, statement of changes in equity and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory notes in accordance with the provisions of Section 20 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

The Commission's responsibilities for the financial statements

The Commission is responsible for the preparation of the financial statements which give a true and fair view of the Commission's state of affairs and its operating results in accordance with the International Financial Reporting Standards. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Responsibilities of the Controller and Auditor General

My responsibility is to express an independent opinion on the financial statements based on the audit. The audit was conducted in accordance with the International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed with a view to obtaining reasonable assurance that the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error.



In making those risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Commission, as well as evaluating the overall presentation of the financial statements. I believe the audit provides a reasonable basis for my opinion.

Opinion

In my opinion, proper books of account have been kept and the accompanying financial statements give a true and fair view of the state of affairs of the Commission as at 30 June, 2007 and of its surplus and cashflows for the year then ended in accordance with the International Financial Reporting Standards and comply with the Anti-Corruption and Economic Crimes Act, 2003.

P. N. Komora
P. N. KOMORA
CONTROLLER AND AUDITOR GENERAL

Nairobi
22 October, 2007

7.4 BALANCE SHEET**As at 30 June 2007**

| ASSETS | Note | 2007 (Ksh) | 2006 (Ksh) |
|-------------------------------------|-------------|-----------------------|-----------------------|
| Non Current Assets | | | |
| Property, plant and Equipment | 2 | 118,770,385 | 110,220,001 |
| Gratuity Fund Investment | 3 | 84,263,580 | 142,891,613 |
| | | 203,033,965 | 253,111,614 |
| Current Assets | | | |
| Inventories | 4 | 10,370,956 | 6,657,017 |
| Receivables and Prepayments | 5 | 53,806,346 | 42,410,452 |
| Cash and Cash Equivalents | 6 | 92,742,002 | 198,488,579 |
| | | 156,919,304 | 247,556,048 |
| Total Assets | | 359,953,269 | 500,667,662 |
| EQUITY AND LIABILITIES | | | |
| Accumulated Fund | 12 | 111,983,013 | 127,067,121 |
| Revenue Reserves | 13 | 162,431,708 | 210,688,365 |
| | | 274,414,721 | 337,755,486 |
| Non Current Liabilities | | | |
| Gratuity Fund | 3 | 84,263,580 | 142,891,613 |
| Current Liabilities | | | |
| Trade and Other Payables | 7 | 774,968 | 7,103,443 |
| Accrued Liabilities and Charges | 8 | 500,000 | 12,917,120 |
| | | 1,274,968 | 20,020,563 |
| Total Equity and Liabilities | | 359,953,269 | 500,667,662 |

The Financial Statements on Pages 82 to 91 were approved on 4th October 2007 and signed on behalf of the Commission by:

JUSTICE AARON RINGERA
Director/Chief Executive

FATUMA SICHALE (MRS)
Deputy Director

7.5 INCOME STATEMENT**For the year ended 30 June 2007**

| REVENUE | Note | 2007 (Ksh) | 2006 (Ksh) |
|-------------------------------------|-------------|---------------------------|---------------------------|
| Government Grants (GOK) | 9 | 1,294,158,000 | 1,176,900,000 |
| Development Partners/ Donor Support | 10 | 13,270,350 | 14,680,405 |
| Other Income | 11 | <u>2,438,473</u> | <u>1,686,964</u> |
| Total Revenue | | 1,309,866,823 | 1,193,267,369 |
| EXPENDITURE | | | |
| Administration Expenses | | 854,660,266 | 704,426,643 |
| Operating and Maintenance | | <u>292,774,849</u> | <u>283,865,422</u> |
| Total Expenditure | | 1,147,435,115 | 988,292,065 |
| Surplus for the Year | | <u>162,431,708</u> | <u>204,975,303</u> |

7.6 CASH FLOW STATEMENT

| CASH FLOW STATEMENT FOR THE YEAR ENDED 30 JUNE 2007 | | | | |
|--|--------------|----------------------|----------------------|--------------|
| | Notes | 2007 | (Ksh) | |
| | | | 2006 | (Ksh) |
| From operating activities | | | | |
| Net income from operations | | 162,431,708 | 204,975,303 | |
| Add back non-cash payment (Depreciation) | | 34,649,180 | 32,872,890 | |
| | | 197,080,889 | 237,848,193 | |
| Increase/(Decrease) in inventories | | (3,713,939) | 7,546,208 | |
| Increase/(Decrease) in receivables & Prepayments | | (11,395,894) | (41,660,372) | |
| Increase/(Decrease) in payables | | (18,745,595) | 19,418,774 | |
| Net cash utilized from operating activities | | 162,225,461 | 223,152,003 | |
| From Investing Activities | | | | |
| Purchase of property, plant and equipment | | (58,283,303) | (33,749,841) | |
| | | | | |
| Net cash utilized in investing activities | | (58,283,303) | (33,749,841) | |
| From Financing activities | | | | |
| Refund of Surplus to the Treasury | | (210,688,735) | (170,451,000) | |
| | | | | |
| Net cash used in Financing activities | | (210,688,735) | (170,451,000) | |
| | | | | |
| Net increase in cash and cash equivalents | | (105,745,837) | 18,951,162 | |
| | | | | |
| Bank and Cash equivalents at beginning of year | | 198,488,579 | 179,537,416 | |
| | | | | |
| Bank and cash equivalent at end of year | | 92,742,002 | 198,488,579 | |

7.7 STATEMENT OF CHANGES IN EQUITY

STATEMENT OF CHANGES IN EQUITY**For the year ended 30 June 2007**

| | Accumulated Fund (Ksh) | Revenue Reserve (Ksh) | Total (Ksh) |
|---|-------------------------------|------------------------------|--------------------|
| | 127,067,121 | 176,164,063 | 303,231,184 |
| Refund of Surplus (FY 2004/5) | | (170,451,000) | (170,451,000) |
| Surplus/(Deficit) for the year | | 204,975,303 | 204,975,303 |
| At 30 June 2007 | 127,067,121 | 210,688,366 | 337,755,487 |
| As at 1 July 2006 | 127,067,121 | 210,688,365 | 337,755,486 |
| Revaluation | (15,084,108) | | (15,084,108) |
| Refund of Surplus (FY 2005/6) | | (210,688,365) | (210,688,365) |
| Surplus for the year | | 162,431,708 | 162,431,708 |
| As at 30 June 2007 | 111,983,013 | 162,431,708 | 274,414,721 |
| The revaluation reserve represents the capitalization of property, plant and equipment and subsequent re-evaluation of certain classes of assets | | | |

7.8 NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2007

Summary of Significant Accounting Policies

(i) **Basis of preparation and form of presentation**

The financial statements are prepared in compliance with International Financial Reporting Standards (IFRSs). The financial statements are presented in functional currency, Kenya shillings (Kshs), which is the prevailing currency within the primary economic environment, rounded to the nearest thousand and prepared in accordance with the measurement bases prescribed by IFRSs.

The preparation financial statement in conformity with IFRS requires the use of estimates and assumptions. It also requires management to exercise its judgment in the process of applying the Commission's policies.

The financial statements are prepared in accordance with and comply with International Financial Reporting Standards (IFRS).

(ii) **Revenue recognition**

Income is recognized in the period in which it is earned. Government and donor funding is only recognized on receipt.

Interest income is recognized on a time proportion basis using the effective interest rate method.

(iii) **Revenue**

The revenue constitutes all funds accruing to the Commission in the form of exchequer allocations, funds from development partners and other income arising from investment and sale of tenders including proceeds of disposal of assets.

(iv) **Property, plant and equipment**

All categories of property, plant and equipment are initially recorded at cost.

Subsequent costs are included in the asset's carrying amount or recognized as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the Commission and the cost can be measured reliably. All other repairs and maintenance are charged to the profit and loss account during the financial period in which they are incurred.

NOTES TO THE FINANCIAL STATEMENTS (Continued)

Increases in the carrying amount arising on revaluation are credited to a revaluation surplus reserve in equity. Decreases that offset previous increases of the same asset are charged against the revaluation surplus; all other decreases are charged to the profit and loss account. Each year the difference between depreciation charged based on the revalued carrying amount of the asset (the depreciation charged to the profit and loss account) and depreciation based on the asset's original cost is transferred from the revaluation surplus to retained earnings.

Motor Vehicles and equipment are stated at cost or valuation, less accumulated depreciation. The Commissions motor Vehicles were re-valued in 2005 by M/s. Mechanical Department of the Ministry of Roads and Public Works. The equipment inherited by the now defunct Kenya Anti-Corruption Authority and Anti-Corruption Police Unit under the Office of the President have been carried at book values and where appropriate certain valuation by the Director's have been incorporated. The values derived have been transferred to the Capital Reserve/Accumulated Fund.

(v) **Depreciation**

Depreciation is provided on the cost/valuation of assets on a reducing balance basis at rates designed to write down the assets to their estimated residual values over their estimated useful lives using the following annual rates:

| | Rate per annum (%) |
|--------------------------------------|--------------------|
| Computers & Software | 33.33 |
| Motor vehicles | 25.00 |
| Office equipment: | 12.50 |
| Plant and Machinery | 12.50 |
| Communication/Surveillance Equipment | 12.50 |
| Furniture, Fixtures & Fittings | 12.50 |

(vi) **Inventories**

Inventories are valued at the lower of cost and net realizable value. Cost is determined on a first-in-first-out basis.

(vii) **Trade and other receivables**

Trade receivables are recognized and carried at original invoice amount less an allowance for any uncollectible amounts. An estimate for doubtful debts is made when collection of the full amount is no longer probable. Bad debts are written off as incurred.

NOTES TO THE FINANCIAL STATEMENTS (Continued)**(viii) Cash and cash equivalents**

Cash and cash equivalents are comprise as cash on hand; bank balances demand deposits and short-term, highly liquid investments readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash and cash equivalents that are not readily accessible are classified under deferred assets. For the purposes of the cash flow statement, cash and cash equivalents consist of cash on hand and deposits in banks, and short term highly liquid investments.

(ix) Trade and other payables

Liabilities for trade and other amounts payable are carried at cost which is the fair value of the consideration to be paid in the future for goods and services received, whether or not billed to the Commission.

(x) Provisions and accruals

Provisions are recognized when the Commission has a present obligation (legal or constructive) as a result of a past event, and it is probable that an outflow of resources embodying economic benefits.

(xi) Employee benefits

The Commission sets aside on monthly basis the gratuity for its employees. This is managed separately as sinking fund in accordance with section 13(4) of the Anti- Corruption and Economic Crimes Act, 2003.

The Commission also contributes to a statutory defined contribution pension scheme, the National Social Security Fund (NSSF). Contributions are determined by local statute. Any contributions made to the NSSF in respect of current service are charged against income in the year of contribution.

(xii) Income taxes

The Commission being a non trading entity is not subject to taxation. No tax is therefore provided in these accounts.

NOTES TO THE FINANCIAL STATEMENTS (Continued)

1. Property, plant and equipment

| Cost/Valuation | Plant & Equipment (Ksh) | Surveillance Equipment (Ksh) | Furniture, Fixtures & Fittings (Ksh) | Motor Vehicles (Ksh) | Computers (Ksh) | Total (Ksh) |
|------------------------------------|-------------------------|------------------------------|--------------------------------------|----------------------|-------------------|--------------------|
| Year ended 30 June 2006 | | | | | | |
| Opening net book value | 16,423,765 | 1,563,402 | 15,712,632 | 60,430,684 | 15,212,567 | 109,343,050 |
| Additions | 555,790 | 4,511,198 | 8,213,983 | - | 20,468,870 | 33,749,841 |
| Disposals | - | - | - | - | - | - |
| Depreciation charge | (2,122,444) | (759,325) | (2,990,827) | (15,107,671) | (11,892,623) | (32,872,890) |
| Net book value at 30.6.2006 | 14,857,111 | 5,315,275 | 20,935,788 | 45,323,013 | 23,788,814 | 110,220,001 |
| At 30 June 2006 | | | | | | |
| Cost or Valuation | 19,325,807 | 6,297,943 | 26,171,277 | 80,574,245 | 43,287,721 | 175,656,993 |
| Accumulated Depreciation | (4,468,696) | (982,668) | (5,235,489) | (35,251,232) | (19,498,907) | (65,436,992) |
| Net book value | 14,857,111 | 5,315,275 | 20,935,788 | 45,323,013 | 23,788,814 | 110,220,001 |
| Year ended 30 June 2007 | | | | | | |
| Opening net book value | 14,857,111 | 5,315,275 | 20,935,788 | 45,323,013 | 23,788,814 | 110,220,001 |
| Additions | 6,194,340 | 23,473,111 | 1,129,950 | - | 27,425,901 | 58,283,303 |
| Disposal/Revaluation | 925,289 | (2,219,075) | (9,653,288) | - | (4,136,664) | (15,083,738) |
| Charge for the year | (2,747,093) | (3,321,164) | (1,559,056) | (11,330,753) | (15,691,115) | (34,649,180) |
| Net book value at 30.6.2007 | 19,229,648 | 23,248,147 | 10,913,394 | 33,992,260 | 31,386,937 | 118,770,385 |
| At 30 June 2007 | | | | | | |
| Cost or Valuation | 21,976,741 | 26,569,311 | 12,472,450 | 80,574,245 | 47,078,051 | 188,670,797 |
| Accumulated Depreciation | (2,747,693) | (3,321,164) | (1,559,056) | (46,581,985) | (15,691,115) | (69,900,412) |
| Net book value | 19,229,648 | 23,248,147 | 10,913,394 | 33,992,260 | 31,386,937 | 118,770,385 |

NOTES TO THE FINANCIAL STATEMENTS (Continued)**3. Gratuity fund investment**

| | 2007 (Ksh) | 2006 (Ksh) |
|-------------------------|-------------------|-------------------|
| Balance brought forward | 142,891,613 | 35,898,431 |
| Additions | 143,581,727 | 114,543,056 |
| Payments | (202,209,761) | (7,549,874) |
| Total | 84,263,579 | 142,891,613 |

4. Inventories

| | 2007 (Ksh) | 2006 (Ksh) |
|---------------|-------------------|-------------------|
| Consumables | 6,480,741 | 5,824,707 |
| Library books | 3,890,214 | 832,310 |
| Total | 10,370,956 | 6,657,017 |

5. Receivables and prepayments

| | 2007 (Ksh) | 2006 (Ksh) |
|-----------------|-------------------|-------------------|
| Imprest Debtors | 844,534 | 1,581,321 |
| Deposits | 4,043,050 | 40,756,266 |
| Prepayments | 48,918,762 | 72,864 |
| Total | 53,806,346 | 42,410,451 |

6. Cash and cash equivalents

| | 2007 (Ksh) | 2006 (Ksh) |
|--------------|-------------------|-------------------|
| Bank balance | 91,924,172 | 197,268,826 |
| Cash on hand | 817,830 | 1,219,754 |
| Total | 92,742,002 | 198,488,579 |

7. Trade and other payables

| | 2007 (Ksh) | 2006 (Ksh) |
|----------------|-------------------|-------------------|
| Trade payables | 746,353 | 2,857,294 |
| Other payables | 28,615 | 4,246,149 |
| Total | 774,968 | 7,103,443 |

8. Accrued liabilities and charges

| | 2007 (Ksh) | 2006 (Ksh) |
|---------------------|-------------------|-------------------|
| Accrued Liabilities | - | 12,617,120 |
| Audit fees | 500,000 | 300,000 |
| Total | 500,000 | 12,917,120 |

9. Government Grants (GQK)

Government grants represent exchequer receipts during the year.

NOTES TO THE FINANCIAL STATEMENTS (Continued)**10. Development partners/donor support**

| | 2007 (Ksh) | 2006 (Ksh) |
|----------------------------|-------------------|-------------------|
| Reimbursement from UNDP | 13,270,350 | 4,983,198 |
| World Bank- PSIP Programme | - | 8,561,886 |
| Swiss Embassy | - | 1,135,321 |
| Total | 13,270,350 | 14,680,405 |

11. Other income

| | 2007 (Ksh) | 2006 (Ksh) |
|--------------------------|-------------------|-------------------|
| Sale of tender documents | 635,542 | 733,320 |
| Interest Income | 1,802,931 | 953,644 |
| Total | 2,438,473 | 1,686,964 |

12. Accumulated fund

| | 2007 (Ksh) | 2006 (Ksh) |
|-------------------------|--------------------|--------------------|
| Balance brought forward | 127,067,121 | 127,067,121 |
| Change during the year | 15,084,108 | - |
| Total | 111,983,013 | 127,067,121 |

13. Revenue reserve

| | 2007 (Ksh) | 2006 (Ksh) |
|-------------------------|--------------------|--------------------|
| Balance brought forward | 210,688,365 | 176,164,063 |
| Refund of surplus | (210,688,365) | (170,451,000) |
| Surplus for the year | 162,431,708 | 204,975,303 |
| Total | 162,431,708 | 210,688,366 |

14. Contingencies**Contingent liabilities**

The Commission has given no guarantees to third parties. In the ordinary course of business, the Commission has been sued in various cases with potential exposure estimated at **Ksh 24,000,000**.

The Commission is a defendant or co-defendant in various litigations and claims. The outcomes of these litigations and claims is yet to be determined, hence the Commission has not made any provisions in these accounts towards contingent liabilities.

15. Operating and maintenance

Included in the operating and maintenance expenditure is an amount of Ksh.29.065 million described as security expenses which has been declared to the Minister of Finance.

16. Comparative

Where necessary, comparative figures have been adjusted to conform to changes in presentation in the current year.

17. Reporting currency

These financial statements are presented in Kenya Shillings (Ksh) as the reporting currency.

18. Expenditure

| ADMINISTRATIVE EXPENSES | 2007 (Ksh) | 2006 (Ksh) |
|---|--------------------|--------------------|
| Personal Emoluments | 440,842,212 | 370,274,440 |
| House allowance | 86,339,172 | 71,496,998 |
| Other personal allowances | 96,227,844 | 83,479,635 |
| Medical Insurance Cover | 44,182,940 | 19,684,372 |
| Staff Training | 19,107,272 | 12,656,802 |
| Passage & leave | 6,584,298 | 7,514,814 |
| Board, committees & Conferences | 24,333,046 | 26,228,642 |
| NSSF - Employer contribution | 571,400 | 416,200 |
| | 854,660,266 | 704,426,643 |
| OPERATING AND MAINTENANCE | | |
| Transport operating expenses | 20,824,216 | 14,962,923 |
| Traveling & Accommodation expenses | 20,822,595 | 10,371,542 |
| External traveling & accommodation | 17,914,413 | 21,117,912 |
| Postal & telegrams | 563,815 | 614,756 |
| Telephone expenses | 6,514,054 | 5,474,766 |
| Official Entertainment | 5,622,979 | 2,560,615 |
| Workshops & Seminars | 18,811,812 | 6,794,821 |
| Electricity expenses | 3,557,687 | 3,696,329 |
| Water & Conservancy | 774,444 | 159,837 |
| Gas/fuel expenses | 17,146 | 51,440 |
| Purchase of consumable stores | 383,915 | 8,640,359 |
| Publishing & printing | 6,341,789 | 5,934,542 |
| Uniforms & clothes | 352,532 | 301,589 |
| Library expenses | 359,018 | 1,891,690 |
| Purchase of stationery | 5,172,077 | 3,969,691 |
| Advertising & publicity | 14,312,089 | 37,206,833 |
| Research expenses | 10,065,468 | 9,565,859 |
| Periodicals | 1,114,471 | 32,590 |
| Rent & rates | 35,080,110 | 31,341,775 |
| Contracted professional services | 41,063,618 | 870,230 |
| Computer expenses | 2,902,661 | 1,345,505 |
| Insurance costs | 4,690,668 | 1,973,297 |
| General office expenses | 1,892,659 | 594,911 |
| Court fees & professional legal charges | 5,953,062 | 52,107,418 |
| Security expenses | 29,065,000 | 23,635,000 |
| Subscriptions | 608,380 | 371,620 |
| Maintenance of plant, equipment & buildings | 2,589,705 | 3,088,126 |
| Audit fees | 500,000 | 300,000 |
| Bank charges | 255,285 | 781,562 |
| PSIP programme | | 1,234,991 |
| Depreciation expenses | 34,649,180 | 32,872,890 |
| Total | 292,774,849 | 283,865,422 |