

Storm brewing at EACC over top official's suspension, graft claims

The turf wars revolve around the commission and the secretariat and are reportedly based on Anglo Leasing cases

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The national anti-graft agency is reeling in the turmoil of graft claims and it appears the latest storm was stirred by the decision to prosecute some high-fliers over the Anglo Leasing tender scandal.

But even before the commission overcame the shock of its senior commissioners writing to the President making damning allegations against their chairman Mumo Matemu, yesterday a fallout between Matemu and the anti-corruption agency's chief executive burst into the public domain.

The latest storm comes at a sensitive time when the Ethics and Anti-Corruption Commission (EACC) has in its hands some of the most prized investigations involving senior members of society, including Parliament and various State agencies. The commission's pillar is supposed to be integrity beyond question.

The commission's credibility came under scrutiny after Matemu's suspension of the Deputy Chief Executive Officer-Technical Services Michael Mubea on Monday. Mr Mubea had been suspended on the basis of adverse intelligence briefs against him but the decision was revoked by his direct supervisor, Halakhe Waqo.

The EACC CEO disagreed with Matemu's action against Mabea, which was a 30-day suspension pending investigations for what the chairman warned could amount to "gross misconduct".

The turf wars revolved around the commission on one hand and the secretariat on the other and was anchored on alleged malpractice in the handling of high-profile cases.

In suspending Mubea, Matemu who is a lawyer by profession, said he would be investigated for claims springing from detailed "intelligence briefings".

In a letter addressed to Mubea communicating his interdiction, Matemu instructed him to "hand over any matters/files that you are currently handling to the chairperson".

"Intelligence reaching the commission has strongly suggested that there are integrity challenges surrounding the discharge of your duties as deputy secretary-technical services. Some of these challenges have resulted in ridicule to the commission and negative media publicity hence tainting its image," Matemu wrote.

However, Waqo, in a hard hitting letter to Matemu, argued he was not consulted in Mubea's interdiction yet he is in charge of the day-to-day running of the commission. "By copy of this letter, I am directing the officer to report on duty and continue with his work," Waqo wrote.

"Your letter dated 9th March



SOME MAJOR CASES EACC IS HANDLING

- The Anglo Leasing scandal which has remained under cover in three successive governments
- The scandal involves some dodgy security contracts
- Fraud and corruption allegations involving MPs, more so, within the PAC, which is supposed to keep watch over public spending to ensure taxpayers' money is put to good use
- The Chickengate scam which involves money allegedly embezzled by election officials

2015 which you handed to the above named officer (Mubea) in my presence, that of the Vice Chair Irene Keino and Commissioner Jane Onsongo and your subsequent memo to myself refers... As the CEO of the commission who receives all intelligence reports, I am not aware of any (such) intelligence reports. I am also surprised that any intelligence reports will bypass the CEO and come to you directly," Waqo's letter to Matemu read in part.

Waqo went on that a Special Commission meeting of March 9 that the chairman cited, did not discuss anything about Mubea and that he (Waqo) heard about the allegations against his deputy for the first time

Ethics and Anti-Corruption Commission Chairman Mumo Matemu and CEO Halakhe Waqo at a past event. The commission's credibility has come under scrutiny. INSET: Michael Mubea. [PHOTO: FILE/STANDARD]

when Matemu raised them at his office. "Mr Mubea's work has been outstanding and clearly demonstrated in among other projects, the Anglo Leasing investigations," Waqo wrote.

Inquiries by *The Standard* established the fallout stemmed from a decision by EACC to charge businessman Deepak Kamani for an Anglo Leasing related offence at a time when the secretariat had opened negotiations with the suspect to have an out-of-court settlement.

The *Standard* is in possession of communication between the secretariat and Kamani's lawyers which is not copied to the commissioners.

One letter is dated November 4, 2014 from the law firm V A Nyamodi and Company Advocates on behalf of Mr Kamani's firms, floating the idea of an out-of-court deal.

INSUBORDINATION CLAIMS

The following day November 5, Mubea responded in the affirmative and asked the lawyers to furnish EACC with details of their proposal.

Lawyer P O Nyamodi wrote back to Mubea on November 7 stating; "We wish to thank you for your confirmation that you are in favour of an amicable settlement for the subject of companies and as such wish that my clients furnish a proposal for the way forward, as requested by you."

The letter added; "We have already informed our clients of the positive response from your side. We shall revert to you."

All the letters were only copied to the Director of Public Prosecution Ke-riako Tobiko.

The Deputy CEO's move to initiate a deal with Kamani is said to have infuriated the commissioners who demanded to know why they were excluded from the correspondence at a time when public pressure was growing over the handling of Anglo Leasing cases.

"This is an officer who was conducting a parallel exercise and excluding the commissioners when he knew

well that the files had been forwarded to the DPP; this clearly amounts to insubordination," another officer revealed.

However, Mubea argued a proposal to have the matter settled out of court was floated by the lawyers and that did not in anyway interfere with the investigations. There were also claims files whose cases had been reported to the commission were not acted upon by the secretariat that is in charge of investigations.

Yesterday, Mubea told *The Standard* he was yet to be informed about the allegations against him. "They have not disclosed any allegations to me. I report to the CEO not to the commission and as such, I am going back to the office," Mubea declared.

He conceded his woes are as a result of, "Anglo Leasing fighting back". "I was firm that people must go to court. I am proud of my track record and I remain spirited in the campaign to rid this country of graft. Kenyans can judge me. I can assure you that at EACC if people are not fighting you while in office then rest assured that you are not working."

However, a senior official conversant with the issue at Integrity Centre told *The Standard*: "We have to move on and we can't keep on being dragged into dirty claims of lack of integrity at the commission which is supposed to check integrity. He remains suspended for 30 days for now."

In September last year, Keino and Onsongo launched an attack on Matemu whom they claimed was not committed to fighting corruption in a petition addressed to President Uhuru Kenyatta.

Yesterday, State House acknowledged receipt of a petition to disband EACC over its leadership. The President's spokesman Manoh Espisu explained the petition was being considered.

Last evening Matemu, Keino and Onsongo issued a statement insisting Mubea was under investigation and should stay out of office.

TI: Kenya far from ending corruption

By RAWLINGS OTIENO

No significant progress has been made in the war against corruption and claims of impropriety rocking institutions meant to fight graft will undermine the campaign even further, Transparency International (TI) Kenya has said.

The 2014 Corruption Perception Index published by the TI ranks Kenya poorly.

Kenya scored 25 on a scale of zero to 100 (with zero perceived to be highly corrupt, and 100 very clean) and sits at position 145 out of 174 countries and territories ranked.

TI Executive Director Samuel Kimeu said few corruption cases have been successfully prosecuted, public officers accused of corruption continue to serve in their positions and only a few resources lost through corruption have been recovered.

"Considering the flood of reports of high level corruption in various institutions, Kenya's position among the community of nations could suffer even further," said Kimeu.

In a statement sent to newsrooms yesterday evening, Kimeu said the suspension of the Ethics and Anti-Corruption Commission's (EACC) deputy Chief Executive Michael Mubea yesterday to pave way for investigations into allegations of office malpractice, is a step in the right direction.

He said it is important that key institutions such as the National Assembly and EACC, where some high level officials have been accused of impropriety, remain above reproach to maintain public confidence in the fight against corruption.

SALVAGE REPUTATION

"EACC must co-operate with the Office of the Ombudsman to weed out any allegations of impropriety among its officers. Any officers of the EACC found culpable should face the full force of the law," the statement reads in part.

Concerning the corruption in parliamentary committees, including the Parliamentary Accounts Committee (PAC), he said it is vital the National Assembly speaker ensures the allegations are investigated, and the necessary action taken to salvage the House's reputation.

"Suspension of the PAC is a good first step, but it is important that thorough investigations are carried out and those found culpable held to account," said Kimeu.

Kimeu suggested that the National Assembly leadership must resist the urge to sweep corruption allegations against MPs and committees under the carpet as has happened in the past and should communicate the outcome of its processes to the public.

He said it is important to communicate the outcome of any accountability processes instituted, if the war on graft is to succeed.

"We welcome the proposal to institute an Internal Standards Unit to facilitate the reporting of corruption by whistle blowers, and the development and adoption of a code of conduct for legislators," said Kimeu.

He also said the organisation is ready to offer technical support towards instituting integrity in the august House which has been riddled with corruption allegations.