

INTRODUCTION

The main purpose of this meeting is to share with the international community the information so far gathered on what is fast looking like being the largest example of grand corruption in Kenya. That is taking the massive tax evasion and money laundering operations of Charterhouse Bank and its clientele, the money laundering operations of at least five local banks (the details of one such money laundering operation by one of those banks is enclosed) and a number of forex bureaus.

We also want to ignite the international community into taking a much more proactive stand on these series of economic crimes which cut right across borders into your countries as well.

What is being presented to you are the results of only one preliminary forensic audit investigation into Charterhouse into only five accounts, and one forensic audit into Paramount Bank over a specific limited period. During that period of seven months \$32 million was laundered and half the shillings are unaccounted for.

The scams revolve around two main illicit activities gargantuan tax evasion and equally gargantuan money laundering.

Background

On the 2nd and 3rd April, 2006 the Nation newspaper published a story concerning a bank linked to a large supermarket chain that was involved heavily in tax evasion and possible money laundering. The documents that the Nation obtained appeared to be the detailed letter of March 20th 2006 sent by suspended Governor Andrew Mullei to newly appointed Finance Minister, Amos Kimunya outlining some of the transgressions and anomalies of Charterhouse bank and its account holders and recommending the Minister cancel its banking licence. (ATTACH ONE).

Although no names were mentioned in this the response from Charterhouse Bank, John Haron Mwan and Advocate Karuki Mwigwa was swift and furious. Gagging orders were obtained against the Nation, threatening phone calls were made by advocates, attempts to set up meetings to give "their" side of the story were made etc etc

It became clear at this stage that there were only two avenues through which further information could come out: tabling documents in parliament and/or producing them in the Andrew Mullei court case.

On June 22nd Shadow Finance Minister Billow Kertow tabled the Mullei letter of 20th March 2006 and two previous letters from Mullei to then Finance Minister David Mwiraria as well as a copy of THE INTERIM REPORT BY THE TASK FORCE INVESTIGATING ECONOMIC CRIMES BY CHARTERHOUSE BANK AND RELATED COMPANIES. (ATTACH TWO)

Shortly after this Charterhouse Bank was put under statutory management by the CBK and Finance Minister Amos Kimunya made a statement to Parliament (copy enclosed). As you will see from his statement he understated the gravity of the situation and said he had to do this to protect the depositors in light of the reckless statements and actions of Kerrow (ATTACH THREE)

Charterhouse immediately went to court and challenged the appointment of a statutory manager by the CBK and CBK's replying affidavit of 27th June, 2006 not only summarises some of the transgressions outlined in the interim report but stated that some of those transgressions continued as of June 2006. (ATTACH FOUR)

Subsequent to that Billow Kerrow tabled further docs including the account holders of Charterhouse and transactions, a letter from KACC in December, 2004 to CBK Governor Muli explaining of obstructions by Charterhouse and two letters from Governor Muli explaining that it was up to KACC and KRA (not CBK) to pursue Charterhouse for economic crimes and tax evasion respectively as per the relevant legislation (copies enclosed). (ATTACH FIVE)

The Aide Memoire to the Parliamentary Finance and Trade Committee helps one glean some of the more glaring anomalies and horrors contained in the account holders' lists ATTACH SIX

In essence the second lot of docs tabled largely contradict Minister Kimunya's statement, shed more light on the enormity, length and breadth of the scam and make it more difficult for the authorities to do nothing or even re-open the bank.

A summary of this is contained in a commentary by me carried in The Nation of July 8th 2006. ATTACH SEVEN

Since then there have been certain developments:

- KRA has been extracting some of the considerable tax arrears from Nakumatt although it is unclear as to how much and whether a programme of instalments has been agreed.
- The former Charterhouse Directors tried to have a former Charterhouse employee and current CBK employee Peter Odhiambo arrested. The acting CBK governor Jacinta Mwatela sent the police officers packing and told them quite correctly that the only entity that could go to court on behalf of Charterhouse was the statutory manager.
- The former Charterhouse directors went to court trying challenging the imposition of a statutory manager. They lost the case but have said they will appeal.
- Numerous gag orders on the press, individuals and MPs (Bill Kerrow included) have been served emanating largely from Karuki Mwigwa and John Haron Mwa.
- The Parliamentary Finance and Trade Committee have been interviewing witnesses over Charterhouse. It interviewed Melville Smith and Titus Mwirigi (they were both in the original investigating committee that produced the interim

report). Whilst there are some good people on the committee there are one or two rogue elements such as Juya MP Gitau Kabogo who is a business associate of John Harum M'wau. The session partly turned into an inquiry of Titus Mwirigi by Kabogo who was desperately fishing for information as to what data was with them. I am Luke warm as to whether this committee will have much positive impact. So far KACC Director Aaron Ringera has avoided turning up despite being summoned.

- Subsequent to this both Peter Odhiambo and Titus Mwirigi have gone into hiding and at least one of them is no longer in Kenya.
- The trial of Andrew Muli is going quite well and at times one could be mistaken into believing that the prosecution witnesses were for the defence! Hearings resume next week. All things being equal he could be acquitted and return to serve the rest of his term- but let us wait and see.

Paramount Universal Bank

This has not been put in the public domain yet but will be at some opportune time in the future. It is one of as many at least five banks doing similar money laundering operations. **ATTACH EIGHT.**

Nairobi is currently reputed to be one of the fastest growing money laundering centres in the world and to date has no legislation outlawing it!

THE WAY FORWARD

Compared to the unearthing of Goldenberg and the Anglo Leasing and related procurement scams the speed and momentum of what has been put into the public domain in the past couple of months is encouraging. But not only are there many people who are fighting in the other direction and doing so with a lot of money behind them, it is clear so far the government is reluctant to tackle this series of scams head on.

In order to keep the momentum going and to ensure the government takes some vital and necessary actions it is essential that the international community challenges the government on these series of crimes and not just behind closed doors. Remember these series of economic crimes are not just of a domestic nature. They are interwoven with narcotics and armaments smuggling as well as funding terrorism.

The short term objectives should be:

- Immediately reconstitute the inter agency task force investigating Charthouse Bank with the mandate to complete its investigations and recommendations.
- Immediately resume and complete investigations into banks laundering money and close them down

08/08/06

A good start would be a joint delegation to President Kibaki as well as pursuing the subjects with the relevant Ministers such as Amos Kimunya and Martha Karua as well as the Attorney General.

HOW?

- Push the government to present to parliament the relevant money laundering legislation that has already been drawn up to parliament as soon as it resumes so it becomes an Act by the end of the year at the latest.
- Ensure that all individuals involved in any of the above activities are barred from visiting any of your countries.
- Offer what technical co-operation or expertise available for detecting and dealing with such economic crimes as money laundering

AN INTERIM REPORT BY THE TASK FORCE INVESTIGATING ECONOMIC
CRIMES BY CHARTERHOUSE BANK AND RELATED COMPANIES

INTERIM REPORT

INTRODUCTION

The task force met on 28th and 29th October 2004 to appraise themselves with the task and draw up an action plan.

OBJECTIVE

The team defined their objectives as:

- 1.1 To institute an economic crime investigation against the companies mentioned below with a view to identifying potential Tax evasion, illegal, money transfers or violation of Banking Act with the connivance of Charterhouse Bank Ltd. The companies are: -

- 1.1.1 Creative Innovations Ltd.
- 1.1.2 Sailesh Prajapati
- 1.1.3 D. Shah
- 1.1.4 Karinki Muiqua & Co. (Clients Accounts)
- 1.1.5 W. E. Tilley (Mudraiga) Ltd
- 1.1.6 Paolo Sattamino
- 1.1.7 Tusker Mattresses Ltd

- 1.2 To establish whether the Bank aided the said companies in committing economic crimes
- 1.3 To identify the Directors of Charterhouse Bank and establish a link with the related companies in a possible network for committing economic crimes with a view to breaking it

METHODOLOGY

The task force undertook the following steps to achieve its objective:

- 1.4 Carried out a search at the Registrar of Companies offices for details of the companies referred above to obtain their registration details.

Mark Tm

1.5 Traced the physical addresses of the said companies to establish their locations.

1.6 Carried out a surprise visit to Charterhouse Bank to obtain bank account details in respect of various accounts held by the above listed companies and individuals

1.7 Carried out a surprise visit to the specified companies and obtained documents and records relating to their business activities for the period starting 1st January 1999 to 4th November 2004

The visits to the companies' premises and the bank were carried out simultaneously.

1.8 Wrote to the Kenya Revenue Authority and obtained tax records in respect of the companies listed above

1.9 Started sifting through the documents obtained from the companies and the bank to try and establish any incidence of VAT evasion

SHORT TERM SCOPE

The team set out a short-term objective, which was to try and establish any likelihood of VAT evasion by the said companies for the period beginning 2nd of May 2003 to September 2004

The reason for this short-term scope was to take into account the following factors:

1. To take advantage of the period Kenya Anti Corruption Commission became operational and within which period it can legally investigate and prosecute

2. The team appreciated that the exercise is complex and will take longer to complete hence it was necessary to define a short term goal for immediate action while the long term objective will be pursued systematically as the investigation expands

INTERIM FINDINGS
CREATIVE INNOVATIONS LTD

From the documents collected from the company's premises and from Charterhouse Bank, the following was observed:

- That the company operates four bank accounts with the Charterhouse Bank
- Only two accounts are disclosed in the company's official records. These are:
 - CA 01 - 001000009
 - CA 01 - 0001000275

➤ The other two accounts as shown below with deposits amounting to Kshs. 262,105,659 are not disclosed in the company's Balance Sheet for the period under review (ie from 2nd May 2003 to October 2004).

- CA 01 - 01000074 Kshs. 237,268,640
- CA 01 - 01000206 Kshs. 24,837,019

262,105,659

- It is evident that these deposits are company income from sales and have not been assessed for VAT and Income Tax since they are not disclosed in the companies official records
- The figure shown above is for the period under review starting from May 2003 to October 2004. It will certainly grow once the prior period is computed

Other observations

- The company mainly deals with imports most of which is supplied to Nakumatt Holdings Ltd. It was observed that the company in respect of these supplies to Nakumatt Holdings maintains no proper documentation
- It has also come to the Commissions knowledge that the company is a major supplier of certain oils/lubricants to the following corporations the income of which may not have been disclosed in their books

- Kenya Ports Authority
- Kenya Airports Authority
- Kenya Power & Lighting Company

Steps remaining to be undertaken

- Seek an explanation from the Directors of Creative Innovations about the two accounts held in their company's name at charterhouse Bank
- If no satisfactory explanation is given, assume the amounts to be sales income and assess VAT and Income Tax on it
- Prepare to charge the company and the Directors with the offence of committing an economic crime contrary to section 45 (1) (d) of the Anti-Corruption and Economic Crimes Act No 3 of 2003

- Assist KRA assess the income from the same two parallel accounts covering the period from 1999 to April 2003 and assess VAT on it and pursue appropriate legal action on the offenders
- Obtain details of payments and invoices the above mentioned corporations may have made to the company and establish whether the income had been included in their official books of Accounts and assess for VAT and Income Tax.
- Get an explanation on the imported supplies made to Nakumatt Holdings Ltd and assess the tax implication

Offence likely to be disclosed

Failure to pay taxes contrary to section 45 (1) (d) of the Anti-Corruption and Economics Act of 2003

W E TILLEY (MUTHAIGA) LTD

From documents obtained from the bank and the company's premises, the following has been observed:

- The company is a fish processing firm with exports forming 95% of their sales and the remainder 5% being local sales
- From the above observations it follows that the bulk of their sales proceeds are in foreign currency i.e. US Dollars
- The company has three other related companies for which they allege to handle their export through Kenya. The directorships are the same for all the four companies. The three companies are:

- Prime Catch Ltd
Tanzania
 - Mara Fish Packers Ltd
Tanzania
 - Victoria Fish Packers & Processors Ltd
Uganda
 - Charterhouse Bank
 - Fidelity Commercial Account
 - CA 01 - 600178
US DOLLAR ACCOUNT
 - CA 01 - 01000630
KSHS. ACCOUNT
 - 100805 162
US DOLLAR ACCOUNT
 - 100805 006
KSHS. ACCOUNT
 - Imperial Commercial Bank
 - 11502443
US DOLLAR ACCOUNT
 - 11102442
KSHS. ACCOUNT
 - The company operates six bank accounts spread as shown below
 - ✓ The total credits for the period January to September 2004 into the six accounts amount to Kshs 5,893,464,798. This figure is not adjusted by opening and closing debtors although the deposits still appear to be on the higher side
 - ✓ The total sales for the same period amount to Kshs 1,351,874,269
 - ✓ There are numerous transfers from dollar accounts to shilling accounts in the same bank and across the other banks as well raising the possibility of double credits in computing the above figure
 - ✓ There is also evidence of heavy trading in foreign currency between the company and several Forex Bureaus in the city
 - ✓ The company claims to receive export proceeds for its related companies and banking it in its own accounts
 - ✓ It was observed that the company banks a lot in Afro Forex Bureau bank account with Fidelity Commercial bank
 - ✓ Huge payments are also made to persons who on the face of it do not seem to have any relationship with the nature of the company's business activities
- Steps remaining to be undertaken**
- ✓ Adjust the figure of Kshs. 5,893,464,798 by cross account transfers, opening and closing debtors and the declared sales