

**REPUBLIC OF KENYA**



**NATIONAL ASSEMBLY**

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**ELEVENTH PARLIAMENT– FOURTH SESSION**

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**THE PUBLIC INVESTMENTS COMMITTEE**

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**SPECIAL REPORT ON THE INQUIRY INTO ALLEGATIONS OF FRAUD AND  
FINANCIAL MISMANAGEMENT AT THE YOUTH ENTERPRISE  
DEVELOPMENT FUND**

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## LIST OF ABBREVIATIONS AND ACRONYMS

Ag.	-	Acting
AML	-	Anti-Money Laundering
BNI	-	Bearer Negotiable Instruments
CAP	-	Chapter
CEO	-	Chief Executive Officer
CFT	-	Combating the Financing of Terrorism
CS	-	Cabinet Secretary
DCI	-	Directorate of Criminal Investigations
DNFBPs	-	Designated Non-Financial Businesses and Professions
DPP	-	Director of Public Prosecutions
EACC	-	Ethics and Anti-Corruption Commission
ERP	-	Enterprise Resource Planning
FIU	-	Financial Intelligence Unit
Fund	-	Youth Enterprise Development Fund
FRC	-	Financial Reporting Centre
FY	-	Financial Year
GM	-	General Manager
ICT	-	Information, Communication Technology
Kshs.	-	Kenya Shillings
MP	-	Member of Parliament
MFI	-	Micro Finance Organisations
NGOs	-	Non-Governmental Organisations
NYS	-	National Youth Service
PIN	-	Personal Identification Number
PPDA	-	Public Procurement and Disposal Act
PFMA	-	Public Financial Management Act
PS	-	Principal Secretary

POCAMLA	-	Proceeds of Crime and Anti-Money Laundering Act
POEA	-	Public Officers Ethics Act
RTGS	-	Real Time Gross Settlement
SACCO	-	Savings and Credit Cooperative Society
STRs	-	Suspicious Transaction Reports
SAGA	-	Semi Autonomous Government Agency
SCB	-	Standard Chartered Bank
USA	-	United States of America
USD	-	United States Dollars
VAT	-	Value Added Tax
YEDF	-	Youth Enterprise Development Fund

## **1.0 PREFACE**

The Public Investments Committee is a Select Committee established under Standing Order No. 206 and is responsible for the examination of the working of public investments.

### **1.1 Committee Mandate**

The Committee is mandated to-

- (a) Examine the reports and accounts of the public investments;
- (b) Examine the reports, if any, of the Auditor-General on the public investments;
- (c) Examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

The procedure of a Select Committee and other related matters thereto is covered under Standing Order No. 173–203. The Committee has powers, under Article 125 of the Constitution of Kenya 2010, National Assembly Powers and Privileges Act (Cap. 6), the State Corporations Act, (Cap. 446) and the Public Audit Act, 2003, to summon witnesses, examine them on oath and receive evidence.

### **1.2 Committee Membership**

The Committee is comprised of the following Members-

- 1. Hon. Adan Wehliye Keynan, CBS, MP - Chairperson
- 2. Hon. Anthony Kimani Ichung’wah, MP - Vice Chairperson
- 3. Hon. Francis Mwanzia Nyenze, EGH, MP
- 4. Hon. (Dr.) Oburu Oginga, MGH, MP
- 5. Hon. (CPA) Thomas Ludindi Mwadeghu, CBS, MP
- 6. Hon. Adan Mohammed Nooru, MP
- 7. Hon. Franklin Mithika Linturi, MP
- 8. Hon. Wafula Wamunyinyi, MP
- 9. Hon. Elias Bare Shill, MP
- 10. Hon. Sammy Silas Komen Mwaita, MP
- 11. Hon. (Dr.) Paul Otuoma Nyongesa, EGH, MP

12. Hon. John Olago Aluoch, MP
13. Hon. (Eng.) John Kiragu, MP
14. Hon. Dorcas Kedogo, MP
15. Hon. Abdullswamad Sheriff Nassir, MP
16. Hon. Beatrice Nkatha Nyaga, HSC, MP
17. Hon. Bernard Munywoki Kitungi, MP
18. Hon. (Dr.) Chrisanthus Wamalwa Wakhungu, CBS, MP
19. Hon. Cornelly Serem, MP
20. Hon. Ejidius Njogu Barua, MP
21. Hon. Irungu Kang'ata, MP
22. Hon. Johana Kipyegon Ng'eno, MP
23. Hon. John Muchiri Nyaga, MP
24. Hon. John Ogutu Omondi, MP
25. Hon. Korei Ole Lemein, MP
26. Hon. Mary Sally Keraa, MP
27. Hon. Onesmus Muthomi Njuki, MP

### **1.3 Secretariat**

The Committee Secretariat is comprised of the following officers: -

- |    |                     |   |                        |
|----|---------------------|---|------------------------|
| 1. | Ms. Susan Maritim   | - | First Clerk Assistant  |
| 2. | Mr. Philip Lekarkar | - | Third Clerk Assistant  |
| 3. | Mr. Mohammed Boru   | - | Third Clerk Assistant  |
| 4. | Mr. Joash Kosiba    | - | Fiscal Analyst I       |
| 5. | Ms. Clarah Kimeli   | - | Legal Counsel I        |
| 6. | Mr. Charles Atamba  | - | Research Assistant III |



## **1.4 Committee Proceedings**

In its inquiry into the allegations of fraud and financial mismanagement at the Youth Enterprise Development Fund(YEDF), the Committee held a total of twenty sittings in which it closely received oral and written submissions and examined evidence from witnesses. The Committee heard and received both oral and written evidence from-

- i. Mr. Emmanuel Odero, Ag. Chief Executive Officer, YEDF;
- ii. Mr. Benedict Atavachi, suspended Finance Manager, YEDF;
- iii. Ms. Catherine A. Namuye, suspended Ag. Chief Executive Officer, YEDF;
- iv. Mr. Bruce Odhiambo, former Chairman, YEDF;
- v. Former YEDF Board of Directors;
- vi. Mr. Mukuria Ngamau and Ms. Doreen Waithera Ng'ang'a, Quorandum Ltd Directors;
- vii. Mr. Joseph Kinyua, Chief of Staff and Head of Public Service;
- viii. Ms. Sicily Kariuki, Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs;
- ix. Mr. Titus Muriithi, Ag. Inspector General of State Corporations;
- x. Mr. Simon Indimuli, Head of Governance, State Corporations Advisory Committee;
- xi. Ms. Anne Waiguru, former Cabinet Secretary, Ministry of Devolution and Planning;
- xii. Eng. Peter Mangiti, former Principal Secretary, State Department of Planning, Ministry of Devolution and Planning;
- xiii. Chase Bank (K) Ltd Officials;
- xiv. The Standard Chartered Bank Ltd Officials;
- xv. Some of the beneficiaries of funds from Quorandum Ltd
- xvi. Commissioner General, Kenya Revenue Authority;
- xvii. Director, Directorate of Criminal Investigations;
- xviii. Secretary/Chief Executive Officer, Ethics and Anti-Corruption Commission;
- xix. Principal Secretary, State Department for Foreign Affairs, Ministry of Foreign Affairs & International Trade;

- xx. Chief Executive Officer, Financial Reporting Centre; and
- xxi. Registrar of Societies.

The records of evidence adduced, documents and notes received by the Committee form the basis of the Committee's observations/findings and recommendations as outlined in the Report and can be obtained in the Hansard reports of the Committee available in the Parliament Library.

### **1.5 Key Findings and Observations**

The section below provides a summary of the Committee's Observations on the inquiry into allegations of fraud and financial mismanagement at the Youth Enterprise Development Fund.

These observations and recommendations, if taken into account and implemented, will ensure the recovery of public funds meant for the youth of Kenya and prosecution of those culpable for the fraudulent acts at the YEDF

From the oral and written evidence submitted, the Committee made the following observations and findings-

1. **THAT**, the Board and the Management of YEDF did not obtain approval from the National Treasury to invest Kshs. 400 million into a fixed/call deposit account at Chase Bank (K) Ltd, contrary to the provisions of National Treasury Circular No. 10 of 1992, Circular No.12 of 2002 and Order No. 63 of the Youth Enterprise Development Fund Order, 2007.
2. **THAT**, it is evident that the Youth Enterprise Development Fund Order (63 of 2007) establishing the Fund under Regulation 12(2) allows the Board to deposit funds not immediately required for immediate use with commercial banks as the Board may consider. This provision is however superseded by Section 6(e) of the Public Finance Management Act (PFM), 2012 that states that the PFM Act, 2012 prevails on banking arrangements, including opening of bank accounts and investment of moneys.
3. **THAT**, The PFM Act, 2012 provides for the responsibilities of the National Treasury under Section 12(h) and (k) as monitoring the management of the finances of public enterprises and investments by national government and its agencies and to issue guidelines to national government entities with respect to financial matters and monitoring implementations and

compliance. To this extent, the guidelines issued by the National Treasury by way of circulars were binding to YEDF.

4. **THAT**, the YEDF did not have any surplus funds as per its audited financial statements for the financial year ended 30<sup>th</sup> June, 2014 and that the Kshs. 400 million that YEDF invested into a fixed/call deposit account at Chase Bank (K) Ltd was part of the funds appropriated by the National Assembly for disbursement to the youth as per the YEDF mandate.
5. **THAT**, the Fund had an existing ICT Strategic Plan 2013-2017 procured from Microflex Kenya Ltd in 2013 at a cost of approximately Kshs. 5.9 million and there was therefore no need to procure another one.
6. **THAT**, the purported consultancy services contract for the development of an Information, Communication and Technology (ICT) Strategic Plan and Enterprise Resource Planning (ERP) System development by Quorandum Ltd for YEDF was jointly planned and executed by Mr. Mukuria Ngamau, Mr. Bruce Odhiambo and Ms. Catherine A. Namuye with the main objective of defrauding the Fund of approximately Ksh. 180,364,789.00.
7. **THAT**, vide letter REF.YEDF/4/ACC/0055/15 dated 4<sup>th</sup> February 2015, YEDF instructed Chase Bank (K) Ltd to roll over its investment of Kshs. 400 Million in a fixed/call deposit account for a period of two months at an interest rate of 9% p.a with effect from 4<sup>th</sup> February 2015 to 6<sup>th</sup> April, 2015.
8. **THAT**, Ms. Namuye in a letter dated 11<sup>th</sup> February 2015 instructed Chase Bank (K) Ltd to make payments to Quorandum Ltd amounting to Kshs. 115,710,000.00 for alleged consultancy services rendered. However, the Bank did not honour the instructions since they contradicted earlier signing instructions as submitted to the Bank by the Fund which were: Category A (mandatory signatures) Ms. Namuye and Ms. Judy Kimeto and Category B, Mr. Benedict Atavachi, Mr. Robert Mrima and Mr. Benson Munywoki, where it was a requirement that any two could sign, with one being a mandatory signatory.
9. **THAT**, on 4<sup>th</sup> February, 2016, the suspended Ag. CEO, Ms. Catherine A. Namuye issued instructions to Chase Bank (K) Ltd to transfer funds from YEDF account to roll over the funds in the investment account for another period of two months. These instructions were

suspicious since the investment had not matured as per the roll over period which was to lapse on 6<sup>th</sup> April, 2015.

10. **THAT**, vide letter dated 17<sup>th</sup> February, 2015, Mr. Bruce Odhiambo, the former YEDF Chairman instructed Chase Bank (K) Ltd that in the absence of the other mandatory signatories, Ms. Catherine A. Namuye could sign off any instructions to the Bank as a sole signatory. This in turn gave the Ag. CEO, Ms. Namuye a free hand to issue instructions to the Bank as a sole signatory. It is noteworthy that these instructions came shortly after the Bank had rejected an attempt by Ms. Namuye to transfer funds on 11<sup>th</sup> February, 2015.
11. **THAT**, the Fund's Board approved the change of Chase Bank (K) Ltd account signatories on 26<sup>th</sup> February, 2015, but did not make Ms. Catherine A. Namuye a sole signatory to the YEDF account at Chase Bank (K) Ltd as alleged by the former Board Chairman, Mr. Bruce Odhiambo. The letter by Mr. Odhiambo on 17<sup>th</sup> February, 2015 making a Ms. Namuye a sole signatory was therefore an act of forgery as defined in Section 345 of the Penal Code.
12. **THAT**, on 11<sup>th</sup> of February, 2015 and 27<sup>th</sup> April, 2015, Ms. Catherine A. Namuye, the suspended Ag. CEO solely, without Board approval nor involvement of YEDF Finance Department, instructed Chase Bank (K) Ltd to pay Quorandum Ltd, a purported supplier, Kshs. 115,710,000.00 and Kshs. 65, 184,946.00. The second amount was revised to Kshs. 64,654,789.00 upon realization that the Fund's account had insufficient balance to transfer the instructed amount. The amounts were to be paid from the Fund's fixed deposit account No. 0017054604027 held with Chase Bank (K) Ltd in which Kshs. 400 million was deposited on 22<sup>nd</sup> August, 2014.
13. **THAT**, as a result of the actions of the suspended Ag. CEO, Ms. Catherine A. Namuye and Mr. Bruce Odhiambo, former Board Chairman, the **Fund lost a total of Kshs. 180,364,789** through a well orchestrated and dubious non-existent consultancy service scheme.
14. **THAT**, the purported extracts of the Fund's Board Minutes signed by Mr. Bruce Odhiambo and Ms. Catherine A. Namuye sent to Chase Bank (K) Ltd to confirm the change of signatories were a forgery and a collusion between the two officers with an intent to defraud the Fund pursuant to Section 348 of the Penal Code.

- 15. THAT**, the suspended Ag. CEO, Ms. Catherine A. Namuye occasioned the withdrawal of funds from the YEDF fixed/call deposit account at Chase Bank (K) Ltd to pay for goods and services while the Fund had an operations accounts held at Equity Bank (K) Ltd and Kenya Commercial Bank (K) Ltd.
- 16. THAT**, the suspended Ag. CEO, Ms. Catherine A. Namuye and the former Board Chairman, Mr. Bruce Odhiambo took over the running of the Fund's investment account thereby undermining the financial management procedures and controls at YEDF making the Finance Department of YEDF, headed by Mr. Benedict Atavachi, the suspended Finance Manager, redundant on the matter. The Committee therefore did not find any evidence linking Mr. Atavachi to the loss of Kshs. 180,364,789.
- 17. THAT**, from the evidence of other witnesses, no other officer of the YEDF participated in the alleged procurement of consultancy services from Quorandum Ltd except Ms. Catherine A. Namuye, hence breach of Section 26(3)(c) of the Public Procurement and Disposal Act, 2005 which requires the involvement of the user department.
- 18. THAT**, the alleged award of the contract for ICT Strategy and ERP System consultancy services to Quorandum Ltd by YEDF did not comply with the provisions of Article 227 of the Constitution Section 27 (4) of the Public Procurement and Disposal Act, (PPDA) 2005; as the service was neither planned for nor authorized by the Board. Further, prequalification of the company was not undertaken, no advertisement was done, no expression of interest advertised, no tendering nor evaluation was done before the award of the contract for competitiveness.
- 19. THAT**, further, Ms. Catherine A. Namuye did not present any evidence on her allegation that the Board was involved in the procurement process of the alleged consultancy services by Quorandum Ltd. If indeed there was such involvement, this could not have taken away her responsibilities of an accounting officer of ensuring that the Fund complies with the PPDA. Under section 27(2) of the PPDA, the accounting officer of the Fund has the primary responsibility of ensuring that the Fund fulfils its obligations on compliance of the Act, its regulations and any directive of the Authority.

- 20. THAT**, the responsibility of an accounting officer under the Constitution and Section 68(1) (a) (b) of the PFM Act requires that resources ought to be utilized in a legal, authorized and effective way, hence Ms. Namuye should not cry foul when she clearly knew that her role as the accounting officer is to ensure that the resources in YEDF are utilized according to the provisions of the law.
- 21. THAT**, Ms. Catherine A. Namuye as the then accounting officer violated the provisions of Section 72 (1) of the PFM Act, 2012 by allowing Mr. Bruce Odhiambo unfettered use of the YEDF facilities including office and purchase of a new vehicle at a cost of Kshs. 12,615,448 despite him being a non-executive Chairman who is only entitled to such facilities when on official duty. Further, Mr. Bruce Odhiambo was irregularly issued with an interest-free loan of Kshs. 500,000 in the form of an imprest contrary to Section 17 of the State Corporations Act, CAP 446 Laws of Kenya. The outstanding balance of the interest free loan is Ksh. 365,600.
- 22. THAT**, Ms. Catherine A. Namuye knowingly engaged herself in improper conduct as defined in Section 74(4) of the PFM Act 2012 by making and permitting a transaction that is unlawful and unauthorized expenditure. Further, Ms. Catherine A. Namuye failed to comply with various sections of the PFM Act, 2012 including her accounting responsibilities as defined in the Act; and she totally undermined the financial management procedures and controls at YEDF.
- 23. THAT**, on the matter of rejection of the ICT Strategic Plan 2013-2017 by the Board, the sole responsibility under the PFM Act, 2012 rests on the accounting officer. Ms. Catherine A. Namuye never reported to the parent Ministry nor any agency on the said rejection yet public funds had been expended on the same.
- 24. THAT**, on the allegations that she was under undue pressure from Mr. Bruce Odhiambo, former Board Chairman and Mr. Nicolas Mwaniki, Board Member to pay Quorandum Ltd; she did not adduce any evidence on the same. However, if there was any undue pressure she should have used her discretion to reject the same and report to the relevant authorities in accordance with Section 25 of the Public Officers Ethics Act, 2003.

- 25. THAT**, the contract documents tabled by Quorandum Ltd and Chase Bank (K) Ltd were forged since the same had different signatories; they were fraudulently prepared by Mr. Mukuria Ngamau with his accomplice Ms. Catherine A. Namuye with the sole intention to steal from the Fund.
- 26. THAT**, the Committee reviewed Quorandum Ltd.'s bank statements from Chase Bank (K) and Standard Chartered Bank (K) Ltd and found no evidence of payment of a sum of Kshs. 115 million to a Mr. Collins Reeves as was alleged by Mr. Mukuria Ngamau when he appeared before the Committee on 8<sup>th</sup> March 2016. However, in his second written submission dated 11<sup>th</sup> March, 2016, Mr. Mukuria Ngamau confirmed that he did not make the payment to Mr. Reeves, as the purported consultant died on 1<sup>st</sup> April 2015.
- 27. THAT**, Mr. Mukuria Ngamau made several suspicious cash withdrawals from Quorandum Ltd accounts at Chase Bank (K) Limited and Standard Chartered (K) Ltd after the Kshs. 180,364,789 had been transferred from YEDF account as evidenced by the summary of bank transactions annexed to this Report. The Quorandum Ltd account in the Standard Chartered Bank (K) Ltd account was dormant and the Chase Bank (K) Ltd account had only a deposit of Ksh. 3,000 in it before the transfers of Ksh. 180,364,789 YEDF funds to it.
- 28. THAT**, Mr. Mukuria Ngamau, through Quorandum Ltd.'s Chase Bank (K) Ltd account used the proceeds of the transfers from YEDF account to make several transactions on various dates to several third parties including: -
- (i) *Purchase of a duplex apartment in Lavington, Nairobi from Duchess Park Ltd at a cost of Kshs. 48.5 million;*
  - (ii) *Payment of a debt of Kshs. 18 million owed to Great Lakes Ltd through the firm of Ngigi Mbugua & Company Advocates;*
  - (iii) *Payment of Britcom International Ltd, a UK-based company, a sum of Kshs. 9.24million purportedly for purchase of an excavator/grader;*
  - (iv) *Payment to Ms. Doreen Waithera Ng'ang'a, a co-director and spouse, a sum of Kshs. 91,480 purportedly as a repayment of a loan extended to him by Ms. Ng'ang'a;*

- (v) *Payment of Kshs. 4.5 million to Rock Plant Ltd for an undisclosed purpose;*
- (vi) *Payment of Kshs. 2.24 million to Mr. Dilshad Mohammed for an undisclosed purpose;*
- (vii) *Payment of Kshs. 880,000 to Mr. Yogesh Kumar Bardwaj for an undisclosed purpose;*
- (viii) *Payment of Kshs. 1,000,000 to Simis Engineering and Construction Company Ltd for an undisclosed purpose;*
- (ix) *Mr. Mukuria Ngamau made payments to other several third parties on various dates as per the annexed summary of bank statements from Chase Bank (K) Ltd;*
- (x) *Mr. Mukuria Ngamau also made several suspicious cash withdrawals and cheque encashment almost on a daily basis as demonstrated by the summary of the bank statements annexed hereto.*

**29. THAT,** Mr. Mukuria Ngamau transferred approximately Kshs. 59,082,835 part of the proceeds of YEDF fraudulent transactions from Quorandum Ltd account at Chase Bank (K) Ltd to Quorandum Ltd account at Standard Chartered (K) Ltd, Yaya Centre Branch and used the funds to make further transactions and payments on various dates to other third parties including: -

- (i) *Payment of Kshs. 3.3 million to a Mr. Bruce Dominic Odhiambo account held at Co-operative Bank of Kenya Limited purportedly for payments of supplies and consultancy services;*
- (ii) *Payment of Kshs. 8,799,450 to a Mr. Ezekiel Owuor account at Barclays Bank of Kenya Limited purportedly for payments of material supply/loan advance as purported by Mr. Owuor;*
- (iii) *Payment of Kshs. 10,254, 500 to Industries D'Amico, an Italian Company, purportedly for equipment supply;*
- (iv) *Mr. Mukuria Ngamau also made several cash withdrawals and transfers to his personal account held at Standard Chartered Bank and to personal accounts of persons closely related to him including: his spouse and Co-director, Ms. Doreen Waithera who was paid Kshs. 402,000; and Ms. Tabitha Wanjiku Ngamau, his mother who was paid Kshs. 940,000;*



(v) *Mr. Mukuria Ngamau made payments to other several third parties on various dates as per the annexed summary of bank statements from Standard Chartered Bank (K) Ltd.*

**30. THAT**, following the loss of funds from YEDF Chase Bank (K) Ltd fixed deposit account, the Fund's Board in a special sitting held on 23<sup>rd</sup> October, 2015 recommended the suspension of Ag. CEO Ms. Catherine A. Namuye, and Mr. Benedict Atavachi, Finance Manager. The Board appointed Mr. Emmanuel Odero as the Fund's acting CEO.

**31. THAT**, vide letter Ref. YEDFB/CEO/377/2015 dated 23<sup>rd</sup> October, 2015 directed the Ag. CEO Ms. Catherine A. Namuye and the Finance Manager, Mr. Benedict Atavachi to proceed on leave until further notice. He copied the same letter to Ms. Anne Waiguru, former Cabinet Secretary, Ministry of Planning & Devolution and Eng. Peter Mangiti, Principal Secretary, State Department of Planning.

**32. THAT**, the action of Mr. Bruce Odhiambo, former Chairman YEDF of writing a letter of suspension to Ms. Catherine A. Namuye, Ag. CEO was procedural. However, he acted *ultra vires* by signing a letter suspending Mr. Benedict Atavachi, the Finance Manager. The suspension of the Finance Manager ought to have been done by the newly appointed Ag. CEO.

**33. THAT**, the new Ag. CEO regularised the suspension of Mr. Benedict Atavachi, Finance Manager vide letter Ref. YEDFB/CEO/591/2015 dated 17<sup>th</sup> November, 2015 informing him that he had been suspended with effect from 23<sup>rd</sup> October, 2015.

**34. THAT**, the actions of Mr. Bruce Odhiambo as the Chairman of the YEDF in particular, his use of YEDF facilities such as office and vehicle were contrary to his terms and conditions of service as spelt out in the Guidelines on Terms and Conditions of Service for State Corporations' CEOs, Chairmen, and Board Members dated 23<sup>rd</sup> November 2014 and Government policy directive as contained in circular reference no. PMO/CIRC/A (3) of 7<sup>th</sup> April 2011.

**35. THAT**, the Director, Financial Reporting Centre is mandated to send information received under the POCAML Act 2009 to the appropriate law enforcement authorities, any intelligence agency, or any other appropriate supervisory body for further handling if,

having considered the reports, he has reasonable grounds to suspect that a transaction or activity involves proceeds of crime. In the matter of Quorandum Ltd, the Director, FRC failed to communicate to Chase Bank (K) Ltd of any clearance of the transaction to Quorandum Ltd account. Further, the Director, FRC did not submit to the Committee any information on any reporting made to the investigative agencies as required of him in line with Section 24(b) of the POCAML Act 2009.

- 36. THAT**, the Financial Reporting Centre and the Asset Recovery Agency the two crucial institutions established under the POCAML Act 2009 to deal with matters of proceeds of crime and money-laundering are under-funded by the Government and have never been fully operationalized.
- 37. THAT**, there are indications that the real estate sector Kenya is used for money laundering especially the proceeds of criminal activities including corruption in contravention of Section 4 of the POCAML Act 2009. Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of YEDF transfers to purchase a duplex apartment in Lavington, Nairobi at a cost of Ksh. 48.5 million from Duchess Park Limited.
- 38. THAT**, His Excellency the President, vide a gazette notice of 15<sup>th</sup> April, 2016 in accordance with Section 7(3) of the State Corporations Act Cap. 446 revoked the appointment of Mr. Bruce Odhiambo as Chairman of YEDF Board and Ms. Sella Bogonko, Mr. Paul Gathura Ng'ang'a, Mr. Sabra Omar Hussein, Ms. Jane Mutinda, Mr. Michael Wamae, Mr. Clement Ayungo and Mr. Nicholas Mwaniki as Members of the YEDF Board.
- 39. THAT**, the Fund's Board in the year 2013, recommended to the Principal Secretary, State Department of Planning, Eng. Peter Mangiti for the appointment of a substantive CEO from a list of four (4) nominees; the appointment was never made and as such, Ms. Catherine A. Namuye was in acting capacity until the time of her suspension on 23<sup>rd</sup> October, 2015.
- 40. THAT**, on several occasions Ms. Namuye purportedly referred herself as the substantive chief executive officer of the Fund despite the fact that the Board or the parent Ministry never confirmed her as such.

- 41. THAT**, the Circular dated 18<sup>th</sup> July, 2007 issued by the former Head of Civil Service and Secretary to the Cabinet, Ambassador Francis Muthaura, barring the Inspectorate of State Corporations from sitting in Board meetings of State Corporations unless invited by the Board was in contravention of Section 18 (2) (c) of the State Corporations Act which gives the Inspectorate the mandate to attend Board meetings as deemed necessary. This exclusion of officers from the Inspectorate may have contributed to the loss of funds and financial mismanagement at YEDF.
- 42. THAT**, the Inspectorate of State Corporations is handicapped in the execution of its mandate due to budgetary constraints and staff shortage. The Inspectorate has 15 Inspectors handling more than 300 State Corporations.
- 43. THAT**, before the launch of *Mwongozo* Code of Governance for State Corporations, there was no single policy document defining the professional and academic qualifications of Chairpersons and Directors of Boards of State Corporations. The *Mwongozo* code has clearly defined the minimum academic qualification for appointment as Chairman or Board Member of a State Corporation.
- 44. THAT**, lack of defined minimum academic qualifications and experience contributed to the ineptitude and ineffectiveness of the disbanded YEDF Board in running the affairs of the Fund.
- 45. THAT**, the merger of the Youth Enterprise Development Fund, Women Fund, Uwezo Fund, the Micro and Small Enterprises Authority and the Kenya Industrial Estates to create Biashara Kenya as recommended by the Presidential Taskforce on Parastatal Reforms has taken inordinately long to implement.
- 46. THAT**, the YEDF lost approximately Ksh. 44.7 million in a YEDF 8<sup>th</sup> anniversary event which was to be held in March 2015 at the Kenyatta International Convention Centre (KICC). The venue of the event was later changed to the University of Nairobi grounds but did not materialize as it was verbally cancelled by a phone call purportedly by Ms. Anne Waiguru, former CS, Ministry of Devolution and Planning to Mr. Bruce Odhiambo, former Chairman, YEDF.

- 47. THAT**, Mr. Hillary Kiprono Yegon, Director of M/S K-Susu Ltd and Gigtych Ltd, received payment of Kshs. 44.7 million for the aborted YEDF 8<sup>th</sup> anniversary event.
- 48. THAT**, Mr. Hillary Kiprono Yegon breached Section 14(1) and (2) of the National Assembly (Powers and Privileges) Act, Cap. 6, Laws of Kenya by failing to honour the Committee's Summons to appear before it on 21<sup>st</sup> April, 2016.
- 49. THAT**, the circumstances surrounding the death of the Fund's driver, Mr. Simon Mwangi who at the time of his death on 18<sup>th</sup> October, 2015 was on duty during unofficial hours in Diani, are suspect. The death allegedly occurred at a private party attended by former YEDF Board director Mr. Clement Ayungo on invitation by his friend, Mr. Babu Owino. The Directorate of Criminal Investigations has opened an inquest on the matter.

### **1.6 Recommendations**

From the evidence adduced (oral and written) and the observations made, the Committee recommends as follows-

#### **a) Recommendations to Government Entities and Agencies**

- 1. THAT**, the National Treasury to constitute a multi-government agency team composed of the responsible State Departments and the Inspectorate of State Corporations to review the corporate governance issues at YEDF, performance of the various projects undertaken by YEDF since its inception and to undertake a value for money audit of the Fund since inception to date. *The Cabinet Secretary for the National Treasury to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
- 2. THAT**, there is need to amend Sections 23, 24 and 44 of the Proceeds of Crime and the Anti-Money Laundering Act 2009 to give the Financial Reporting Centre more powers to act on suspicious bank transactions and accounts. *The Committee shall propose an amendment to this section to ensure that the FRC can mitigate on funds especially originating from government institutions.*
- 3. THAT**, the Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs should expedite the appointment of a substantive Chief Executive Officer of the Youth Enterprise Development Fund. The YEDF has operated without a substantive CEO since 2013. *The*

*Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*

4. **THAT**, there is need to amend Sections 23 and 24 of the POCAML Act 2009 to enable the tracking of proceeds of crime especially to the real estate sector in Kenya. There are indications that the real estate sector in Kenya is used for money laundering especially proceeds of corruption. *The Attorney-General should submit draft legislation to the National Assembly not later than two (2) months after the adoption of this Report as part of the status of implementation of this recommendation.*
5. **THAT**, the Auditor-General to undertake a forensic audit of all the funds that have been appropriated by the National Assembly to YEDF from inception to date. *The Auditor-General should report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
6. **THAT**, the Financial Reporting Centre (FRC) and the Asset Recovery Agency (ARA), the two crucial institutions established under the POCAML Act 2009 to deal with matters of proceeds of crime and money-laundering are under-funded by the Government and have never been fully operationalized. The National Treasury and the Attorney General should ensure that the FRC and ARA are adequately funded and fully operationalized to enable the two institutions adequately fulfil their legal mandate. *The Attorney-General and the Cabinet Secretary, the National Treasury should report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
7. **THAT**, Chase Bank (K) Ltd did not fully conduct due diligence in accordance with prudential guideline 5.6.6 of the Guidelines on Anti-Money Laundering and Combating the Financing of Terrorism - CBK/PG/08 in acting on instructions of Ms. Catherine A. Namuye, the suspended CEO, YEDF to transfer funds from YEDF account to Quorum Ltd. The Central Bank of Kenya should investigate Chase Bank (K) Ltd for possible violations of the Banking Act Cap 488, POCAML Act 2009 and the Prudential Guidelines. *The Governor, Central Bank of Kenya should report back to the National Assembly not later than two (2)*

*months after the adoption of this report on the status of implementation of this recommendation.*

8. **THAT**, the National Treasury enhances budgetary allocation to the Inspectorate of State Corporations to facilitate effective inspection of state corporations. *The Cabinet Secretary, the National Treasury should report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
9. **THAT**, the circumstances surrounding the death of the Fund's driver, Mr. Simon Mwangi who at the time of his death on 18<sup>th</sup> October, 2015 was on duty during unofficial hours in Diani Beach Mombasa, are suspect. The death allegedly occurred at a private party attended by former YEDF Board director Mr. Clement Ayungo on invitation by his friend, Mr. Babu Owino. The Director, Directorate of Criminal Investigations should extend his investigation to include possible involvement of Mr. Clement Ayungo and Mr. Babu Owino in the death of Mr. Simon Mwangi and establish if his death is linked to the financial mismanagement at the YEDF. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
10. **THAT**, the Circular dated 18<sup>th</sup> July, 2007 issued by the former Head of Civil Service and Secretary to the Cabinet, Ambassador Francis Muthaura, barring the Inspectorate of State Corporations from sitting in Board meetings of State Corporations unless invited by the Board was in contravention of Section 18 (2) (c) of the State Corporations Act which gives the Inspectorate the mandate to attend Board meetings as deemed necessary. *The Chief of Staff and Head of the Public Service to report back to the National Assembly not later than two (2) months after the adoption of this Report on the action taken to correct the amendment of Act of Parliament through a Circular.*
11. **THAT**, the Chief of Staff and the Head of Public Service should as a matter of priority ensure that the recommendations of the Presidential Taskforce on Parastatal Reforms on the merger of the YEDF, Women Fund, Uwezo Fund, Micro and Small Enterprises Authority (MSEA) and the Kenya Industrial Estates (KIE) to create Biashara Kenya are implemented.

This merger is expected: to pool the scattered financial resources estimated at approximately Kshs. 30 Billion per financial year; harness the potential of youth, women and men; build synergies among the various government agencies; and leverage on economies of scale. Further, there is duplication of roles of some state organs, hence the need to implement the *Mwongozo* so as to remove duplication of duties and create clarity on the same. *The Chief of Staff and Head of the Public Service to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

**12. THAT,** the Chief of Staff and Head of Public Service should ensure that the appointment of persons to serve as Board Chairpersons and Board Members of State Corporations is done in accordance with the *Mwongozo* Code of Governance for State Corporations which requires that appointment of persons to serve as Board Chairpersons and Board Members have the following minimum qualifications:

- (i) Holds a minimum of a degree in the relevant field from a university recognised in Kenya;
- (ii) Proven business management or other relevant professional experience;
- (iii) Served in a position of senior management for at least six years;
- (iv) Has not served in the same entity as employee in the preceding five years;
- (v) Meets the requirements of Chapter Six of the Constitution; and
- (vi) Meets the requirements of the fit and proper test.

**13. THAT,** further, Alternate Directors of respective Ministries seconded to parastatal Boards should be individuals well versed in the affairs and operations of the respective Boards and should have unfettered access to Board meetings and ensure that they submit regular reports to their respective Principal Secretaries on the operations of the Boards in which they sit in.

**14. THAT,** the Director, Directorate of Criminal Investigations should: -

- (i) Engage the services of a forensic examiner to authenticate all YEDF documents used in the fraudulent transfer of funds from YEDF account at Chase Bank (K) Ltd, including Board Minutes and correspondences.

- (ii) Engage the services of a graphology expert to analyse signatures on all correspondences that were purportedly signed by the then Ag. CEO Ms. Catherine Namuye and other Fund officials, that may have resulted in the loss of funds at YEDF.

*The Director, Directorate of Criminal Investigations to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

#### **b) Specific Recommendations on Various Persons of Interest**

Arising from the oral and written evidence taken, submissions received and findings and observations made, the Committee makes the following specific recommendations on the following persons of interest: -

##### **(i) Ms. Catherine A. Namuye, suspended Ag. CEO, YEDF**

1. **THAT**, Ms. Catherine A. Namuye as the former accounting officer of the YEDF should be investigated, charged and prosecuted for **violating Section 27(2) of the PPDA 2005**. She failed to ensure that procurement procedures were followed in the alleged provision of consultancy services for ICT strategy development and ERP System by Quorum Ltd. *The Secretary, EACC and Director, DCI to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
2. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for violating the use of restricted tendering as provided for in the Public Procurement and Disposal Act, 2005 particularly **Section 73(2)** which provides instances where a procuring entity may use restricted tendering. Further, Ms. Catherine A. Namuye used restricted tendering contrary to the maximum threshold provided for in the Public Procurement Regulations 2006 that required procurements for goods and services above Ksh. 6,000,000 to be advertised and competitively procured. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*



3. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for violating **Section 72(1) of the PFM Act 2012** which requires an accounting officer of a national government entity to be responsible for management of the entity's assets and liabilities. Ms. Catherine A. Namuye allowed Mr. Bruce Odhiambo unfettered use of YEDF facilities including office and a brand new motor vehicle despite him being a non-executive Chairperson who is not entitled to such facilities. She also failed to implement the State Corporations guidelines issued by SCAC on entitlements of Chairpersons and members of Boards hence occasioned loss of funds including: Kshs. 12,615,448 incurred in buying a motor vehicle for the use of Mr. Bruce Odhiambo; associated repair and maintenance costs incurred for running the vehicle, totalling Ksh. 1,034,014.65 and employment of a driver and a body guard. The EACC should investigate and if found culpable, recommend her for prosecution to the DPP for violation of the Act. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
4. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for **violating the provisions of Section 68(1) (a)(b) of the PFM Act 2012** that stipulates that the responsibility of an accounting officer is to ensure that public resources are utilized in a legal, authorized and effective ways to ensure the public realises value for its taxes. The EACC should investigate and if found culpable, recommend her for prosecution to the DPP for violation of the Act. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
5. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for **violating the provisions of Section 15 of the Public Officers Ethics Act, 2003** that requires a public officer to take all reasonable steps to ensure that property that is entrusted to her care is adequately protected and not misused or misappropriated. Ms. Catherine A. Namuye failed to comply with various provisions of the Act. In particular, her assertions that she acted under duress from the Board members particularly on the issues of the Board Members rejecting the existing ICT Strategic Plan (2013-2017) and recommending for a new ICT strategic plan should have been reported by her to the relevant authorities as provided for in section 25 of

the POE Act, 2003. The EACC should investigate Ms. Catherine A. Namuye for violating the provisions of the POE Act 2003 and the Code of Conduct and Ethics for Public Officers. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*

6. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for various **acts of omission and commission with the intention to defraud the Fund**. The purported consultancy services contract agreement for ICT Strategic Plan and ERP System development signed by Ms. Catherine A. Namuye on behalf of YEDF and Mr. Mukuria Ngamau for Quorandum Ltd was a well-crafted and jointly executed scheme by Ms. Catherine A. Namuye and Mr. Mukuria Ngamau, with the sole intention of defrauding the YEDF of approximately Kshs. 180 million. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
7. **THAT**, Ms. Catherine A. Namuye, be investigated by EACC for her role in the cancellation of the YEDF 8<sup>th</sup> anniversary event which was to be held in the year 2015 at the Kenyatta International Conference Centre (KICC) and later venue changed to the University of Nairobi grounds but was eventually verbally cancelled by a phone call purportedly by Ms. Anne Waiguru, the former Cabinet Secretary for Devolution and Planning to Mr. Bruce Odhiambo, the former YEDF Board Chairman. The YEDF fraudulently paid approximately Kshs. 44,741,603 purportedly to various contracted suppliers for the cancelled event. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
8. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for forgery in line with the Penal Code of 1930 Cap 63 laws of Kenya. The purported extracts of the Fund's Board Minutes signed by Mr. Bruce Odhiambo and Ms. Catherine A. Namuye sent to Chase Bank (K) Ltd to confirm the change of signatories were a forgery and a collusion

between the two officers with an intent to defraud the Fund pursuant to Section 348 of the Penal Code of 1930 Cap 63 Laws of Kenya.

9. **THAT**, Ms. Catherine A. Namuye if found culpable by the relevant agencies and convicted by a court of law for the various civil and criminal offences should be barred from holding any public office pursuant to the provisions of Article 75(3) read together with Article 80(c) of the Constitution that stipulates that a person who is dismissed for compromising any public or official interest in favour of a personal interest shall be disqualified from holding any other public office.

**(ii) Mr. Bruce Dominic Odhiambo, former YEDF Board Chairman**

1. **THAT**, Mr. Bruce Odhiambo, former YEDF Board Chairman should be investigated, charged and prosecuted for **conspiracy to defraud the YEDF**. Mr. Bruce Odhiambo working with Mr. Mukuria Ngamau and Ms. Catherine A. Namuye crafted and executed a fraudulent scheme in the name of a consultancy service with the sole intention of defrauding the public of approximately Kshs. 180 million. The Directorate of Criminal Investigations (DCI) should immediately investigate Mr. Bruce Odhiambo and make recommendations for prosecutions to the Director of Public Prosecutions. *The Director of Criminal Investigations to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
2. **THAT**, Mr. Bruce Odhiambo, YEDF Board Chairman should be investigated, charged and prosecuted for **violating the provisions of Section 15 of the POE Act 2003**. He personally selected and instructed YEDF management to acquire for him a vehicle, Toyota Land Cruiser VXL, Registration No. KBZ 753D, which was purchased by YEDF on 28<sup>th</sup> August, 2014 at a cost of Kshs. 12,615,448. The said vehicle was misused by Mr. Bruce Odhiambo leading to the fund incurring a total of Kshs. 806,014.65 on fuel and general maintenance of the vehicle. On handing over the vehicle back to the Fund, the vehicle was sent to the Government Chief Mechanical Engineer for assessment, who referred the vehicle back to Toyota Kenya for further assessment. Toyota Kenya has quoted Kshs. 228,000 for repairs of the vehicle. The Inspector- General of State Corporations and the Chief Executive Officer of YEDF should surcharge Mr. Bruce Odhiambo a sum of Kshs. 1,034,014.65 for the misuse.

The Inspectorate of State Corporations to liaise with the Asset Recovery Agency to ensure a recovery of this amount and appurtenant costs with immediate effect. *The Inspector-General of State Corporations to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

3. **THAT**, Mr. Bruce Odhiambo, former Chairman YEDF should be investigated, charged and prosecuted for **money laundering under Section 3 and 4 of the POCAML Act, 2009 Cap 59B**. He received a total of Kshs. 3.3 million from Mr. Mukuria Ngamau through Quorum Ltd as per Quorum Ltd.'s Standard Chartered Bank (Kenya) Ltd account statements hereto annexed. The Committee from its investigations, believes that the said Mr. Bruce Dominic Odhiambo is the former Chairman of the YEDF. The Directorate of Criminal Investigations (DCI) should immediately investigate Mr. Bruce Dominic Odhiambo for this criminal act of collusion and benefiting from proceeds of crime contrary to provisions of Section 3 and 4 of the POCAML Act 2009 and make recommendations for prosecution to the Director of Public Prosecutions. The Director, Assets Recovery Agency should immediately institute a confiscation order and proceed to recover the amount in question from Mr. Bruce Dominic Odhiambo. *The Attorney-General to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
4. **THAT**, Mr. Bruce Odhiambo, former Chairman YEDF should be investigated, charged and prosecuted for various **acts of omission and commission to defraud the public**. He should be investigated by EACC for his role in the cancellation of the YEDF 8<sup>th</sup> anniversary event which was to be held in 2015 at the KICC and later changed to the University of Nairobi grounds but was eventually verbally cancelled by a phone call purportedly by Ms. Anne Waiguru to Mr. Bruce Odhiambo. The YEDF fraudulently paid approximately Kshs. 44,741,603 purportedly to various contracted suppliers for the cancelled event. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
5. **THAT**, Mr. Bruce Odhiambo should be investigated, charged and prosecuted for forgery in line with the Penal Code of 1930 Cap 63 Laws of Kenya. The purported extracts of the

Fund's Board Minutes signed by Mr. Bruce Odhiambo and Ms. Catherine A. Namuye sent to Chase Bank (K) Ltd to confirm the change of signatories were a forgery and a collusion between the two officers with an intent to defraud the Fund pursuant to Section 348 of the Penal Code of 1930 Cap 63 laws of Kenya. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

6. **THAT**, Mr. Bruce Odhiambo, if found culpable by the relevant agencies and convicted by a court of law for the various civil and criminal offences should be barred from holding any public office pursuant to the provisions of Article 75(3) read together with Article 80(c) of the Constitution that stipulates that a person who is dismissed for compromising any public or official interest in favour of a personal interest shall be disqualified from holding any other public office.

**(iii) Mr. Mukuria Ngamau, Director and Shareholder, Quorandum Ltd**

1. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for **conspiracy to defraud the public**. Mr. Mukuria Ngamau working together with Mr. Bruce Odhiambo and Ms. Catherine A. Namuye crafted and executed a fraudulent scheme in the name of a consultancy service with the sole intention of defrauding the public of approximately Kshs. 180 million. The Directorate of Criminal Investigations (DCI) should immediately investigate Mr. Mukuria Ngamau for this criminal act and conspiracy to defraud the public and make recommendations for prosecutions to the Director of Public Prosecution. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
2. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for **acquisition, possession or use of the proceeds of crime**. Mr. Ngamau used the proceeds from the fraudulent transactions between YEDF and Quorandum Ltd to purchase a house in Lavington, Nairobi. The Director, Assets Recovery Agency should move with utmost speed and obtain an injunction against transfer of duplex apartment number C16 at Duchess Park Apartments located along Hatheru Road, Lavington, Nairobi. The said property was purchased by Quorandum Ltd from Duchess Park Ltd using the proceeds from the YEDF fraud of Kshs.

180,364,789 contrary to the provisions of Section 4 of the POCAML Act 2009. *The Attorney-General to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

3. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for **violation of Section 27(4) of the PPDA 2005** that requires all contractors, suppliers and consultants to comply with all the provisions of the Act. The actions of Mr. Mukuria Ngamau and his company Quorandum Ltd violated the provisions of the Public Procurement and Disposal Act 2005 and Public Procurement and Disposal Regulations 2006 which were in force then. *The Director-General, Public Procurement Regulatory Authority to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
4. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for **giving false evidence under oath to a Committee of the National Assembly contrary to Section 21 of the National Assembly (Powers and Privileges) Act**. Mr. Mukuria Ngamau while appearing before the Committee on 8<sup>th</sup> March, 2016 gave false information on the particulars of a Mr. Collin Reeves who was purportedly the lead consultant in the alleged contract between YEDF and Quorandum Ltd. He stated that the said Mr. Reeves resided in Michigan, USA and that as at the time he appeared before the Committee, they were in contact. He later changed this position in his written submission dated 11<sup>th</sup> March, 2016 informing the Committee that Mr. Reeves died on 1<sup>st</sup> April, 2015 and that he's still trying to trace the deceased's next of kin to transfer Kshs. 115 million owed to him. The Director of Public Prosecution should therefore charge Mr. Mukuria Ngamau with the offence of giving false evidence before the Committee contrary to Section 21 of the National Assembly (Powers and Privileges) Act. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
5. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for **acquisition, possession and the use of proceeds of crime**. An analysis of the various statements of bank accounts held by Quorandum Limited at Chase Bank (K) Ltd and Standard Chartered Bank

(K) Ltd shows that the Ksh. 180, 364,789 which was fraudulently transferred from YEDF account at Chase Bank (K) Limited to Quorandum Limited was used for various suspicious transactions. In particular, a total of approximately Ksh. 91,654,018 was transferred to Quorandum Limited account at Standard Chartered Bank (K) Limited and thereafter used for suspicious payments to various third parties including a Mr. Bruce Dominic Odhiambo. The Director of Criminal Investigations should undertake an investigation of all transactions of the Quorandum Ltd Account No. **0102497392600** held at Standard Chartered Bank Kenya Limited for the period 15<sup>th</sup> January 2015 to 31<sup>st</sup> March, 2016. The investigations should extend to all personal bank accounts of Mr. Mukuria Ngamau, Ms. Doreen Waithera Ng'ang'a including their close relatives and friends. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

6. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for several suspicious cash withdrawals and cheques encashment almost on a daily basis from Quorandum Ltd bank accounts at Chase Bank (K) Ltd and Standard Chartered Bank (K) Ltd as demonstrated by the summary of the bank statements annexed hereto. *The Director, DCI and Secretary EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
7. **THAT**, the Director-General of the Public Procurement and Regulatory Authority **debars Quorandum Ltd** and any company directly or indirectly associated with Mr. Mukuria Ngamau from participating in any Government's public procurement proceedings, both at the National and County Government levels in accordance with Section 41 the Public Procurement and Asset Disposal Act 2015 and any other relevant provisions of the procurement laws and regulations. *The Director- General, Public Procurement Regulatory Authority to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

#### **c) Other Persons of Interest**

An audit trail of the bank statements of Quorandum Ltd account held at Chase Bank (K) Ltd and Standard Chartered Bank (K) Ltd revealed that Mr. Mukuria Ngamau through Quorandum Ltd made various payments to other third parties purportedly for various goods and services offered.

The Committee therefore makes the following recommendations on the following other persons of interest.

1. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate **Mr. Ezekiel Owuor** who received from Mr. Mukuria Ngamau through Quorandum Ltd, a sum of Ksh. 8,799,450 purportedly for material supplies. Mr. Ezekiel Owuor in his written submission to the Committee acknowledged receipt of the money but indicated in writing that the amount was a loan advanced to him by Mr. Ngamau. If found culpable, he should be recommended for prosecution for benefitting from the proceeds of crime. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
2. **THAT**, Mr. Ezekiel Owuor should surrender the outstanding balance of payment owed to Mr. Mukuria Ngamau to the Asset Recovery Agency, even as the various investigative agencies conduct investigations into the matter. *The Director, Asset Recovery Agency to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
3. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate the Directors and the local representatives of **Industries D’Amico Ltd** which received a sum of Kshs. 10,254,500 from Quorandum Ltd. *The Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
4. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate **Mr. Yogesh Kumar Badwarj** who received from Quorandum Ltd a sum of Ksh. 880,000. If found culpable, he should be recommended for prosecution for benefitting from the proceeds of crime. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*



5. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate **Mr. Dilshad S. Mohammed** who received from Quorandum Ltd a sum of Kshs. 2,246,000 on 10<sup>th</sup> April 2015. If found culpable, he should be recommended for prosecution for benefitting from the proceeds of crime. *The Director DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
6. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate **Ms. Doreen Waithera Ng'ang'a**, spouse to Mr. Mukuria Ngamau and Co-Director, Quorandum Ltd, who received a sum of Ksh. 91,480 from Mr. Mukuria Ngamau through Quorandum Ltd purportedly as a repayment of a loan extended to Mr. Mukuria Ngamau. *The Director, DCI and the Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
7. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate the **Directors of Rock Plant Ltd** for receipt of a sum of Ksh. 4.5 million by Mukuria Ngamau through Quorandum Ltd. *The Director, DCI and the Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
8. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate the **Directors of Simis Engineering and Construction Company Ltd** for receipt of a sum of Kshs. 1,000,000 from Mukuria Ngamau through Quorandum Ltd. *The Director, DCI and the Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
9. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should investigate Mr. Hillary Kiprono Yegon and any other **Directors of M/S K-Susu Ltd, Gigtych Ltd** and any other supplier for any sum of money received from YEDF

for the YEDF 8<sup>th</sup> anniversary event and any other event undertaken for YEDF since inception to date. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

**10. THAT,** Mr. Hillary Kiprono Yegon failed to honour the Committee's Summons to appear before on 21<sup>st</sup> April, 2016 in breach of Section 14(1) and (2) of the National Assembly (Powers and Privileges) Act, Cap. 6, Laws of Kenya. The Director of Public Prosecutions should therefore charge Mr. Yegon with the offence of failing to honour the Committee's Summons. *The Director of Public Prosecutions to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

### **1.6 Acknowledgement**

The Committee wishes to record its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitation in fulfilment of its mandate. The Committee is also grateful to all the witnesses, government officials and agencies that adduced evidence before it. Further, the Committee is grateful to the staff of the National Assembly, Office of the Auditor-General, the Inspectorate of State Corporations and the National Treasury for the services they rendered to the Committee. It is their commitment and dedication to duty that made the work of the Committee and production of this Report possible.

On behalf of the Members of the Public Investments Committee, I beg to table the Special Report of the Committee on the Inquiry into Allegations of Fraud and Financial Mismanagement at the YEDF pursuant to Standing Order 199.

Sign:  Date: 3/5/2016

HON. ADAN KEYNAN, CBS, MP  
CHAIRPERSON, PUBLIC INVESTMENTS COMMITTEE

**ADOPTION OF THE SPECIAL REPORT ON THE INQUIRY INTO ALLEGATIONS OF FRAUD AND FINANCIAL MISMANAGEMENT AT THE YOUTH ENTERPRISE DEVELOPMENT FUND.**

1. Hon. Adan Wehliye Keynan, CBS, MP - **Chairperson**
2. Hon. Anthony Kimani Ichung'wah, MP - **Vice Chairperson**
3. Hon. Francis Mwanzia Nyenze, EGH, MP
4. Hon. (Dr.) Oburu Oginga, MGH, MP
5. Hon. (CPA) Thomas Ludindi Mwadeghu, CBS, MP
6. Hon. Adan Mohammed Nooru, MP
7. Hon. Franklin Mithika Linturi, MP
8. Hon. Wafula Wamunyinyi, MP
9. Hon. Elias Bare Shill, MP
10. Hon. Sammy Silas Komen Mwaita, MP
11. Hon. (Dr.) Paul Otuoma Nyongesa, EGH, MP
12. Hon. John Olago Aluoch, MP
13. Hon. (Eng.) John Kiragu, MP
14. Hon. Dorcas Kedogo, MP
15. Hon. Abdullswamad Sheriff Nassir, MP
16. Hon. Beatrice Nkatha Nyaga, HSC, MP
17. Hon. Bernard Munywoki Kitungi, MP
18. Hon. (Dr.) Chrisanthus Wamalwa Wakhungu, CBS, MP

19. Hon. Cornelly Serem, MP

*Ckser*

20. Hon. Ejidius Njogu Barua, MP

21. Hon. Irungu Kang'ata, MP

22. Hon. Johana Kipyegon Ng'eno, MP

23. Hon. John Muchiri Nyaga, MP

24. Hon. John Ogutu Omondi, MP

25. Hon. Korei Ole Lemein, MP

26. Hon. Mary Sally Keraa, MP

27. Hon. Onesmus Muthomi Njuki, MP

*[Handwritten signatures and initials corresponding to the list of MPs]*

## **2.0 BACKGROUND INFORMATION ON THE YOUTH ENTERPRISE DEVELOPMENT FUND**

### **2.1 Establishment of the Fund**

The Fund was gazetted by the then Minister for Finance on the 8<sup>th</sup> of December, 2006 under a Legal Notice No. 167 of 2006. The then Minister made the Government Financial Management (YEDF) Regulations, 2006 which established a Youth Enterprise Development Fund. Its importance is confirmed by its transformation into a state corporation in May, 2007 under the YEDF Order of 2007, Legal Notice No. 63 of 2007.

Currently, the Fund is established under the State Corporations Act CAP 446. The Act stipulates the objectives of the Fund as follows:

- i. To provide funding and business development services to youth owned or youth focused enterprises;
- ii. To provide incentives to commercial banks through appropriate risk mitigation instruments to enable them to increase lending and financial services to youth enterprises;
- iii. To provide loans to existing micro-finance institutions, registered non-governmental organizations involved in micro financing, and savings and credit co-operative organizations for on-lending to youth enterprises;
- iv. To attract and facilitate investment in micro, small and medium enterprises oriented commercial infrastructure such as business or industrial parks markets or business incubators that will be beneficial to youth enterprises;
- v. To support youth oriented micro, small and medium enterprises to develop linkages with large enterprises;
- vi. To facilitate marketing of products and services of youth-owned enterprises in both domestic and international markets; and
- vii. To facilitate employment of youth in the international labour market; and
- viii. Carry out any other activities relevant to its principal mandate.

## 2.2 Composition of the Board

Section 3 of the Act establishes the Board which consists of:

- i. A non-executive Chairman appointed by the President;
- ii. A chief executive officer of the Board who shall also be the Secretary to the Board;
- iii. The Permanent Secretary in the Ministry for the time being responsible for Youth Affairs;
- iv. The Permanent Secretary in the Ministry for the time being responsible for Finance;
- v. Seven persons (7) appointed by the Minister, of whom—
  - (a) *Four (4) shall be persons who are not public officers who shall, be appointed by virtue of their knowledge or experience in matters relating to financial management venture capital fund management or youth development;*
  - (b) *Three (3) shall be public officers;*
- vi. One (1) person nominated by the National Youth Council and appointed by the Minister.

## 2.3 Functions of the Board

Under the Act the Board shall:

- i. Manage and administer the Fund in such a manner as to realize the objects and purposes for which the Fund is established;
- ii. Enter into association with other persons, bodies or organizations within or outside Kenya as the Board may consider appropriate in furtherance of the objects and purposes for which the Fund is established;
- iii. Carry out any other activity as, in the Board's opinion, will promote and facilitate the objects and purposes for which the Fund is established as it seeks to meet its objectives; and
- iv. The Board shall engage the chief executive of the Board and such other staff as the Board may consider necessary on such terms and conditions of service as the Board may, with the approval of the Minister, determine.

## **2.4 Role of the Board in Investment of funds**

The Act further stipulates functions of the Board in regard to investments as follows:

- i. Invest any of the funds of the Board which are not immediately required for its purposes in such securities as the Treasury may, from time to time, approve.
- ii. Place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Board.

## **2.5 Operations of the Fund**

The YEDF disburses loans directly through various loan products using individual and group loan models. The Fund also uses regulated partnerships with financial intermediaries such as Banks and Micro Finance institutions who then lend to the youth.

The intervention of the Fund also provides sector specific financing, direct funding, franchise financing, credit guarantee scheme, access to markets on behalf of the youth, builds partnerships with communities and opens regional offices for better access.

While lending is the core mandate of YEDF, there are other mandates such as training on entrepreneurship and facilitating youth to access markets as well as provision of commercial infrastructure for youth to trade from.

## **2.6 Components of the Youth Enterprise Development Fund**

The main objective of the YEDF is to provide loans to youth enterprises attract and facilitate investment for youth enterprises, market products and services of youth enterprises and provide business development services and employment for the youth. The main beneficiaries are the youth aged between 18-35 years who are in business or who want to be entrepreneurs.

The Fund is meant to address barriers that hinder youth entrepreneurship such as:

- i. Inadequate technical skills;
- ii. Lack of financial capital;
- iii. Lack of labour market information; and
- iv. Lack of labour demand.

The Fund operates through the following components: -

- i. *Commercial infrastructure*: Under this mandate, the Fund aims to provide trading premises/work sites to young entrepreneurs. The Fund engaged several of the then Local Authorities and other private sector players to partner in establishing commercial infrastructure appropriate for youth enterprise needs.
- ii. *Market support and market linkages*: The Fund endeavours to support youth enterprises to market their products locally and abroad, and to form linkages with large enterprises. The Fund organizes youth trade fairs at district, provincial and national levels. Youth who exhibit unique products at the national level are sponsored to exhibit outside the country, thus linking them to the export market.
- iii. *Business Development Services/Entrepreneurship Training*: Entrepreneurship training and provision of appropriate Business Development Services are key to the Fund's achievement of its mandate. Besides ensuring that the youth have adequate skills, it also assists them in identifying and tapping into business opportunities, while embracing modern business management techniques.
- iv. *Youth Employment Scheme Abroad (YESA)*: The Fund is mandated to facilitate young people whose services are not engaged locally but are required abroad to secure temporary employment.

The Government puts emphasis on the micro-enterprise sector as a reliable creator of employment opportunities. The Fund is therefore meant to finance small and micro-enterprises to create jobs for young people.

### **3.0 EVIDENCE AND SUBMISSIONS BY WITNESSES**

#### **Introduction**

This Section contains evidence submitted both orally and in writing by key witnesses invited to adduce evidence before the Committee. Committee Observations on each of the witness submission is also recorded.



The Public Investments Committee as mandated by Standing Order 206 commenced Inquiry into Allegations of Fraud and Financial Mismanagement at the YEDF on 30<sup>th</sup> November, 2015 and has since received oral and written submissions from the following –

- i. Mr. Emmanuel Doer, Ag. Chief Executive Officer, YEDF;
- ii. Mr. Benedict Atavachi, suspended Finance Manager, YEDF;
- iii. Ms. Catherine A. Namuye, suspended Ag. Chief Executive Officer, YEDF;
- iv. Mr. Bruce Odhiambo, former Chairman, YEDF;
- v. Former YEDF Board of Directors;
- vi. Mr. Joseph Kinyua, Head of Public Service and Chief of Staff;
- vii. Mr. Mukuria Ngamau and Ms. Doreen Waithera Ng'ang'a, Quorandum Ltd Directors;
- viii. Ms. Sicily Kariuki, Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs;
- ix. Mr. Titus Muriithi, Ag. Inspector General of State Corporations;
- x. Mr. Simon Indimuli, Head of Governance, State Corporations Advisory Committee;
- xi. Ms. Anne Waiguru, former Cabinet Secretary, Ministry of Devolution and Planning;
- xii. Eng. Peter Mangiti, former Principal Secretary, State Department of Planning, Ministry of Devolution and Planning;
- xiii. Chase Bank (K) Ltd Officials;
- xiv. The Standard Chartered Bank Ltd Officials;
- xv. Some of the beneficiaries of funds from Quorandum Ltd
- xvi. Commissioner General, Kenya Revenue Authority;
- xvii. Director of Criminal Investigations;
- xviii. Secretary/Chief Executive Officer, Ethics and Anti-Corruption Commission;
- xix. Principal Secretary, State Department for Foreign Affairs, Ministry of Foreign Affairs & International Trade;

- xx. Chief Executive Officer, Financial Reporting Centre; and
- xxi. Registrar of Societies.

### **3.1 EVIDENCE BY CURRENT AND FORMER YEDF MANAGEMENT**

#### **3.1.1 Evidence by Mr. Emmanuel Odero, Ag. CEO, YEDF**

**Mr. Emmanuel J. Odero, Ag. Chief Executive Officer, Youth Enterprise Development Fund accompanied by Mr. Robert Mrima (Senior Accountant), Ms. Judy Kimeto, (Lending & Investment Manager), and Mr. Benson Muthendi (Recovery Manager) appeared before the Committee on 30<sup>th</sup> November, 2015 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT—

1. The Fund has one fixed deposit account at Chase Bank, Riverside Mews Branch, Account No. 001705460427.
2. The Fund invested Kshs. 400 million in the said fixed deposit account with approval from the Board.
3. At the beginning of the FY 2015/2016, the Fund had a balance of Kshs. 400 million in its fixed deposit held at Chase Bank (K) Ltd Account number 0017054604027.
4. The former Ag. Chief Executive Officer, Ms. Catherine A. Namuye wrote to Chase Bank (K) Ltd vide letters dated 11<sup>th</sup> February, 2015 and 27<sup>th</sup> April, 2015 to transfer funds from its Acc. No. 0019054604038 held at Chase Bank (K) Ltd, Riverside Mews Branch. The funds were payment for “consultancy services rendered to YEDF Board”. **(Annexure 1)**
5. Ms. Catherine A. Namuye was still in acting capacity contrary to the said letter which she signed off as the substantive office holder.
6. The Fund’s policy on transfer of funds dictated that for one to make payments, two signatories must sign for payment to be effected. Two designated class A signatory can sign or a class A and B. But two class B signatories cannot authorize payments.
7. Ms. Judy Kimeto, a Class A signatory, who was present in the meeting informed the Committee that she was neither involved nor consulted in the transfer of the misappropriated funds.

8. On 13<sup>th</sup> July 2015, the Fund transferred Kshs. 120 million from its Chase Bank (K) Ltd account to its KCB operations account. **(Annexure 2)**. This therefore left a balance Kshs. 280 million plus interest earned at Chase Bank (K) Ltd fixed deposit account.
9. The Board of Directors held its 11<sup>th</sup> Special Committee meeting on 21<sup>st</sup> October, 2015 and during the meeting, the Chairman of the Board's Audit Committee presented two letters allegedly written by the suspended Ag. Chief Executive Officer (Ms. Catherine A. Namuye) on 11<sup>th</sup> February, 2015 and 27<sup>th</sup> April 2015 and which authorized the transfer of Kshs. 115,710,000.00 and 65,184,946.00 to Quorum Ltd, Ac No. 0052075584001 at Chase Bank, Riverside Mews Branch.
10. The Board then directed the Audit Committee to immediately convene a meeting and review the letters of instructions to Chase Bank (K)Ltd and give their recommendations on the way forward to the full Board.
11. The Audit Committee met on 22<sup>nd</sup> October, 2015 and recommended to the entire Board to send the former Ag. Chief Executive Officer (Ms. Catherine A. Namuye) and the Finance Manager (Mr. Benedict Atavachi) on compulsory leave to pave way for investigations. **(Annexure 3)**
12. The entire Board held a Special Sitting on 23<sup>rd</sup> October, 2015 at 2.00pm and sent both the former Ag. Chief Executive Officer and Finance Manager on leave as recommended by the Audit Committee and appointed a new Acting Chief Executive Officer. **(Annexure 4)**
13. On the same date, 23<sup>rd</sup> October, 2015 the Chairman of the Board wrote to the Directorate of Criminal Investigations (DCI) to move in and undertake forensic investigations into the alleged transfer of funds. **(Annexure 5)**
14. On 3<sup>rd</sup> November, 2015, the Ag. Chief Executive Officer sent another letter to the Directorate of Criminal Investigations with all bank account details of the Fund and requested for a forensic audit of all the accounts of the Fund. **(Annexure 6)**
15. The former Principal Secretary, State Department of Planning, Eng. Mangiti also invited Ethics and Anti-Corruption Commission (EACC) to undertake forensic investigation on the same. **(Annexure 7)**

16. The Fund also gave instructions on 27<sup>th</sup> October, 2015 to all its Bankers to delete both Ms. Catherine A. Namuye and Mr. Benedict Atavachi from being signatories to its accounts as a matter of internal control check. **(Annexure 8)**
17. As a practice, the Fund used to receive a statement when a fixed amount is deposited. Once the fixed deposit matured, the Bank would receive further instructions on what to do with the interest earned. Chase Bank (K)Ltd confirmed that the account held Kshs. 104,297,489.45 as at 5<sup>th</sup> November 2015 while the book balance indicated a balance of Kshs. 280 million plus interest earned.
18. Mr. Robert Mrima, Senior Accountant (class B signatory) informed the Committee that it appears Kshs. 10 million was withdrawn from the fixed deposit account as interest accrued but only Kshs. 2 million returned. The Board then wrote to the Banking Fraud Unit to investigate the matter. **(Annexure 9)**
19. Ms. Jedidiah Kabiru acted as Chase Bank's Relationship Manager for the Fund and was the link between the Bank and the Fund. She misled the Bank by confirming that the Bank's fixed deposit account had Kshs. 104, 297,489.45.
20. The current Fund management, procurement unit and the Tender Committee members do not know Quorandum Ltd, the suppliers of the consultancy services. The firm has never been prequalified by the Fund since the Fund did not advertise for the said consultancy services. The Tender Committee did not approve such a service and the Fund does not have Tender minutes for the same nor any contract with Quorandum Ltd.
21. On 5<sup>th</sup> November, 2015, the Fund gave instructions to Chase Bank (K) Ltd to provide it with the actual amount in its fixed deposit account as at 5<sup>th</sup> November, 2015. The bank gave the balance in the account as Kshs. 104,297,489.45. **(Annexure 10)**
22. The Board of Directors was scheduled to meet on 1<sup>st</sup> December 2015 to pronounce itself on the matter.
23. The Ag. CEO further confirmed to the Committee that it is irregular and unprocedural for the Board to draw funds from a fixed deposit account to pay for goods and services.
24. Regarding the death of the former driver of the Board, he informed the Committee that the deceased was a driver assigned to drive one of the Board Directors, Mr. Clement Ayungo to a training workshop organized by the State Corporations Advisory Committee in the south

coast. He was found dead in the hotel swimming pool. Investigations into the matter are ongoing although preliminary findings indicate that the cause of death is drowning.

#### **Directors and Details of Bank transactions with Quorandum Ltd**

25. The Fund wrote to the Registrar of Companies on 18<sup>th</sup> November, 2015 to furnish it with the details of the Directors of Quorandum Ltd (**Annexure 11**)
26. The Registrar responded on 25<sup>th</sup> November, 2015 that the Company was registered on 25<sup>th</sup> October, 2002 as Registration No. C.100827 with the following Directors/shareholders: -

Director	Address	Nationality	Shares
Mukuria Ngamau	P. O. Box 21415 -00505 Nairobi	Kenyan	80001
Doreen Waithera Ng'ang'a	P. O. Box 21415 -00505 Nairobi	Kenyan	Nil
Wanjiru Tabitha Ngamau ( <b>Non-Director Shareholder</b> )	P. O. Box 21415 -00505 Nairobi	Kenyan	1

Registered Office is:

*LR NO 1870/1/1/138, PEPONI ROAD, WESTLANDS*

*P. O. BOX 14843 – 00800 NAIROBI.*

**(Annexure 12)**

#### **Particulars of Government Vehicle assigned to Mr. Bruce Odhiambo, former Chairman YEDF**

28. Mr. Bruce Odhiambo was allocated government vehicle Toyota Land Cruiser VXL, Registration No. KBZ 753D, purchased on 28<sup>th</sup> August, 2014 at a cost of Kshs. 12,615,448. (**Annexure 13**)
29. The Fund incurred Kshs. 806,014.65 on fuel and general maintenance of the vehicle between the period of purchase and March, 2015 when returned the vehicle to the Fund. (**Annexure 14**)
30. On handing over the vehicles back to the Fund, the vehicle was sent to the Government Chief Mechanical Engineer for Assessment. The Chief Engineer referred the vehicle back to

Toyota Kenya for further assessment. Toyota Kenya has quoted Kshs. 228,000 for repairs. **(Annexure 15)**

- 31.** The Chairman's driver and body guard were paid meal and overtime allowances amounting to Kshs. 757,523,.04 as per the Auditor's report. **(Annexure 16)**

### **Committee Observations and Findings**

**The Committee made the following Observations from the submission of the acting Chief Executive Officer, the Committee observed that—**

- (i)** The Fund invested funds in Chase Bank Ltd without following National Treasury Circular No. 10 of 15<sup>th</sup> July 1992 and National Treasury Circular No. 12 of 2002 which required state corporations to invest surplus funds in Treasury bills and bonds and must obtain specific approval from the National Treasury before investing.
- (ii)** It is evident that paragraph 12(2) of the Legal Notice No. 63 of 2007 establishing the the YEDF allows the Board to deposit funds not immediately required for immediate use with such banks as the Board may consider. This provision is however superseded by section 6(e) Public Finance Management Act that states that PFM Act prevails on banking arrangements, including opening of bank accounts and investment of moneys.
- (iii)** The PFM Act in Section provides for the responsibilities of National Treasury which includes: monitoring the management of the finances public enterprises and investments by the national government and its entities; and to issue guidelines to national government entities with respect to financial matters and monitoring implementation and compliance. The guidelines issued by the National Treasury by way of circulars is therefore binding to all public entities including to the YEDF.
- (iv)** The transfer of funds in the YEDF account at Chase Bank (K)Ltd was occasioned by acts of commission and omission of the former Chairperson of the Board, Mr Bruce Odhiambo and the suspended Ag. CEO Ms. Catherine A. Namuye vide letter dated 17<sup>th</sup> February, 2015, which gave the banks instructions that the then Ag. CEO Ms. Catherine A. Namuye could sign off any instructions in the absence of the two signatories. This in turn gave Ms. Namuye a free hand to issue instructions to the Bank

as a sole signatory. This position was also corroborated by the Board members of YEDF when they appeared before the Committee.

- (v) The Board and the Management of YEDF did not obtain approval from the National Treasury to invest Kshs. 400 million into a fixed/call deposit account at the Chase Bank (K) Ltd contrary to the provisions of National Treasury Circular No. 10 of 1992; National Treasury Circular No. 12 of 2002 and Legal Notice No. 63 of 2007 establishing YEDF.
- (vi) The YEDF did not have any surplus as per its audited financial statements for the financial year ended 30<sup>th</sup> June 2014 and that Kshs. 400 million that YEDF invested into a fixed/call deposit account at Chase Bank (K) Ltd was part of the funds appropriated by National Assembly for disbursement to the youths as per the mandate of YEDF.
- (vii) The Fund's Board in its special sitting held on 23<sup>rd</sup> October, 2015 recommended the suspension of Ms. Catherine A. Namuye, acting CEO and Mr. Benedict Atavachi, Finance Manager. The Board also appointed Mr. Emmanuel Odera as the new acting CEO.
- (viii) The former Chairman of the Board, Mr. Bruce Odhiambo wrote to the Directorate of Criminal Investigations (DCI) to move in and undertake forensic investigations into the alleged transfer of funds at YEDF.
- (ix) It was irregular for Ms. Catherine A. Namuye, suspended acting CEO to issue instruction to Chase Bank (K) Ltd to transfer money from fixed/call deposit account to pay for goods and services while it had an operations accounts held at Equity Bank Ltd
- (x) The YEDF management, procurement unit and the tender committee were not involved in the "procurement" of consultancy services from Quorandum Ltd
- (xi) Quorandum Ltd has never been prequalified by the YEDF since the Fund did not advertise for the said consultancy services for ICT Strategy and ERP system.

- (xii) The Tender Committee of YEDF did not approve a consultancy services for ICT Strategy and ERP system nor does it have tender minutes for neither the same nor any contract with Quorandum Ltd
- (xiii) Eng. Peter Mangiti, the former Principal Secretary, State Department of Planning wrote to EACC inviting them to undertake forensic investigation into the alleged fraud at the Fund.

### **3.1.2 Evidence by Mr. Benedict Atavachi, suspended YEDF Finance Manager**

**Mr. Benedict Atavachi, the suspended Finance Manager Youth Enterprise Development Fund appeared before the Committee on 1<sup>st</sup> March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT–

#### **Fund's Policy on Bank Signatories, Utilization of Funds and Interest Accruing from Fixed Deposit Accounts**

1. Transfer of funds is usually carried out after authorization of the same by the CEO. Based on demand, Finance Department initiates a Memo requesting for transfer clearly stating the reason. No direct transfer from investment is done since the monies are usually recalled back to the collection account and disbursement/payment is made from other operational accounts.
2. Interest accruing from fixed deposit accounts is usually sent directly to the operations account held with Equity Bank since it is budgeted under recurrent revenue. This in turn is used to pay recurrent expenditure.

#### **Matter of Loss of Kshs. 180,364,789 from YEDF Board Chase Bank Account No. 00170540427**

3. The Fund received interest for investment made in the months of February – April 2015 in full hence it was initially difficult to detect if the investments had reduced. However, in the course of performing his duties, he noticed that the documents relating to the Fund's



Investments account at Chase Bank were missing. On investigation, he realized that some funds had been withdrawn.

4. He engaged the Bank to find out how the withdrawal was made since this was an investment and not an account where the regular transactions including withdrawals can be handled. Since the investment was a call account, the institution was at liberty to recall the money if need be by terminating the investment and issue new instructions which could have been signed as follows;

#### **Mandatory Signatories**

- (i) Chief Executive Officer - Ms. Catherine A. Namuye
- (ii) Lending & Investment Manager – Ms. Judy Kimeto

#### **Others**

- (i) Finance Manager – Mr. Benedict Atavachi
- (ii) Senior Accountant – Mr. Robert Mrima
- (iii) Accountant – Mr. Benson Munywoki

#### **Signing Mandate**

Any two can sign with one being a mandatory signatory

5. This means that the Finance Manager is not a mandatory signatory and any transaction could still be completed without his signature.
6. The engagement with Chase Bank (K) Ltd was not easy since the Relationship Manager was neither picking his calls nor responding to his emails. The said Relationship Manager eventually sent an email to him (**Annexure 17**) stating that she was proceeding for her maternity leave and provided the names of the bank officers to be contacted in her absence. These were Ms. Mary Mutate, Mr. Edwin Gachimu and Mr. Abdillahi Adan. Communication with the said officers bore no fruits as they too failed to pick his calls or give appropriate response to the emails he sent them.
7. Mr. Atavachi further engaged the then Ag. CEO, Ms. Namuye seeking to acquire a copy of instructions since she had signed them and sent the last instructions to the Bank for the roll-

over of the investment after maturity. This was done both through telephone and email. **(Annexure 18)**

8. Quorandum Ltd was not in the list of the Fund's pre-qualified companies and had not according to the witness offered any services or delivered goods to the Fund, further the witness was a member of the tender committee and the issue of Quorandum Ltd on provision of ICT strategy plan and ERP designs consultancy services never came up in the tender committee of YEDF hence the payment of Kshs. 180,364,789 from YEDF Board Chase Bank (K) Ltd account was fraudulent.
9. In September 2014, the investment period had long expired and the Fund had not received the full investment amount back. He went to the Bank and met the Relationship Manager Ms. Jedidah Kabiru and Ms. Mary Muteti. He was informed that the signatories authorized to operate the call deposit account held by the Fund at Chase Bank had been changed purportedly by the Board to give the CEO Ms. Catherine A. Namuye, sole responsibility of signing off instructions and in her absence two signatories must sign with one being a mandatory signatory. This was contained in YEDF letter Ref. YEDFB/CEO/1339/2015 dated 17<sup>th</sup> February 2015 signed by the Chairman, Mr. Bruce Odhiambo and the Ag. CEO Ms. Catherine A. Namuye. **(Annexure 19)**
10. The paragraph on signing mandate differed with the other operation accounts since it had given the CEO the sole responsibility of validating a transaction. Since the Board Chair and the Board Secretary/CEO had signed the instructions, he could not understand what was happening and had no other senior staff member to consult. He used an intermediary to deliver documents relating to the decision of change of signatories and the missing funds to the Chair of the Board's Audit Committee.
11. On Monday 26<sup>th</sup> October, 2015 he received a letter from the Board Chairman informing him that the Board had been presented with the documents showing questionable payments from investment account held at Chase Bank and that he should vacate the office with immediate effect to pave way for investigations. The letter Ref. YEDFB/CEO/377/2015 was signed by the Board Chair Mr. Bruce Odhiambo and copied to the then Cabinet Secretary Ministry of Devolution and Planning and the then Principal Secretary, State Department of Planning. He

left office without being accorded any fair hearing by the Board.

- 12.** As the Finance Manager and Tender Committee member since 2013, none of the tender committee meetings prequalified Quorandum Ltd for provision of any service or supply of goods to the Fund. No documents were received and processed in the Finance Department for the said Company.

### **Committee Observations and Findings**

The Committee observed that: -

- (i)** The Fund had invested Kshs.400 million in a fixed deposit account that was to mature in two months' time at an interest rate of 10.5 per cent (10.5 %) with effect from 4<sup>th</sup> February, 2015 to 6<sup>th</sup> April 2015;
- (ii)** The suspended Ag. CEO, Ms. Catherine A. Namuye and the former Board Chairman, Mr. Bruce Odhiambo took over the running of the investment account of the Fund and left the Finance Department with little input on the matter;
- (iii)** Upon maturity of the investment, the then Ag. CEO, Ms. Catherine A. Namuye, instructed Chase Bank (K) Ltd to transfer Kshs. 180,364,789 from the Fund's account to Quorandum Ltd account.
- (iv)** It was unprocedural for the Chairman to write to the Finance Manager sending him on compulsory leave and copying the same to the CS and PS, State Department of Planning. The communication ought to have been done by the newly appointed acting CEO appointed by Board following the suspension of Ms. Namuye.
- (v)** At the time of the writing of the two letters on 11<sup>th</sup> February 2015 and 27<sup>th</sup> April 2015 to instruct Chase Bank (K) Ltd to transfer the funds to Quorandum Ltd, Ms. Catherine A. Namuye was in acting capacity as the CEO of YEDF and not a substantive office holder, contrary to her signing off of the letters as a substantive CEO.
- (vi)** The call deposit investment continued accruing interest in full even after the principal amount had reduced after withdrawals of Kshs. 115,710,000 and Kshs. 64,654,789.00 had been made on 11<sup>th</sup> February 2015 and on 27<sup>th</sup> April, 2015 respectively.
- (vii)** Quorandum Ltd was not in the list of the Fund's pre-qualified companies and had not

according to the witness offered any services or delivered goods to the Fund. Further the witness was a member of the tender committee and the issue of Quorandum Ltd providing consultancy services of an ICT Strategy Plan and ERP System, hence the payment of Kshs. 180,364,789 from YEDF Board Chase Bank account was fraudulent.

- (viii) The Fund has an elaborate Finance Manual dated September 2008. Item 7.1.2 of the Manual provides for cash and cheque disbursements, internal control procedures and voucher payments. It provides that “Finance will review and verify requisition, budgets and supporting documents, check that payment is in order, meets all procurement requirements and funds are available”. The suspended Ag. CEO Ms. Catherine A. Namuye who is required the custodian of the Manual blatantly ignored the same to the detriment of the Fund.
- (ix) The payment to Quorandum Ltd is inconsistent with the Public Finance Management Act, 2012 section 68(1)(a) and (b) since the same is unlawful and unauthorized.
- (x) There was no valid contract signed between YEDF Board and Quorandum Ltd availed to the Finance Department as proof of the consultancy services purported to have been awarded to the said Company.

### **3.1.3 Evidence by Ms. Catherine A. Namuye, suspended Acting CEO, YEDF Board**

**Ms. Catherine A. Namuye, the suspended Ag. Chief Executive Officer at the Youth Enterprise Development Fund appeared before the Committee on 17<sup>th</sup> March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

She submitted THAT—

1. In relation to the matter before the Committee, she was the Ag. C.E.O of YEDF at the time when the fund lost some money in Chase Bank Ltd
2. The decision to make her the sole signatory to the Fund’s Chase Bank account was made by the YEDF Board of Directors.

3. The Inspectorate of State Corporations was not represented in the Fund's Board meetings. Letters and agenda of the Fund's Board meetings were not being copied to the Inspectorate of State Corporations.
4. There were specific Board interests with regards to the contract to procure services from Quorandum Ltd. The Board and management colluded in the matter.
5. The Board involved itself in procurement matters despite the existence of a tender committee. The procurement plan for the 2015/16 Financial Year had not been approved as at 20<sup>th</sup> October, 2015 due to Board interests.

### **YEDF Policy on Transfer of Funds**

6. The Youth Enterprise Development Fund's policy on investment of funds is guided by the Fund's Legal Order and the State Corporations Act (2012).
7. Funds transfer and investment depends on cash flow/needs analysis as presented by departmental heads as two to three-month projection. This is communicated to the office of the CEO through the finance team after intense deliberations. Thereafter, the finance team recommends what amount to re-invest or transfer to the YEDF main account.
8. The balance she left in the Chase Bank account as at 21<sup>st</sup> October, 2015 was Kshs. 104 Million. At the close of the 2014/15 Financial Year, the balance was Kshs. 219 Million.
9. She alleged that the letter she was provided with by the Fund indicating that she authorized the transfer of funds to Quorandum Ltd had different number of stamps from the one before the Committee. She questioned the validity of the letter notwithstanding the similar content in both letters.
10. She also admitted to authorizing the payment to Quorandum Ltd for payment of ICT consultancy services as outlined in the following paragraphs; -

### **Procurement of ICT Consultancy Services from Quorandum Ltd**

11. There was an existing ICT Strategy (2013-2017) which had been procured from Microflex Kenya Ltd by the previous Board at approximately Kshs.5.9M.
12. The Board disregarded the existing ICT Strategy 2013-2017 despite the fact that Director Mr. Nicholas Mwaniki who was also a Board member when the previous Board approved it,

the current Board approved the procurement of an ICT strategy which had been budgeted at Kshs. 192M.

13. The Youth Enterprise Development Fund is a financial institution and needed an Enterprise Resource Planning System to manage funds. Quorandum Ltd was to carry out a consultancy on what kind of system would be suitable for use by the Fund but would not be installing such a system.
14. The procurement was done in line with the YEDF Board directive as discussed in the 51<sup>st</sup> meeting held on 6<sup>th</sup> August, 2014. Under the ‘Annual Budget for the 2014/15 Financial Year’, Kshs. 192 million which was indicated as the budget for ‘Information System Development and Upgrades.’
15. In the Fund’s ‘Annual Procurement Plan,’ the Board approved Kshs. 192 Million for ‘Information System Development and Upgrades’ under a restricted tender which was done on short notice. The Board also approved a ‘Request for Quotation’ for these services. The tender was restricted to avoid raising questions as to why there was a need for an ICT strategy despite the existing strategy done in 2013 expected to be implemented until 2017.
16. Since the Procurement Plan provided for the procurement of the same using the restricted tendering, she went ahead and initiated procurement of the same. She decided the use of restricted tendering since the plan indicated so and further since the Fund required the ICT strategy urgently.
17. The Board did not advertise the request for provision of ICT strategic plan and the designs that were allegedly done by Quorandum Ltd.
18. The minutes of the 51<sup>st</sup> meeting provided to her by the Fund were not authentic. She noted that by practice, there was initialization of documents at the Fund to prove authenticity and ownership of the document. She further pointed out that there was initialization on the Annual Procurement Plan but not on the Minutes of the 51<sup>st</sup> meeting hence raising doubts on the latter’s authenticity. However, the Committee found out that the Minutes as presented were authentic.

19. Quorandum Ltd carried out the consultancy as per the contract and submitted documentation on the work carried out.
20. The payment to Quorandum Ltd was effected by Ms. Namuye with pressure from the Board Chairman and Director Nicholas Mwaniki. The amount was paid from the Investment account and not the Operations account so as to fast track the payment.
21. The Board also resolved to terminate the services of a Mr. Alumasa who was serving as an ICT officer with the Fund. The matter of the ICT officer was discussed several times at Board level. The Chairperson, Mr. Bruce Odhiambo, the former Board Chairman and Mr. Nicolas Mwaniki, Board Director in particular insisted they were ICT experts and in their opinion, Mr. Alumasa was not qualified for his work. Ms. Namuye in her capacity as CEO vouched for Mr. Alumasa as per his appraisal.
22. There was no Skype meeting between the YEDF and Quorandum Ltd as claimed by Mr. Mukuria Ngamau when he appeared before the Committee.
23. She entered into contracts on behalf of the Board with Quorandum Ltd where she signed on behalf of the Board. The contracts were generated in two sets one being a summarized version of the other.
24. She further stated that she did not have any contact with the Principal Secretary or the Cabinet Secretary of the Fund's parent Ministry, the then Ministry of Devolution and Planning.
25. She also alleged that there was an unofficial meeting between the Chairman and the Board members to consolidate their positions once the matter of the loss of funds came to the attention of Parliament. She made sure the Board's approval was captured when making the payment to Quorandum Ltd by ensuring Board members initialized their names on the payment documents. She however did not have proof of this. She also alleged that there was a connection between the Chairperson of the Fund, Quorandum Ltd and Duchess Park Ltd
26. THAT on the issue of the content of the letter sent to the Bank by Ms. Namuye authorising payment, she did not dispute the contents nor the signatures. In fact, she acknowledged having authorized the Bank. Her dispute was the number of stamps that had been affixed by

various recipients. The Committee found that the stamps were affixed at various levels of receipt.

### **On her suspension as Ag. CEO**

27. During a special Board meeting held on 21<sup>st</sup> October, 2015, a Board Member circulated documents alleging the existence of fraudulent transactions amounting to Kshs. 180, 894,946 at the Fund's fixed deposit account held at Chase Bank. A series of Board meetings followed days after in the absence of the management.
28. On 23<sup>rd</sup> October, 2015, some Board Members and the Chairman verbally informed her not to report to the office the following week and that details of the Board decision would be sent to her on 26<sup>th</sup> October, 2015.
29. On 28<sup>th</sup> October, 2015, the Board Chairman summoned her to the Fund's offices. The Chairman and the Chair of the Board's Audit Committee instructed her to urgently write and present a report on the allegations, to be submitted by close of business on the same day.
30. She sought the advice of her lawyers who wrote to the Fund's Chairman on 29<sup>th</sup> October, 2015 decrying the nature of disciplinary action taken against their client and the lack of communication on the particulars of the allegations against her. The lawyer demanded the revocation of the suspension, provision of details on particularity of the alleged offence committed and enough time and access to documents to respond to the accusations levelled.

### **Death of Youth Enterprise Development Fund Driver, Mr. Simon Mwangi**

31. There was a Board meeting held in Mombasa on 19<sup>th</sup> October, 2015 but she did not attend as she was sitting for her academic examinations in Nairobi.
32. On the morning of 20<sup>th</sup> October, 2015, Ms. Namuye was called by the Fund Chairman who then informed her that Mr. Mwangi had died and that she should call the Fund's Director Mr. Clement Ayungo. Mr. Ayungo's cell phone was switched off and the Chairman therefore asked her to call a Mr. Babu Owino who was with Mr. Ayungo.
33. She made arrangements to have a lawyer pre-qualified by the Fund to travel to Mombasa. She also arranged to have the body moved to Aga Khan Hospital in Mombasa as per the Fund's Insurance policy.



34. Director Clement Ayungo called the police and had Mr. Mwangi's body moved to Diani Hospital. This happened before a lawyer could take a statement.
35. The post-mortem conducted on Mr. Mwangi's body revealed that he vomited before drowning. The body had a scar on the skull.
36. The late Mwangi's widow suspected that her husband's death was caused by foul play and that the late Mr. Mwangi had allegedly told her that he heard some Board members discussing how to 'fix Madam', in an apparent reference to Ms. Namuye.
37. The Board was accommodated in the North Coast while Mr. Mwangi's death occurred in Diani, South Coast where Mr. Clement Ayungo had booked him, as it was getting late. Mr. Ayungo was the first person to see Mr. Mwangi's body.

### **YEDF Anniversary Celebrations**

38. The YEDF Board was to hold its Anniversary Celebrations at the Kenyatta International Conference Centre (KICC) Tsavo Ball Room but the venue was changed owing to a double booking at that particular venue. An agreement was reached between the Fund and KICC to push forward the payment to cover a future event.
39. The venue of the event was later changed to the University of Nairobi grounds but the event was cancelled at the last minute despite four days of preparation having been done. The management was pressurized to pay for the event by the Board proving the extent to which the Board engaged in procurement matters and forcing management to toe the line.

### **Further**

40. She had recorded a statement with the Ethics and Anti-Corruption Commission on the matter involving loss of funds at Chase Bank (K) Ltd.
41. She didn't know why the immediate Board had not confirmed her as a substantive CEO yet she had been interviewed by the previous Board.

### **Committee Observations and Findings**

From the evidence submitted by Ms. Catherine A. Namuye, the Committee made the following observations and findings: -

- (i) As per Minute 03/03/2013 of the Fund, the Board recommended to the Principal Secretary, State Department of Planning in the Ministry of Devolution and Planning, the appointment of MS. Catherine A. Namuye and other four candidates for nomination as the substantive CEO. However, at the time when the Board appeared before the Committee, no confirmation had been received.
- (ii) The transfer of funds in the YEDF account at Chase Bank (K)Ltd was occasioned by acts of commission and omission of the former Chairperson of the Board, Mr Bruce Odhiambo and the suspended Ag. CEO Ms. Catherine A. Namuye vide letter dated 17<sup>th</sup> February, 2015, which gave the banks instructions that the then Ag. CEO Ms. Catherine A. Namuye could sign off any instructions in the absence of the two signatories. This in turn gave Ms. Namuye a free hand to issue instructions to the Bank as a sole signatory. This position was also corroborated by the Board members of YEDF when they appeared before the Committee.
- (iii) Ms. Catherine A. Namuye, suspended Ag. CEO and Mr. Bruce Odhiambo, former Board Chairman jointly colluded and purportedly offered non-existent consultancy services contract for development of ICT Strategy and ERP system to Quorandum Ltd
- (iv) The purported extracts of the Board's Minutes signed by Mr. Bruce Odhiambo and Ms. Catherine A. Namuye sent to Chase Bank (K) Ltd to confirm the change of signatories were a forgery and a collusion between the two officers.
- (v) Ms. Catherine A. Namuye solely signed off two letters dated 11<sup>th</sup> of February, 2015 and 27<sup>th</sup> April, 2015 instructing Chase Bank (K) Ltd to pay Quorandum Ltd Kshs. 115,710,000.00 and Kshs. 65, 184,946.00 respectively. The second amount was revised to Kshs. 64,654,789.00 upon realization that the account had insufficient balance to transfer the instructed amount. The amounts were to be paid from the Fund's fixed deposit account held with Chase Bank in which Kshs. 400 Million was deposited on 22<sup>nd</sup> August, 2014 and rolled on 4<sup>th</sup> February, 2015.
- (vi) The contracts for the consultancy services of the ICT Strategy Plan and ERP system designs between YEDF and Quorandum Ltd as provided by Ms. Namuye differed from that presented to the Committee by Chase Bank and the Contracts that was tabled by Quorandum Ltd were not the same. However, Ms. Namuye confirmed and

acknowledged that both contracts were drafted by the Fund and that version one was a summary of the other and the second version was detailed and more elaborate.

- (vii) The Fund invested funds in Chase Bank Ltd without adhering to the National Treasury Circular No. 10 of 15<sup>th</sup> July 1992 which required state corporations to invest surplus funds in Treasury bills and bonds and must obtain specific approval from the National Treasury before investing.
- (viii) The suspended Ag. Chief Executive Officer made irregular payments to Quorandum Ltd from a fixed deposit account at Chase Bank (K) Ltd which was not meant for the day to day operations of the Fund and payment of suppliers.
- (ix) There is no evidence submitted by Ms. Catherine A. Namuye on her allegation that the Board involved themselves in the procurement processes of the Fund. If indeed there was such involvement by the Board, it does not take away her responsibility of ensuring that the Act is complied with. Under section 27(2) of the PPDA, the accounting officer of a public entity shall be primary responsible for ensuring that the public entity fulfils its obligations on compliance of the Act, regulations and any directive of the Authority.
- (x) Procurement processes were not followed in the alleged provision of service by Quorandum Ltd on the use of restricted tendering; the Public Procurement and Disposal Act(PPDA) provides in section 73(2) instances where a procuring entity may use restricted tendering as—
  - (a) competition for contract, because of complex or specialized nature of the goods, works or services is limited to prequalified contractors;
  - (b) the time and costs required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured; and
  - (c) there is only a few known suppliers of the goods, works or services as may be prescribed in the regulations.

Section 29 of the PPDA provides that all procuring entities shall use open tendering under Part V of the Act or alternative procurement under part VI and further, alternative procurement procedure only if that procedure may be used only if the

procedure is allowed under Part VI of the Act. In this instance, the alternative procurement procedure i.e. restricted tendering could not have been an option of tendering to YEDF since it did not qualify under the provisions of Section 73 of the Act.

Part V of the PPD Act provide for procedure for open tendering which the YEDF ought to have used as—

- (a) invitation of tenders (s.51);
- (b) tender documents (s.52);
- (c) advertisement (s.54);
- (d) opening of tenders (s.60);
- (e) evaluation of tenders (s.66);
- (f) notification of award of contract (s.67) and
- (g) creation of the contracts (s.68).

It is important to note that none of the above procedures was adhered to.

- (xi)** On the allegation that undue pressure was used by the former Board Chairman and Mr. Nicolas Mwaniki, she did not adduce any evidence on the same however if there was any undue pressure she should have used her discretion to reject the same and report to the relevant authorities in line with section 25 of the Public Officers Ethics Act, 2003.
- (xii)** The responsibility of an accounting officer under the Constitution and Section 68(1)(a)(b) Public Finance Management Act are very clear that resources have to be utilized in a legal, authorized and effective manner, hence Ms. Catherine A. Namuye should not cry foul when she clearly knew that her role as the accounting officer is to ensure that the resources in YEDF are utilized according to the provisions of the law.
- (xiii)** On the issue of the content of the letter sent to the Bank by Ms. Namuye authorising payment, she did not dispute the contents nor the signatures. In fact, she acknowledged having authorized the Bank. Her dispute was the number of stamps that had been affixed by various recipients. The Committee found out that the stamps

were affixed at various levels of receipt, therefore, the issues of stamp receipt is immaterial.

- (xiv)** On the issue of rejection of the ICT Strategic Plan (2013-2017) by the Board, the sole responsibility under the PFMA vests on the accounting officer. Ms. Catherine A. Namuye never reported to any authority nor agency on the alleged rejection by the Board yet public funds had been expended on the same. This was in contravention of Section 25 of the Public Officers Ethics Act 2003 which requires a public officer who considers that anything required of him/her contravenes the Code of Conduct and Ethics or is otherwise improper or unethical, should report the matter to an appropriate authority.
- (xv)** There was loss of other funds by YEDF on unplanned, fraudulent events such as the 8<sup>th</sup> YEDF Anniversary which was to be held at the Kenyatta International Conference Centre (KICC) but the venue was later changed to the University of Nairobi grounds and the event was eventually cancelled purportedly cancelled by a phone call from Ms. Anne Waiguru, former Cabinet Secretary, Ministry of Devolution and Planning to Mr. Bruce Odhiambo, former Chairman YEDF. The Fund fraudulently spent approximately Kshs. 44 million for the event that did not take place.
- (xvi)** Further, from evidence of other witnesses, no one else participated in the alleged procurement of services by Quorandum Ltd except Ms. Namuye alone hence breach of section 26(3) (c) of the Public Procurement and Disposal Act, 2005.
- (xvii)** Ms. Catherine A. Namuye as the then accounting officer violated the provisions of Section 72 (1) of the PFM Act 2012 by allowing Mr. Bruce Odhiambo unfettered use of the YEDF facilities including office and a brand new vehicle despite him being a non-executive Chairman who is not entitled to such facilities.
- (xviii)** The total amount paid to Quorandum Ltd from the Fund's Fixed Deposit Account held with Chase Bank (K) Ltd was Kshs. 180,364,789 (Kenya shilling one hundred and eighty million, three and sixty-four thousand, seven hundred and eighty-nine only)

- (xix) The purported contract agreement signed between YEDF and Quorandum Ltd as provided by Ms. Catherine A. Namuye differed from that which Chase Bank (K) Ltd used to process the payment of Kshs. 180, 364,789 to Quorandum Ltd
- (xx) Ms. Catherine A. Namuye knowingly engaged herself in improper conduct as defined in section 74(4) of the PFM Act 2012 which states that an accounting officer engages in improper conduct if he/she makes or permits expenditure that is unlawful or has not been authorised by the entity.
- (xxi) The circumstances surrounding the death of the Fund's driver, Mr. Simon Mwangi who at the time of his death on 18<sup>th</sup> October, 2015 was on duty during unofficial hours in Diani, are suspect. The death allegedly occurred at a private party attended by former YEDF Board director Mr. Clement Ayungo on invitation by his friend, Mr. Babu Owino. The Directorate of Criminal Investigations has opened an inquest on the matter.

### **3.2 EVIDENCE BY FORMER YEDF BOARD OF DIRECTORS**

#### **3.2.1 Evidence by Mr. Bruce Odhiambo, Chairman, former YEDF Board**

**Mr. Bruce Odhiambo, the former Youth Enterprise Development Fund Board Chairman appeared before the Committee on 1<sup>st</sup> March, 2016 accompanied by his advocate, Mr. Ken Odera to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT—

1. He was appointed Chairman of the Youth Enterprise Development Fund Board on 1<sup>st</sup> March, 2014 by His Excellency the President of the Republic of Kenya (**Annexure 20**)

**The Fund's Policy on Appointment of Signatories, Transfer of Funds and Utilization of Interest accruing from Fixed Deposits**

2. The appointment of signatories is usually undertaken as a proposal to the Board by the management. The requests can be on the basis of need for additional new signatory or change

of signatory. Changes of signatories is mainly due to exit of staff or changes in staff title/responsibilities between grade 1- 5.

3. The transfer of funds is a managerial function with reports presented to the Board on quarterly basis or upon specific requests by the Board. The Board had also realized the need to review the existing Fund policies, a process that had been received with a lot of resistance.

#### **Circumstances leading to the loss of Kshs. 180,364,789 from the Fund's Chase Bank Account**

4. The Board had on many occasions emphasized the need to improve and re-strategize operations of the Fund in different departments such as Human Resource, Public Relations and Information, Communication Technology. The Board thus approved this expenditure in the annual budget but the circumstances under which the money is spent or disbursed is totally on the Secretariat who in turn are meant to submit their quarterly spending to the General Purpose Committee.
5. As the Chairman of the Board, he first heard of the missing funds at a Board meeting in which documents were tabled by the Board's Audit Committee Chair in which the Principal Secretary was present.
6. The YEDF Board does not take part in any procurement process whatsoever; the procurement function lies with the Secretariat that makes commitment and purchases and payments on the basis of an approved budget and procurement plan.

#### **Status of investigations into the loss of funds at YEDF**

7. The Fund is yet to receive any status report from the Ethics and Anti- Corruption Commission. Investigations are still ongoing.
8. He further informed the Committee that when he was appointed as the Chair of the Board, the Ag. CEO, Ms. Namuye informed him that the Fund was experiencing challenges related to transfer of funds due to infighting and that there was a need to address the challenge.
9. The Fund lost funds from the call deposit account held at Chase Bank (K) Ltd in two instalments of Kshs. 115, 710,00 on 11<sup>th</sup> February 2015 and Kshs. 65, 184,946 on 27<sup>th</sup> April 2015 but he could not ascertain whether it was lost or paid for services rendered by a supplier.

## Committee Observations and Findings

- (i) Mr. Bruce Odhiambo, former Board Chairman and the suspended Ag. CEO, Ms. Catherine A. Namuye jointly colluded and purportedly offered non-existent consultancy services contract for development of ICT Strategy and ERP system to Quorandum Ltd
- (ii) The transfer of funds in the YEDF account at Chase Bank (K)Ltd was occasioned by acts of commission and omission of the former Chairperson of the Board, Mr Bruce Odhiambo and the suspended Ag. CEO Ms. Catherine A. Namuye vide letter dated 17<sup>th</sup> February, 2015, which gave the banks instructions that the then Ag. CEO Ms. Catherine A. Namuye could sign off any instructions in the absence of the two signatories. This in turn gave Ms. Namuye a free hand to issue instructions to the Bank as a sole signatory. This position was also corroborated by the Board members of YEDF when they appeared before the Committee.
- (iii) The said letter Ref. YEDFB/CEO/1339/2015 dated 17<sup>th</sup> February, 2015 addressed to Chase Bank (K) Ltd to change the authorized account signatories was done by the Chairman before the Board meeting held on 26<sup>th</sup> February, 2015 in which the purported resolution on change of the signatories was alleged to have been arrived at. The Committee observed that the Ag. CEO and the Chairperson made the decision in anticipation that the Board would ratify their decision but the Board did not.
- (iv) There is no evidence linking Mr. Benedict Atavachi to the loss of the funds. His department was by-passed by the Chairman and Ms. Namuye. Mr. Atavachi acted as a whistle blower but ended up being a victim.
- (v) The suspension of former Ag. CEO, Ms. Catherine A. Namuye by the Board Chairman was procedural. The Chairman however acted outside his powers by suspending the Finance Manager, Mr. Benedict Atavachi. The suspension of the Finance Manager ought to have been done by the Ag. CEO or through the Human Resources Department.
- (vi) Mr. Bruce Odhiambo feigned ignorance of the instructions by the then acting CEO to Chase Bank (K) Ltd to transfer two instalments of Kshs. 115, 710,00 on 11<sup>th</sup> February 2015 and Kshs. 65, 184,946 on 27<sup>th</sup> April 2015 to Quorandum Ltd The actual total



amount of funds that was transferred from YEDF to Quorandum Ltd was Kshs. 180, 364, 789. However, he acknowledged having signed the alleged resolution to Chase Bank (K) Ltd solely, without a valid resolution of the Board.

- (vii) Mr. Bruce Odhiambo's actions as the Chairman of the YEDF were *ultra vires*. In particular, his actions, such as writing a letter of compulsory leave to Mr. Benedict Atavachi and unfettered use of YEDF facilities such as office and vehicle was contrary to his terms and conditions of service as spelt out in the Guidelines on Terms and Conditions of Service for State Corporations' Chairmen, and Board Members dated 23<sup>rd</sup> November 2014 and Government policy directive as contained in circular reference no. PMO/CIRC/A (3) of 7<sup>th</sup> April 2011.

### **3.2.2 Evidence by former Directors of the YEDF Board**

**The following former Directors of the Youth Enterprise Development Fund appeared before the Committee to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF: Mr. Nicholas Kariuki Mwaniki, Mr. Michael Mwangi Wamae, Ms. Jane Wanza Mutinda, Mr. Clement Ayungo, Mr. Timothy Gakuo (alternate to the Principal Secretary, State Department of Youth Affairs) and Mr. Samuel Macharia (Alternate to the Principal Secretary, the National Treasury). Ms. Sabra Hussein did not attend the meeting since she was indisposed. She however confirmed that she appended her signature to the joint submission by the Board.**

**Ms. Sella Bogonko excused herself from the meeting owing to the fact that she was appointed to the Board on 2<sup>nd</sup> October, 2015 long after the funds had been lost and**

**They submitted THAT–**

#### **Board's Approval of the Procurement and Payment of ICT Strategy and ERP System during FY 2014/15**

- 1. The Board did not approve the procurement of an ICT Strategy and ERP System. There was budgetary allocation for an ERP system but not ICT Strategy. All the Board members denied writing their initials on the payment documents to Quorandum Ltd**
- 2. The procurement of an ICT Strategy was done by the previous Board in 2013. This strategy**

was still in its second year and had been done by Microflex Ltd and is a good strategy document.

3. On the procurement of an ERP System, the Board had put this on hold due to lack of manpower within the Fund to implement an ERP System. The recruitment of an ICT Manager would require the clearance of Head of Public Service as per circular OB/CAB9/1/5 dated 16<sup>th</sup> December 2013.
4. The Audit Committee met on 20<sup>th</sup> January, 2015 and recommended to the Board to implement austerity measures as the Fund was running low on funds for recurrent expenditure.

#### **Circumstances under which the YEDF Board transferred Kshs. 180 Million from the Fund's Investment Account**

5. The Board noted that this was theft of public funds as they had not sanctioned it.
6. The Board did not approve the change of signatories at the YEDF account held at Chase Bank. The letter by the Board Chair authorizing the change of signatories was illegal.
7. Mr. Wamae, Board Director first learnt of the loss of funds during the Board meeting held on 21<sup>st</sup> October, 2015. He sought clarifications from the Ag. CEO who denied signing the letters authorizing transfer of funds to Quorum Ltd. Mr. Wamae asked this to be minuted. He sent an email to the Board Chairman on 22<sup>nd</sup> October, 2015 requesting for a special Board meeting to send the Ag. CEO on compulsory leave.
8. The two letters instructing Chase Bank to transfer a total of approximately Kshs. 180 Million were submitted to the Chairman of the Board's Audit Committee, Mr. Nicholas Mwaniki by Board member, Mr. Macharia who said he received the said information from Mr. Atavachi, the then Finance Manager.
9. There was no approval from the YEDF Board or the National Treasury for the deposit of Kshs. 400 Million to the YEDF Chase Bank account.

#### **Role of the Board Chairman in running the affairs of the Fund**

10. The role of the Board, including the Chairman, in running the affairs of the YEDF is non-

executive.

11. The Audit and Risk Committee met on 22<sup>nd</sup> October, 2015 to discuss these fraudulent transactions. The Committee then recommended the suspension of the Ag. CEO and the Finance Manager to allow for investigations. The Committee resolved to invite the Bank Anti-Fraud Unit to investigate the matter.
12. The Board Chairman wrote letters to the Ag. CEO and the Finance Manager asking them to proceed on compulsory leave to allow for investigations into the fraudulent transfer of Kshs. 180 Million from YEDF's investment account held at Chase Bank (K) Ltd to take place.

**Measures instituted by the Board to guard against fraudulent transactions at YEDF after the matter was brought to the Board's attention on 21/10/2015**

13. After the matter of fraudulent transactions was brought to the attention of the Board, the Board appointed Mr. Emmanuel Odero as the Ag. CEO on 23<sup>rd</sup> October, 2015. To ensure that no further fraud occurred, Chase Bank (K) Ltd was informed of the changes to Ag. CEO's position and the bank was advised of changes in the account signatories.
14. The Board also directed the management to transfer the amount held in Chase Bank to the Kenya Commercial Bank.

**Circumstances leading to the death of Mr. Simon Mwangi, YEDF Driver**

Mr. Clement Ayungo, a Board member of the Youth Enterprise Development Fund informed the Committee as follows:

15. That he had been invited to a party hosted by Mr. Babu Owino the current Chairman, Student's Organisation of Nairobi University(SONU)in Diani. The deceased, Mr. Simon Mwangi who was a YEDF driver based in Mombasa dropped him off at the Mtongwe Ferry at around 11:30pm from where he took a taxi to Diani. He was later joined at the party by the deceased at about 12:30am;
16. At the party held by the poolside, he took alcohol and swam in the pool in the company of the other revellers, including the deceased. After a while, the revellers left the swimming pool area and he also left the pool to change clothes. He came back to the pool area to get his phone when he noticed someone in the pool. He dived in and tried to rescue the person

while shouting out for help;

17. Upon rescuing him, they realized it was Mr. Mwangi. They searched the website for Diani Beach Hospital where they rushed him for treatment. Unfortunately, he was declared dead on arrival and the doctor-in-charge called the police;
18. He called the Board Chairman and later spoke to the then Ag. CEO, Ms. Namuye, who sent the YEDF Regional Officer to deal with the matter on behalf of the Fund;
19. Those present including Mr. Ayungo, Mr. Babu Owino and Mr. Steve Mbogo were asked to record statements and were later summoned by the police in Mombasa for further interrogation;
20. Mr. Ayungo further informed the Committee that he was not aware who signed the work ticket that allowed the deceased to drive the Board car outside of office hours.

#### **Further Evidence**

THAT–

21. There was a purported attempt by the Board Chairman (vide a letter **REF YEDF/CEO/328/15** dated 8<sup>th</sup> October, 2015) to transfer Mr. Mwaniki from his position as Audit Committee Chair once he started following up on details of the YEDF Chase Bank letter.
22. Mr. Michael Wamae is a Director at Lukenya Earth Movers, a company under investigations by the Ethics and Anti-Corruption Commission with regards to a National Youth Service (NYS) contract worth Kshs. 147 Million. He applied for an NYS contract in 2012 but wasn't successful until March 2015 when the Company was awarded a contract. His company undertook some of the contracted work and received partial payment but the project was suspended once investigations commenced.
23. The Directors denied any knowledge of a Company by the name Severin Holdings Ltd which was allegedly linked to one of YEDF Directors.
24. The Fund paid Kshs. 44,741,603 for a cancelled event that was to be held at the University of Nairobi grounds. Mr. Ayungo alleged that the Board Chairman indicated that the amount

had to be paid since Ms. Anne Waiguru, the then Cabinet Secretary, Ministry of Devolution & Planning, had directed that payment be effected.

25. Mr. Stephen Jalenga, the Alternate to the Principal Secretary, State Department of Planning, Ministry of Devolution and Planning informed the Committee that he kept reminding the Board members that there were plans to merge the Youth, Women and Uwezo Funds and that a circular from the Head of Public Service noted that approval had to be sought before major strategic decisions were made.
26. The YEDF has two offices: One at Renaissance Park and the other at Lonrho House. The Board made a decision to relocate from National Bank of Kenya building and all staff stationed there were moved to Renaissance Park. A conditional offer of office space at Kenya Industrial Estates was not taken up by the Board.
27. A two-day event was held in Ms. Anne Waiguru's (former Cabinet Secretary, Ministry of Devolution and Planning) house in Kirinyaga County during the 2014/15 financial year. Payment for this event was made by the YEDF.
28. All the Board members present indicated their willingness to resign from their positions as YEDF Directors to allow for investigations to take place.

### **Committee Observations and Findings**

The Committee observed THAT–

- (i) The Board did not approve the procurement of an ICT Strategy and ERP System.
- (ii) The alleged final report on the Consultancy by Quorum Ltd was never presented to the Board.
- (iii) The Board did not approve the change of signatories at the YEDF account held at Chase Bank (K) Ltd. The letter by Mr. Bruce Odhiambo, former Board Chairman authorizing the change of signatories was illegal and that the alleged resolution was unilaterally done by the Chairman, as confirmed in his oral submission to the Committee.
- (iv) The Fund paid Kshs. 44,741,603 for a cancelled event that was to be held at the University of Nairobi grounds but did not take place.

### **3.3 EVIDENCE BY DIRECTORS OF QUORANDUM LTD**

#### **3.3.1 Evidence by Mr. Mukuria Ngamau, Director - Quorandum Ltd**

**Mr. Mukuria Ngamau, Managing Director of Quorandum Ltd appeared before the Committee on 8<sup>th</sup> March 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT—

1. He is a civil engineer by training although he is not registered by the Engineers Registration Board of Kenya. He has worked as an engineer in several companies since 1999 including Safaricom and Zain (formerly Kencell Ltd). He has also been subcontracted by China Roads and Bridge Construction Company and the Judiciary among others.
2. Quorandum Ltd was incorporated in 2002 Registration No. C. 100827 as a private Ltd company originally with three directors namely Mr. Mukuria Ngamau ID No. 11590409, Ms. Doreen Waithera Ng'ang'a ID No. 22513641 (Mr. Ngamau's wife) who is a non-executive director with no responsibilities and Ms. Wanjiku Tabitha Ngamau- now 70 years old and no longer a director as she resigned from directorship on 11<sup>th</sup> September 2008 (Mr. Ngamau's mother). Currently, the Company has two directors Mr. Mukuria Ngamau and Ms. Doreen Waithera Ng'ang'a.

#### **Engagement with the Youth Enterprise Development Fund**

3. He met Ms. Catherine A. Namuye, the Chief Executive Officer of the Youth Enterprise Development Fund sometime in early May 2014 at an event of the Youth Enterprise Development Fund, whereupon she informed him that the Youth Enterprise Development Fund through its Board of Directors was looking into getting someone to help them come up with an Information Communication Technology (ICT) strategy plan and Enterprise Resource Planning (ERP) system that will enable them to transform the Youth Enterprise Development Fund into a modern institution able to provide financial services in line with their vision and mission in support of Kenya's Vision 2030.

4. After the meeting, he contacted an Information Communication Technology (ICT) /Enterprise Resource Planning (ERP) specialist from USA, one Mr. Donnie Collins Reeves who was the lead consultant on the project and agreed to put forward a proposal for the work.
5. On 20<sup>th</sup> May 2014, he held a meeting with YEDF's Ag. CEO, Ms. Catherine A. Namuye and Mr. Donnie Collins Reeves via **Skype** to understand the requirements of the YEDF.
6. On 26<sup>th</sup> May, 2014 he wrote a letter Ref. No. Q1/YEDF/01 to the YEDF Chief Executive Officer Ms. Catherine A. Namuye containing proposed outline of the project after which Quorandum Ltd was called to collect a letter Ref. No. YEDF/CEO/1408/2014 on 2<sup>nd</sup> June, 2014 indicating that Quorandum Ltd.'s proposal met the needs of the Fund and they thus requested to submit a quotation for the work as well as sample proforma invoices to YEDF Board of Directors to seek consent and approval for implementation of the proposal. The letter indicated *"that this is a highly sensitive project and utmost confidentiality is expected in regards to any information shared"* (**Annexure 21**)
7. In reply to the letter from the CEO, Quorandum Ltd sent two quotations of Kshs. 65,985,600 for ICT Strategy and Kshs. 114,909,946.20 for design of specification for ERP both totalling to Kshs. 180,895,546.20 inclusive of value added tax. (**Annexure 22**)
8. Quorandum Ltd prepared the sample invoices with random figures to show how invoices look and delivered them to the YEDF CEO Ms. Catherine A. Namuye. They were received on 10<sup>th</sup> June 2014 at the C.E. O's Office. (**Annexure 23**)
9. After a period of three months, vide letter Ref. No. YEDF/CEO/129/2014 dated 2<sup>nd</sup> September, 2014, Ms. Namuye confirmed to Quorandum Ltd that the Board, during its 51<sup>st</sup> sitting held on 6<sup>th</sup> August, 2014 approved and accepted the proposal for consultancy services for the design of a comprehensive ICT Strategy and ERP System for the Fund and that the contract was awarded to the Company. The letter further stated that *"due to the sensitivity of the undertaking, a contract will be negotiated for the purposes of immediate implementation"*. (**Annexure 24**)
10. Quorandum Ltd subsequently entered into an agreement with YEDF to design a comprehensive ICT strategy and ERP design. The contract was made, entered into and signed on 17<sup>th</sup> November 2014 between Youth Enterprise Development Fund Board and

Quorandum Ltd Ms. Catherine A. Namuye being the CEO YEDF signed on behalf of YEDF Board while Mr. Mukuria Ngamau being the director on behalf of Quorandum Ltd The lead consultant Mr. Donnie Collins Reeves did not sign but had his name appended in place of his signature. **(Annexure 25)**

11. That Quorandum Ltd sent the documents to one Mr. Donnie Collins Reeves to sign and send back to him through international courier service.
12. By a letter dated 26<sup>th</sup> January 2015 Ref. No. QL/YEDF/06/ICT/2015 and received by YEDF on 28<sup>th</sup> January 2015, Quorandum Ltd submitted the final report of the ICT Strategy to YEDF. **(Annexure 26)**
13. The final report outlined restructuring and upgrading of the YEDF operations and infrastructure in areas such as: -
  - i. Proper business continuity, security and protocol
  - ii. Up to date loan monitoring, support and default recovery protocols;
  - iii. Modern document handling and storage protocols;
  - iv. Areal-time information, asset and finance monitoring platform
  - v. Nationwide collection of loan applications, processing and tracking which currently is done manually.
14. With the contractual obligations satisfied, Quorandum Ltd received payment from the Fund in full of a total of **Kshs. 180,895,546.20** in two tranches through their Chase Bank account no. 0052075584001. The Company paid value added tax to Kenya Revenue Authority upon forwarding of invoices to the Fund.
15. **Of the Kshs. 180,895,546.20 received by Quorandum Ltd for the consultancy services, approximately Kshs. 115 million was wired to the lead consultant Mr. Donnie Collins Reeves' accounts in Michigan in USA and a further approximately Kshs. 43 million was paid as value added tax to Kenya Revenue Authority the remaining dues were retained by the Company.**



16. Upon completion of the Project, he did not conduct any training for the YEDF staff to familiarize themselves with the Information Communication Technology strategy plan and Enterprise Resource Planning system since it was not part of his contractual obligations. He was not issued with a completion certificate for the consultancy offered.
17. That he had not transacted any other business with the Fund before this particular transaction and during this transaction he was not dealing with any other officer of the Fund except the CEO Ms. Catherine A. Namuye to whom she addressed all communications. He occasionally interacted with the Chairman of the Fund Mr. Bruce Odhiambo at social events outside the offices of the Fund.

### **Committee Observations and Findings**

The Committee observed that: -

- (i) The alleged consultancy contract was discussed and concluded by only two parties: The Fund's Ag. CEO, Ms. Catherine A. Namuye and Mr. Mukuria Ngamau, the Director of Quorandum Ltd. This points to a case of collusion between the two individuals to defraud the Fund of Kshs. 180,895,546.20 through a fictitious and illegal contract.
- (ii) The contract entered into by Quorandum Ltd and YEDF did not constitute a valid contract as it lacked important components including signatures of both parties on the right and left hand sides of the document as required and seals of both parties.
- (iii) The alleged award of the contract for the consultancy services for the development of ICT Strategy and ERP System to Quorandum Ltd by YEDF did not comply with the provisions of Article 227 of the Constitution, Section 27 (4) of the Public Procurement and Disposal Act 2005; as the service was not planned for nor authorized by the Board of Directors. Further, prequalification of the Company was not undertaken, no advertisement was done, no expression of interest was advertised, no tendering and no evaluation was done before the award of the contract.
- (iv) It is doubtful that the said Mr. Donnie Collins Reeves does indeed exist and that he received approximately Kshs. 115 million as alleged by Mr. Ngamau. The witness

failed to provide Mr. Reeve’s physical address or phone contacts, Skype extracts and evidence of payment to Mr. Reeves. Further, the Curriculum vitae of one Donnie Collins Reeves was found to be unclear, vague and ambiguous with inconsistent information as evidenced by **Annexure 27**.

- (v) Quorandum Ltd did not provide any evidence to suggest that the Company actually paid approximately Kshs. 45 million to the Kenya Revenue Authority as Value Added Tax (VAT) and other taxes as alleged by Mr. Mukuria Ngamau.
- (vi) The correspondences between Ag. CEO YEDF and Quorandum Ltd were inconsistent and full of glaring errors as some had apparently been stamped as received at a date earlier than the date of writing.
- (vii) The correspondences sent by Quorandum Ltd were meant to be treated with “*utmost confidentiality*” as the purported contract agreement was regarded as “*very sensitive.*”
- (viii) Mr. Mukuria Ngamau acting on behalf of Quorandum Ltd while undertaking the consultancy services for the development of ICT Strategy and ERP System for the YEDF, did not at any time interact with any Board Member or staff of the Fund apart from Ms. Catherine A. Namuye. This made the purported service rendered by Quorandum Ltd suspect, since the development of any strategic plan is an elaborate strategic exercise that would necessitate an interaction with the Board which is the organ mandated with policy matters and the ICT departments of YEDF which was to implement such a strategy.
- (ix) The purported consultancy services contract for ICT Strategy and ERP System development by Quorandum Ltd for YEDF was jointly planned and executed by Mr. Mukuria Ngamau, Mr. Bruce Odhiambo and Ms. Catherine A. Namuye with the main objective of defrauding YEDF of a sum of Kshs. 180,364,789.
- (x) That the contract tabled by Mr. Ngamau as for the consultancy services to YEDF was different from the contract tabled by the Chase Bank (K) Ltd which had been sent to the Bank by Ms. Namuye to support payment.

### **3.3.2 Evidence by Ms. Doreen Waithera Ng'ang'a, Director - Quorandum Ltd**

**Ms. Doreen Waithera Ng'ang'a, a Director at Quorandum Ltd appeared before the Committee on 24<sup>th</sup> March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

She submitted THAT—

1. She is a marketer by profession and is the current CEO of Marketing Society of Kenya since April 2012.
2. She replaced Ms. Tabitha Ngamau as Director when the latter resigned on 11<sup>th</sup> September, 2008 citing health reasons. As a non-executive Director, she only fulfils statutory requirements with no responsibilities and involvement in the day to day running of the Company.
3. Her role is limited to being a second signatory to Quorandum Ltd's accounts. She does not involve herself in sourcing for projects, securing contracts or running any Quorandum Ltd business. She therefore had no details of the Youth Enterprise Development Fund ICT Strategy Plan and the ERP system and thus she did not participate in securing or executing the contract.
4. She became aware of the project as an alleged scandal when it featured in the newspapers whereupon she requested for more information, documentation and communication between Quorandum Ltd and YEDF from Mr. Ngamau. She was provided with the project documentation and was informed that the Company had carried out the works as requested and delivered as per the contract.
5. She signed a sale agreement for purchase of one company asset (a house). She was informed by her co-Director that the funds for purchasing the house was acquired from the sale of Quorandum Ltd-owned land in Karen.
6. Further, she informed the Committee that she usually pre-signs cheques and then Mr. Mukuria issues them as and when needed to make payments for the Company.
7. She is an authorized second bank signatory for the following Quorandum Ltd accounts:

- i. Chase Bank Account Number 0052075584001
  - ii. Standard Chartered Account Number 0102497392600
8. She had never received any payment from Quorandum Ltd;
9. Her personal accounts have never been used in transit to hold money from Quorandum Ltd;
- In addition to the oral submission she made before the Committee, she made the following written submission to the Committee dated, 30<sup>th</sup> March, 2016;
10. That in the year 2012, she obtained a loan of Kshs. 1,476,545 from the (Kenya Television Network(KTN) SACCO which she advanced to Mr. Mukuria Ngamau, together with a further Kshs. 150,000 which amounts to Kshs. 1,626,545. Mr. Ngamau repaid the loan on 9<sup>th</sup> March 2015 and 10<sup>th</sup> March, 2015.
11. During her appearance before the Committee she presented that she could not recall the source of funds in her account but having gone through her statements, she now realises that the source of the funds is Quorandum Ltd.'s bank account with Chase Bank (K) Ltd, as repayment of the loan advanced to to Mr. Mukuria. She denied receipt of any other funds from Quorandum Ltd
12. She also holds an account with CFC Stanbic Bank Account No. 010002425372. She however indicated that she was not in a position to avail CFC Stanbic Bank Loan documents, as this file and other correspondences pertaining to the account are in the custody of the EACC.

### **Committee Observations and Findings**

The Committee observed that: -

- (i) Ms. Ng'ang'a is a Director of Quorandum Ltd and not a shareholder;
- (ii) She could not confirm details of Quorandum Ltd sub-contracts or payments since she pre-signed the cheques.
- (iii) She did not actively participate in the affairs of Quorandum Ltd.

### **3.4 EVIDENCE BY RESPECTIVE GOVERNMENT AGENCIES**

#### **3.4.1 Evidence by Ms. Sicily Kariuki, CS, Ministry of Public Service, Youth and Gender Affairs**

**Ms. Sicily Kariuki, Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs accompanied by Ms. Lillian Mbogo-Omollo (Principal Secretary, Mr. Kobia Wakamau (Secretary for Administration), Ms. Rosina Mule (Legal Officer), Mr. Mbugua Sammy (Head of Accounts), Ms. Wangari Ndia (Deputy Director), Ms. Carolyn Okello (Senior Youth Development Officer), Nixon Obarah (Finance Officer), Mr. Joram Mbui and Mr. Emmanuel Odera (Acting Chief Executive Officer, YEDF) appeared before the Committee on 9<sup>th</sup> March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

She submitted THAT —

#### **Investment of Surplus Funds**

1. The investment of surplus funds by semi-autonomous government agencies under the Ministry of Public Service, Youth and Gender Affairs is guided by the legal framework establishing each of the agencies. In the case of YEDF, the Youth Enterprise Development Fund Order, 2007 of the State Corporations Act (Revised in 2012) provides guidelines on how funds are to be invested. Section 12(2) states that: *“the Board may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Board”*.
2. It is this legal provision that the YEDF Board used to place Kshs. 400 million in a call deposit account at Chase Bank.

#### **Oversight of the Fund**

3. In light of the requirements that all semi-autonomous government agencies operate under the new *Mwongozo* Code of Governance for State Corporations, the Ministry of Public Service, Youth and Gender Affairs embarked on review of Board composition of all SAGAs under its jurisdiction. The review is ongoing.

4. Section 5 of the Order establishing YEDF bestows on the Fund's Board the duty to manage and administer the Fund. The Order therefore grants the Ministry the opportunity to determine the direction of the Fund through appointment of a majority of board members as well as through actual presence in the Board. In addition to Board representation, the Ministry exercises oversight in YEDF affairs through approvals of expenditure of the Fund as provided for in Section 8 of the Order. In this regard the budgets of the Fund are reviewed and approved by the Ministry together with those of other SAGAS before submission to the National Treasury.
5. Further, the PFM Act, 2012 grants the respective Cabinet Secretaries responsible for state corporations' responsibility over financial performance. Section 88 (1) of the Act states that:  
*The respective Cabinet Secretary responsible for matters relating to a state corporation is responsible for monitoring-*
  - (a) *The financial performance of that state corporation and government –linked corporations; and*
  - (b) *The performance of that state corporation and the activities affecting its financial performance; and*
  - (c) *Reporting to the Cabinet on the financial performance of the state corporation.*

#### **Loss of Approximately Kshs. 180.9 Million from the Fund**

6. On 17<sup>th</sup> February, 2015, the Chairman of the YEDF Board Mr. Bruce Odhiambo and the then Acting. Chief Executive Officer Ms. Catherine A. Namuye issued instructions to Chase Bank notifying them about change of signatories to the YEDF call deposit account held at the Bank.
7. One of the instructions was that the Acting CEO Ms. Catherine A. Namuye could sign off any instructions on her own. The instructions to Chase Bank by the Board Chairman and the Acting CEO indicated that the Board had made the resolution to change the signing instructions.
8. On 21<sup>st</sup> October, 2015, a Special Board Meeting was held during which the Chairman of the Board's Audit Committee presented copies of the two letters allegedly written by the Acting

CEO on 11<sup>th</sup> February 2015 and 27<sup>th</sup> April 2015. The letters authorized Chase Bank to transfer Kshs. 115,710,000 and Kshs. 65,184,946 respectively to Quorandum Ltd for consultancy services rendered to YEDF.

9. On 23<sup>rd</sup> October, 2015, the Board held another Special Meeting and sent the Acting CEO and the Finance Manager, Mr. Benedict Atavachi on suspension as recommended by the Audit Committee to allow for investigations on the alleged loss of funds from Chase Bank. On the same date, the Chairman of the Board wrote to the Directorate of Criminal Investigation to undertake forensic investigation on the alleged transfer of funds to Quorandum Ltd.
10. On 27<sup>th</sup> October, 2015, the Fund gave instructions to all its bankers asking them to remove Ms. Catherine A. Namuye and Mr. Benedict Atavachi from being signatories to its accounts and not to honour any instructions from the two individuals. The Kenya Commercial Bank confirmed the deletion via letter dated 28<sup>th</sup> October, 2015. **(Annexure 28)**
11. On 4<sup>th</sup> November, 2015, the Principal Secretary, State Department of Planning wrote to the Secretary/ CEO of Ethics and Anti- Corruption Commission (EACC), inviting the Commission to investigate the alleged financial malpractice at the Fund. The DCI and EACC commenced investigations at the Fund on 11<sup>th</sup> December 2015 and the reports of the investigations are still being awaited.
12. Following the suspension of the Ag. CEO and the Finance Manager, the Fund sought bank statements for the accounts held at Chase Bank but the statements were not availed. Eventually the statements that were availed had erroneous cash deposits. The Fund then wrote to the Banking Supervision Unit at the Central Bank of Kenya on 20<sup>th</sup> November, 2015 protesting against the significant misinformation by Chase Bank and requesting the CBK to compel Chase Bank to furnish it with correct and up to date bank statements. **(Annexure 29)**
13. In order to safeguard the Fund's money, on 1<sup>st</sup> December 2015, the YEDF Board adopted the recommendation of the Board's Audit Committee to transfer funds amounting to Kshs. 102,297,489.45 held in the call deposit account at Chase Bank to the development account held by the Fund at Kenya Commercial Bank.
14. The Fund had earlier transferred Kshs. 120 million from the call deposit account at Chase Bank to the Funds operational account at Kenya Commercial Bank.

15. Since the suspension of the Acting CEO, the YEDF management reviewed the relevant financial and procurement documentation and confirmed that: -
- (a) The payment for the alleged consultancy services rendered by Quorandum Ltd did not comply with the Public Procurement and Disposal Act 2005 and Regulations 2006;
  - (b) There is no evidence that the Board discussed, tendered or authorized the procurement of the services to develop an ICT strategy and ERP System for the Fund. The alleged consultancy service was not planned for, nor authorized by the Board; and
  - (c) There was no tender committee meeting and tender minutes which approved such a service.

**Measures taken to guard against future loss of funds**

16. On 6<sup>th</sup> January, 2016, the Office of the Auditor General commenced a special audit of YEDF. The audit is still ongoing.
17. The Ministry has instructed the Fund to instruct their bankers that any communication regarding change in bank signatories must be accompanied by certified Board minutes.
18. On 2<sup>nd</sup> January 2016, the Ministry invited the Inspectorate of State Corporations to carry out a comprehensive management audit of the YEDF Board and recommend the way forward especially in regard to the procedural and governance challenges the Board seemed to be facing.
19. The Inspectorate of State Corporations, from their preliminary inquiries had recommended that the Board Directors were required to step aside to pave way for further investigations. She subsequently directed that the Chairperson and the Board Directors be barred from transacting any business or accessing the Fund facilities to pave way for investigations. The Ag. CEO was further instructed to stop all payments to the Board Chair and its Members. **(Annexure 30)**
20. The CS advised the Ag. CEO Mr. Emmanuel Odero to procedurally suspend the Finance Manager as per the Board resolution of 23<sup>rd</sup> October 2015. This action nullified the irregular suspension of the Finance Manager.



21. The Committee also heard that the Chairman had tried to unilaterally suspend Mr. Emmanuel Odero as the acting CEO but the CS intervened.
22. The CS also informed the Committee the Fund had an existing ICT Strategy 2013-2017 secured from Microflex Kenya Ltd in 2013 at a cost of approximately Kshs. 5.9 million and there was therefore no need to procure another one.
23. The Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs wrote to the Chief of Staff and Head of Public Service vide letter Ref. MPYG/3/1/6 dated 15<sup>th</sup> April, 2016 requesting for revoking of the appointment of YEDF Board Members pursuant to Section 7 (3) for the State Corporations Act.

### **Committee Observations**

The Committee observed that: -

- (i) The Board Chairman abused his powers by writing a letter instructing the Fund's Finance Manager, Mr. Benedict Atavachi to take compulsory leave. The suspension was therefore unprocedural.
- (ii) The National Treasury did not authorize the opening and operationalization of a bank account in a commercial bank, Chase Bank (K) Ltd in accordance with Public Finance Management Act Section 28 (1) and Treasury Circular No. 10/1992 on investments of surplus funds in Treasury bills and Treasury bonds.
- (iii) The Fund has an existing ICT Strategy 2013-2017 secured from Microflex Kenya Ltd in 2013 at a cost of Kshs. 5.9 million and there was therefore no need to procure another one.
- (iv) Payment for the consultancy services purportedly rendered to the Fund was blatant theft and abuse of office in breach of the Public Procurement and Disposal Act, the Public Finance Management Act, 2012 and the Public Finance (National Government) Regulations 2015.
- (v) The Chairman of the Fund, Mr. Bruce Odhiambo who was a non-executive Board Chairman, was irregularly assigned a Government vehicle by the Fund contrary to State Corporations Regulations on Terms and Conditions for Chairmen and Directors of State Corporations which require that actual transport expenses may be reimbursed

based on actual mileage at prevailing AA rates when they use personal cars on Board business.

- (vi) The Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs wrote to the Chief of Staff and Head of Public Service vide letter Ref. MPYG/3/1/6 dated 15<sup>th</sup> February, 2016 requesting for revoking of the appointment of YEDF Board Chairman Mr. Bruce Odhiambo pursuant to Section 7 (3) of the State Corporations Act.
- (vii) His Excellency the President vide gazette notice dated 15<sup>th</sup> April 2016 revoked that appointment of Mr. Bruce Odhiambo as the Chairman of YEDF and disbanded the entire Board of YEDF.
- (viii) It is evident that the Order establishing the Fund under Regulation 12(2) allows the Board to deposit funds not immediately required for immediate use with such banks as the Board may consider. This provision is however superseded by section 6(e) Public Finance Management Act that states that PFM Act prevails on banking arrangements, including opening of bank accounts and investment of moneys.

### **3.4.2 Evidence by Mr. Titus Muriithi, Ag. Inspector General of State Corporations**

**Mr. Titus Muriithi, the Ag. Inspector General of State Corporations accompanied by Mr. David Gichohi, the Senior Assistant Inspector General of State Corporations appeared before the Committee on 10<sup>th</sup> March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT—

#### **Adherence of State Corporations to Treasury Circular No. 10 of 1992 on Investment of Funds in Treasury Bills and Bonds**

1. The Treasury circular no. 10 of 1992 on Financial Management of State Corporations directed that all surplus funds of State Corporations must, without fail be invested in Treasury Bills and Treasury Bonds. This was necessitated by the deregulation of interest rates in 1991, and the fact that Treasury Bills and Treasury Bonds provide absolute security. All State Corporations are required to comply and also obtain specific approval of their Board of Directors before submitting investment proposals to the National Treasury. (**Annexure 31**)

2. On 29<sup>th</sup> November 2002, the National Treasury issued circular No. 12/2002 reiterating the requirement on investment of surplus funds in Treasury Bills and Bonds or seeking approval from Treasury to invest such funds in commercial banks. The circular further required State Corporations to submit to the National Treasury returns on all balances held in Treasury Bills and Bonds, commercial banks, financial institutions and all other institutions on a quarterly basis. (**Annexure 32**)
3. Order No. 63 of the Youth Enterprise Development Fund Order 2007 requires that the Fund obtains Treasury approval for investment of surplus funds. With regards to the investment amounting to Kshs. 400 Million, the Fund did not adhere to the requirements of the two aforementioned circulars and its enabling instrument.

#### **Policy on Appointment and Suspension of Officers and Staff of State Corporations and Benefits Payable to Such Officers in Event of Suspension**

4. Recruitment of staff should be competitively carried out in State Corporations by the Board of Directors. This is provided for under the *Guidelines on Terms and Conditions of Service for State Corporations' Chief Executive Officers, Chairmen and Board Members, Management Staff and Unionisable Staff* of 23<sup>rd</sup> November, 2014.
5. With regards to disciplinary matters in State Corporations, the Board is responsible for the suspension of staff. However, the Board may delegate the recruitment and disciplinary matters of low cadre staff to management.
6. The benefits payable to a suspended staff is specified in the suspension clause contained in the *Human Resource Policies and Procedures Manual* of the respective State Corporation. In the case of the Youth Enterprise Development Fund, the suspension clause provides that an employee on suspension is entitled to house allowance and inpatient medical cover.

#### **The Role of the Board Chairman in the running of YEDF Board Affairs**

7. The Board is responsible for the appointment and removal of the CEO as per Section 5 (3) of the State Corporations Act. In this regard, the disciplinary process of a CEO is vested in the Board of Directors. In the event that the Board suspends a CEO, an Acting CEO is expected to be appointed to perform the duties of the office.

8. In the case of Ms. Catherine A. Namuye, the immediate suspended Ag. CEO and Mr. Benedict Atavachi, the Finance Manager, the Board vide minute Min.2/SBM/23/10/2015 of 23<sup>rd</sup> October, 2015 resolved that the Ag. CEO and the Finance Manager be suspended to facilitate investigations into the irregular transfer of Kshs. 180 Million from the Youth Enterprise Development Fund Investment account held in Chase Bank to Quorandum Ltd
9. The Chairman vide a letter (REF YEDFB/CEO/377/2015) dated 23<sup>rd</sup> October, 2015 directed the Ag. CEO Ms. Namuye and the Finance Manager, Mr. Atavachi to proceed on leave until further notice. In the same meeting, the Board appointed a new acting CEO, Mr. Emmanuel Odero.
10. The Chairman unilaterally varied the Board's decision to suspend Ms. Namuye and Mr. Atavachi and instead wrote letters asking the two to proceed on leave. The Chairman had the mandate to write to the Ag. CEO despite the content of the letter, but the letter to the Finance Manager should have been written by the newly appointed Ag. CEO.
11. The new Ag. CEO issued another letter to the Finance Manager (REF YEDFB/CEO/591/2015) dated 17<sup>th</sup> November, 2015 informing him that he had been suspended with effect from 23<sup>rd</sup> October, 2015. The action by the Ag. CEO regularized the suspension as per the Board resolution.

### **Status of the Inspectorate's Investigation into Misappropriation of Funds at the Youth Enterprise Development Fund**

12. The Inspector General of Corporations vide letter dated 15<sup>th</sup> February, 2016 constituted a team of inspectors to conduct a management audit at Youth Enterprise Development Fund. The team's terms of reference included examination of policies and practices relating to human resources, procurement, financial management and any other pertinent issue relating to the affairs of the Fund.

### **Qualifications of Board Chairman and Members**

13. The State Corporations Act does not provide the qualifications required of a Chairman of a State Corporation. However, the *Mwongozo Code of Governance for State Corporations* offers guidelines on the same. The Chairmen are entitled to a monthly honorarium of Kshs 80,000, a

sitting allowance of Kshs. 20,000 per sitting, out-of-station accommodation allowance of Kshs 18,200 per day, accident cover worth Kshs. 2,000,000 and lunch allowance during meetings of Kshs. 2,000 per day. They are also entitled to a telephone(landline), airtime allowance and mileage reimbursement in the event that they are not provided an official vehicle. In the event that a Chairman irregularly allocates himself allowances and/or facilities not provided for, they can be surcharged to recover the cost.

14. The Inspectorate of State Corporations is handicapped in the execution of its mandate due to budgetary constraints and staff shortage. The Inspectorate has 15 Inspectors handling more than 300 State Corporations.
15. The Inspectorate produced reports on the management of the Youth Enterprise Development Fund in 2009, 2013 and 2016. Both reports had glaring issues related to mismanagement of the Fund.

### **Committee Observations and Findings**

The Committee observed that: -

- (i) The Youth Enterprise Development Fund did not adhere to the requirements of National Treasury Circulars No. 10 of 1992 and subsequent Circular No. 12/2002 on investment of surplus funds in Treasury Bills and Treasury Bonds.
- (ii) The former YEDF Chairman, Mr. Bruce Odhiambo unilaterally varied the Board's decision to suspend the Ag. CEO Ms. Catherine A. Namuye and the Finance Manager, Mr. Benedict Atavachi and instead directed the two to proceed on compulsory leave.
- (iii) The letter by Mr. Bruce Odhiambo, former YEDF Chairman directing Mr. Benedict Atavachi, the Fund's Finance Manager to proceed on leave was unprocedural thus he acted in abuse of office. Any such letter should have been written by the newly appointed Ag. CEO.
- (iv) The incoming Ag. CEO Mr. Emmanuel Odera issued another letter to the Finance Manager (REF YEDFB/CEO/591/2015) dated 17<sup>th</sup> November, 2015 informing him that he had been suspended with effect from 23rd October, 2015. The action by the new Ag. CEO regularized the suspension as per the Board resolution.

- (v) The suspension clause of the Youth Enterprise Development Fund's *Human Resource Policies and Procedures Manual* provides that an employee on suspension is entitled to house and medical allowances only.
- (vi) The State Corporations Act does not provide the qualifications required of a Chairman of a State Corporation. However, the *Mwongozo Code of Governance for State Corporations* offers guidelines on the same.
- (vii) The Chairmen of State Corporations are also entitled to a monthly honorarium of Kshs 80,000, a sitting allowance of Kshs. 20,000 per sitting, out-of-station accommodation allowance of Kshs 18,200 per day, accident cover worth Kshs. 2,000,000 and lunch allowance during meetings of Kshs. 2,000 per day. They also get a landline phone, airtime allowance and mileage reimbursement in the event that they are not provided official vehicle. In the event that a Chairman irregularly allocates himself allowances and/or facilities not provided for, he/she can be surcharged to recover the cost.

### **3.4.3 Evidence by Mr. Simon Indimuli, Head of Governance, SCAC**

**Mr. Simon Indimuli, the Head of Governance at the State Corporations Advisory Committee accompanied by Mr. Christopher Ombega and Ms. Jane Mugambi, the former Secretary to the Committee, appeared before the Committee on 22nd March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT—

#### **On Adherence of State Corporations to Treasury Circular No. 10 of 1992 on Investment of Funds in Treasury Bills and Bonds**

1. Treasury Circular no. 10 of 1992 on Financial Management of State Corporations directed that all surplus funds of State Corporations must, without fail be invested in Treasury Bills and Treasury Bonds. This was necessitated by the deregulation of interest rates in 1991, and the fact that Treasury Bills and Treasury Bonds provide absolute security. All State Corporations are required to comply and also obtain specific approval of their Board of Directors before submitting investment proposals to Treasury.

2. On 29<sup>th</sup> November 2002, Treasury issued another Circular No. 12/2002 reiterating the requirement on investment of surplus funds in Treasury Bills and Bonds or seeking approval from Treasury to invest such funds in commercial banks.
3. Section 12 of the Youth Enterprise Development Fund Order 2007 requires that the Fund obtains Treasury approval for investment of surplus funds. With regard to the investment amounting to Kshs. 400 Million, the Fund blatantly ignored the requirements of the two circulars.

**Policy on Appointment and Suspension of Officers and Staff of State Corporations and Benefits Payable to Such Officers in Event of Suspension**

4. Section 5 (3) of the State Corporations Act provides that a State Corporation may engage and employ such number of staff, on such terms and conditions as the Cabinet Secretary may approve, in consultation with the State Corporations Advisory Committee.
5. With regards to disciplinary matters in State Corporations, the Board is responsible for the suspension of staff. However, the Board may delegate the recruitment and disciplinary matters of low cadre staff to management.
6. The benefits payable to a suspended staff is specified in the suspension clause contained in the *Human Resource Policies and Procedures Manual* of the respective State Corporation. In the case of the Youth Enterprise Development Fund, the suspension clause provides that an employee on suspension is entitled to house and medical allowances but no basic salary.

**The Role of the Board Chairman in the running of YEDF Affairs**

7. The Board is responsible for the appointment and removal of the CEO as per Section 5 (3) of the State Corporations Act. In this regard, the disciplinary process of a CEO is vested in the Board of Directors, In the event that the Board suspends a CEO, an acting CEO is expected to be appointed to perform the duties of the office.
8. Board Chairmen in State Corporations are non-executive and their role as provided for under Section 8 (1) of the State Corporations Act is to preside over meetings and provide overall leadership of the Board. With regards to signing employment contracts, disciplinary and other Human Resource related matters in respect of the CEO, the Board Chairman is required to execute Board decisions by signing relevant documents.

9. In the case of Ms. Catherine A. Namuye, the suspended Ag. CEO and Mr. Benedict Atavachi, the Finance Manager, the Board vide minute Min.2/SBM/23/10/2015 resolved that the Ag. CEO and the Finance Manager be suspended to facilitate investigations into the irregular transfer of Kshs. 180.0 Million from the Youth Enterprise Development Fund Investment account held in Chase Bank to Quorandum Ltd
10. The Chairman vide a letter (REF YEDFB/CEO/377/2015) dated 23<sup>rd</sup> October, 2015 directed the Ag. CEO Ms. Namuye and the Finance Manager, Mr. Atavachi to proceed on leave until further notice. At the same meeting, the Board appointed a new acting CEO.
11. The Chairman then wrote letters asking the two officials of the Fund to proceed on leave. The Chairman had the mandate to write to the Ag. CEO but the letter to the Finance Manager should have been written by the newly appointed Ag. CEO.
12. The Presidential Taskforce on Parastatal Reforms recommended the merging of the Youth Fund, Women Fund, Uwezo Fund and the Kenya Industrial Estates to pool their resources together, which amounted to Kshs. 20 Billion in 2014/2015.

### **Good Governance in State Corporations**

13. The State Corporations Advisory Committee has partnered with the Public Service Commission and developed a code of conduct commonly referred to as '*Mwongozo* Code of Governance for State Corporations' that seeks to entrench good corporate governance practices in affairs of State Corporations.
14. Some of the salient features of *Mwongozo* relevant in this matter are:
  - i. *Board Operations*: The Board is required to exercise its role collectively and not individually. The Chairman of YEDF was therefore out of order in the matter of bank signing instructions by purporting to exercise his powers without the requisite resolution of the Board.
  - ii. *Role of Chairperson*: The YEDF Chairperson is non-executive since *Mwongozo* proscribes any form of executive powers for Board Chairpersons in State Corporations. Instances of the Fund's Chairperson exercising executive powers such as signing of work tickets and disciplinary letters are out rightly in contravention of *Mwongozo*.



- iii. *Role of Chief Executive Officer:* The Chief Executive Officer's role is very critical and it is therefore desirable to have a substantive CEO and not an acting one at all times. The YEDF Board however did not bother to have the post filled substantively since 2010.
- iv. *Role of Corporation Secretary:* *Mwongozo* requires each Board to hire the services of a Corporation Secretary whose overall duty is to provide guidance to the Board on their duties and responsibilities and on matters of governance. The Board of YEDF has yet to implement this even as glaring malpractices continue to manifest in Board operations.

### **Committee Observations and Findings**

The Committee observed THAT–

- (i) The Youth Enterprise Development Fund should not be having any surplus funds given the demand by Kenyan youth for such funds. The amounts should have been disbursed and not kept in a fixed deposit account.
- (ii) The YEDF Board Members including the alternate Board Members representing the Principal Secretaries for the National Treasury and the Principal Secretary, State Department responsible for Youth Affairs should be held collectively responsible for the loss of funds and personally responsible for any omission or commission as Board members.
- (iii) The recommendation of the Presidential Taskforce on Parastatal Reforms on the merger of the YEDF, Women Fund, Uwezo Fund, Micro and Small Enterprises Authority and the Kenya Industrial Estates into one government agency has taken inordinately long to implement.

#### **3.4.4 Evidence by Mr. Joseph Kinyua, Chief of Staff and Head of Public Service**

**Mr. Joseph Kinyua, the Chief of Staff and Head of Public Service accompanied by Ms. Lillian Mbogo-Omollo (Principal Secretary, Ministry of Public Service, Youth and Gender Affairs), Mr. Titus Muriithi (Ag. Inspector General of State Corporations), Mr. Stephen**

**Kirogo (Principal Administrative Secretary in the Presidency) and Mr. Jasper Mbiuki (Legal Advisor to the Head of Public Service) appeared before the Committee on 12<sup>th</sup> April, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT–

**Adherence of State Corporations to Treasury Circular No. 10 of 1992 on Investment of Funds in Treasury Bills and Bonds**

1. The National Treasury has from time to time issued circulars directing State Corporations to invest surplus funds in Treasury Bills and Bonds and in case of investment in fixed short term or on-call deposits in commercial banks, to obtain National Treasury’s approval for such deposits.
2. Further, in accordance with Section 28 of the Public Finance Management Act, State Corporations should obtain the National Treasury’s approval to open and operate bank accounts in commercial banks.
3. The National Treasury receives and considers requests by State Corporations with regards to opening bank accounts and investment of surplus funds and provides guidance to state corporations to ensure adherence to the existing policy as contained in the National Treasury Circulars. On a case by case basis, the National Treasury has granted approval to State Corporations to invest surplus funds or committed funds in fixed/short-term/on-call deposits in commercial banks to meet contractual obligations as they mature in a case where investment in treasury bills/bonds would tie the funds beyond such due dates.
4. With regard to the Youth Enterprise Development Fund (YEDF), the National Treasury has advised that **there were no surplus funds as per the audited financial statements for the Financial Year ended June 30<sup>th</sup>, 2014**. The only funds available were those appropriated to the Fund for disbursement to the youth as per the mandate of the Fund.
5. In accordance with the enabling Legal Notice 63/2007 Section 12(1) the Board may invest any funds of the Youth Enterprise Development Fund which are not immediately required for its purpose in securities as the National Treasury may from time to time. The National Treasury has advised that there was no request from the Fund and therefore no such approval

by the National Treasury.

6. In accordance with Section 16(2), the State Corporation Act, any surplus money after making provision for renewal of depreciating assets, the surplus monies shall be disposed of in such manner as the Minister responsible for the State Corporation in consultation with the Board may in writing direct. The **Board and management of the Fund did not obtain approval from the responsible Minister with the concurrence of the National Treasury** to invest the YEDF's funds in fixed/short-term/on-call deposits in commercial banks.

#### **Increased Investment of State Corporations' Surplus Funds in Private Banks Contrary to Treasury Circular No. 10 of 1992**

7. On a case by case basis, the National Treasury has granted approval for State Corporations to invest surplus funds or committed funds in fixed deposits in commercial banks to meet the maturing contractual obligations in cases where investment in Treasury Bills/Bonds would tie the funds beyond such due dates.
8. In granting such approval, the National Treasury has always advised respective State Corporations to undertake proper due diligence to ensure security of investment in fixed deposit in commercial banks is guaranteed and that the rate of return offered by financial institutions are better than the return on Treasury Bills or Bonds.
9. Not all surplus funds are invested in fixed deposit accounts in commercial banks. Under Section 16 (3) of the State Corporations Act, the National Treasury is empowered to recall surplus funds from State Corporations. Accordingly, the National Treasury has from time to time recalled surplus funds from non-listed State Corporations that do not declare and pay dividend to the National Exchequer. The recalled surplus funds are budgeted annually and appropriated by the National Assembly to finance the national budget.
10. In accordance with Public Finance Management (PFM) Regulations 2015 issued under the PFM Act (2012), Section 219 (2), regulatory authorities are required to remit surplus funds into the audited financial statements after the end of each financial year.
11. On the basis of the above provisions, the Cabinet Secretary to the National Treasury assigned the Kenya Revenue Authority the responsibility of collecting 90% of the surplus funds and any arrears therein held by regulatory authorities.

## **Procedural and Governance Challenges Facing the Youth Enterprise Development Fund**

- 12.** Based on the reports from oversight bodies, there are procedural and governance challenges facing the Youth Enterprise Development Fund such as:
- i. Opening bank accounts and investing in commercial banks without approval of the National Treasury contrary to Section 28 of the Public Finance Management Act 2012;
  - ii. Unilateral appointment of the CEO by the Chairman to be the sole signatory to the Fund's fixed deposit account;
  - iii. Operating without an approved procurement plan for the 2015/16 Financial Year contrary to Section 20 (5) of Public Procurement and Disposal Regulations 2006.

### **Interference of the former YEDF Board Chairman in the day-to-day YEDF management affairs**

- 13.** According to Section 6 (1) (a) of the State Corporations Act, a chairman of a State Corporation is non-executive. This is reiterated by Circular Ref. No. PMO/CIRC/A (3) of April 2011 clearly stating the role of Chairmen in State Corporations is non-executive and therefore they should not involve themselves in the day to day management of affairs of State Corporations which would amount to interfering and directing the CEO and Senior Managers on operational matters.
- 14.** The duties and responsibilities of the Chairman are provided for by the Guidelines on Terms and Conditions of Service for State Corporations of November 23<sup>rd</sup>, 2014. The duties and responsibilities include monitoring the implementation of board decisions, acting as an informal link and provide a public relations role between the Board, management and the stakeholder of the Corporation.
- 15.** There was a Board decision to suspend Ms. Catherine A. Namuye, former Ag. CEO and Mr. Benedict Atavachi, the Finance Manager. The Board Chairman communicated the resolution of the Board to the two.

### **Further, THAT–**

- 16.** The delay to implement recommendations by the CS, Ministry of Public Service, Youth and Gender Affairs to remove the Chairman was occasioned by his unavailability as he was out

of the country. He then required medical attention once he got back to the country.

17. There are plans by the Government to surcharge individuals who irregularly spent public funds and recover the lost funds.
18. The Government is in the process of constituting Board of the State Corporations Advisory Committee and Central Bank Kenya, among others. The Head of Public Service acknowledged that the delay in appointing the Boards was not ideal for the operations of State Corporations.
19. He denied any knowledge of Mr. Bruce Odhiambo holding more than one government position, i.e., Chairman of YEDF.
20. The Government will look into the possibility of establishing a Trust Liability Fund that will act as a recourse for the Government in the event public funds are misappropriated by public officials.
21. The Government will compile a report on the number of State Corporations that held accounts at Chase Bank (K) Ltd, Imperial Bank (K) Ltd and Dubai Bank (K) Ltd at the time of receivership. He will submit the information to the Committee.
22. Action will be taken on the Alternates to Principal Secretaries of the State Department of Planning and the National Treasury respectively who sat in the YEDF Board and failed to advise or raise the red flag on issues affecting the Fund.
23. The Head of Public Service was agreeable to a proposal to have law enforcement agencies seconded to the Committee so as to take action when deemed necessary.
24. Before the *Mwongozo* Code of Governance for State Corporations, Directors of various boards, YEDF included, may not have benefited from induction on what is expected of them as Chairpersons and Directors of their respective Boards. Further, qualifications of Directors were not well defined but they have since been defined and that the minimum qualification for appointment as Chairman or Board Member, is a Bachelors Degree.
25. He also undertook to strengthen the office of the Inspectorate of State Corporations to effectively carry out its mandate.

## Committee Observations and Findings

The Committee observed THAT–

- (i) Mr. Bruce Odhiambo, former Chairman of the Fund, who was a non-executive Board Chairman, was irregularly assigned a Government vehicle by the Fund contrary to State Corporations Regulations on Terms and Conditions for Chairmen and Directors of State Corporations which require that actual transport expenses may be reimbursed based on actual mileage at prevailing Automobile Association (AA) rates when they use personal cars on Board business.
- (ii) His Excellency the President revoked the appointment of the Chairperson and the entire Board of the Youth Enterprise Development Fund as per gazette notices dated 15<sup>th</sup> April, 2016. This was after the Committee made a public pronouncement on the urgent need to revoke the appointment of Mr. Bruce Odhiambo as Chairman of YEDF and to disband the entire Board. (**Annexure 33**)
- (iii) The issue of public officers ‘stepping aside’ is not defined by the Public Service Commission and as such, is not clear on the benefits and remunerations due to such officers;
- (iv) The Committee noted that the Circular dated 18<sup>th</sup> July, 2007 issued by the former Head of Civil Service, Ambassador Francis Muthaura, barring the Inspectorate of State Corporations from sitting in Board meetings of State Corporations unless invited by the Board is in contravention of Section 18 (2) (c) of State Corporations Act which gives the Inspectorate the mandate to attend Board meetings as deemed necessary.
- (v) Before the *Mwongozo* Code of Governance for State Corporations, Directors of various boards, YEDF included, may not have benefited from induction on what is expected of them as Chairpersons and Directors of their respective Boards. Further, qualifications of Directors were not well defined but they have since been defined and that the minimum qualification for appointment as Chairman or Board Member, is a Bachelors Degree.
- (vi) Lack of defined minimum academic qualifications and experience contributed to the ineptitude and ineffectiveness of the disbanded YEDF Board in running the affairs of the Fund.

### **3.4.5 Evidence by Mr. Halakhe Waqo, CEO, Ethics and Anti-Corruption Commission**

Mr. Halakhe Waqo, Secretary/CEO, Ethics and Anti-Corruption Commission, submitted the position of the Commission in writing, Ref. EACC.6/43(116) dated 5<sup>th</sup> April, 2016.

He submitted THAT–

1. The Commission received a complaint on the matter through a letter Ref: MDP/1/SEC/9/9 dated 4<sup>th</sup> November, 2015 from the then Principal Secretary, Ministry of Devolution and Planning, State Department of Planning, Eng. Peter Mangiti.
2. The allegation was that the CEO of the YEDF, Ms. Catherine A. Namuye in collusion with Board Members, schemed to defraud the Fund Kshs. 180.9 million between February and April 2015.
3. The Commission commenced investigations into the above allegations in November, 2015. So far, the investigation team has recorded statements from witnesses, suspects and obtained documents from the YEDF and other organisations involved in subject transaction.
4. The possible offences which the Commission is investigating include: -
  - i. Conspiracy to defraud contrary to Section 317 of the Penal Code;
  - ii. Abuse of office contrary to Section 46 as read together with Section 48 of the Anti-Corruption and Economic Crimes Act, No.3 of 2003;
  - iii. Fraudulent acquisition of Public Property Contrary to Section 45 (1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act, Cap 65 of the Laws of Kenya;
  - iv. Forgery contrary to Section 345 as read with Section 349 of the Penal Code;
  - v. Making of a forged document;
  - vi. Uttering of a forged document contrary to Section 353 as read with Section 349 of the Penal Code.
5. The Commission's investigations are at an advanced stage and once completed, the Inquiry File will be forwarded to the Director of Public Prosecutions for further action.

### **Committee Observation**

The Committee observed that the Commission has taken inordinately long to conclude investigations into the matter of mismanagement of funds at the Youth Enterprise Development Fund, considering that it was seized of the matter in November 2015.

### **3.4.6 Evidence by the Commissioner General, Kenya Revenue Authority**

The Office of the Commissioner General submitted the position of the Kenya Revenue Authority in writing. (**Annexure 34**)

He submitted THAT—

#### **Background**

1. Quorandum Ltd was established in 2002 to offer construction, telecommunication and ICT consultancy services as per the information contained in the i-tax portal. The tax obligations registered in the i-tax system include Corporation Tax, Value Added Tax, Pay As You Earn and Withholding Tax.
2. The Company registered for PIN (P051147491T) and VAT (0126104W) in 2002.

#### **Compliance History**

3. Quorandum Ltd filing patterns for self-assessments show that they have submitted Income Tax returns for all years from 2002 to 2014 save for the fact that they have either registered losses and have been in credit all through. However, the return for 2015 is due in June 2016. The Company is compiling its VAT returns up to February 2016.
4. The payment of VAT from Kshs. 180 million received by them from YEDF in 2015 will be reflected in their 2015 Income Tax Return which is due in June 2016. However, the Company is required by law under Section 12(1) of Income Tax Act to pay instalments taxes which they have failed to remit.
5. According to the information available in the VAT System, the Company has submitted all the VAT Monthly returns for the year 2015 with declarations made for the amounts totalling Kshs. 182 million.
6. KRA is currently carrying out investigations to establish whether correct taxes were remitted, given that they have been in business since 2002 and have been paying minimal taxes.



## **Committee Observation**

The Committee observed that since the payment of VAT from Kshs. 180 million received by Quorandum Ltd from YEDF in 2015 will be reflected in its 2015 income tax returns due in June 2016, KRA is urged to monitor and take appropriate action.

### **3.4.7 Evidence by Mr. Ndegwa Muhoro, Director of Criminal Investigations**

Mr. Ndegwa Muhoro, Director of Criminal Investigations, in his written submission to the Committee, Ref. CID/SEC/12/4/VOL.XIX dated 6<sup>th</sup> April, 2016. **(Annexure 35)**

He submitted THAT–

1. The Chairman, Youth Enterprise Development Fund Board through his letter Ref. YEDFB/CEO/378/2015 dated 23<sup>rd</sup> October, 2015 reported questionable transactions in the Fund's investment account in Chase Bank.
2. He attached two letters allegedly signed by the CEO, Catherine A. Namuye for internal transfer of a total of Kshs. 180,894,984 from the YEDF Account to Quorandum Ltd account in Chase Bank.
3. The YEDF had earlier directed the management to develop a policy for the investment of money which was not required immediately. It further guided that such money should be invested in a call deposit account in one of the top 20 banks accredited by Central Bank of Kenya that would offer the highest interest rate. This was in accordance with Section 12 (2) of State Corporations Act Cap 446 Law of Kenya, which states that “the Board may place on call deposit with such bank or banks as it may determine, any money not immediately required for the purposes of the Board.” The YEDF Management invested in Chase Bank, which offered the highest interest rate.
4. Kshs. 400 million was rolled over from a previous investment and placed in a call deposit on 4<sup>th</sup> February, 2015 in Chase Bank after the audit committee compared quotations from other banks. The signatories to the account were the CEO Catherine A. Namuye, Judy Kimeto – Lending and Investment Manager, Mr. Benedict Atavachi – Finance Manager, Robert Mrima – Senior Accountant and Benson Mutwii – Accountant.

5. Documents obtained from Chase Bank indicates that on 23<sup>rd</sup> February, 2015 YEDF rolled over Kshs. 402,095,890.40 from a previous call deposit, which had matured, to a new call deposit. This was assigned account No. 0017054604027.
6. The same day, YEDF transferred Kshs. 115, 710,000 to account No. 0052075584001 in the name of Quorandum Ltd in the same bank leaving a balance of Kshs. 286,385,890.55
7. On 20<sup>th</sup> February, 2015, YEDF made a new deposit booking for Kshs. 219,815,054 and transferred Kshs. 64,654,789 to the account of Quorandum Ltd;
8. On 6<sup>th</sup> June, 2015, the account received a profit of Kshs. 3,857,302.50 on the deposit upon maturity and the deposit was withdrawn and reflected on the account totalling Kshs. 223,093,851.85.
9. On 17<sup>th</sup> June 2015, there was a cash deposit of Kshs. 2,687,594, bringing the balance to Kshs. 225, 781,445.85. The following day, cash Kshs. 5,966,301.35 was paid out leaving a balance of Kshs. 99,814,544.50.
10. On 13<sup>th</sup> July, 2015, Kshs. 120,000,000 was transferred to KCB account of YEDF leaving a balance of Kshs. 99,814,544.50.
11. On 12<sup>th</sup> August, 2015, Kshs. 99,814,044.50 was placed under call deposit leaving nil balance and on 14<sup>th</sup> August, 2015, the account received two internal account transfers totalling Kshs. 3,322,388.85.
12. On 16<sup>th</sup> September 2015, the account was credited with Kshs. 1,365,948.35 as profit for the deposit. The deposit was withdrawn and credited to the account, making a closing balance of Kshs. 104,297,489.45.

#### **Quorandum Ltd transactions**

13. Quorandum Ltd account was opened in September 2014. By 23<sup>rd</sup> February, 2015, it had a balance of Kshs. 571.25 when it received Kshs. 115,710,000 from YEDF. There were several withdrawals and transfers from the account.
14. On 4<sup>th</sup> May, 2015, the account received another amount of Kshs. 64,654,789 from YEDF and as at 10<sup>th</sup> November 2015, the account had a balance of Kshs. 1,184,326.75. This amount was preserved through a court order upon DCI application.

15. The following transfers through RTGS were made from the account of Quorandum Ltd in Chase Bank to account no. 0102497392600 in the name of Quorandum Ltd in Standard Chartered Bank: -

	<b>Date</b>	<b>Amount (Kshs.)</b>
i.	26 <sup>th</sup> February, 2015	4,800,000
ii.	5 <sup>th</sup> March, 2015	4,600,000
iii.	12 <sup>th</sup> March, 2015	4,700,000
iv.	24 <sup>th</sup> March, 2015	4,500,000
v.	10 <sup>th</sup> April, 2015	3,500,000
vi.	12 <sup>th</sup> May, 2015	6,800,000
vii.	19 <sup>th</sup> May, 2015	8,000,000
viii.	6 <sup>th</sup> August, 2015	3,000,000
ix.	14 <sup>th</sup> October, 2015	2,000,000
	<b>TOTAL</b>	<b>41,900,000</b>

16. On 12<sup>th</sup> March, 2015, Kshs. 3,000,000 was transferred through RTGS from the account of Quorandum Ltd in Chase Bank to account No. 1250262956474 in Equity Bank in the name of GigSavvy Plus Ltd
17. The following transfers through RTGS were also made from the account of Quorandum Ltd in Chase Bank to Acc. 0030081198210 in the name of **Duchess Park Development Company Ltd in I&M Bank.**

	<b>Date</b>	<b>Amount (Kshs.)</b>
i.	30 <sup>th</sup> March, 2015	8,000,000
ii.	2 <sup>nd</sup> April, 2015	8,100,000
iii.	10 <sup>th</sup> April, 2015	10,000,000
iv.	16 <sup>th</sup> April, 2015	11,200,000

	<b>Date</b>	<b>Amount (Kshs.)</b>
v.	24 <sup>th</sup> April, 2015	11,200,000
	<b>TOTAL</b>	<b>48,500,000</b>

**18. Other transactions: -**

	<b>Date</b>	<b>Amount (Kshs.)</b>	<b>Account No.</b>	<b>Beneficiary</b>	<b>Bank</b>
i.	2 <sup>nd</sup> April, 2015	2,246,000	0500439009	Dilshad S. Mohammed	Diamond Trust Bank
ii.	10 <sup>th</sup> April, 2015	1,500,000	1154048411	GigTych Africa Ltd	Kenya Commercial Bank
iii.	5 <sup>th</sup> May, 2015	880,000	0100193713300	Yogesh Kumar Bhardwaj	Standard Chartered Bank
iv.	5 <sup>th</sup> May, 2015	1,000,000	1134166613	Simis Engineering and Construction Company Ltd	Kenya Commercial Bank
v.	5 <sup>th</sup> May, 2015	1,000,000	112392061	Abdi Mohammed	Kenya Commercial Bank
vi.	5 <sup>th</sup> May, 2015	4,500,000	00400616481211	Rock Plant Kenya Ltd	I & M Bank
vii.	21 <sup>st</sup> May, 2015	8,000,000	070025007332504	Ngigi Mbugua & Advocates	Eco Bank Ltd
viii.	25 <sup>th</sup> May, 2015	10,000,000	070025007332504	Ngigi Mbugua & Advocates	Eco Bank Ltd
	<b>TOTAL</b>	<b>29,126,000</b>			

- 19.** On 13<sup>th</sup> May, 2015, GBP 57,000 was transferred to account No. GB31LOYD3000204014907 in the name of BritCom International Ltd in Deutsche Bank Ag. London for purchase of excavator and breaker vide invoice No. 15409.
- 20.** The case is under active investigation and will be escalated to the Office of the Director of Public Prosecutions and the Director, Asset Recovery Agency upon completion.

## **Investigation Report on the late Simon Mwangi**

21. This case was initially investigated by Diani Police Station but has been taken over the DCI upon learning of it from the media. A team of homicide investigators from the DCI headquarters was instructed to take over the investigations as it is turning up to be a case of interest.
22. The deceased who was aged 33 years at the time of his death, was working as a driver with YEDF.
23. On Saturday, 17<sup>th</sup> October, 2015, the deceased was at Tamarind Hotel, Mombasa where he had driven the YEDF Director, Mr. Clement Ayungo for a seminar that was held at the said hotel.
24. On Sunday, 18<sup>th</sup> October, 2015, at around 2100hrs, the Director, Mr. Ayungo instructed the deceased to drop him and Director Omar Sabra at Tudor Estate and Likoni respectively. Mr. Sabra was therefore dropped at Tudor at around 2130hrs with Mr. Ayungo being dropped at Likoni.
25. Mr. Ayungo instructed Mr. Mwangi to drive on to Diani Kivulini Cottages promising to join him later. The deceased is alleged to have arrived at the said cottages promising to join him later. The deceased is alleged to have arrived at the said cottage at around 2230hrs driving his employer's motor vehicle Registration No KBQ 009D Toyota Hilux Double Cabin. He is said to have been alone at the time.
26. Later, Mr. Ayungo is said to have arrived at Kivulini Cottages at around midnight in a taxi. At the cottage, there was a meeting that was being attended by officials of the Student's Union of Nairobi University (SONU). Amongst those present was Mr. Babu Owino, SONU Chairman. The guests present were about twenty.
27. The revellers are said to have been partying beside the swimming pool at the cottage. The Director states that the deceased joined them at 2000hrs. He talked to the deceased and informed him that he would spend the night at the cottage and leave the following day.
28. He further stated that he retired to his room at around 0300hrs leaving the deceased and other guests at the poolside. At around 0400hrs, the Director alleged that he realized that his cell phone was missing and he decided to check for it at the poolside. He further avers that he

did not find any guest at the poolside when he got there. However, he states that he saw a dark object inside the swimming pool.

29. Upon getting nearer, he realized that it was a human being. He stated that he tried to pull him out of the pool though his efforts did not bear any fruits. He then raised alarm for assistance. He alleges that the other guests responded to his alarm for assistance. It is stated that they subsequently managed to pull out the now unconscious Mwangi out of the pool. They took him to Diani Beach Hospital where he was pronounced dead on arrival.
30. The deceased is said to have been clad in underwear only. His shoes, socks, trouser, shirt, mobile phone, wallet, belt were recovered in the vehicle's front cabin.
31. The guests were all interviewed but nobody claims to have seen the deceased venturing into the swimming pool.
32. A post mortem examination was performed on the body on 20<sup>th</sup> October, 2015 at Aga Khan Hospital. The pathologist attributed the death to have been "consistent with asphyxia due to drowning"
33. An inquest file No. 7/2015 has been opened with regard to this sudden death. Upon completion, it will be escalated to the Office of the Director of Public Prosecutions for advise.
34. The outcome of the investigation will be communicated as appropriate.

### **Committee Observation**

The Committee observed that the Director, Directorate of Criminal Investigations took inordinately long to commence investigations into the alleged fraud at YEDF and only did so following extensive media reports on the matter.

#### **3.4.8 Evidence by Mr. Alex Nandi, CEO, Financial Reporting Centre**

Mr. Alex Nandi, Chief Executive Officer of the Financial Reporting Centre (FRC) submitted the position of the FRC in writing, Ref. FRC/CORR/62/03/2016 dated 31<sup>st</sup> March, 2016.

He submitted THAT—

1. The Principal objective of the Centre as Stipulated by Section 23 of the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA), is to assist in the identification of the proceeds of crime and the combating of money laundering and the financing of terrorism.
2. Without prejudice to this, the FRC makes information collected by it available to investigating authorities, supervisory bodies and any other bodies relevant to facilitate the administration and enforcement of the laws of Kenya. The FRC also ensures compliance with international standards and best practice in anti-money laundering measures.
3. The FRC as the country's financial intelligence unit (FIU) is required to serve as a national Centre for the receipt and analysis of: -
  - a) Suspicious transaction reports; and
  - b) Other information relevant to money laundering, associated predicate offenses and terrorist financing, and for the dissemination of the results of that analysis. The Centre is not an investigatory agency.
4. Information received by the Centre does not necessarily comprise of illegal transactions but they are reported to the FRC by reporting institutions because it is unusual or suspicious from the view point of the reporting institution. To safeguard the interests of innocent parties and to prevent misuse or abuse of information handled by the FRC, both the Proceeds of Crime and Anti-Money Laundering require the safeguarding of information reported to an FIU. On this account, very strict legal and operational safeguards are placed on the information received by the FRC, the handling of that information and the dissemination of reports by FRC.
5. Section 24(b) of the Proceeds of Crime and Anti-Money Laundering Act, 2009 requires the FRC to send information received under the Act to appropriate law enforcement authorities, any intelligence agency or any other appropriate supervisory body for further handling if, having considered the report, the Director has reasonable grounds to suspect that the transaction involves proceeds of crime, money laundering or financing of terrorism.
6. The law places heavy penalties for misuse or wrongful disclosure of information received and handled by the FRC.

7. Further, the Financial Action Taskforce Recommendations (and specifically recommendation No. 29 and its interpretive note) which are the international standards for money laundering, terrorism financing and proliferation of weapons of mass destruction require FIUs to disseminate information and the results of FIUs analysis to relevant competent authorities with designated responsibilities for combating money laundering and/or terrorist financing. In particular, it includes the FIU, the authorities that have the function of investigating and/or prosecuting money laundering, associated predicate offenses and terrorist financing, and seizing/freezing and confiscating criminal assets; authorities receiving reports on cross-border transportation of currency and Bearer Negotiable Instruments (BNIs) and authorities that have AML/CFT supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and Designated Non-Financial Business and Professions (DNFBPs) with AML/CFT requirements.
8. Many suspicious transaction reports (STRs) contain highly confidential information and unproven allegations about private citizens and legal entities, both which could damage the interests or reputations of the subjects mentioned in the STRs, if made public. STR confidentiality is central to the AML/CFT system and is one of the cardinal conditions enabling the participation of reporting institutions. The violation of STR confidentiality constitutes a legal and reputational risk to FRC and may put to question the operational independence of the FRC. This may also be construed as a violation of FATF standards, of which Kenya subscribes.

### **Committee Observations**

The Committee observed THAT –

1. The Centre gave very scanty and unwilling information to the Committee in total disregard and appreciation of the functions of the National Assembly under Article 95(4)(c) on the role of National Assembly *inter alia*; *The National Assembly shall exercise oversight over national revenue and its expenditure*, the role of Parliament being the protector of the Constitution and promoter of good governance.



2. The Centre also is in breach of Article 35 of the Constitution since the matter is a public interest matter that has resulted into substantial loss of funds.
3. Under section 24(a) of the Proceeds of crime and the Anti- Money Laundering, the Centre is obligated to receive, analyse and interpret—
  - a) reports of unusual or suspicious transactions made by reporting institutions pursuant to Section 12 of the Act;
  - b) all reports made under section 44 of the Act
  - c) information disclosed to it pursuant to Section 42 of the Prevention of terrorism Act; and
  - d) any other additional or other information disclosed to it and obtained by it in terms of this Act.

Upon establishing that a transaction is unusual or suspicious, the centre shall report the transaction to the investigative authorities.

4. The Centre did not communicate to the reporting institution- Chase Bank (K) Ltd of any clearance of the transaction on the Quorum Ltd account; FRC did not also table any information to the Committee on any reporting made to the investigative agencies.
5. The Financial Reporting Centre negligently and through its non-action contributed to the loss of Funds at the YEDF and should be held responsible.

#### **3.4.9 Evidence by the Principal Secretary, Ministry of Foreign Affairs and International Trade**

Ms. Lucy Kiruthu on behalf of the Principal Secretary, Ministry of Foreign Affairs and International Trade submitted the position of the Ministry in writing, Ref. MFA/REL.13/28 VOL.89/ (91) dated 12<sup>th</sup> April, 2016. She submitted THAT—

1. The late Mr. Donnie Collins Reeves was born on 11<sup>th</sup> February, 1954 and died on 1<sup>st</sup> April, 2015 at age 61. He could have been having a son by the same names that could be in his 30s.
2. The deceased was an ERP specialist at Enterprise Electronics Corporations (since 1989) and a Data Processing Manager at Enterprise Electronics Corporation which is in the television broadcasting industry.
3. The deceased contacts are as follows: -

Email: [donniecreeves@hotmail.com](mailto:donniecreeves@hotmail.com), [donniecreeves@address.com](mailto:donniecreeves@address.com), [profma42gl@aol.com](mailto:profma42gl@aol.com), [dreeves16@aol.com](mailto:dreeves16@aol.com), [donni@eecradar.com](mailto:donni@eecradar.com)

Address: Last known address since 1999 is 411, Eton Dr. Dothan, Alabama 36305, prior to that, he lived in 102 Wembley CT Dothan, Alabama 36305 in 1998.

USA business contacts locations are 128 S Industrial Boulevard Enterprise AL 36330 and the phone number is 2233473478.

4. There could not have been contact after 1 April 2015 after Mr. Reeves died.

### Committee Observations and Findings

The Committee observed THAT: -

- (i) During his appearance before the Committee, Mr. Mukuria Ngamau gave false information on the particulars of Mr. Donnie Collin Reeves; that he resided in Michigan, USA and that he was in contact with Mr. Reeves.
- (ii) There is no evidence of communication between Mr. Mukuria Ngamau and the late Mr. Reeves who died on 1<sup>st</sup> April, 2015, contrary to the evidence adduced by Mr. Ngamau during his appearance before the Committee.

#### 3.4.10 Evidence by the Registrar of Companies

Ms. Alice Mwendwa, on behalf of the Registrar of Companies in the Office of the Attorney General submitted the position of the Registrar General in writing, Ref. CR13.C dated 13 April, 2016.

She submitted THAT—

#### 1. Quorandum Ltd

Names		Address	Nationality	Shares
Mukuria Ngamau		P. O. Box 21415-00505 Nairobi	Kenyan	80,001
Doreen Waithera Ng'ang'a		P. O. Box 21415-00505 Nairobi	Kenyan	NIL
<b>Non-Director Shareholders</b>				

Wanjiku Ngamau	Tabitha	P. O. Box 21415- 00505 Nairobi	1
<b>TOTAL</b>			<b>80,002</b>

The registered office is LR: 1870/1/138 Peponi Road, Westlands, P. O. Box 14843-00800, Nairobi.

## 2. K-SUSU International Ltd

According to the Company, records as at incorporation (no annual returns filed), the names of the directors/shareholders are as follows:

Names	Description	Address	Nationality	Ordinary Shares
Winny Chepkorir	Director	P.O.BOX 50232- 00100, Nairobi	Kenyan	100
Purity Cherotich	Director	P.O.BOX 50232- 00100, Nairobi	Kenyan	100
Kiprono Yegon Hillary	Director	P.O.BOX 50232- 00100, Nairobi	Kenyan	800
			<b>TOTAL</b>	<b>1000</b>

Company was registered on 11 September 2014. The registered office of the Company is situated at LR No. 209/514 Moi Avenue, P. O. Box 50232-00100, Nairobi.

The Company registration number is CPR/2014/160263.

## 2. Gigsavvy Plus Ltd

According to the Company records as at incorporation (no annual returns filed), the names of the directors/shareholders are as follows: -

Names	Description	Address	Nationality	Ordinary Shares
Winny Chepkorir	Director	P.O.BOX 510- 00517, Nairobi	Kenyan	300
Purity Cherotich	Director	P.O.BOX 510- 00517, Nairobi	Kenyan	300
			<b>TOTAL</b>	<b>600</b>

The Company was registered on 29 August 2014. The registered office of the Company is situated at LR No. 209/4 Langata Road, P. O. Box 510-00517, Uhuru Gardens.

The Company's registration number is CPR/2014/158461.

### **3. Gigtych Africa Ltd & Industries D'Amico Ltd**

The above business names/companies do not appear in the Registrar's database of registered businesses/companies.

## **3.5 EVIDENCE BY FORMER MINISTRY OF DEVOLUTION AND PLANNING OFFICIALS**

### **3.5.1 Evidence by Ms. Anne Waiguru, former CS, Ministry of Devolution and Planning**

**Ms. Anne Waiguru, former Cabinet Secretary for Ministry of Devolution and Planning appeared before the Committee on 24<sup>th</sup> March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

She submitted THAT—

#### **The Role of the Ministry of Devolution in Management and Supervision of the Fund to Realize its Objectives**

- 1.** The role of the parent Ministry with regards to State Corporations is defined in the State Corporations Act (1986) and the National Government Coordination Act (2013). The role of the Ministry is general policy formulation and guidance including forwarding the annual budget proposals to Treasury for approval.
- 2.** The Board of the Youth Enterprise Development Fund is responsible for the supervision of the activities of the Fund. The Youth Enterprise Development Order of 2007 mandates the Board to manage and administer the Fund in such a manner as to realize the objects and purposes for which the Fund is established.

3. Section 15 of the State Corporations Act provides that a Board shall be responsible for the proper management of the affairs of a State Corporation and shall be accountable for the monies, the financial business and the management of the State Corporations.
4. The *Mwongozo* Code of Governance for State Corporations provides that the Boards should ensure the development of a policy on risk management which should take into account sustainability, ethics and compliance risks.
5. The Principal Secretary, State Department of Planning represented the Ministry on the Board during the former Cabinet Secretary's tenure in accordance with Section 6 (c) of the State Corporations Act and rule 5 of the Youth Enterprise Development Fund Order, 2007.
6. The Principal Secretary as a member of the Board is under the collective obligation to adhere to the aforementioned mandate. As the accounting officer in the parent Ministry, the Principal Secretary has over and above the other Board members, a fiduciary duty to comply with the principles of public finance as articulated under Article 201 of the Constitution of Kenya.
7. As the link between the Ministry and the State Corporation, the Principal Secretary had a duty to brief the Cabinet Secretary on issues of concern that came to his attention. On the loss funds at YEDF, at no point did the Principal Secretary issue a written brief to the Cabinet Secretary.
8. The Inspectorate of State Corporations did not also raise any flag against the Board of the YEDF during her tenure;
9. The former Cabinet Secretary did not publicize the loss of funds at the YEDF as she did the NYS saga because investigative agencies were already handling the matter when she found out about it, unlike the NYS case that was unknown at the time.

#### **Matter of Fraud at the YEDF Board**

10. The Cabinet Secretary indicated that she was not aware of the circumstances under which the alleged fraud took place and as the Cabinet Secretary responsible for Youth Affairs then, she learnt of the fraud following the suspension of the former acting CEO, Ms. Namuye vide

a letter dated 23<sup>rd</sup> October, 2015 from the Chairman of the Board. On the same letter, she instructed the then Principal Secretary, Eng. Peter Mangiti to follow up on the matter.

11. On the same day, she was copied in a letter written by the Board Chairman inviting the Directorate of Criminal Investigations to carry out investigations on suspicious transactions at the YEDF account.
12. The Principal Secretary wrote to the Board Chairman in a letter dated 26<sup>th</sup> October, 2015, asking him to invite the Ethics and Anti-Corruption Commission and copied to the Cabinet Secretary. On the same letter, the former Cabinet Secretary asked the Principal Secretary to obtain an administrative report which was meant to provide details on circumstances that led to Ms. Namuye's suspension. This was because the former Cabinet Secretary did not know the details of the suspension at this point.
13. She emphasized the use of the word 'also' in her handwritten note to indicate that the administrative report was in addition to the action by law enforcement agencies investigating the matter.
14. On 4<sup>th</sup> November, 2015, the former Cabinet Secretary was copied in a letter by the Principal Secretary inviting the Ethics and Anti-Corruption Commission to investigate the matter.
15. She resigned from Cabinet on 21<sup>st</sup> November, 2015 before she could receive the administrative report.
16. As the Cabinet Secretary, she could not institute separate measures other than those provided under the State Corporations Act, Public Finance Management Act, the Public Audit Act and the *Mwongozo* Code of Governance as she did not have the necessary powers to do so.

### **Role of Board Chairman in Running Affairs of the Fund**

17. The role of the Board Chairperson of the Fund is like any other Chairperson as articulated under section 15 of the State Corporations Act and the *Mwongozo* Code of Governance. The role is non-executive in nature.

### **Integrity of some of the YEDF Board Members**

18. There were investigations against a sitting Member of the YEDF Board with regards to loss of funds at the National Youth Service (NYS). The investigations are separate from the one

involving the loss of Kshs. 791 Million at NYS in which the former Cabinet Secretary is under investigation. The particular YEDF Board Member under investigations by the Ethics and Anti-Corruption Commission was appointed by the former Cabinet Secretary, Ministry of Devolution and Planning, as was the practice with all Board Members in State Corporations.

### **Appointment of a substantive Board CEO**

19. The former Cabinet Secretary further informed the Committee that she did not recall any request from the Board to confirm Ms. Namuye as the substantive CEO of the Fund. She received a letter from the then YEDF Board Chairman, Mr. Gor Semelango dated 20<sup>th</sup> January, 2014 asking her to advise on who among five (5) listed candidates should be appointed CEO. She did not pronounce herself on the matter owing to pending court cases on the same issue;

### **Committee Observation**

The Committee observed THAT–

- (i) The former Cabinet Secretary only learnt of the loss of funds following the letter dated 21<sup>st</sup> October, 2015 copied to her by the Board Chairman, Mr. Bruce Odhiambo. She instructed the then Principal Secretary, Eng. Peter Mangiti to follow up on the matter.
- (ii) She resigned from the Cabinet on 21<sup>st</sup> November, 2015 before she received a conclusive report on the matter from the Principal Secretary, State Department of Planning.

#### **3.5.2 Evidence by Eng. Peter Mangiti, former PS, State Department of Planning**

**Eng. Peter Mangiti, former Principal Secretary, State Department of Planning in the Ministry of Devolution and Planning appeared before the Committee on 22<sup>nd</sup> March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT–

### **On the role of the Ministry in Management and Supervision of the Fund**

1. The Ministry of Devolution and Planning exercised oversight and supervision of the Fund in several ways including approving the annual budget of the Fund with the National Treasury and determining the composition of the Board by appointing majority of Board members.
2. The Ministry also monitors the financial and general performance of the Fund and reports to the Cabinet on these matters. The Principal Secretary responsible for Youth Affairs is also represented in the YEDF Board.

### **Circumstances Leading to the Loss of Kshs. 180 Million from the Youth Enterprise Development Fund**

3. The former Principal Secretary enquired from the Chairman of the YEDF Board the date of the next Board meeting on or about 19<sup>th</sup> October 2015. He wished to personally attend the meeting as he wanted to offer advice on the matter of Disposal of Hatcheries by the Fund which was on the agenda.
4. A special meeting had been scheduled for 21<sup>st</sup> October, 2015 which he attended. The Chair of the Audit Committee presented two letters allegedly signed by the then Acting CEO Ms. Namuye, giving instructions for transfer of funds from the YEDF account at Chase Bank.
5. The Acting CEO upon questioning by Board Members denied having signed the letters and indicated she had no prior notice of the letters' existence. The Board deliberated and resolved to invite investigative agencies in the matter.

### **Measures initiated by the Principal Secretary as the Ministry's Accounting Officer**

6. He gave proper direction with regards to steps to be taken when the matter came up during the special meeting held on 21<sup>st</sup> October, 2015. He also briefed the Cabinet Secretary on the matter.
7. On 22<sup>nd</sup> October, 2015, he called Ms. Namuye to his office and further questioned her on the two letters authorizing payment to Quorum Ltd; she denied knowledge of the letters and stated that no money had left the Fund's account at Chase bank.



8. He then advised the CEO to obtain documentary proof from the Bank, which she undertook to do by the close of that working day. However, no documents were submitted and Ms. Namuye did not respond to his calls thereafter.
9. The Board Chairman then wrote to the Directorate of Criminal Investigations (DCI) on 23<sup>rd</sup> October, 2015 in line with the Board resolution. The Principal Secretary noted that contrary to his advice, the Ethics and Anti-Corruption Commission (EACC) had not been invited to look into the matter.
10. On 26<sup>th</sup> October, 2015, the Principal Secretary wrote to the Board Chairman advising him to call the EACC. He also copied his Cabinet Secretary in the letter. The Cabinet Secretary in a comment on the same letter asked him to get an administrative report from the CEO. He did not act on these instructions since the officer had been suspended by an administrative action of the Board and the matter was under investigation by independent agencies.
11. On 4<sup>th</sup> November, 2015, he wrote to the EACC inviting them to move in and investigate the matter. This was after he realised that the Board Chair had not heeded his advice to call in the Commission. This letter was copied to the Chief of Staff and Head of Public Service and the Chairman of the Fund. **(Annexure 36)**
12. On 5<sup>th</sup> November, 2015, the EACC acknowledged that it had taken up the matter.

#### **The Suspension of Former Acting CEO and Mr. Benedict Atavachi**

13. The Principal Secretary was briefed by his alternate who sits in the YEDF Board that the Audit Committee met on the 22<sup>nd</sup> October, 2015 to deliberate on the matter and made a recommendation to the Board to suspend Ms. Namuye and Mr. Atavachi pending the outcome of the investigations.
14. The Board in a special meeting held on 23<sup>rd</sup> October, 2015 accepted this recommendation against the officers after which the Chairman wrote to the two informing them of the Board decision. The Principal Secretary and Cabinet Secretary were copied in the two letters.

#### **Role of the Board Chairman in running the affairs of the Fund**

15. In keeping with the provisions of the State Corporations Act and the Youth Enterprise Development Fund Order 2007, the position of the Chairman of YEDF Board is non-

executive. His role is limited to organizing and coordinating Board affairs, calling for and chairing meetings as well as presiding over the evaluation of the performance of management.

### **Committee Observations**

The Committee observed that: -

1. Prior to the Board meeting of 21<sup>st</sup> October, 2015, the former Principal Secretary was not aware of the loss of Kshs. 180 Million at YEDF. The Board appeared to be equally in the dark on the matter up to that point.
2. That he had not been briefed by his alternate representative in the Board.

### **3.6 EVIDENCE BY FINANCIAL INSTITUTIONS AND AUDIT TRAIL**

#### **3.6.1 Evidence by Chase Bank (K) Ltd Officials**

**Mr. Patrick Ole Narikae, the Director of External and Regulatory Affairs at Chase Bank accompanied by Ms. Iman Hussein (General Manager, Consumer and Islamic Banking), Mr. Ken Ouko (Former Director of Business Development at Chase Bank) Ms. Jedidah Kabiru (Relationship Manager) Mr. Okalle Makanda (Chase Bank Head of Legal) and Mr. Cecil Miller (the Advocate for Chase Bank) appeared before the Committee on 15th March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT—

1. The Youth Enterprise Development Fund has been a customer of Chase Bank (K) Ltd for the last four years and has operated a fixed deposit account and current account under the Bank's Islamic Banking window named Chase Iman where Iman means faith.
2. The Youth Enterprise Development Fund has placed various deposits with Chase Bank (K) Ltd over this period and on maturity of the deposits they would either renew the principal amount for a new tenure or transfer profits to their other YEDF accounts in other banks.
3. On this specific deposit of Kshs.400 Million it was placed with the bank in August 2014 and was to mature in October 2014.
4. Upon maturity the principal was rolled over to mature in January 2015.

5. On the 4<sup>th</sup> February 2015, the Bank received a letter from YEDF instructing the Bank to roll over the deposits so as to mature in two months in April 2015.
6. Shortly after, on 12<sup>th</sup> February, 2015 the Bank received a letter from YEDF to pay Quorandum Ltd Kshs. 115,710,000.00 out of the fixed deposit which had been rolled over on 4<sup>th</sup> February, 2015. The letter was addressed to the Director of Business Development Mr. Ken Ouko which came attached with a business card of the Youth Enterprise Development Fund CEO Ms. Catherine A. Namuye. He then forwarded the letter to the General Manager for SME and Islamic banking, Ms. Iman Hussein.
7. Ms. Iman Hussein had discussions with the Relationship Manager for the account Ms. Jedidah Kabiru and she was made aware that the deposit had been rolled over only eight days earlier.
8. Ms. Iman Hussein called the CEO of the Youth Enterprise Development Fund to verify whether the instructions had emanated from her and queried why they wanted to liquidate the deposit yet it had been placed a few days before. The Youth Enterprise Development Fund CEO's response was that they needed to make payments.
9. That evening, the CEO of Youth Enterprise Development Fund contacted Mr. Ken Ouko and complained about other bank officers calling her and expressed her desire to engage directly with a senior person.
10. Ms. Jedidah Kabiru reported to the General Manager SME and Islamic Banking after verifying with the Bank system that the YEDF requires two signatories and the letter only had one signatory which was irregular.
11. Ms. Iman Hussein also confirmed that the beneficiary account, Quorandum Ltd had never received such huge payments before and in fact had only received Kshs. 3,000 during the lifetime of the account.
12. Ms. Iman Hussein and Mr. Ken Ouko then had a discussion and were not comfortable with the transaction due to the above stated issued and agreed not to act on the transaction.

13. They thus jointly wrote a letter to the YEDF CEO advising them that the Bank could not honour their instructions as the mandates and their instructions did not match. **(Annexure 37)**
14. On 20<sup>th</sup> February, 2015, the Bank received a Board Minutes extract from the YEDF dated 17<sup>th</sup> February, 2015 signed by the Chairman, Mr. Bruce Odhiambo and the CEO Ms. Catherine A. Namuye giving two categories of signatories.

*Category 1 had the CEO, Ms. Namuye and the Lending and Investment Manager, Ms. Judy Kimeto.*

*Category 2 had the Finance Manager, Mr. Benedict Atavachi, the Senior Accountant, Mr. Robert Mrima and another accountant, Mr. Benson Mutwii.*

*The Board extract also indicated the CEO could sign off any instructions on her own and in her absence, two signatories could sign, with one being a mandatory signatory.*
15. The Board Minutes extract was then followed by the signatures cards which were used to update the signature mandates.
16. The Bank had sufficient documentation to effect the first transfer of Ksh. 115,710,000.00 to the Quorandum Ltd account. This was done on the 23<sup>rd</sup> of February 2015.
17. Even after payment, the Bank was still uncomfortable with the transaction so in keeping with the Central Bank of Kenya Prudential Guidelines, Proceeds of Crime and Anti-Money Laundering Act and in the interest of protecting public funds, it froze the Quorandum Ltd account and restricted any access to funds on the same day.
18. The customer was thus advised to provide supporting documentation for the payment of Kshs. 115,710,000.00.
19. Quorandum Ltd then delivered invoices to the Bank on 24<sup>th</sup> of February, 2015. The Bank was still not satisfied with that documentation and then advised the customer that it further required contracts for the same which were received on 25<sup>th</sup> February, 2015.
20. Further, the YEDF CEO, Ms. Catherine A. Namuye confirmed the contract and the supporting invoices on 25<sup>th</sup> February 2015 through email. **(Annexure 38).**

21. At this stage and given the fact that the Bank had obtained all supporting comments from both parties in the transactions namely: Youth Enterprise Development Fund and Quorandum Ltd, the Bank had no choice but to allow the customer to access the funds.
22. It is important to note that from the initiation of this transaction, due diligence and access to funds took almost two weeks.
23. Even as the above transaction was done, the Bank was still uncomfortable and on 5<sup>th</sup> March, 2015 initiated a report under the proceeds of crime and anti-money laundering regulations to the Financial Reporting Centre (FRC) as a suspicious transaction report which was acknowledged on the 11<sup>th</sup> March 2015. **(Annexure 39)**
24. It is important to note that at the time of reporting to the Financial Reporting Centre (FRC), only a sum of Kshs. 6,402,439.00 out of the Kshs. 115,710,000.00 in the account had left the bank from the Quorandum Ltd account.
25. On 6<sup>th</sup> April, 2015, the balance of Kshs. 219,815,054.00 was booked in the fixed deposit account and rolled over for two months as per the instructions issued by Youth Enterprise Development Fund.
26. On 27<sup>th</sup> April, 2015, the Bank received a letter from the Youth Enterprise Development Fund to transfer a further Kshs. 64,654,789.00 to Quorandum Ltd, however, the account did not have sufficient funds. **(Annexure 40)**
27. The Bank then contacted the CEO of Youth Enterprise Development Fund to inform her of the same. She then sent amended instructions to transfer Kshs. 64,654,789.00.
28. Ms. Jedidah Kabiru then received the letter and informed Ms. Iman Hussein. Based on the fact that the account had been flagged earlier, Ms. Hussein instructed Ms. Kabiru to get direction from the Bank's Risk department on the way forward.
29. The bank had conducted due diligence as follows:-
  - (i) Received updated mandates for the operation of the Youth Enterprise Development Fund through a Board extract;
  - (ii) Obtained a contract and invoices between Youth Enterprise Development Fund and Quorandum Ltd;
  - (iii) Reported the transaction to FRC as suspicion transaction.

30. The Bank's Risk department advised that due to the above, the Bank could proceed with the transaction.
31. On 10<sup>th</sup> July 2015, the Bank received instructions from Youth Enterprise Development Fund to liquidate the deposit of Kshs. 219,815,054.00 and transfer Kshs. 120,000,000.00 to the YEDF account held at Kenya Commercial Bank, which it effected (**Annexure 41**).
32. On 10<sup>th</sup> August 2015, the Bank received instructions from Youth Enterprise Development Fund to roll over Kshs. 99,815,054.00 for two months. On maturity, the Bank did not receive any instructions from Youth Enterprise Development Fund due to the ongoing investigations, thus funds matured automatically into their current account held by Chase Bank.
33. On 8<sup>th</sup> December, 2015, the Bank received a one-off signing mandate for operating the YEDF account signed by the Chairman, Mr. Bruce Odhiambo and the acting CEO Mr. Emmanuel Odera to transfer the remaining funds held at Chase Bank (K) Ltd to their account at the Kenya Commercial Bank. (**Annexure 42**)
34. The Bank received a letter from the Acting CEO for the Youth Enterprise Development Fund, Mr. Emmanuel J. Odera dated 11<sup>th</sup> December, 2015 requesting for several documents relating to the operations of the Youth Enterprise Development Fund account.
35. The Bank replied to this letter on 18<sup>th</sup> December, 2015 reiterating that the Fund had issued a new mandate and this name was not included in the list of mandates. The Bank further indicated that the said letter/latest mandate only related to the specific transaction transfer and was only a one-off sign off mandate and as such the Youth Enterprise Development Fund's account had no mandate at that time and could therefore not oblige the request. (**Annexure 43**)
36. Chase Bank (K) Ltd received a letter dated 25<sup>th</sup> February, 2016 from the Acting CEO Mr. Emmanuel Odera asking for information regarding the Youth Enterprise Development Fund account. The bank replied on 3<sup>rd</sup> March 2016 reiterating what had been stated in the earlier letter dated 18<sup>th</sup> December, 2015. (**Annexure 44**)

### **Steps taken by the Bank to Prevent Misappropriation and Loss of Public Funds**

**37.** Chase Bank (K) Ltd officials reiterated that Chase Bank (K) Ltd, took every necessary step to prevent the misappropriation of funds and loss of public funds by ensuring that it raised red flags and questioned the following: -

- (i) The nature of instructions emanating from the Youth Enterprise Development Fund;
- (ii) The type of relationship existing between the Youth Enterprise Development Fund and Quorandum Ltd;
- (iii) The nature of transaction that resulted or required the transfer of such huge funds and most importantly the Bank even delayed effecting the Youth Enterprise Development Fund instructions and transfer of funds and further froze the Quorandum Ltd account in its attempts to ensure that no misappropriation or loss of public funds took place.
- (iv) On top of this all, the Bank reported the entire transaction to the Financial Reporting Centre as a suspicious transaction.

### **Committee Observations**

The Committee observed THAT–

- (i) Chase Bank (K) Ltd acted on instructions by the Chairperson and the CEO of the Youth Enterprise Development Fund dated 20<sup>th</sup> February, 2015 in which they communicated the two categories of signatories. Category 1 had the CEO Ms. Namuye and the Lending Investment Manager, Ms. Judy Kimeto as the signatories while category 2 had the Finance Manager, Mr. Benedict Atavachi and the Senior Accountant, Mr. Robert Mrima as signatories. The letter made reference to a board extract indicating that the CEO could sign off any instructions on her own and in her absence; two signatories could sign, with one being a mandatory signatory.
- (ii) The suspended Ag. CEO Ms. Namuye signed off two letters dated 4<sup>th</sup> of February, 2015 and 27<sup>th</sup> April, 2015 instructing Chase Bank to pay Quorandum Ltd Kshs. 115,710,000.00 and Kshs. 65,184,946.00 respectively. The second amount was revised to Kshs. 64,654,789.00 upon realization that the account had insufficient balance to

transfer the instructed amount. The amounts were to be paid from the Fund's Fixed Deposit Account held with Chase Bank in which Kshs. 400 Million was deposited on 22<sup>nd</sup> August, 2014.

- (iii) The Quorandum Ltd account at Chase Bank (K) Ltd, which was the beneficiary account, had only received Kshs. 3,000 during its lifetime before the transaction with the Youth Enterprise Development Fund took place.
- (iv) The Bank made attempts to verify the nature of payments by delaying effecting of payments to Quorandum Ltd Payment was effected once all the necessary documentation including invoices and a contract had been provided to prove the nature of the transaction.
- (v) The invoices and contracts presented by Quorandum Ltd differed from those presented by Chase Bank.
- (vi) Chase Bank (K)Ltd complied with section 44 of the Proceeds of Crime and Anti-Money laundering Act and Regulation 5 of the Proceeds of Crime and Anti-Money Laundering Regulations 2013 by reporting the transaction to the Financial Reporting Centre as a suspicious transaction.
- (vii) The Quorandum Ltd account at Chase Bank was opened in September 2014 yet Quorandum Ltd stated the account was opened in 2004.
- (viii) The Ag. CEO Mr. Emmanuel Odera wrote to Chase Bank on 11<sup>th</sup> December, 2015 and 25<sup>th</sup> February, 2016 requesting for several documents related to the operation of the Fund's account. The Bank did not honour the request and noted that the account was subject of investigation by law enforcement agencies.
- (ix) There was no transaction from the Quorandum Ltd account paying a Mr. Donnie Reeves Kshs. 117 Million as claimed by the Directors of the company.
- (x) Any transaction by the Quorandum Ltd account required two signatories hence Ms. Doreen Ng'ang'a was involved in all transactions as a signatory. This was contrary to what the Committee heard from Ms. Ng'ang'a when she appeared before it.



### 3.6.2 Evidence by Standard Chartered Bank (K) Ltd Officials

**Mr. David Idoro, the Head of Retail at Standard Chartered, accompanied by Mr. Peter Gitau (Chief Information Officer), Ms. Mary Runana (Head of Financial Crime Compliance) and Mr. Tom Indimuli (Head of External Relations) appeared before the Committee to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

They informed the Committee THAT–

1. Quorandum Ltd holds two accounts at Standard Chartered Bank (SCB) as follows:

*Account No. 0102497392600 KSHS. - Opened on 13<sup>th</sup> November, 2002*

*Account No. 8702097392600 USD - Opened on 23<sup>rd</sup> September, 2015*

2. **Source of Funds:** From the bank records, the source of funds for Account No. 0102497392600 is mainly from the business of construction. The transactions in the account are mainly cash and cheques based and its clients are individuals, companies and other organisations that need construction services. The account is tagged under SME business segment and is currently managed under business clients in the retail client segment. The risk rating of the customer is Low Under Standard Due Diligence.

#### **The Shareholding of Quorandum Ltd**

3. The shareholding of Quorandum Ltd is as follows:

Doreen Waithera            50%

Mukuria Ngamau            50%

Mr. Mukuria is the sole signatory of the account.

#### **Transaction Analysis from November 2002 to 31<sup>st</sup> March 2016**

4. Credits in the account are in the form of cash, cheques and a few funds transfers ranging from Kshs. 8,000,000. The total credits during this period amounts to Kshs. 202,706,234.40 and the total debits amount to Kshs. 190,363,399.25. these are summarized below: -

Period	Total Credits (Kshs.)	Total Debits (Kshs.)	Remarks
2002	6,360,000.00	2,625,594.00	All transactions in cash and cheques
2003	13,358,788.10	11,699,471.40	All transactions in cash and cheques
2004	11,559,890.85	17,629,092.80	All transactions in cash and cheques
2005	17,781,682.00	17,577,799.25	All transactions in cash and cheques
2006	3,939,246.00	3,376,103.80	All transactions in cash and cheques
2007	3,852,783.40	4,427,764.90	All transactions in cash and cheques
2008	17,577,404.90	16,789,125.45	4 major credits – ITT with ref. Ericsson Kenya amounting to Kshs. 14,904,669.80. the rest in cheques and cash
2009	30,066,458.70	29,717,233.75	Several ITTs mainly ref Quorandum/Ericsson Kenya amounting to Kshs. 24,775,781.35. the rest is in cheques and cash.
2010	8,392,105.65	8,381,503.30	Several ITTs with ref East Africa Portland, Ericsson K and Water Project amounting Kshs. 4,354,417.85. the rest in cash and deposits
2011	3,697,811.15	3,694,957.55	All transactions in cash and cheques
2012	6,571,086.00	6,435,610.00	All transactions in cash and cheques
2013	20,905,886.50	20,749,446.00	4 major credits in the account from Economic Housing Group Ltd amounting to Kshs. 15,307,318.50. 99% of debits in cash and cheques
01.01.2014 to 31.03. 2016	79,548,977.65	67,909,143.05	As analysed below

5. Out of the above, total credits in the account for the period 1 January 2014 to 31<sup>st</sup> March 2016 is Kshs. 79,548,977.65. The narration in most of the credits is projects, operations, equipment and supplies. A further analysis reveals that the main counterparts in the account are as follows:

Counterparty	No of Credits	Recorded	Amount	Originating
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	and Period	purpose of credit	(Kshs.)	Bank
Netis EA Ltd	6 credits in 2013/2014	Payment for Nakuru works	3,221,824.55	Bank of Africa
Economic Housing Group	5 credits in 2013	Housing Project	15,307,318.50	Chase Bank
Quorandum Ltd	10 credits btw Feb 2015 to October 2015	Operations, equipment, purchase, material supplies and project mobilisation	49,380,000.00	Chase Bank
<b>TOTAL</b>			<b>67,909,143.05</b>	

6. The counterparties above contribute to 85% of the total credits in the account. From the credit narration, the transactions appear to be in line with customer's business.
7. For the period under review, the debits in the account total Kshs. 67,909,143.05 ranging between Kshs. Below 100 to Kshs. 6 million. Significant debits (above Kshs. 1 million) relate to three counterparties as summarised below: -

Counterparty	No of Debits and Period	Recorded purpose of debit	Aggregated amount (Kshs.)	Beneficiary Bank
Bruce Dominic Odhiambo	2 debits in March 2015	Payment supplies/consultancy	3,300,000.00	Cooperative Bank
Ezekiel Owuor	5 debits March 2015 – May 2015	Payment for invoice – material supply	8,799,450.00	Barclays Bank of Kenya
Industries D'Amico	2 debits in may 2015	Equipment Supply	10,254,500.00	Chase Bank (K) Ltd
<b>TOTAL</b>			<b>22,353,950.00</b>	

8. From the analysis above including recorded source of funds and purpose of funds, the transactions appear aligned to the known nature of business. The transaction amounts are also below set thresholds and hence no alerts were generated for this account.

#### Standard Chartered Bank Kenya (SCB KE) Transaction Monitoring Framework

9. Due to the size of business, products and different business segment, SCB KE deploys a multi-pronged transaction monitoring framework which includes the following: -

**i. Dedicated Automated Transaction Monitoring System**

Detica V6.1 Transaction Surveillance Solution was deployed in SCB Kenya in December 2012. Currently 13 detection scenarios have been deployed. The detection scenarios engine is fed with data on customers and transaction from the core banking systems (eBBS). The scenarios aid in identifying matches for unusual pattern/typology linked to the Detection Scenarios at various frequencies. The threshold setting framework is based on customer profile and risk categorisation. For example, the individual/personal accounts segments will have various thresholds based on the risk categorisation of the customers within the business segment e.g. the individual/personal accounts will be segmented as low risk or high risk with different thresholds set for each of these risk categorisation. Risk categorisation considers Country/Geography Risk, Industry Risk/Business Type Risk, Customer Risk and Product Risk. Higher risk customers will have lower thresholds to allow for enhanced transactional monitoring than lower risk customers. Business clients, commercial and corporate client segments will also have different thresholds based on their customer profiles and risk categorisation.

**ii. Manual Incident Report – “Internal Reports from Business”**

This consists of unusual transaction reports reported by business (front line) during customer interaction such as account opening, periodic review and interactions during transactions.

**iii. Event-driven reviews**

This is a trigger based form of monitoring. In the event-driven model, the Bank reviews customer transactions based on media from credible sources; new trends among other triggers.

**On Quorandum Ltd**

10. All the transactions appeared to be aligned to customer’s nature of business “construction projects”. In addition, the transaction narration supports the known profile. The transactions were also within the set thresholds for a low risk (SDD) SME company hence

no alerts were automatically generated.

11. Mid-March 2016, the Bank became aware that the customer was implicated in the YEDF scandal in which they were paid Kshs. 180 million in their other account with Chase Bank (K) Ltd. The funds were purportedly for alleged consultancy services for the design of a comprehensive ICT strategy and Enterprise Resource Planning (ERP) design. This triggered an immediate review of the customer's account conduct. The review covered customer transactions from January 2015 to March 2016.
12. The Bank's review identified the following anomalies: -
  - i. Customer known nature of business in the Bank's records is construction and not ICT consulting;
  - ii. Between February 2015 to October 2015, the customer had received Kshs. 49.3 million from Chase Bank (K) Ltd account alleged to have received the proceeds of the fraud;
  - iii. One of the beneficiaries of the funds Mr. Bruce Odhiambo received Kshs. 3,300,000 on account of supplies. It was unusual that the said counterparty was the Chairman of the YEDF.
13. Based on the three facts above, the Bank filed a Suspicious Transaction Report with the Financial Reporting Centre on 16<sup>th</sup> March, 2016 (Ref.STR-2015-019-SCB). The Bank continues to provide the Centre with the requisite information. The conduct and severity of the adverse media also triggered a relationship review. A fund preservation order was received on 31 March 2016 which the Bank effected immediately.
14. The Bank continues to cooperate with the FRC and other law enforcement agencies in their investigations.

### **Committee Observations and Findings**

The Committee observed THAT–

- (i) There were transactions from Quorandum Ltd account at Standard Chartered Bank (K) Ltd to Mr. Bruce Dominic Odhiambo's Cooperative Bank (K) Ltd account amounting to Kshs. 3,300,000/- (Three million, three hundred).
- (ii) Quorandum Ltd.'s account was on the verge of dormancy until it received funds from

the YEDF.

- (iii) In the year 2015, Quorandum Ltd.'s account at Standard Chartered Bank received nearly 90% of all the credits from its account at Chase Bank (K) Ltd where the Kshs. 180,367,789 million had been transferred to from the YEDF's fixed deposit/call account

### 3.6.2.1 The Audit Trail of Kshs. 180,367,789 from YEDF Accounts at Chase Bank (K) Ltd to Quorandum Ltd

#### (a) Movement of Funds from YEDF Fixed/Call Deposit Account at Chase Bank (K) Ltd to Quorandum Ltd

1. Chase Bank (K) Limited when appearing before the committee provided a certified summary of YEDF Fixed Deposit/Call account from 27<sup>th</sup> February 2012 to 10<sup>th</sup> December 2015 as shown in the table 3.0:

Table 3.0 YEDF ACCOUNT AT CHASE BANK (K) LTD FROM 27TH FEBRUARY 2012 TO 10TH DECEMBER 2015			
DATE	AMOUNT RECEIVED (Kshs.)	REMITTANCES OF PRINCIPAL AMOUNT TO YEDF ACCOUNT (Kshs.)	TRANSFERS TO QUORANDUM LTD (Kshs.)
27th Feb 2012	200,000,000.00		
13th April 2012	50,000,000.00		
16th April 2012	200,000,000.00		
7th June 2012	201,661,000.00		
30th Oct 2012	200,300,000.00		
4th Jan 2013	130,077,680.75		
22nd Feb 2013		200,300,000.00	
25th Oct 2013		403,595,597.09	
25th Oct 2013		381,087,885.68	
11th March 2014	141,000,000.00		
24th April 2014	254,000,000.00		
15th May 2014	7,000,000.00		
23rd June 2014		7,000,000.00	
23rd June 2014		141,000,000.00	
25th June 2014	148,000,000.00		
23rd Feb 2015			115,710,000.00
4th May 2015			64,654,789.00

13th July 2015		120,000,000.00	
10th Dec 2015		104,296,279.45	
<b>Total Amount</b>	<b>1,532,038,680.75</b>	<b>1,357,279,762.22</b>	<b>180,364,789.00</b>

Source: Chase Bank (K) Limited

2. The deposits by YEDF into the Chase Bank (K) Ltd fixed/call deposit account limited for the period 27<sup>th</sup> February 2012 to 10<sup>th</sup> December 2015 was Kshs. 1.532 billion as shown in Table 3.0. The total remittances of principal amount to YEDF account was Kshs. 1.357 billion during the period.
3. The first movement of funds from the YEDF fixed/call deposit account at Chase Bank (K) Ltd to Quorandum Ltd account at Chase Bank (K) Ltd was on 23<sup>rd</sup> February 2015 when Chase Bank (K) Limited transferred Kshs. 115,710,000. This was followed by a transfer of Kshs. 64,654,789 on 4<sup>th</sup> May 2015 from YEDF Fixed/Call deposit account to Quorandum Ltd account at Chase Bank (K) Ltd.
4. The total amount of money transferred from YEDF fixed/ call deposit account at Chase Bank (K) Ltd to Quorandum Ltd account held at Chase Bank (K) Limited is Kshs. **180,364,789 (Kenya shillings one million three and sixty-four thousand seven hundred and eighty-nine only).**

### Committee Observations and Findings

The Committee observed that the total amount of money transferred from YEDF fixed/ call deposit account at Chase Bank (K) Ltd to Quorandum Ltd account held at Chase Bank (K) Limited is Kshs. **180,364,789 (Kenya shillings one million three and sixty-four thousand seven hundred and eighty-nine only).**

#### (b) Movement of Funds from Quorandum Ltd account at Chase Bank (K) Limited to Other Accounts and Third Parties

1. Quorandum Ltd account at Chase Bank (K) Ltd was inactive and in fact overdrawn before the fraudulent transfer of the Kshs. 180,364,789 from YEDF fixed/ call deposit account. A summary of the bank statement's transactions showing the movement of the funds to various third parties is attached as Annex 49 of this Report.
2. Quorandum Ltd Account Statement at Chase Bank (K) Ltd indicates that there were several

transfers to other third parties purportedly as payments for various services offered to Quorandum Ltd. Some of these transactions involved cheque encashment by Mr. Mukuria Ngamau or transfers to persons closely related to such as transfer to Ms. Doreen Waithera Ng'ang'a.

3. The following are some of the suspect transactions that were recorded in the account statement:
  - i. Transfers of Kshs. 48.5 million to Duchess Park Ltd for payments of a duplex apartment.
  - ii. Transfers of Kshs. 18 million to Ngigi Mbugua & Advocates for debt owed by Quorandum Ltd.
4. To get a complete audit trail of the rest of the transactions, the Director for the Directorate of Criminal Investigations should undertake an investigation of all transactions of the Quorandum Limited Account No. **0052075584001** held at Chase Bank Kenya Limited. The investigations should extend to all personal bank accounts of Mr. Mukuria Ngamau, Ms. Doreen Waithera Ng'ang'a including their close relatives and friends.

### **Committee Observations and Findings**

The Committee made the following observations on the movement of Funds from Quorandum Ltd account at Chase Bank (K) Ltd to other third parties:-

- (i) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the transfers to purchase a duplex apartment in Lavington, Nairobi from Duchess Park Ltd at a cost of Kshs. 48.5 million.
- (ii) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the transfer to pay a debt of Kshs. 18 million owed to Great Lakes Ltd through the firm of Ngigi Mbugua & Company Advocates.
- (iii) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the transfer to pay Britcom International Ltd, a UK-based company, a sum of Kshs. 9.24million purportedly for purchase of an excavator/grader.
- (iv) **THAT**, Mr. Mukuria paid Ms. Doreen Waithera Ng'ang'a, a co-director and spouse, a sum of Kshs. 91,480 purportedly as a repayment of a loan extended to him by Ms.



Ng'ang'a.

- (v) **THAT**, Mr. Mukuria Ngamau made several suspicious cash withdrawals and cash encashment almost on a daily basis as demonstrated by the summary of the bank statements annexed hereto.
  - (vi) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the transfer to pay Rock Plant Ltd a sum of Kshs. 4.5 million.
  - (vii) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the transfer to pay Mr. Dilshad Mohammed a sum of Kshs. 2.24 million.
  - (viii) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the transfer to pay Mr. Yogesh Kumar Bardwaj a sum of Kshs. 880,000.
  - (ix) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the transfer to pay Simis Engineering and Construction Company Ltd a sum of Kshs. 1 million.
  - (x) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the transfer to pay other several third parties as per the annexed summary of bank statements from Chase Bank (K) Ltd.
- (c) **Movement of the Funds from Quorandum Ltd account at Standard Chartered Bank (K) Limited to Other Accounts and Third Parties.**
1. Quorandum Ltd holds two accounts at Standard Chartered Bank (SCB) namely: **Account No. 0102497392600 (Kenya shillings account)** which was opened on 13<sup>th</sup> November, 2002 and **Account No. 8702097392600 (US Dollar account)** which was opened on 23<sup>rd</sup> September, 2015.
  2. The account **No. 0102497392600 (Kenya shillings account)** is the main transactions account. The transactions in the account are mainly cash and cheques based and its clients are individuals, companies and other organisations that need construction services. The account is tagged under SME business segment and is currently managed under business clients in the retail client segment.
  3. A summary of the transactions of the Quorandum Ltd Account No. **0102497392600** held at Standard Chartered Bank Kenya Limited for the period from 15<sup>th</sup> January 2015 to 16<sup>th</sup> March

2016 is attached as **Annex 48**. This provides a trail of movement of funds transferred from Quorandum Limited account at Chase Bank (K) Limited to the Standard Chartered Bank (K) Limited to various third parties on various dates.

4. Analysis of the Quorandum Limited Account No. **0102497392600** held at Standard Chartered Bank Kenya indicates that approximately Kshs. 91,654,018 was transferred from Quorandum Ltd Account at Chase Bank. This amount is part of the Kshs. 180,364,789 which was fraudulently transferred from the YEDF fixed deposit/call deposit account at Chase Bank (K) Ltd to the Quorandum Ltd account at Chase Bank (K) Limited.
5. The Quorandum Ltd Account Statement at Standard Chartered Bank indicates that a total of Kshs. 59,082,835 was transferred to other third parties purportedly as payments for various services offered to Quorandum Ltd. Some of these transactions involved transfers to Mr. Mukuria Ngamau's personal account held at Standard Chartered Bank or to personal accounts of persons closely related to him.
6. The following are some of the suspect transactions that were recorded in the account statement:
  - i. Transfers of Kshs. 3.3 million to a Mr. Bruce Dominic Odhiambo account held at Co-operative Bank of Kenya Limited purportedly for payments of supplies and consultancy services.
  - ii. Transfers of Kshs. 8,799,450 to a Mr. Ezekiel Owuor account at Barclays Bank of Kenya Limited purportedly for payments of material supply.
  - iii. Transfers of Kshs. 10,254, 500 to Industries D'Amico account at Chase Bank Limited purportedly for equipment supply.
7. To get a complete audit trail of the rest of the transactions, the Director, Directorate of Criminal Investigations should undertake an investigation of all transactions of the Quorandum Limited Account No. **0102497392600** held at Standard Chartered Bank (K) Ltd for the period 15<sup>th</sup> January 2015 to 30<sup>th</sup> April, 2016. The investigations should extend to all personal bank accounts of Mr. Mukuria Ngamau, Ms. Doreen Waithera Ng'ang'a including their close relatives and friends.

## Committee Observations and Findings

The Committee made the following observations on the movement of Funds from Quorandum Ltd account at Standard Chartered (K) Ltd to other third parties: -

- (i) **THAT**, the Quorandum Limited account statement at Standard Chartered Bank shows that a total of Kshs. 59,082,835 which was transferred to other third parties purportedly as payments for various services offered to Quorandum Ltd.
- (ii) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the YEDF transfer to pay Kshs. 3.3 million to a Mr. Bruce Dominic Odhiambo account held at Co-operative Bank of Kenya Limited purportedly for payments of supplies and consultancy services.
- (iii) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the YEDF transfer to pay Kshs. 8,799,450 to a Mr. Ezekiel Owuor account at Barclays Bank of Kenya Limited purportedly for payments of material supply.
- (iv) **THAT**, Mr. Mukuria Ngamau through Quorandum Ltd used the proceeds of the YEDF transfer to pay Kshs. 10,254, 500 to Industries D’Amico account at Chase Bank Limited purportedly for equipment supply.
- (v) **THAT**, Mr. Mukuria Ngamau also made several cash withdrawals and transfers to his personal account held at Standard Chartered Bank, to personal accounts of persons closely related to him including: his spouse and Co-director, Ms. Doreen Waithera who was paid Kshs. 402,000 and Ms. Tabitha Wanjiku Ngamau, his mother who was paid Kshs. 940,000.

### **3.7 EVIDENCE BY BENEFICIARIES OF FUNDS FROM QUORANDUM LTD**

#### **3.7.1 Evidence by Mr. William Onyango, GM, Duchess Park Development Ltd**

**Mr. William Onyango, the General Manager of Duchess Park Development Ltd accompanied by Ms. Muthoni Kamau (Company Secretary) and Mr. Stephen Mureithi appeared before the Committee on 23<sup>rd</sup> March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT–

1. Duchess Park Development Ltd is a development company that was incorporated solely for the purpose of construction and sale of Duchess Park Apartments located along Hatheru Road, consisting of 62 apartments of 3 bedrooms, 4 bedrooms and 5 bedroom duplexes.
2. The project commenced in 2013 and has been advertised on various platforms. The project is 60% complete and is expected to be fully completed by the end of 2016.
3. The Directorship of Duchess Park Development Ltd is as follows:
  - i. Sigimo Enterprises (owned by Mr. Daniel Ojijo and Mentor Group Ltd);
  - ii. Nygel Enterprises (owned by Ms. Ritah Abongo Ongendo and Ms. Elly Owuor Obuya);
  - iii. Mr. Daniel Ojijo;
  - iv. Mr. Eric Opon Nyamunga.
4. At some point between late 2014 and early 2015, Duchess Park Development Ltd received an inquiry from Mr. Mukuria Ngamau showing interest to purchase one unit at Duchess Park. After a few site visits and price negotiation meetings with Mr. Mukuria, an agreement for the sale and purchase of a 5-bedroom duplex apartment Number C 16 at Kshs. 48,500,000 was arrived at.
5. A sale agreement for this was drawn and signed between Duchess Park Development Ltd and Quorandum Ltd on 30<sup>th</sup> March, 2015. Payments were thereafter received from the purchasing company towards the purchase of the said unit.
6. The nature of business between Duchess Park Development Ltd and Quorandum Ltd is solely limited to the sale and purchase of Duplex Apartment Number C16 at Duchess Park Apartments and nothing else.

### **Committee Observations**

The Committee observed THAT–

1. Quorandum Ltd duly purchased Apartment Number C16 at Duchess Park Apartments in Nairobi without engaging the services of a lawyer as is the practice. Transfer of the property to Quorandum Ltd is yet to be completed

2. The transaction between Quorandum Ltd and Duchess Park Development Ltd has not yet been registered at the Ministry of Lands and therefore Stamp Duty for the transaction is yet to be paid.
3. The mode of payment by Quorandum Ltd varied from the conditions set out in the sale agreement. The full amount of Kshs. 48,500,000 was paid out before the agreed date and the vendor did not raise any objections to being paid in advance of the agreed date;
4. The Committee did not establish any transaction or personal relationship between Duchess Park Development Ltd and the Youth Enterprise Development Fund Chairman, Mr. Bruce Odhiambo.
5. Quorandum Ltd misled Chase Bank that the transfer of funds was for office purchase yet Duchess Park Apartments is a purely residential facility.

### **3.7.2 Evidence by Mr. Ngigi Mbugua, Partner, Ngigi Mbugua & Company Advocates**

**Mr. Ngigi Mbugua, an Advocate with Ngigi Mbugua and Company Advocates appeared before the Committee on 23<sup>rd</sup> March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDEF.**

He submitted THAT–

1. He is the sole proprietor of a law firm based in Eldoret and has been practicing since 1991.
2. He got to know Quorandum Ltd in 2013 when he was instructed by his client, Great Lakes Ltd to demand and recover sums totalling Kshs. 18,096,653.91 through litigation or otherwise from the firm. He had represented Great Lakes Ltd prior to and subsequent to the Quorandum Ltd brief.
3. Mr. Mbugua began by issuing a demand notice to Quorandum Ltd requiring the creditor to either pay or a suit be instituted against the company. Reminder letters were written to Quorandum Ltd but did not elicit any reaction.
4. The recovery was not successful and in early 2015, the firm instituted a suit on behalf of its client Great Lakes Ltd in the Commercial Division of the High Court at Milimani.

5. On 20<sup>th</sup> May, 2015, Great Lakes Ltd asked Mr. Mbugua to drop the court case and supply details of their account to Quorandum Ltd. The creditor proceeded to pay Kshs. 8,000,000 and Kshs. 10,000,000 on 21<sup>st</sup> and 25<sup>th</sup> May respectively which was acknowledged by Mr. Mbugua and disbursed to his client. The case file was then closed by the Advocate.
6. A balance of Kshs 96,653.91 was still owed to Great Lakes Ltd but the firm did not follow up on this amount as the firm was not instructed to do so by the client.

### **Committee Observation and Findings**

The Committee found that Great Lakes Ltd was sub-contracted by Quorandum Ltd to carry out repair works to four Courts based in Bomet, Wanguru, Othaya and Marimanti Law Courts. The firm was later paid after engaging the services of Ngigi Mbugua and Company Advocates who successfully demanded the payment from Quorandum Ltd.

#### **3.7.3 Evidence by Mr. Ezekiel Owuor**

Mr. Ezekiel Owuor, one of the beneficiary of funds from Quorandum Ltd's Standard Chartered Bank account submitted to the Committee a sworn affidavit dated 25<sup>th</sup> April, 2016.

He deponed THAT–

1. Sometime in or about the month of March 2015, he had personal and financial constraints having been between jobs and at the same time had demanding family medical and personal obligations with intensive financial implications.
2. He then approached an old time friend, Mr. Mukuria Ngamau to assist him bridge the financial gap, which he did, through his written request dated 6<sup>th</sup> March, 2015 with a commitment to make good the financial advance when his circumstances improved.
3. Mr. Mukuria agreed to advance him money in five (5) different tranches between the months of March and May, 2015 as follows: -

<i><b>Date</b></i>	<i><b>Amount (Kshs.)</b></i>	<i><b>Received</b></i>
6 <sup>th</sup> March, 2015	1,500,000.00	

<i>Date</i>	<i>Amount (Kshs.)</i>	<i>Received</i>
16 <sup>th</sup> March, 2015	1,999,450.00	
26 <sup>th</sup> March, 2015	2,000,00.00	
15 <sup>th</sup> April, 2015	1,300,000.00	
25 <sup>th</sup> May, 2015	2,000,000.00	
<b>TOTAL</b>	<b>8,799,450</b>	

4. The loan was to be repaid in thirty-six (36) equal instalments after the agreed grace period of eighteen (18) months, as per correspondence signed between the two parties, dated 6<sup>th</sup> March, 2015 and 25<sup>th</sup> May, 2015.
5. The monies were transferred through his account number 0361022378 held at Barclays Bank Limited Premier Flagship Centre Branch from an account titled Quorandum Ltd with an account shown to be domiciled in Standard Chattered Bank, Yaya Centre Branch.
6. He later learnt through the media that Quorandum Ltd made various other payments to other entities through the same account details.
7. He emphasised that his financial dealings with Mr. Ngamau were purely personal assistance and not in any way from any business dealings, having personally assisted his friend financially in the past and it was more of a return favour from a friend.
8. Further, that he has never had any other financial dealings either as an individual or any other entity with Quorandum Ltd and would not be privy to his other business engagements.
9. He learnt from the media that the said Quorandum Ltd operated an account with his previous employer M/S Chase Bank Ltd but whose specific details he is not aware of and secondly, that he never dealt with the account(s) in any way during his tenure at Chase Bank (K) Ltd.
10. Whilst in Chase Bank (K) Ltd, his portfolio only covered retail business of the Bank and that he has since established that indeed Quorandum Ltd had an account with M/S Chase Bank

Ltd which was opened way before he joined the Bank and in any case, the account was opened under Small and Medium Enterprises (SME) Banking unit which was not in his docket at all.

11. Further, he has established that all the Youth Fund accounts and transactions held in Chase Bank (K) Ltd were held under Islamic Banking which again were not in his docket and therefore had no control or authority over either the Quorandum Ltd or Youth Enterprise Development Fund (YEDF) accounts.
12. He worked at Chase Bank (K) Ltd for a relatively short time from 8<sup>th</sup> June, 2014 to 13<sup>th</sup> April, 2015 during which time he was neither a signatory to nor in charge of any departmental or the Bank's financial transactions and could thus not authorize or make any financial dealings or commitments on behalf of the Bank.

### **Committee Observations and Findings**

The Committee observed THAT–

- (i) Mr. Ezekiel Owuor and Mr. Mukuria Ngamau are well known to each other as long time friends.
- (ii) Mr. Ezekiel Owuor confirmed receipt of Kshs. 8,799,450 from Mr. Mukuria Ngamau on various dates between March and May, 2015 as a loan advanced to him by his friend, Mr. Ngamau for personal reasons. The payments were effected through Quorandum Ltd.'s account at Standard Chartered Bank (K) Ltd to Mr. Owuor's Barclays Bank (K) Ltd personal account.
- (iii) Mr. Ezekiel Owuor worked at Chase Bank (K) Ltd.'s Retail Banking Unit between 8<sup>th</sup> June, 2014 and 13<sup>th</sup> April, 2015 and thus was not directly involved with Quorandum Ltd account which was domiciled in the SME Banking Unit. The Committee found no evidence linking Mr. Owuor to operations of Quorandum Ltd.'s account at Chase Bank (K) Ltd during his tenure at the Bank.



### **3.8 EVIDENCE BY MR. TOM OWANDO, MD, LIVE GIGS CORPORATE AUDIO VISUAL LTD**

**Mr. Tom J. Owando, the Managing Director of Live Gigs Corporate Audio Visual Ltd appeared before the Committee on 24<sup>th</sup> March, 2016 to adduce evidence on the matter of alleged fraud and financial mismanagement at YEDF.**

He submitted THAT —

1. Live Gigs Ltd is a privately owned Ltd liability company incorporated on 13<sup>th</sup> April, 2006. It is a full-service equipment rental and event consulting company. It also offers event and venue management consulting services including long range planning, program and policy development, needs assessments and general management assistance.

2. The Directors and shareholders of the Company since inception are as follows:

<b>Names</b>	<b>Address</b>	<b>Nationality</b>	<b>Shares</b>
Tom Owando	P. O. Box 50323-00200, Nairobi	Kenyan	500
Mohamed Shafique Manjothi	P. O. Box 50323 -00200, Nairobi	Kenyan	500
<b>Total</b>			<b>1,000</b>

3. Live Gigs Ltd has never rendered any service or received any direct payment from YEDF. The Company has however participated in an event organized by YEDF as a sub-contracted supplier.
4. Live Gigs was sub-contracted by M/S K-SUSU International Ltd (the company contracted by the YEDF) in March 2015 to offer professional film production services. The assignment required Live Gigs to produce a short film showcasing YEDF's role in transforming the lives of the youth.
5. There was no contractual agreement between Live Gigs Ltd and M/S K-SUSU Ltd. There was only a verbal agreement to undertake the job after the former was approached by a Mr. Hillary Yegon representing M/S K-SUSU.
6. As per the client's instructions, the Company delivered successfully and received payment

of Kshs. 3,493,526 on 19<sup>th</sup> May, 2015 as per the invoice addressed to K-Susu Ltd and bank statement from Diamond Trust Bank (**Annexure 46**)

7. At the time of the event, Live Gigs was overstretched in its capacity to deliver the service and they further sub-contracted M/S Film Crew in Africa Ltd to carry out the film production.
8. The payment received from M/S K-SUSU was used to pay M/S Film Crew in Africa Ltd (**Annexure 47**)
9. The Company met its tax obligations through filing and payments to the Kenya Revenue Authority as evidenced by payment slip of Kshs. 981,312 dated 19<sup>th</sup> June 2015 and Kshs. 490,656 dated 18<sup>th</sup> September, 2015.

### **Committee Observations and Findings**

The Committee observed THAT–

- (i) In March 2015, YEDF awarded the tender to produce a short film showcasing YEDF's role in transforming the lives of the youth to M/S K-SUSU International Ltd. The Company then sub-contracted the works to M/S Live Gigs at a cost of Kshs. 3,493,526 paid on 19<sup>th</sup> May, 2015. M/S Live Gigs further sub-contracted the works to M/S Film Crew in Africa Ltd
- (ii) That the Fund may not have realised value for money through M/S K-SUSU Ltd sub-contracting provision of services to third parties. This also implies that YEDF management may not have undertaken due diligence on the capacity of M/S K-SUSU Ltd to offer the procured services.

## 4.0 KEY FINDINGS AND OBSERVATIONS

From the oral and written evidence submitted, the Committee made the following observations and findings: -

1. **THAT**, the Board and the Management of YEDF did not obtain approval from the National Treasury to invest Kshs. 400 million into a fixed/call deposit account at Chase Bank (K) Ltd, contrary to the provisions of National Treasury Circular No. 10 of 1992, Circular No.12 of 2002 and Order No. 63 of the Youth Enterprise Development Fund Order, 2007.
2. **THAT**, it is evident that the Youth Enterprise Development Fund Order (63 of 2007) establishing the Fund under Regulation 12(2) allows the Board to deposit funds not immediately required for immediate use with commercial banks as the Board may consider. This provision is however superseded by Section 6(e) of the Public Finance Management Act (PFM), 2012 that states that the PFM Act, 2012 prevails on banking arrangements, including opening of bank accounts and investment of moneys.
3. **THAT**, The PFM Act, 2012 provides for the responsibilities of the National Treasury under Section 12(h) and (k) as monitoring the management of the finances of public enterprises and investments by national government and its agencies and to issue guidelines to national government entities with respect to financial matters and monitoring implementations and compliance. To this extent, the guidelines issued by the National Treasury by way of circulars were binding to YEDF.
4. **THAT**, the YEDF did not have any surplus funds as per its audited financial statements for the financial year ended 30<sup>th</sup> June, 2014 and that the Kshs. 400 million that YEDF invested

into a fixed/call deposit account at Chase Bank (K) Ltd was part of the funds appropriated by the National Assembly for disbursement to the youth as per the YEDF mandate.

5. **THAT**, the Fund had an existing ICT Strategic Plan 2013-2017 procured from Microflex Kenya Ltd in 2013 at a cost of approximately Kshs. 5.9 million and there was therefore no need to procure another one.
6. **THAT**, the purported consultancy services contract for the development of an Information, Communication and Technology (ICT) Strategic Plan and Enterprise Resource Planning (ERP) System development by Quorandum Ltd for YEDF was jointly planned and executed by Mr. Mukuria Ngamau, Mr. Bruce Odhiambo and Ms. Catherine A. Namuye with the main objective of defrauding the Fund of approximately Ksh. 180,364,789.00.
7. **THAT**, vide letter REF.YEDF/4/ACC/0055/15 dated 4<sup>th</sup> February 2015, YEDF instructed Chase Bank (K) Ltd to roll over its investment of Kshs. 400 Million in a fixed/call deposit account for a period of two months at an interest rate of 9% p.a with effect from 4<sup>th</sup> February 2015 to 6<sup>th</sup> April, 2015.
8. **THAT**, Ms. Namuye in a letter dated 11<sup>th</sup> February 2015 instructed Chase Bank (K) Ltd to make payments to Quorandum Ltd amounting to Kshs. 115,710,000.00 for alleged consultancy services rendered. However, the Bank did not honour the instructions since they contradicted earlier signing instructions as submitted to the Bank by the Fund which were: Category A (mandatory signatures) Ms. Namuye and Ms. Judy Kimeto and Category B, Mr. Benedict Atavachi, Mr. Robert Mrima and Mr. Benson Munywoki, where it was a requirement that any two could sign, with one being a mandatory signatory.
9. **THAT**, on 4<sup>th</sup> February, 2016, the suspended Ag. CEO, Ms. Catherine A. Namuye issued instructions to Chase Bank (K) Ltd to transfer funds from YEDF account to roll over the funds in the investment account for another period of two months. These instructions were suspicious since the investment had not matured as per the roll over period which was to lapse on 6<sup>th</sup> April, 2015.
10. **THAT**, vide letter dated 17<sup>th</sup> February, 2015, Mr. Bruce Odhiambo, the former YEDF Chairman instructed Chase Bank (K) Ltd that in the absence of the other mandatory signatories, Ms. Catherine A. Namuye could sign off any instructions to the Bank as a sole

signatory. This in turn gave the Ag. CEO, Ms. Namuye a free hand to issue instructions to the Bank as a sole signatory. It is noteworthy that these instructions came shortly after the Bank had rejected an attempt by Ms. Namuye to transfer funds on 11<sup>th</sup> February, 2015.

11. **THAT**, the Fund's Board approved the change of Chase Bank (K) Ltd account signatories on 26<sup>th</sup> February, 2015, but did not make Ms. Catherine A. Namuye a sole signatory to the YEDF account at Chase Bank (K) Ltd as alleged by the former Board Chairman, Mr. Bruce Odhiambo. The letter by Mr. Odhiambo on 17<sup>th</sup> February, 2015 making a Ms. Namuye a sole signatory was therefore an act of forgery as defined in Section 345 of the Penal Code.
12. **THAT**, on 11<sup>th</sup> of February, 2015 and 27<sup>th</sup> April, 2015, Ms. Catherine A. Namuye, the suspended Ag. CEO solely, without Board approval nor involvement of YEDF Finance Department, instructed Chase Bank (K) Ltd to pay Quorum Ltd, a purported supplier, Kshs. 115,710,000.00 and Kshs. 65, 184,946.00. The second amount was revised to Kshs. 64,654,789.00 upon realization that the Fund's account had insufficient balance to transfer the instructed amount. The amounts were to be paid from the Fund's fixed deposit account No. 0017054604027 held with Chase Bank (K) Ltd in which Kshs. 400 million was deposited on 22<sup>nd</sup> August, 2014.
13. **THAT**, as a result of the actions of the suspended Ag. CEO, Ms. Catherine A. Namuye and Mr. Bruce Odhiambo, former Board Chairman, the **Fund lost a total of Kshs. 180,364,789** through a well orchestrated and dubious non-existent consultancy service scheme.
14. **THAT**, the purported extracts of the Fund's Board Minutes signed by Mr. Bruce Odhiambo and Ms. Catherine A. Namuye sent to Chase Bank (K) Ltd to confirm the change of signatories were a forgery and a collusion between the two officers with an intent to defraud the Fund pursuant to Section 348 of the Penal Code.
15. **THAT**, the suspended Ag. CEO Ms. Catherine A. Namuye occasioned the withdrawal of funds from the YEDF fixed/call deposit account at Chase Bank (K) Ltd to pay for goods and services while the Fund had an operations accounts held at Equity Bank (K) Ltd and Kenya Commercial Bank (K) Ltd.
16. **THAT**, the suspended Ag. CEO, Ms. Catherine A. Namuye and the former Board Chairman, Mr. Bruce Odhiambo took over the running of the Fund's investment account thereby

undermining the financial management procedures and controls at YEDF making the Finance Department of YEDF, headed by Mr. Benedict Atavachi, the suspended Finance Manager, redundant on the matter. The Committee therefore did not find any evidence linking Mr. Atavachi to the loss of Kshs. 180,364,789.

17. **THAT**, from the evidence of other witnesses, no other officer of the YEDF participated in the alleged procurement of consultancy services from Quorandum Ltd except Ms. Catherine A. Namuye, hence breach of Section 26(3)(c) of the Public Procurement and Disposal Act, 2005 which requires the involvement of the user department.
18. **THAT**, the alleged award of the contract for ICT Strategy and ERP System consultancy services to Quorandum Ltd by YEDF did not comply with the provisions of Article 227 of the Constitution Section 27 (4) of the Public Procurement and Disposal Act, (PPDA) 2005; as the service was neither planned for nor authorized by the Board. Further, prequalification of the company was not undertaken, no advertisement was done, no expression of interest advertised, no tendering nor evaluation was done before the award of the contract for competitiveness.
19. **THAT**, further, Ms. Catherine A. Namuye did not present any evidence on her allegation that the Board was involved in the procurement process of the alleged consultancy services by Quorandum Ltd. If indeed there was such involvement, this could not have taken away her responsibilities of an accounting officer of ensuring that the Fund complies with the PPDA. Under section 27(2) of the PPDA, the accounting officer of the Fund has the primary responsibility of ensuring that the Fund fulfils its obligations on compliance of the Act, its regulations and any directive of the Authority.
20. **THAT**, the responsibility of an accounting officer under the Constitution and Section 68(1) (a) (b) of the PFM Act requires that resources ought to be utilized in a legal, authorized and effective way, hence Ms. Namuye should not cry foul when she clearly knew that her role as the accounting officer is to ensure that the resources in YEDF are utilized according to the provisions of the law.
21. **THAT**, Ms. Catherine A. Namuye as the then accounting officer violated the provisions of Section 72 (1) of the PFM Act, 2012 by allowing Mr. Bruce Odhiambo unfettered use of the

YEDF facilities including office and purchase of a new vehicle at a cost of Kshs. 12,615,448 despite him being a non-executive Chairman who is only entitled to such facilities when on official duty. Further, Mr. Bruce Odhiambo was irregularly issued with an interest-free loan of Kshs. 500,000 in the form of an imprest contrary to Section 17 of the State Corporations Act, CAP 446 Laws of Kenya. The outstanding balance of the interest free loan is Ksh. 365,600.

22. **THAT**, Ms. Catherine A. Namuye knowingly engaged herself in improper conduct as defined in Section 74(4) of the PFM Act 2012 by making and permitting a transaction that is unlawful and unauthorized expenditure. Further, Ms. Catherine A. Namuye failed to comply with various sections of the PFM Act, 2012 including her accounting responsibilities as defined in the Act; and she totally undermined the financial management procedures and controls at YEDF.
23. **THAT**, on the matter of rejection of the ICT Strategic Plan 2013-2017 by the Board, the sole responsibility under the PFM Act, 2012 rests on the accounting officer. Ms. Catherine A. Namuye never reported to the parent Ministry nor any agency on the said rejection yet public funds had been expended on the same.
24. **THAT**, on the allegations that she was under undue pressure from Mr. Bruce Odhiambo, former Board Chairman and Mr. Nicolas Mwaniki, Board Member to pay Quorandum Ltd; she did not adduce any evidence on the same. However, if there was any undue pressure she should have used her discretion to reject the same and report to the relevant authorities in accordance with Section 25 of the Public Officers Ethics Act, 2003.
25. **THAT**, the contract documents tabled by Quorandum Ltd and Chase Bank (K) Ltd were forged since the same had different signatories; they were fraudulently prepared by Mr. Mukuria Ngamau with his accomplice Ms. Catherine A. Namuye with the sole intention to steal from the Fund.
26. **THAT**, the Committee reviewed Quorandum Ltd.'s bank statements from Chase Bank (K) and Standard Chartered Bank (K) Ltd and found no evidence of payment of a sum of Kshs. 115 million to a Mr. Collins Reeves as was alleged by Mr. Mukuria Ngamau when he appeared before the Committee on 8<sup>th</sup> March 2016. However, in his second written

submission dated 11<sup>th</sup> March, 2016, Mr. Mukuria Ngamau confirmed that he did not make the payment to Mr. Reeves, as the purported consultant died on 1<sup>st</sup> April 2015.

27. **THAT**, Mr. Mukuria Ngamau made several suspicious cash withdrawals from Quorandum Ltd accounts at Chase Bank (K) Limited and Standard Chartered (K) Ltd after Kshs. 180,364,789 had been transferred from YEDF account as evidenced by the summary of bank transactions annexed to this Report. The Quorandum Ltd account in the Standard Chartered Bank (K) Ltd account was dormant and the Chase Bank (K) Ltd account had only a deposit of Ksh. 3,000 in it before the transfers of Ksh. 180,364,789 YEDF funds to it.
28. **THAT**, Mr. Mukuria Ngamau, through Quorandum Ltd.'s Chase Bank (K) Ltd account used the proceeds of the transfers from YEDF account to make several transactions on various dates to several third parties including: -
- (i) *Purchase of a duplex apartment in Lavington, Nairobi from Duchess Park Ltd at a cost of Kshs. 48.5 million;*
  - (ii) *Payment of a debt of Kshs. 18 million owed to Great Lakes Ltd through the firm of Ngigi Mbugua & Company Advocates;*
  - (iii) *Payment of Britcom International Ltd, a UK-based company, a sum of Kshs. 9.24million purportedly for purchase of an excavator/grader;*
  - (iv) *Payment to Ms. Doreen Waithera Ng'ang'a, a co-director and spouse, a sum of Kshs. 91,480 purportedly as a repayment of a loan extended to him by Ms. Ng'ang'a;*
  - (v) *Payment of Kshs. 4.5 million to Rock Plant Ltd for an undisclosed purpose;*
  - (vi) *Payment of Kshs. 2.24 million to Mr. Dilshad Mohammed for an undisclosed purpose;*
  - (vii) *Payment of Kshs. 880,000 to Mr. Yogesh Kumar Bardwaj for an undisclosed purpose;*
  - (viii) *Payment of Kshs. 1,000,000 to Simis Engineering and Construction Company Ltd for an undisclosed purpose;*
  - (ix) *Mr. Mukuria Ngamau made payments to other several third parties on various dates as per the annexed summary of bank statements from Chase Bank (K) Ltd;*



- (x) *Mr. Mukuria Ngamau also made several suspicious cash withdrawals and cheque encashment almost on a daily basis as demonstrated by the summary of the bank statements annexed hereto.*

**29. THAT,** Mr. Mukuria Ngamau transferred approximately Kshs. 59,082,835 part of the proceeds of YEDF fraudulent transactions from Quorandum Ltd account at Chase Bank (K) Ltd to Quorandum Ltd account at Standard Chartered (K) Ltd, Yaya Centre Branch and used the funds to make further transactions and payments on various dates to other third parties including: -

- (i) *Payment of Kshs. 3.3 million to a Mr. Bruce Dominic Odhiambo account held at Co-operative Bank of Kenya Limited purportedly for payments of supplies and consultancy services;*
- (ii) *Payment of Kshs. 8,799,450 to a Mr. Ezekiel Owuor account at Barclays Bank of Kenya Limited purportedly for payments of material supply;*
- (iii) *Payment of Kshs. 10,254, 500 to Industries D'Amico, an Italian Company, purportedly for equipment supply;*
- (iv) *Mr. Mukuria Ngamau also made several cash withdrawals and transfers to his personal account held at Standard Chartered Bank and to personal accounts of persons closely related to him including: his spouse and Co-director, Ms. Doreen Waithera who was paid Kshs. 402,000; and Ms. Tabitha Wanjiku Ngamau, his mother who was paid Kshs. 940,000;*
- (v) *Mr. Mukuria Ngamau made payments to other several third parties on various dates as per the annexed summary of bank statements from Standard Chartered Bank (K) Ltd.*

**30. THAT,** following the loss of funds from YEDF Chase Bank (K) Ltd fixed deposit account, the Fund's Board in a special sitting held on 23<sup>rd</sup> October, 2015 recommended the suspension of Ag. CEO Ms. Catherine A. Namuye, and Mr. Benedict Atavachi, Finance Manager. The Board appointed Mr. Emmanuel Odero as the Fund's acting CEO.

**31. THAT,** vide letter Ref. YEDFB/CEO/377/2015 dated 23<sup>rd</sup> October, 2015 directed the Ag. CEO Ms. Catherine A. Namuye and the Finance Manager, Mr. Benedict Atavachi to proceed on leave until further notice. He copied the same letter to Ms. Anne Waiguru, former Cabinet

Secretary, Ministry of Planning & Devolution and Eng. Peter Mangiti, Principal Secretary, State Department of Planning.

32. **THAT**, the action of Mr. Bruce Odhiambo, former Chairman YEDF of writing a letter of suspension to Ms. Catherine A. Namuye, Ag. CEO was procedural. However, he acted *ultra vires* by signing a letter suspending Mr. Benedict Atavachi, the Finance Manager. The suspension of the Finance Manager ought to have been done by the newly appointed Ag. CEO.
33. **THAT**, the new Ag. CEO regularised the suspension of Mr. Benedict Atavachi, Finance Manager vide letter Ref. YEDFB/CEO/591/2015 dated 17<sup>th</sup> November, 2015 informing him that he had been suspended with effect from 23<sup>rd</sup> October, 2015.
34. **THAT**, the actions of Mr. Bruce Odhiambo as the Chairman of the YEDF in particular, his use of YEDF facilities such as office and vehicle were contrary to his terms and conditions of service as spelt out in the Guidelines on Terms and Conditions of Service for State Corporations' CEOs, Chairmen, and Board Members dated 23<sup>rd</sup> November 2014 and Government policy directive as contained in circular reference no. PMO/CIRC/A (3) of 7<sup>th</sup> April 2011.
35. **THAT**, the Director, Financial Reporting Centre is mandated to send information received under the POCAML Act 2009 to the appropriate law enforcement authorities, any intelligence agency, or any other appropriate supervisory body for further handling if, having considered the reports, he has reasonable grounds to suspect that a transaction or activity involves proceeds of crime. In the matter of Quorandum Ltd, the Director, FRC failed to communicate to Chase Bank (K) Ltd of any clearance of the transaction to Quorandum Ltd account. Further, the Director, FRC did not submit to the Committee any information on any reporting made to the investigative agencies as required of him in line with Section 24(b) of the POCAML Act 2009.
36. **THAT**, the Financial Reporting Centre and the Asset Recovery Agency the two crucial institutions established under the POCAML Act 2009 to deal with matters of proceeds of crime and money-laundering are under-funded by the Government and have never been fully operationalized.

37. **THAT**, there are indications that the real estate sector Kenya is used for money laundering especially the proceeds of criminal activities including corruption in contravention of Section 4 of the POCAML Act 2009. Mr. Mukuria Ngamau through Quorum Ltd used the proceeds of YEDF transfers to purchase a duplex apartment in Lavington, Nairobi at a cost of Ksh. 48.5 million from Duchess Park Limited.
38. **THAT**, His Excellency the President, vide a gazette notice of 15<sup>th</sup> April, 2016 in accordance with Section 7(3) of the State Corporations Act Cap. 446 revoked the appointment of Mr. Bruce Odhiambo as Chairman of YEDF Board and Ms. Sella Bogonko, Mr. Paul Gathura Ng'ang'a, Mr. Sabra Omar Hussein, Ms. Jane Mutinda, Mr. Michael Wamae, Mr. Clement Ayungo and Mr. Nicholas Mwaniki as Members of the YEDF Board.
39. **THAT**, the Fund's Board in the year 2013, recommended to the Principal Secretary, State Department of Planning, Eng. Peter Mangiti for the appointment of a substantive CEO from a list of four (4) nominees; the appointment was never made and as such, Ms. Catherine A. Namuye was in acting capacity until the time of her suspension on 23<sup>rd</sup> October, 2015.
40. **THAT**, on several occasions Ms. Namuye purportedly referred herself as the substantive chief executive officer of the Fund despite the fact that the Board or the parent Ministry never confirmed her as such.
41. **THAT**, the Circular dated 18<sup>th</sup> July, 2007 issued by the former Head of Civil Service and Secretary to the Cabinet, Ambassador Francis Muthaura, barring the Inspectorate of State Corporations from sitting in Board meetings of State Corporations unless invited by the Board was in contravention of Section 18 (2) (c) of the State Corporations Act which gives the Inspectorate the mandate to attend Board meetings as deemed necessary. This exclusion of officers from the Inspectorate may have contributed to the loss of funds and financial mismanagement at YEDF.
42. **THAT**, the Inspectorate of State Corporations is handicapped in the execution of its mandate due to budgetary constraints and staff shortage. The Inspectorate has 15 Inspectors handling more than 300 State Corporations.
43. **THAT**, before the launch of *Mwongozo* Code of Governance for State Corporations, there was no single policy document defining the professional and academic qualifications of

Chairpersons and Directors of Boards of State Corporations. The *Mwongozo* code has clearly defined the minimum academic qualification for appointment as Chairman or Board Member of a State Corporation.

44. **THAT**, lack of defined minimum academic qualifications and experience contributed to the ineptitude and ineffectiveness of the disbanded YEDF Board in running the affairs of the Fund.
45. **THAT**, the YEDF lost approximately Ksh. 44.7 million in a YEDF 8<sup>th</sup> anniversary event which was to be held in March 2015 at the Kenyatta International Convention Centre (KICC). The venue of the event was later changed to the University of Nairobi grounds but did not materialize as it was verbally cancelled by a phone call purportedly by Ms. Anne Waiguru, former CS, Ministry of Devolution and Planning to Mr. Bruce Odhiambo, former Chairman, YEDF.
46. **THAT**, Mr. Hillary Kiprono Yegon, Director of M/S K-Susu Ltd and Gigtych Ltd, received payment of Kshs. 44.7 million for the aborted YEDF 8<sup>th</sup> anniversary event.
47. **THAT**, Mr. Hillary Kiprono Yegon breached Section 14(1) and (2) of the National Assembly (Powers and Privileges) Act, Cap. 6, Laws of Kenya by failing to honour the Committee's Summons to appear before it on 21<sup>st</sup> April, 2016.
48. **THAT**, the circumstances surrounding the death of the Fund's driver, Mr. Simon Mwangi who at the time of his death on 18<sup>th</sup> October, 2015 was on duty during unofficial hours in Diani, are suspect. The death allegedly occurred at a private party attended by former YEDF Board director Mr. Clement Ayungo on invitation by his friend, Mr. Babu Owino. The Directorate of Criminal Investigations has opened an inquest on the matter.

## 5.0 RECOMMENDATIONS

Arising from the oral and written evidence taken, submissions received and observations, the Committee makes the following recommendations for consideration of implementation by the various government entities and agencies: -

### 5.1 Recommendations to Government Entities and Agencies

1. **THAT**, the National Treasury to constitute a multi-government agency team composed of the responsible State Departments and the Inspectorate of State Corporations to review the corporate governance issues at YEDF, performance of the various projects undertaken by YEDF since its inception and to undertake a value for money audit of the Fund since inception to date. *The Cabinet Secretary for the National Treasury to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
2. **THAT**, there is need to amend Sections 23, 24 and 44 of the Proceeds of Crime and the Anti-Money Laundering Act 2009 to give the Financial Reporting Centre more powers to act on suspicious bank transactions and accounts. *The Committee shall propose an amendment to this section to ensure that the FRC can mitigate on funds especially originating from government institutions.*
3. **THAT**, the Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs should expedite the appointment of a substantive Chief Executive Officer of the Youth Enterprise Development Fund. The YEDF has operated without a substantive CEO since 2013. *The Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*

4. **THAT**, there is need to amend Sections 23 and 24 of the POCAML Act 2009 to enable the tracking of proceeds of crime especially to the real estate sector in Kenya. There are indications that the real estate sector in Kenya is used for money laundering especially proceeds of corruption. *The Attorney-General should submit draft legislation to the National Assembly not later than two (2) months after the adoption of this Report as part of the status of implementation of this recommendation.*
5. **THAT**, the Auditor-General to undertake a forensic audit of all the funds that have been appropriated by the National Assembly to YEDF from inception to date. *The Auditor-General should report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
6. **THAT**, the Financial Reporting Centre (FRC) and the Asset Recovery Agency (ARA), the two crucial institutions established under the POCAML Act 2009 to deal with matters of proceeds of crime and money-laundering are under-funded by the Government and have never been fully operationalized. The National Treasury and the Attorney General should ensure that the FRC and ARA are adequately funded and fully operationalized to enable the two institutions adequately fulfil their legal mandate. *The Attorney-General and the Cabinet Secretary, the National Treasury should report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
7. **THAT**, Chase Bank (K) Ltd did not fully conduct due diligence in accordance with prudential guideline 5.6.6 of the Guidelines on Anti-Money Laundering and Combating the Financing of Terrorism - CBK/PG/08 in acting on instructions of Ms. Catherine A. Namuye, the suspended CEO, YEDF to transfer funds from YEDF account to Quorum Ltd. The Central Bank of Kenya should investigate Chase Bank (K) Ltd for possible violations of the Banking Act Cap 488, POCAML Act 2009 and the Prudential Guidelines. *The Governor, Central Bank of Kenya should report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*

8. **THAT**, the National Treasury enhances budgetary allocation to the Inspectorate of State Corporations to facilitate effective inspection of state corporations. *The Cabinet Secretary, the National Treasury should report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
9. **THAT**, the circumstances surrounding the death of the Fund's driver, Mr. Simon Mwangi who at the time of his death on 18<sup>th</sup> October, 2015 was on duty during unofficial hours in Diani Beach Mombasa, are suspect. The death allegedly occurred at a private party attended by former YEDF Board director Mr. Clement Ayungo on invitation by his friend, Mr. Babu Owino. The Director, Directorate of Criminal Investigations should extend his investigation to include possible involvement of Mr. Clement Ayungo and Mr. Babu Owino in the death of Mr. Simon Mwangi and establish if his death is linked to the financial mismanagement at the YEDF. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
10. **THAT**, the Circular dated 18<sup>th</sup> July, 2007 issued by the former Head of Civil Service and Secretary to the Cabinet, Ambassador Francis Muthaura, barring the Inspectorate of State Corporations from sitting in Board meetings of State Corporations unless invited by the Board was in contravention of Section 18 (2) (c) of the State Corporations Act which gives the Inspectorate the mandate to attend Board meetings as deemed necessary. *The Chief of Staff and Head of the Public Service to report back to the National Assembly not later than two (2) months after the adoption of this Report on the action taken to correct the amendment of Act of Parliament through a Circular.*
11. **THAT**, the Chief of Staff and the Head of Public Service should as a matter of priority ensure that the recommendations of the Presidential Taskforce on Parastatal Reforms on the merger of the YEDF, Women Fund, Uwezo Fund, Micro and Small Enterprises Authority (MSEA) and the Kenya Industrial Estates (KIE) to create Biashara Kenya are implemented. This merger is expected: to pool the scattered financial resources estimated at approximately Kshs. 30 Billion per financial year; harness the potential of youth, women and men; build

synergies among the various government agencies; and leverage on economies of scale. Further there is duplication of roles of some state organs, hence the need to implement the *Mwongozo* so as to remove duplication of duties and create clarity on the same. *The Chief of Staff and Head of the Public Service to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

- 12. THAT,** the Chief of Staff and Head of Public Service should ensure that the appointment of persons to serve as Board Chairpersons and Board Members of State Corporations is done in accordance with the *Mwongozo* Code of Governance for State Corporations which requires that appointment of persons to serve as Board Chairpersons and Board Members have the following minimum qualifications:

- (i) Holds a minimum of a degree in the relevant field from a university recognised in Kenya;
- (ii) Proven business management or other relevant professional experience;
- (iii) Served in a position of senior management for at least six years;
- (iv) Has not served in the same entity as employee in the preceding five years;
- (v) Meets the requirements of Chapter Six of the Constitution; and
- (vi) Meets the requirements of the fit and proper test.

- 13. THAT,** further, Alternate Directors of respective Ministries seconded to parastatal Boards should be individuals well versed in the affairs and operations of the respective Boards and should have unfettered access to Board meetings and ensure that they submit regular reports to their respective Principal Secretaries on the operations of the Boards in which they sit in.

- 14. THAT,** the Director, Directorate of Criminal Investigations should: -

- (i) Engage the services of a forensic examiner to authenticate all YEDF documents used in the fraudulent transfer of funds from YEDF account at Chase Bank (K) Ltd, including Board Minutes and correspondences.



- (ii) Engage the services of a graphology expert to analyse signatures on all correspondences that were purportedly signed by the then Ag. CEO Ms. Catherine Namuye and other Fund officials, that may have resulted in the loss of funds at YEDF.

*The Director, Directorate of Criminal Investigations to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

## **5.2 Specific Recommendations on Various Persons of Interest**

Arising from the oral and written evidence taken, submissions received and findings and observations made, the Committee makes the following specific recommendations on the following persons of interest: -

### **5.2.1 Ms. Catherine A. Namuye, suspended Ag. CEO, YEDF**

1. **THAT**, Ms. Catherine A. Namuye as the former accounting officer of the YEDF should be investigated, charged and prosecuted for **violating Section 27(2) of the PPDA 2005**. She failed to ensure that procurement procedures were followed in the alleged provision of consultancy services for ICT strategy development and ERP System by Quorum Ltd. *The Secretary, EACC and Director, DCI to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
2. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for violating the use of restricted tendering as provided for in the Public Procurement and Disposal Act, 2005 particularly **Section 73(2)** which provides instances where a procuring entity may use restricted tendering. Further, Ms. Catherine A. Namuye used restricted tendering contrary to the maximum threshold provided for in the Public Procurement Regulations 2006 that required procurements for goods and services above Ksh. 6,000,000 to be advertised and competitively procured. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

3. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for violating **Section 72(1) of the PFM Act 2012** which requires an accounting officer of a national government entity to be responsible for management of the entity's assets and liabilities. Ms. Catherine A. Namuye allowed Mr. Bruce Odhiambo unfettered use of YEDF facilities including office and a brand new motor vehicle despite him being a non-executive Chairperson who is not entitled to such facilities. She also failed to implement the State Corporations guidelines issued by SCAC on entitlements of Chairpersons and members of Boards hence occasioned loss of funds including: Kshs. 12,615,448 incurred in buying a motor vehicle for the use of Mr. Bruce Odhiambo; associated repair and maintenance costs incurred for running the vehicle, totalling Ksh. 1,034,014.65 and employment of a driver and a body guard. The EACC should investigate and if found culpable, recommend her for prosecution to the DPP for violation of the Act. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
4. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for **violating the provisions of Section 68(1) (a)(b) of the PFM Act 2012** that stipulates that the responsibility of an accounting officer is to ensure that public resources are utilized in a legal, authorized and effective ways to ensure the public realises value for its taxes. The EACC should investigate and if found culpable, recommend her for prosecution to the DPP for violation of the Act. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
5. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for **violating the provisions of Section 15 of the Public Officers Ethics Act, 2003** that requires a public officer to take all reasonable steps to ensure that property that is entrusted to her care is adequately protected and not misused or misappropriated. Ms. Catherine A. Namuye failed to comply with various provisions of the Act. In particular, her assertions that she acted under duress from the Board members particularly on the issues of the Board Members rejecting the existing ICT Strategic Plan (2013-2017) and recommending for a new ICT strategic plan should have been reported by her to the relevant authorities as provided for in section 25 of

the POE Act, 2003. The EACC should investigate Ms. Catherine A. Namuye for violating the provisions of the POE Act 2003 and the Code of Conduct and Ethics for Public Officers. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*

6. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for various **acts of omission and commission with the intention to defraud the Fund**. The purported consultancy services contract agreement for ICT Strategic Plan and ERP System development signed by Ms. Catherine A. Namuye on behalf of YEDF and Mr. Mukuria Ngamau for Quorandum Ltd was a well-crafted and jointly executed scheme by Ms. Catherine A. Namuye and Mr. Mukuria Ngamau, with the sole intention of defrauding the YEDF of approximately Kshs. 180 million. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
7. **THAT**, Ms. Catherine A. Namuye, be investigated by EACC for her role in the cancellation of the YEDF 8<sup>th</sup> anniversary event which was to be held in the year 2015 at the Kenyatta International Conference Centre (KICC) and later venue changed to the University of Nairobi grounds but was eventually verbally cancelled by a phone call purportedly by Ms. Anne Waiguru, the former Cabinet Secretary for Devolution and Planning to Mr. Bruce Odhiambo, the former YEDF Board Chairman. The YEDF fraudulently paid approximately Kshs. 44,741,603 purportedly to various contracted suppliers for the cancelled event. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
8. **THAT**, Ms. Catherine A. Namuye should be investigated, charged and prosecuted for forgery in line with the Penal Code of 1930 Cap 63 laws of Kenya. The purported extracts of the Fund's Board Minutes signed by Mr. Bruce Odhiambo and Ms. Catherine A. Namuye sent to Chase Bank (K) Ltd to confirm the change of signatories were a forgery and a collusion

between the two officers with an intent to defraud the Fund pursuant to Section 348 of the Penal Code of 1930 Cap 63 Laws of Kenya.

9. **THAT**, Ms. Catherine A. Namuye if found culpable by the relevant agencies and convicted by a court of law for the various civil and criminal offences should be barred from holding any public office pursuant to the provisions of Article 75(3) read together with Article 80(c) of the Constitution that stipulates that a person who is dismissed for compromising any public or official interest in favour of a personal interest shall be disqualified from holding any other public office.

### 5.2.2 Mr. Bruce Dominic Odhiambo, former YEDF Board Chairman

1. **THAT**, Mr. Bruce Odhiambo, former YEDF Board Chairman should be investigated, charged and prosecuted for **conspiracy to defraud the YEDF**. Mr. Bruce Odhiambo working with Mr. Mukuria Ngamau and Ms. Catherine A. Namuye crafted and executed a fraudulent scheme in the name of a consultancy service with the sole intention of defrauding the public of approximately Kshs. 180 million. The Directorate of Criminal Investigations (DCI) should immediately investigate Mr. Bruce Odhiambo and make recommendations for prosecutions to the Director of Public Prosecutions. *The Director of Criminal Investigations to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
2. **THAT**, Mr. Bruce Odhiambo, YEDF Board Chairman should be investigated, charged and prosecuted for **violating the provisions of Section 15 of the POE Act 2003**. He personally selected and instructed YEDF management to acquire for him a vehicle, Toyota Land Cruiser VXL, Registration No. KBZ 753D, which was purchased by YEDF on 28<sup>th</sup> August, 2014 at a cost of Kshs. 12,615,448. The said vehicle was misused by Mr. Bruce Odhiambo leading to the fund incurring a total of Kshs. 806,014.65 on fuel and general maintenance of the vehicle. On handing over the vehicle back to the Fund, the vehicle was sent to the Government Chief Mechanical Engineer for assessment, who referred the vehicle back to Toyota Kenya for further assessment. Toyota Kenya has quoted Kshs. 228,000 for repairs of the vehicle. The Inspector- General of State Corporations and the Chief Executive Officer of YEDF should surcharge Mr. Bruce Odhiambo a sum of Kshs. 1,034,014.65 for the misuse.

The Inspectorate of State Corporations to liaise with the Asset Recovery Agency to ensure a recovery of this amount and appurtenant costs with immediate effect. *The Inspector-General of State Corporations to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

3. **THAT**, Mr. Bruce Odhiambo, former Chairman YEDF should be investigated, charged and prosecuted for **money laundering under Section 3 and 4 of the POCAML Act, 2009 Cap 59B**. He received a total of Kshs. 3.3 million from Mr. Mukuria Ngamau through Quorandum Ltd as per Quorandum Ltd.'s Standard Chartered Bank (Kenya) Ltd account statements hereto annexed. The Committee from its investigations, believes that the said Mr. Bruce Dominic Odhiambo is the former Chairman of the YEDF. The Directorate of Criminal Investigations (DCI) should immediately investigate Mr. Bruce Dominic Odhiambo for this criminal act of collusion and benefiting from proceeds of crime contrary to provisions of Section 3 and 4 of the POCAML Act 2009 and make recommendations for prosecution to the Director of Public Prosecutions. The Director, Assets Recovery Agency should immediately institute a confiscation order and proceed to recover the amount in question from Mr. Bruce Dominic Odhiambo. *The Attorney-General to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
4. **THAT**, Mr. Bruce Odhiambo, former Chairman YEDF should be investigated, charged and prosecuted for various **acts of omission and commission to defraud the public**. He should be investigated by EACC for his role in the cancellation of the YEDF 8<sup>th</sup> anniversary event which was to be held in 2015 at the KICC and later changed to the University of Nairobi grounds but was eventually verbally cancelled by a phone call purportedly by Ms. Anne Waiguru to Mr. Bruce Odhiambo. The YEDF fraudulently paid approximately Kshs. 44,741,603 purportedly to various contracted suppliers for the cancelled event. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
5. **THAT**, Mr. Bruce Odhiambo should be investigated, charged and prosecuted for forgery in line with the Penal Code of 1930 Cap 63 Laws of Kenya. The purported extracts of the

Fund's Board Minutes signed by Mr. Bruce Odhiambo and Ms. Catherine A. Namuye sent to Chase Bank (K) Ltd to confirm the change of signatories were a forgery and a collusion between the two officers with an intent to defraud the Fund pursuant to Section 348 of the Penal Code of 1930 Cap 63 Laws of Kenya.

6. **THAT**, Mr. Bruce Odhiambo, if found culpable by the relevant agencies and convicted by a court of law for the various civil and criminal offences should be barred from holding any public office pursuant to the provisions of Article 75(3) read together with Article 80(c) of the Constitution that stipulates that a person who is dismissed for compromising any public or official interest in favour of a personal interest shall be disqualified from holding any other public office.

### 5.2.3 Mr. Mukuria Ngamau, Director and Shareholder, Quorandum Ltd

1. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for **conspiracy to defraud the public**. Mr. Mukuria Ngamau working together with Mr. Bruce Odhiambo and Ms. Catherine A. Namuye crafted and executed a fraudulent scheme in the name of a consultancy service with the sole intention of defrauding the public of approximately Kshs. 180 million. The Directorate of Criminal Investigations (DCI) should immediately investigate Mr. Mukuria Ngamau for this criminal act and conspiracy to defraud the public and make recommendations for prosecutions to the Director of Public Prosecution. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
2. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for **acquisition, possession or use of the proceeds of crime**. Mr. Ngamau used the proceeds from the fraudulent transactions between YEDF and Quorandum Ltd to purchase a house in Lavington, Nairobi. The Director, Assets Recovery Agency should move with utmost speed and obtain an injunction against transfer of duplex apartment number C16 at Duchess Park Apartments located along Hatheru Road, Lavington, Nairobi. The said property was purchased by Quorandum Ltd from Duchess Park Ltd using the proceeds from the YEDF fraud of Kshs. 180,364,789 contrary to the provisions of Section 4 of the POCAML Act 2009. *The Attorney-*

*General to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

3. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for **violation of Section 27(4) of the PPDA 2005** that requires all contractors, suppliers and consultants to comply with all the provisions of the Act. The actions of Mr. Mukuria Ngamau and his company Quorandum Ltd violated the provisions of the Public Procurement and Disposal Act 2005 and Public Procurement and Disposal Regulations 2006 which were in force then. *The Director-General, Public Procurement Regulatory Authority to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
4. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for giving **false evidence under oath to a Committee of the National Assembly contrary to Section 21 of the National Assembly (Powers and Privileges) Act**. Mr. Mukuria Ngamau while appearing before the Committee on 8<sup>th</sup> March, 2016 gave false information on the particulars of a Mr. Collin Reeves who was purportedly the lead consultant in the alleged contract between YEDF and Quorandum Ltd. He stated that the said Mr. Reeves resided in Michigan, USA and that as at the time he appeared before the Committee, they were in contact. He later changed this position in his written submission dated 11<sup>th</sup> March, 2016 informing the Committee that Mr. Reeves died on 1<sup>st</sup> April, 2015 and that he's still trying to trace the deceased's next of kin to transfer Kshs. 115 million owed to him. The Director of Public Prosecution should therefore charge Mr. Mukuria Ngamau with the offence of giving false evidence before the Committee contrary to Section 21 of the National Assembly (Powers and Privileges) Act. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
5. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for **acquisition, possession and the use of proceeds of crime**. An analysis of the various statements of bank accounts held by Quorandum Limited at Chase Bank (K) Ltd and Standard Chartered Bank (K) Ltd shows that the Ksh. 180, 364,789 which was fraudulently transferred from YEDF

account at Chase Bank (K) Limited to Quorandum Limited was used for various suspicious transactions. In particular, a total of approximately Ksh. 91,654,018 was transferred to Quorandum Limited account at Standard Chartered Bank (K) Limited and thereafter used for suspicious payments to various third parties including a Mr. Bruce Dominic Odhiambo. The Director of Criminal Investigations should undertake an investigation of all transactions of the Quorandum Ltd Account No. **0102497392600** held at Standard Chartered Bank Kenya Limited for the period 15<sup>th</sup> January 2015 to 31<sup>st</sup> March, 2016. The investigations should extend to all personal bank accounts of Mr. Mukuria Ngamau, Ms. Doreen Waithera Ng'ang'a including their close relatives and friends. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

6. **THAT**, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for several suspicious cash withdrawals and cheques encashment almost on a daily basis from Quorandum Ltd bank accounts at Chase Bank (K) Ltd and Standard Chartered Bank (K) Ltd as demonstrated by the summary of the bank statements annexed hereto. *The Director, DCI and Secretary EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
7. **THAT**, the Director-General of the Public Procurement and Regulatory Authority debars Quorandum Ltd and any company directly or indirectly associated with Mr. Mukuria Ngamau from participating in any Government's public procurement proceedings, both at the National and County Government levels in accordance with Section 41 the Public Procurement and Asset Disposal Act 2015 and any other relevant provisions of the procurement laws and regulations. *The Director- General, Public Procurement Regulatory Authority to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

#### **5.2.4 Other Persons of Interest**

An audit trail of the bank statements of Quorandum Ltd account held at Chase Bank (K) Ltd and Standard Chartered Bank (K) Ltd revealed that Mr. Mukuria Ngamau through Quorandum Ltd made various payments to other third parties purportedly for various goods and services offered.



The Committee therefore makes the following recommendations on the following other persons of interest: -

1. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate **Mr. Ezekiel Owuor** who received from Mr. Mukuria Ngamau through Quorandum Ltd a sum of Ksh. 8,799,450 purportedly for material supplies. Mr. Ezekiel Owuor in his written submission to the Committee acknowledged receipt of the money but indicated in writing that the amount was a loan advanced to him by Mr. Ngamau. If found culpable, he should be recommended for prosecution for benefitting from the proceeds of crime. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
2. **THAT**, Mr. Ezekiel Owuor should surrender the outstanding balance of payment owed to Mr. Mukuria Ngamau to the Asset Recovery Agency, even as the various investigative agencies conduct investigations into the matter. *The Director, Asset Recovery Agency to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
3. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate the Directors and the local representatives of **Industries D’Amico Ltd** which received a sum of Kshs. 10,254,500 from Quorandum Ltd. *The Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
4. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate **Mr. Yogesh Kumar Bhadwarj** who received from Quorandum Ltd a sum of Ksh. 880,000. If found culpable, he should be recommended for prosecution for benefitting from the proceeds of crime. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

5. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate **Mr. Dilshad S. Mohammed** who received from Quorandum Ltd a sum of Kshs. 2,246,000 on 10<sup>th</sup> April 2015. If found culpable, he should be recommended for prosecution for benefitting from the proceeds of crime. *The Director DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
6. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate **Ms. Doreen Waithera Ng'ang'a**, spouse to Mr. Mukuria Ngamau and Co-Director, Quorandum Ltd, who received a sum of Ksh. 91,480 from Mr. Mukuria Ngamau through Quorandum Ltd purportedly as a repayment of a loan extended to Mr. Mukuria Ngamau. *The Director, DCI and the Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this report on the status of implementation of this recommendation.*
7. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate the **Directors of Rock Plant Ltd** for receipt of a sum of Ksh. 4.5 million by Mukuria Ngamau through Quorandum Ltd. *The Director, DCI and the Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
8. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should in accordance with Section 4 of POCAML Act 2009 investigate the **Directors of Simis Engineering and Construction Company Ltd** for receipt of a sum of Kshs. 1,000,000 from Mukuria Ngamau through Quorandum Ltd. *The Director, DCI and the Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*
9. **THAT**, the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission should investigate **Mr. Hillary Kiprono Yegon** and other **Directors of M/S K-**

**Susu Ltd, Gigtych Ltd** and any other supplier for any sum of money received from YEDF for the YEDF 8<sup>th</sup> anniversary event and any other event undertaken for YEDF since inception to date. *The Director, DCI and Secretary, EACC to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

**10. THAT, Mr. Hillary Kiprono Yegon** failed to honour the Committee's Summons to appear before on 21<sup>st</sup> April, 2016 in breach of Section 14(1) and (2) of the National Assembly (Powers and Privileges) Act, Cap. 6, Laws of Kenya. The Director of Public Prosecutions should therefore charge Mr. Yegon with the offence of failing to honour the Committee's Summons. *The Director of Public Prosecutions to report back to the National Assembly not later than two (2) months after the adoption of this Report on the status of implementation of this recommendation.*

## CONCLUSION

The Committee concluded that YEDF lost a total of Kshs. Kshs. 180,364,789 (Kenya shillings one million three and sixty-four thousand seven hundred and eighty-nine only) through a well orchestrated and dubious non-existent consultancy service scheme that was crafted and jointly executed by Mr. Bruce Odhiambo, Ms. Catherine A. Namuye and Mr. Mukuria Ngamau.

Further, the Committee concludes that YEDF lost approximately Kshs. 44.7 million in a botched YEDF 8<sup>th</sup> anniversary event. The event which was to be held at the KICC was later changed to the University of Nairobi grounds but did not materialize as it was verbally cancelled by a phone call purportedly by Ms. Anne Waiguru to Mr. Bruce Odhiambo.

The relevant government agencies must move with speed in line with the Committee's recommendations and take the necessary steps to return the stolen money to the youth of this Republic. The Committee directs that the Clerk of the National Assembly provide the necessary support including availing the various documents submitted to this Committee to the relevant government agencies implementing the recommendations of this report.

## 7.0 ANNEXURES

**Annexure 1:** Letters from YEDF CEO dated 11<sup>th</sup> February, 2015 and 27<sup>th</sup> April, 2015 to Chase Bank to transfer funds from Acc. No. 0019054604038 held at Chase Bank, Riverside Mews Branch.

**Annexure 2:** Letter dated 10<sup>th</sup> July, 2015 from YEDF Ag. CEO Ms. Catherine Namuye to Chase Bank to recall Kshs. 120 million from its Chase Bank account to its KCB operations account.

**Annexure 3:** Minutes of Audit Committee Meeting of 22<sup>nd</sup> October, 2015 recommending suspension of the former Ag. Chief Executive Officer (Ms. Catherine A. Namuye) and the Finance Manager (Mr. Benedict Atavachi) to pave way for investigations.

**Annexure 4:** Minutes of Board Special Sitting on 23<sup>rd</sup> October, 2015 that resolved to send both the former Ag. Chief Executive Officer and Finance Manager on compulsory leave.

**Annexure 5:** Letter Ref. YEDFB/CEO/378/2015 dated 23<sup>rd</sup> October, 2015 from Chairman of the Board to the Directorate of Criminal Investigations (DCI) to undertake forensic investigations into the alleged transfer of funds.

**Annexure 6:** Letter Ref. YEDF/CEO/403/2015 dated 3<sup>rd</sup> November, 2015, from the Ag. Chief Executive Officer to the Directorate of Criminal Investigations requesting for a forensic audit of all the accounts of the Fund.

**Annexure 7:** Letter Ref. MDP/1/SEC/9/9 from the former Principal Secretary, State Department of Planning, Eng. Peter Mangiti to Ethics and Anti-Corruption Commission (EACC) requesting for forensic investigations on financial malpractice at YEDF.

**Annexure 8:** Letters Ref: YEDF/ACC/158/15, YEDF/ACC/159/15 and YEDF/ACC/172/15 dated 27<sup>th</sup> October, 2015 to all its Bankers to delete both Ms. Catherine A. Namuye and Mr. Benedict Atavachi from being signatories to its accounts as a matter of internal control check.

**Annexure 9:** Letter Ref. YEDFB/CEO/486/15 dated 20<sup>th</sup> November 2015 to the Director of Banking Supervision to investigate the Fund's account at Chase Bank and compel the Bank to furnish the Fund with correct and updated bank statements.

**Annexure 10:** Letter dated 10<sup>th</sup> November, 2015 from Chase Bank to YEDF confirming that the balance of Kshs. 104,297,489.45 as at 5<sup>th</sup> November, 2015.

**Annexure 11:** Letter Ref. YEDF/CEO/460/2015 dated 18<sup>th</sup> November, 2015 from the Fund to the Registrar of Companies to furnish it with the details of the Directors of Quorandum Ltd ()

**Annexure 12:** Directors of Quorandum Ltd

**Annexure 13:** Allocation of Toyota Land Cruiser VXL, Registration No. KBZ 753D, purchased on 28<sup>th</sup> August, 2014 at a cost of Kshs. 12,615,448 to the former Chair Mr. Bruce Odhiambo.

**Annexure 14:** Expenditure of Kshs. 806,014.65 incurred by the Fund on fuel and general maintenance of the vehicle between the period of purchase and March, 2015 when returned the vehicle to the Fund.

**Annexure 15:** Assessment Report by the Government Chief Mechanical Engineer and Toyota Kenya on the vehicle allocated to the former Chair Mr. Bruce Odhiambo on returning the vehicle.

**Annexure 16:** Auditor's report on expenditure incurred on the former Chairman's driver and body guard on meals and overtime allowances.

**Annexure 17:** Extract of emails exchanged between Chase Bank Relationship Managers Ms. Mary Muteti, Mr. Edwin Gachimu and Mr. Abdillahi Adan. Mr. Benedict Atavachi on the status of Kshs. 400 million deposited in the Bank.

**Annexure 18:** Extract of email dated 8<sup>th</sup> May, 2015, Internal Memos dated 7<sup>th</sup> July, 2015 and 6<sup>th</sup> August, 2015 respectively, sent by suspended YEDF Finance Manager to Ag. CEO Ms. Catherine Namuye to seek copy of instructions to Chase Bank for the placement of Kshs. 400 million.

**Annexure 19:** YEDF letter Ref. YEDFB/CEO/1339/2015 dated 17<sup>th</sup> February, 2015 signed by the Chairman, Mr. Bruce Odhiambo and the Ag. CEO Ms. Catherine Namuye changing the authorized Chase Bank account signatories.

**Annexure 20:** Kenya Gazette Notices dated 7<sup>th</sup> April, 2014 on appointment of Mr. Bruce Odhiambo as the Chairman of the YEDF Board and others dated 28<sup>th</sup> August, 2015 on appointment of Mr. Nicholas Mwaniki, 6<sup>th</sup> May, 2014 on appointment of Ms. Sabra Omar Hussein, Ms. Jane Mutinda, Mr. Michael Wamae and Mr. Clement Ayungo as Board Members. Mr. Samuel Macharia was appointed by CS, National Treasury, vide letter dated 14<sup>th</sup> October, 2015. Mr. Jalenga's appointment to YEDF Board was revoked by PS, Eng. Mangiti on 22<sup>nd</sup> October, 2015.

**Annexure 21:** Letter Ref. No. Q1/YEDF/01 from Quorandum Ltd dated 26<sup>th</sup> May, 2014 to the YEDF Chief Executive Officer Ms. Catherine Namuye containing proposed outline of ICT Strategy and ERP System.

**Annexure 22:** YEDF letter Ref. No. YEDF/CEO/1408/2014 dated 2<sup>nd</sup> June, 2014 indicating that Quorandum Ltd.'s proposal met the needs of the Fund, Quorandum letters to YEDF dated 9<sup>th</sup> June, 2014 containing quotations for ICT Strategic Plan and ERP System.

**Annexure 23:** Quorandum Ltd sample invoices to the YEDF CEO Ms. Catherine Namuye.

**Annexure 24:** YEDF letter Ref. No. YEDF/CEO/129/2014 dated 2<sup>nd</sup> September, 2014, to Quorandum confirming that the Board approved and accepted the proposal for consultancy services for the design of a comprehensive ICT Strategy and ERP System.

**Annexure 25:** Quorandum Ltd Agreement with YEDF dated 17<sup>th</sup> November, 2014 for a comprehensive ICT strategy and ERP design.

**Annexure 26:** Quorandum Letter Ref. No. QL/YEDF/06/ICT/2015 dated 26<sup>th</sup> January 2015 submitting the final report of the ICT Strategy to YEDF.

**Annexure 27:** Curriculum vitae of Mr. Donnie Collins Reeves

**Annexure 28:** Letter Ref. MDP/1/SEC/9/9 from the former Principal Secretary, State Department of Planning, Eng. Peter Mangiti to Ethics and Anti-Corruption Commission (EACC) requesting for forensic investigations on financial malpractice at YEDF.

**Annexure 29:** Letter by Ag. CEO Mr. Emmanuel Odera Ref. YEDFB/CEO/486/15 dated 20<sup>th</sup> November, 2015 to Director of Banking Supervision to investigate the the Fund's account as Chase Bank and compel the Bank to furnish the Fund with correct and updated bank statements. Also annexed is response to YEDF Complaint dated 14<sup>th</sup> December, 2015 from Mr. Daniel Muguima, Manager, Banking Supervision.

**Annexure 30:** Letters by CS, Ministry of Public Service, Youth and Gender Affairs dated 1<sup>st</sup> March, 2016 barring the YEDF Chairperson and the Board Directors from transacting any business or accessing the Fund facilities to pave way for investigations.

**Annexure 31:** National Treasury Circular No. 10/1992.

**Annexure 32:** National Treasury Circular No. 12/2002.

**Annexure 33:** Gazette Notice dated 15<sup>th</sup> April, 2016 revoking the appointment of the Board Chairman and Board Members.

**Annexure 34:** Submission by Kenya Revenue Authority

**Annexure 35:** Submission by the Director of Criminal Investigations dated 6<sup>th</sup> April, 2016.

**Annexure 36:** Letter by Eng. Mangiti to EACC dated 4<sup>th</sup> November, 2015

**Annexure 37:** Chase Bank letter to YEDF Ag. CEO advising the Fund that the Bank could not honour their instructions as the mandates and their instructions did not match.

**Annexure 38:** Email by Ms. C. Namuye confirming that the contract and the supporting invoices on 25<sup>th</sup> February 2015 were in order.

**Annexure 39:** Chase Bank STR to the Financial Reporting Centre (FRC) dated 11<sup>th</sup> March, 2015.

**Annexure 40:** Letter from YEDF dated on 27<sup>th</sup> April, 201 to transfer a further Kshs. 64,654,789.00 to Quorum Ltd.

**Annexure 41:** Letter dated 10<sup>th</sup> July, 2015 instructing the Bank to liquidate the deposit of Kshs. 219,815,054.00 and transfer Kshs. 120,000,000.00 to the YEDF account held at Kenya Commercial Bank.

**Annexure 42:** Letter dated 8<sup>th</sup> December, 2015 by the Chairman, Mr. Bruce Odhiambo and the acting CEO Mr. Emmanuel Odera instructing Chase Bank to transfer the remaining funds held at Chase Bank (K) Ltd to the Fund's Kenya Commercial Bank account.

**Annexure 43:** Chase Bank letter to YEDF dated 18<sup>th</sup> December, 2015 reiterating that the Fund had issued a new mandate and this name was not included in the list of mandates.

**Annexure 44:** dated 25<sup>th</sup> February, 2016 from the Acting CEO Mr. Emmanuel Odera asking for information regarding the Youth Enterprise Development Fund account. The bank replied on 3<sup>rd</sup> March 2016 reiterating what had been stated in the earlier letter dated 18<sup>th</sup> December, 2015.

**Annexure 45:** Submission by Mr. Ezekiel Owuor

**Annexure 46:** Payment of Kshs. 3,493,526 dated 19<sup>th</sup> May, 2015 as per the invoice addressed to K-Susu Ltd and bank statement from Diamond Trust Bank

**Annexure 47:** Payment to M/S Film Crew in Africa Ltd



**Annexure 48: Summary of Quorandum Ltd Standard Chartered (K) Ltd Account Statement**

**Period: 15<sup>th</sup> January, 2015 to 16<sup>th</sup> March, 2016**

DATE	NAME	DEBIT (KSHS.)	CREDIT (KSHS.)
15-Jan-15	NSSF	1,200.00	-
26-Feb-15	Waithera Ng'ang'a	402,000.00	-
27-Feb-15	Mukuria Ngamau	2,200,000.00	-
02-Mar-15	Standard Chartered Bank	240,000.00	-
05-Mar-15	RTGS Quorandum Ltd	-	4,600,000.00
05-Mar-15	Bruce D. Odhiambo	1,800,000.00	-
05-Mar-15	Ezekiel Owuor	1,500,000.00	-
05-Mar-15	Ganatra Plant & Equipment	199,000.00	-
10-Mar-15	NSSF	1,200.00	-
12-Mar-15	RTGS Quorandum Ltd	-	4,700,000.00
12-Mar-15	Standard Chartered Bank	570,000.00	-
16-Mar-15	Mukuria Ngamau	300,000.00	-
16-Mar-15	Ezekiel Owuor	2,000,000.00	-
16-Mar-15	Bruce D. Odhiambo	1,500,000.00	-
17-Mar-15	Mukuria Ngamau	700,000.00	-
24-Mar-15	RTGS Quorandum Ltd	-	4,500,000.00
25-Mar-15	Ezekiel Owuor	2,000,000.00	-
08-Apr-15	Mukuria Ngamau	200,000.00	-
08-Apr-15	Mukuria Ngamau	800,000.00	-
10-Apr-15	RTGS Quorandum Ltd	3,500,000.00	-
15-Apr-15	Ezekiel Owuor	1,300,000.00	-
21-Apr-15	Mukuria Ngamau	100,000.00	-
24-Apr-15	Mukuria Ngamau	120,000.00	-
29-Apr-15	Mukuria Ngamau	150,000.00	-
29-Apr-15	Mukuria Ngamau	200,000.00	-
05-May-15	RTGS Quorandum Ltd	-	7,480,000.00

DATE	NAME	DEBIT (KSHS.)	CREDIT (KSHS.)
05-May-15	Industrie D 'Amico	4,232,000.00	-
07-May-15	NHIF	3,100.00	-
09-May-15	Mukuria Ngamau	900,000.00	-
09-May-15	Mukuria Ngamau	700,000.00	-
12-May-15	RTGS Quorandum Ltd	-	6,800,000.00
13-May-15	Mukuria Ngamau	950,000.00	-
13-May-15	Mukuria Ngamau	550,000.00	-
13-May-15	Industrie D 'Amico (transferred to Banco Di Napoli, Italy)	6,022,500.00	-
13-May-15	Quorandum Ltd	1,437.00	-
14-May-15	Martha Wangari Kungu	35,000.00	-
15-May-15	Mukuria Ngamau	800,000.00	-
15-May-15	Mukuria Ngamau	800,000.00	-
16-May-15	Mukuria Ngamau	700,000.00	-
19-May-15	Mukuria Ngamau	250,000.00	-
19-May-15	RTGS Quorandum Ltd	-	8,000,000.00
22-May-15	Mukuria Ngamau	200,000.00	-
22-May-15	Ezekiel Owuor	3,000,000.00	-
25-May-15	Wanjiku Tabitha Ngamau	480,000.00	-
25-May-15	Boniface Mutisya Ngwili	35,000.00	-
26-May-15	Mukuria Ngamau	380,000.00	-
27-May-15	NHIF	3,100.00	-
27-May-15	Kingsway Tyres Ltd	648,440.00	-
27-May-15	Mukuria Ngamau	220,000	-
30-May-15	Mukuria Ngamau	230,000.00	-
02-Jun-15	Salary Upload	-	611,807.80
03-Jun-15	Mukuria Ngamau	150,000.00	-
03-Jun-15	Simon Maina Mwangi	60,000.00	-
04-Jun-15	Mukuria Ngamau	455,000.00	-
08-Jun-15	Mukuria Ngamau	200,000.00	-
08-Jun-15	Standard Chartered Bank	39,295.00	-
10-Jun-15	Mukuria Ngamau	480,000.00	-
12-Jun-15	Mukuria Ngamau	200,000.00	-
16-Jun-15	Standard Chartered Bank	224,368.00	-
16-Jun-15	Molo Freight Ltd	345,218.00	-
18-Jun-15	Mukuria Ngamau	350,000.00	-
18-Jun-15	Mukuria Ngamau	220,000.00	-
18-Jun-15	Standard Chartered Bank	254,000.00	-

DATE	NAME	DEBIT (KSHS.)	CREDIT (KSHS.)
19-Jun-15	Standard Chartered Bank	647,826.00	-
22-Jun-15	Boniface Mutisya Ngwili	60,000.00	-
22-Jun-15	Stephen Muchai Kago	40,000.00	-
24-Jun-15	Mukuria Ngamau	250,000.00	-
25-Jun-15	Mukuria Ngamau	120,000.00	-
26-Jun-15	Molo Freight Ltd	241,290.00	-
26-Jun-15	William Wachira	17,000.00	-
29-Jun-15	Mukuria Ngamau	100,000.00	-
02-Jul-15	Mukuria Ngamau	70,000.00	-
02-Jul-15	Mukoola Godfrey Oloo	20,000.00	-
02-Jul-15	Simon Maina Mwangi	59,000.00	-
02-Jul-15	Martha Wangari Kungu	49,000.00	-
02-Jul-15	Mukuria Ngamau	150,000.00	-
08-Jul-15	Standard Chartered Bank	39,368.00	-
08-Jul-15	Britam General Insurance	109,699.00	-
09-Jul-15	Steelstone Kenya Ltd	63,260.00	-
13-Jul-15	Joseph Kamau	34,800.00	-
15-Jul-15	Mukuria Ngamau	120,000.00	-
17-Jul-15	Mukuria Ngamau	90,000.00	-
17-Jul-15	Quorandum Ltd	28,422.00	-
22-Jul-15	Mantrac Kenya	200,000.00	-
30-Jul-15	Mukuria Ngamau	185,000.00	-
30-Jul-15	Simon Maina Mwangi	60,000.00	-
30-Jul-15	Mukoola Godfrey Oloo	20,000.00	-
30-Jul-15	Mukuria Ngamau	150,000.00	-
30-Jul-15	Martha Wangari Kungu	13,650.00	-
30-Jul-15	NHIF	3,600.00	-
31-Jul-15	Mantrac Kenya	195,000.00	-
31-Jul-15	Mukuria Ngamau	252,000.00	-
05-Aug-15	KRA(PAYE)	39,368.00	-
06-Aug-15	RTGS Quorandum Ltd	-	30,000,000.00
13-Aug-15	Mukuria Ngamau	100,000.00	-
14-Aug-15	Mukuria Ngamau	50,000.00	-
19-Aug-15	Mukuria Ngamau	410,000.00	-
31-Aug-15	Mukuria Ngamau	300,000.00	-
07-Sep-15	Mukuria Ngamau	100,000.00	-
07-Sep-15	Simon Maina Mwangi	60,000.00	-

DATE	NAME	DEBIT (KSHS.)	CREDIT (KSHS.)
07-Sep-15	Mukuria Ngamau	150,000.00	-
07-Sep-15	Mukoola Godfrey Oloo	20,000.00	-
07-Sep-15	Standard Chartered Bank	39,368.00	-
07-Sep-15	Steelstone Kenya Ltd	120,000.00	-
07-Sep-15	NHIF	3,600.00	-
14-Sep-15	Standard Chartered Bank	900,000.00	-
18-Sep-15	Mukuria Ngamau	70,000.00	-
28-Sep-15	Mukuria Ngamau	200,000.00	-
30-Sep-15	Mukoola Godfrey Oloo	20,000.00	-
30-Sep-15	Standard Chartered Bank	39,368.00	-
30-Sep-15	Simon Maina Mwangi	60,000.00	-
30-Sep-15	NHIF	3,600.00	-
30-Sep-15	Martha Wangari Kungu	13,650.00	-
30-Sep-15	Joseph Kamau	29,200.00	-
30-Sep-15	Mukuria Ngamau	20,000.00	-
30-Sep-15	NSSF	400.00	-
30-Sep-15	Mukuria Ngamau	150,000.00	-
30-Sep-15	NSSF	1,200.00	-
03-Oct-15	A.H. Adam Investments	-	15,458.00
07-Oct-15	Mukuria Ngamau	125,000.00	-
08-Oct-15	Rock Plant K Ltd	40,995.00	-
09-Oct-15	KRA (VAT)	100,000.00	-
14-Oct-15	Standard Chartered Bank	596,009.00	-
14-Oct-15	Quorum Ltd	-	20,000,000.00
15-Oct-15	Mukuria Ngamau	160,000.00	-
19-Oct-15	Steelstone Kenya Ltd	29,367.00	-
19-Oct-15	Reime K Ltd	-	774,018.00
20-Oct-15	Mukuria Ngamau	230,000.00	-
30-Oct-15	Martha Wangari Kungu	13,650.00	-
30-Oct-15	Mukuria Ngamau	150,000.00	-
30-Oct-15	Simon Maina Mwangi	60,000.00	-
30-Oct-15	APA Insurance	100,000.00	-
30-Oct-15	Mukoola Godfrey Oloo	20,000.00	-
30-Oct-15	Standard Chartered Bank	39,368.00	-
30-Oct-15	NHIF	3,600.00	-
30-Oct-15	NSSF	1,200.00	-
30-Oct-15	Mukuria Ngamau	150,000.00	-

DATE	NAME	DEBIT (KSHS.)	CREDIT (KSHS.)
30-Oct-15	Mukoola Godfrey Oloo	20,000.00	-
31-Oct-15	Mukuria Ngamau	20,000.00	-
07-Nov-15	Mukuria Ngamau	100,000.00	-
11-Nov-15	Innovative General Suppliers	35,000.00	-
19-Nov-15	Mukuria Ngamau	70,000.00	-
23-Nov-15	Mohammed Muigai Advocates	185,000.00	-
25-Nov-15	Mukuria Ngamau	100,000.00	-
30-Nov-15	Standard Chartered Bank	400,000.00	-
30-Nov-15	Standard Chartered Bank	39,368.00	-
30-Nov-15	APA Insurance	150,000.00	-
30-Nov-15	NHIF	3,600.00	-
30-Nov-15	Standard Chartered Bank	39,368.00	-
03-Dec-15	Standard Chartered Bank	400,000.00	-
07-Dec-15	Mukuria Ngamau	130,000.00	-
08-Dec-15	APA Insurance	150,000.00	-
08-Dec-15	NHIF	3,600.00	-
08-Dec-15	Mukoola Godfrey Oloo	20,000.00	-
09-Dec-15	Simon Maina Mwangi	60,000.00	-
10-Dec-15	Martha Wangari Kungu	13,650.00	-
13-Dec-15	Mukuria Ngamau	500,000.00	-
14-Dec-15	Standard Chartered Bank	500,000.00	-
15-Dec-15	Anthony Mogere Guto	200,000.00	-
16-Dec-15	Mukuria Ngamau	150,000.00	-
17-Dec-15	NSSF	1,200.00	-
17-Dec-15	Mukuria Ngamau	105,000.00	-
30-Dec-15	Simon Maina Mwangi	60,000.00	-
31-Dec-15	Mukoola Godfrey Oloo	20,000.00	-
31-Dec-15	Martha Wangari Kungu	13,650.00	-
07-Jan-16	Standard Chartered Bank	39,368.00	-
11-Jan-16	NHIF	3,600.00	-
12-Jan-16	Quorandum Ltd	220,000.00	-
15-Jan-16	Incoming EFT	-	774,018.00
22-Jan-16	Mukuria Ngamau	435,000.00	-
25-Jan-16	Boniface Mutisya	40,000.00	-
25-Jan-16	Steel stone Kenya Ltd	42,600.00	-
26-Jan-16	APA Insurance	140,799.00	-
28-Jan-16	CTL Tractor & Spare Parts	12,800.00	-

DATE	NAME	DEBIT (KSHS.)	CREDIT (KSHS.)
28-Jan-16	Steel stone Kenya Ltd	10,648.00	-
28-Jan-16	Mukuria Ngamau	170,000.00	-
28-Jan-16	Standard Chartered Bank/KRA	39,368	-
01-Feb-16	Mukoola Godfrey Oloo	20,000.00	-
01-Feb-16	Simon Maina Mwangi	60,000.00	-
01-Feb-16	Martha Wangari Kungu	13,650.00	-
01-Feb-16	Mukuria Ngamau	-	350,000.00
03-Feb-16	Wanjiku Tabitha Ngamau	460,000.00	-
05-Feb-16	NHIF	3,600.00	-
06-Feb-16	Mukuria Ngamau	115,000.00	-
09-Feb-16	NSSF	1,200.00	-
26-Feb-16	Quorandum Ltd	-	4,800,000.00
03-Mar-16	Quorandum Ltd (Cash Deposit)	-	138,000.00
03-Mar-16	Quorandum Ltd(Cash deposit)	-	138,000.00
05-Mar-16	Mukuria Ngamau	900,000.00	-
07-Mar-16	Mukoola Godfrey Oloo	20,000.00	-
07-Mar-16	Simon Maina Mwangi	60,000.00	-
07-Mar-16	Martha Wangari Kungu	13,650.00	-
08-Mar-16	NHIF	3,600.00	-
07-Mar-16	Simon Maina Mwangi	60,000.00	-
16-Mar-16	Mukuria Ngamau	700,000.00	-
<b>Totals</b>		<b>59,082,835.00</b>	<b>93,681,301.80</b>

## Annexure 49: Summary of Quorandum Ltd Chase Bank (K) Ltd Account Statement

Period: 26<sup>th</sup> January 2015 - 14<sup>th</sup> March, 2016

DATE	DESCRIPTION	DEBIT (Kshs.)	CREDIT (Kshs.)
31-Jan-15	Opening Balance 571.25		
23-Feb-15	Internal Account Transfer (YEDF)	-	115,710,000.00
25-Feb-15	Cash	800,000.00	-
02-Mar-15	Cheque	800,000.00	-
04-Mar-15	E. Gachomba & Co Advocates	190,000.00	-
04-Mar-15	Real Insurance	91,480.00	-
04-Mar-15	Cheque-Mukuria	700,000.00	-
05-Mar-15	Outward Remittance	4,600,000.00	-
06-Mar-15	Cheque	900,000.00	-
06-Mar-15	Cheque	190,000.00	-
06-Mar-15	Cheque	900,000.00	-
06-Mar-15	Cheque-Mukuria	400,000.00	-
09-Mar-15	Cheque-Waithera Ng'ang'a	91,480.00	-
09-Mar-15	Cheque	100,000.00	-
09-Mar-15	Cheque	950,000.00	-
09-Mar-15	Cheque	750,000.00	-
10-Mar-15	Cheque	900,000.00	-
10-Mar-15	Cheque	682,580.00	-
10-Mar-15	Cheque	259,900.00	-
11-Mar-15	Cheque	380,000.00	-
11-Mar-15	Cheque	680,000.00	-
11-Mar-15	Cheque	381,000.00	-
12-Mar-15	Cheque	261,000.00	-
12-Mar-15	Cheque	700,000.00	-
12-Mar-15	Outward Remittance	3,000,000.00	-
12-Mar-15	Outward Remittance	4,700,000.00	-

DATE	DESCRIPTION	DEBIT (Kshs.)	CREDIT (Kshs.)
13-Mar-15	Cheque	720,000.00	-
17-Mar-15	Cheque	60,000.00	-
18-Mar-15	Cheque	96,030.00	-
18-Mar-15	Cheque	106,000.00	-
23-Mar-15	Cheque-Mukuria	120,000.00	-
23-Mar-15	Cheque	600,000.00	-
24-Mar-15	Cheque-Mukuria	134,000.00	-
24-Mar-15	Outward Remittance	4,500,000.00	-
30-Mar-15	Outward Remittance	8,000,000.00	-
31-Mar-15	Cheque	69,157.00	-
01-Apr-15	Cheque	208,426.00	-
01-Apr-15	Cheque	800,000.00	-
01-Apr-15	Returned inward cancelled Cheque	-	800,000.00
01-Apr-15	Cheque	640,000.00	-
01-Apr-15	returned inward cancelled Cheque	640,000.00	-
01-Apr-15	Cheque	800,000.00	-
02-Apr-15	Outward Remittance	8,100,000.00	-
02-Apr-15	Outward Remittance	2,246,000.00	-
04-Apr-15	Cheque encashment	600,000.00	-
07-Apr-15	Cheque-Mukuria	450,000.00	-
10-Apr-15	Cheque encashment	850,000.00	-
10-Apr-15	Outward Remittance-Mukuria	3,500,000.00	-
10-Apr-15	Outward Remittance	1,500,000.00	-
10-Apr-15	Outward Remittance	10,000,000.00	-
16-Apr-15	Cheque	73,680.00	-
16-Apr-15	Outward Remittance	11,200,000.00	-
19-Apr-15	Outward Remittance	8,000,000.00	-
20-Apr-15	Cheque encashment	800,000.00	-
24-Apr-15	Outward Remittance-Mukuria	11,200,000.00	-
04-May-15	Internal Account Transfer (YEDF)	-	64,654,789.00
05-May-15	Outward Remittance	880,000.00	-
05-May-15	Outward Remittance	7,480,000.00	-
05-May-15	Outward Remittance	1,000,000.00	-
05-May-15	Outward Remittance	1,000,000.00	-
06-May-15	Cheque encashment	800,000.00	-
08-May-15	Cheque-Mukuria	73,653.50	-
09-May-15	Cheque encashment	900,000.00	-



DATE	DESCRIPTION	DEBIT (Kshs.)	CREDIT (Kshs.)
09-May-15	Cheque-Mukuria	700,000.00	-
12-May-15	Cheque-Mukuria	900,000.00	-
12-May-15	Outward Remittance-Mukuria	6,800,000.00	-
13-May-15	Outward Remittance-Excavator/Grader Purchase	8,598,450.00	-
13-May-15	Outward Remittance-Excavator/Grader Purchase	650,000.00	-
13-May-15	Cheque encashment-Mukuria	950,000.00	-
13-May-15	Cheque encashment-Excavator & Breaker Purchase	650,000.00	-
13-May-15	Cheque encashment-Mukuria	950,000.00	-
14-May-15	Cheque encashment	950,000.00	-
14-May-15	Cheque encashment-Mukuria	950,000.00	-
14-May-15	Cheque encashment	950,000.00	-
14-May-15	Cheque encashment-Mukuria	950,000.00	-
19-May-15	Outward Remittance	8,000,000.00	-
21-May-15	Cheque encashment	700,000.00	-
21-May-15	Cheque encashment-Mukuria	600,000.00	-
21-May-15	Cheque encashment	700,000.00	-
21-May-15	Outward Remittance-Mukuria	8,000,000.00	-
21-May-15	Cheque encashment	700,000.00	-
21-May-15	Cheque encashment-Mukuria	600,000.00	-
21-May-15	Cheque encashment	700,000.00	-
21-May-15	Outward Remittance-Mukuria	8,000,000.00	-
25-May-15	Outward Remittance	10,000,000.00	-
25-May-15	Outward Remittance	4,500,000.00	-
25-May-15	Outward Remittance	10,000,000.00	-
25-May-15	Outward Remittance	4,500,000.00	-
26-May-15	Cheque encashment	900,000.00	-
26-May-15	Cheque encashment	900,000.00	-
27-May-15	Cash Withdrawal	600,000.00	-
10-Jun-15	Cheque encashment	900,000.00	-
10-Jun-15	Cheque encashment-Mukuria	400,000.00	-
16-Jun-15	Cash Withdrawal	900,000.00	-
17-Jun-15	Cheque encashment-Mukuria	950,000.00	-
17-Jun-15	Cheque encashment-Mukuria	950,000.00	-
17-Jun-15	Cheque encashment-Mukuria	950,000.00	-
17-Jun-15	Cheque encashment-Mukuria	950,000.00	-

DATE	DESCRIPTION	DEBIT (Kshs.)	CREDIT (Kshs.)
17-Jun-15	Cheque encashment-Mukuria	950,000.00	-
17-Jun-15	Cheque encashment-Mukuria	950,000.00	-
27-Jun-15	Cheque encashment-Mukuria	980,000.00	-
01-Jul-15	Cheque encashment	550,000.00	-
03-Jul-15	Funds transfer - Mukuria	-	200,000.00
11-Jul-15	Cheque encashment	500,000.00	-
06-Aug-15	Outward Remittance	3,000,000.00	-
21-Aug-15	Cheque encashment	300,000.00	-
28-Sep-15	Cheque encashment	400,000.00	-
14-Oct-15	Outward Remittance	2,000,000.00	-
03-Nov-15	Cheque encashment	960,000.00	-
04-Nov-15	Cheque-Mukuria	400,000.00	-
10-Nov-15	Cheque encashment	970,000.00	-
26-Feb-16	Outward Remittance	4,800,000.00	-
17-Mar-16	Cheque	880,000.00	-
20-Mar-16	Cheque	800,000.00	-
<b>TOTAL</b>		<b>219,392,836.50</b>	<b>181,364,789.00</b>

**Annexure 50: Summary of Cheques debit transactions at Quorandum Ltd Chase Bank (K)  
Ltd Account**

**Period: 4<sup>th</sup> March, 2015 to 2<sup>nd</sup> November, 2015**

<b>Date</b>	<b>Name</b>	<b>Amount in Ksh.</b>
04-Mar-15	Mukuria Ngamau	900,000.00
04-Mar-15	E.W. Gachomba & Co. Advocates	190,000.00
04-Mar-15	Real Insurance	91,480.00
04-Mar-15	Kenya Orient Insurance	750,000.00
06-Mar-15	Quorandum Ltd	100,000.00
06-Mar-15	Quorandum Ltd	950,000.00
06-Mar-15	UAP Insurance	682,580.00
06-Mar-15	Safaricom Ltd	259,900.00
06-Mar-15	Bathawab Investments Ltd	381,000.00
09-Mar-15	Waithera Ng'ang'a	900,000.00
09-Mar-15	Richard Kimani Kongo	380,000.00
09-Mar-15	Waithera Ng'ang'a	680,000.00
10-Mar-15	Central Supplies Hardware	201,000.00
10-Mar-15	Navnit Patel	720,000.00
13-Mar-15	Andrew Muchemi Wangombe	60,000.00
13-Mar-15	Real Insurance	96,030.00
13-Mar-15	Reuben Mutua Kawai	106,000.00
13-Mar-15	Jonathan Wambua Mulwa	120,000.00
16-Mar-15	LIC Ltd	880,000.00
19-Mar-15	Sarah Waiyego Kariuki	134,000.00
19-Mar-15	Mantrac K Ltd	208,426.00
27-Mar-15	CMC Motors	69,157.00
28-Mar-15	Mukuria Ngamau	450,000.00
31-Mar-15	Dilshad Mohammed	800,000.00
31-Mar-15	Dilshad Mohammed	800,000.00

31-Mar-15	Dilshad Mohammed	640,000.00
15-Apr-15	RMA Motors K Ltd	73,680.00
27-Apr-15	Bathawab Investments Ltd	73,653.50
02-Nov-15	Murgor & Murgor Advocates	400,000.00
	<b>TOTAL</b>	<b>12,096,906.50</b>

## Annex 51: Committee Minutes