

# **REPORT OF THE AUDITOR-GENERAL ON KENYA SCHOOL OF LAW FOR THE YEAR ENDED 30 JUNE 2017**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Qualified Opinion**

I have audited the accompanying financial statements of Kenya school of law set out on pages 33 to 57 which comprise the statement of financial position as at 30 June 2017, and the statement of financial performance, statement of changes in equity, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion paragraph, the financial statements present fairly, in all material respects, the financial position of Kenya school of law as at 30 June 2017, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with Kenya school of law Act No.26, 2012.

Further, as required by Article 229(6) of the constitution, based on the procedures performed, except for the matters described in the Basis for Qualified Opinion section of my audit report, I confirm that nothing has come to my attention to cause me to believe that public money has not been applied lawfully and in an effective way.

### **Basis for Qualified Opinion**

#### **1. Stalled construction project of an Ultra-modern Library and Moot Courts**

A contract for construction of an ultra-modern library and moot courts was awarded to M/S Resjos Contractors at a cost of Kshs.488,704,449 and commenced on 24 June 2013. The construction period was three years and was expected to be completed by September 2016. At the time of audit, Kshs.68,092,974 had been paid to the contractor and the project had stalled at 20% stage of completion.

Consequently, it has not been possible to confirm that the School has obtained value for money from the expenditure of Kshs.68,092,974 incurred on the project as at 30 June 2017.

#### **2. Loss of Kenya School of Law Property on Plot no. LR 2009/6238-HG613-official residence of the School Principal in Kilimani area**

As reported previously, evidence available indicates that Plot No. LR 209/6238 measuring 0.3890 hectares along Bishops Road-Kilimani area has an institutional house (No.HG/613) which was reserved by the Government as the official residence of the School Principal. However, on 3 November 1997, a grant of lease was purportedly issued to M/s Rockville Limited, whose directors include a former Principal of the School, by the Commissioner of Lands, vide allotment Ref. No. 34250. Thereafter, a title deed was issued and registered as Grant No. LR.74856. The property was later sold to M/s Standard Assurance (K) Ltd on 12 June 2002 at a consideration of Kshs.50,000,000 who then charged it to Diamond Trust Kenya Limited.

The matter was reported to the then Kenya Anti-Corruption Commission who on 26 January 2007 made an application to the High Court Order 56 of the Anti-Corruption and Economic Crimes, 2003.

The Court ordered the preservation of the property and restrained the respondents from selling, disposing off, wasting or in any other way dealing with the property for six months. This matter has been pending before High Court in Nairobi under Miscellaneous Application No.42 of 2007 awaiting determination. No effort appears to have been made by the School to have the case expeditiously dispensed with and the property reverted to the School.

In view of the foregoing, the School risks losing the property to third parties.

### **3. Plot In Embakasi Area**

The statement of financial position reflects non-current assets of Kshs. 1,890,995,007 as at 30 June 2017. However, as previously reported, in a letter dated 9 April 1991, the Commissioner of Lands forwarded an approved plan No. 268 for a plot in Embakasi near the School of Aviation measuring 6.18 hectares under departmental reference No. 42/14/90/1 of 3 January 1990 which was reserved for future development of the Kenya School of Law. Although all the fees and charges amounting to Kshs. 6,122 were paid vide cheque No. 019198 dated 8 September 1999, no title deed was issued despite numerous reminders which were not responded to.

In a turn of events, there was communication between the Director/Chief Executive and Secretary, Council for Legal Education and the former Permanent Secretary Ministry of Lands, that the Council for Legal Education had resolved to relinquish its interest in the property and the plot should revert to the Commissioner of Lands for reallocation. The Council further sought a refund of fees and charges paid in the process of acquiring the title to the property.

An audit inspection carried out on 12 April 2002 revealed that a small portion of the plot had been alienated and fenced off by third parties. Despite informing the Commissioner of Lands that the plot was in the process of being grabbed through Management Letter Ref. CLE/201/1999/2000 (5) dated 12 April 2002, no action was taken. The School is said to have been subsequently allocated another plot in Karen where it now sits.

Despite the resolution to relinquish its interest on the property which is referred to as LR.No.29/5651 in the correspondences, the School again changed the decision to

relinquish interest and wrote to the National Land Commission requesting a review of the matter. In a letter referenced KSL/PR/CONF/IC/VOI.III (257), the School requested the National Land Commission to cancel the title deeds of plot No. LR.209/5659-Embakasi. There is no evidence of any action that has been taken by the National Land Commission on the School's request.

It is not clear why the Council for Legal Education resolved to relinquish its rights to the plot instead of pursuing and safeguarding public property.

Further, the identity of the third parties now occupying the land measuring 6.18 hectares has not been disclosed nor has the School disclosed the size and value of the land in its books of accounts.

In consequence, no progress had been made and the School risks losing the property.

### **Key Audit Matters**

Key audit matters are those matters that, in my professional judgement, were of most significance in the audit of the financial statements. Except for the matters described in the Basis for Qualified Opinion section, I have determined that there are no Key Audit Matters to communicate in my report.

### **Responsibilities of Management and Those Charged With Governance for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards Accrual Basis and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Schools ability to continue as a going concern/ sustain services, disclosing, as applicable, matters related to going concern/ sustainability of services and using the going concern basis of accounting unless the management either intends to liquidate the School or to cease operations, or have no realistic alternative but to do so.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

Those charged with governance are responsible for overseeing the Schools Financial reporting process.

### **Auditor-General's Responsibilities for the Audit of the Financial Statements**

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error,

and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution of Kenya. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances and for giving an assurance on the effectiveness of the School's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the School's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the School to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities to express an opinion on the financial statements.
- Perform such other Procedures as I consider necessary in the circumstances.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



**FCPA Edward R. O. Ouko, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**22 February 2017**