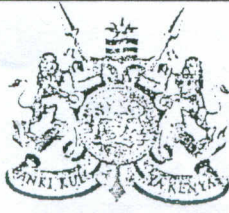


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Governor

BANKI  
KUU YA  
KENYA

CENTRAL  
BANK OF  
KENYA

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MINISTER FOR FINANCE  
RECEIVED  
21 MAR 2006  
P.O. Box 30007  
NAIROBI

March 20, 2006

Hon. Mr. William Ruto, MP  
Minister for Finance  
The Treasury  
Nairobi.

Dear *Hon. Mr. Ruto*

STATUS OF CHARTERHOUSE BANK LIMITED INVESTIGATIONS

Further to my previous briefings to the Minister for Finance on September 23, 2004 and October 29, 2004, I would like to provide an update on the status of investigations relating to Charterhouse Bank activities.

As a background of these investigations, the Central Bank had set up a Due Diligence Team in 2003 to examine more carefully than was generally done by Bank Supervision, the activities of banks that appeared to have some problems. On the basis of information received from the Minister for Finance, the Due Diligence Team inspected Charterhouse Bank activities. Charterhouse ostensibly looked satisfactory but detailed examination found that a number of account holders actually had multiple bank accounts, which is a standard way of detecting potential tax evasion. The corporations and individual that were identified are shown in the Results section below.

Using the information received from the Minister for Finance, the Due Diligence Team examined these accounts more closely and it was found that almost all of them were linked to Naklitt Holdings. The CBK through the Governor informed the Minister for Finance of the outcome of these investigations and got his approval to convoke a meeting with the Director, Kenya Anti Corruption Authority (Justice A Ringera), the Permanent Secretary, Governance and Ethics (John Githongo), and the Director, Public Prosecutions (Philip Murgor) to discuss the way forward.

As a result of a Joint Action Team was set up under the leadership of IACC. Dr John Vkt... IACC was Chairman, other IACC members were... Ms Fatuma Sichale, legal Officer, KACC. The Central Bank... Director of Financial Institutions Supervision... Auditor Governance and Ethics was

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rc;yc;cn:ccle 1); \lr \lel Smith, Forensic Auditor and KRA by Mr J G Nduati, Senior Deputy Commissioner (Investigations). The Public Prosecutor's office was invited to attend but was not regular in attendance.

This Action Team, in view of its membership, was able to do more detailed investigation since information from alternative sources was made available which would not have been possible under the Banking Act. This investigation fully endorsed the suspicion that there was significant tax evasion. Up to the 30<sup>th</sup> November 2004 there were two interim reports prepared. Thereafter the CBI was not informed nor was it requested to provide further support. The second interim report of the Joint Action Team, dated 30<sup>th</sup> November 2004, is the basis of the data presented in this letter.

Since KRA has the capacity to work on retroactive information, it was to pursue taxes while IOCC would pursue economic crimes that were identified after 2<sup>nd</sup> May 2003, the effective date of the Economic Crimes Act. More detailed work would undoubtedly have yielded more significant results.

Nevertheless, with the information available in the second interim report, one can conclude that these organizations (including Nakumatt) would appear to have evaded tax with the collusion of Charterhouse Bank to the extent of between Ksh.2 and 3 billion in any one year. If penalties were levied on top of this it would be much more than twice this amount. Furthermore, the partial accounts that have been examined only cover one year and there is every reason to believe, in view of the fact that these accounts all had opening balances, that the operation has been continuous for 5 to 6 years.

There is an extensive group of allied accounts that were identified but not fully examined. These are mentioned generically here below. These undoubtedly involved significant tax evasion if not other economic crimes.

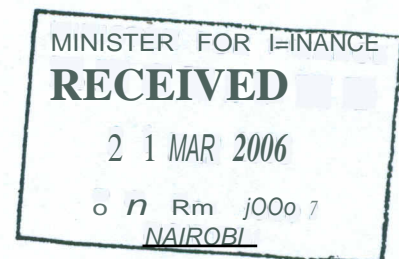
#### Results from the Second Interim Joint Task Force Report

1. Creellic Innovations Ltd

Discovered VAT evasion of Ksh.247 million

2. Sailesh Prajapati

- No account opening forms
- No records of account were available (it was claimed that these were destroyed by fire)
- Estimated tax evasion of Ksh.2.186 billion from Nakumatt





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3. D. Shah

...to: -c: r: r: Isfcrce! to Sundry' Creditors and from there transferred overseas.

4. Kariuki Maigua & Co (Client Account)

Not available due to court order - but are as follows:

	<u>Ksh. million</u>
A/c 1 - turnover	1,355
A/c 2 - turnover	26
P./c 2 - turnover	<u>328</u>
Totl turnover	<u>tl 02.J: iUJtoQ</u>



5. W. T. (MuthCligCl) Ltd

Suspected money laundering as

- schcs were Ksh. 1.35 billion; and
- P.ccei;ts were Ksh.5.89 billion

G. Paob. Sillilnino

- 10 account opening forms
- Deposits to \$ and Euro accounts (1/4 - 3/11/04) in 7 months Ksh.52 million and 15h.40 million respectively.

7. Tusker. Milttresses. Ltd

Discovered VAT evasion Ksh.270 million

The CBI's Due Diligence personnel including Mr G Nyaoma, Director of Financial Institutions Supervision, and Mr M Smith, the Forensic Auditor, suggested that the information available to date from the Joint Task Force showed that client accounts in ChClrterhouse Bank when linked with information from KRA would yield significantly more tax but it would need more detailed analysis than was available. In particular, ...LII'C: tttci~; in~s and Kingsvv'(y) Tyres accounts raised serious questions relating to collusion with Ch:terhouse Bank.

For ...StCl: ICG: should be noted that Nakumat has never shown a profit to date, always losses. Its V'X: jJCl'yments are be(l;een )5h.33 and Ksh.85 million per annum. Uchumi pays Ksh.500 to Ksh.600 million per annum. As Nakurnatt's turnover is much larger than Uchu:»i, you would expect collJoration tax and VAT to be in the range of Ksh.1.8 to 15:2.5 0:::cn per annum.

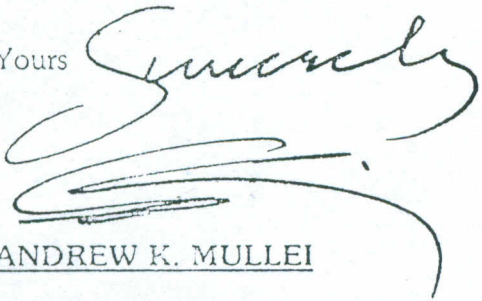
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re:igS... Tyres and its associate companies as well as the John Harun Group had multiple accounts which are linked to the Nakumatt network but were not fully examined.

On the basis of this information, it now seems appropriate that the Minister for Finance could inquire into the details of the identified accounts. The Minister may also query the difference between Uchurris' payment of VAT and Nakumatt's.

I am concerned that the evidence of collusion between Charterhouse and its customers with the 'Know Your Customer' regulations seems to have made Charterhouse a threat to the probity of the financial sector and I would recommend that you consider withdrawing its licence. Clearly any action should be taken in such a way that information currently stored in the bank cannot be destroyed.

I am sure that you are fully aware that this letter should only go to the authorities whom you may direct to take action.

Yours  
  
ANDREW K. MULLEI

MINISTRY OF FINANCE  
RECEIVED  
21 MAR 2006  
Sax J0007  
NAIROBI

Enclosure (copies of 2 previous briefs for information)