

**JOHN GITHONGO**  
**Senior Associate Member**



H.E. President Mwai Kibaki  
President of the Republic of Kenya  
State House Nairobi

22<sup>nd</sup> November 2005

Dear Sir,

**Re: Cover letter accompanying report on my  
findings of graft in the Government of Kenya**

It has been my desire to send the attached summary report to you but I thought it wise to wait until the conclusion of the politically intense referendum-related campaigning period. The reason for this was that my report be not construed to be part of a politically-motivated action in favour or in opposition to any political formation in the Kenyan context. Indeed, I completed this dossier in September 2005 after four and half months of steady work and chose to wait until the conclusion of the referendum process to forward it for your attention.

Find attached a summary document of a wider 91 page report on my findings regarding the most egregious cases of



corruption that were the subject of my attention under your instruction during the time I served as your Permanent Secretary in the Office of the President in-charge of Governance and Ethics.

Although you are aware of the issues, I have chosen to prepare this report for you in part, as a result of information being made available to me by your Permanent Secretary in-charge of Strategy based at State House, Mr. Stanley Murage, that some of my written briefs to you during my tenure may no longer be available for one reason or another, that is not in the realm of my understanding.

Secondly, as we discussed with you severally during our briefing sessions when I served as your Permanent Secretary, I had evidence of culpability on the part of the senior-most officials of our administration in some of the corruption-related scandals that were the subject of my Department's interest; and that were subject of investigation variously by the Office of the Controller and Auditor General, the Kenya Anti Corruption Commission; and, at times the Kenya Police.

As you may remember from our meeting of the 3<sup>rd</sup> of February 2004 that took place in the evening in your room at State House I adopted the practice of regularly keeping a record of key meetings I was involved in. I am in a position to conclusively substantiate the claims made in the attached report by means of incontrovertible material evidence. I am happy to share this with you directly.

It is my hope that these matters can be brought to their nationally beneficial conclusion and should you seek any clarification, I will be happy to avail it at your earliest convenience.

I believe, Sir, that dealing with the issues very briefly mentioned herein are integral to regaining the trust and goodwill of the Kenyan people in your Presidency and the Government. I am willing to assist in any way you should direct in not only dealing with these issues but in contributing to the processes that will ensure they are not repeated in the future.

I beg to remain,  
Sir,  
Your Most Faithful Servant

**John Githongo**



## STATEMENT

This is my statement of events leading up to my resignation in February 2005 and in particular the assorted corruption-related matters I was inquiring into at the time which came to a head. I start at the beginning of 2004.

### 1. ANGLO LEASING

On the 3<sup>rd</sup> of March 2004, my department was provided with information that suggested that a **non-existent** company called Anglo Leasing and Finance had been awarded a contract by the Immigration Department in the Ministry of Home Affairs and a 3 percent down payment, of around Ksh.90 million had been paid.

### 2. THE VICE PRESIDENT AND ANGLO LEASING

10<sup>th</sup> March 2004

On Wednesday, March 10, information reached me that mirrored what had been told to me on March 3, 2004.

I called Vice-President Moody Awori on the hotline regarding the Immigration department contract matters and he denied knowledge of this saying that he made a point of not knowing about these things. However, he promised that he 'would look into the matter'.

I informed the Vice President that there were two things bothering me: first, I had heard that maybe the Anglo Leasing company did not exist and therefore had been created for some untoward purpose and, second, the supposed company was linked to Deepak Kamani of Mahindra jeeps fame and that if we continued interacting with him as a new government this would cause us great embarrassment considering his terrible track record.

### 3. STRUCTURAL BOTTLENECKS IN THE FIGHT AGAINST CORRUPTION

27<sup>th</sup>/28<sup>th</sup> March 2004

While attending a money laundering conference in Mombasa that was opened by Hon. David Mwiraria the Minister of Finance, Hon. Mwiraria pulled me aside during a break and told me that Hon. Murungaru had recently called him. Apparently Murungaru had asked Mwiraria to ask me whether I had authorized an investigation into the back accounts of an individual called Anura Perera at Equatorial Bank.

Hon. Mwiraria informed me that Perera was a 'strong supporter of the President and had backed him for over 10 years', and had even paid the President's medical bills incurred in London following his road accident in 2002. This surprised me because since 2003 Mr. Perera's name had been linked, albeit without evidence, to some of the egregious cases of corruption in the defence/security sector going back to the 1980s. The head of the Banking Fraud Department of the Central Bank, Nicholas Kamwende, was also at the workshop. I later went over to ask him whether he was indeed conducting such an investigation – because I knew nothing about it. He confirmed that he was indeed conducting such an investigation because his department suspected that Equatorial Bank was involved in the setting up of fictitious accounts that were 'being used for capital flight'.

4<sup>th</sup> April 2004

Your Excellency, I briefed you on all these matters on the 4<sup>th</sup> of April 2004.

### 4. ANGLO LEASING GOES PUBLIC

21<sup>st</sup> April 2004

KANU MP for Ntonyiri, Maoka Maore tabled documents before parliament on a company called Anglo Leasing and Finance Company Limited that had allegedly been paid a commitment fee of 3 percent amounting to over Ksh.90 million as part of a Ksh.2.7 billion contract to produce tamper-proof passports for the immigration department.



Your Excellency I briefed you on this on the 22<sup>nd</sup> of April 2004 and that in light of the intelligence this was likely the first big case of graft in our administration. I also wrote a letter to the Kenya Anti-Corruption Authority asking them to get to the bottom of the matter as we had discussed.

#### **5. ANGLO LEASING: THE ANATOMY**

Your Excellency the anatomy of the Anglo Leasing matter is contained in reports I made available to you titled: KACC report titled 'Immigration Security and Document Control Project-report on Investigations into allegations of corruption in this project' dated 18-05-04; and the Kenya National Audit Office Special Audit Report on procurement of passport issuing equipment dated 13-05-04.

**2<sup>nd</sup> May 2004**

At the end of April 2004, I travelled to the United Kingdom with Hon. Kiraitu Murungi to the offices of Kroll Associates. While at Kroll we asked to do a search for the company called Anglo Leasing and Finance Co. and found that no such entity existed in the UK or had ever existed there. Upon return to Kenya, I found the investigations had been proceeding expeditiously despite hiccups and, Your Excellency, I updated you on progress, including the fact that senior officials in government were possibly implicated in the unfolding saga. Those mentioned by the investigators at this stage included Hon. Moody Awori, Hon. Kiraitu Murungi, Hon. David Mwiraria, Hon. Chris Murungaru, PS Home Affairs, Mr. Sylvester Mwaliko, PS Finance, Mr. Joseph Magari, PS Internal Security Mr. David Mwangi, Mr. Alfred Getonga, Mr. Deepak Kamani and Mr. Jimmy Wanjigi.

I also remember that you emphasized to me at this meeting that we locate the commitment fee paid to the Anglo Leasing and Finance Company of Ksh.91 million. I immediately set about doing this.

#### **6. DISCUSSION OF ANGLO LEASING WITH VICE PRESIDENT, MINISTER MURUNGI AND MINISTER MURUNGARU**

**4<sup>th</sup> May 2004**

On the 4<sup>th</sup> of May 2004 I was invited to lunch by Hon. Kiraitu at the Vice President's home. Minister Murungaru also attended. We had an inconclusive discussion on the Anglo Leasing matter which I briefed you on later. The Ministers questioned the need for an investigation into the matter since the Vice President had already given a parliamentary statement.

**5<sup>th</sup> May 2004**

Gideon Mutua and Hussein Were, who were the KACC's lead investigators into the matter, came in to brief me and reported that everything now pointed to a '*gigantic attempted fraud*'. They informed me that in addition to the Ksh.91 million that had been paid to Anglo Leasing as a commitment fee, an additional Euro 3,750,000 (Approx. Ksh.300 million at the time) was even then being processed for payment to Anglo Leasing on the same project. They explained that while interviewing PS Magari he had pointed out to them that Hon. Murungaru had asked for them to pull back.

Later that day, 5<sup>th</sup> May, 2004 in parliament Hon. Chris Murungaru announced that the Government had cancelled the Anglo Leasing contract pending the completion of investigations.

**10<sup>th</sup> May 2004**

On the 10<sup>th</sup> of May, 2004 the KACC investigators informed me that the PS/Treasury, PS/Home Affairs, Dr Sitoni, the head of GITS and the entity known as Anglo Leasing were the primary suspects in the case of the attempted fraud. Your Excellency, on this day I briefed you regarding this development. Later that day, Hon. Kiraitu came to my office and informed me that, Mr. Alfred Getonga had expressed his concern to him (Kiraitu) that I was investigating him because the President had told him (Mr. Getonga) that 'very serious people' had told him that he was involved in the immigration deal. Hon. Kiraitu told me that we had to be careful that the



investigation did not 'knock out key political people' like Alfie and Murungaru. He argued that these were "key players at the very heart of government."

## 7. CONCLUSIONS OF THE INVESTIGATION

13<sup>th</sup> May 2004

By the 13<sup>th</sup> of May, 2004 conclusive reports into the Anglo Leasing matter had been received from both the KACC and the Controller and Auditor General and their conclusions were in the same vein. They all pointed to a significant fraud perpetrated by Messrs. Magari, Mwaliko, Sitonik and the entity called Anglo Leasing and Finance.

Hon. Kiraitu called me that same day and told me that Hon. Mwiraria had informed him that he did not plan to table the damning Controller and Auditor General report before the Public Accounts Committee before making some 'major changes' at the Treasury. That same evening I had a telephone conversation with Ambassador Francis Muthaura who insisted that we should find out who Anglo Leasing really were. He suggested that we should enquire with the French printing firm FCOF. FCOF had placed a large advert in the newspapers explaining their virtues as a company and the importance of the immigration passports project was to the Government of Kenya. In the week I was to receive threats over the telephone and abuse in the gutter press.

14<sup>th</sup> May 2004

On the 14<sup>th</sup> of May, 2004 a credible source advised me that all the Anglo Leasing type fictitious companies were very likely established by a man called Pritpal Singh Thethy, an accountant and engineer, who allegedly had offices in a complex owned by Anura Perera near Westlands. Thethy's primary job was the setting up of bogus companies for General Kibwana, Anura Perera and Deepak Kamani among others. The businessman claimed that in all likelihood one of these companies that had been created in 1997 was called Anglo Leasing and Finance Co. These entities routinely won most large contracts to supply goods and services to the security and defence sectors at hugely inflated prices. An assortment of reliable sources including from within the military indicated that Mr. Perera was involved in a range of questionable projects in the defence/security sector and had developed a reputation for paying sizable kickbacks.

Your Excellency, on the 14<sup>th</sup> of May, 2004 I handed over to you my final report on the Anglo Leasing matter and advised that a similar project was underway at the Police Department connected with the construction of a forensic laboratory for the CID. I added that I had heard of a range of other similar projects as well. This was at around 17:30HRS. Once I arrived home, at around 19:30HRS, I received a telephone call from Ambassador Francis Muthaura. He informed me that Anglo Leasing had contacted him and had assured him that they were going to repay the money, which he described as a great success.

I later contacted the Central Bank for proof that the money had been repaid and they sent over a transmission sheet that showed that Anglo Leasing and Finance, from their back account at Schroder & Co Bank AG in Zurich had 'refunded' Euro 956,700 on 14-05-04. The transaction was certified on 17-05-04 by the Central Bank.

On the 17<sup>th</sup> of May, 2004 Ambassador Francis Muthaura informed me that H.E. the President had authorised the suspension of Messrs. Magari PS/Treasury, Mwaliko PS/Home Affairs, Dr. Sitonik of GITS and Dorcas Achapa - an official from the AG's chambers who had 'approved' the Anglo Leasing contract.

I pointed out that Ms. Achapa had never been considered a suspect by the KACC. Ambassador did, however, admit to me that on the morning Magari and Mwaliko came into his office for him to communicate their suspension to them, that both had totally denied any knowledge of Anglo Leasing and Finance which even he said he found preposterous. Indeed, up until this time there was no government official who claimed knowledge of who Anglo Leasing and Finance were.

## 8. REACTIONS

17<sup>th</sup> May 2004



In the afternoon of the same day Hon. Kiraitu Murungi stepped into my office unannounced. He expressed concern about the way the Anglo Leasing investigation was going. He told me 'people' were concerned whether I appreciated the political costs of my work'. He told me that it was hoped once the Anglo Leasing paid back the money the investigation would stop. Hon. Mwiraria dropped in on me in the same afternoon. He warned that Mr. Jimmy Wanjigi had sworn to kill me; and just as Kiraitu had suggested earlier, he expressed the hope that the immigration investigation would stop since the money had now been paid back. He expressed concern that he'd heard I was 'investigating' him, Hon. Murungaru and even Brig. Boinett.

#### 9. ANURA PERERA

On the evening of the 17<sup>th</sup> of May, 2004, I attended a meeting at the office of the Governor of the Central Bank, Andrew Mullei, together with Hon. Kiraitu Murungi, Philip Murgor the Director of Public Prosecutions and Nicholas Kamwende the head of the Banking fraud department of the central bank. As we left the meeting Kiraitu leant over and warned me that 'they' were thinking of attacking me through my father.

On the 20<sup>th</sup> of May, 2004, Hon. Kiraitu Murungi called me to his office in the late afternoon. He warned me that I needed to 'go easy' on 'our friends' Murungaru and Alfie in particular, Hon. Kiraitu pulled out a file given to him by the lawyer (A.H.) Malik. Mr. Malik was a lawyer from whom my father had borrowed money in mid-1990s to purchase a piece of land in the outskirts of the city. Kiraitu said that Malik had informed him that the person who had really lent money to my father to purchase a piece of land in Kitisuru almost 10 years before was Anura Perera through Malik. Indeed, he informed me that Mr. Perera had called him about the matter and that Perera was in the good books of the system. The message Hon. Kiraitu was communicating very directly to me was that Mr. Perera wanted me to 'turn off the heat' so that the Kitisuru matter can be 'settled amicably'. Malik claimed to Kiraitu that my father 'knew very well' that the initial loan came from Perera and therefore I was by extension somehow complicit in the affairs of Perera. Hon. Kiraitu emphasised the nervousness of Alfie Getonga and Hon. Murungaru with what I was doing and the risk of a major political fallout as a result. He said, "you know we have lost Keriri already, if Chris is dropped and Alfie is dropped - we're in trouble, the enemy will have won." I declined to cooperate and said the matter would be dealt with in court. A lawyer friend, the late Ishan (Kapila) called me later and said Muin Malik (son of A.H. Malik) had dropped in on him - frightened saying that I knew who the 'real principal' was on the Kitisuru transaction and I therefore 'needed to be considerate'. Within the Kapila firm my father's matter was being handled by Ishan's elder brother, Sheetal.

#### 10. PUBLIC ACCOUNTS COMMITTEE

24<sup>th</sup> May 2004

In an afternoon session I appeared before the Public Accounts Committee on the Anglo Leasing affair based on the report of the Controller and Auditor General of May 13, 2004.

After my meeting with the PAC I visited a senior politician who had been seeking for us to have a chat. I was aware that he was in close contact with both Hon. Murungi and Hon. Murungaru and had calculated that being a friend of my father he may communicate to me messages that perhaps the two leaders may have wanted to emphasize to me. His advice to me was to be particularly careful because there was no way senior ministers were not involved in the Anglo Leasing matter. He warned me that "*Murungaru would not let you destroy them, they will kill you first*". He emphasized repeatedly that my security was now an issue and he hoped that I would take more of a back seat in the Anglo Leasing investigation. He also warned me quite logically that if the stability of the regime was threatened by my work then the President would stop backing me. He sincerely commiserated with me regarding my dilemma - that of finding that the President's closest associates are deeply involved in the corruption that had been uncovered within our administration. He told me Alfie Getonga was going around complaining openly about my work; Hon. Kiraitu was accusing me of working for foreigners and Murungaru was threatening my life directly. His final piece of advice was that I needed to visit the President together with my father and advise him of my dilemma. I left this meeting rather puzzled.



Your Excellency, on that night I briefed you on how the PAC session had gone and the fact that Hon. Kiraitu had indicated to me that in every likelihood Hon. Murungaru and Alfred Getonga were behind the Anglo Leasing matter.

**Tuesday, 25<sup>th</sup> May 2004**

On Tuesday 25<sup>th</sup> May 2004 Ambassador Francis Muthaura called me to question the legal authority of the KACC to conduct the immigration investigation; he even queried if the Anti-Corruption and Economic Crimes Act was a reasonable piece of legislation at all. He said it was defective because it granted too much power and independence to the KACC. The previous day, Gideon Mutua, the director of the KACC had informed me that Muthaura had also called him with the same questions regarding his authority to conduct the investigations. Ambassador Muthaura also expressed surprise that the Office of the President had entered into a contract for USD55 million with Anglo Leasing to provide a forensic laboratory for the CID department which he claimed had recently come to his attention.

Later the same day, after a briefing lunch for the diplomatic community Dave Mwangi the PS in Hon. Murungaru's docket called me for a meeting which I attended. He adopted an advisory tone. He claimed that he wanted to speak frankly and conceded that the immigration investigation had caused a lot of political disquiet. He observed that the affair threatened to destabilize the government. He said that Hon. Murunguru and others he did not name were very concerned about whether or not I appreciated the political implications of my investigations. I also asked Dave Mwangi to provide me with a copy of the forensic laboratory contract and he agreed. He pointed out that the contract had already been signed in 2001 by Zakayo Cheruiyot PS-Internal Security and PS-Finance, Mwagazi Mwachofi. In this contract Anglo Leasing Finance Company used a completely different address.

#### **11. ANGLO LEASING'S FORENSIC LABORATORIES CONTRACT**

**Thursday 27<sup>th</sup> May 2004**

Former Finance PS, Joseph Magari appeared before the Public Accounts Committee on the 27<sup>th</sup> of May, 2004 and told parliament that Anglo Leasing had already been doing work (since 2001) for the Office of the President, building a forensic laboratory for the CID as a way of explaining why he had not bothered to do a proper due diligence of them.

The next day I spoke to Dave Mwangi who told me that he and Ambassador Muthaura had discussed the forensic laboratory contract and decided to deal with the matter 'administratively' because even though the contract had been signed in 2001, no work had actually been done to date. By this time we had already discovered that despite no work being done roughly USD5 million had nevertheless been paid to them. I had been advised by an assortment of sources that the resurrection of this project under our administration had been engineered by the likes of Deepak Kamani, Jimmy Wanjigi, Chris Murungaru, Dave Mwangi, Alfred Getonga, Mr. C. Oyula the Financial Secretary, among others.

Your Excellency we had opportunity to discuss these issues later the same day. In the 2001 forensic labs contract Anglo Leasing had used a different address and we had not been able to locate them at that address either. From my notes it is clear that I spoke to Muthaura sometime that day and he assured me that he had briefed H.E. the President fully on the Anglo Leasing forensic project. On Saturday, 29<sup>th</sup> May, 2004 I met again with Your Excellency and was surprised when you advised me that no one had briefed you on the forensic laboratory project. You asked me to furnish you with a copy of the contract which I did. On Monday, 31<sup>st</sup> May 2004 I met with Ambassador Muthaura in his office. At this meeting he informed me that he had fully briefed H.E. the President on the forensic project matter and it had been agreed that (i) all payments be stopped (ii) we find out who Anglo Leasing is. I was admittedly confused by this because Your Excellency had been emphatic the day before that you had not been briefed on this matter.

#### **12. MAGARI'S POSITION**

**Monday 1<sup>st</sup> June 2004**



On Monday the 1<sup>st</sup> June, 2004 a close friend informed me that he had met with Joseph Magari who had been keen to explain his role in the Anglo Leasing matter. Magari had supposedly claimed that, in effect, 'Anglo Leasing was Muthaura, Mwiraria and Awori'. Magari claimed that it was Awori who took advantage of American terrorism-related fears to expand what was a small project into a cash cow. According to Magari, Awori had done this with Mwaliko, but without informing ole Ndiema the Principal Immigration Officer. Awori had then pulled Muthaura and Mwiraria into the scheme. Magari, according to my friend, pointed out that Awori was the most frightened. I took this information no further and decided to wait and see what the KACC would come up with considering that Mr. Magari had not shared any such information with them to date.

### 13. WHO IS ANGLO LEASING?

On the night of the 2<sup>nd</sup> of June 2004, I met with both Hon. Mwiraria and Hon. Kiraitu at Hon. Mwiraria's office. At this meeting Hon. Kiraitu admitted that he had been surprised to realise just 'how high up' the Anglo Leasing matter reached in the Government. He admitted that he had not realized how high up and just how intricately involved members of our own administration were with Anglo Leasing. He told me that Alfred Getonga had not stopped badgering him about my Department's pursuit of the Anglo Leasing matter even after the monies had been repaid and that he realized Anglo Leasing was in effect 'us'. Hon. Kiraitu admitted that his greatest fear was that Raila Odinga knew exactly who was behind Anglo Leasing and would use it to paint the Kibaki government as corrupt – something we would never recover from. Kiraitu claimed that he had also raised the corruption allegations with Hon. Murungaru who had never responded conclusively.

On the 3<sup>rd</sup> of June 2003, I wrote to Ambassador Muthaura confirming that the British High Commissioner had in turn confirmed in a letter dated 03-06-04 that the purportedly British company - Anglo Leasing and Forensic Laboratories Ltd did not exist. I rushed the letter off by hand. That evening Muthaura called me to tell me that the contents of my letter both 'shocked' and 'frightened' him. The next day I wrote to the Governor of the Central Bank asking him to stop all further payments to the entity known as Anglo Leasing Finance Company Ltd until pending investigations were completed. In my letter I had requested that he respond on the record on the issue of money transfers to Anglo Leasing.

During the week of June 5, 2004, the Financial Secretary J.M. Oyula when being questioned by the PAC about the immigration Anglo Leasing project had like Magari admitted to the forensic one. It was later reported in the press that he had admitted to some of the payments perhaps having been made by mistake (*Daily Nation* of Tuesday, June 15, 2004).

At around this time a source of mine provided me with an unreferenced letter from the Governor of the Central Bank to Joseph Oyula dated May 14, 2004 that sought clarification with regard to a number of suppliers' credits and external commercial loans. Specifically, the Governor was seeking confirmation that the Minister of Finance had indeed given authorisation for the payment of the following credits as required by law.

| Payee                       | Purpose           | Amount (millions) | Signatories                               | Date signed |
|-----------------------------|-------------------|-------------------|---|-------------|
| 1. Anglo Leasing            | Forensic Lab-CID  | USD54.56          | PS-Treasury<br>PS-Internal<br>Security OP | 16-08-01    |
| 2. Silverson Establishment  | Security vehicles | USD90             | PS-Treasury<br>PS-Internal<br>Security OP | 16-08-01    |
| 4. Apex Finance(addendum 2) | Police security   | USD30             | PS-Treasury<br>PS-Internal<br>Security OP | 09-02-02    |
| 5. LBA Systems              | Security-met      | USD35             | PS-Treasury                               | 07-06-02    |



|                            |                                     |          |  |          |
|----------------------------|-------------------------------------|----------|--|----------|
| 6.Apex Finance(addendum 3) | Police security                     | USD31.8  | PS-Treasury<br>PS-Internal Security OP | 14-06-02 |
| 7.Universal Satspace       | Satellite services                  | USD28.11 | PS-Treasury<br>PS-Transport            | 11-07-02 |
| 8.First Mechantile         | Police security                     | USD11.8  | PS-Treasury<br>PS-Transport            | 11-07-02 |
| 9.Apex Finance Corp        | Police security                     | USD12.8  | PS-Treasury<br>PS-Internal Security OP | 12-07-02 |
| 10.LBA Systems             | Prisons security                    | USD29.7  | PS-Treasury                            | 19-11-02 |
| 11.Nedemar                 | security                            | USD36.9  | PS-Treasury<br>PS-Transport            | 19-11-02 |
| 12.Midland bank            | Police security                     | USD49.65 | PS-Treasury                            | 29-05-03 |
| 13.Navigia Capital         | Oceanographic vessel                | EUR26.6  | PS-Treasury                            | 15-07-03 |
| 14.Empressa                | Oceanographic vessel                | EUR15    | PS-Treasury                            | 15-07-03 |
| 15.Euromarine              | Oceanographic vessel                | EUR10.4  | PS-Treasury                            | 15-07-03 |
| 16.Infotalent              | Police security                     | EUR59.7  | PS-Treasury<br>PS-Internal Security OP | 19-11-03 |
| 17.Apex Finance Corp       | Police security                     | EUR40    | PS-Treasury<br>PS-Internal Security OP | 17-12-03 |
| 18.Ciara Systems Inc       | Design, maintain satellite for NSIS | USD44-56 | PS-Treasury<br>Director NSIS           | 20-01-04 |

In a letter dated 21-05-04 Ref: ZZ36/183/02 Oyula had responded to the Governor saying "please receive copies of the Minister's authority for contract signature of the list attached. Those we don't have at the moment will be forwarded to you as soon as we find them from our files". The list was as follows:

| Payee  | Purpose            | Amount (millions) | Signatories  | Date signed |
|--|--------------------|-------------------|--|-------------|
| 1.LBA Systems  | Security-met       | USD35             | FST(FST presumably meaning Financial Secretary Treasury)                             | 07-06-02    |
| 2.Sound Day Corp In the Central Bank list this was referred to as Apex Finance(addendum 3) | Police security    | USD31.8           | FST/PSOP<br>PSOP presumably standing for Permanent Secretary Office of the President | 14-06-02    |
| 3.Universal Satspace   | Satellite services | USD28.11          | FST/<br>PS-Transport   | 11-07-02    |
| 4.First Mechantile   | Police security    | USD11.8           | FST/<br>PS-Transport   | 11-07-02    |



|                      |  |          |   |          |
|----------------------|--|----------|---|----------|
| 5.Apex Finance Corp  | Police security                              | USD12.8  | FST/PSOP  | 12-07-02 |
| 6.LBA Systems        | Prisons security                             | USD29.7  | FST   | 19-11-02 |
| 7.Nedemar            | Security                                     | USD36.9  | FST/<br>PS-Transport  | 19-11-02 |
| 8.Midland bank       | Police security                              | USD49.65 | PST/PSOP PST<br>presumably<br>meaning<br>Permanent<br>Secretary<br>Treasury | 29-05-03 |
| 9.Navigia Capital    | Oceanographic<br>vessel                      | EUR26.6  | PST   | 15-07-03 |
| 10.Empressa          | Oceanographic<br>vessel                      | EUR15    | PST   | 15-07-03 |
| 11.Euromarine        | Oceanographic<br>vessel                      | EUR10.4  | PST   | 15-07-03 |
| 12.Infotalent        | Police security                              | EUR59.7  | PST/PSOP  | 19-11-03 |
| 13.Apex Finance Corp | Police security                              | EUR40    | PST/PSOP  | 17-12-03 |
| 14.Ciara Systems Inc | Design,<br>maintain<br>satellite for<br>NSIS | USD44.56 | PST/<br>Director (NSIS)   | 20-01-04 |

I was surprised by the extent of the contracts.

#### 14. FRED OJIAMBO

On the 11<sup>th</sup> of June, 2004 PS Dave Mwangi called me at 20:20HRS to complain that lawyer Fred Ojiambo, a senior partner of Kaplan and Stratton had been arrested and if he spent the night in police cells it would cause 'problems'. The decision to arrest Ojiambo had been taken by the KACC because he had steadfastly refused to honour all summons even if simply to share with the authorities the identities of the clients (Anglo Leasing) who were instructing him to put adverts in the Kenyan press. Whatever the identity of the owners/companies and clients of Anglo Leasing there can be no doubt that Ojiambo was acting as their lawyer. Indeed, on the 11<sup>th</sup> of June, 2004 Hon. Kiraitu Murungi called me sounding agitated and told me that Hon. Chris Murungaru had called him while on an overseas trip in the UK to ask what was happening with regard to the Ojiambo matter. He said he would drop in on me later that day. Just as I put down the phone Hon. David Mwiraria stepped into my office and announced that Anglo Leasing had paid back all the money they had been paid on the Forensic Laboratories contract since 2001.

Hon. Mwiraria claimed to have spoken to Your Excellency the President and claimed that you felt we needed to 'go easy' on the matter since the money had been paid back and if it came to public light that there as another corrupt deal of this magnitude in our administration this would cause problems. Hon. Kiraitu walked into my office and said the same thing. Hon. Kiraitu emphasised that if we went after Anglo Leasing our government would fall and he added that Hon. Nyachae had called him that morning to express the same broad sentiments especially following the arrest of Ojiambo. Both ministers pushed me hard to back off or the government would be undone by the fight against corruption since now it was clear, as we noted "that many of our people were involved." Over these days Hon. Mwiraria, PS Dave Mwangi, Hon. Murungaru, Hon. Nyachae and Hon. Murungi all directly or indirectly opposed the arrest of Ojiambo ostensibly on the grounds that he might implicate senior people in the government and cause it to fall. Your Excellency, that the arrest of a mere lawyer even one of Ojiambo's stature could bring down the Kenya Government sounded utterly ludicrous to me. The disdain with which Ojiambo treated the KACC including his refusal even to acknowledge it indicated to me that he enjoyed protection from senior officials in the state. Had this not been the case, he would at least have met



with the KACC and invoked client-attorney privilege and declined to answer any further questions on the transactions themselves but reveal the identity of his clients.

While all this was happening I had been gently reminding Andrew Mullei, Governor of the Central Bank, to provide me with a report on the forensic contract – particularly on the payment vouchers. For whatever reason, he was equivocating on this. Hon. Mwiraria said it was he that had held the Governor back. Governor Mullei had told me that I would get my report later in the day from the minister directly.

That Friday afternoon I accepted that we had probably reached an important watershed with the fight against corruption within our own administration. My secretary then called me (this was in the afternoon and I was out of the office) and told me that Hon. Mwiraria had arrived at my office with the letter from Governor Mullei but then returned after a few minutes and taken it back and said he was delivering it directly to H.E. the President.

## **15. ANGLO LEASING MYSTERY**

**Saturday June 12, 2004**

Your Excellency, on the morning of Saturday 12<sup>th</sup> June, 2004 we discussed the entire Anglo Leasing investigation. I explained that the passports investigation- the local aspects of it at least – was nearly ending and after this we would go into the international phase which would require us to crack the foreign bank accounts of Anglo Leasing Finance Company.

I advised you, Sir, that we could charge the suspects in the case and that the only suspect missing was Anglo Leasing and Finance Company which had returned the 'evidence' of Ksh.91 million. Your Excellency, you asked me who I believed was behind Anglo Leasing and Finance and, I told you that in my convinced opinion the Hon. Vice President, Hon. Murungaru, Alfred Getonga, Hon. Mwiraria, former PS/Magari, Financial Secretary Oyula, former PS/Mwaliko and perhaps Hon. Kiraitu knew who Anglo Leasing were. This was especially the case because Hon. Kiraitu had admitted to me the involvement of Hon. Murungaru and Mr. Alfred Getonga for example on the 11<sup>th</sup> of June, 2004.

Your Excellency, in the course of this conversation you asked me again, "Who knows about this matter?" I responded to your agreement that they were mostly locals and concluded even "some of our own people including the Vice-President, Murungaru, Alfred Getonga, Magari, Mwaliko, Oyula and Onyonka (the head of the debt management department at the Treasury)." I remember, Your Excellency, that I proceeded as well to inform you that we probably had several other odd contracts in the security sector.

## **16. THE UNRAVELLING OF THE MATTER**

That evening a journalist with the *East African Standard* called me and told me that he had heard that the passports investigation had ground to halt because I had 'orders from above' to stop pursuing it. I denied this. He also, to my considerable alarm, told me that he knew all about the Anglo Leasing forensic laboratories project and that it had been included in the budget David Mwiraria had read on the previous Thursday June 10, 2004. I checked with Hon. Mwiraria through Hon. Kiraitu and was informed that this was not true.

**Sunday, June 13<sup>th</sup> 2004**

The *Sunday Standard* headlined with the story that the government had even put Anglo Leasing into the budget. Hon. Mwiraria strenuously denied this when I had called to ask him. I later established that it was indeed the case when I obtained a copy of the budget estimates book myself. I called Hon. Kiraitu and told him that the Ministry of Finance had allocated KSh.222,530,000 to be paid to a fictitious company in the coming financial year.

The evidence J. Oyula had given before the Public Accounts Committee at the beginning of the month was only coming into the public domain. The minister of Roads and Public Works Raila Odinga also called me on Monday the 14<sup>th</sup> of June, 2004 and announced to me that since his ministry had also been mentioned by Oyula in his testimony according to the newspaper reports,



he would also be ordering an investigation within his own ministry. Hon. Odinga's Permanent Secretary Erastus Mwongera, also called me and informed me that he had been ordered to compile a report on the forensic laboratory and role of the Ministry Roads, Public Works and Housing in it. Hon. Kiraitu also called and told me that the revelations had 'shocked' him.

#### **17. KAMANI PAYS BACK KSH.400MILL**

I went to see Hon. Mwiraria late that morning and found him looking upset. He told me he was in the process of preparing a parliamentary statement on the two Anglo Leasing projects for him to make in parliament the next day. I warned the Honourable Minister that we needed to investigate all the other suppliers' credit payments that NARC had entered into in respect of security contracts because it was not unlikely that we were at times paying for thin air. I was particularly concerned about entities like Silversen Forensic that were also in the budget and for which hundreds of millions had been allocated and yet my information was that they did not exist and were not delivering anything anyway. I took the opportunity to ask Hon. Mwiraria for my letter from the Governor of the Central Bank that had been the subject of numerous reminders, and that the Governor had indicated had been transmitted through him. Hon. Mwiraria informed me that he had forwarded the latter to the President. Hon. Mwiraria also informed me that the forensic laboratories 'payback' of around Ksh.400 million had been made only after he had asked Oyula to pick up the phone and call Deepak Kamani. It was after this call that the money was then returned. To me this was a startling admission. Hon. Kiraitu telephoned me and asked me to help 'rescue' Mwiraria but, in truth, if Mwiraria knew Kamani was behind everything and people in his office were calling him (Kamani) comfortably then clearly he knew more than had ever been made known to the Controller and Auditor General or the KACC.

#### **18. MERLYN KETTERING**

**Tuesday June 15, 2004**

Before I went to work one of my sources called me and told me that my 'digging around' the Anglo Leasing matter had caused another 'Anglo Leasing company to pay back over Ksh.500 million'. I was informed that the name of the company was Infotalent Ltd, another fictitious company linked to the Kamani's.

As the Anglo Leasing investigations had progressed, it had become clear that one individual, an American called Dr. Merlyn Kettering was the consultant/advisor on all the lucrative security and computerisation projects that the government was engaged in. He was involved, for example, in the Police forensic laboratory project having been retained as a consultant by Anglo Leasing and Finance Company. He had even attended some meetings and signed some documents on their behalf.

**Wednesday 16<sup>th</sup> June, 2004**

I received information that Kettering, even as we and the KACC investigated Anglo Leasing and its associated deals, was involved in yet another project at the Office of the President, this time to create a 'unified national security telecommunication backbone network'.

The information showed that Dr. Kettering attended meetings at the Office of the President to discuss this project together with other top security sector officials. In minutes of these meetings he was described as a Telecommunications or Management Consultant. The KACC in their investigations had dug up this curious individual as well. He seemed to attend highly sensitive security meetings.

On the same day, Ms. Jacinta Mwatela (then a senior and highly respected official of the Central Bank, who was later appointed Deputy Governor of the Bank) was dispatched to my office to deliver to me the letter that the Governor had previously said he had eventually opted to transmit through the Minister of Finance. It confirmed that the Central Bank of Kenya had received USD4,744,444.44 on the 7<sup>th</sup> of June 2004 from Schroder and Co Bank AG of Zurich on behalf of their client Anglo Leasing and Finance Company. These monies had been paid to Anglo Leasing as follows:



| Payment Advice No. | Amount         | Date Paid  |
|--------------------|----------------|------------|
| 073761             | S 900,0000.00  | 23-10-2001 |
| 093736             | \$1,922,222.22 | 22-12-2003 |
| 093864             | \$1,922,222.22 | 04-03-2004 |
| TOTAL              | \$4,744,444.44 |            |

#### 19. KAMANI PAYS BACK KSH.500MILL

That day a source provided me with proof that Infotalent had paid back Euro5.2 million to the Central Bank as another source had indicated two days earlier. This was again confirmed in official documentation that I requested from the Governor of the Central Bank of Kenya.

I found this unsettling. First Euro 956,700 on 17-05-04 and then USD4.7million is repaid on 07-06-04, by a company that does not have legal status and no indication from within Government on who its owners were. Only Hon. Mwiraria's admission to me on the June 14, 2004 that J. Oyula had called up Kamani who had then repaid the money gave an indication as to who Anglo Leasing was. Now another bogus company, Infotalent, had 'repaid' Euro5.2 million.

Your Excellency, I informed you of these developments on this day 16h June, 2004. We agreed that we were talking about the 'refund' of almost Ksh.1 billion and no one was celebrating; those making the refunds were not making themselves known; none of the civil servants involved were saying they knew who Anglo Leasing was.

Anglo Leasing refunded USD 4.7 million (KSh.370 million) on the Forensic Laboratories project; Anglo Leasing refunded €956,700 (KSh.95 million) on the Immigration security project and Infotalent Ltd refunded €5,287,164 (KSh.506 million) on the E-Cops Security Project.

#### Friday 18<sup>th</sup> June 2004

Your Excellency we met and discussed these issues at length on the 18<sup>th</sup> of June, 2004. We by now had a clear idea of who was behind the Anglo leasing deals from all the circumstantial evidence the investigators had obtained and Hon. Kiraitu's admissions. We acknowledged, Your Excellency, who the key players in the scams were. At the time, Sir, you advised me not to hand over the Magari and Mwaliko files to the Attorney General for prosecution just yet and to delay handing over the Infotalent file to KACC. From there I went to see Ambassador Muthaura (at his office) and we had a heated disagreement because he accused me of leaking the Ministry of Public Works brief on the forensic laboratories project to the *East African Standard* who had proceeded to publish elements of it. I was furious and we argued for over an hour on the fundamentals as well of how to deal with corruption within our administration.

#### Monday 21<sup>st</sup> June, 2004.

On Monday June 21<sup>st</sup>, 2004 Hon. Kiraitu called me on my home land line to tell me that he and Ambassador Muthaura had been called in by the H.E. The President who wanted a statement on graft because the media were asking for the sacking of ministers which bothered him. I told Hon. Kiraitu plainly that in light of my disagreement with Ambassador Muthaura it was unlikely that we would agree on a single statement on corruption.

#### 20. WARNING OF RESHUFFLE

##### Tuesday, 21<sup>st</sup> June 2004

On Tuesday 21<sup>st</sup> June, 2004 I was provided with information to the effect that: Muthaura and Mwiraria were key to all the scams that we were investigating and my digging around had now gone too far and they were determined to take action against me. I was provided with a brief that suggested that on the June 16, 2004 between 18:30HRS and 20:30HRS J.M. Oyula, Alfie Getonga, Lee Nyachae and other Treasury officials had met to discuss 'problematic government projects' at a Nairobi hotel. The most worrying project was the ongoing construction of a Navy Ship by a Spanish company called Astilleros Godan on behalf of Euromarine which belonged to - Anura Perera. The report also claimed that during the same meeting, Oyula had a telephone conversation with Perera. The report said that there was soon going to be a reshuffle and that



*"Mr. Githongo, PS Governance and Ethics will be transferred from the office of the President. The President will be impressed on 'not to touch' Murungaru. Mwiraria and Kiraitu because they are the only political pillars he has."*

## **21. GOVERNMENT STATEMENT ON GRAFT**

**Thursday, 23<sup>rd</sup> June 2004**

The day began with the publication of Ambassador Muthaura's statement dated the 21<sup>st</sup> of June, 2004 in a press release titled "Office of the President – Press Release" that then went into the bureaucratic details of the forensic laboratories project. I was particularly unhappy with the publication of this statement whose language smacked of a cover-up. Your Excellency, you will remember I rushed down to your office in what I shall admit was an ill-advisedly emotional mood and warned that the statement Muthaura had put out would make the government look as if we were perpetrating a cover-up. I explained that this was actually lying to the Kenyan people, because the reality was that we had uncovered information regarding the project that was in stark contrast to what Muthaura had presented in his press statement. The statement elicited a hostile response from the media, civil society, international community and the public in general. Your Excellency, you advised me not to issue a counter-statement as it would have made the Government look divided. That afternoon on the floor of the House the Minister of Finance claimed that his life had been threatened as a result of Anglo Leasing.

**Sunday, 28<sup>th</sup> June 2004**

On Sunday 28<sup>th</sup> June, 2004 I was summoned to State House where I found Your Excellency and Messrs. Hyslop Ipu, Ambassador Muthaura, Hon. Kiraitu, Hon. Murungaru and Hon. Mwiraria. We had a general discussion about the Anglo Leasing matter and the damaging media coverage the government was receiving as a result of this scandal. After the meeting Hyslop Ipu and I had remained behind. Your Excellency, you asked about Melvyn Kettering (whose name had come up repeatedly in press reports). You also asked why British High Commissioner Clay had been so upset with Muthaura's statement, to which I reported that I had also met with Clay and could confirm that he was deeply upset with Muthaura's statement.

Ipu and I went back down to his office to find Hon. Murungaru, Dave Mwangi and Ambassador Muthaura. The focus of our discussion became very much the *Sunday Nation* report of that day that had brought to public light the role of Merlyn Kettering in many of the security related projects. According to Muthaura, Mwangi and Murungaru, this had clearly upset the President and a statement was being drafted in response. At this meeting Dave Mwangi denied that Merlyn Kettering was in any way involved in the project despite having confirmed the same to me when we had spoken about it sometime in May. In my discussion with the H.E. the President and Ipu, I had confirmed that Kettering was even now involved in transactions at the Office of the President (in part because the Kenya Anti-Corruption Commission had uncovered this). I was surprised that Muthaura and Mwangi were now denying this so vehemently.

## **22. PUBLIC ACCOUNTS COMMITTEE**

**Monday, 28<sup>th</sup> June 2004**

I was grilled for two-and-a-half hours by the Public Accounts Committee as part of their ongoing investigation into the Anglo Leasing saga. It seemed to me that, J. Oyula, the Financial Secretary, who had appeared some days before me had given the MPs a great amount of information that the Ministry of Finance had been reluctant to share with the KACC. It became apparent to me that in Oyula's appearance before the committee he had admitted to being in regular touch with Anglo Leasing & Finance Co. Ltd. He had apparently become angry when questioned about their bona fides. Despite this he seemed to have been reluctant to say who Anglo Leasing was and so the MPs questioned me on this issue.

Later that evening Philip Murgor the Director of Public Prosecutions called me, speaking – ostensibly – on behalf of the Attorney General; asking to be kept informed on progress vis-à-vis the assorted letters rogatory on the Anglo Leasing matter that had been sent out on 27-05-04. These letters had been sent out by the AG seeking to discover the beneficial holders of the Anglo Leasing bank accounts from which resources were being wired back to Kenya. We spoke again



later the same evening with Murgor and he admitted that Mr. Alfred Getonga had called him and was "very disquieted by the sending of the letters rogatory and actually asked whether they could be recalled. Philip claimed tell him that this was not the kind of thing that could just be done."

On the 29<sup>th</sup> of June 2004 I met with Hon. Kiraitu at his office. Essentially he said it that it was now clear that Anglo Leasing was 'us' - our people. He said that no matter what, he did not have what it took to order or countenance the arrest of Chris Murungaru for corruption because 'they had too much history'. He was blunt and emotional. He admitted that people like Murungaru were key to the transactions of Anglo Leasing and even though he personally did not have the details, the excuse given to him was that the money was needed for political fund raising. He said that pressure was high for me to be moved to the Ministry of Justice and Constitutional Affairs and Muthaura's name was used as the one behind the push though.

### 23. RESHUFFLE

Wednesday, 30<sup>th</sup> June 2004

On Wednesday 30<sup>th</sup> June, 2004 H.E. the President announced on television that I had been transferred from the Office of the President to the Ministry of Justice and Constitutional Affairs. I started packing to move out of State House. That night Mr. Stanley Murage, among others, called me insisting that what had happened was not the 'real thing'.

Thursday, 1<sup>st</sup> July 2004

I arrived at the Ministry of Justice and Constitutional Affairs at 11:30HRS for my meeting with Hon. Kiraitu to be inducted into my new Ministry. He told me that he had done all he could to try and save me but Hon. Murungaru, Alfie Getonga, Hon. Mwiraria and Ambassador Muthaura had convinced H.E. the President that I had to be moved. I told Hon. Kiraitu that I was angry because I knew I was being demoted because of doing my job by pursuing the Anglo Leasing matter relentlessly and that this left a very bitter taste in my mouth. While we spoke, Mr. Stanley Murage called and told me that it was urgent that we spoke in the morning because the 'transfer' had not been sanctioned by the President. This sounded ridiculous and I dismissed it.

Friday, 2<sup>nd</sup> July 2004

I eventually made it to the office at State House at past 10:00HRS in the morning and was surprised to find Mr. Stanley Murage in my office. He repeated the bizarre story that he had told me the night before - that someone had surreptitiously inserted my name into the wrong place in the President's speech and therefore my transfer was not meant to have happened at all. Your Excellency, I came to your office at 16:15HRS and found Mr. Stanley Murage there. I informed you of the developments and realised you were shocked by them. You then reversed the transfer. We met again the next day and explored who could have amended your statement to effect my transfer. We also discussed Mr. Merlyn Kettering who seemed to have disappeared but was still being sought after by our authorities. I remember informing Your Excellency that surely Boinett of NSIS, Murungaru and his PS Dave Mwangi could track down this man because all their departments had been working with him for some time. I also used this opportunity to point out that J. Oyula the Financial Secretary, was also at the center of the corruption network at the Ministry of Finance.

When we met the next day, Your Excellency you raised the issue of Merlyn Kettering again and I informed you that the KACC were still hunting him and that it was clear that the man was at the heart of the entire national security network. You also assured me that we would get to the bottom of the saga about who had changed the reshuffle statement. On that day, Sir, you also asked me to look into 'the boats' that the Navy was building - a project linked to the arms dealer Anura Perera. You seemed intrigued to hear more about this project that I had raised with you a number of times because military officers had in turn taken to complaining to me about it.



On the 6<sup>th</sup> of June, 2004 Hon. Kiraitu Murungi stepped into my office looking exhausted. He blamed Muthaura and Hon. Murungaru for the botched attempt to demote me. He said he had advised against it but they had not listened.

#### 24. LEAVE

I took a week off work and returned on Monday July 19. One of the first things I did on that day was attend a meeting with Hon. Kiraitu Murungi at his office. Also in attendance was Gideon Mutua of the KACC who had been asked to produce a chronology of the Anglo Leasing matter. Kiraitu wanted us to work together to produce a parliamentary statement for him. Naturally the statement would make no mention of the fact that the whole Anglo Leasing matter was driven by his cabinet colleagues. While I had been on leave, a person by the name M. Gruring had sent a fax to Ambassador Muthaura from Switzerland - totally unsolicited it would seem - claiming to be the Managing Director of Anglo Leasing. This confirmation appears to have satisfied Ambassador Muthaura but the Government was met with overwhelming public scepticism when it was announced.

Also on July 19<sup>th</sup>, 2004, I called the Governor of the Central Bank, Andrew Mullei and asked him about the return of Euro5.2 Million by Infotalent. He confirmed that this - still unidentified entity - had indeed refunded Euro5,287,164 (Ksh 509,616,520) on or around June 16, 2004.

#### 25. ANGLO LEASING STORM

By this time, the Anglo Leasing matter had become a national storm. The diplomatic community led by the British High Commissioner Edward Clay who even visited the President on the July 20, 2004 and spent two hours with him. The meeting had been instigated by Minister Musikari Kombo. The overwhelming donor support for me and my office caused me tremendous discomfort but I had to live with it. At this time, interestingly, I came under renewed pressure to issue a statement on Anglo Leasing - essentially one that would say that 'all was OK'. On the 22<sup>nd</sup> of July we sat with Hon. Kiraitu in my office and in an atmosphere of great discomfort attempted to craft a statement based on the chronological report that Gideon Mutua had produced. He insisted that I should issue the final draft but I again refused - it was too ridiculous and I was convinced that Kenyans would laugh in my face.

By the beginning of August 2004 I had confirmed that during our tenure in government we had signed about USD277.7 million worth of contracts of the Anglo Leasing kind. KANU signed USD443.36 million between late 2001 and late 2002. I will admit, Your Excellency, to being slightly troubled during this time because H.E. made a number of public pronouncements seeking evidence before action on graft. This was despite the fact individuals like Hon. Murungi had admitted to me openly that the issues being investigated by the KACC were engineered by the likes of Hon. Murungaru and Alfred Getonga. During the first week of August I spoke to PS/Dave Mwangi about Infotalent and this time interestingly he failed to admit as he had previously done that he had signed the Infotalent contract. He also gave me a special document titled '*Summary: Security Contracts Under Special Purpose Financing Vehicles In The Office Of The President*' listing all the contracts in the security sector and their projects. This was apparently the document that had been prepared for the President for the meeting that had taken place at State House on Sunday June 28, 2004.

I found it interesting that they had chosen to wait over one month before sharing with me a document whose contents - especially some of the suspect projects - I had been chasing for months. This document openly admitted the involvement of Deepak Kamani, Merlyn Kettering and others in a range of projects! Yet to my frustration no civil servant or politician had ever publicly owned up to Kamani being involved in any deal by name, indeed, we had even asked Kenyans to believe that a Swiss fellow called Gruring was the key operator behind Kamani's deals. The document showed that for some reason a number of the contracts had been 'cancelled in consultation with the Treasury'. Coincidentally these cancellations were of all the



egregious contracts that were the subjects of my Department's interest and which I felt needed to be handed over the Kenya Anti-Corruption Commission.

## 26. MWAGAZI MWACHOFI: PUTTING MATTERS IN

### CONTEXT

Monday, 9<sup>th</sup> August 2004

At the beginning of August I travelled to the United Kingdom and once in London made telephone contact with Mwagazi Mwachofi who had been Permanent Secretary during 2001 when many of the KANU-era security contracts I was grappling with were signed. He was a man with a good reputation and was obviously keen to clear his name on these matters. I shall not go into the details of his description of the tortured manner in which the contracts were eventually entered into in 2001. However, the British Merchant Bankers Lazard Brothers who had been hired to scrutinise this commercial debt – partly to fulfil an IMF conditionality – had concluded that they had 'difficulties finding the listed creditors'. Mr Mwachofi informed me that they (Lazard Brothers) scrutinised the contracts "but could not find the creditors/banks/suppliers – some of them did not seem to exist. This seemed suspicious and caused us to doubt the integrity of the Forensic Laboratories contract," said Mwachofi. According to Mwachofi the visiting IMF mission later that year also questioned the contracts because it became clear these were financing leases being treated as debt and not part of the operating costs of the ministry. On this matter Mwagazi concluded that the "Office of the President said that security suppliers operate mysteriously behind the shadows".

## 27. ANOTHER MYSTERIOUS PAYBACK

Sometime towards the end of August Dave Mwangi called me and told me that one of the non-existent companies involved in security procurement had paid back their commitment fees that had been paid to them in 2001. He invited me to send a messenger to his office to pick up the cheque which I did. It was a drawn on 'Silverson Forensic cheque No. 02602 for USD910,000 dated 01-07-04 drawn on a bank in Liechtenstein Landsbank AG in favour of the Perm. Secretary Off. Of the Pres., the Governm of Kenya.' Altogether over Ksh.1 billion had been repaid.

In the last days of August Mr Anura Perera reached out once again seeking to 'negotiate in neutral space' because I was 'holding up' his payments. I asked his lawyers to put this offer of a meeting in writing and they did. I declined the meeting. On September 1<sup>st</sup> 2004, at a donor coordination meeting, the Minister of Finance announced the start of a forensic audit of security procurement by the Controller and Auditor General.

1<sup>st</sup> September 2004

On the 1<sup>st</sup> of September, 2004 Hon. Kiraitu called on me and shared with me his concern that at the rate we were going 'we would have another Goldenberg-type scandal before the elections' in 2007 because of the need to fund raise for the elections. He said that if one's pig got stuck in the mud one had to jump in and get dirty to extract the pig from the mud and someone one would get stuck in the mud themselves. He said that in fact there would be another Goldenberg style Commission and all of us would be 'suspects' or 'witnesses' at it. We actually laughed about the coming Goldenberg scam in 2006. It was a very surprising admission from Kiraitu about corruption and 'us.' The next day Hon. Kiraitu Murungi and I had a long meeting about political party financing. I expressed to him my disquiet at the contradictions with the supposedly 'resource mobilisation' efforts of people like Hon. Murungaru and others. In our discussion on political party funding with Hon. Kiraitu Murungi, he admitted Anglo Leasing and other such deals were essentially part of 'resource mobilisation' carried out essentially by Hon. Murungaru and Alfred Getonga. He repeated his fear that he expected another Goldenberg type scandal to be generated from our struggle to hold together the coalition. Both implicitly and explicitly he had indicated that H.E. the President knew about all these shennanigans.

## 28. GLOBOTEL AND OTHERS

4<sup>th</sup> September 2004



I met with the new Permanent Secretary at the Ministry of Finance – Joseph Kinyua. We agreed that there was need for the creation of a 'miscellaneous revenue' account into which all the 'repaid' monies could be deposited. I told him that this issue had been discussed already at the Cabinet Committee Against Corruption. I had contacted the PS in the Office of the President, Dave Mwangi, about another project called Globotel worth Euro49.6million and which was again, of an Anglo Leasing design and for which I therefore also anticipated another 'refund'. We also discussed the ongoing forensic audit of all these security contracts that was being carried out by the office of the Controller and Auditor general and the importance of expediting it.

#### **7<sup>th</sup> September 2004**

Your Excellency, I detailed all these issues to you on the 7<sup>th</sup> of September, 2004 in addition to my brief on jump-starting the economy. I also reported on the troubling refund by Silverson Forensic of USD910,000. We agreed that the matter should be kept low profile though I feel we also agreed that at the least we should get to the bottom of all these strange goings on. I informed you, Your Excellency, that the audit by the Controller and Auditor General of the security contracts was critical because it would allow us as a government to remove from the list, any contracts that were plainly fictitious or ridiculously over-inflated. I advised that there was potential for the country to save a great deal of money on this.

### **29. DR PETER EIGEN & ADVICE FROM A MINISTER**

**8<sup>th</sup> October 2004**

The Chairman of Transparency International Dr. Peter Eigen, who was in town for the Transparency International Annual Membership Meeting that preceded the international anti-corruption conference came to State House to meet H.E. the President.

**20<sup>th</sup> October 2004**

By the 20<sup>th</sup> of October 2004 the list of suspect contracts by fictitious companies grew by the day although the cast of characters was the same. Mr. Evan Mwai, the Controller and Auditor General was proceeding with his audit of security contracts and I was encouraging him where I could. On October 21, 2004 we met with the Treasury PS/Joseph Kinyua and we discussed this audit among other issues. In my estimation we were sitting on roughly USD700 million worth of contracts – some of them highly dubious. If one brought in the even murkier and more secret military ones, then the figure was over USD1 billion. Its not as if all the money was in the pipeline to be stolen but clearly from all the circumstantial evidence, and from what I had been told by some of the perpetrators themselves and as H.E. the President had acknowledged to me on several occasions – we had a major graft problem and it was being perpetrated by characters within our administration.

On Sunday 24<sup>th</sup> October 2004 I met with Simeon Nyachae, the Minister of Energy who had recently returned to the country from Europe where he had undergone a hip operation. I sought his advice on my predicament. We met between 11:00HRS and 13:45HRS. We discussed the fact that high level corruption was everywhere and acknowledged that people like Hon. Murungaru were involved in Anglo Leasing. He explained that Hon. Murungaru were involved in raising Ksh.5 billion for the next election through these schemes. Naturally, I was deeply frustrated by the limited action despite the evidence available.

### **30. PLANNING DEPARTURE**

**Thursday, 28<sup>th</sup> October 2004**

By the end of October I had started the process of down-sizing my department and sending back civil servants to the departments from which they had originally hailed.

**8<sup>th</sup> November, 2004**

After a meeting at our offices in Cooperative Bank House, Justice Ringera remained behind. His analysis of my situation was grim and admitted that once graft reaches the President he won't touch it. He observed that I was now a prisoner in my job because I knew too much. I was surprised when he told me that if I tried to leave 'they' could even try to kill me.



**24<sup>th</sup> November 2004.**

On the 24<sup>th</sup> of November, 2004 a nervous Evan Mwai visited my office at State House. He had insisted on coming to me instead of me going to him. He was deeply concerned that his ongoing audit of security-related credit agreements was revealing things that had frightened him. He also pointed out that in fact, he now feared for his personal security. This was as a result of a reply to a letter he had sent to Dave Mwangi: the reply from Mwangi with regard to the Globotel contract was incredulous; so much so that it had frightened Mwai. He said he feared for his own physical security because – implicitly – Dave Mwangi as the head of internal security could cause physical harm to come to him. He then went on to relate how he had realized almost all of the contracts were similar and suspect and this frightened him. I told him to conclude his report and prepare an Executive Summary that I could give to H.E. the President. This incident was moving to me and in a certain sense the penny dropped as a result. My own position was clearly increasingly untenable. But I made up my mind to see the H.E. President one more time about the Mwai concerns that seemed so profound.

**3<sup>rd</sup> December 2004**

I wrote to Sammy Kyungu the Permanent Secretary at the Office of the President in charge of Defense asking for clarification on the ship the Navy was building. He called me immediately he got the letter in an agitated state saying the matter was classified and that Ambassador Muthaura would be calling me. Muthaura called and we agreed to set up an appointment to meet soon. I went to see him the next day and once there, I was surprised to find that Dave Mwangi had also been summoned to sit in on the meeting. Muthaura said the navy ship matter was very sensitive and was in any event being audited by Evan Mwai. He assured me that he would hand me a report on the matter but appeared to change his mind half way through and said he would get it to me later.

Still, during that week I wrote letters to Evan Mwai the Controller and Auditor General providing him with all the information I had gathered about the purported '*security financing companies*' he was auditing. The modus was clear: the Government of Kenya would enter into a contract with a number of the financing entities that did not exist which meant that the Government had no legal recourse. It also implied an effort on the part of financiers to avoid revealing their true identities which flew against common practice by reputable international financiers. Secondly, in most of the contracts the Government started debt repayments before substantive implementation of the projects had begun. The implication of this was that the bogus financing companies used the Government's money to implement the projects and then proceeded to charge interest on what are in truth fictitious loans by the Government to itself. In the majority of financing entities we found they did not exist. The navy ship linked to Mr. Anura Perera was organised under a similar arrangement as two of the ostensible financing companies did not appear to exist at their Madrid addresses.

The reports and findings by the Controller and Auditor General when all the information was analyzed concluded that there were several '*Anglo Leasing type*' deals – in excess of USD200million. During the same week I spoke to Dave Mwangi about the giant Globotel project that was ostensibly for the Administration Police and was in the Anglo Leasing mould of deals. He said that the Globotel deal was being investigated by an inter-ministerial committee.

**4<sup>th</sup> December 2004**

I met with H.E. the President before our travel to the wedding of Raila Odinga's daughter. I gave him a nine-point agenda including discussion of my department's future and the ongoing security contracts audit by Mwai the Controller and Auditor General.

**10<sup>th</sup> December 2004**

On the 10<sup>th</sup> of December, 2004 Your Excellency we discussed the ongoing security contract audit by the Controller and Auditor General. I advised that Mwai needed to make a presentation directly to you before he made his report to the Public Accounts Committee as he was required to do under law.



### **31. KINYUA'S FEARS AND CONCERNS**

**Tuesday 14<sup>th</sup> December 2004**

I went to the Ministry of Finance for a meeting with the Donor Consultative Group. After this meeting I had a long meeting with Joseph Kinyua who shared with me just how terrified Mwai had become as a result of the audits he was doing into the security sector supplier contracts and what he had discovered. He told me that Mwai had discovered that a majority of them were Anglo Leasing type contracts. For the first time Kinyua enunciated his concerns about the integrity of his own minister Mwiraria, Murungaru and other key figures.

### **32. PRESSURE FROM ANURA PERERA**

**21<sup>st</sup> December 2004**

On the 21<sup>st</sup> of December 2004, Gen (rtd) Mahmud Mohammed came by to visit. My father had called to alert me that the General had met with him seeking an appointment with me, and was now on his way. The General told me he had just returned from London where he had undergone a heart operation. Then he got to the real point of what had brought him to see me. Anura Perera had gone to see him in hospital in London and told him I was making life difficult for him to extent that he was unable to travel to Kenya for fear of arrest and that his money was held up because of my department's inquiries.

The General told me that Perera was a good, generous and honorable man who only sought audience with me to explain himself. To demonstrate how honest Perera was, the General told me a story of how the late Adam Ali (Financial Secretary) had died with Perera owing him Ksh.10 million. Perera had insisted on locating the man's wife and giving her the Ksh. 10 million. Perera's primary complaint was that the Treasury was holding up his payments and he felt I was responsible for this." From the day the retired General visited me he called either me or my father every day.

**29<sup>th</sup> December 2004**

I met with Joseph Kinyua who warned that 'he was under pressure' from the Minister of Finance to make payments on the Anglo Leasing type contracts that Mwai was investigating. I told him not to because it was not unlikely that some of them were entirely fictitious as we had found with others earlier in the year.

### **33. 2005**

On the 4<sup>th</sup> of January 2005, I spoke to Evan Mwai the Controller and Auditor General who told me he was about to complete his forensic audit and that my letters to him had been of enormous help and had merely confirmed what he already knew from his own investigations - that most of the 'financiers' of the schemes were bogus. He did however inform me that Joseph Kinyua was under 'tremendous pressure' from Minister Mwiraria to pay up on some of the contracts and was hoping that the report from the Controller and Auditor General would save him from having to do this.

The next day I spoke to Mr Mwai again and he told me that Ambassador Francis Muthaura had called him directing that the bills that were pending needed to be paid even if his audit was not complete because the concerned parties were pushing for payment. He said that Hon. Mwiraria was ordering Kinyua to pay Deepak Kamani. Mwai said that from the sound of Muthaura's voice, he too had been convinced by Hon. Mwiraria that payment needed to be made. Mwai noted that Kinyua was delaying making payment until he got the report that Mwai was preparing - which in turn put the pressure to complete on Mwai. Mwai by this time had also incorporated the information I had given him in a letter dated 03-01-05 in his report. I had copied the same letter to Kinyua who sounded relieved when I called him to confirm whether he had received it. Mwai called again to point out that LBA Prisons project was one in which they had uncovered a host of irregularities and yet people were pushing for it to be paid.

### **34. MEETING**

**10<sup>th</sup> January 2005**



On the 10<sup>th</sup> of January 2005 *The Daily Nation* carried an interview in which I was quoted as saying that the Anglo Leasing scandal was the litmus test of our administration as far as the fight against corruption within NARC was concerned. The next day Hon. Kiraitu Murungi was quoted directly contradicting me, saying that Anglo Leasing was 'the scandal that never was' because the money was repaid. Your Excellency, we met that day with a detailed brief I had prepared on the security projects that Mwai was auditing. My brief showed that a majority of the entities that had been contracted to provide the finance in these projects did not exist. We discussed prosecution of the Anglo Leasing cases and the possibility of Evan Mwai the Controller and Auditor general coming in to make a direct presentation on these matters to H.E. the President.

**14<sup>th</sup> January 2005**

There was a cabinet meeting in State House on the 14<sup>th</sup> of January, 2004. After this meeting Hon. Kiraitu came up to my office and pointed at me and said that party elections were around the corner and I was the one holding up the financing of these elections. This was clearly in reference to my work with Mwai and Kinyua. He said some of the contracts had to be paid and he, Mwiraria and I would sit and agree which ones so it's all done 'transparently'.

**17<sup>th</sup> January 2005,**

I met with Hon. Kiraitu Murungi at his office from 16:30hrs. He re-iterated that party elections were on the way and Prof. Nick Wanjohi had estimated that they would cost Ksh.200 million and that this money would come from the contracts that Kinyua and I had stopped – especially Anura Perera's matter – clearly the ships. Hon. Kiraitu demonstrated no concern that I would report this matter back to H.E. the President.

The last time we had spoken he suggested a meeting with Mwiraria to agree on a transparent system of financing elections but (in this meeting) he said he'd organize a meeting between Chris Murungaru and me. It was a bizarre discussion with Hon. Kiraitu opening up to me in a totally unusual manner – essentially admitting the suspect contracts I had spent the past year pursuing were all along schemes to raise political finance and by interfering with them I was undermining the party.

I informed him that I was uncomfortable with Anura Perera using General Mohammed to put pressure on me and he confirmed that the people who knew Perera were Hon. Murungaru and Alfred Getonga. He said he could speak to them on this. He was nevertheless clearly looking for a quid pro quo where I could somehow look for a way that the payment for Perera can be approved by me. I played possum saying I was keen not to undermine the party. But it was a final call – after this I calculated they have few or no options left. They have bared their souls to me.

**20<sup>th</sup> January 2005**

I had the same conversation with Hon. Kiraitu and Hon. Murungaru. I played possum throughout. Once again they were clear that the security related projects that were the subject of so much controversy were for political financing purposes all along. Hon. Kiraitu and Hon. Murungaru demonstrated no concern that I would report this matter back to H.E. the President. The evidence had been building up but with this final approach they let their guard down. By coming to me knowing full well I had direct access to the President meant they were not at all worried that I 'would report them to the President'. Hon. Murungaru pointed out that H.E. the President had once been Minister of Finance and understood how these things were done.

**24<sup>th</sup> January 2005**

I tendered my resignation from the UK during a trip starting on the 24<sup>th</sup> of January 2005.