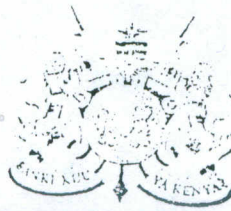


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Governor

DA J. M. I. I
KUU YA
KENYA



CENTRAL
BANK OF
KENYA

December 22, 2004

Plot 1, Parklands Avenue
P.O. Box 61, Nairobi Kenya
Telephone 226-1111 Telex 22124

The Director
Kenya Anti-Corruption Commission
Litani Centre
P.O. Box 61-30000 C0200
Nairobi

For the attention of Dr. J.P. Mutonyi

Dear Sir

RE: INVESTIGATION OF ECONOMIC CRIMES BY CHARTERHOUSE BANK LTD AND RELATED COMPANIES

We acknowledge receipt of your letter dated December 15, 2004 and note with concern the hurdles you are facing in accessing information from Charterhouse bank.

Although we believe that the various options referred to in your letter may be fraught with delays and counter court actions we nonetheless are of the view that it would be appropriate for you to seek the opinion of the Attorney General in respect of the hurdles you are encountering in the course of your investigation especially having regard to the powers bestowed upon you by the statutes.

Needless to say, the Central Bank will endeavour to follow up with the bank the matters raised in your letter in so far as they relate to compliance with the Central Bank of Kenya Act, Banking Act and the Regulations issued thereunder as well as the Prudential Regulations issued by the Central Bank. To facilitate this, we would appreciate your availing to us any information of failure/refusal to provide data by the Charterhouse bank that you would wish to draw to our attention so as to enable us demand the same from the institution.

You may be advised that the information gathered by the Central Bank can only be used for its regulatory function under the Banking Act and cannot be availed to you in view of the confidentiality provisions imposed on the Bank under the Act with regard to disclosure of information in the course of inspection.

Yours faithfully

ANDREW K MULLEI



CIVIL SUIT NO. 329 OF 2006

CHARTER HOUSE BANK LIMITED..... PLAINTIFF

VERSUS

CE: T... 3A... K OF KE~YA FIRST DEFENDANT
: \. I.: \. S... j... ?OR FI: -IA~CE SECOND DEFENDANT
ROS: : : \>: : : : 0 THIRD DEFENDANT

REPLYING AFFIDAVIT

I, GERALD ARITA NYAOMA of Central Bank Building and of Post Office Box Number 60000 Nairobi in the Republic of Kenya do hereby make oath and state as follows:-

1. THAT I am the first Deferic.an t's Director, Banking Supervision Department and I run duly authorised by it to swear this affidavit in its behalf and confirm that, I am fully conversant with the facts deponed to in this affidavit and can positively swear thereto from my personal knowledge.
2. THAT I have read and understood the contents of the Chamber Summnons dated the 23rd day of June, 2006 and the affidavit in support thereof sworn by one Sanjay Shah on the same dated and state that I make this affidavit in response thereto,
3. THAT the first Defendant is a statutory body established under the provisions of Section 3 of the Central Bank of Kenya Act, 1992, of the Laws of Kenya and one of its principal objects is to regulate the operations of all commercial banks in the Republic of Kenya.

THAT, the execution of the first Defendant's statutory mandate to carry out regular inspections of the operations and affairs of the banks to ensure that the banks comply with the provisions of the Banking Act, applicable to their operations together with the prudential guidelines issued by the Central Bank, as regulator, from time to time.

During the course of a regular inspection of the Plaintiff undertaken by the first Defendant's Banking Supervision Department in August, 2004 pursuant to the first Defendant's statutory mandate under Section 32(1) of the Banking Act, a number of violations of the Banking Act were established, viz:

- (a) Lending to both Nakumatt Holdings Limited and Triton Petroleum Limited in excess of the single borrower limit of 25% of its core capital.
- (c) Involvement in insider trading without adequate security and above the prescribed limit of 20% of its Core capital.
- (c) Inadequate provisions for bad and doubtful debts.
- (d) Failure by the Plaintiffs management to submit accurate returns to the first Defendant.
- (a) A number of customer accounts lacked account documentation as per the know your Customer procedures.

Following these findings, the management of the Plaintiff
in the violations whereupon the first Defendant imposed
on it a fine of Kshs. 1,000,000/- and the Plaintiff's Managing
Director confirmed that corrective action would be undertaken
to remedy the violations.

7. The first Defendant undertook a follow-up inspection in
February 2005 to establish the status of compliance and the
Defendant established that remedial action had been taken on
most of the violations with the exception of those relating to the
'Know your customer procedures'.

8. THAT, as a result of the remedial action taken by the Plaintiff,
the first Defendant recommended and received the second
Defendant's approval to renew the Plaintiff's license for the year
2005 which was renewed.

9. THAT, the first Defendant undertook another inspection of the
Plaintiff in October, 2005 which revealed some weaknesses
in the operations of the Plaintiff including non-compliance
with regulation on classification of loans and the *'Know
your customer procedures'*. The inspection report was availed
to the Plaintiff who accepted its findings and undertook to
rectify the violations.

10. THAT, the first Defendant undertook another inspection in
January, 2006 which revealed the following:-

- (d) ACCO... opening forms of 45 customer accounts were not availed.
- (e) The engclger... in offshore money transfers involving spLting of transactions was found.
- (f) Ci...ues drawn on a customer's account were cleared throu gh a lawyer's client account.
- (g) The same l2,...yver's client account was being used as a trading account for some customers.

...[IV... the draft inspection report was forwarded by the first ... to the Plaintiff on 21st June, 2006 for comments by ... n-2,nagc...n,nt. ...leanwhile,adverse reports/ allcgntions on the Plaintiff were tabled in parliament and in light of this and in orde:: to protect the interest of the Plaintiff's depositors and c:~ci...c's, the first DefendaJ~t sought and received the second ...-J-...nc:ant's approval to place the Plaintiff under statutory ...-a...e:ert in strict exercise of powers vested on it by the Banking Act.

... from the foregoing = verily believe that the Plaintiff's ...tion dated the 23rd day of June, 2006 has no merit and ...riot be sūstain ed by this Honourable Court and confirm ... what is deponed hereinabove is true to the best of my ...nowledge.

SWOHH ...said GERALD
ARITA NYAOMA at Nairobi
 this 27th day of June 2006

 (J&C)~<.v

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