



PRESS INFORMATION

ALLEGED EXCESSIVE FEES PAYABLE TO PRIVATE LAWYERS REPRESENTING GOVERNMENT OF UGANDA IN THE CASE OF JESSE MASHATE V. GEN. YOWERI KAGUTA MUSEVENI IN LONDON

The Inspectorate of Government received a complaint wherein it was alleged that the Ministry of Justice was set to pay **UK £660,800** to Kampala Associated Advocates (KAA) and **UK£ 209,396.32** to other groups of lawyers for representing the Government of Uganda in the case of Jesse Mashate versus Yoweri Kaguta Museveni in London (**HCJ/QBD HQ 07 XO 1288, Claim N 2006 Folio 193**). It was further alleged that the fees that were to be paid were not commensurate with the work done and that the actual legal cost was lower.

The Inspectorate of Government investigated the matter in order to establish the following:

1. Whether there were various groups of advocates engaged to defend the President in Mashate's case; and if so,
2. Whether it was necessary for the Attorney General to procure the services of KAA.
3. Whether the procurement of the services of KAA by the Attorney General was lawful, and if not, whether the government of Uganda is bound by the resultant contract.

4. Whether the quantum of fees agreed upon between the GOU and KAA was excessive, and if so,
5. Whether KAA are entitled to any further payment of fees for the engagement.

Following an investigation by the Inspectorate of Government, it was established as follows:

1. There were a number of law firms and lawyers that had been engaged to represent the President in the same case over time as follows:
 - a) Edwin Coe LLP of London,
 - b) Phillip Alier, a barrister from Tanfield Chambers, London,
 - c) Forest Solicitors, a firm in London,
 - d) CKFT Solicitors of London who represented Uganda Property Holdings Ltd (UPHL), the company charged with management of properties of the Government of Uganda (GOU) abroad, and
 - e) Kampala Associated Advocates, a firm in Uganda.

M/s KAA were engaged to play a supportive role to Edwin Coe LLP, a firm that had represented the GOU in various matters in the UK for a long time spanning back to 1964.

2. Although KAA claimed to have been hired in an emergency situation where four prime properties owned by GOU in the UK were the subject of charging orders taken out by Dr Mashate, UPHL had already engaged M/s CKFT Solicitors to represent them and redeem the properties from attachment. CKFT effectively handled proceedings in court to redeem the said properties at a cost of UK£ 70,259 (approximately UGX 279,139,745). CKFT were also awarded damages to the tune of UK£ 40,000 against Dr. Mashate but the latter failed to pay the judgment debt and was in December 2013 remanded in civil prison for 28 days.

3. Although KAA informed H. E the President that a default judgment had been entered against him, KAA, without taking sufficient due care to establish the status in the Attorney General's Chambers, led His Excellency to believe that the Attorney General's Chambers knew nothing about the case. It was also established that at the time Mr Masiko of KAA gained audience and informed the President that the case had been neglected, the Uganda High Commission in London was already aware of the judgment in default and the attachment of the properties.
4. By the time lawyers from KAA misrepresented to H.E the President that the suit passed unattended to and the Attorney General's Chambers had done nothing to save properties from attachment and to set aside the judgment, the High Commissioner in London had already retained **M/s Edwin Coe LLP** to enter upon the case and set aside the judgment. The High Commissioner was also aware that UPHL had retained lawyers to forestall the attachment. In addition, the Attorney General, Hon Kiddhu Makubuya, on the advice of the Rt. Hon Prime Minister travelled to London after he instructed M/s Edwin Coe LLP in the matter by letter dated 27th April 2011.
5. The engagement of KAA by the Attorney General's Chambers to ensure that the properties under attachment are redeemed and the default judgment set aside was unnecessary given that the UK law firms of **Edwin Coe LLP** and **CKFT Solicitors** had already been retained to handle the matter. The ground work that KAA did in Uganda to facilitate Edwin Coe LLP in the UK to effectively defend the case could have been done by Advocates in the Attorney General's Chambers, some of whom are senior to Mr Masiko who was charged with handling the case by KAA.
6. KAA unnecessarily portrayed a situation of urgency to both the President and the Prime Minister in order to secure the award of a contract from the Attorney General to represent the Government of

Uganda in the matter. Having found out that there was a default judgment entered against the President, but without establishing whether the Attorney General, then Hon Khiddu Makubuya, knew about it, Mr Joseph Masiko of KAA through a personal contact in State House-Mrs Joy Kabatsi, representing the **Principal** Private Secretary to the President, and the wife to Mr Peter Kabatsi (a partner in KAA) gained the audience of the President and informed him that the case had been mishandled and judgment in default was entered against him but the Attorney General's Chambers did not know about it.

7. The fees claimed by KAA who were brought on board in a supportive role were grossly excessive especially given that they were seven times higher than fees claimed by Edwin Coe LLP who were the primary and lead lawyers in charge of defending the case in the UK. Although the complainant stated that the fees claimed by KAA were UK£ 660,000 while the fees claimed by the other groups of lawyers were £209,396, according to the office of the Solicitor General, KAA claimed a total of **£1,321,600** for their services. Of this amount, **£95,687** had already been paid before the IG intervened in the matter. By 10th September 2012, the balance of **UK£ 1,225,913** was identified by the office of the Solicitor General to be outstanding and payable to KAA for their services. The fees charged were found to be inconsistent with the provisions of the Advocates (Remuneration and Taxation of Costs) Rules (SI 267-4).
8. The procurement of legal services by the Attorney General was irregular because it was done contrary to the provisions of the Public Procurement and Disposal of Public Assets (PPDA) Act and Regulations. The Attorney General treated the engagement of KAA as a delegation of authority under Article 119 of the Constitution when in actual fact the department procured professional services under a contract which should have been preceded by processes in the PPDA Act and Regulations. This finding is not notwithstanding

the alleged emergency presented by the attachment of government properties in the UK because the PPDA Act and Regulations also provide for such situations.

9. KAA's conduct while securing the contract to represent the Government of Uganda amounted to touting contrary to section 75 of the Advocates Act and Regulation 22 of the Advocates (Professional Conduct) Regulations. It was observed that KAA went through Mrs. Joy Kabatsi who was working in the State House Legal Department at the time to access the President. It was Mrs Kabatsi, then part of the State House legal team and an aide to the President that led Mr Masiko to the President.
10. Mrs Kabatsi followed this up by writing a letter dated 24th June 2014 to the Attorney General, for the Principal Private Secretary to the President, requiring him to give instructions according to a directive by the President against the background given by KAA to the Attorney General that the President issued the directive and that they had pursuant to it travelled to London to represent the President. Though the said letter referred to a directive attached to it the same was not attached. This investigation returned the finding that the said written directive might not have existed at all.
11. Before Mrs Kabatsi's letter to the Attorney General was issued, KAA lawyers travelled to the UK in June 2011 to represent the President without any instructions from either the President or the Attorney General and thereafter reported to the Attorney General that they worked with Edwin Coe LLP to represent the President in a court of law. This was in spite of the fact that KAA Advocates have no licence to appear before courts in the UK. They returned to Uganda and presented themselves to the Attorney General as the best firm to hire following the irregular representation of the President and Government of Uganda in the UK.
12. The conduct of the Advocates that secured this contract with government for KAA acted contrary to section 75 of the Advocates

Act and are liable for touting. Such conduct is also prohibited by regulation 22 of the Advocates (Professional Conduct) Regulations (SI 267-2)

13. There are serious systemic weaknesses in the Attorney General's Chambers regarding the management and coordination of cases against the government abroad. In this instance, the weaknesses were exploited by KAA and may in future be exploited by other persons for private gain.

In light of the findings above it is recommended that:

1. The contract between KAA and the Government of Uganda in respect of Mashate's case should be terminated forthwith on grounds of illegality. Furthermore the Attorney General should cease all dealings with KAA on the Mashate case as it is clear that their services were secured contrary to the law.
2. The fees that the Government of Uganda considers payable to KAA should not have exceeded those payable to the principle lawyers in the UK who are clearly playing the lead role in defending Mashate's case. The determination of the said fees should have been strictly in compliance with provisions of the Advocates (Remuneration and Taxation of Costs) Rules.
3. The Public Procurement and Disposal of Public Assets Authority should, as a matter of urgency, exercise its powers under Section 97 of the PPDA Act and put in place guidelines that will ensure that procurement of legal services by all procuring and disposing entities is done uniformly across the board. The guidelines should also ensure the highest possible level of transparency and value for money for PDEs. In creating these guidelines, the PPDA should ensure that all relevant stakeholders including the Uganda Law Society are consulted to ensure that the guidelines do not favour some law firms to the detriment of others.

4. The Attorney General's Chambers should also put in place clear systems for monitoring progress of litigation involving the Government of Uganda before foreign courts and ensure that such litigation is handled in a timely and expeditious manner in order to avoid exposing Government to unnecessary costs.
5. In view of the unprofessional conduct of advocates from KAA in securing the award of the contract to defend the President, the contract is unenforceable. No more fees should be paid to the firm in strict compliance with the provisions of section 69 of the Advocates Act.
6. The Uganda Law Council should examine the conduct of the advocates in KAA involved in securing the award of the contract from the Attorney General and take appropriate disciplinary action against them.

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INSPECTOR GENERAL OF GOVERNMENT