

**Form ACB 10**



**ANTI-CORRUPTION BUREAU  
INVESTIGATIONS REPORT**

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**SUBJECT:** Allegation of fraudulent transactions in Ration Packs contract between Malawi Police Service and Pioneer Investments.

**CLASSIFICATION:** SECRET

**REF NO:** CR/LL/200/2017.

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**1.0 INTRODUCTION**

- 1.1 On 7<sup>th</sup> November, 2017, the Anti-Corruption Bureau received a complaint alleging that in 2015, Malawi Police Service fraudulently awarded a contract to Pioneer investment to supply ration packs at a contract sum of 2.3 billion.
- 1.2 On 22<sup>nd</sup> November, 2017, the Director of Anti-Corruption Bureau (ACB) authorized investigations in accordance with Section 11 (1) (a) of the Corrupt Practices Act.

**2.0 METHODOLOGY**

- 2.1 The following people helped in the investigations by providing information;
  - Dr. Lexten Kachama, Inspector General of Malawi Police Service.
  - Duncan Mwapatsa, Deputy Inspector General of Malawi Police Service (MPS).
  - Tadius Samveka, Deputy Director of Finance, MPS.

- Jean Moukala, Deputy Chief Executive Officer, CDH Investment Bank.
- Timothy Kalembo, Assistant Director, Office of Director of Public Prosecution.
- Grant Kachingwe, Senior Superintendent, MPS.
- Adrian Chibwana, Stores Clerk, MPS.
- Jolex Maguza, Stores Clerk, MPS.
- Madalitso Kamzimbi, Accounts Clerk, MPS.
- Emmanuel Chisoma, Senior Superintendent, MPS.

2.2 The following documents were analyzed;

- Ration Packs Contract.
- Payment vouchers
- High Court Judgement, commercial cause no. 276 of 2017
- Contract between CDH IB and Pioneer Investment
- Letter of undertaking from Malawi Police Service to CDH IB

### **3.0 RESULTS OF INVESTIGATIONS**

3.1 Malawi Police Service is an independent organ of the executive which provide protection of public safety and the rights of persons in Malawi according to the prescriptions of the constitution and other relevant laws<sup>1</sup>. Malawi Police Service is a public body whose procurement procedures are subject to the Public Procurement Act, Public Finance Management Act and other relevant registration in Malawi.

3.2 On 2<sup>nd</sup> June 2015 Internal Procurement Committee (IPC) at Malawi Police Service (MPS) held a meeting to procure ration packs for Malawi Police Service. The meeting agreed to procure 500,000 packs of ration. The ration pack contained the following (i) corned beef, (ii) tinned fish (iii) energy biscuit (iv) energy drink.

<sup>1</sup> Chapter XV of the Constitution of the Republic of Malawi.

- 3.3 On 3<sup>rd</sup> June 2015 IPC wrote Office of Director of Public Procurement (ODPP) seeking no objection to use restricted tender method for the procurement of ration packs. The following companies were shortlisted (i) ZS Investments (ii) Magic Wholesalers (iii) Pioneer Investment (iv) Lilongwe General dealers and (v) Star Traders.
- 3.4 On 10<sup>th</sup> June 2015, ODPP gave no objection to Malawi Police Service (MPS) to use restricted tendering in procurement of ration packs.
- 3.5 The bids from the shortlisted companies for the supply of 500,000 ration packs were as follows<sup>2</sup>:

Name of Company	Amount in MK
Pioneer Investments	2,327,087,500.00
Lilongwe General Dealers	2,417,375,000.00
Z.S. Investments	2,498,925,000.00
Star Traders	2, 577,562,500.00
Magic Wholesalers	2,621,250,000.00

- 3.6 On 24<sup>th</sup> July 2015 MPS IPC wrote ODPP seeking no objection to award a contract to Pioneer Investment to supply 500 000 ration packs at the contract sum of **MK 2,327,087,500.00**. Each ration pack was charged MK3, 995.00
- 3.7 On 31<sup>st</sup> July 2015 the ODPP gave NO OBJECTION to award a contract to Pioneer Investment.
- 3.8 Mr. Zameer Karim owns Pioneer Investment. The company was registered in 2008 and its registration number is **107247<sup>3</sup>**.

<sup>2</sup> IPC meeting on procurement of ration packs

<sup>3</sup> Pioneer Investment Registration Certificate

- 3.9 On **4<sup>th</sup> August 2015**, Malawi Police Service and Pioneer Investments signed a contract for the supply of 500,000 ration packs for a contract sum of **MK 2,327,087,500.00** (MPS/SB/226/2015). Mr. D Mwapasa and Zameer Karim signed on behalf of MPS and Pioneer Investment respectively.
- 3.10 However, on 10<sup>th</sup> August 2015, **6 days after signing the contract**, Zameer Karim wrote Mr. G. I. Bottoman, the Director of Finance requesting for upward price adjustment of the contract by 20%. Pioneer investment cited depreciation of Malawi Kwacha against United States Dollar (USD) as a reason for price adjustment. However, between 4<sup>th</sup> to 6<sup>th</sup> August, 2015 the percentage of depreciation of Malawi Kwacha against USD was **1.6%**<sup>4</sup>
- 3.11 On 12<sup>th</sup> August 2015, Mr. Bottoman, on his own without approval of MPS IPC and ODPP, approved 20% upwards price adjustment to Pioneer Investment. Each ration pack was adjusted from MK3, 995.00 to MK4, 795.00. The total contract was adjusted from **MK 2,327,087,500.00 to MK 2 793,087,500.00**. The difference is **MK 466,000,000.00**
- 3.12 According to law and **Regulation 132 and 155** as read together of Public Procurement Act, price adjustment can only be effected if there is a just cause and it must be approved by IPC of the procuring entity and the office of ODPP<sup>5</sup>.
- 3.13 Investigations have further established that, on 10<sup>th</sup> February, 2015, Mr. Bottoman wrote CDH Investment Bank (CDH IB) and made an undertaking to remit MK 970,284,000.00 for Pioneer Investment to CHD IB in regards to ration packs contract. Pioneer Investment obtained the loan amounting to MK 970,284,000 from CDH IB to finance the supply of ration packs to Malawi Police Service. This undertaking was made six (6) months before the ration pack contract was advertised and awarded to Pioneer Investment.

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<sup>4</sup> Reserve Bank of Malawi.

<sup>5</sup> Witness Statement of Timothy Kalembo

3.14 Mr. Bottoman signed the letter of undertaking to CDH IB while the purported signature of Mr. Tadius Samveka, the Deputy Director of Finance was forged. Samveka disowned the signature and the undertaking to CDH IB<sup>6</sup>.

3.15 Again, on 16<sup>th</sup> July 2015, Mr Bottoman and Zameer Karim made undertaking to CHD IB that Malawi Police Service will remit MK2, 125,000,000. 00 to the bank to enable Pioneer Investment to obtain a loan from the said bank to finance ration pack contract. Zameer Karim forged Mr. Tadius Samveka's signature. In 2015, there was no contract between MPS and Pioneer investment to supply ration packs worth MK 2, 125,000,000.00<sup>7</sup>

3.16 It should be noted that, both undertaking to CDH IB were made earlier before the contract was awarded to Pioneer Investment. The undertakings were made on 10<sup>th</sup> February and 16 July 2015 while the contract was awarded on 4<sup>th</sup> August 2015. Mr. Bottoman and Zameer Karim connived to award ration packs contract to Pioneer Investment.

3.17 According to section 63 of Public Finance Management Act, it is only the Minister of Finance who can give a guarantee or indemnity on behalf of Malawi Government with approval from Cabinet and report to National Assembly. Again, a guarantee can only be issued if it is in public interest.

3.18 Mr. Grant Kachingwe, the In-charge Accounts Officer at Police Headquarters forged Mr. T. Samveka's signature on manual payment voucher for the payment of MK 2,793,087,500.00 to Pioneer Investment. Mr. Bottoman instructed Mr. Kachingwe to sign on behalf of Mr. Samveka.

3.19 Again, Mr. Grant Kachingwe, forged Mr. T. Samveka's signature on systems payment voucher for the same payment of MK 2,793,087,500.00 to Pioneer Investment. Again, Mr. Bottoman instructed Mr. Kachingwe to sign on behalf of Samveka.

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<sup>6</sup> Witness Statement, T. Samveka

<sup>7</sup> Witness Statement, Mr. T. Samveka

- 3.20 On 17<sup>th</sup> November, 2015, Mr. Bottoman wrote Secretary to Treasury to fund and to pay Pioneer Investment a total sum of **MK2, 793,087,500.00** in regard to ration packs contract<sup>8</sup>.
- 3.21 Zameer Karim gave instructions to Malawi Police Service to make cheque payment directly to Pioneer Investment instead of CDH IB as per undertaking to the bank. Zameer Karim specifically wrote on all invoices to MPS that payments should be made to Pioneer Investment<sup>9</sup>.
- 3.22 Regardless of the undertaking to CDH IB, Mr. Bottoman paid a Cheque worth **MK2, 793,087,500.00** directly to Pioneer Investment. Pioneer Investment did not remit the money to CHD IB to settle out the loan.
- 3.23 On 11<sup>th</sup> April 2016, Malawi Police Service prepared payment voucher number 341PV4003645 amounting to **MK2, 793,087,500.00** to Pioneer Investment in respect of ration packs contract.
- 3.24 On the same date on 11<sup>th</sup> April 2016, Zameer Karim received a Cheque worth **MK2, 793,087,500.00** from MPS on Cheque number **127572**.
- 3.25 On 12<sup>th</sup> April 2016, Zameer Karim deposited the said Cheque into Pioneer Investment Account held at National Bank, account number 1000687029. Prior to this deposit the account balance was MK-30,425.66.
- 3.26 On 13<sup>th</sup> April 2016, Zameer Karim issued a Cheque from Pioneer Investment account to National Bank worth **MK145, 000,000.00** and instructed the bank to deposit the said amount into Democratic Progressive Party (DPP) Account domiciled at Standard Bank. Its account number is 014003192200.
- 3.27 In 2015, His Excellency Peter Mutharika opened the said Standard Bank Account number 014003192200 and he is the **sole signatory** of the

<sup>8</sup> Mr. Bottoman's letter to Secretary to Treasury dated 11<sup>th</sup> Nov 15

<sup>9</sup> Invoices from Pioneer investment to PMS

account. From January to October 2016, His Excellency Peter Mutharika made cheque withdrawals amounting to MK 65,000,000.00 from the said Standard Bank account.

- 3.28 Zameer Karim has not paid back the loan to CDH IB.
- 3.29 In 2017, CHD IB sued Zameer Karim t/a Pioneer Investment and Attorney General for failing to settle debts to the bank. Malawi Police Service was a guarantor to the loan.
- 3.30 On 23<sup>rd</sup> November 2017, the court entered consent judgment for Zameer Karim and Attorney General to pay CDH IB a total sum of **MK1, 514,756,318.88**<sup>10</sup>
- 3.31 Pioneer Investment delivered 500,000 ration packs from August to November 2015 and was paid on 11<sup>th</sup> April 2016.
- 3.32 On 30<sup>th</sup> June 2017, Pioneer Investment claimed MK 567,866,013.38 as interest for late payment for MPS/SB/226/2015 contract.
- 3.33 The above contract was fixed contract and the issue of interest was not addressed in the contract document.<sup>11</sup>
- 3.34 On 7<sup>th</sup> August, 2017 the Inspector General of Police, Dr. Kachama wrote Pioneer Investment advising that the MK 567,866,013.38 figure was correct based on bank interest calculated on reducing balance. However, he told Zameer Karim of Pioneer Investment to take note that the issue of interest was not addressed in the contract.
- 3.35 On 18<sup>th</sup> August 2018, the Secretary to Treasury, Mr. Ben Botolo wrote Auditor General to verify the interest claims of MK 567,866,013.38 by Pioneer Investment. Furthermore, to verify the interest claim made by Farm Chem and Astro Chem totaling to MK163,036,787.44 and MK

<sup>10</sup> Commercial cause no. 276 of 2017.

<sup>11</sup> Contract document and Auditor General Investigative Audit Report.

137,168,129.08 respectively. Zameer Karim owns the above referred companies.

3.36 On 22<sup>nd</sup> August 2017, the Auditor General, S.D.L Kamphatsa wrote the Secretary to Treasury advising that it approved the interest arrears of MK 567,866,013.38 owned to Pioneer Investment.

3.37 On 12<sup>th</sup> September, 2017 the Auditor General, Mr. Kamphatsa **reversed his decision and revoked certificate** of payment of interest claims amounting to MK 567,866,013.38 to Pioneer Investment. He revoked the license because he came across new evidence against payment of interest claim which MPS did not earlier provide to him.

#### 4.0 FINDINGS

4.1 In April 2017, Mr. Innocent G. Bottoman and Zameer Karim defrauded Malawi Government a sum of MK466,000,000.00 when the latter was paid MK2,793,087,500.00 instead of actual contract price of MK2,327,087,500.00.

4.2 From 2015 to 2017, Mr. G.I. Bottoman and Zameer Karim defrauded CDH Investment Bank a total sum of **MK1, 514,756,318.88**

4.3 In 2015, Mr. G.I. Bottoman and Zameer Karim forged and uttered false documents and forged Mr. T. Samveka's signature to obtain loan from CDH Investment Bank.

4.4 In 2017, Zameer Karim attempted to defraud Malawi Government a total sum of MK 567,866,013.38 by unlawfully claiming interest in ration packs contract.

4.5 Mr. G.I. Bottoman and Zameer Karim laundered a total sum of **MK 1,436, 284,000.00** which they knew or had reasons to believe that the said money represented in whole or part of money illegally obtained.

- 4.6 Besides illegally claiming interest on Pioneer Investment contract, Mr. Zameer Karim also claimed interest on contract by Farm-Chem of MK163, 036,787.44 and Astro Chem of MK137, 168,129.08.
- 4.7 His Excellency Peter Mutharika benefited a total amount of **MK 145,000,000.00** from proceedings of Pioneer Investment fraud scheme from Malawi Government through DPP account at Standard Bank to which he is a sole signatory.

## 5.0 RECOMMENDATIONS.

- 5.1 Mr. G.I. Bottoman and Zameer Karim should be prosecuted for stealing a total sum of MK 466, 000,000.00 from Malawi Government contrary to Section 271 as read with 278 of the Penal Code.
- 5.2 Mr. G.I. Bottoman and Zameer Karim should be prosecuted for forging and uttering false documents to CDH Investment Bank contrary to section 356 as read with section 360 of the Penal Code.
- 5.3 Zameer Karim should be prosecuted for attempting to steal a total sum of MK 567,866,013.38 from Malawi Government by unlawfully claiming interest in ration packs contract.
- 5.4 Mr. G.I. Bottoman should be prosecuted for abuse of office for the benefit of Zameer Karim contrary to section 25B (1) of Corrupt Practices Act.
- 5.5 Mr. G.I. Bottoman and Zameer Karim should be prosecuted under Section 42 of Financial Crimes Act for acquiring proceeds of crime namely **MK 1,436, 284,000.00** knowing or having reason to believe that the said sum represented in whole or in part the proceeds of crime.
- 5.6 Further investigations should be conducted on interest claim by Farm Chem and Astro Chem and their contracts with Malawi Government.

5.7 In the meantime, His Excellency Peter Mutharika should not be prosecuted in accordance with Section 91 (2) of the Constitution of the Republic of Malawi.

**Anti-Corruption Bureau**

**Mulanje Building**

**P.O. Box 2437**

**Lilongwe**

**Tel: 01 770 370**

Email: [anti-corruption@acbmw.com](mailto:anti-corruption@acbmw.com)

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