

17th January, 2023

MR. NOORDIN M. HAJI, CBS, OGW

The Director of Public Prosecutions
The Office of the Director of Public Prosecutions
ODPP House,
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P. O Box 30701-00100
NAIROBI
Email: info@odpp.go.ke

Dear Sir,

RE: REQUEST TO INVESTIGATE THE CARTEL THAT IS UNLEASHING TERROR AND DISPOSING MULINGE SETTLEMENT SCHEME LAND OWNERS OF THEIR PROPERTY

We refer to the above matter in respect to which we have been instructed by Mulinge Residents Welfare Association (the Association) to write and address you as follows: -

On or about 16th January, 2023 our client learnt of the existence of a letter dated 23rd December, 2022, authored by Mr. Collins Odhiambo, the Director Public Interest and Deputy Secretary at the Law Society of Kenya and addressed to your office and copied to other arms and Government agencies. A copy of the said letter is enclosed for your ease of reference.

At the very onset, the association, whose membership comprises of at least 120 property owners and residents in the vast Mulinge Settlement Schemes notes that the contents of the enclosed letter not only misleading but also contains false and misleading narration that is calculated to mislead and besmirch that character of career civil servants and distinguished public officers that have and continue to serve the public with distinction.

It is noteworthy that through the impugned letter, the Law Society of Kenya list alleged complaints and represents a misleading position that they have submitted information and complaints forming the foundation of the contents therein.

Our client has however established that nearly all of the mentioned complainants and members of the public are not aware of the purported complaint by the Law Society of Kenya and neither made nor appeared before the author of the impugned letter to make or cause the making of the alleged complaint.

It is further in public domain that some of the named complaints are not in existence. By way of example, Mr. Ngului James who has been represented by the Law Society of Kenya as complaint number 22 by the Law Society of Kenya died in September, 2022. It is inconceivable that Mr. Ngului James who died in September, 2022 would complaint to the Law Society of Kenya on 23rd December, 2022 and cause the issuance of the letter under reference long after his death.

Our client's attention has further been drawn to a letter dated 17th January, 2023 **(enclose)** which the law firm of VM&A Advocates LLP has addressed to the Law Society of Kenya and copied to your office on behalf of their client namely Mr. Nicholas Njau.

Through the letter dated 17th January, 2023 the firm of VM&A Advocates LPP not only informed the Law Society of Kenya and your office that they are acting for Mr. Nicholas Njau who is named in LSK's letter as a complaint and informant but also make it clear that their client has never lodged any complaint to the Law Society of Kenya as fraudulently represented in the letter dated 17th January, 2023.

Mr. Nicholas Njau's letter dated 17th January, 2023, whom LSK has fraudulently and maliciously represented as its informant and complainant further asserts in part as follows in his letter dated 17th January, 2023: -

"We are instructed that our client has NEVER at any given time lodged a complaint against the people mentioned in your letter and is shocked to learn that his name is being used without his consent and authority. Our client would therefore like to distance himself from the complaint made and referred to in your letter dated 23rd December, 2022."

Our client has further established that other alleged complaints named in the impugned letter that include Edward Ombogi, Ahmed Isa, Onesmas Maina, Lawrence Mwangi, Moses Saina and Orembo William have not only disputed making any compliant to the Law Society of Kenya as fraudulently represented in the letter dated 23rd December, 2022 but have also regretted that the umbrella body representing advocates would author misleading correspondence with a view to misleading constitutional offices and other important Government agencies.

A copy of a letter authored by Edward Ombogi, Ahmed Isa, Onesmas Maina, Lawrence Mwangi, Moses Saina and Orembo William distancing themselves from the contents of the letter authored by the Law Society of Kenya and stating that the same contains falsehoods and fabrications is enclosed for your ease of reference.

It is further curious that an official letter authored by LSK curiously and surprisingly purporting to advance the interest of alleged complainants fails to sufficiently identify them by their two names and instead opts to only disclose only one name such as Namisi and Abisalam. It is our client's considered view that this is a clear demonstration that the purported complaint contained in LSK's letter dated 23rd December, 2022 is unfounded as is shrouded with mystery and secrecy.

The above notwithstanding, our client has established that the misleading, unfounded and malicious compliant against serving civil servants and public officers that have and continue to serve the country with distinction as contained in LSK's letter dated 23rd December, 2022 have been authored by irresponsible and overzealous officials at the Law Society of Kenya who are acting in cahoots with Mr. Ochillah Richard Asiyoy and Mr. Adan Ibrein Ibrahim.

Mr. Ochillah Richard Asiyoy and Mr. Adan Ibrein Ibrahim are well known to client's membership as members of a criminal cabal who have and continue to engage in illegal schemes with a view to depriving and dispossessing genuine land owners within Mulinge

Settlement Scheme at Mavoko in Machakos County contrary to Article 40 of the Constitution and the law.

Our instructions are that Mr. Ochillah Richard Asiyo and Mr. Adam Ibrein Ibrahim are not and have never been owners of any given parcels of land within Mulinge Settlement Scheme and consequently lack the capacity to originate any request for investigation either alone or in cahoots with the Law Society of Kenya.

It is further on record that Mr. Ochillah Richard Asiyo and Mr. Adam Ibrein have previously purported to fraudulently lay claim over parcels of land belonging to other lawful land owners in Mulinge Settlement Scheme that are necessarily not members of our client's Association.

By way of example Mr. Ochillah Richard Asiyo attempted to illegally and fraudulently lay claim over the parcel of land identified as plot number 686 which is registered as Land Reference Number 23105 against one Mr. Richard Mutuku Mailu who was validly registered as the owner thereof.

As a result of the illegal and fraudulent actions of Mr. Ochillah Richard Asiyo, who the Law Society of Kenya purports to represent as a legitimate informant, complainant and land owner vide its letter dated 23rd December, 2022, a case was filed against him in **Mavoko Chief Magistrates Court ELC Civil Suit No. 28 of 2018 – Erick Mutuku Mailu v Richard Ochila** in relation one of the parcels situated at Mulinge Settlement Scheme namely plot number 686.

While the court case in **Mavoko Chief Magistrates Court ELC Civil Suit No. 28 of 2018 – Erick Mutuku Mailu v Richard Ochila** was pending, Mr. Richard Ochila fraudulently procured his registration as the owner of the suit property, being plot number 686, which was purportedly registered on 21st July, 2020. A copy of Mr. Richard Ochila's fraudulent title is enclosed for ease of reference.

Pursuant to a judgment that was delivered by the Chief Magistrates Court in **Mavoko ELC Civil Suit No. 28 of 2018 – Erick Mutuku Mailu v Richard Ochila** on 13th June, 2022 the Court not only annulled the purported interest held by Mr. Richard Ochila, who the Law Society of Kenya represents as genuine land owner within Mulinge Settlement Scheme, but also issued a permanent injunction restraining him from trespassing onto the parcel in question. **A copy of the judgment dated 13th June, 2022 is enclosed for your ease of reference.**

It is noteworthy that consequent to the judgment dated 13th June, 2022, which indicted Mr. Richard Ochila of illegally acquiring a parcel of land at Mulinge Settlement Scheme, the Ministry of Lands & Physical Planning revoked his purported title on 23rd June, 2022.

The Law Society of Kenya's letter purports to state that Mr. Richard Ochila is one of the complaints, informant and a member of the public that has been prejudiced by public officers and individuals that have been sensationally profiled as cartels and goons without foundation.

It is rather unfortunate that a statutory body such as the Law Society of Kenya would purport and actually pass out a fraudster such as Mr. Richard Ochila as a genuine land owner and in so doing blackmail genuine public officers and other persons as cartels and goons.

We are further instructed that Mr. Richard Ochillah, who LSK purports to represent as a genuine land owner within Mulinge Settlement Scheme has and continues to lay claim over a number of vacant properties in term of the attached schedule.

Our client's position is that although these properties are vacant, they are duly surveyed and registered in the names of other genuine owners that are not necessarily members of the Association. In this respect therefore our client requests that your office intervenes by directing investigation into the conduct of Mr. Richard Ochillah and eventually recommending his criminal prosecution. Needless to mention that Mr. Richard Ochillah is already facing criminal prosecution for a number of offences that range from robbery with violence, malicious damage to property and giving false information to persons employed in public service. In particular, and for the avoidance of doubt, he has been charged in the following cases: -

- a) Mavoko Chief Magistrates Court Criminal Case No. E197/2020 – Republic v Richard Ochila.
- b) Mavoko Chief Magistrates Court Criminal Case No. E198/2020 – Republic v Richard Ochila.
- c) Mavoko Chief Magistrates Court Criminal Case No. E193/2020 – Republic v Richard Ochila.
- d) Mavoko Chief Magistrates Court Criminal Case No. E197/2020 – Republic v Richard Ochila.
- e) Mavoko Chief Magistrates Court Criminal Case No. E201/2020 – Republic v Richard Ochila.

The above cases have all been consolidated into **Mavoko Chief Magistrates Court Criminal Case No. 607 of 2020 – Republic v Richard Ochila** in terms of the attached correspondence.

Premised on the foregoing, our client holds the view that LSK's letter as authored by Mr. Collins Odhiambo contains malicious falsehoods, is misleading and has been instigated without foundation at the behest of an individual that is facing capital offences.

Our client is genuinely apprehensive that the Law Society of Kenya's letter dated 23rd December, 2022, is calculated to undermine the decisional and institutional independence of the Court in the above stated cases in so far as it portrays a person that is facing numerous capital offences as a responsible member of society and purports to indict honest public officers that are responsible for maintenance of law and order as cartels and goons without any basis.

Its contents are fraudulent and our client consequently requests that your office recommends the investigation into the outright fraudulent conduct of Mr. Collins Odhiambo who has given false and misleading information to the police and other

Government agencies and eventually institute criminal proceedings against him and members of his cabal.

Our further instructions are that title documents in relation to the Mulinge Settlement Scheme have and continue to be issued to genuine and serving proprietors over time. It is however in public domain that after the general elections of 2017 our client's membership and other lawful land owners started to experience an influx of land grabbers led by Mr. Richard Ochillah who now appears to have recruited Mr. Collins Odhiambo of the Law Society of Kenya in his grant criminal enterprise.

The above started influx of land grabbing has been characterized by incidents of forcible entry, destruction of private property, fraudulent disposition of interest in land and violent evictions.

A fraudulent disposition of interest in land within Mulinge Settlement Scheme is by way of example a purported sale of interest in plot number 706 which the Ministry of Lands & Physical Planning has validly registered in favour of Ms. Priscilla Kavata Samuel as Land Reference Number 29709. **A copy of the Ministry of Lands & Physical Planning's letter dated 25th February, 2013, Cooperative Bank of Kenya Cheque Number 013513 dated 9th September, 2013 for Kshs. 25,337.00/- in favour of the Commissioner of Lands and Deed Plan Number 352510 evidencing genuine ownership of plot number 706 are enclosed for your ease of reference.**

Our client which comprises of genuine land owners within Mulinge Settlement Scheme has also established that vide an agreement for sale dated 23rd May, 2018, Mr. Ricard Ochillah Asiyo, who LSK purports to represent as a genuine land owner, purported to sell plot number 706 to Ibrahim Abdi Gabale at a consideration of Kshs. 2 million. **A copy of the agreement for sale dated 23rd May, 2018 is enclosed.**

The sale of plot number 706 within Mulinge Settlement Scheme by Mr. Richard Ochillah Asiyo is fraudulent and constitutes commission of a number of criminal offences given that he does not hold any genuine interest over this land which lawfully belongs to Ms. Priscilla Kavata Samuel.

Our client has in the same breadth established that on 29th December, 2017, the said Mr. Richard Ochillah Asiyo, who LSK would want various offices to believe that he is a genuine land owner and informant, purported to dispose interest over plot number 707 situated in Mulinge Settlement Scheme at a consideration of Kshs. 1.5 million. This is despite the fact that this parcel of land is genuinely owned and registered in favour of another person whose title document is enclosed together with a **copy of the sale agreement dated 2nd December, 2017.**

In addition to the foregoing, we are instructed by our client that Mr. Richard Ochillah Asiyo who in cahoots with Mr. Aden Ibrein Ibrahim and Mr. Collins Odhiambo are the principal architects of the misleading contents of LSK's letter dated 23rd December, 2022 is responsible for procuring fraudulent registration of a number of parcel within Mulinge Settlement Scheme, to wit, plot numbers 705, 715, 716, 731, 814, 858 and 876 to the detriment of genuine land owners.

Although not all criminal activities have been addressed, our client holds the view that the regional, county and sub-county police command structure together with the provincial administration together with other departments including your office have put in place adequate safeguards such as establishing a police base within Mulinge Settlement Scheme to combat commission of crime.

In certain instances, perpetrators of criminal activities have been apprehended and are presently facing criminal prosecution with the unfortunate consequence that they have not opted to enlist the Law Society of Kenya to assassinate the character of serving civil servants, officers and members of the public.

Accordingly, and on instructions of our client, we write to request that your office not only disregards the contents of the letter authored by the Law Society of Kenya on 23rd December, 2022, which not only contains malicious, unfounded and misleading information but also directs that the author therein be investigated with the offence of giving false information to public officers.

Please do not hesitate to contact the writer should you require any clarification from our client whose officials are available to record any statement(s) that your office and the National Police Service may consider necessary.

By a copy of this letter, we draw to the attention of the President of the Law Society the fact that the Director Public Interest & Deputy Secretary is not only engaging in character assassination of other persons without foundation but is also acting in cahoots with individuals that have been indicted of obtaining land registration contrary to the law and are presently facing criminal prosecution with a view to undermining the decisional and institutional independence of other Government agencies.

We trust that the President of the Law Society of Kenya shall prevail upon the Director Public Interest & Deputy Secretary to retract the contents of the impugned letter and desist from issuing similar correspondence in the future.

Yours faithfully,

RAPANDO & ODUNGA ADVOCATES

Victor Rapando

CC:

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3. The Office of the Inspector General
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4. The Chief Executive Officer
Ethics and Anti-Corruption Commission
EACC Headquarters
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5. The National Assembly of Kenya
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