

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
COMMERCIAL AND TAX DIVISION
PETITION NO. E007 OF 2021

EDWIN H. DANDE.....1ST
PETITIONER

PATRICIA N. WANJAMA.....2ND
PETITIONER

ELIZABETH NKUU.....3RD
PETITIONER

VERSUS

THE CAPITAL MARKETS AUTHORITY1ST
RESPONDENT

THE DIRECTOR OF CRIMINAL INVESTIGATIONS 2ND
RESPONDENT

AND

CYTONN INVESTMENT MANAGEMENT PLC 1ST
INTERESTED PARTY

CYTONN HIGH YIELD SOLUTIONS 2ND
INTERESTED PARTY

CYTONN REAL ESTATE PROJECT NOTES LLP.....3RD
INTERESTED PARTY

JUDGMENT

Introduction

1. This Petition dated 18th June 2021, was filed by the Petitioners, Mr. Edwin H. Dande, Ms. Patricia N. Wanjama, and Ms. Elizabeth Nkukuu, who are directors and shareholders of Cytonn Investment Management PLC (CIMP), the holding entity of the Cytonn Group of Companies, which operates through various subsidiaries and investment vehicles, including Cytonn High Yield Solutions LLP (“CHYS”) and Cytonn Real Estate Project Notes LLP (“Project Notes”), the Interested Parties herein.
2. The Petitioners and Interested Parties challenge the regulatory actions of the Capital Markets Authority (CMA), the 1st Respondent, and the investigative measures of the Directorate of Criminal Investigations (DCI), the 2nd Respondent, in relation to Cytonn High Yield Solutions LLP and Cytonn Real Estate Project Notes LLP.
3. The Petition, which is brought pursuant to **Articles 22, 23, and 165** of the Constitution of Kenya and the **Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013**, seeks the following orders against the Respondents: -
 - i. A declaration be and is hereby issued that the purported illegal, unlawful, and malicious directive issued by the 1st Respondent through a **letter dated 13th November 2020** purporting to close down the consideration of proposed conversion of CHYS into CIMP-REIT and advising that CHYS has been forwarded to the Capital Markets Fraud Investigation Unit under the Directorate of Criminal Investigation constitutes a violation of the petitioner’s and other stakeholders rights under Articles 27, 28, 40, 47 and 50 of the Constitution;

- ii. A declaration that the summoning for inquiry and the intention to charge the Petitioners and any other persons, assigns, and/or agents of Cytonn Group of Companies with regards to the products Cytonn High Yield Solutions (CHYS) and Cytonn Reals Estate Project Notes LLP is a violation Article 47 and 50 of the Constitution on fair administrative and the right to a fair hearing respectively;
 - iii. A declaration that the Petitioners be compensated a total sum of Kshs. 10,000,000.00 or any other amount that the court deems sufficient and/or appropriate by the 1st Respondent for the violation of the Petitioners' rights and fundamental freedoms under Articles 27, 28, 40, 47, and 50 of the Constitution;
 - iv. A declaration that the activities of Cytonn High Yield Solutions in fundraising through an identifiable restricted market constitutes a “private offer” under Section 30A of the Capital Markets Act and Regulation 21 of the Capital Markets (Securities, public offers, Listing and Disclosures) Regulations, 2002;
 - v. An order of permanent injunction restraining the 2nd Respondent and any other agent or entity acting under its instructions from purporting to arrest, interrogate, and intimidate through prosecution, the petitioner and any other employee or director of Cytonn Group of Companies on any issue regarding the legality of Cytonn High Yield Solutions and Cytonn Project Notes; and
 - vi. Costs of this Petition.
4. The Petitioners aver that, contrary to the position taken by the Capital Markets Authority, **CHYS** and **Project Notes** (by the 1st and 2nd Interested Parties, respectively) were deliberately structured as private

offers under **Section 30A of the Capital Markets Act and Regulation 21 of the Capital Markets (Securities, Public Offers, Listing and Disclosures) Regulations, 2002**, and therefore fell outside CMA's regulatory ambit.

5. They allege that CMA's directives, including the letter dated 25th April 2017 branding CHYS as an unlicensed collective investment scheme, and the letter dated 13th November 2020 referring the matter to the DCI, were therefore arbitrary, inconsistent, and violated their constitutional rights under Articles 27, 28, 40, 47, and 50 of the Constitution.
6. The Petition is opposed by both the 1st Respondent and the 2nd Respondent.
7. The 1st Respondent, in **a Replying affidavit dated 9 September 2021**, sworn by **Abubakar Hassan Abubakar**, the Director of Market Operations, contends that **CHYS** and **Project Notes** were in substance collective investment schemes within the meaning of Section 2 of the CMA Act, pooling funds from thousands of members of the public, and therefore required licensing and registration. CMA argued that its actions were lawful, necessary, and aimed at protecting investors from exposure to unregulated products, and urged the Court to dismiss the Petition as misconceived, premature, and an abuse of process.
8. The 2nd Respondent, on its part, through the Replying Affidavit of **Chief Inspector Samwel Chumo**, sworn on 12 May 2023, urged the Court to dismiss the Petition, contending that the investigations undertaken were lawful, necessary, and within the statutory mandate of the DCI.

9. According to the 2nd Respondent, the investigations were commenced after receipt of numerous complaints not only from the CMA, but also from several individual investors between 10 October 2020 and 4 June 2021, alleging non-payment of returns promised under CHYS and Project Notes.

Background

10. For context, the Court finds it critical to set out the background of the present dispute.
11. The dispute between the Petitioners and CMA dates back to **13th April 2015**, when CMA wrote to the Interested Parties demanding an information notice under Section 30A of the Act, following a *Business Daily* report of **9th April 2015** alleging a private placement valued at Kshs. 1.1 billion. According to the letter, CMA required disclosure of the nature, structure, and operational details of the investment products, including their fundraising methods, investor base, and governance arrangements.
12. On **28th April 2015**, the Interested Parties responded to CMA, explaining that the shares had been offered to a restricted circle of friends and family, believed to be sufficiently knowledgeable to understand the risks involved, and therefore qualified as a “**private offer**” under **Regulation 21** of the Capital Markets (Securities, Public Offers, Listing and Disclosures) Regulations, 2002, and thus fell outside the approval and licensing requirements applicable to public offers and collective investment schemes.
13. By a letter dated **6th May 2015**, CMA insisted that the offer constituted a restricted public offer requiring disclosure. Cytonn replied

on **13th May 2015**, clarifying that the publication was not an invitation to the public, and reiterated its private offer exemption.

14. Cytonn alleged that by correspondence dated **11th December 2015**, the 1st Respondent (CMA) accepted the 1st Interested Party's explanation, closed the inquiry, and thereby permitted the company to continue offering shares to a controlled clientele.
15. By a letter dated **17 February 2016**, Cytonn sought clarification from CMA on the distinction between public and private offers. CMA responded on **14th April 2016**, but the Petitioners allege that CMA's reply was vague and did not provide clear thresholds or definitions of "sophisticated investors."
16. The Petitioners alleged that on **22nd August 2016**, CMA issued **Circular No. 8/2016**, expressly acknowledging that cash management products were excluded from the ambit of the Act and constituted unregulated activity. It is alleged that a meeting was held on **31st August 2016**, where CMA confirmed this position.
17. The Petitioners allege that despite these acknowledgments, CMA later shifted its stance, issuing its findings on **25th April 2017**, wherein CMA termed CHYS as an unregistered collective investment scheme and CIMP as an unlicensed fund manager. Findings which were disputed by the Interested Parties vide their letter dated **10th May 2017**, offering clarification, and requesting a meeting.
18. Parties thereafter embarked on an extensive engagement, with the intention of converting the Interested Parties' product, **CHYS**, into

a regulated Cytonn High Yield Fund (CHYF) or to a Development Real Estate Investment Trust (D-REIT).

19. However, on **13th November 2020**, CMA issued the contested directive closing consideration of the proposed conversion of CHYS, and referring the matter to the **Capital Markets Fraud Investigation Unit** under the **Directorate of Criminal Investigations** (DCI) for further investigation.
20. The DCI thereafter commenced investigations. Between **late 2020 and mid-2021**, the DCI issued summonses to the Petitioners requiring their attendance for inquiry into alleged offences, including carrying out business as an unlicensed collective investment scheme and obtaining money by false pretenses.
21. It is this directive of 13th November 2020 by the CMA and the consequent action by the DCI that forms the substratum of this Petition, with the Petitioners and Interested Parties arguing that the CMA's directives and subsequent referral of the matter to DCI were inconsistent with its earlier position, violated constitutional rights, and amounted to harassment.
22. The **1st Respondent (CMA)**, however, maintains that its actions were necessary to protect investors and enforce compliance with the law, whilst the **2nd Respondent (DCI)** asserts that its investigations were instigated by genuine complaints and were conducted lawfully.
23. The Petition proceeded by way of written submissions, which were briefly orally highlighted in court on 16 July 2025.

Petitioners' and Interested Parties' Submissions

24. The Petitioners and Interested Parties filed their respective submissions, both dated 4th August 2023.
25. Counsel for the Petitioners submitted that the genesis of the dispute can be traced to the correspondence exchanged between the Petitioners and the 1st Respondent beginning in **April 2015**. By a letter dated **13th April 2015**, CMA demanded that Cytonn Investment Management Limited file an information notice under Section 30A of the Capital Markets Act following a *Business Daily* report of **9th April 2015** alleging a private placement valued at Kshs. 1.1 billion.
26. In reply, by a letter dated **28th April 2015**, Mr. Edwin Dande explained that the shares had been offered to a restricted circle of friends and family, believed to be sufficiently knowledgeable to understand the risks involved, and therefore qualified as a private offer under **Regulation 21 of the Capital Markets (Securities, Public Offers, Listing and Disclosures) Regulations, 2002**.
27. The Petitioners point to CMA's subsequent **Circular No. 8 of 2016** dated **22nd August 2016**, which expressly acknowledged that cash management products were excluded from the ambit of the Capital Markets Act and constituted unregulated activity. They argue that this circular confirmed their position that CHYS was outside CMA's jurisdiction.
28. Counsel submitted that CMA's later directives, including the letter dated **25th April 2017** branding CHYS as an unregistered collective investment scheme, and the letter dated **13th November 2020** referring the matter to the DCI, were inconsistent with its earlier

position and amounted to harassment. They contend that CMA has deliberately maintained ambiguity in defining “**private offers**” and “sophisticated investors,” thereby violating the Petitioners’ rights under **Article 47 of the Constitution** on fair administrative action.

29. The Petitioners rely on **Article 27** (equality before the law), arguing that CMA has singled them out while other market players offering similar products have not been subjected to regulatory action. They invoke **Article 28** (human dignity), contending that being branded as operators of illegal schemes has demeaned their reputation. They further cited **Article 40** (protection of property), alleging unlawful interference with investors’ funds, and **Article 50** (fair trial), arguing that the referral to the DCI undermines their presumption of innocence.

30. In support of their case, the Petitioners cited, among others, the case of **Dry Associates Ltd v Capital Markets Authority & Another [2012] eKLR**, where the Court held that Article 47 subjects’ administrative processes to constitutional discipline, and that relief for administrative grievances must be measured against constitutional standards. They also relied on **Anarita Karimi Njeru v Republic [1979] eKLR**, emphasizing the requirement to plead constitutional violations with precision, which they submit they have satisfied.

31. The Petitioners therefore urged the Court to declare that **CHYS** and **Project Notes** were lawful private offers, that CMA’s directives and the DCI’s investigations violated their constitutional rights, and to award compensation of Kshs. 10 million together with injunctive relief restraining further interference.

32. The Interested Parties (Cytonn Investment Management PLC, Cytonn High Yield Solutions LLP, and Cytonn Real Estate Project Notes LLP), on their part, aligned with the Petitioners' arguments and urged the Court to find that the products offered by the 2nd and 3rd Interested Parties were lawful private offers, exempt from regulation by the Capital Markets Authority (CMA), and that the Respondents' actions amounted to harassment and violation of constitutional rights.
33. The Interested Parties contended that Cytonn Investments is a holding company with various subsidiaries, some of which are duly licensed and regulated, while others operate private offers outside CMA's ambit. They argued that **CHYS** and **Project Notes** were structured as private offers under **Section 30A of the Capital Markets Act** and **Regulation 21 of the 2002 Regulations**, targeting a restricted circle of investors with minimum subscription thresholds of **Kshs. 100,000**.
34. They emphasized that investors were subjected to pre-qualification criteria, including net worth, financial knowledge, and sophistication, thereby meeting the definition of private offers. They contended that CMA's attempt to classify these products as collective investment schemes was erroneous and ultra vires.
35. The Interested Parties relied heavily on the long trail of correspondence between Cytonn and CMA, most of which I have enumerated in the foregoing paragraphs, including the **25th April 2017** letter in which CMA issued findings stating that CHYS was an unregistered collective investment scheme and CIMP as an unlicensed fund manager; and the letter of **13 November 2020** in which CMA

issued the contested directive closing consideration of the proposed conversion of CHYS and referring the matter to the DCI.

36. The Interested Parties therefore argued that the correspondences demonstrate CMA's inconsistency and arbitrariness, shifting positions over time and failing to provide clear guidance.

37. According to the Interested Parties, their products fell squarely within the exemptions under **Regulation 21(1)(c), (e), (f), and (i)** of the 2002 Regulations, which define private offers. They argue that CMA's reliance on Section 23 and Section 30 of the Act to classify CHYS as a collective investment scheme was misplaced, as the statutory thresholds for public offers were not met.

38. They further contend that CMA's actions violated **Article 47 of the Constitution** and **Section 4 of the Fair Administrative Action Act, 2015**, which guarantees lawful, reasonable, and procedurally fair administrative action.

39. In support of their arguments, the Interested Parties relied on several authorities, including the following: -

- i. **Civil Case No. E249 of 2021, Cytonn Investment Management PLC v Wycliffe Shamiah & CMA**, in which the Court held that Cytonn Asset Managers Ltd was duly licensed and regulated, and acknowledged that CMA had no mandate over private offers. The Interested Parties argued that this case dissuades the notion that CHYS was illegal.
- ii. **High Court Petition No. E414 of 2022, Cytonn Investment Management PLC v CMA & 3 Others**; where the Court issued

an order of mandamus compelling CMA to release an inquiry report allegedly criminalizing CHYS. The Interested Parties argue that CMA's refusal to furnish the report violated constitutional provisions on fair administrative action and access to information.

iii. **Republic v National Police Service Commission ex parte Daniel Chacha [2016] eKLR;** to emphasize that administrative actions must comply with Article 47 of the Constitution.

iv. **Judicial Service Commission v Mbalu Mutava & Another [2015] eKLR:** Relied upon to underscore that Article 47 entrenches the right to fair administrative action in the Bill of Rights.

40. The Interested Parties asserted that there is no illegality in the formation or activities of **CHYS** and **Project Notes**. They therefore urged the Court to declare that these products were lawful private offers, find that CMA acted ultra vires and in violation of constitutional rights, and to restrain the Respondents from further interference.

41. The Interested Parties further argued that CMA's actions have caused reputational harm, investor panic, and economic loss, and that the Petitioners and Interested Parties are entitled to compensation and injunctive relief.

1st Respondent's Submissions

42. The 1st Respondent filed its submissions dated 11th March 2024 and argued that its actions in the present case were in line with its statutory objective of protecting investor interests under Section 11(1) (d), including its powers under Section 11(3) to issue guidelines and notices, grant licences, register and regulate collective investment schemes, give directions to licensed persons, and impose sanctions for breach of the Act or Regulations.
43. It was the 1st Respondent's case that the Petitioners and the 1st Interested Party were engaged in pooling funds from the public through Cytonn High Yield Solutions LLP (2nd Interested Party) and Cytonn Real Estate Project Notes LLP (3rd Interested Party), which in substance constituted collective investment schemes within the meaning of Section 2 of the Act. The Respondent argued that these activities required licensing and registration, which the Petitioners failed to obtain, thereby operating illegally.
44. Regarding **CHYS**, the 1st Respondent maintained that it was neither licensed nor approved, yet it engaged in pooling funds from more than one hundred investors, thereby exceeding the statutory threshold for private offers under Section 30A and Regulation 21 of the Capital Markets (Public Offers, Listings and Disclosures) Regulations, 2002. It was contended that the Petitioners' characterization of **CHYS** as a private offer is untenable, as the number of subscribers and the manner of solicitation clearly amounted to a **public offer**.
45. Similarly, it was the 1st Respondent's position that the **Project Notes** were structured debt instruments backed by real estate projects, marketed to the public without approval. The Respondent argued that these products mimicked regulated collective investment

schemes and real estate investment trusts (REITs), but were operated outside the law.

46. Counsel for the 1st Respondent emphasized that despite numerous engagements, including meetings on **31st August 2016** and **5th July 2017**, and commitments by the Petitioners to convert **CHYS** into a regulated Cytonn High Yield Fund (CHYF) or to a Development Real Estate Investment Trust (D-REIT), the Petitioners failed to complete the process. Consequently, CMA closed the application for a D-REIT by its letter dated **5 November 2020**, and thereafter issued the contested directive of **13 November 2020**, referring the matter to the Capital Markets Fraud Investigation Unit under the Directorate of Criminal Investigations.

47. The 1st Respondent maintained that its actions were lawful, reasonable and procedurally fair, and squarely within its statutory mandate. It relies on Section 11(3)(cc) of the Act, which empowers the Authority to impose sanctions for breach of the Act or Regulations, including ordering restitution, publishing findings of malfeasance, and suspending trading of securities.

48. The 1st Respondent asserted that the Petitioners cannot seek injunctive relief to shield themselves from lawful regulatory oversight. It argued that it complied with Article 47 of the Constitution, as the Petitioners were engaged, invited to meetings, and given reasons for the directives issued.

49. The 1st Respondent emphasizes that numerous complaints were lodged by investors who had subscribed to **CHYS** and **Project Notes** but were not paid their returns. It submitted that the Petitioners'

operations exposed the public to risk, and that referring the matter to the DCI was necessary to safeguard investors.

50. The 2nd Respondent also asked the Court to take judicial notice of the existence of a liquidation order issued in **HCCOMM IP NO. E063 OF 2021: CHYS LLP -VS - THE OFFICIAL RECEIVER; and, HCCOMM E064 OF 2021: CYTONN REAL ESTATE PROJECT NOTES LLP vs THE OFFICIAL RECEIVER** against the special investment vehicles managed by the 2nd Petitioner. The 1st Respondent emphasized that in both cases, the 2nd and 3rd Interested Parties herein are being liquidated due to failure to pay back their investors.

51. In support of its position, the Respondent cited, among others, the case of **Republic v Public Procurement Administrative Review Board & 2 Others [2019] eKLR**, where the Court emphasized that statutory bodies must act within the powers conferred upon them, and that ultra vires actions are subject to judicial review. Counsel also referred to **Joy Brenda Masinde v Law Society of Kenya & Another [2015] eKLR**, affirming the argument.

52. In the premises, the 1st Respondent asserted that the Court ought to dismiss the Petition with Costs and find that **CHYS** and **Project Notes** were collective investment schemes operated without approval, and that CMA acted within its statutory mandate in issuing directives and referring the matter for investigation.

The 2nd Respondent's Submissions

53. The 2nd Respondent, the **Directorate of Criminal Investigations** Department (CID), filed submissions dated 27th May 2024, stating that the Directorate is established under **Section 28 of**

the National Police Service Act, with the mandate to investigate serious crimes, including economic crimes, fraud, and money laundering.

54. According to the 2nd Respondent, once complaints are lodged, the DCI is duty-bound to investigate, and cannot be restrained unless there is clear evidence of abuse of power.

55. The 2nd Respondent stated that between **October 2020 and June 2021**, at least twenty (20) complainants reported that they had invested in **CHYS** and **Project Notes** on the promise of returns ranging between 15% and 20%, but that the entities failed to honour their obligations. According to the 2nd respondent, the complaints involved substantial sums, ranging from Kshs. 500,000 to Kshs. 25 million, deposited into accounts held at Standard Chartered Bank in the name of Cytonn Investment Management Limited.

56. Counsel referred to the orders obtained from the magistrate's court on **30th October 2020**, granting the DCI access to investigate and inspect the relevant bank accounts. According to the 2nd Respondent, the investigations revealed that over 1,000 members of the public had invested more than **Kshs. 1 billion** over a five-year period, and that the Petitioners were the directors and signatories to the accounts.

57. The 2nd Respondent further submitted that its investigations established that **CHYS** and **Project Notes** were operated as collective investment schemes without approval from the Capital Markets Authority. That it further found that the Petitioners obtained money from the public under false pretences, promising high returns which were not honoured. Consequently, it referred the matter to the **Office**

of the Director of Public Prosecutions, with a recommendation that the Petitioners be charged for:

- i. Carrying on business as a collective investment scheme without a licence, contrary to **Section 23(2) as read with Section 34(1)(a)(ii) of the Capital Markets Act**; and
- ii. Obtaining money by false pretences, contrary to **Section 313 of the Penal Code**.

58. Counsel for the 2nd Respondent argued that the Petitioners have not demonstrated a violation of their constitutional rights. They maintained that being summoned for inquiry does not amount to a violation of dignity under **Article 28**, as summons are lawful tools of investigation under **Section 52 of the National Police Service Act**. That Article 50 rights to fair trial accrue only upon commencement of criminal proceedings, not during investigations.

59. It was further the 2nd Respondent's argument that Article 47 rights to fair administrative action were observed, as the Petitioners were informed of the scope of investigations and given an opportunity to respond.

60. In support of its position, the 2nd Respondent cited, among others, the case of **Commissioner of Police & Another v Kenya Commercial Bank Ltd & 4 Others [2013] eKLR**, where the Court held that police investigations are within their exclusive domain and should not be interfered with unless there is clear evidence of abuse of power. Counsel also relied on **Republic v Attorney General & 4 Others ex parte Kenneth Kariuki Githii [2014] eKLR**, affirming that the coexistence of civil and criminal proceedings does not in itself constitute abuse of process.

61. The 2nd Respondent therefore urged that the Petition ought to be dismissed with costs, submitting that the investigations were instigated by genuine complaints, were conducted lawfully, and that granting the orders sought would shield the Petitioners from accountability and undermine the public interest in protecting investors.

Analysis and Determination

62. I have carefully considered the Petition, the affidavits filed in support and in opposition, the voluminous correspondences exchanged between the parties, the authorities cited, and the applicable constitutional and statutory framework. The Court finds that the issues for determination are as follows:

- i. Whether the directive issued by the 1st Respondent vide its letters of 13 November 2020 was ultra vires and unconstitutional;
- ii. Whether the investigations by the 2nd Respondent infringed the Petitioners' rights;
- iii. Whether the products offered by the 2nd and 3rd Interested Parties constituted private offers exempt from regulation, or public offers, subject to the remit of CMA; and
- iv. What final orders are merited.

Whether the directive issued by the 1st Respondent vide its letters of 13 November 2020 was ultra vires and unconstitutional

63. The Petitioners contended that the 1st Respondent's letter dated 13 November 2020, which, inter alia, terminated consideration of the proposed conversion of **CHYS** into a regulated real-estate investment structure and referred the matter to the Capital Markets Fraud Investigation Unit under the DCI, was ultra vires, arbitrary, opaque, and disproportionate.
64. They posited that the Capital Markets Act, from which the 1st Respondent derives its powers, does not expressly authorize the kind of sweeping directives contained in the impugned letter, and that the Authority thereby exceeded its remit. In any event, they argued, the Authority failed the constitutional standard of fair administrative action by (i) withholding the very inquiry report it had invoked as the basis of its stance; (ii) denying the Petitioners sight of adverse material; and (iii) issuing drastic measures without exploring less-restrictive supervisory options.
65. Citing **Article 47 of the Constitution**, and the **Fair Administrative Action Act (FAAA)**, which guarantees every person the right to lawful, reasonable, and procedurally fair administrative action, the Petitioners submitted that CMA's directive was "draconian" and actuated by malice, and that the Petitioners were denied written reasons and disclosure of the Inquiry Report underpinning the decision.
66. They relied on, among others, **HC Petition No. E414 of 2022: Cytonn Investment Management PLC v Capital Markets Authority & 3 Others**, where the High Court (Ongudi J - as she then was) held that CMA's refusal to disclose the "inquiry report" violated Article 35(1)(b) and issued mandamus compelling disclosure.

67. The Petitioners therefore asserted that CMA's directive amounted to unlawful interference with private investment vehicles and was actuated by bad faith.
68. The Interested Parties, aligned with the Petitioners' arguments, and maintained that **CHYS/Project Notes** are private offers within **Regulation 21 of the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002, and section 30A of the Capital Markets Act**. They argued that CMA's approach amounted to overreach. They also emphasized that the court's finding in **HC Petition No. E414 of 2022**, which found that the Authority had breached the Petitioners' right to access to information, as illustrative of a procedural deficiency in the CMA's administrative process.
69. On its part, the 1st Respondent – CMA, maintained that, in issuing the impugned directives, it acted squarely within its statutory mandate under section 11(3) of the Capital Markets Act to supervise, issue directions, inquire, publish findings, order remediation, and to do such other acts as are incidental or conducive to its objectives, primarily investor protection.
70. The 1st Respondent pointed to investor complaints on non-payments, and insolvency-related events concerning the affiliated vehicles (2nd and 3rd Interested Parties) as justifying robust supervisory action, including **halting** an unsuitable conversion path and **referring** complaints to the Fraud Investigation Unit for appropriate inquiry.
71. On process, CMA avers that there was sustained **engagement** with the Petitioners and their affiliates through correspondence and meetings, and that the Petitioners were **aware** of the regulatory

concerns. It urges this Court not to stifle **investigations**, absent proof of **abuse** or **illegality**.

72. From the parties' respective submissions on this issue, the Court finds it necessary to first consider the scope of the powers of the Capital Markets Authority over the affairs of the Interested Parties herein, and other industry players as prescribed under the parent statute.

73. The long title to the **Capital Markets Act (Cap. 485A), Laws of Kenya**, provides that it is:

"An Act of Parliament to establish a Capital Markets Authority for the purpose of promoting, regulating and facilitating the development of an orderly, fair and efficient capital market in Kenya and for connected purposes." [Emphasis added].

74. The Capital Markets Authority is established under Section 5 of the Act, with its objectives clearly spelt out under Section 11 of the Act. **Section 11(3)** provides that for the purpose of carrying out its objectives, the Authority may exercise, perform or discharge all or any of the following powers, duties and functions...

"(cc) impose sanctions for breach of the provisions of this Act or the regulations made thereunder, or for non-compliance with the Authority's requirements or directions, and such sanctions **may include—**

- (i) levying of financial penalties, proportional to the gravity or severity of the breach, as may be prescribed:

Provided that the financial penalties shall be recoverable summarily by the Authority as civil debts;

- (ii) ordering a person to remedy or mitigate the effect of the breach, make restitution or pay compensation to any person aggrieved by the breach;
- (iii) publishing findings of malfeasance by any person;
- (iv) suspending or cancelling the listing of any securities or exchange-traded derivatives contracts, or the trading of any securities or exchange-traded derivatives contracts, for the protection of investors;.....

(w) do all such other acts as may be incidental or conducive to the attainment of the objectives of the Authority or the exercise of its powers under this Act. [emphasis added].

75. The Authority (CMA) argued that the phrase **“may include”** indicates that the list of sanctions is not exhaustive, and that investor protection is its overriding objective. Citing the case of **Joy Brenda Masinde v Law Society of Kenya [2015] eKLR**, it asserted that statutory bodies may exercise implied powers necessary to fulfill their mandate.

76. It is indeed settled that where a statute employs open-textured language as in the present case, the Authority’s powers are not exhausted by enumerated items, but remain subject to constitutional and public-law constraints of lawfulness, reasonableness, and procedural fairness. The Court of Appeal in Thuita Mwangi v Kenya Airways Ltd [2003] KECA 201 (KLR), while dealing with a substantially similar provision, stated as follows:

“We do not understand this list to be exhaustive; it was not meant to be exhaustive and that is clear from the use of the words **“in general”**. Rule 4 gives the single judge an unfettered discretion and so long as the discretion is exercised judicially, a judge would be perfectly entitled to consider any other factor outside those listed in the paragraph we have quoted above so long as the factor is relevant to the issue being considered. To limit such issues only to the four set out in the paragraph would be to fetter the discretion of single judge and as we have pointed out, the rule itself gives a discretion which is not fettered in anyway.” [emphasis added].

77. Similarly, the Court in Flower City Limited v Poly tanks & Containers Kenya Limited [2021] KEHC 34 (KLR), the Court while considering Section 2 of the Insolvency Act where the term “includes” is employed, stated that:

“Talking about consideration of a statute and authority or authorities that ought to have been followed, perhaps at this juncture it is important to recall the use of the word “includes” in section 2 of the Act. The use of this word leaves no doubt that the list is not closed.” [emphasis added]

78. Applying this principle and taking into account the statutory scheme in the present case, the Court accepts the 1st Respondent’s submissions that **Section 11(3) of the Capital Markets Act** grants CMA broad powers, including the ability to impose sanctions and issue directions incidental to its objectives, and that the phrase **“may include”** employed under section 11(3)(cc) confers a flexible toolkit for the exercise of its mandate to meet evolving market risks.

79. Accordingly, the directive of **13th November 2020** was substantively within the CMA's mandate to protect investors.
80. However, Article 47 of the Constitution requires administrative action to be procedurally fair. It provides that every person has the right to administrative action that is lawful, reasonable and procedurally fair, and further guarantees the right to be given written reasons where a right or fundamental freedom has been adversely affected.
81. The Fair Administrative Action Act, enacted pursuant to Article 47(3), gives statutory content to this right. Section 4 thereof sets out the minimum procedural requirements binding all administrators, including prior notice, opportunity to be heard, reasons for the decision, and proportionality.
82. It therefore follows that the Court, having found, as in the present case that the 1st Respondent had the statutory powers to issue the impugned directive of 13 November 2020, the next question then is for the court to determine whether those powers were exercised lawfully, reasonably, and fairly within Article 47 of the Constitution as elaborated under the Fair Administrative Action Act (FAAA).
83. In **Republic v Public Procurement Administrative Review Board & 2 others [2019] eKLR**, the Court stated that whilst a statutory body may have a statutory mandate and power to act, the Courts reserve the right to supervise the manner in which that statutory power is exercised, both in the substantive and procedural sense. The Court stated: -

“The courts’ function is to police the boundaries stipulated by Parliament. The *ultra vires* principle was used to achieve this end in two related ways. In a narrow sense, it captured the idea that the relevant agency must have the legal capacity to act in relation to the topic in question. In a broader sense, the *ultra vires* principle has been used as the vehicle through which to impose a number of constraints on the way in which the power given to the agency has been exercised: it must comply with rules of fair procedure, it must exercise its discretion to attain proper and not improper purposes, it must not act unreasonably etc. The *ultra vires* principle thus conceived provided both the basis for judicial intervention and also established its limits.”

84. The Petitioners argued that the 1st Respondent's actions as contained in the letter of 13 November 2020 violated Article 47 (Fair Administrative Action) and Article 50 (Fair Hearing). They cite **Republic v Public Procurement Administrative Review Board & 2 others Exparte Rongo University [2018] eKLR** to emphasize that administrative action must be lawful, reasonable, and procedurally fair.

85. Article 47 of the Constitution provides:

- “(1) Every person has the right to administrative action, that is, expeditious, efficient, lawful, reasonable and procedurally fair.
- (2) if a right or fundamental freedom of a person has been or is likely to be adversely affected by an administrative action, the person has right to be given written reasons for the action.
- (3) Parliament shall enact legislation to give effect to the rights in clause (1) and the legislation shall -

- a. provide for the review of administrative action by a court or, if appropriate, an independent and impartial tribunal; and
- b. promote efficient administration.”

86. The term "**administrative action**" is broadly defined under the FAAA to include- "(a) the powers, functions and duties exercised by authorities or quasi-judicial tribunals; or (b) any act, omission or decision of any person, body or authority that affects the legal rights or interests of any person to whom such action relates." [emphasis added].

87. It therefore follows that the impugned letter of 13 November 2020, to the extent that it terminated the consideration of the proposed conversion of CHYS into a regulated structure, conclusively characterized the regulatory status of CHYS in adverse terms; and escalated the matter to criminal investigation, was an administrative action, within the meaning of Article 47 of the Constitution.

88. The 1st Respondent argued that it sufficiently engaged the Petitioners and the Interested Parties, and points to the various correspondence and meetings between the parties, asserting that its actions, including that of 13 November 2020, were substantively and procedurally fair, and in line with Article 47 of the Constitution.

89. The Court accepts that indeed there had been prior correspondence and engagements between the parties over time. However, the constitutional question is not whether engagement existed in general, but whether **before the specific adverse decision embodied in the letter of 13th November 2020**, the Petitioners were: notified that the conversion process was about to be closed; that the matter was to be escalated to criminal investigation;

and whether they were afforded a clear, structured opportunity to respond to those specific intended actions.

90. The record does not demonstrate that such notice or opportunity was afforded in relation to the **impugned decisive step**. Administrative fairness is **decision-specific**, not process-generic. A long history of engagement does not cure the absence of procedural safeguards at the point of an adverse and final decision.
91. The record before Court shows that between 2015 and 2018, there was initially a contestation between the parties over whether the products offered by the 2nd and 3rd Interested Parties were “**private offers**” or “**public offers**” within the meaning of **Section 30A of the Capital Markets Act** as read with **Regulation 21 of the Capital Markets (Securities, Public Offers, Listing and Disclosures) Regulations, 2002** (now repealed). While the Petitioners argued that the products were “private offers”, the Respondent maintained that the products, though unregulated, “mimicked regulated collective investment schemes and real estate investment trusts (REITs),” and that they were operated outside the law.
92. The record further shows that following the concerns raised by the 1st Respondent, that the Interested Parties were “*subtly luring the members of the investing public to invest in the unregulated products (CHYS),*” parties thereafter embarked on a process of converting the Cyton High Yield Solutions (**CHYS**) to a Cyton High Yield Fund (**CHYF**); and later to a Development and Construction Real Estate Investment Trust (**D-REIT**). in particular, the 1st Respondent, in its letter of 24 July 2020, addressing the then proposed conversion, wrote as follows:

“The Authority notes the continued engagements and submissions regarding the above-mentioned application to facilitate full compliance with the Capital Markets (Real Estate Investment Trusts) (Collective Investment Schemes), Regulation 2013. It is also noted that following the resignation of Housing Finance Group as the trustee for the proposed CIMP D-REIT in January 2020, the process of finding a replacement is still ongoing and this remains a key outstanding issue.

Kindly send us details of the new REIT trustee, once appointed, in order for the authority to progress the application. In addition, submit the agreement with the new trustee and revised incorporation documents to reflect the change.”

93. However, in an unexplained twist of circumstances, the record reveals that this conversion process was abruptly terminated by the 1st Respondent vide the impugned letter of 13 November 2020. It was, however, not demonstrated by the 1st Respondent that, prior to issuing this letter, the Petitioners were:

- i. notified that the conversion process was about to be conclusively closed;
- ii. notified that a criminal referral was contemplated; or
- iii. invited to make representations on those decisive steps.

94. Further, the said letter of 13 November 2020 did not disclose the rationale for abandoning regulatory engagement in favour of criminal escalation. Article 47 incorporates the principle of **reasonableness**, which requires that administrative action bear a rational and proportionate relationship to the objective pursued.

95. In the present case, the abrupt escalation from regulatory engagement to criminal referral, without a procedurally fair administrative determination, is, in the view of the Court, procedurally flawed and disproportionate in the circumstances.
96. Further, the Court notes that while it is indicated in the impugned letter of 13 November 2020 that the conversion process was “*closed through letter dated November 5, 2020, for being non-responsive,*” the said letter of 5 November 2020 was not produced in evidence by the 1st Respondent in its Replying Affidavit of 9 September 2021, sworn in response to the Petition.
97. Concerning the allegation by the Petitioners and the Interested Parties that their rights under Article 35 of the Constitution were breached by the 1st Respondents, the Court notes that there is already an existing judgment by this Court (Ongudi J – as she then was), in **High Court Petition No. E414 of 2022, Cytonn Investment Management PLC v CMA & 3 Others**, where the Court allowed a Petition by the 1st Interested Party herein, with the finding that CMA’s refusal to provide that report to Cytonn violated Article 35(1)(b) and ordered mandamus compelling disclosure.
98. In view of the fact that the judgment in **HC Petition No. E414 of 2022** emanated from a substantially similar set of facts, and taking into account that there is no evidence that the judgment has been set aside, and further there being no evidence that the order of mandamus issued therein has been complied with, I chose not to delve deeply into the parties’ submissions on the issue, suffice it to say that the finding in that judgment still holds, and remains binding upon the 1st Respondent.

99. In the premises, the Court finds that the 1st Respondent's letter dated **13th November 2020** violated Article 47 of the Constitution on account of failure to notify the Petitioners and Interested Parties that the conversion process was about to be conclusively closed, and that a criminal referral was contemplated; and further failing to invite them to make representations on those decisive steps.
100. It is trite law that once a violation of the Constitution is established, the impugned administrative action cannot stand.
101. Accordingly, the Court finds and holds that the letter dated **13 November 2020**, having been issued in breach of Article 47, is therefore unconstitutional, null and void.

Whether the investigations by the 2nd Respondent infringed the Petitioners' rights

102. The Petitioners and the Interested Parties submitted that the 1st Respondent's act of forwarding matters concerning CHYS to the Capital Markets Fraud Investigation Unit under the Directorate of Criminal Investigations (DCI) was unlawful, premature, and amounted to an abuse of power.
103. They argued that no factual or legal basis had been established to justify a criminal referral and that CHYS was a private offer, not subject to the regulatory framework for collective investment schemes, rendering criminal investigation inappropriate.
104. They contended that the referral to DCI, made simultaneously with the issuance of the impugned directives, was designed to intimidate, stigmatize, and exert undue pressure on the Petitioners. They maintained that referral, especially before disclosure of the

inquiry report, was intended to prejudice the Petitioners and tarnish the reputation of CHYS.

105. The Petitioners contended that the DCI summonses issued thereafter, requiring them to appear for interrogation, were unfounded, contrary to Article 47 of the Constitution (fair administrative action), and carried a chilling effect that amounted to the constructive criminalization of a commercial dispute. They asserted that the use of criminal processes to settle regulatory or commercial disagreements is constitutionally impermissible and should be discouraged.

106. The 1st Respondent, on its part, defended its action and submitted that the same was within its powers under Section 11(3) of its parent Act. It contended that several investor complaints had been received alleging non-payment and possible misconduct by CHYS and related entities, and that failure to refer such matters for criminal investigations would amount to dereliction of duty.

107. The Authority maintained that DCI is legally and constitutionally empowered to conduct investigations independent of the CMA. They asserted that Courts should refrain from interfering with investigative processes unless the Petitioners demonstrate clear abuse or ulterior motive, which, in this case, they had failed to do.

108. The 2nd Respondent (DCI) took a position similar to that of CMA. It was its case that DCI is constitutionally and statutorily mandated to investigate criminal conduct, and that under **Section 35** of the National Police Service Act and **Article 245(4)** of the Constitution, the DCI shall not require the consent of any person or authority to commence investigations.

109. They maintained that the investigations conducted into the affairs of the Interested Parties were necessitated not only by CMA's referral, but also from complaints received from several individual investors within the period between October 2020 and June 2021 relating to various investment agreements with the 2nd & 3rd Interested Parties.

110. Before the Court ventures into a determination on the substance of the parties' arguments regarding whether the 2nd Respondent was in law entitled to conduct the impugned investigations, the Court finds it critical to point out the applicable Constitutional and Statutory framework.

111. The starting point is **Article 245(4)** of the Constitution, which provides for the independence of the Inspector-General of the National Police Service and states that no person may give directions to the Inspector-General with respect to the investigation of any particular offence. However, **Article 244** obliges the National Police Service to exercise its functions in compliance with the Constitution, the law, and fundamental rights.

112. Further, Section **52 of the Kenya National Police Service Act** empowers police officers to compel the attendance of witnesses at a police station. This is usually done by issuance of summons (P52). The provision states:

“52. Power to compel attendance of witnesses at police station

(1)A police officer may, in writing, require any person whom the police officer has reason to believe has information which may assist in the investigation of an alleged offence to attend before him at a police station or police office in the county in which that person resides...”

113. It is settled law that courts will not ordinarily interfere with investigations or prosecutorial functions. The Supreme Court in **Edwin Harold Dayan Dande & 3 Others v IG, National Police Service & 5 Others**, affirmed the DCI’s independence under Article 245(4) and cautioned against undue judicial intrusion into investigative discretion.
114. Similarly, in **Bernard Mwikya Mulinge v DPP & 3 Others [2019] eKLR**, the Court emphasized that the mere likelihood of failure of anticipated charges does not justify halting investigations; the applicant must demonstrate abuse of legal process.
115. This Court fully associates itself with the above jurisprudence and reiterates that investigations per se do not violate constitutional rights. However, while investigative power is constitutionally insulated under Article 245, the decision to trigger or initiate criminal process through a referral by a regulatory body is itself an administrative action subject to Article 47.
116. In the present case, the Court is not asked to supervise or second-guess investigations, but to examine whether the impugned administrative act of referral met constitutional standards. This dispute turns not on the existence of investigative power, but on how and when the referral to DCI was made.

117. Here, it is plain, and has already been established that the letter dated 13th November 2020 did not merely report information, but it terminated an ongoing regulatory process, conclusively adopted an adverse regulatory position, and escalated the matter to criminal investigation in violation of Article 47 of the Constitution.

118. It has equally been established (see **High Court Petition No. E414 of 2022**) that CMA's refusal to provide its report to Cytonn violated Article 35(1)(b), and that despite an order of mandamus issued in the Petition compelling disclosure being made, CMA is yet to furnish the Interested Parties with the investigations report, which arguably informed the impugned referral letter of 13 November 2020.

119. It therefore follows that the referral to DCI by the 1st Respondent was not a severable or collateral act, but rather, it was an integral component of the same administrative decision. It is trite that where an administrative action is constitutionally invalid, any consequential steps directly founded upon it are equally tainted.

120. The Court notes that the 2nd Respondent argued that its investigations were predicated not only on the impugned letter of 13 November 2020, but also on the numerous investors' complaints received within the period between October 2020 and June 2021 relating to various investment agreements with the 2nd & 3rd Interested Parties.

121. The Court, however, takes judicial notice that the **Capital Markets Fraud Investigation Unit (CMFIU)** is a specialized police unit within the Directorate of Criminal Investigations, operationally attached to the Capital Markets Authority, the 1st Respondent herein,

for purposes of investigating offences under the Capital Markets Act and related legislation.

122. The Court further notes that the complaints said to have triggered the investigations by the CMFIU are, on the record before Court, substantially the same complaints that had earlier been lodged with, received, and engaged by the Capital Markets Authority in the course of its regulatory oversight.

123. In that context, the Court forms the opinion that the referral of the matter to the CMFIU did not arise in institutional isolation, nor did it emanate from an independent investigative trigger wholly detached from the regulatory process undertaken by the 1st Respondent. Rather, the referral to the CMFIU was procedurally and factually embedded within the regulatory continuum culminating in the letter dated **13th November 2020**, which this Court has found to be unconstitutional for violation of Article 47 of the Constitution.

124. In the premises, the Court finds and holds that while the DCI retains full constitutional authority to investigate criminal allegations and cannot be stripped of that power, the particular referral made by CMA on **13 November 2020** was premature, having been anchored on a process this Court has found to be constitutionally deficient.

125. The Court's view rests not on a denial of investigative authority of the DCI, but on the inescapable conclusion that, in the circumstances of this case, the referral to the Capital Markets Fraud Investigation Unit was procedurally and institutionally inseparable from the unconstitutional administrative action of the 1st Respondent.

126. Accordingly, the Court finds that the referral of **13 November 2020**, having been predicated on an administrative process tainted by procedural unfairness, is itself compromised and cannot ground any investigative or prosecutorial action.

Whether the products offered by the 2nd and 3rd Interested Parties constituted private offers exempt from regulation;

127. The Petitioners, supported by the Interested Parties, invite the Court to make a definitive declaration that Cytonn High Yield Solutions (CHYS) and Cytonn Real Estate Project Notes LLP constitute “**private offers**” within the meaning of **section 30A** of the **Capital Markets Act, Cap 485A** and **Regulation 21** of the **Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002** (the **2002 Regulations**). They submit that offerings falling within Regulation 21 are **not “public offers”**, and therefore fall **outside** the public offer approval regime and the collective-investment-scheme architecture relied on by the 1st Respondent.

128. The Petitioners emphasized (i) the restricted and identifiable offeree base, (ii) the non-public solicitation of investments, and (iii) the existence of a licensed affiliate (Cytonn Asset Managers Ltd) within the group. They aver that the substance of the **CHYS/Project Notes** vehicles conforms to a private placement paradigm and does not “mimic” a collective investment scheme within the regulatory zone of the 1st Respondent.

129. The 1st Respondent, on the other hand, contended that whether a product qualifies as a “**private offer**” under **Regulation 21** and **section 30A** is an inherently fact-intensive and compliance-specific inquiry that must consider the number and class of offerees, mode and reach of solicitation, content of disclosures, pooling and management features, and the economic substance of the vehicle. It argues that the primary fact-finding belongs to the specialized regulator in the first instance, with statutory recourse to the Capital Markets Tribunal under section 35A of the Act.
130. The CMA maintained that a Constitutional Petition, particularly one mounted on a contested and incomplete record, is not the appropriate vehicle to adjudicate the merits of a securities-law classification. It notes that in **HC Petition E414 of 2022**, the High Court distinguished between constitutional relief (e.g., access to information), which is a matter for the High Court, and a regulatory merit review, which is within the exclusive remit of the 1st Respondent in the first instance, with an appeal lying at the Tribunal.
131. The Court agrees with CMA’s arguments. The invitation by the Partitioners and Interested Parties for the Court to declare that CHYS/Project Notes are “private offers” confronts the Court with a question whose answer turns on granular, contested facts: Who exactly were the offerees? How were they approached? What disclosures were made? What pooling and management features were present? Did the economic substance of the arrangements functionally replicate a collective investment scheme?
132. The High Court is not a first-instance fact-finder for technical classification disputes under securities law. Parliament designed a specialized architecture in the Capital Markets Act, where the 1st

Respondent conducts the primary merits evaluation, and where parties are aggrieved, an appeal lies to the Capital Markets Tribunal established under Section 35A of the Act. Pursuant to the provisions of Section 35A (22), an appeal from the decision of the Tribunal to this Court lies only on points of law.

133. From the foregoing, the Court is of the considered view that exercising constitutional jurisdiction to make a definitive classification on this contested record risks displacing the statutory scheme since doing so would require the Court to make first-instance factual findings. That duty is entrusted to the regulator in the first instance and/or the Tribunal. The prudential doctrine is captured in Speaker of the National Assembly v Karume [1992] KECA 42 (KLR), where the Court of Appeal stated that:

“In our view, there is considerable merit in the submission that where there is a clear procedure for the redress of any particular grievance prescribed by the Constitution or an Act of Parliament, that procedure should be strictly followed...”

134. There is a second, independent reason for forbearance. Elsewhere in this judgment, the Court has found procedural unfairness under Article 47 in the issuance of the impugned directives, and HC Petition No. E414 of 2022 has already compelled disclosure of the inquiry report relied upon. A sound classification must proceed on a disclosed record, with a meaningful hearing, and culminate in a speaking decision that addresses the following: -

- (a) the legal test for “public” vs “private” offers (s. 30A/Reg. 21);
- (b) fact-findings on offeree class, solicitation, disclosures, pooling, and economic substance, and

(c) the proportionality of any supervisory measures adopted thereafter.

135. In the premises, the prayer for a declaratory order that CHYS/Project Notes are “private offers” within Regulation 21 and section 30A is declined at this juncture. The question is remitted to the 1st Respondent for de novo determination in accordance with the Constitution, the Fair Administrative Action Act, the Capital Markets Act, and the 2002 Regulations (now repealed), with a right of appeal to the Capital Markets Tribunal, and eventually to this Court.

Disposition and Orders

136. In the result, the Court, in accordance with Article 23 of the Constitution, hereby issues final orders:

- i. A declaration is hereby made that the 1st Respondent’s decision-making process culminating in the directives contained in its letter dated 13 November 2020 was procedurally unfair, disproportionate, and in violation of Article 47 of the Constitution and the Fair Administrative Action Act.
- ii. An order of certiorari is hereby issued quashing the said letter and the directives contained therein, on grounds of procedural invalidity.
- iii. An order of mandamus is hereby issued compelling the 1st Respondent to conduct a fresh administrative reconsideration, observing the minimum safeguards set out in this judgment.
- iv. For avoidance of doubt, the mandamus in **High Court Petition No. E414/2022** compelling disclosure of the inquiry report

remains binding and shall be fully complied with forthwith, subject to appropriate redactions and/or undertakings.

137. Given the public interest in robust investor protection and due administrative process, each party shall bear its own costs.

138. It is so ordered.

SIGNED, DATED, and DELIVERED IN VIRTUAL COURT THIS

16TH FEBRUARY 2026

A handwritten signature in blue ink, appearing to read 'ADO MOSES', is written over a light-colored rectangular background.

ADO MOSES

JUDGE

In the presence of: -

C/A - Moses

Ogada.....for the Petitioner & Interested Parties

Ms. Odongo.....for the Respondent

N/A.....for the 2nd Respondent