



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**  
**CAUSE NO 1360 OF 2010**

**OBONYO O. WARINGA.....1ST CLAIMANT**  
**TOM M. ONGAGA.....2ND CLAIMANT**  
**GEORGE OPUDO.....3RD CLAIMANT**

**VS**

**NEW KENYA CO-OPERATIVE CREAMERIES LIMITED.....RESPONDENT**

**-AND-**

**CAUSE NO 1498 OF 2010**

**CAROLINE ATIENO OJIJO.....CLAIMANT**

**VS**

**NEW KENYA CO-OPERATIVE CREAMERIES LIMITED.....RESPONDENT**

**AWARD**

**Introduction**

1. This award relates to the consolidated claims brought by four (4) former employees of New Kenya Co-operative Creameries Limited. In Cause No 1360 of 2010 which is brought by way of Memorandum of Claim dated 29th October and filed in Court on 2nd November 2010, the Claimants, Obonyo O. Waringa, Tom M. Ongaga and George Opudo seek payment of accrued dues and compensation for unfair termination.
2. With regard to Cause No 1498 of 2010 which is brought by Memorandum of Claim dated 25th November and filed in Court on 3rd December 2010, the Claimant, Caroline Atieno Ojijo seeks similar prayers.
3. In Cause No 1360 of 2010, the Respondent filed a Statement of Response and Counterclaim against the 1st and 3rd Claimants on 3rd December 2010 and in Cause No 1498 of 2010, a Statement of Response and Counterclaim was filed on 6th January 2011.
4. Obonyo O. Waringa and Thomas M. Ongaga testified for the Claimants and the Respondent did not

call any witnesses in spite of being given adequate opportunity to do so. The Respondent also failed to file final submissions.

### **The Claimants' Case**

5. The 1st Claimant in Cause No 1360 of 2010, Obonyo O. Waringa worked for the Respondent from 9th May 2009 until 2nd September 2010 when his employment was terminated. At the time of dismissal, Waringa held the position of Head of Internal Audit at a monthly salary of Kshs.285,000.

6. The events leading to the termination of the 1st Claimant's employment were triggered by a suspension letter issued to him on 21st May 2012 followed by a notice to show cause sent to him on 9th August 2010 on allegations of misconduct and negligence of duty. He responded to the show cause notice by letter dated 12th August 2010.

7. The 1st Claimant states that in his position as Head of Internal Audit, he undertook investigations of the Respondent's departments and made requisite recommendations to the Managing Director. The Respondent however failed to implement the audit recommendations.

8. He claims the following:

- a. 3 months' salary in lieu of notice.....Kshs.855,000.00
- b. Gratuity from 9th May 2009 to 2nd September 2010 @ 31% of gross salary.....Kshs.1,413,600.00
- c. Untaken leave 105 days.....Kshs.997,500.00
- d. Salary for remainder of contract period.....Kshs.5,700,000.00
- e. ½ month's salary for suspension period (20.5.2010- 2.9.2010) .....Kshs.427,500.00

9. The 2nd Claimant, Tom M. Ongaga was employed by the Respondent from 2nd May 2007 until 2nd September 2010 when he was dismissed. At the time of dismissal, he held the position of Security Manager at a monthly salary of Kshs.150,000.00. On 15th June 2010, Ongaga was suspended and on 9th August 2010, he was issued with a show cause notice on allegations of involvement in questionable deals.

10. The 2nd Claimant was dismissed by letter dated 1st September 2010. He states that the Respondent had no justifiable cause to suspend him from duty and that the grounds set out in the suspension letter had no connection with the grounds stated in the show cause notice.

11. He claims the following:

- a) 3 months' salary in lieu of notice.....Kshs.450,000.00
- b) Compensation for loss of employment.....Kshs.1,800,000.00
- c) Untaken leave days-102 days.....Kshs.510,000.00
- d) ½ month's salary during suspension (15/6/2010 -2/9/2010.....Kshs.250,000.00

12. The 3rd Claimant, George Opudo was employed by the Respondent on 15th August 2005 and held the position of Sales Manager at a monthly salary of Kshs. 91,000 at the time of leaving employment on 3rd September 2010.

13. By letter dated 21st May 2010, Opudo was suspended on allegations of mishandling of the sum of Kshs. 200,000 belonging to the Respondent. According to him, these allegations did not relate to his

duties. He however responded to the allegations by his letter dated 22nd May 2010.

14. He claims the following:

- a) 3 months' salary in lieu of notice.....Kshs.237,000.00
- b) Compensation for loss of employment.....Kshs.1,092,000.00
- c) Untaken leave days 67.5 days.....Kshs.204,749.00
- d) ½ month's unpaid salary during suspension (21/5/2005 – 2/9/2010).....Kshs.151,666.00

15. The Claimant in Cause No 1498 of 2010, Caroline Atieno Ojijo was employed by the Respondent from 19th September 2006 until 3rd September 2010 when she was dismissed. At the time of her dismissal, Ojijo held the position of Assistant Accountant at a monthly salary of Kshs.55,000.00.

16. On 18th May 2010, she was issued with a notice to show cause on allegations of mishandling Kshs.200,000.00 belonging to the Respondent. In her response of the same day, she denied all the allegations made against her. She states that her suspension was unjustifiable and unlawful.

17. Her claim is as follows:

- a) 3 months' salary in lieu of notice.....Kshs.165,000.00
- b) Untaken leave-56 days.....Kshs.102,666.00
- c) Compensation for loss of employment.....Kshs.660,000.00
- d) ½ month's unpaid salary during suspension (17/5/10-2/9/10).....Kshs.95,333.00

18. It is the Claimants' common case that the termination of their employment was not based on any wrongdoing on their part but on sustained witch hunt, discrimination and nepotism. The Claimants further plead that their suspension was unjustifiable and unlawful. According to them, no investigations were carried out and their suspension and dismissal were not sanctioned by the Respondent's Board of Directors.

### **The Respondent's Case**

19. In Cause No 1360 Of 2010, the Respondent admits that the 1st Claimant was its employee from 2nd May 2006 until 2nd September 2010 when he was summarily dismissed. The claim for wrongful and unlawful dismissal is however denied. According to the Respondent, the 1st Claimant breached the terms and conditions of his employment contract and the laid down policies and procedures as contained in a Revised Company Code of Regulations for Management and Supervisory Staff as well as circulars/regulations issued by the Respondent.

20. In particular;

- a) On 17th February 2010, the 1st Claimant fraudulently received the sum of Kshs.200,000.00 in his personal bank account held at Kenya Commercial Bank from sales of the Respondent's products which money was lost by the Respondent;
- b) The 1st Claimant knowingly submitted to the Respondent very brief, unprofessional and unsatisfactory reports and therefore failed to unearth and disclose instances of malpractices;

c) The 1st Claimant colluded with the 2nd Claimant to defraud the Respondent by knowingly failing to report, facilitate and pursue transparent prosecution of criminal cases involving loss of the Respondent's property and jointly prolonging their stay in Mombasa and in other courts beyond their call of duty under the pretext of attending court hearings.

21. By letter dated 21st May 2010, the Respondent suspended the 1st Claimant to allow for investigations. In a subsequent show cause letter, the Respondent cited ten (10) instances of breach of the 1st Claimant's employment contract. The Respondent maintains that the Claimant's dismissal was based on gross misconduct.

22. With regard to the 2nd Claimant, the Respondent admits having employed him from 2nd May 2007 until 2nd September 2010 but denies that it wrongfully and unlawfully dismissed him. The Respondent states that the 2nd Claimant breached the terms and conditions of his employment contract and the laid down policies and procedures as contained in a Revised Company Code of Regulations for Management and Supervisory Staff as well as circulars/regulations issued by the Respondent.

23. The Respondent sets out the following particulars of breach:

- a. Failing to report to the Respondent's management and to conduct investigations of theft/ loss of a consignment of 320 bags of powder milk worth over Kshs.3.2 Million from Sosiani Depot in Eldoret in transit to Dairy Produce Depot in Nairobi which was fraudulently diverted and off loaded at Eastleigh in Nairobi;
- b. Fraudulently receiving bribes to conceal the said theft of 320 bags;
- c. Failing to ensure effective security systems both at the Head Office and at regional offices by allowing uncontrolled access thereto;
- d. Allowing vehicles to enter and exit the Respondent's premises without any control, checks and accountability;
- e. Failing to report to the Respondent instances of theft of the Respondent's products;
- f. Being involved in fraudulent activities in collusion with some of the Respondent's distributors, agents and transporters;
- g. Carelessly and negligently using the Respondent's motor vehicles and thereby causing huge losses to the Respondent;
- h. Colluding with the 1st Claimant to defraud the Respondent by knowingly failing to report, facilitate and pursue transparent prosecution of criminal cases involving loss of the Respondent's property and jointly prolonging their stay in Mombasa and other courts beyond their call of duty under the pretext of attending court hearings.

24. Upon discovery of questionable deals involving the 2nd Claimant, the Respondent suspended him to pave way for investigations. Following the investigations, the 2nd Claimant was issued with a show cause notice citing ten (10) instances of breach of his employment contract.

25. The Respondent insists that the 2nd Claimant's dismissal was based on gross misconduct and not witch hunt, discrimination or nepotism as alleged.

26. The Respondent further admits having employed the 3rd Claimant from 15th August 2005 until 3rd September 2010. On 21st May 2010, the 3rd Claimant was issued with a suspension letter which contained a show cause notice. According to the Respondent, the 3rd Claimant was aware of the mishandling of the sum of Kshs.200,000.00 belonging to the Respondent.

27. The Respondent states that as Area Sales Manager, the 3rd Claimant had a responsibility of ensuring that junior officers working under him did not handle sales cash of such high value. It is the Respondent's case that the 3rd Claimant's dismissal was based on gross misconduct and not witch hunt, discrimination or nepotism as alleged.

28. The Respondent sets out the following particulars of breach against the 3rd Claimant:

- a) Theft of the Respondent's money to the tune of Kshs.200,000.00 between 11th February and 29th March 2010 by directing the Depot Accountant to divert and deposit the money into a Kenya Commercial Bank account belonging to the 1st Claimant;
- b) Abuse of office by colluding with his juniors to use the said sum of Kshs.200,000.00 for his own benefit and that of the 1st Claimant;
- c) Allowing huge unexplained underpayments by sales staff without taking any action against the staff.

29. By way of counterclaim, the Respondent claims the sum of Kshs.200,000.00 from the 1st and 3rd Claimants being money diverted and deposited into the 1st Claimant's account held at Kenya Commercial Bank.

30. In Cause No 1498 of 2010, the Respondent admits having employed the Claimant from 25th January 2005 until 3rd September 2010 but denies that the Claimant's dismissal was wrongful and unlawful. According to the Respondent, the Claimant breached the terms and conditions in her letter of appointment, the laid down policies and procedures contained in a Revised Code of Regulations for Management and Supervisory Staff as well as circulars/regulations issued by the Respondent.

31. The Respondent sets out the following particulars of gross misconduct against the Claimant:

- a) On 17th February 2010, the Claimant demanded and was given by a cashier the sum of Kshs.200,000.00 belonging to the Respondent which she proceeded to deposit into an individual's account held at Kenya Commercial Bank instead of the Respondent's account as a result of which the Respondent lost the said money;
- b) Abuse of office and colluding with former employees to knowingly divert the Respondent's finds for personal gain;
- c) Reversing and backdating entries in the Respondent's system to conceal the said theft and failing to cancel the receipts and counterfoils generated in the original entry.

32. The Respondent states that the Claimant was involved in questionable fraudulent transactions as result of which the Respondent sustained losses and in a letter dated 17th May 2010, she was suspended to allow for investigations. The investigations revealed that the Claimant had received Kshs.200,000.00 belonging to the Respondent which she deposited into an individual's account. The Claimant's dismissal was therefore based on gross misconduct on her part and not discrimination, witch hunt or nepotism as alleged.

33. It is the Respondent's case that the Claimant's dismissal was justified and in accordance with the Code of Regulations for Management and Supervisory Staff, the Employment Act, 2007 and the terms and conditions of the Claimant's employment contract.

34. By way of counterclaim, the Respondent claims the sum of Kshs.200,000.00 from the Claimant being money taken by her from the cashier and deposited into an individual's bank account at Kenya Commercial Bank.

### **Findings and Determination**

35. The issues for determination by the Court are as follows:

- a) Whether the Respondent had valid reasons for terminating the Claimants' employment;

b) Whether in effecting the terminations the Respondent followed due procedure;

c) Whether the Claimants are entitled to the remedies sought;

d) Whether the Respondent has made out a proper counterclaim against the 1st and 3rd Claimants in Cause No 1360 of 2010 and the Claimant in Cause No 1498 of 2010.

### **Reason for the Termination**

36. Section 43 of the Employment Act, 2007 provides that:

***(1) In any claim arising out of termination of a contract, the employer shall be required to prove the reason or reasons for the termination and where the employer fails to do so, the termination shall be deemed to have been unfair within the meaning of Section 45.***

***(2) The reason or reasons for termination of a contract are the matters that the employer at the time of termination of the contract genuinely believed to exist, and which caused the employer to terminate the services of the employee.***

37. On 21st May 2010, the 1st Claimant, Obonyo O. Waringa in Cause No 1360 of 2010 was issued with the following suspension letter:

*“Dear Mr. Waringa*

**RE: SUSPENSION FROM EMPLOYMENT**

*This is in reference to the above matter.*

*We have received reports in our offices indicating that you have on several occasions in your capacity as Head of Internal Audit been involved in questionable transactions leading to losses in the company.*

*We have as a result commenced investigations into the issues reported in our various locations in order to establish the legitimacy of the same.*

*In order to facilitate smooth investigations we require that you pave way with effect from today 21st May, 2010.*

*This is therefore to serve you with this letter of suspension from employment effective today, 21st May 2010.*

*We may require your involvement in the process whenever necessary and you will therefore be called upon as and when necessary.*

*We shall avail our findings to you once the investigations are complete to facilitate your rejoinder.*

*Kindly be informed*

*Yours Faithfully,*

**For NEW KENYA CO-OPERATIVE CREAMERIES LIMITED**

*(Signed)*

*Milcah Mugo*

**AG. MANAGING DIRECTOR”**

38. Waringa was subsequently issued with a show cause letter dated 9th August 2010, requiring him to respond to ten (10) charges of poor performance and misconduct. By his letter dated 12th August 2010, he gave a detailed response to the accusations made against him.

39. In his response, he states that more than half of the allegations relate to operational line functions falling outside his area of work while the accusations relating to his work are general and untrue.

40. The 1st Claimant was dismissed by letter dated 1st September 2010 which states as follows:

*“Dear Sir*

**RE: DISMISSAL FROM EMPLOYMENT**

*This is in reference to our letter dated 9th August, 2010 suspending you from employment, our show cause notice and your rejoinder thereafter.*

*Your explanation into the issues raised against you was carefully considered but found unsatisfactory in that you committed offences amounting to gross misconduct leading to loss of company funds and resources.*

*This letter now serves to advice of your Dismissal from employment with immediate effect in accordance with the provisions of the Company's Code of Regulations for gross negligence in the performance of your duties without due care and negligence.*

*Please note that you shall be paid your dues if any less any liability you may be owing the company after completion of normal clearance procedures and handing over company property which might be in your possession to the Head of Human Resources.*

*Yours faithfully*

***For: NEW KENYA CO-OPERATIVE CREAMERIES LIMITED***

*(Signed)*

***MILCAH MUGO***

**AG. MANAGING DIRECTOR”**

41. The 2nd Claimant, Tom M. Ongaga was issued with a suspension letter dated 15th June 2010 in the following terms:

*“Dear Mr. Ongaga,*

**SUSPENSION FROM DUTY**

*The above matter refers.*

*We have received reports in our offices indicating that you have in (sic) several occasions in your capacity as the Security Manager been involved in questionable deals leading to loss of company money and or products.*

*A case in point is the transfer of 320 bags of milk powder from Eldoret to Dairy*

*Produce in the month of February 2010. Whereas it was known to you that the said consignment did not reach the intended destination, your action or omissions only served to conceal the matter. You failed to share the information with your controlling Manager in good time as is expected of a responsible officer given that the magnitude of loss was such substantial.(sic) The company lost the value of the 320 bags of powder and no report has ever been given on the same.*

*Our effort to get an explanation from you by way of email did not achieve much as your explanation was found brief and unsatisfactory.*

*In view of the above and other issues not mentioned in this letter, we have commenced investigations into the matters.*

*This letter serves to advice of your immediate suspension from duty to give way for smooth investigations. You are therefore hereby advised to stay away from the premises with effect from today 15th June 2010. You will however be called upon as and when necessary to assist investigations.*

*We shall avail our findings to you once the investigations are complete to facilitate your rejoinder.*

*In the meantime, kindly hand over your function to Mr. Mugo Mutembei the Assistant Security Manager.*

*Yours faithfully,*

***For NEW KENYA CO-OPERATIVE CREAMERIES LIMITED.***

*(Signed)*

***MILCAH MUGO***

***AG. MANAGING DIRECTOR***

42. On 9th August 2010, the 2nd Claimant was issued with a notice to show cause detailing eleven (11) charges against him. In his response dated 10th August 2010, he states that some of the charges made against him relate to functions outside his docket while the rest comprise of general statements not backed by any facts.

43. On 1st September 2010, he was issued with the following dismissal letter:

*“Dear Sir*

***RE: DISMISSAL FROM EMPLOYMENT.***

*This is in reference to our letter dated 9th August 2010 suspending you from employment, our show cause notice and your rejoinder thereafter.*

*Your explanation into the issues raised against you was carefully considered but found unsatisfactory in that you committed offences amounting to gross misconduct leading to loss of company funds and resources.*

*This letter now serves to advice of your Dismissal from employment with immediate effect in accordance with the provisions of the Company's Code of Regulations for gross negligence in the performance of your duties without due care and diligence.*

Please note that you shall be paid your dues if any less any liability you may be owing the company after completion of normal clearance procedures and handing over company property which might be in your possession to the Head of Human Resources.

Yours faithfully

**For: NEW KENYA CO-OPERATIVE CREAMERIES LIMITED**

(Signed)

**MILCAH MUGO**

**AG. MANAGING DIRECTOR”**

44. The 3rd Claimant, George Opudo was suspended by the following letter dated 21st May 2010:

“Dear Sir

**RE: SUSPENSION**

Reference is made to reports held in our office.

Serious accusations have been made against you touching on your integrity as a Manager in connection with mismanagement of Dandora Sales Depot.

Just to mentioned (sic) a few of the accusations; between 11th February and 29th March 2010, an amount of Kshs.200,000 Company money was mishandled with your full awareness. The Company was denied the much needed cash flow while it was held by staff in the depot with your full knowledge and consent. Besides, there are huge unexplained underpayments incurred by sales staff whom you have allowed to continue working while a few other have been send (sic) away for similar offences. The misuse of Agent's accounts has become rampant with a few staff suffering for it while others go scot free. In addition, you have deviated from the established procedure of clearing salesmen to a one man clearance system which is not acceptable.

Whereas investigations are underway to establish if there are facts relating to the accusations, this letter serves to advice of your immediate suspension from employment. You will be called as and when necessary to assist investigations. Meanwhile, you are hereby given an opportunity why disciplinary action should not be taken against you for the aforementioned.(sic)

Your written explanation should be received by 25th May 2010 failure to which disciplinary action deemed necessary shall be taken without further reference to you.

Yours faithfully

**For: NEW KENYA CO-OPERATIVE CREAMERIES LIMITED**

(Signed)

**TIMOTHY MUTHINI M.**

**AG. HEAD OF HUMAN RESOURCE”**

45. Opudo responded by his letter dated 22nd May 2010. In this letter, he states that on 11th February 2010, he was requested by the Depot Accountant to authorise the use of one of the sales representative's

vehicle to go and bank some money from a salesman by the name Kizito Sakwa. Since all the sales representatives were in the field, he advised the Depot Accountant to ask the salesman to go and bank the money and bring back the bank slip. He was however not aware that the money was held in the Depot or mishandled by staff. The 3rd Claimant denies all the other allegations leveled against him.

46. The 3rd Claimant was dismissed by letter dated 3rd September 2010 which states as follows:

*“Dear Sir*

**RE: DISMISSAL**

*Reference is made to our letter Ref: HR/1152/2010/TMM/sgs dated 21st May 2010 suspending you from the services of the Company and your written explanation to the issues raised thereof.*

*Your written explanation was carefully considered but found unacceptable in that on 17th February 2010 you instructed the Depot Accountant -M/s Caroline Ojijo to divert Company money amounting to Kshs.200,000 and deposited it into a KCB account belonging to a Company Officer Mr. O. Waringa which amounted to theft by servant.*

*This letter serves to advice of your immediate dismissal from employment in accordance with CCR Clause 27.2.8 for abuse of office by diverting Company money, and trading with it against established laws and ethical values.*

*Please note that you will be paid your terminal dues if any less any liability you may be owing the Company after completing the normal clearance procedure and handing over any company property in your possession to your Controlling Manager.*

*Yours faithfully*

**For: NEW KENYA CO-OPERATIVE CREAMERIES LIMITED**

*(Signed)*

**TIMOTHY MUTHINI M.**

**AG. HEAD OF HUMAN RESOURCE”**

47. The Claimant in Cause No 1498 of 2010, Caroline Atieno Ojijo was suspended by letter dated 17th May 2010 which states as follows:

*“Dear Madam*

**RE: SUSPENSION**

*Reference is given to the above subject.*

*Reports in our office indicate that you mishandled sales cash amounting to Kshs.200,000.00 and therefore denied the Company the so much needed cash flow.*

*Besides, you initially purported to have banked the aforementioned amount with a Kenya Commercial Bank Account but later changed your position to indicate that you returned the money to salesman Mr. Kizito Sakwa who banked the money and that you did not remember to ask for the banking receipt.*

*We wish to point out to you that you knowingly colluded with other staff to defraud the Company and willingly misrepresented information to cover up without due regard to the loss the Company was exposed to. Notwithstanding your reversed account entries and backdated the same without cancelling the receipts and counterfoils generated in the original entry.(sic)*

*This letter serves to advice of your immediate suspension from employment. You will be called upon as and when necessary to assist investigations. You are however given an opportunity to show why disciplinary action should not be taken against you for the aforesaid malpractices.”*

48. The Claimant was eventually dismissed on 3rd September 2010. Her dismissal letter states the following:

*“Dear Madam*

**RE: DISMISSAL**

*Reference is made to our letter Ref: HRS/S.1/987/2019/TMM/sgs dated 17th May 2010 suspending you from the services of the Company, your written explanation and further oral interview with you.*

*Whereas the Committee noted your honest confession on the matter, it was held that you were an accomplice in the incident where you colluded with other Company officers and knowingly diverted Company money and banked it in an individual's account for personal gain.*

*This letter therefore serves to advise you of your dismissal from employment with immediate effect in accordance with CCR Clause 27.2.8 for abuse of office by colluding with your seniors to divert Company funds for your personal gain.*

*Please note that you will be paid your final dues if any less liability you may be owing the company after normal clearance and handing over any Company property in your possession to your controlling manager.*

*Yours faithfully*

**For: NEW KENYA CO-OPERATIVE CREAMERIES LIMITED**

*(Signed)*

**TIMOTHY MUTHINI**

**AG. HEAD OF HUMAN RESOURCE”**

49. From the foregoing correspondence, the Claimants were charged with a litany of offences ranging from misconduct to negligence of duty to which the Claimants gave detailed responses. Although the burden placed on an employer under Section 43 of the Employment Act, 2007 is on a balance of probability, it is not enough for an employer to list accusations against an employer without offering any supporting evidence.

50. The Respondent chose not to lead any evidence in support of the accusations made against the Claimants. Additionally, there was no evidence that the Claimants' respective responses were given any consideration. Consequently, the Court finds that the Respondent failed to prove any valid reasons for the termination of the Claimants' employment and the termination was therefore substantively unfair.

## **Termination Procedure**

51. The allegations made against the Claimants would fall under misconduct and poor performance and Section 41 of the Employment Act, 2007 sets out the following procedure for handling of such cases:

- a. That the employer has explained to the employee in a language the employee understands the reasons why termination is being considered;
- b. That the employer has allowed a representative of the employee being either a fellow employee or a shop floor representative to be present during the explanation;
- c. That the employer has heard and considered any explanations by the employee or their representative;

52. In addition, Section 12 of the Act requires an employer who has more than 50 employees in its employment, to document internal disciplinary rules for use in handling disciplinary cases.

53. There was no evidence of the Claimants having been taken through the procedure set out under Section 41 and the Court finds the termination of their employment procedurally unfair as well.

## **Remedies**

54. In light of my finding that the termination of the Claimants' employment was substantively and procedurally unfair, I make the following awards in their favour:

### **Obonyo O. Waringa (1st Claimant in Cause No 1360 of 2010)**

- a) 3 months' salary in compensation for unfair termination.....Kshs.855,000.00
  - b) 3 months' salary in lieu of notice.....Kshs.855,000.00
  - c) ½ month's salary for suspension period (100 days).....Kshs.432,250.00
- Total.....Kshs.2,142,250.00**

### **Tom O. Ongaga (2nd Claimant in Cause No 1360 of 2010)**

- a) 3 months' salary in compensation for unfair termination.....Kshs.450,000.00
  - b) 3 months' salary in lieu of notice.....Kshs.450,000.00
  - c) ½ month's salary for suspension period (75 days).....Kshs.187,500.00
- Total.....Kshs.1,087,500.00**

### **George Opudo (3rd Claimant in Cause No 1360 of 2010)**

- a) 3 months' salary in compensation for unfair termination.....Kshs.273,000.00
- b) 3 months' salary in lieu of notice.....Kshs.273,000.00
- c) ½ month's salary for suspension period (100 days).....Kshs.151,670.00

**Total.....Kshs.697,670.00**

### **Caroline Atieno Ojijo (Claimant in Cause No 1498 of 2010)**

- a) 3 months' salary in compensation for unfair termination.....Kshs.165,000.00
- b) 3 months' salary in lieu of notice.....Kshs.165,000.00
- c) ½ month's salary for suspension period (105 days).....Kshs.96,255.00

**Total.....Kshs.426,255.00**

55. The claims for leave pay were abandoned at the hearing and the claims for gratuity and salary for the remainder of the contract period were not proved.

**Counter Claim**

56. The Respondent did not lead any evidence to prove the counterclaim against the 1st and 3rd Claimants in Cause No. 1360 of 2010 and the Claimant in Cause No. 1498 of 2010 which therefore fails and is dismissed.

**Costs and Interest**

57. The Respondent shall meet the costs of this case. The award amount shall attract interest at court rates from the date of the award until payment in full.

58. It is so ordered.

**DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 8TH DAY OF JULY 2015**

**LINNET NDOLO**

**JUDGE**

**Appearance:**

Mr. Koceyo for the Claimants

Miss Milimu for the Respondent