

# REPUBLIC OF KENYA

## COUNTY ASSEMBLY OF SIAYA

### THE HANSARD

#### PROCEEDINGS OF THE SPECIAL COMMITTEE INVESTIGATING THE GROUNDS FOR REMOVAL FROM OFFICE OF THE DEPUTY GOVERNOR BY WAY OF IMPEACHMENT

**Tuesday 6<sup>th</sup> June, 2023**

The Special Committee met at the County Assembly Chamber at 10.10 a.m.

*[The Chairperson (Hon. Francis Otiato) in the Chair]*

**The Chairperson:** I hope you are set members of the Fourth Estate, I hope your systems are already in place. Well let me take this opportunity to welcome you for the Session, but allow me to call the house to order by our word of prayer and let's pray.

*(Prayer)*

**The Chairperson:** Thank you members, our Deputy Governor, our CECMS, members of the public and, the members of the Fourth Estate, let me take this opportunity to invite you to this Session and I know before we go very far, we will start by a bit of introduction and as we introduce, I think we'll start by our members of secretariat of the Assembly, so we know them.

*(Members of the Secretariat introduced themselves)*

I have seen County Secretary somewhere, please can you take us through your team,  
**Mr. Ogutu**, through the chair and honourable members and my colleagues  
Good morning. My name is Joseph Ogutu, County Secretary. We have come with a number of officers from the executive. I'll give them a chance to introduce themselves in that order.  
Good morning. My name is Richard Owade I am County Attorney. Good morning. My name is Benedict Omollo, C E C M finance and Economic Planning.  
Good morning, my name is Agunda Ochanda CECM Governance Administration and ICT, Thank you. Good morning. My name is Joseph Omondi Onyango Chief Officer

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Governance Administration and ICT, Thank you, Good morning. My name is Jack Odinga acting Chief Officer, finance and Economic Planning. Good morning, Dr. Edgar Ouko Otumba CECM in charge of Education, youth affairs and social Services.

Good morning. My name is Martin Okwata, Director of Supply Chain Management. Good morning. My name is Jared Abayo. Director, public participation and civic engagement. Good morning. I'm Damian Abonyo Omollo, administrative Officer in the office of the deputy governor. .

**Chair**, are you done?

**Joseph Ogotu**, Thank you, chair. I think those are the members we have in the house.

**William Oduol**: Okay. Team from, DG to the chair, committee members, members of the Fourth Estate and the Public. Good morning. Good morning Once again. My name is, uh, William Oduol, the Deputy Governor for Siaya County, and I am accompanied by my legal team. So I am gonna ask them to introduce themselves.

Good morning, chair and members of the committee. My name is Paul Nyamodi. I am an advocate for the deputy Governor.

Good morning chair and the member of the committee. My name is Patrick Barraza. I am part of the legal team for the deputy Governor.

Good morning, members of the committee. My name is, Oduol Aluoch, I'm a council in the team for the deputy governor.

**Chair**: Thank you DG. We now proceed to the members of the Assembly,

*(Members of the Special Committee introduced themselves)*

- |                                |   |                  |
|--------------------------------|---|------------------|
| 1. Hon. Francis Otiato         | - | Chairperson      |
| 2. Hon. Dorothy Oinga          | - | Vice Chairperson |
| 3. Hon. Oliver Arika           | - | Member           |
| 4. Hon. Andrew Omwende         | - | Member           |
| 5. Ho. Fredrick Omoro          | - | Member           |
| 6. Hon. Bernard Adala          | - | Member           |
| 7. Hon. Cynthia Akinyi         | - | Member           |
| 8. Hon. Seth Baraka            | - | Member           |
| 9. Hon. Syllas Madingu         | - | Member           |
| 10. Hon. Eunice Achieng'       | - | Member           |
| 11. Hon. John Apodo            | - | Member           |
| 12. Hon. Justus Oguta          | - | Member           |
| 13. Hon. Julie Okello          | - | Member           |
| 14. Hon. Michael Otieno Adiala | - | Member           |

We will request that you take an oath, Deputy Governor, then we proceed to the next stage, So you can....

**Mr Nyamodi**: perhaps there, there an issue

**Chair**: Yes. Which I would very much appreciate your direction from.

**Nyamodi**: Before the DG takes the oath. Okay. And the issue arises from the letter.

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**Chair,** Yes. That you referred to in the conclusion of your statement. Mm-hmm. Uh, the DG did receive the letter mm-hmm. On the 30th of last month. Yes. The letter was from the Clerk of the assembly, and it included a Motion I mean it was a motion with nothing in support of the motion.

The DG wrote back immediately thereafter on the 31st to the Clerk of the Assembly, pointing out *Bwana* Chair to the clerk of the assembly, that he had received a letter. He had received a motion, and the motion was not supported by any evidence.

Fairly promptly On the second of this month, the Clerk of the assembly wrote back to the DG and he then in his letter, enclosed what he purported to be a Statements in support of the Motion. The statements were not signed and being a public officer of some standing, I'm sure the chair appreciates, that the probative value of an unsigned statement is not very much.

The DG then wrote back on the 5<sup>th</sup> of this month and pointed out to the clerk of the assembly that the statements he had received were unsigned promptly again on the 5th of this month, the clerk of the assembly, wrote back to the DG and now gave him signed statements. And other than the signed statements, he gave him voluminous bundle of evidence.

This is some of it and it is photocopied. Two sides. Chairman, what am I saying? the 5<sup>th</sup> was yesterday. The documents or the evidence in respect of which the DG is meant to respond, were only furnished to him late in the afternoon Yesterday, the Constitution of the Republic of Kenya gives the deputy governor or an, you know, guarantees the deputy governor a right to a fair trial.

And one of the components of a fair trial chairman is the opportunity, to prepare your case. The standing orders of this assembly capture the fact that the Deputy Governor in the circumstances in which he finds himself, is entitled to ample notice to prepare himself, and I believe that is to be found in standing order 64, which entitles the deputy Governor to at least, at least, three days, , notice of the documents the motion was served, or the bare motion was served on him on the 30th of this month, but, He's not responding to the motion, he's responding to the evidence.

That was only given to him yesterday afternoon. So, Mr. Chairman, because of the gravity of the matter and because of the importance of the proceedings, both to this assembly and to the subject of this impeachment motion, the deputy governor it is my request that, this committee then, or this assembly, then grants the deputy governor, the time he's entitled, both under the Constitution and under the standing orders of this committee.

We are, or the deputy governor then is constrained in that he's unable to take the stand to respond to evidence that he only received yesterday evening.

So the time guaranteed by the Constitution and the standing orders of this committee has not been afforded to him, and it is that time that we seek. Thank you.

**Chair:** Okay, counsel. Thank you. You know, the first step we wanted, DG to take an oath. So far, whatever you have said, you are speaking on behalf of the DG who has not taken an oath. How I wish that he takes an oath and then formally we start this matters and assume that whatever you are telling us, you are telling us under the oath of the DG, then now we raise this matters will proceed from there then I'll give a direction.

**Mr Nyasmodi:** Perhaps it'll make it easier for me to understand and for me to explain to the DG. If you are able to explain the purpose and the significance of taking an

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oath. Now when you are testifying before us in this assembly, you must take an oath and tell us that whatever you're going to tell us is the truth.

And you know anything you'll tell us after the oath, if it is lies, you are culpable. You are culpable. If you'll tell us any lies after that, and therefore before we take anything you're telling us we are serious, you must take an oath, then we proceed. That is first step because other than that, after the oath, we still have a lot of things.

**Chair:** I know there are a lot of things before we now even go to the substantive issues.

**Mr Nyamodi:** I am accordingly guided Chairman, thank you.

*(CPA DG Oduol took an oath)*

**Chair:** Thank you, DG we did write, you can take us through the letter. There's a letter for the DG invitation. Yeah, we invited the DG. So we just want to go through the letter or simply put it that I hope the DG you received our letter and you made some responses to us. Where's the, the, the response from the DG, so I just want you to verify the file that you sent to us.

That is what you provided that, Clerk, you can take us through the letter that invited the DG,

**Assembly Clerk:** Thank you chair. This was the letter returned from the office of the clerk. The letter is dated 29th. May, 2023 addressed to the deputy governor on the subject of removal from the office of the Deputy Governor William Oduol by impeachment and the letter goes;

Reference is made to the above subject matter.

Article 181 of the Constitution of Kenya 2010, and to section 33 of the County Governments Act. 2012 on Thursday, 29th, May, 2023 during a Special Sitting the County Assembly of Siaya adopted a Motion sponsored by Hon Godon Onyango Onguuru MCA East Asembo Ward seeking to remove you from office by way of impeachment as the Deputy Governor County government of Siaya.

The Motion was in line with article 181{1} of the Constitution of Kenya 2010, read together with Section 33{1} and 9a of the county government Act 2012, which provides, and I quote 181 sub article one

A county governor may be removed from the office on any of the following grounds, one gross violation of this constitution or any other law, two, where there are serious reasons for believing that the county governor has committed a crime under national or international law, three Abuse of office or gross misconduct, or four. Physical or mental incapacity to perform the functions of the office of the county Governor.

Section 33, subsection one of the County Governments Act 2012, which states as follows, a member of the county assembly made by notice to the speaker supported by at least a third of all members move a Motion for the removal of the governor under at 181 of the Constitution. Section 33 subsection nine A of the County Government Act 2012 provides as follows;

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Subsection 1 to 9 Shall with necessary modifications apply to the removal from office of the Deputy Governor in line with the provisions of standing order. 71 read together with the standing orders. 72 of the county Assembly of Siaya standing orders the county assembly appointed a special committee compressing of a third of its members to investigate into the allegations made in the motion and report its finding to the county assembly within 10 days.

Taking cognizance of Article 50 sub article 2B of the Constitution of Kenya 2010, the special committee rights to draw your attention to the motion adopted by the house, seeking to remove you from office by way of impeachment as deputy Governor County Government of Siaya.

Comprising of a third of its members to investigate into the allegations made in the motion and report its finding to the county assembly within 10 days. Taking cognizance of Article 52 B of the Constitution of Kenya 2010, the special committee rights to draw your attention to the motion adopted by the house, seeking to remove you from office by way of impeachment.

As the Deputy Governor County Government of Sierra Father guided by standing order, 71[ 8] and 72, the special committee invites you to, its meeting slated for Tuesday, sixth June, 2023 at the county assembly chambers at 9:00 AM. During which the committee shall accord you an opportunity to be heard on the allegations raised in the motion, and a chance to cross-examine the following witnesses who shall be invited to give submissions on the allegations raised in the motion.

The witnesses are, Mr. Joseph Ogutu, county Secretary, Mr. Benedict Omollo CECM member Finance and Economic Planning. Dr. Edgar Otumba, CECM, member for education, youth affairs, and Gender. Mr. Agunda Ochanda, CECM member for governance and Administration. Mr. Joseph Omondi, chief Officer Governance and Administration, Mr. Jack Odinga, the Acting Chief Officer, finance and Economic Planning., Mr. Martin Abayo, the Director for Supply Chain Management, Mr. Dlo, administration Officer Mr. Jar Dabao, director, public Participation, and Mr. Austin Ogola Social Welfare Officer. In line with at 196 of the Constitution of Kenya 2010.

Please note that the county Assembly has placed an advertisement in the Nation newspaper to appear on Tuesday 30th, May, 2023. Inviting comments, information and memoranda on your removal from the office. The advertisement father invites you and members of the public to attend the meeting scheduled on Tuesday, sixth June, 2023 at 9:00 AM at the County Assembly Chambers. You are at liberty to request the county Assembly to furnish you with any relevant information or documents that you may require to prepare your presentation on this matter.

Further note that you are at liberty to appear before the special committee with your legal representation. You may submit to the committee any written submissions, comments, or information on this matter by Monday fifth June, 2023 at 9:00 AM through the office of the County assembly clerk enclosed. Please find a certified copy of the motion. Stating grounds and particulars upon which the motion was made. Signed by the acting county assembly clerk. Thank you, chair.

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**Chair:** Thank you , DG we did appreciate that we received a document from your end ,a written submission, and I just wanted you to maybe confirm to us whether what we have is the actual document that was presented. Sergeant, I know there is a photocopy there, but the original one is here so you can perhaps may be on behalf of the DG.

**Chair,** Yes.

**Mr Nyamodi:** What is presented in this folder is perhaps one of the responses.

**Chair:** Ok

That the DG has made. But conspicuously absent Mr chair from this folder. Yes. And perhaps maybe it would be a convenient place to start.

**Nyamodi:** Yes. Is the DG letter to the clerk of this assembly dated the 31st of May this year?

**Chair,** Okay. Now, will you then, if like to present us with either something or any other document that you want for us. I beg you. Pardon? You. Do you have any other further documents that you would want to present to us, which is not there?

**Mr Nyamodi:** I think perhaps chair the, the conversation about presentation of documents is a little premature, and it is premature because of the reason I made the presentation earlier. In my presentation, I was careful to detail both correspondence received by the deputy governor from the clerk and his responses.

**Chair,** Okay:

**Mr Nyamodi:** And they culminated in a ban or a bundle of documents that were received by the deputy governor only yesterday afternoon. Okay. Those documents, it appears that the assembly wishes to rely on them In support of the motion for the impeachment of the Deputy Governor, the Deputy Governor wishes to respond to those documents.

The deputy governor, as I was at pens to point out in my initial submissions, is entitled to a reasonable amount of time to respond. We are going to make a ruling to that. Let's finish up with this issue of the documents. Cause the documents came yesterday, the documents that was presented, we got them yesterday.

**Mr Nyamodi:** So I am just before we proceed, I just want to confirm that what we have as of now is the document that maybe if you went well, we'll be proceeding. Will, you'll want to produce other additional documents then,

**Mr Nyamodi:**,Chairman, I think it is important to accurately record the deputy Governor's position.

**Chair:** Okay,

**Mr Nyamodi:** Isn't it? The deputy governor has written two or three letters to the clerk of this assembly. Okay. So let's, let's, let's hand for the record, sir, that the, the, the file that we have given you, Is part of the document that you presented and we take note of what you claim or you are saying is not included.

So what is not included in that file? What is not included in this file? Yes. Is the two letters Yes. That I have referred to. Mm-hmm. The first letter dated the 31st of the 30. First of of May. Okay. The response to that letter by the clerk. Okay.

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The Deputy governor's letter dated the fifth of June. Okay. And the most importantly, the clerk's response to that letter dated the 5th of June, which is also dated the 5th of June.

Okay. We are noted, but the rest, the other thing is right, other than those two letters, in respect of the response, yes. I don't think the word All right. Can be used. Mm-hmm. Because the deputy governor is making a very important point here, there is evidence that he has been given that he has not been given an opportunity to respond to.

So, his response cannot be complete without the response to that evidence. But for what we have as at now, is that what was presented in respect of up to now what we have as at now, the letters are not here. Clerk proceed. Thank you. Uh, chair in response honorable chair to the statement on the letter I have just read Dated 29th May, 2023, which for the benefit of the committee and, and members present,

I might just reread the, the, the statement that is a paragraph that asked that informed the DG that you are at liberty to request the county assembly to furnish you with any relevant information or documents that you may require to prepare your presentation on this matter.

**Assembly Clerk:** Then, in response to that on 31st, May, 2023. The Deputy Governor ably requested and correctly requested for the additional information or documents that he requires, and this is the letter that he wrote dated 31<sup>st</sup> may, on the subject of removal from the office of the Deputy Governor, William Oduol by impeachment.

And it states reference is made to the above matter. I am in receipt of your letter dated 29th May, 2023. I note that the county assembly intends to call the following persons as witnesses during the hearing scheduled for sixth June, 2023 before the special committee Mr. Joseph, Ogutu, the County secretary.

Mr. Benedict Omollo, the CECM, member Finance and Economic Planning, Dr. Edgar Otumba CECM, member Education, youth Affairs and Gender, Mr. Agunda OChanda. CECM, member for Governance and Administration, Mr. Joseph Omondi, chief Officer Governance and Administration. We have, Mr. Jack Odinga, acting Chief Officer, finance and Economic Planning. Mr. Martin Okwata, Director for Supply Chain Management, Mr. Damian Omollo, the administration officer, Mr. Jared Abayo, director public Participation, and Mr. Austin Ogola, Social Welfare Officer.

I further note that I will be given, an opportunity to cross-examine the said witnesses. However, I have not been furnished and or supplied with any witness statements and or documents the said witness will rely on during the hearing in the light of the foregoing and in all of that, I am accorded a fair hearing before the special committee kindly, but urgently furnish me with the written statements of all the witnesses the assembly intends to call and the documentation and or evidence the witnesses we rely on during the hearing to enable me adequately prepare for the cross-examination of the witnesses, yours faithfully, CPA Dr. William Oduol.

So that was the response to the information given on the letter dated 29<sup>th</sup>. Then the assembly responded. I'm just, locating the response Hon Chair where, so we're just locating the

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response because the response to that letter where the DG requested for. The witness statement, and of course in response to the letter dated 29th, May, 2023.

**Chair:** So Clerk, the document that was answered, the statements from the witnesses. Did you give out?

**Assembly Clerk:** The one that is being brought?

**Chair:** So you forwarded the, the statement?

**Assembly Clerk,:** Yes. The statements.

**Chair:** when was that? Okay. We want just to confirm whether the, the, the statement asked for was, issued,

**Mr Nyamodi:**, but maybe, chairman, other than the clerk reading the, the correspondence, the very important correspondence from his telephone, maybe he should make copies available so that you chair and the other members of the committee are able to appreciate the correspondence because now that the matter is before the committee,

**Chair:** yes. That correspondence is really for the committee to consider.

**Mr. Nyamodi:** Okay. And it is not anything the clerk can keep on his phone and read to the committee.

**Chair,** Well, Clerk, I think you've, you got it. We need those statements Plus the correspondences given out to members.

**Chair,** Clerk will need how many minutes to get that rightly observed. And as we read for those documents, Yeah, I think let's Clerk, can I give you two minutes You run for those documents? We really need to proceed.

Thank you Hon. Chair, Sorry for the short delay on the letter dated 31st. May. This was the response from the assembly It's addressed to the CPA, William Oduol. On reference of removal from the office of the Deputy Governor William Oduol by impeachment.

Reference is made to your letter dated 31st May, 2023. Reference given CGS stroke code D G stroke, CS stroke one, stroke volume one 30 on the matter of request for witness statements as per the stated letter.

Please find attached the following statements received from the unlisted officers as they relate to their submissions to the assembly committee and general oversight during investigations on allegations raised by the deputy Governor. One statement from the county secretary, two statement from CCM Finance and Economic planning, three Statement from CCM Education, youth Affairs, and Gender, Four Statement from Acting Chief Officer Finance, Five Statement from Chief Officer Governance and Administration. And six statement director, supply chain management. Kindly note that the following officers did not submit any statement to the County Assembly Committee related to the subject matter one.

CECM Governance and administration, two. Administrative Officer Mr. Damianus Omollo,three. Director of Public Participation, Mr. Jared Abayo and four Social Welfare Officer Mr. Augustine Ogolla, Police do not hesitate to ask for any clarifications in relation to your request signed by the acting county assembly clerk then Hon. Chair

**Chair:** Did you receive that on, on the, those particular ones you said the letter was received?

**Mr Nyamodi:** And the letter was responded to, are the statements, the statements are received. But Chair, I would want you to note at this juncture that the statements that are



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attached to that response dated the 2nd of June are unsigned, and perhaps Chair you can confirm that because those statements are referred to and are annexed to that letter.

**Chair:** Okay. Let's proceed.

**Assembly Clerk:** Okay. Thank you, chair on 5th June 2023, the DG wrote to the assembly on the same subject of removal from the office of the Deputy Governor William Oduol by impeachment, reference is made to the above matter, and your letter dated 2nd June, 2023, I acknowledge receipt of statements from six officers.

I, however, note the following in respect of the statements, the statements are unsigned by respective officers. B, the statements make reference to various documentary evidence which have not been furnished and or supplied to me.

You have also acknowledged in your letter, and rightly so, that the said statements relate to and were made in respect to the motion that was before the commission general oversight in response to the complaints raised by myself on corruption and mismanagement in the county executive.

The Committee on general notice considered my Submissions and they said statements and rendered a determination on. In a report made in the month of May 2023. signed by CPA William Oduol, honorable chair there was a response to that letter.

If you allow, I may read, this was the response dated the same day that the letter was received, that is 5th June 2023. On the same subject, and I read the statement of the content; reference is made to your letter dated 5th June 2023.

Reference is given all the matter of requests for additional documents related to the information submitted by various County Executive officers kindly note that the statements are originally sent to you via soft copies which bore no signatures, we have now attached signed copies containing the same information, the same four signatures, we have also appended attachment, the statements as per your request, and as indexed here, and one signed submissions by the County Secretary and related attachments dated 8th May 2023.

Two signed submissions by the Chief Officer governance and administration dated ninth may 2023, and related attachments, signed submissions by CECM education dated 9th May and attachments signed submissions by Director Supply Chain Management and attachments, signed submissions by Chief Officer finance identity attached attachment and finally signed submission by CECM finance and economic planning,

Kindly be informed that the Motion being processed now is an Impeachment Motion quite different from the Motion originally requesting you and other county Executive Officers to submit to the committee of general oversight evidence on allegations raised by yourself which was already dispensed with.

However, we not that some of the issues on the Impeachment Motion corresponds to those in the Motion already dispensed with also not that the documents currently under the position of the assembly.

Those that we have given to you are not statements, but evidence attributed to statements made by yourself and to those whom you mentioned in your implicative allegations signed by the acting contests and Black lock. Thank you.

**The Chairperson:** Thank you *Waziri*, the DG and legal team, I now want to give a direction on this that we have noted the concerns. And as a committee, we are going to sit

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deliberate on your arguments, we have taken note of the issue or the periods and the timing, and three days and so on.

But I know our Standing Order is very clear about some of these issues. And the standing order is clear on the impeachment process that gives you about 10 days to execute the impeachment.

Our Standing Order gives you a period of seven days to write to get back the information. So if technically you have 10 days and seven days is for information collection today is actually the 8th day, yesterday was the seventh day. Today is the eighth day, tomorrow is the ninth day that we need to do a report and then on Friday is a 10th day that we must on Thursday that we must dispense with this.

So whatever we are dealing with is time bound. And we are going to make a ruling on it. In due course of the day looking into the other very many issues that you have raised or especially on the preliminaries as we proceed, we will go and make a determination that we pronounce ourselves straight by that. Therefore, I hope you're comfortable with that,

**Mr. Nyamodi:** If you will grant me the opportunity, *Bwana* chair as you retire to make a considered decision in this matter. There are a few issues that I would like to very kindly and humbly call upon the committee to bear in mind as it retires to make a considered decision in this matter.

First and foremost is on the issue of time, the same standing orders that provide for the timeframe in which this committee has to determine a motion for impeachment also create an obligation on the assembly to make material available to the subject of the impeachment motion, which happens to be the deputy governor within a certain timeframe.

The position I urge and the position I urge you to bear in mind is that obligation is placed on the assembly and That obligation in respect of this matter was only discharged yesterday afternoon, the in the letter of the assembly to the deputy governor dated the 29th of May this year.

And with your permission on a chair, I want to read again, the second the last paragraph on the second page, you are at liberty to request the county assembly to furnish you with relevant information or documents that you may require to prepare your presentation on this matter.

The Constitution guarantees the Deputy Governor in the circumstances in which he finds himself at article 50. The right to a fair trial, the documents that the county assembly wishes to rely on in support of the motion are as of right.

These are the documents that the Deputy Governor only received yesterday evening as of right, he's entitled to them as of right, this letter from the Clerk of the assembly seems to characterize access to those documents as with tremendous respect for the clerk, a courtesy we have them.

If you want them, you write and tell us we'll leave them to you. That cannot be so it is not a courtesy. It is the deputy governors right. And the right to a fair trial is not attained until he has those documents. And you own standing orders give him at a minimum of three days. That right is only attained yesterday.

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**The Chairperson:** Okay, you know, I didn't want to go there. Because I was I was waiting that you give us time on this. But because you have now raised it and you're persistently raising it.

Now I want to go to it. And we'll clear with it on which standing order of Siaya county Assembly says that we must give this document three day to just give us a section. Please,

**Mr. Nyamodi:** If perhaps I may have an out of date copy of your standing orders if the clerk can perhaps give me a current copy of the standing orders

**The Chairperson:** made such a provision. In yesterday I mentioned

**Mr. Nyamodi:** I realize that I may have an outdated copy and standing orders have the force of law. And I do not want to rely on an outdated law. If you give me a copy of the current standing orders, I will show you where it is.

**The Chairperson:** That's what I was thinking. Because it's not say it's not expressly I don't I don't know it in our standing order. We need to deal with rejects if

**Mr. Nyamodi:** You give it to me, give me two minutes or show it.

**The Chairperson:** So that is what I was saying that you let us we look at it. Simply saying that to what you are referring to is not the law is not our standing order. I'm not saying that you didn't ask for the studying. What are you asking you to now we have issues? I think this matter is long.

They are mainly informing me that they're studying what are you referring to is not Siaya County Assembly standing order. We don't know where it is generated from. We have our standing orders.

I want to, I'm giving direction that we will deal with that matter. Give our submission we have heard your concerns, allow us to deal with it. And to give you within the day, by the time we will be living here.

We will have made a determination for your consideration. Can you now allow us to proceed and get into the substantive issues? Leave alone? The preliminary objection and so on. You allow us to move on. Your concerns have been noted

**Mr. Nyamodi:** By proceeding. Yes. You have made your determination?

**The Chairperson:** No.

**Mr. Nyamodi:** Yes. In my request. I have requested for time to respond. And by proceeding. You have made your determination.

**Hon. Mandigu:** Chair.

**The Chairperson:** Yes,

**Hon Mandigu:** Chair just to inject from the guidance of our learned counsel, he has said that probably might be referring to the outdated standing order. And because this house of record probably will request him to read the updated as we are waiting for the updated so that I please he's on record that he might be having that copy that maybe we don't have

**Mr. Nyamodi:** With your permission. My client has the right to be heard standing order 64. Yes, it makes substantive provisions understanding order 1 and under sub standing order 2.

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It provides that a person being removed from office shall be availed the report of the select committee together with any other evidence produced and such and such not all papers presented to the committee at least three days before the debate on the motion. I have also cited the provisions of article 50 of our supreme law.

**The Chairperson:** Yes. Is your reading Standing order number 64.

**Mr. Nyamodi:** As I acknowledged from the beginning chair, perhaps we're not reading the same copy. I also want the committee to bear in mind the provisions of article 50 of our supreme law that guarantees every person the right to a fair hearing. And that right includes knowing the case against them adequate time to prove fair and to be determined before a fair and impartial tribunal.

What we're saying in this matter is that the documents were only presented yesterday. That is not adequate time to prepare, and it is against your standing order 64.

**The Chairperson:** Okay, our standing order number 64. I want to read that way my question has been amended, it shall, when put be put as amended, doesn't necessarily refer to what you're saying

**Mr. Nyamodi:** Perhaps 10 can give me a copy so that I show you that what I am saying is a public document, there's no need to hide it from

**The Chairperson:** You know, there is no need of you are going to get it. I just want to ask because you don't want to drag into it. And I think rights to be had in our standing order is on standing order number 74. And part two says, and I think this is what you're referring to, that the person being removed from office shall be availed with the report of the Select Committee, together with any other evidence adduced and such not all papers presented to the committee before the debate on the motion.

Note that what we are referring to is a report of a select committee. This is the select committee that report, we will ensure that before the motion on Thursday, the report will be given before the motion.

That is all we haven't met, we now proceed to make a determination on this matter and remove will not that the deputy governor in his written submission to the county assembly, which was received yesterday 5th June 2023.

He raised concerns on four issues in relation to the proceedings, which we are currently undertaking the issues revolves around matters of one procedure and admissibility of the motion on removal from office of the deputy governor public participation in the process, fair hearing an alternative remedy on the procedure and admissibility of the motion.

The committee finds that one, the mover of the motion was within the law, as stipulated in Article 181 of the constitution of Kenya 2010, section 33, one and 9A of the county government acts 2012 and standing order 71 and 72 of the county assembly of standing orders. The motion was sponsored by the member and supported by more than 1/3 of the members of the county, who affirmed by their signatures that the particular of motions were true to the best of their knowledge.

The procedure for processing the motion is in line with the law and the standing orders of the county assembly. The deputy governor has made citations of strange documents to house which is not the standing orders or the car county assembly to this effect.

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The procedure as highlighted in the written submission is not correct as per standing orders of the county assemblies for Siaya, for instance, the deputy governor talks of being provided with a report of the special committee prior to his appearance here.

It must be noted that report of committee shall be presented on the 10th day after its constitution, which will be on 8th June 2023. In essence, the deputy governor is jumping the gun in his submissions, but it is not the procedure as per standing orders of the county assembly of Siaya on the matter of public participation.

The Deputy Governor is on the opinion that the assembly has not such sufficiently involved members of the public in processing this motion since he claims the matter was only advertised in the daily newspaper.

The committee notes the following that the matter was advertised in daily nation newspapers on 30th May 2023, informing members of the public of the motion for removal of the Deputy Governor William Oduol, that the advert called on members of the public to submit memorandum comments and information in relation to the matter.

The advert gave members of the public 7 days to present such information considering that they largely defined the timeframe for the committee to execute the matter is 10 days. It was the opinion of the committee that 7 days was sufficient notice the county assembly further place the advert in its website and its official social media handles.

It is not true that the advert was only on the daily newspaper. And I also maybe when we look at the advert, some of the documents and the proceedings, physical be picked from the governor from the clerk's office. On the matter of hearing, the committee notes the following, the deputy governor was served with a letter notifying him of the motion to remove him from the office.

Next to the letter was the motion containing detailed grounds as documented by the mover of the motion in compliance with article 4750 of the constitution of Kenya. The notification served as invitation to the deputy governor to appear before this special committee today. To respond to the allegations in the motion.

The invitation was clear that the deputy governor has a right to appear in person or through legal representation. The deputy governor further made requests for documents and information to the assembly which were adequately responded to, and documents issued to him. Accordingly, we are persuaded that although the impeachment process has not reached the tail end, the deputy governor has been so far given a fair hearing on alternative remedy.

The committee note that removal from office of the deputy governor is a matter guided by constitutional and legal dictates, which provides for procedure and process. We note that the law does not provide any other alternative procedure, but ought to be followed in resolution of the issues before the committee.

To this end, the committee finds that the issue of alternative remedy of the matter is not merited or guided by any provisions in the law. A more detailed ruling on this will be found in the committee report. Thank you.

**Mr. Nyamodi:** Thank you for that guidance chairman, perhaps if the chair will be so kind to share with us a copy of that decision. And if the chair will grant us just three minutes, put our heads together so that we are then able to proceed with today's proceedings.

**The Chairperson:** One minute because it is time is moving very fast,

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**Mr. Nyamodi:** Then allow us to step out and consult for one minute and come back.

**The Chairperson:** Ok, you have consulted working we have

**Mr. Nyamodi:** Consulted. And I confirm. First I thank you for the indulgence to give us time to consult and I confirm that we are ready to continue with the rest of this morning's important proceedings.

**The Chairperson:** Thank you very much. Thank you very much. Now we want to proceed to substantive issue. And our clerk will take us through the motion, you'll realize that when the motion was adopted, it became the document of the assembly and such document was tabled to our committee.

Therefore our clerk is going to take us through the substantive issues of that document. Then from there, we will be I know we have what some of our witnesses here it is a car whom we will have to we'll have to excuse us at a point when we start now on issues interrogation, because we want to ensure that the matter is dealt with properly. So Clerk, proceed

**Mr. Nyamodi:** Perhaps maybe you can just give us guidance from here to the end of the proceedings. The clerk reads the impeachment motion. And then what are the other sequences of events?

**The Chairperson:** Ok, now allow me to stand and give this hour procedure or will be you know, we don't have all those written procedures on this. And we are going to try to do the best what we are going to do now, we are going to be taken through the issues that were raised. When these issues are being raised here.

I know in in here we have what some of our witnesses were seated immediately after getting the content of what is here, we will identify those witnesses that are supposed to appear here to excuse us from the from the building, then immediately we are done after they have left we will get the DG's position on the issues raised after that we will be asking questions maybe if we need to be from the members then after that, we will proceed to invite witnesses on particular issue like when we get issue number one that we are interested in evidence of so and so and so and so.

So the first person will come make a presentation. We allow you to cross examine them. And we take note then the next person that we that was after whatever we are going to be read to us. We are only going to listen to you what you presented on also allegations, then now we proceed to invite those witnesses for you to, for them also to tell us what it is there.

Then you guys as a team also, cross examine them on some of the very issues that you will need to close the exam, then we call it a day we sit back as a committee and listen, I want to confirm this. We want to be very impartial, give you a very honorable environment. And I know the Members, we are live on almost all social media.

We are live on some of the TV channels. And this is the best opportunity for us that our decision we are going to come with. It shouldn't be for the good of all of us. At the end of the day, we will leave this place happy for the sake of Siaya. And I know that engagement for maybe next week or so will be very healthy. And to see Siaya move in a good direction. Clerk. Thank you,

**Mr. Nyamodi:** Chairman, perhaps, again, just a small query from the guidance that you have given the witnesses are for all intents and purposes, the deputy governor's accusers,

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is it correct for the deputy governor to speak before his accusers have spoken before the accusations have been laid before him in their entirety?

**The Chairperson:** These are motion these are not generators of the motion; they are just witnesses. And by giving you presenting the accusation now is a document of the assembly assemblies presenting that document with accusations.

So and that is why after they are presented, the accusations and the issues that are here, then you will respond to those issues. And while we are executing it here, all of the members and the witnesses will be here to listen.

Well, did you respond, none of the witnesses will be here. He will respond. And then the issue will ask questions in some of our witnesses that are justifying some of these offenses will be invited, then you are allowed to cross examine them as witnesses.

**Mr. Nyamodi:** There's two issues here. What the DJ is responding to, is not the very eloquent presentation that will be made by the clerk to the assembly. But it is the allegations or the substance that will be made by this gentleman seated behind me.

If the matter proceeds in that way, then what will happen is that the DG will be responding to accusations that have not been laid.

There is no difference at this juncture between what the clerk is going to say and what these gentlemen behind me are going to say. That is the totality of the accusation against the DG what he is entitled to is to respond to both if we go in that direction, cross examination is by counsel, not by the DG if the DG testifies, and then his accusers testify and the only right is given his cross examination.

That is not a response. Cross examination will merely test the evidence. If he puts his response on record before his accusers, then there is something wrong.

**The Chairperson:** Okay. Well, *wakili*, DG has made a response he has done is written submissions, with or without those people speaking. He has their statements. And he has responded to us.

The charge sheet is drawn from this side; we have the charge sheet. What clerk is doing is reading you the charge sheet after reading the charge sheet. You decide do you want to reorder us after reading church? Did you say we ask you? Do you plead guilty or not?

**Mr. Nyamodi:** Chairman, I am glad you have used the example of a charge sheet it because it is a scenario that both myself and yourself are familiar with. If we proceed in the manner in which you propose, what is happening is that the charge is read.

**Hon Arika:** Yes. Point of order. Mr. Chairman, point of order.

**The Chairperson:** Yes.

**Hon Arika:** Mr. Chairman, kindly I am requesting you to address the committee. And, Mr. Chairman, we need to move on. And I believe the issues being raised by the council, I think it will be proper for our witnesses, witnesses to take the stand fast when you allow the DG to interrogate. So I highly request that you make a ruling so that we move on

**The Chairperson:** Are you good with that?

**Mr. Nyamodi:** Chairman to that I say a resounding in mane.

**The Chairperson:** Thank you. Clerk, can you take us through

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**Assembly Clerk:** Thank you, honorable chair. I now read the motion that sets the background for our being here. Motion on removal from the Office of the Siaya County Deputy Governor William Oduol by impeachment pursuant to Article 181 sub article 1 A C.

Article 75 of the constitution of Kenya 2010 section 33 of the county Governments act 2012 and standing order 72 of the county assembly of Siaya standing orders. Mr. Speaker, sir, in consideration of the provisions of article 73 sub Article 1A3 and 4 of the constitution of Kenya 2010.

Here in after referred to as the Constitution, insofar as it connotes be the manner in which a state officer is expected to exercise assigned authority. Whereas article 75 sub Article1 of the Constitution obligates a state officer to behave in all senses in a manner that is devoid of compromising public or official interest in favor of personal interest.

Aware that a state officer having taken and subscribed to oath of office pursuant to provisions of article 74 of the Constitution is duty bound to adhere to the values and principles of public service as espoused in article 232 of the Constitution,

Most importantly, the practice of equitable provision of services he fed to the county assembly of Siaya having been signaled by public utterances and allegations by the deputy governor, to the effect that there were misgivings, elements of dictatorial leadership misappropriation of public funds and biasness in budget allocations, amongst other positions,

The assembly being fully appraised of the importance of provisions of article 73 sub Article 2 D of the Constitution, which requires all state officers to be accountable to the public for their decisions, actions, and by implication public utterances the assembly in exercising its constitutional mandate of being bestowed with the power to summon any person to appear before it for purposes of giving evidence or providing information, in line with article 175 of the Constitution,

Resolved to invite the deputy governor to shed light into the import of his public proclamations about the administration in which itself further aware of the significance of the provisions of Section 29 of leadership and Integrity Act 2012, which prohibits an officer from knowingly giving false information to any person, section 30 of leadership and Integrity Act 2012, which prohibits a state officer from falsifying records or misrepresenting information and sections 27 subsection 3G of the county assembly powers and privileges act 2017, which classifies willful furnishing of a county assembly or a committee with information which is false or misleading, or making a statement before a county assembly or committee that is false or misleading as an offense,

Noting that the Deputy Governor William Oduol submitted information to the county assembly together with associated alleged evidence, presumably to the best of his knowledge and ability concerned that the analysis of the information provided by the Deputy Governor, his prior actions,

His actions prior and subsequent to providing the information and observed misdemeanor in the manner in which he runs the affairs of the Office of the Siaya County deputy governor that goes against the grain of several provisions of the Constitution of Kenya 2010 county government act 2012 leadership and Integrity Act 2012. Public Procurement and asset disposal act 2015 Anti-Corruption and economic crimes act 2016. County assembly powers and privileges act 2017 and public officer's ethics acts 2009.



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Mr. Speaker, sir, this Assembly resolves to impeach the Siaya County Deputy Governor William Oduol, under Section 33 of the county government act 2012 and standing order 71 and 72 on the following grounds one gross violation of the Constitution and other laws. Under that ground, there is interference with procurement process through acts of Bid rigging.

These are the grounds;

a. The Deputy Governor, William Odoul, interfered with the procurement of contractors for various road projects in the County and that of supply and delivery of certified seed and fertilizer, contrary to provisions of 47, subsection 1 of Public Procurement and Asset Disposal Act 2015, which states that, and I quote, a procurement function shall be handled by procurement professionals whose qualifications are recognized in Kenya.

b. The Deputy Governor coerced the head of the County Procurement Unit to give him a raw evaluation report for the tender on supply and delivery of certified seeds and fertilizer, together with assigned professional opinion, despite being advised on the dangers of exposing such documents for a procurement process which had not yet resulted in a final selection and award of tender.

c. The Deputy Governor William Odul, unjustifiably relying on the authority of the Office of the Deputy Governor, caused to be changed by coercion certain specifications in 86 tender documents for road constructions.

d. By engaging in actions explained herein, Mr. William Oduol, being not a procurement professional with qualifications recognized in Kenya, acted at ultraviolence to the provisions of procurement laws.

Second ground, abuse of office and gross misconduct.

One, bulldozing officers to renovate the office of the deputy governor outside approved budgetary provisions. The Deputy Governor, banking on the authority of his office, forced incurring of expenses of approximately Kenya shillings 18 million for purposes of renovating his office in bracket interior and exterior works, purchase of furniture and office equipment, an expenditure that was not in the Budget and therefore not in the procurement plan.

This was in contravention of Section 53, subsection 2 of Public Procurement and Asset Disposal Act 2015, which states that, and I quote, an accounting officer shall prepare an annual procurement plan which is realistic in a format set out in the regulations within the approved budget prior to commencement of each financial year as part of the annual budget preparation process.

Further, Section 53, Subsection 3 of the same Act states that, and I quote, any public officer who knowingly recommends to the accounting officer excessive procurement of items beyond a reasonable consumption of the procurement entity commits an offense under this Act. The actions of the Deputy Governor of forcing unbudgeted for expenditure contravene the canons of procurement requirements.

The other ground is misuse of public resources.

It is on record that in November 2022, the Deputy Governor William Oduol, while attending his PAC meeting in Sarova White Sands Hotels in Mombasa, in his personal capacity and not in his official capacity as the Deputy Governor, caused the County

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Department of Governance and Administration to facilitate him and three other officers whose relevance to ICPAC meetings could not be confirmed as they were not Members of the ISPAC, apart from the driver whose roles were undoubtedly essential. This was contrary to the provisions of Section 46 of the Anti-Corruption and Economic Crimes Act 2003, Revised. 2016, which states that, and I quote, a person who uses his office to improperly confer a benefit on himself or anyone else is guilty of an offense, close quotes.

The deputy governor used his office to confer benefits to officers to attend a function that was irrelevant to them.

The other ground, bullying.

a. In his effort to coerce the County director of supply chain management, Mr. Martin Okwata, to bend to his whims and change specification in certain tenders. The Deputy Governor William Oduol threatened the Director and promised him a harsh working environment in the coming future, apparently in reference to the Director's adamancy to give him the tender documents.

It is also on record that the Deputy Governor demanded constant briefings from the Director supply chain management directly on matters of procurement, despite the Director not being answerable to him as per the structure of the County Government.

The Deputy Governor demanded constant and repeated briefings not only on matters of procurement but also on matters of finance. It was on record that he constantly and persistently demanded information on County financial transactions directly from the Acting Officer of Finance and Economic Planning, Mr. Jack Odinga, even though Mr. Odinga was not directly answerable to him in his responsibilities and duties.

This repeated behavior humiliated Mr. Odinga. It was peculiarly noted that the Deputy Governor, Mr. William Oduol, only demanded direct and constant briefings from finance and procurement departments, and not from any other County department, which are equally important in the service provision to the residents of Sia.

d. The actions of the Deputy Governor of threatening and persistently demanding information from the officers who are not directly answerable to him was akin to the provisions of Section 34 of Leadership and Integrity Act 2012, which states, and I quote,

1. A state officer shall not bully any person.

2. For purposes of subsection 1, bullying, includes repeated offending behavior which is vindictive, cruel, malicious, or humiliating and intended to undermine a person.

The fourth count, misleading the public by giving false information.

Moral and ethical requirements of any state officer dictate that he or she must always accurately and honestly represent information to the public. Section 29 of Leadership and Integrity Act 2012 states that, and I quote, a state officer shall not knowingly give false information or misleading information to any person.

Section 27 subsection 2d of County Assembly Powers and Privileges Act 2017 classifies as an offense, actions such as those which result in giving false information or evidence before an Assembly committee. Section 27, subsection 2f of the same Act further states that, and I quote, a person commits an offence when the person willfully furnishes a County assembly or a committee with information that is false and misleading.

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It is on record that the Deputy Governor William Oduol misled the County Assembly and has continuously been misleading Members of the public in the following instances.

A. The Deputy Governor misled Members of the public that funds allocated towards the completion of Siaya Stadium had been reallocated in the supplementary Budget 1 for the financial year 2022-2023. However, it was confirmed that the allocation had been enhanced and not removed, as the Deputy Governor claimed.

B. The Deputy Governor misled Members of the public and the House that there was discriminatory budgetary allocation to disadvantaged residents of Alego-Usonga constituency. It was later confirmed that Alego-Usonga was the highest beneficiary of development funding in the supplementary budget one for the financial year 2022-2023.

C. The Deputy Governor misled the County Assembly and Members of the public that the County Secretary, Mr. Joseph Ogutu, was forced to resign by the Governor, information that was denied by the County Secretary.

D. The Deputy Governor misled the County Assembly and Members of the public that County bursary allocation in Siaya is riddled with corruption and that school head teachers, who are critical stakeholders in the determination of needy cases, are left out during the vetting process. This assertion was invalidated by statements of the CEC member for education.

E. The deputy governor William Oduol misled the County Assembly and Members of the public that Mr. Austin Otieno was a political affairs officer in the County public service and that he had been interdicted without being given an opportunity to show cause why disciplinary action could not be taken against him.

Investigations revealed that Mr. Otieno was not appointed to the County Government as a political affairs officer, but a social welfare officer, and further, that Mr. Otieno was procedurally asked to show cause why disciplinary action could not be taken against him.

The allegations were signed in the motion by Honorable Gordon Onguru, MCA East Assemble Award on 22nd May 2023. Thank you, Honorable Chair.

**The Chairperson:** Thank you, Clerk. On the same, then, I just wanted to jog our mind on to what we are here for. The Select Committee is doing its investigation into this matter, and we present our report on the matters alleged whether confirmed or not confirmed within the merits of the committee.

I saw the response from our Deputy Governor on rationale for the impeachment and I want to do verbatim that impeachment proceedings speaks to matters of good governance under constitution and the standards of leadership and integrity set, particularly under Chapter 6 of the Constitution.

The question to be shed is whether weighing one being with another and the totality of all the circumstances the person sought to be impeached possess the leadership and integrity test under the Constitution.

There is a ruling here, the Senate ruling on the 11th Parliament on the case of Wairia as rightly cited. The purpose of impeachment is to ensure that the people of a County are governed in a matter consistent with the Constitution and the law of Kenya.

That impeachment is all about accountability, political governance, as well as political responsibility. So, then the Court of Appeal, as it appreciates the quasi-judicial process, that

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the impeachment as attributed in Article 181 of the Constitution revealed that the removal of the governor is not about criminality or culpability but it is about accountability, political governance as well as policy and political responsibility.

You look at what accountability is, accountability is the acceptance of responsibility for one's own action, responsibility for your action and the political governance is all about the concern with the creating the conditions, order, rule and collective action. As we move forward, this is our guiding references and our investigations.

Issue number one that was raised is interference with procurement process through acts of bid rigging. And on this matter, you realize that the discussion here is surrounding procurement and therefore in the issue number one, we will invite our witness and am being informed that the Director of Procurement is here. Do you have the Director?

Yes?

**Mr. Owade:** Maybe before you go to the witnesses, allow me to make a brief statement.

**The Chairperson:** Who are you? First, introduce yourself.

**Mr. Owade:** Thank you very much. My name is Philip Richard Owade. I serve as the County Attorney of the County government of Siaya. I received a letter dated 24th May, 2023 from the County Assembly inviting me and my legal team to attend these deliberations in my capacity as County Attorney and to, I quote provide legal advice to the committee end of quote.

As you are aware the office of the County Attorney is established under the office of the County Attorney act number 14 of 2020 section 7a of that act provides that the County Attorney shall be the principal legal advisor to the County Government.

By demit of Article 176 of the Constitution of Kenya 2010, the County government is defined to include both the County Assembly and the County Executive. This essentially means that the County Attorney has the mandate to advise both levels of government. Section 8.1 of the Act empowers the country Attorney to appear at any stage of the proceedings before any court or tribunal.

Further, Section 9.1 of the Act gives the County Attorney the right of audience in proceedings in any suit or inquiry of any administrative body which may be of public interest or may involve a department or agency in the country executive. As principal legal advisor to the two arms of government, my role in these proceedings, if at all, can only be strictly advisory and essentially to act in what I would describe as *amicus curiae* (a friend of this committee).

In this regard, my role will be restricted to making submissions on matters of due process and procedures, attempts to delve into substantive legal arguments, would likely jeopardize or otherwise, compromise my impartiality and neutrality. Due process is a fundamental human right principle guaranteed by the Constitution. Furthermore, any person who stands accused has a right to be heard. I think that has come out clearly in the preliminary discussions. In this regard, the County Government Act, together with various other legislations, the Constitution, the County Assemblies powers and privileges Act, County Assemblies Standing Orders, outline essentially the procedures to be followed when deliberating the matter of impeachment of a DG.

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I would implore this Committee to implore to abide by these procedures and to ensure that everything is done according to the lay down laws and procedures. I wish to point out Mr. Chairman for instance that Section 33 (9a) provides modalities that is with necessary modifications, that a DG shall be removed from office as the Governor.

(1) A county governor may be removed from office on any of the following grounds--

- (a) gross violation of this Constitution or any other law;
- (b) where there are serious reasons for believing that the county governor has committed a crime under national or international law;
- (c) abuse of office or gross misconduct; or
- (d) physical or mental incapacity to perform the functions of office of county governor.

In every instance where it states the County Governor can be replaced but the County Deputy Governor. Based on Article 181 the procedure for removal of a Governor or Deputy Governor is well outlined on Section 33 of the County Government Act.

These sections have been ably and sasieclly reproduced by this Assembly in the invitation letter to these proceedings and I do not intend to reproduce them. I must emphasis that however, that as amicus curie I am not expected to exhibit any partiality to any side. My role is strictly to advice on matters of law and procedure.

In the case of Attorney General verses Ndii and the 73 others the supreme court held as follows;

1. Amicus curie is governed by the principle of neutrality and fidelity to the law.
2. Amicus briefs should be limited to legal arguments.
3. Amicus role is to aid the court in this regard the County Assembly to arrive at a determination based on the law.

This principle should guide our participation albite reluctant in these proceedings. Why do I say so? Mr. Chairman, orders of Members, ladies and gentlemen as I conclude, it goes without saying that we are in a very delicate and a precarious situation. Hon. William Oduol is the DG of Siaya where the officers who have been called to give evidence in this proceedings work.

Hon. William Oduol the DG is therefore, our boss whom we have been taking instructions since the inauguration of new administration on 25<sup>th</sup> August 2022, we and I in have worked closely with both the Governor and the Deputy Governor particularly as a Member of the Executive Committee.

The precariousness of the situation is aptly depicted by an American adage which would have it that Hon. Oduol is only a heartbeat away from becoming the Governor of Siaya. In the circumstance my responsibility is to remind the County Assembly to exercise their responsibility as elected representatives of the people of Siaya based on legality and rules of procedures guiding the Assembly and am delighted that the Chair has assured us that the Committee will precisely do that.

In the circumstances and in conclusion I wish you fruitful deliberations but I will recuse myself from active participation in these proceedings so that I do not chose one side over the other considering my role as defined in the County Attorneys Act.

Thank you, chairman for giving me the opportunity to make those remarks.

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**The Chairperson:** Are you saying that you want to just sit back and watch? Is it because you fear that DG is your boss?

Mr. Nyamodi, what do you have to say?

*(Laughter)*

**Mr. Nyamodi:** Good afternoon again and thank you for the opportunity just to seek a clarification. During the course of this morning's proceedings, I have occasionally felt that I am participating in more than one proceeding. There is a proceeding that is present within this chamber and there is another proceeding and I want to point out 2 instances from the other proceeding before I make my point.

First instance, is the ruling that the chair had read. The second instance the appearance of my eminent senior colleague as amicus. If indeed the County Attorney is participating in these proceedings as amicus, then my client the DG is the subject of these proceedings.

That letter dated 24<sup>th</sup> May written by the Assembly to my learned senior colleague in his capacity as County Attorney should have been copied to my client and if indeed, he had been admitted as amicus, my client's voice should have been heard in that decision.

I wish to put that in record. If he is amicus, it would be very nice to receive the speech or briefs that he has just presented. Because again it goes towards the determination and it's my client who is the subject of these proceedings. This proceeding is not happening in a vacuum they are by the Assembly about the DG.

**The Chairperson:** Thank you Mr. Nyamodi. What I want to confirm to you is that we are having one proceeding and this is what we are having. When you did your written submissions, we had everything because all you are saying here, we have it in written submission and whatever we are reading had been submitted to us.

We have secretariat who do the write ups for us when you submit your documents. So, we work with the documents you give us and as I had earlier said we would decide on those issues that you were raising and by the time we were finishing with that discussion the write up was ready.

So, it is not another meeting, it's the Committee meeting and I think you are aware that when you were taking tea somewhere around here given that we are a hospitable Assembly, we were seated here and discussing. So, it is not something that is new. Our Committee has been continuously receiving your communications and responding.

Therefore, I want to say that unless you have a feeling that we do the investigations in that all the issues are put here, we discuss and do recording. We are in a tribunal! We are doing investigations with an aim of knowing the truth.

If you have a feeling that his presence will jeopardize our investigations and I also feel that him as the legal council of the County and the matter under deliberations affects the County. I don't think him being here will really jeopardize whatever we are doing and as he has rightly put it he will sit back and watch because he represents both the Assembly and the Executive. He is here to watch and listen. Are you okay with that?

**Mr. Nyamodi:** Just to put one point on record, the issue of time arose during my submission and my submission didn't end before 30 seconds, but just go on.

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**The Chairperson:** We are not going to give more time and we just want to go directly. You will realize that when we present to you the case and Motion your client had been served with all the documents we wanted to rely on. He has written back to it and he has communicated to us not our witnesses.

As such therefore, I have a feeling that we having read the charges I wanted the DG to make his statement on those raised issues.

**Mr. Nyamodi:** This is why I say I feel like am sitting in two different meetings. One of the Hon. Members, Hon. Arika suggested and you agreed that that is the way we were going to proceed.

**The Chairperson:** No. I told my clerk tom proceed with reading the charges as we consult. Can Hon. Oduol proceed?

**Mr. Nyamodi:** Chairman, with tremendous respect to yourself and this Committee that is not how things happen.

**The Chairperson:** Can Hon. Oduol proceed?

**Mr. Nyamodi:** Chairman, I have responded to that question. Ki has made my submissions earlier, my submission was made by a point of order and I thought you had made a direction, am prepared to proceed as you directed earlier not the one in which you have changed your mind.

**The Chairperson:** Have not made a direction, Hon. Arika made his point while we have 14 Members of the Committee here...

**Hon. Arika:** Point of Order chairman. With all due fairness you made a ruling over the same and it's only fair that the witness is given time then the DG follows with interrogation. I believe you made a ruling over this thing.

**The Chairperson:** Any other Member with a comment? You know Hon. Arika always our witness is not responding to the charge. A charge has been read do you call the witness or you call the accused to respond? We have read the charge so who should respond to it, our witness?

Hon. Oduol can you take the stand.

**Mr. Nyamodi:** Chair, perhaps you can give guidance to what you envisaged as a response to the charge.

**The Chairperson:** We have given issues and these issues have been responded to by Hon. Odul, we the responses, we have read you the charges. You know last time when we read the charges, we read everything and we were given the written submission and we ended it there and made our report based on the written submission.

We are giving you opportunity to present to us your submission.

**Mr. Nyamodi:** Sorry, which other time are you referring to? This is the first time this impeachment Motion is being heard in the presence of Hon. Odul.

**The Chairperson:** We have been in this process so am just saying that we are ready and whoever is to answer to us to the charged is the accused person. Can Hon. Oduol take the stand.

**Mr. Nyamodi:** It is prejudicial for the accused person as you call him to take the stand before evidence is laid in support of the charge. What has been read is the charge and he cannot take the stand to defend himself before a basis is laid in support of those charges.

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**The Chairperson:** Did you respond to the charges?

**Mr. Nyamodi:** Chair, I had asked and again with tremendous humility had asked what you envisaged as a response?

**The Chairperson:** What did you sent to us? We have a document from you, what is it again?

**Mr. Nyamodi:** Chair, again my response is going on and do as you must.

**The Chairperson:** Have gone on to do what I must which is Hon. Oduol ready to take the stand?

**Mr. Nyamodi:** Chair, on his behalf have said an emphatic no! Not in these circumstance that have put on record but again by way of encouragement I say go on and do what you must.

**Hon. Adala:** Chair, I just want to make a remark but again he has accepted where we are because I found it a little bit funny and appealing that he is asking us what he is expected to respond to yet we have written submission that he shared.

So, if he is again asking us what he is going to respond to then it is way of maneuvering around in circle. I see time being wasted so that we don't move forward and not do that which we are expected to do as a House. So, basing on the fact that you had sent back a written response it therefore means that you are responding to issues that had so far been raised.

**Hon. Arika:** I believe we are here for oral submissions and ordinarily how do courts separate? The witness needs to submit their case then the DG will be given opportunity to interrogate.

Unless what is being raised by the council is if there is any other meaning of DG responding to the charges but if it is a matter of interrogating the oral representation then we have to give our witnesses first opportunity then the DG responds.

**The Chairperson:** Hon. Arika this is not a court proceeding; it is a Committee with TOR well spelt. It reads committee will investigate. What we are doing we have read the charges and we have a response from Hon. Oduol, do you think in any way when Hon. Oduol puts his case and the witness puts his case he is responding to what? At a point we will have to go back and forth.

**Hon. Arika:** I believe we have County Attorney in between us would it be proper...

**The Chairperson:** You are out of order!

**Hon. Omwende:** Thank you, first and foremost let me take this opportunity to say that I appreciate the way you are conducting these proceedings. You look very diplomatic. I don't know if some of us live in another continent but after the charges have been spelt out in any court of law, I think the accused will be given opportunity to say whether he agrees with the issues being raised.

How can a witness be given priority, to witness what? Chair am with you and I urge you to stand to your feet.

It is clearly coming out that the accused was not prepared and therefore cannot drag us behind so that we can give them time to prepare. This matter must be done with.



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**Hon. Omoro:** Thank you. I think we should put our points straight and not wallow with time. Time is of essence. I think the first report that was brought was a culmination of the allegations that were done by the DG through written response to this House.

A committee sat on it and found some of the areas that were not interdorm with what the DG alluded to. So, it is in that regard say the DG said that there was misappropriation of funds or rather the monies were being reallocated from the Siaya stadium to Migwena then that is when the DG responds then after that the CECM for Sports, Cultural and Social services will say no it was not reallocated but so and so was done.

**Hon. Apodo:** Thank you. I think in a normal circumstance even if the DG response yes to all our allegation, then we don't even have time for the witnesses to talk. The witnesses will talk if there is case to answer. Perhaps the DG says the allegations are correct then what are the witnesses going to respond to?

**The Chairperson:** I think we are saying the same point and this what have been saying. You cannot start on giving witnesses because if DG says yes, this true then why would we waste time to giving director procurement time to speak! why?

So that is what have been saying as we have read the charge the next thing is the DG to give us his position on these charges then now areas that are not clear with us, we invite the witness to take a stand then we allow the council and the DG himself to cross examine then we take a position on the matter as Committee.

**Mr. Nyamodi:** Then that question must be put to the DG and it has not been put to him since this afternoon.

**The Chairperson:** Hon. DG the charges have read to you what do you have to say on each of the issues?

**Hon. Oduol:** Not true. I deny in total.

**The Chairperson:** Let me say on charge of gross violation of Constitution and other laws.

**Hon. Oduol:** With respect I thought we were running against time and that is why I said I deny in total against all the 3 counts.

**The Chairperson:** Thank you. In count number one can we call upon the director procurement to take the stand!

**1. MR. MARTIN OKWATA**

DIRECTOR SUPPLY CHAIN MANAGEMENT

*(Mr. Okwata took oath)*

**The Chairperson:** Mr. Okwata you can introduce yourself, tell us who you are, what you do and your mandates in the county.

**Mr. Nyamodi:** It looks like Mr. Okwata is about to start his important testimony. If I recall and again I go back to my submission earlier that I feel like I am in multiple proceedings.

I recall the direction the Chair gave earlier that at this juncture if we did get here then the other witnesses would leave. Perhaps Chair can confirm that all the other witnesses are not in the Chamber.

**The Chairperson** (Hon. Otiato): I was just looking at what is supposed to be the evidence in relation to the matter that we shall be talking about; in this particular issue there is no any other person except him.

**Mr. Nyamodi:** With respect, that is not the guidance that you had given...

**The Chairperson** (Hon. Otiato): *Wakili*, on the matter under discussion now, on this particular charge, no any other witness here will testify. When you maybe go to the second charge or so there are two witnesses, in such a situation the other witness will be out.

In this we have one witness so the presence of maybe *Waziri* Governance or *Waziri* Otumba who is a witness in a matter Bursary how is it affecting the issue of fertilizer?

**Mr. Nyamodi:** At this stage I am constrained to call on your commitment to be fair. One of the aspects of fairness is consistency.

**The Chairperson** (Hon. Otiato): We are consistent in that. Do you find that the witnesses for other charges if they are here will interfere?

**Mr. Nyamodi:** Chairman, again with tremendous respect the Deputy Governor has not called any other witnesses, so the Deputy Governor is not in a position to tell what these witnesses are here for, therefore that question is unfair.

**Hon. Madingu:** With your permission we want it put on record that this is a fair House. Basically what you are saying is that there were charges that were bringing the idea of impeachment and these charges had been read to the Deputy Governor and therefore before he then speaks through himself or through the lawyer, we have a written submission especially from the first charge.

We are talking about interference with the procurement process through acts of rigging. If you read the DG's submission, there is a place that he is talking of, "Yes, I summoned" but right now he is denying everything.

Now, for us to talk on the issue of summoning which may be termed as probably interfering we have the head of procurement ready to utter word by word on the reason why he thinks the summoning part of it was approved or was responded to by the DG acknowledging the fact that he got the summon; we want to find out whether the Director of Procurement will tell us whether he was summoned and why he thinks that that amounts to coercion.

That is the reason we are here and basically we want to talk to *Wakili* Nyamodi, in this one, let's just be fair to both the House and also to the accused. We have a written submission, if you want it to be read to you about the interference it was done point by point.

We are talking about issue of summoning which at the end of it all is being summed as coercion on the written submission of the DG. He is saying, yes, even though I summoned, it is for this House now to see whether that could be termed as coercion. There is no need of denying a witness a chance to testify.

**The Chairperson** (Hon. Otiato): On that particular charge, do you think the existence of Hon. Otumba who is the CECM of Education will cause a sub judice to the process?

**Mr. Nyamodi:** I have pleaded for consistency.

**The Chairperson** (Hon. Otiato): Just say yes or no then we take a decision

**Mr. Nyamodi:** I am entitled to give my answers. I have pleaded for consistency. Chairman you are not being consistent. Please proceed. Let us go on as you determine this, you are the Chair.]

**The Chairperson** (Hon. Otiato): Let us proceed. Mr. Okwata who are you?

**Mr. Okwata:** Thank you, Mr. Chairman, Sir and all Hon. Members. My name is Martin Okwata. I am the Director Supply Chain Management in the County Government of Siaya. In a nutshell my role is the management of the procurement function in the county.

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With regard to this matter of interference there are two aspects here. There is one for the tender of the seeds and then there is one on the advertisements of the procurements that we did sometime in early February.

In the matter of the seeds the procurement started sometime in December and I can say that it was time bound because we had to procure the seeds to be supplied before the planting season started.

As we progressed well, when we advertised the tender, the DG called me to his office and asked why we restricted the tender to youth. And then I think I explained myself, that it was not restriction but reservations. I expressed myself and then I thought he was satisfied and the matter ended there.

After sometime the matter appeared in the weekly citizen and he called me again on the same. So I explained myself again and the matter ended there. When we were just about to finalize the process, he called me again. He summoned me and requested for the tender and all documents relating to that procurement.

I took a day or two but he kept on pestering me, so I went and gave him the evaluation report and then my person had done a professional opinion that I was still reviewing so it was not yet signed so because of confidentiality of the procurement process, I shall refer you to section 67 of the Act, you cannot give procurement documents to persons not involved in the process.

So I decided not to give the tender documents that were from outsiders but I decided to give our own internal documents. A day or two after that the EACC requested for documents and then we decided to terminate the procurement proceedings as provided in law based on governance issues.

In my opinion I quoted that since EACC had collected the documents we could not proceed and sign a contract on copies but the salient issue was that I was afraid of the confidentiality of what I had given but I could not put that in writing because that could raise governance issues if you give documents to somebody not involved in the procurement process.

After that we went to a government institution, Kenya National Trading Corporation and I think one of the claims the DG made is that he doesn't know why I went directly to a government institution but one of the reasons was that the time remaining to the planting season was not enough to do any other open tender.

The only avenue was to go to a government institution where there are no timelines. I can say that that was successful, the fertilizers and seeds were delivered on time.

With regards to the projects procurement, there were two instances, we were invited by the Committee on PAC of the Assembly with the CECM Roads then and we explained how the contract packaging clusters would be done and they agreed with us.

When we were about to advertise the DG was not happy with the clusters, he wanted bigger clusters. What helped us there is we hid under IFMIS, we had already done the IFMIS processes and undoing that was going to delay. On that one he agreed with us.

The other part was on eligibility criteria. The Department of Roads had decided that they would limit a contractor to tender for only two tenders for equity purposes and they had also said that Directors within firms will only be limited to those two.

So that one he wanted me to change he called me and he wanted me to change that and I was not able to change it because the department was adamant. That is when he threatened me that I would have it very difficult if I cannot change what he wanted.

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In the first one and in this one also he told me that, “I cannot listen to an appointee, the *Waziri*’s role is an appointee, so I cannot listen to him.” Since I could not change it myself because in my opinion there was nothing illegal about what the department had said I decided to write an email.

Since I tried to convince them verbally but they were adamant, to convince DG that at least I tried, I wrote an email to the person in charge of procurement in roads and he communicated to *Waziri* and he refused.

So the next morning I went to the DG’s office and explained to him what I had done but he was not happy about me putting that in writing. I told him, “You are too harsh on me so I had to show you that I did something”. That was the last time he called me to his office. Thank you.

**The Chairperson** (Hon. Otiato): You are done?

**Mr. Okwata:** Yes, I am done.

**The Chairperson:** *Wakili*, do you have something?

**Mr. Nyamodi:** Plenty, plenty for this witness.

**The Chairperson** (Hon. Otiato): Proceed. We don’t have one hour for that, how many minutes?

**Mr. Nyamodi:** I am at your mercy. As long as you are consistent, I am at your mercy. As long as we engage in fairness, you give me time I will work with it. How much time do I have?

**The Chairperson** (Hon. Otiato): 10 minutes.

**Mr. Nyamodi:** Mr. Okwata, we need to be truthful and quick. Tender specification and alteration in the documents you have produced, is there any evidence of that? Can you understand what I am saying? Have you produced any document that the DG altered?

**Mr. Okwata:** We refused to alter.

**Mr. Nyamodi:** Yes or no?

**Mr. Okwata:** No but we refused to alter.

**Mr. Nyamodi:** How does it become alteration if you didn’t alter it? The next question, EACC is a government organization, if they get involved in an organization whose fault is it? Mr. Okwata, answer my questions.

**Mr. Okwata:** They have not given a report so we don’t know who..

**Mr. Nyamodi:** Do you think it would be important for them to give a report before these proceedings go on? There would be culpability even from your part...

**Mr. Okwata:** That is not my decision we are waiting for the report

**Mr. Nyamodi:** Now you have made certain wild allegations of interference, other than what you have stated from that witness stand, do you have any evidence? Do you have a record of a phone call? Do you have a message, a WhatsApp? Is there anybody else who was in the room with you when the DG did those things you allege?

**Mr. Okwata:** What I have is two emails because some were one on one. I was forwarding to him tenders that were being advertised and as you were talking about that, I want to invite the committee...

**Mr. Nyamodi:** Just a question, I ask the questions. It’s my privilege at this time. Please don’t deny me that privilege. There are two emails, now, in these documents, is any of those emails produced?

**Mr. Okwata:** Yes

**Mr. Nyamodi:** Where is it?

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**Mr. Okwata:** I produced to the committee.

**Mr. Nyamodi:** In what you have referred to now. Have you referred to those emails? Have you read the contents of those emails?

**Mr. Okwata:** Yes, I did them.

**Mr. Nyamodi:** Have you read them in the testimony you have given?

**Mr. Okwata:** Not here but I gave them to the committee, here no.

**Mr. Nyamodi:** Have those emails been given to the DG?

**Mr. Okwata:** The Clerk said he forwarded. So I believe he did.

**Mr. Nyamodi:** Let me ask a question and this is an important one. You are the first witness and you must be a very important witness in the proceedings before this Assembly this afternoon! Who is the DG's accuser? Take your time.

**Mr. Okwata:** The Assembly.

**Mr. Nyamodi:** I ask it again, who is the DG's accuser?

**Mr. Okwata:** The Assembly.

**Mr. Nyamodi:** It is the Assembly? It is not the Mover of the Motion but it is the Assembly? The process of evidence collection has been conducted by the Assembly. True or False?

**Mr. Okwata:** Yes.

**Mr. Nyamodi:** And that is why in the correspondence that you produced as your witness statement which is shared by the Governor, it evidences a to and fro between you and the Clerk.

**Mr. Okwata:** No.

**Mr. Nyamodi:** Let us look at your correspondence. Let us look at your letter. Have you been given these documents? Are you aware of them? Your letter dated the 9<sup>th</sup> of this year? Let me come and show you the letter.

*(Mr. Nyamodi showed Mr. Okwata the letter)*

What are you looking at?

**Mr. Okwata:** It is my letter to the Acting Clerk of the County Assembly through the County Secretary.

**Mr. Nyamodi:** Also a witness in this matter?

**Mr. Okwata:** Yes

**Mr. Nyamodi:** What is the subject of this letter?

**Mr. Okwata:** Investigations into allegations raised by the DG.

**Mr. Nyamodi:** It is not about investigations about impeachment, is it?

**Mr. Okwata:** This is what resulted to the Assembly deciding to impeach. I was responding to the DG's allegations because when they did this letter they just attached the DG's allegations on the seeds tender and now this is what has resulted in all this. If he did not include the seeds tender in here I would not be here.

**Mr. Nyamodi:** The letter refers to another letter, you are responding to a letter, have you produced that letter that you are responding to?

**Mr. Okwata:** As I said, this was a different investigation. This was under investigation so I cannot answer that.

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**Mr. Nyamodi:** The letter you are referring to, you must have seen the letter so that you respond to it. Have you produced it?

**Mr. Okwata:** I have not produced it because it was on investigations on the matter that was raised. It was not impeachment but now this is what resulted in the impeachment.

**Mr. Nyamodi:** As I take my seat I am not sure I have much more time, in respect of the allegations that you have testified about this afternoon, have you been involved in any other process either with this committee or any other committee of this Assembly?

**Mr. Okwata:** No

**Mr. Nyamodi:** You had no interactions with the proceedings before the Committee on General Oversight of this Assembly?

**Mr. Okwata:** No.

**Mr. Nyamodi:** As I conclude do you have any evidence as you stand before the committee this afternoon that the DG changed the tenders for the seeds?

**Mr. Okwata:** There are no allegations of changing the tenders for the seeds, so it is not there but it is the attempted interference of requesting for evaluation and professional opinion before the process is completed and I told him when he was asked that I give him.

**Mr. Nyamodi:** Do you have any evidence of that?

**Mr. Okwata:** It was a one on one thing so I can't go to my boss a whole Deputy Governor and record him or ask him to write.

**Mr. Nyamodi:** So it's your word against his.

**Mr. Okwata:** Yes.

**Mr. Nyamodi:** Thank you very much.

**The Chairperson:** Mr. Okwata, you have been asked very good questions, before we proceed, I have heard about this issue of a letter. Did you have a letter that you were responding to?

**Mr. Okwata:** The letter I have been referring to was with regard to responses to the allegations made against me by the Deputy Governor in the other process so the Assembly saw it fit because of that to process the...

**The Chairperson:** On your own as the expert of procurement, how do you think and this is the DG, he is the second in command, how do you think by him asking for the documents interfered with the tender procurement.

**Mr. Nyamodi:** Chairman, I had asked earlier on who the DG's accuser is. I think in that line of questioning it is becoming apparent. It is prejudicial for a body that is set up as being independent for the Chair to ask questions such as the ones you are asking.

**The Chairperson:** *Wakili*, I am just trying to understand as a Chair and for the benefit of the committee. I am not a procurement professional, you are not and possibly none of us here is. I still stand as a Governance expert thinking that possibly in my position as the DG I have a right to ask. If I ask is it interfering? That's the only thing that I want to know.

**Mr. Nyamodi:** The other thing that the Chair is not is the Mover of the Motion. The Mover of the Motion has not.

**The Chairperson:** *Wakili*, you had your time, please can you proceed

**Mr. Okwata:** I would invite you to read Section 65(1) of the Public Procurement Act on Inappropriate Influence on Evaluation and then Section 67(1) on Confidentiality because once you give documents to somebody you don't know what will happen to it and then also part (III) and (IV) on the role of County Treasury.

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I believe if he wanted this information he would have come to the County Treasury because it has the role of managing procurement including audits of the county and also Part (IV) on internal organization of procuring entities that will help you as you retire.

**The Chairperson:** Any member of the committee?

**Hon. Omoro:** Thank you Chair. I would want to ask Mr. Okwata that you as an expert, in terms of information dissemination and correspondences, how should it take its course bearing in mind that we have the Governor, the DG, CECMs and narrowing downwards, what is the process of information dissemination? Who should respond to who and how? Thank you.

**Mr. Okwata:** Thank you, Hon. Member, I think the information should flow from the CO to the CECM then the CECM will brief the Governor and the Deputy Governor because it is the same information instead of calling somebody directly if it is official information that you want to use.

It should flow to the various COs, CECMs and then to the top 2 Executive or alternatively through the CECM Finance because they are generally in charge of procurement function and the role of the County Treasury is very well spelt out in Part III of the Act. In my opinion those two avenues can suffice.

**Hon. Madingu:** Thank you so much, chairman. First of all, Mr. Okwata I want to remind this Hon. House that you should not feel threatened whichever the tone someone uses especially when trying to interrogate you because speaking loud doesn't make you right.

I want you to understand that if you know what you are supposed to answer, just answer it firmly because I can assure you nobody is going to beat anyone in this House.

My question is, did you copy the Deputy Governor on the email you were forwarding giving guidance on the department? Did you CC the DG so that he may be able to know that an action on whatever he was trying to request was disseminated?

The second one is who is your immediate Supervisor? And whether the CECMs have a role in procurement process and if there is, which one?

**Mr. Okwata:** Their role is limited but they have a right to know what is happening but now it is the channel of communication. Do they come direct to me or to the procurement persons within their departments?

The most important thing when you are now going ahead with the top two at least the CECM should know what you are going to say up there unless he is under investigation and ideally that CECM should be with you there when you are briefing the Governor.

I am sorry if I raised my voice sometime, I am sorry about that.

**The Chairperson:** Did you raise your voice?

**Mr. Okwata:** I don't know.

**Mr. Nyamodi:** We didn't hear his answer on the question about the email

**Mr. Okwata:** The email I didn't copy but the next morning I was in his office and I told him what I had done.

**The Chairperson:** What were you doing with the email if you didn't copy him? What was it for?

**Mr. Okwata:** Once you are threatened you see how to save your face. By saving my face was that I tried.

**The Chairperson:** So it was for your defence, you printed it out and went with it in the office.



**Mr. Okwata:** I told him I put what you told me in writing. You realize that I sent that email at 2.00 a.m. in the night because I did not sleep due to that threat.

**The Chairperson:** I was surprised at 2.00 a.m. in the night you are presenting an email for procurement.

**Mr. Okwata:** I did not sleep because of that threat.

**Hon. Baraka:** Thank you, Chair. Mr. Okwata, you can confidently confirm to this committee that the DG summoned you and even before you confirm and the DGs response he had kind of summoned you.

May you just please enlighten this committee what the nature of the summon was? Being that you are a procurement professional and it is guided by laws, in the scenario of the County Government would you please enlighten us the role of the Deputy Governor in procurement?

**Mr. Okwata:** In the Procurement Laws they don't mention anything on the DG but in terms of accountability is when you report through the CECMs because they are the top most people in the county. We cannot assume that we do procurement and they don't know. In the procurement process it is nowhere.

**Hon. Baraka:** So in short Mr. Okwata, whatever you are trying to say is that you don't report directly to the DG.

**Mr. Okwata:** No, I don't.

**Hon. Omwende:** Thank you Chair, mine will be a very simple question. You are claiming about the termination which I wanted you to explain the reasons the contract was terminated.

Two, make me understand where the procurement department resides. The department is under whose supervision? That is also key to me. That will also give me another question after you have answered that so that I get more information on that.

**Mr. Okwata:** I think with regard to termination, the Procurement Act under Section 63 you cannot just terminate because someone was winning and you don't like that. So there are criteria for termination like the Budget is not enough and everybody is non responsive but for this particular one everybody in governance has issues.

In my opinion EACC has taken a document so there is sort of corruption or something they are investigating and you have not completed the process so I did not go ahead to complete the process.

I also consider signing the contract because they wrote but as we were preparing they stormed in with fake documents. So I don't even know what documents we are going to use to sign the contracts because I did not have the mother documents.

The most reasonable thing was to terminate and start another process to make sure that the seeds and fertilizers are received on the planting season. If I would have done procurement process I would have explained why the seeds were delivered after the planting season.

So the process of termination in Section 63(1), there is how to terminate procurement proceedings so mine was material governance issues which is one of the processes. In terms of where procurement reports, ideally procurement people are under Finance and that is under the part I referred you to.

Part III of the Act on the role of County Treasury but they are seconded to the various departments. I act as the overall but there are procurement people in each of the departments. So they work with the COs because the departments are the procurement entities not the

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county government because the budgets are domiciled in the departments not in the national treasury.

Thank you Members I want to remind you because we have several witnesses almost 10 of them on various issues and time now amongst us here some of us are not very stable. We have sugar issues, ulcers, so let's do it at least even if we have a break but then we have done albeit 2 or 3. If there is any question let's proceed. Yes, Hon. Oguta.

**Hon. Oguta:** Thank you, Chair. Mr. Okwata from what you have tabled, are you convinced that the DG forced you to violate any procurement law, if any which one?

**Mr. Okwata:** It is a matter of procedure, we are talking about interference, trying to interfere I think we resisted trying to interfere with the process. I may not know because when he asked for the documents in fact I remember him say that he would find something wrong in the evaluation. That is why I didn't want to give the documents because if I give you an evaluation report without the documents you will not see anything. I think we resisted that.

**Hon. Oguta:** By making you to resist was that an interference with the procedure?

**Mr. Okwata:** There was an attempt.

**The Chairperson:** Yes, Vice Chair.

**Hon. Oinga:** Thank you very much, Chair. Mr. Okwata, allow me to ask you a question. You have mentioned to the committee that you presented some documents, evaluation and unsigned professional opinion to the DG. Were they officially received in his office by the secretary?

**Mr. Okwata:** They were not officially requested so because of pressure I took them to him personally. He even assured me that he would not take them out or anything.

**The Chairperson:** The DG is your friend? He assured you, *hiyo ni deal yenyu, haiwezi toka nje*. I think Members we need to move to the next one. Mr. Okwata thank you. You can now take some water.

The next issue is renovation of the Deputy Governor's office and as such we have the following witnesses:

1. Joseph Omondi the Chief Officer
2. Joseph Ogutu
3. Martin Okwata
4. Jared Abayo

I therefore request Mr. Joseph Omondi to take the stand and the 3 others the Serjeant-at-Arm please direct them where they will be seated.

## **2. Mr. JOSEPH OMONDI ONYANGO**

CHIEF OFFICER GOVERNANCE, ADMINISTRATION AND ICT

*[Mr. Omondi ushered to the podium]*

*(Mr. Omondi took an oath.)*

**The Chairperson** (Hon. Otiato): Can you introduce yourself, who are you?

**Mr. Omondi:** My name is Joseph Omondi Onyango CO Governance, Administration and ICT.

**The Chairperson** (Hon. Otiato): Are you saved?

**Mr. Omondi:** Yes, I am saved.

**The Chairperson** (Hon. Otiato): Now on the issue before us we are told that there is an allegation that the DG interfered or caused a renovation of his office outside the Budget.

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So before you respond can you tell us who you are, what are your roles as a CO and why are you here.

**Mr. Omondi:** As a CO my role first of all is to initiate the process of procurement of any activity in the department. As a CO I was called to the DG's office and shown the parts that needed repairs in that office, like the floor was peeling off and in the Board room the chairs were old and he felt that they should be replaced, the ceiling board was also falling off so those are some of the things he pointed out to me that he felt that I should ensure that are properly replaced.

Then shortly I went on leave and the acting CO who took after me did the procurement processes and the works continued that way. When I came back from leave, I found the work already complete.

**The Chairperson (Hon. Otiato):** So, you came back and found that the work was already complete?

**Mr. Omondi:** Yes. At one point when he went to Mombasa for the Governor and Deputy Governors' meeting the DG called me and told me that he was coming back in a weeks' time and he wanted to find the work completed but incidentally I went for leave before the whole process was completed.

**The Chairperson (Hon. Otiato):** I know the lawyer has some questions to ask but before he does that I just want to know if you went for leave after initiating the process?

**Mr. Omondi:** No. the acting CO that I left behind is the one that initiated the process.

**The Chairperson (Hon. Otiato):** okay. *Wakili* you can ask your questions but be short because this can just take 5 minutes.

**Mr. Nyamodi:** Mr. Omondi good afternoon.

**Mr. Omondi:** Good afternoon to you too.

**Mr. Nyamodi:** Do you have sight of your letter dated 2<sup>nd</sup> June this year?

**Mr. Omondi:** Yes, I do.

**Mr. Nyamodi:** You do! Perhaps I will just ask that you read the contents of that letter in its entirety.

**Mr. Omondi:** I don't have it here.

**The Chairperson (Hon. Otiato):** If you have it you can help him with it though I also think we have it.

**Mr. Nyamodi:** It might be better it comes from the Committee mine has certain comments that might displease him.

*(Serjeant-at- Arms handed Mr. Omondi the letter)*

**Mr. Nyamodi:** You now have the letter, can you tell us who the letter is addressed to, what the subject is and when is it dated?

**Mr. Omondi:** The letter is to the Ag. County clerk of the Siaya Assembly dated 2<sup>nd</sup> June, 2022 and it is talking about the renovation of the DG's office.

**Mr. Nyamodi:** Go on, what does it say? It is not a long letter.

**Mr. Omondi:** I was called to the DG's office by the DG and took us around and shown us the things that needed repairs. One of the areas that we were pointed out are the

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floor tile that were peeling off, the sagging ceiling board to be replaced, the curtains to be placed, the seats and carpets for the office and board room to be replaced too.

The lighting system to be improved and the walls to be made soundproof. While attending a Governors' and Deputy Governors' induction workshops in Mombasa he made a call and directed that the works be completed within a week signed by Joseph Omondi CO.

**Mr. Nyamodi:** Okay. That is the extent of your letter? Alright, are you aware of the proceedings that are before this House today?

**Mr. Omondi:** Yes, I am aware.

**Mr. Nyamodi:** Okay. If you are aware, and this is your testimony in respect to the office renovations perhaps are you able to guess why you are here?

**Mr. Omondi:** Pardon.

**Mr. Nyamodi:** Why are you here, if this is the content of your letter then what is the problem? What does your letter say or what issue does your letter highlight?

**Mr. Omondi:** Am explaining the procurement process of the renovation of the office of the DG.

**Mr. Nyamodi:** The DG is rather experiencing serious impeachment proceedings; this is the process and I am asking what is wrong with what you have documented here?

**Mr. Omondi:** The cost of the renovation.

**Mr. Nyamodi:** Okay. Have you testified about the cost and is it included in your letter?

**Mr. Omondi:** No, the cost is indicated elsewhere.

**Mr. Nyamodi:** Then I ask my question again, if we are here for impeachment proceedings and you state what you have stated in your letter. What is the purpose of your letter and why have you taken the Committee's time?

**Mr. Omondi:** I think I have just given the explanation of what was required of me.

**Mr. Nyamodi:** As I conclude, Mr. Omondi who asked you to come and testify?

**Mr. Omondi:** I was called by the Assembly to come clarify on this issue of renovation.

**Mr. Nyamodi:** Who from the Assembly?

**Mr. Omondi:** Definitely the letter comes from the County Assembly Clerk.

**Mr. Nyamodi:** Okay. Did he call you or he sent you a letter?

**Mr. Omondi:** It was via a letter.

**Mr. Nyamodi:** Thank you.

**The Chairperson (Hon. Otiato):** Thank you *Wakili*. You know you have been asked a very good question though the allegations being addressed are grievous but you say yours was just to clarify the issue of the cost and how it began.

What the lawyer is asking is if the DG calling you to his office is the problem because as a CO you are accountable. My question is after seeing the extent of the damage did you do the work?

**Mr. Omondi:** It was done but not within a week.

**The Chairperson (Hon. Otiato):** Yes Hon. Omondi.

**Mr. Omondi:** I have a question, therefore, I just wanted to know who was in charge because the CO says he went on leave and denying that he was part and parcel of the process.

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**Mr. Omondi:** I have not denied that I was part of it because am actually the one who was called and shown the work to be done but incidentally, I went for leave.

**The Chairperson** (Hon. Otiato): Anybody else?

Yes, Hon. Adiala.

**Hon. Adiala:** Thank you. Mine is just to confirm if there was express provision in the Budget to repair the office of the DG.

**Mr. Omondi:** No, in the Budget there was only provision for furniture which were part of the items he wanted in the office.

**Hon. Adiala:** So how come you did the repairs if it was not part of the Budget?

**Mr. Omondi:** There are some reallocations that were to be done to put funds for the repairs.

**Hon. Adiala:** Reallocations from where?

**Mr. Omondi:** From the department.

**Hon. Adiala:** So, they were not more pressing?

**Mr. Omondi:** They were not.

**Hon. Adiala:** Okay.

**Hon. Baraka:** Please just pardon, what is your name again?

**Mr. Omondi:** Joseph Omondi.

**Hon. Baraka:** Mr. Chair I will first of all ask Mr. Omondi this, you say you initiated the work of renovating the repairs of the DG's office, is that true?

**Mr. Omondi:** Yes.

**Hon. Baraka:** Who provided the specifications of the work that was supposed to be done and can you please tell this Committee how much was used to renovate the office? And after answering those questions it will lead me to what I want to ask that I think we have to come clear on.

**Mr. Omondi:** Specifications are given by department of works and the amount that was used for internal renovation was Kshs. 4.9 million and for the purchase of seats or furniture was Kshs. 11.5 million though I don't have the exact figures.

**Hon. Baraka:** That is where I was heading to. Therefore, it is possible given that you are saying that furniture did cost Kshs. 11.5 million and renovation Kshs. 4.9 million totaling to around 16.4 million plus the exterior work?

**Mr. Omondi:** Yes.

**Hon. Baraka:** Are you saying that this is money that was there within the department but was not so important that the renovation of the DG's office was kind of an emergency?

So Kshs. 15 million...

**Mr. Omondi:** Actually, it is Kshs. 18 million.

**Hon. Baraka:** Okay. Please I just want you to explain here and tell everyone what the cost of the DG's chair was.

**Mr. Omondi:** That I can't quote exactly because I sent the invoice to the Assembly.

**Hon. Baraka:** Chair can we get the invoice?

*(The invoice was handed to the witness)*

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**Mr. Omondi:** It is a bit fade so I can't read it properly.

**Hon. Baraka:** No, it is here. Can we read it for you?

**Mr. Omondi:** Yes.

**The Chairperson** (Hon. Otiato): Just to guide. What is the chair called?

**Mr. Omondi:** I will go one by one.

Payment request for presidential 8x4 mahogany timber finished in 2 pack at Kshs. 336,700.

Book shelf cabinet at Kshs. 567,700.

5 pieces of coffee tables at Kshs. 756,700.

Executive orthopedic desk chair back and seat fully spring at Kshs. 238,840.

Executive visitors' chair back and seat fully spring at Kshs. 238,840.

Office mahogany in and our tray at Kshs. 178, 200.

Executive custom-made round table finished in 2 pack at Kshs. 254,800

Executive high back orthopedic chair in leather at Kshs. 287,000

7-seater custom made executive covered at Kshs. 910,000.

Executive orthopedic dark chair back and seat fully spring at Kshs. 1,120,000.

6 meters conference table at Kshs. 1,051,000.

Executive visitors chair back and seat fully spring at Kshs.84000.

Grooved coffee table at Kshs. 211,400.

2 lows executive custom-made chairs at Kshs. 161,000.

**Hon. Baraka:** Chair, the total is Kshs. 11,366,000 tax inclusive. My concern is on the Executive orthopedic dark chair back and seat fully spring at Kshs. 1,120,000 and I want you to note that.

We are finishing with the Committee but I think something is wrong somewhere, how on earth is a chair costing Kshs.. 1,120,000? So, you want to tell us that one person is sitting on a chair worth Kshs. 1.1 million?

**Mr. Omondi:** Yes.

*(Loud consultations)*

**Hon. Baraka:** We have to be very serious. I don't want to go deep into it but seriously we need to take this matter seriously and even if you go ahead and do your research on the people who did the procurement and we know that in procurement there is tender advertisement, tender opening and evaluation.

Look at the committee members, can you read it?

**The Chairperson** (Hon. Otiato): Member, I know you will be having time with Director Procurement and I think he is coming after him.

**Hon. Baraka:** Okay. I am now convinced that there is corruption. You can continue, thank you.

**Hon. Madingu:** Thank you. Mine is just to confirm because I don't know if it's a typo or it was correctly written. My reference is on Joseph Omonds' letter that I was called to the office of the DG by the DG and took us...I just want to know because the call came to you and who were us? Who are us that were now going round to be shown areas that needed renovation?

**Mr. Omondi:** It is a typo.

**Hon. Madingu:** Therefore, this should go on record that it is a typo.

**Hon. Omoro:** Thank you. I would also want to ask the CO. You have said that this money was just a local arrangement in the department and I wanted to ask you if it was subjected to the supplementary Budget because Kshs. 18 million is just too much.

Was procurement due process followed? You also say that you left when the work was about to begin so who finished the work?

**The Chairperson (Hon. Otiato):** On that we will not belabor much because I think the next witness will be able to expound on it. Members I think the objective of having invited him is that at the time this begun he was there because the question was that how did the process start?

We have seen that there is someone who initiated and did the process and I think he is here and so he will be able to respond to the questions. I therefore, request that we don't ask him things that he might not be able to respond to.

**Hon. Arika:** Thank you. Just a point of correction. CO, we know that the DG has been concerned with the wastage of resources and expenditure, was he aware that Kshs. 18 million was spent in renovating his office?

**Mr. Omondi:** I think that is what chair is saying I may not be able to answer because I was not there by then so the person who was around should be able to answer that.

**Mr. Nyamodi:** Chairman perhaps through you if I may ask Mr. Omondi one question, did he have any role in determining the extent of the furniture and its cost and perhaps the DG had a role in determining the extent of the furniture and its cost?

**Mr. Omondi:** No, I didn't but the other question can be answered properly by the next witness.

**Hon. Oinga:** Thank you Mr. Joseph. A quick question, kindly confirm to this Committee that indeed you were called by the DG to go be shown the areas to be renovated.

**Mr. Omondi:** Yes, I was called.

**Hon. Oinga:** Thank you. Kindly confirm to this Committee that the repair and buying of furniture went beyond the budgetary allocation.

**Mr. Omondi:** Yes, it did.

**Hon. Oinga:** Thank you.

**The Chairperson (Hon. Otiato):** Thank you. You will call for us Mr. Abayo.

### **3. JARED ABAYO**

DIRECTOR, PUBLIC PARTICIPATION AND CIVIC ENGAGEMENT

*(Oath was administered to Mr. Abayo)*

**The Chairperson:** You are Mr. Abayo?

**Mr. Abayo:** Yes Sir

**The Chairperson:** Who is Abayo?

**Mr. Abayo:** My name is Mr. Jared Abayo, I am the director, Public Participation and Civic engagement.

**The Chairperson:** Do you know why we are here?



**Mr. Abayo:** Yes.

**The Chairperson:** Just to maybe jog your mind, there is an allegation facing our Deputy Governor on issue of renovation of his office. What do you know about this renovation?

**Mr. Abayo:** I came to know of this issue when I took over as the Acting Chief Officer, Governance and Administration, I found the process was already on. There was need to do repairs in the office of the Deputy Governor.

In terms of the need, the former Chief Officer and there was also engagement with the County Secretary to identify the need. What did I do at the point I got in? There was need to do the work but there was no budgetary allocation.

We did at the point that we were to do the Supplementary. As a department we discussed this issue and we did agree that we would reallocate funds. Under my signature, I did a memo to the procurement that we go ahead, look at the need and start the process of procurement with the spirit that we would make that provision in the Supplementary Budget.

We got communication from the Assembly that we needed to appear before them to discuss the Committee on Budget and Appropriations. We made a submission to reallocate funds that we were going to shelve the construction of the public service board and the County Executive Complex which I think was in the Budget Kshs. 5.5 and also reallocate the construction of the sub county offices of Rarieda.

It was on 18<sup>th</sup> I think November, I did share with the Clerk of the committee on Budget of this Assembly, that particular was approved by the CECM Madam Dorothy Owino. We made a presentation of the same before the Committee in Kisumu with a view that would take effect.

I wish then to report that finally that the discussion within the Committee and the discussion within the Assembly that possibly did not see the light of the day when we were looking at the final submission in the supplementary.

**The Chairperson:** Who did the requisition?

**Mr. Abayo:** I have said I did a letter asking the procurement to start the process of procuring a service that was I think around October when I had just got in.

**The Chairperson:** On which vote head?

**Mr. Abayo:** Well, that is what I have said!

**The Chairperson:** Because I understand nowadays we have an end to end where IFMIS number need to be generated. You said transfer?

**Mr. Abayo:** That is what I am saying, the time the discussion had started...

**The Chairperson:** My concern is, you have said you are removing money from Sub County of Rarieda. And where was supposed to be County Public Service Board? Where was it being established?

**Mr. Abayo:** There is a place that had been identified next to the government buildings next to the stadium. I remember some of them had been pulled down. Actually this was a previous project.

**The Chairperson** (Hon. Otiato): You talked to Rarieda Sub County and he told you their office was not urgent so that you could bring to the DG's office? Wakili, do you have something:

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**Mr. Nyamodi:** Mr. Jared Abayo, good afternoon!

**Mr. Abayo:** Good afternoon!

**Mr. Nyamodi:** I just want to start with you where you finished. I want you to confirm that you are on record as stating that you have not made any written statement in respect of the testimony you have rendered this afternoon.

**Mr. Abayo:** Even the communication to the DG was very explicit. I am among the four who did not present written statements.

**Mr. Nyamodi:** I just want you to confirm that, have you written a statement?

**Mr. Abayo:** No

**Mr. Nyamodi:** Okay. Would it be fair then to say that the DG is hearing what you have to say in respect of this impeachment Motion for the first time as you testify?

**Mr. Abayo:** Possibly, I believe so!

**Mr. Nyamodi:** Is there in perhaps possibility another way in which he would have known what your testimony is?

**Mr. Abayo:** I am not sure. I have not done any communication in written neither have I had a discussion with him on the renovations.

**Mr. Nyamodi:** Okay. What was the procurement process for the purpose of this renovation?

**Mr. Abayo:** Well, the procurement process when I did make a request having discussed as a department that this was a possibility, and asked the procurement, then they would go ahead and do, pick on the process, adverts done through our portal and to get who to be able to do the work.

**Mr. Nyamodi:** Were these works to be carried out exclusively in the DG's office or was there any other area that was being worked on at the same time?

**Mr. Abayo:** At that time it was the DGs office.

**Mr. Nyamodi:** What about the gate?

**Mr. Abayo:** Those were other subsequent works.

**Mr. Nyamodi:** But they were done at the same time as part of the same process?

**Mr. Abayo:** There is the DG's office then the other works separately.

**Mr. Nyamodi:** Let me try and jog your memory again. What about the holding office at the DG's place? Was it done at the same time?

**Mr. Abayo:** Yeah, it is part of the package. That is a waiting bay for guests to that office. So this is part of that building.

**Mr. Nyamodi:** The DG's office is part of the County Government of Siaya office premises?

**Mr. Abayo:** Precisely.

**Mr. Nyamodi:** It is not personal to the DG?

**Mr. Abayo:** Of course!

**Mr. Nyamodi:** If God forbid he were to be impeached, another DG would enter that office?

**Mr. Abayo:** Of course!

**Mr. Nyamodi:** Another DG will enter that office? If that DG were to use the same furniture, again God forbid, would he be impeached?

**Mr. Abayo:** Which same furniture?

**Mr. Nyamodi:** The same furniture we are talking about, the renovation in that office, would he be impeached for using that furniture?

**Mr. Abayo:** There was renovation and there was also furniture.

**Mr. Nyamodi:** The renovation and the furniture, the transaction, he would use the office?

**Mr. Abayo:** Yes!

**Mr. Nyamodi:** The DG will leave with his personal effects and everything else that is public he would leave there!

**Mr. Abayo:** Yes!

**Mr. Nyamodi:** Now, would you get rid of the other DG because he used that office?

**Mr. Abayo:** Sorry!

**Mr. Nyamodi:** Would it then be reasonable to impeach the other person who takes his place because he used that office, he used the furniture?

**Mr. Abayo:** By just using the furniture will not warrant his impeachment!

**Mr. Nyamodi:** Thank you. Lastly, was the DG involved in the procurement process at any stage?

**Mr. Abayo:** Not at the point that I know, if he were, not to my knowledge.

**The Chairperson:** Mr. Abayo, wakili as asking you a very simple question. That what are you here for? The key issue here is that one, did you just come here? Why would you be called here?

You are telling us, at a point you are saying that I initiated the procurement. How did you initiate? Is that document here? You wrote a letter to relocate money, are those letters here, and are they part of evidences that have been produced before us?

**Mr. Abayo:** I think I need to admit this that I know the Assembly requested for some documents from us, I am not sure whether copies of what I am talking about were actually provided.

**The Chairperson:** There is a write up on 20<sup>th</sup> October, 2022; request to procure office renovation services to one Director Supply Chain, signed by Mr. Jared Abayo. This document is before us, the author is known. Can you just confirm whether you were the author or this thing has been generated from somewhere?

**Mr. Abayo:** That is exactly what I have said that I did write, that is the letter I was referring to.

**Hon. Oinga:** Thank you, Mr. Abayo. Kindly confirm, were you the accounting officer of Department of Governance and Administration at the time this renovations were being done and the deliveries of these seats?

**Mr. Abayo:** I said, I found the process on. The renovations were done when I was acting.

**Hon. Oinga:** Were the renovations done while you were in the office and were the deliveries done while you were in the office or not?

**Mr. Abayo:** The renovations were done when I was in the office.

**Hon. Oinga:** Thank you.

**The Chairperson:** At what point did you get the process?

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**Mr. Abayo:** I found when the need had been identified and I mentioned that the former Chief Officer, there had been that discussion to be able to identify the need of what needed to have been done. But when I come in, do we go on with the renovations and there is no money. The DG had just come in and there was need to do one or two.

**Hon. Akinyi:** Mr. Abayo, I would like to ask, if this tender was an open tender?

**Mr. Abayo:** I may not precisely comment on that unless I consult with...

**The Chairperson:** Just to guide, I think the Director Procurement is just about to come in and he will be able to answer!

**Hon. Madingu:** Thank you, Mr. Chair. I am quite familiar with Mr. Abayo. I want to vividly say that the person speaking here is not Mr. Abayo. There is somebody else speaking for him. He is one person that I have known as a respected person.

You initiated a procurement process, I am sure you must have been aware of the amount that was going to be incurred in all these processes. In your own reasoning and view, do you see whatever was done had the value for that money? Can you tell this Committee!

**Mr. Abayo:** Thank you, Chair. What I had mentioned is initiating a process. And when part of the process is to determine the scope of work to be done, we were to engage our technical department to do the assessment because even whoever was going to do the quotation would base it on the scope of work.

In terms of the assessment of if the work to be done was done by our technical team to have done the BQ that as they move forward to now go with the process, they even have a frame work upon which potential bidders can be able to fill.

When we had done that proposal then the scope of work within the building, the projection of the department was about Kshs. 4.8million for the interior work.

**Hon. Omwende:** I have some issues that I also need to ask you. For record purposes, I just wanted to know that Budget, is not clear how much was spent. Is it Kshs. 11million or Kshs. 18million? Could I know that!

Two, it was not even clear at a given point whether Supplementary was approved by the Assembly? It is as if you are doubting, it's like there was some miscommunication whether the Assembly approved or not.

**Mr. Abayo:** Whether the Budget was approved or not, I have said the Supplementary Budget that I got actually from the Assembly, the Budget for renovation is not in the Supplementary Budget.

**The Chairperson:** Have the money been paid?

**Mr. Abayo:** No money has been paid to the contractor. The Budget upon which we were relying did not come to fore then where would we be able to charge it?

**The Chairperson:** You had written somewhere that; relocate the following monies. You gave powers to the procurement on the basis of transferring some money? So you are saying that that money was not even transferred but you went ahead and did procurement?

**Mr. Abayo:** I think that is the letter that you read. The spirit was, as a department there was concurrence we would reallocate money.

This I have confirmed we did propose for that reallocation. The Assembly within their wisdom have not approved it but have the monies allocated in areas as per what is in the supplementary Budget.

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**Hon. Adala:** The Assembly in its Supplementary Budget, the item was not there. Along the way you said that you started of all this thing in writing. Isn't it? When we had a talk with the CO, unfortunately that time you were not there, his feeling was that this thing was not very urgent.

I am very interested to know what is this that made you start off this thing knowing so well that it is not in the supplementary budget. Two, it is not something very urgent that if a seat of a Kshs. 1m is not yet bought somebody is not going to die but will still be alive. I wanted to find out, is there a force somewhere that really pushed you that;

Look here Abayo, this thing has been rejected by the Assembly and of course that one you know because we were with you when we rejected this. This thing has been rejected by the Assembly and you still deem it fit to start off this exercise. Is there a force that pushed you into doing this?

**Mr. Abayo:** I want this to go into record. A Member has said that he knows me very well and I can tell you in my experience, you would easily not push me especially when I am on the right I will stand my position.

I want to lay any fears that anybody who knows me that I would be pushed by anybody with my work experience, I want to put that very clear. When I know I am doing the right thing you will not push me even if you are my boss.

The spirit is, even the supplementary Budget protracted for a long time, I want to appreciate that. When there was that concurrence of reallocation and did not delay, it took abit of time, the process may have gone forth and this did not see the light of the day, I think that would be where the challenge is.

**Hon. Oinga:** Mr. Abayo, just a straight question, it won't take more than two minutes. You had confirmed that you were the accounting officer of the department as at the time this work was being done. Were you appointed officially as the accounting officer of the department?

**Mr. Abayo:** Yes

**Hon. Oinga:** Did you ever brief the DG about the renovation works and the procurement for the furniture during your tenure in the office?

**Mr. Abayo:** the procurement of the furniture in terms of briefing him on the progress?

**Hon. Oinga:** Did you ever brief him?

**Mr. Abayo:** I don't think at any one point we were discussing.

**Hon. Oinga:** You never discussed anything concerning the renovations and the furniture with the Deputy Governor?

**Mr. Abayo:** I think that tickles, there was the bit of the projection. We had mentioned that there was Kshs. 5.4Million and when I saw the projections going to Kshs. 7. Something million then I raised this in one of our meetings that this amount of money is Kshs. 5.4million and therefore if we were to procure this at Kshs. 7.4million that would be high.

**Hon. Oinga:** Was the DG part of the meeting?

**Mr. Abayo:** That is what I am coming from. And that is one thing I raised even before the Governor and the Deputy Governor and then subsequently, the process, I had a

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discussion with the DG on that. That was when the public works had done the scope and all that.

**Hon. Oinga:** At some time you discussed about that! Thank you. The next question, was the DG aware that the works and furniture were not in the Budget? Did you inform him that they were not there?

**Mr. Abayo:** I can't remember whether we had discussed that but at this point that furniture was in the Budget. Renovations as a department we did discuss and agreed we would do reallocation.

**Hon. Oinga:** So you agree that you discussed it?

**Mr. Abayo:** On furniture we had a discussion.

**Hon. Oinga:** Thank you. Did you also inform the DG or discuss with the DG that these particular works were not in the procurement plan for this Financial Year?

**Mr. Abayo:** Of course it will follow because when the Budget is done then there is a procurement plan, at that point it may have not been in the procurement plan. And that is why...

**Hon. Oinga:** Thank you, Mr. Abayo, am satisfied.

**Hon. Omwende:** I feel like my question has not been answered. The one that I asked. I remember for the record purposes, I am not in a position to know whether it was budgeted for renovation. Was it Kshs. 11m or Kshs. 18m was consumed. And lastly, was there any public participation to this regard? Thank you.

*(Consultations)*

**Mr. Abayo:** This was Supplementary and when we make a proposal and present to the Assembly, then it is the Assembly to decide whether they want to take it for public participation or not. What I know is, the projections when we were having the discussions, the interior works were projected at Kshs. 4.8m.

Today as per the records that are there is about Kshs. 4.9million. The furniture as per the records, as per the quotes and all that, their profit is about Kshs. 11m and I think that is in our documentation.

**Mr. Nyamodi:** According to them the projection was about Kshs. 11m. Is that what you projected?

**Mr. Abayo:** That is the actual cost

**Mr. Nyamodi:** What was your projection?

**Mr. Abayo:** I think what I got by the time I was having a discussion, the first projection was going about Kshs. 7.9m and that is public works.

**Mr. Nyamodi:** Then what happened? How did it reach Kshs. 11.9m?

**Mr. Abayo:** That is the question and that is what I did mention. When we make projections as a County we are not possibly putting in the tax and even the profit margins.

**Mr. Nyamodi:** So, Mr. Abayo, according to you the whole process and the costing to you was fit, there was value for money?

**Mr. Abayo:** My point of reference is what was our quote by our technical team to be able to make the comparison?

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**Mr. Nyamodi:** You initiated the process? You projected Kshs. 7m, the whole costing ended up to Kshs. 12m. I am just asking, was there value for money?

**Mr. Abayo:** That is what I am saying, I would be able to determine that, I am sorry I do not have this right away.

**The Chairperson:** We want to finalize this and I know you know you are not under trial. You are telling us that you are one man who cannot be pushed as long as you are doing what is right.

Section 53.3 of procurement is saying this; *any public officer who knowingly recommends to accounting officer excessive procurement ...beyond reasonable consumption and procurement entities commits and offence.*

Now, we also have an issue of budget that we don't procure what is not budgeted for. Then here you have meetings, you are telling us you had meetings, the DG, the Governor, whatever what...to discuss this issue even reallocation.

Supplementary budget is subject to public participation. You are head of the public participation, you went to Rarieda to tell them that you don't need a sub county office.

Rarieda refused to release that money therefore the Committee on Budget could not release it. You came here and the Alego people said we cannot release money for County Public Service Board! The state that we are in now is that the work is pre done, contracted out of the law. As this Assembly we are not willing to allocate any money for that office. How are you going to pay the contractor?

**Mr. Abayo:** Let me take a step back. When the Executive did propose that there was need for Supplementary Budget, this is cascaded to various departments to look at reasons or factors that would be able to make any amendments in the Budget

**The Chairperson:** Just tell me, how will you pay it? You are the Chief Officer, the Budget for the whole department is Kshs. 5m to purchase chairs for the whole department. How have you distributed this Kshs. 11m? Which offices are having these seats? How are they distributed?

**Mr. Abayo:** The seats we are talking about, the furniture in the office of the DG

**The Chairperson:** The furniture in the office of the DG is Kshs. 11m, that is what you are saying?

**Mr. Abayo:** Furniture is within the DGs office, including the Boardroom

**The Chairperson:** What about the department of governance? Because for the Kshs. 5m there were supposed to be some chairs taken to the governance, some in the office of the Governor. Are you saying that the budget for the whole year Kshs. 5m plus additional monies were staffed in one office and the other departments left without anything?

And here you are telling us that your office and your department in a sitting that you were with the Deputy Governor and the Governor, you decided to buy a surgical chair for Kshs. 1m for one office while the other offices are going without a chair?

**Mr. Abayo:** I said I had a brief with the Governor and the Deputy Governor but now the discussion about reallocation was done at the department and therefore this is subjected to the CECM of the department to discuss it further. But one thing I want to raise is that despite this, this happened and then there was no money for the other departments, other departments did not have.

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**The Chairperson:** Other departments did not have.

**Hon. Achieng:** I just want to enquire from Mr. Abayo, whether the contractor who was doing the renovation, is he the same one who was doing the supply of the furniture?

**Mr. Abayo:** I need to find out the documentation. I know the furniture were supplied by Udonga, I need to check whether it is the same person.

**The Chairperson:** I think the director of procurement is coming but again Mr. Abayo that shows a problem in you! You are the Chief Officer, you are the one signing awards. In the procurement Act you are the one to sign!

The other guy is only giving a professional opinion! If you don't know whoever you gave the contract to!

**Hon. Abayo:** I just need to confirm, it could be the same Udonga who supplied both.

**The Chairperson:** Thank you, Mr. Abayo. Have a good day

## 5. MR. DAMIANUS ABONYO OMOLLO

ADMINISTRATIVE OFFICER IN THE OFFICE OF THE DEPUTY GOVERNOR

*(Mr. Damianus Omollo ushered to the podium)*

*(Mr. Omollo took an oath.)*



**The Chairperson** (Hon. Otiato): Thank you, can you introduce yourself. Who are you and what do you do for Siaya County?

**Mr. Omollo:** Damianus Abonyo Omollo, Administrative officer in the Office of the Deputy Governor. My work as administrator is to coordinate the Office of the Deputy Governor and other offices and alongside other administrative duties to be done in that respective office.

**The Chairperson** (Hon. Otiato): Now, we have a matter here before us on attendance of ICPAC meeting by the deputy governor. That is in November. What do you know about it?

**Mr. Omollo:** For your information, Mr. Chairman, my name was forwarded as one of the witnesses and it is only yesterday evening of which I was informed by one of my bosses, the CECM governance that I am to attend this particular function without telling me what I was coming to witness about.

In the past, also, there was nowhere of which I have been alerted or written something down about what I've been asked now. So that is the status I am in, but given that I'm a civil servant working under that office and those are my bosses I complied and came though. I'm green on anything that I'm going to be asked here.

**The Chairperson** (Hon. Otiato): Okay. I told you when we started that our key role here is we kind of do our investigations, we invite whoever is responsible for a particular issue, to tell us something that they know.

In this particular matter there are documents relating to the travel of Deputy Governor for ICPAC meeting that you Damianus wrote and made the requisition. So we just wanted to get from the basis of what you raise that as administrator, what was being financed and how many people were going for this meeting, then we are just done with you.

**Mr. Omollo:** Thank you chairman. Given that it has taken time, that is way back in November and we are in June I may just request for me to see the particular Safari or how do we call it? The workshop, which was in Mombasa in November, because I can talk on a different one.

**The Chairperson** (Hon. Otiato): This year, how many ICPAC meetings were there because this was on 20th 2022?

**Mr. Nyamodi:** Thank you chairman, somebody accused us this morning, one of the Honorable Members accused us this morning of not being prepared.

**The Chairperson** (Hon. Otiato): Who is that? I didn't hear that.

**Mr. Nyamodi:** That we not being prepared or not being ready to proceed. We are ready to cross examine this witness.

*(The documents handed over)*

**Mr. Nyamodi:** Perhaps the deputy governor can also be given sight of those documents because like the witness has confirmed he has not recorded a statement. We are hearing his testimony for the first time.

**Mr. Omollo:** Yes, Mr. Stefan I know about this.

**The Chairperson** (Hon. Otiato): Yes. So tell us about it.

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**Mr. Omollo:** So, this was an invitation by the ICPAC, now, deputy governor is a member of the ICPAC together with another colleague in our office, who is called Mr. Komira. So, on capacity as the Deputy governor and the ICPAC member, he was invited to that particular function in Mombasa, it is true.

**The Chairperson (Hon. Otiato):** Okay, so what happened? You got a letter, how do you always process travels? The letter, if I have invitation I bring to you as admin or it comes from the county secretary to your desk, then what do you do?

**Mr. Omollo:** So, in my case, as the administrative officer, the letter may come through the deputy governor's mail or the deputy governors office email. So, by that if he has not seen or something of that sort, then I make him know what is going on then He advises on how to proceed on.

**The Chairperson (Hon. Otiato):** So in this one, how did it proceed?

**Mr. Omollo:** So, in normal circumstances, and that is what I always do. After receiving the invitation letter I seek guidance from him as to how to go about it. What he tells me is not final I can also advise that, sir, if it is like this and this, let us do this for it to come out in a good way because that's my job. So in most cases, that's how we do it. Therefore, I write a requisition.

**The Chairperson (Hon. Otiato):** So in this one, what did you do?

**Mr. Omollo:** I wrote the requisition to the chief officer governance, the chief officer governance approved my requisition then, I took it to the accountant in charge of the department, the account of the Department took it to their chief officer or director then it was approved. After the approval, that one means that they got some vote head that is why it has gotten some three four approvals. So when it comes to after that it is taken to the IFMIS, at the IFMIS there are several steps encumbrance, validation, expotation and finally to the IB. Then it is where it gets paid.

**The Chairperson (Hon. Otiato):** Okay, so that's it. Did you get another letter or that was the letter that you got?

**Mr. Omollo:** Given that I've just received this one some minutes back I cannot ascertain, because I've just received it from you, sir. I never knew this is the thing and I told you that I came here green so I can say that there was another letter or this is the letter.

**The Chairperson:** Mr. Damianus, are you turning hostile?

**Mr. Omollo:** No, no, no.

**The Chairperson (Hon. Otiato):** Were you part of this travel?

**Mr. Omollo:** Yes.

**The Chairperson:** So you don't know where you went to but you paid yourself?

**Mr. Omollo:** No. Come up again. I'm not getting you now because you're getting emotional chair. In a situation where I am trying to explain that I'm not getting what you're saying.

*(Laughter)*

**The Chairperson (Hon. Otiato):** I was asking in this document that you're having was that the only letter because you processed this payment? You processed how this will be facilitated, what I only wanted to know from you is that was that the only letter that you had

and is the one you used to process this payment because we only have one ICPAC meeting yearly and you attended.

**Mr. Nyamodi:** Chairman, I must object because you are now testifying.

**The Chairperson** (Hon. Otiato): I'm asking a question based on the document.

**Mr. Nyamodi:** There is no evidence on record as to the number of ICPAC meetings other than what the chair has said.

**The Chairperson** (Hon. Otiato): But we have annual, when you say annually ICPAC meeting how many can that be?

**Mr. Nyamodi:** Chairman we were doing very well at an attempt at impartiality but after lunch we seem to be losing our track.

**The Chairperson** (Hon. Otiato): Maybe I lost energy but now I have it back to ask questions. So Damian, what we are asking you is that there was that one meeting and it is written annual meeting that was held in Mombasa in 2022 and you attended. Is it true?

**Mr. Omollo:** I've gone to several of them so if I can have a look at what you carry on your hands, then I can ascertain.

**The Chairperson** (Hon. Otiato): They can be several but one annual meeting where subscribe members attend.

**Mr. Omollo:** I've seen it sir.

**The Chairperson** (Hon. Otiato): Okay, so proceed.

**Mr. Omollo:** I attended this meeting.

**The Chairperson** (Hon. Otiato): Now, I was just asking is that the letter you use to process movements for the whole of that group as the admin?

**Mr. Omollo:** What I can remember is that there was a letter which I got from our email, and there was one of which was sent directly to the deputy governor from the ICPAC. So right now, I can't ascertain that this one is the one of which was given to the DG from the ICPAC or this one was the one of which I retrieved from our email.

**The Chairperson** (Hon. Otiato): So which dates did you guys' travel? The one you're processing was for which dates?

**Mr. Omollo:** Chair, the papers before me here, you have just given me these things I never knew that this is what I was coming to meet here as a witness. So maybe if you could have given me time, I could have come and tell you something substantive.

**Hon Adala:** Chair, thank you so much and Damian I want to appreciate you for coming and for being in the witness stand to help us understand some things.

Damian Abonyo Omollo that should be the name! You are the chief admin assistant in the office of the DG? And what we are addressing now refers to a meeting that you attended that which you were paid, that which you have shared that in as part of the tasks that you do is to make arrangements in terms of assigned tasks in the office of the DG.

Which also means that for him and his entourage to have gone to this meeting, you must have made a requisition for funding of the same, right? As part of the team that went the you were also paid, right? I wanted to find out the invitation letter that you used to make requisition you must have seen it right? The letter that you used in making a requisition is it a letter that was addressed to him as a CPA or him as a DG?

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**Mr. Omollo:** This one was addressed to him as a CPA and there was one of which was addressed to him as the deputy governor.

**Hon Adala:** So you have the other one that was addressed to him as a DG.

**Mr. Omollo:** The other one came after I had prepared the requisition for the invitation.

**Hon Adala:** Thank you. So as at the time you are making a requisition you used that one, which was addressed to him as a CPA?

**Mr. Omollo:** The other one came after I had prepared the requisition for the invitation.

**Hon. Adala :** Thank you. Now was this function of the County or individual function? **Mr. Omollo:** No, given his position as the deputy governor...

**Hon. Adala :** I'm asking as at the time you were making a requisition you did it as a DG or CPA?

**Mr. Omollo:** No, I did him as one of the officers of Siaya County Government, who was invited and attended. Yes, like other officers who are CPA?

**Hon Adala :** Okay, so you were saying that as at the time you were making a requisition you applied as a DG or CPA? This is what I need to note.

**Mr. Omollo:** To me, he's a DG, but to that function to that particular ICPAC thing he his CPA.

**Hon Adala :** Would I therefore be right to say that you did make a requisition to support him in his in his role as a CPA and not DG?

**Mr. Omollo:** Sir, I am just going to share this briefly for you also to shed light on something.

**Hon Adala:** I am patient.

**Mr. Omollo:** Now, at the county government on the Executive side, we have over 20 CPAs and these people whenever they are going or invited for such meetings, they ask for per diem or facilitation. So alongside that, given this is the deputy governor and the deputy governor can't just go alone like maybe say an Accountant in charge of trade department. So that necessitated the two or three people of whom accompanied him in that particular function.

**Hon. Adala:** Are you done?

**Mr. Omollo:** Yes.

**Hon. Adala:** Back to where I was, I want you to really affirm was this a function which was official or it was a function that he was invited as a CPA not as a DG.

**Mr. Omollo:** It was official as the deputy governor who is a CPA K member.

**Hon. Adala:** You have that?

**Mr. Omollo:** You have asked me the question and have answered you.

**Hon. Adala:** Yes, I'm asking you have the re-invite, which was showing him being invited as a DG not as CPA, honorable Dr. William Odhiambo Oduol?

**Mr. Omollo:** Yes, there is one, it is only that it came later when I'd used this one.

**Hon. Adala:** Mr. Chairman, I think I am done with that bit. I'll be back.

**The Chairperson (Hon. Otiato):** Yes,

**Hon. Omwende:** Since Mr. Omollo is having difficulties I would advise him to move to what he is comfortable with.

**Mr. Omollo:** Yes. We have LREB meetings and have attended LREB in Kisumu for example. Apart from that I've got a Devolution conference of which, from the beginning of this regime we have not gone to but we normally go as the office. So by saying that we normally go to a number of them didn't mean that I'm talking about specifically ICPAC.

**Hon. Omwende:** Could you give us the biographies of the ones that you have attended because this one will give you more problems?

**Mr. Nyamodi:** Chairman in the impeachment motion, the only meeting referred to is that ICPAC meeting there is no other meeting required.

**The Chairperson (Hon. Otiato):** Understood? Damian what do you want to answer?

**Mr. Omollo:** Nothing!

*(Laughter)*

**Hon. Oinga:** Thank you. Damian, you know an executive admin in the office of the second person in command and you are not really hands-on on some of these things is really alarming. But now let me ask you a question, did you accompany the deputy governor to the said meeting in Mombasa?

**Mr. Omollo:** Yes, I did.

**Hon. Oinga:** Did he approve your journey to go with him?

**Mr. Omollo:** Yes, he did.

**Hon. Oinga:** He appended his signature?

**Mr. Omollo:** Yes.

**Hon. Oinga:** Did you have an invitation from his back?

**Mr. Omollo:** No, I never heard but given the nature of my job...

**Hon. Oinga:** Thank you. The next question, what was relevance in that journey?

**Mr. Omollo:** My relevance was that the DG was only one and a half months in the office yet I've been there for the last nine years and the new personal assistant had not known how to go about when His Excellency the DG goes for a safari.

So I had to go with them in the first, second and third trips to acclimatize to teach the new fella on what he's supposed to do. That is why I went.

**Hon. Oinga:** You also mentioned something when you are making your submission that when you were seeking for approval for that payment there were some vote heads which were taken to pay that money. Do you want to confirm that the travel voted, which ideally that thing ought to have been charged had no money?

**Mr. Omollo:** You never got me well madam. What I said was this for some...

**The Chairperson:** Damian, can you withdraw? This is a Hon. Member Dorothy not madam. Madam is in your house not here.

Yes.

**Mr. Omollo:** Okay. You never got to me well, what I said was that for any requisition to reach the IFMIS it must have been charged somewhere there must be a vote. That is what I said.

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**Hon. Oinga:** Thank you. The last question, that request did it follow the due procedure? **Mr. Omollo:** Yes, it did.

**Hon. Oinga:** And the accounting Officer of The Department also signed?

**Mr. Omollo:** Yes.

**Hon. Oinga:** Thank you.

**The Chairperson:** I hope you have told the committee that this was the first ICPAC meeting the DG was attending.

**Mr. Omollo:** Chairman, you are putting me in a very bad situation because you I can't be told that tomorrow you're going to be a witness, then I'm subjected to social question of which I don't know what is going on. So what is going on? Now? That is not right. Damien is

**Hon. Oinga:** A point of order. Mr. Chairman, I think you need to direct the witness he is here to answer the question. That is why he's here not give directives.

**The Chairperson:** Damina be informed that we are not begging you to answer us; you will have to answer us and there are serious consequences when you go that direction. We have always done it here even last year, you know, the last time we did it.

So you will not be the first one you will have to answer the questions. But we are asking you, are you confirming that this is the first meeting of ICPAC the DG was attending? So that it is you who had to accompany him to show him.

**Mr. Omollo:** It was the first meeting after elections.

**The Chairperson:** so when did he become a CPAK? Do you know?

**Mr. Omollo:** I don't know.

**The Chairperson:** Okay. Now, I think I want to let it rest at that but again we are just doing our investigations. There is a question the other side but we're just telling you that we are at investigative stage. The impeachment Motion is coming up on Thursday, when we present the Report on this, and we'll deal with it. But for now this report will have diverse recommendations. You have a question?

**Hon. Akinyi:** Yes. I have a question before you retire Damian, you had indicated that there are usually many CPAs on the Executive side, who always ask for facilitation when they're going for these kinds of meetings.

Right, you said that?

**Mr. Omollo:** No! It is the same thing, which I was trying to correct the honorable member and what I said was that we normally go for several functions outside the office.

**Hon. Akinyi:** No, am not talking about several functions I'm talking about CPAs. People who are employed in the executive, you said it like and you gave an example of an accountant in the Department of Industry.

Yes. So any CPA, who is in the County Government, whether is there on his capacity as an accountant or not is facilitated?

**Mr. Omollo:** It is not that way. It is only when you are invited not all of them do attend.

**Hon. Akinyi:** Okay. Any CPA who is invited for such meetings who is employed in the County whether is an accountant or not, is facilitated? So if I work for the county, I happen to be a CPA but in the county, I am a sweeper, if I am invited for the CPA meeting will you facilitate?

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**Mr. Omollo:** You will not have that opportunity to be invited because you're not a CPA.

*(Laughter)*

**Hon. Akinyi:** All CPAs are invited for this...let me explain because it's like you are not getting me. Let me explain; we have an MCA from West Asembo called CPA Mark Okeyo who works for the Siaya County government in the Assembly. So he's a CPA! If he was invited for this meeting, because he was; would you pay for it?

**Mr. Omollo:** No, he will be paid this other side of the Assembly but not Executive.

**Hon. Akinyi:** Okay, let's Say he's a CPA, but he's employed by the County Government but he's a sweeper that is being paid by the County Government of Siaya

**Mr. Omollo:** That is not possible, I'm sorry. It is not.

*(Laughter)*

**Hon. Akinyi:** Okay, thank you very much. He has understood my question but refused to answer.

**The Chairperson:** Okay. I know Mr. Nyamodi is very happy he wants to listen to stories.

**Mr. Nyamodi:** No, I'm very happy to be able to work in my home county. That has made me very happy Chairman.

**Hon. Baraka:** Okay, thank you very much, Mr. Chair. I think Mr. Damian here has really impressed me though he is trying to cheat us that he's mad yet he's not mad. He is very normal. What I want to ask him is how much were you paid for that trip?

**Mr. Omollo:** I was paid Kshs. 98,000.

**Hon. Baraka:** For how many days?

**Mr. Omollo:** Seven days.

**6. JACKTONE ODINGA OUMA**  
AG. CHIEF OFFICER FINANCE

**The Chairperson:** Thank you. We want you to take an oath.

*(Oath administered to Mr. Odinga)*

**The Chairperson:** I think we need to get moving. We wanted you to testify on the payment of ICPAK meeting and the witness before you has just confirmed the payment was made.

Now that it has been confirmed I don't think we need to belabour much about it but proceed directly to this issue of bullying. Our next issue is bullying, that is part C, that the Deputy Governor demanded consent, repeated pay not only on matters procurement but also matters Finance.

In your own writing Chief Officer Finance, despite the fact that Mr. Odinga is not directly answerable, we really need to get this aspect directly from you; at what level and why do you think you are bullied?

Before that tell us your name, what you do for Siaya then we proceed for you to give us this story of bullying.

**Mr. Odinga:** Thank you, Chair. My official name is Odinga Jacktone Ouma but popularly referred to as Jack Odinga. I am acting Chief Officer Finance, I am part of the County Treasury.

I perform the duties as pertain to PFM Act which establishes the County Treasury, which include among other things overseeing financial operations within the County. I am also an Accounting officer on the Finance Department.

In relation to this matter, I want to rely on submissions that I made earlier on 2<sup>nd</sup> of June, I submitted further evidences to confirm that truly as a civil servant, as an employee of this County I felt that I am being bullied by the office of the Deputy Governor. In those submissions, there are email communications giving me instructions to process and pay specific projects in relation to pending bills of which the Deputy Governor was the chair of the Pending Bills committee.

**Mr. Nyamodi:** Chair, allow me to interject. That evidence is material, and we have not had the benefit of seeing it.

**The Chairperson:** I think what you need to do because all these documents according to my secretariat have been supplied...

**Mr. Nyamodi:** Chairman, maybe what I will ask for, because I have a duty to my client is proof that they were supplied because I will not sit here and take time and say that I don't have documents which I have. I have not seen the document dated the 2<sup>nd</sup> of June, from this witness. I have other documents from this witness but not that one.

**The Chairperson:** Clerk!

**Clerk:** Chair, we can confirm from him what he has.

**The Chairperson:** What do you have?



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**Mr. Nyamodi:** I have a letter dated the 9<sup>th</sup> of May and nothing else from this witness.

**The Chairperson:** According to our list here, this document was supplied.

**Mr. Nyamodi:** Perhaps the Deputy Governor can be shown the proof that he was supplied and until that happens, it is my request that the witness refrain from testifying.

**The Chairperson:** We don't know what you don't have, so we can't stop the proceedings on the ground that, even right now we are only courteous to be adding you these documents.

**Mr. Nyamodi:** Chairman, it is not a courtesy.

**The Chairperson:** According to what we have, you were supplied with this document.

**Mr. Nyamodi:** It is his constitutional right and I am on record on saying that in the morning.

**The Chairperson:** If you misplaced and maybe you come and ask us here! We have a written list of what was issued.

**Mr. Nyamodi:** In the same way I asked for the Standing Order in the morning!

**The Chairperson:** You know. *wakili*, what about Standing Order?

**Mr. Nyamodi:** I asked you for the Standing Order and you hid them under the table. I have asked you for proof that that letter of 2<sup>nd</sup> June from this witness was supplied to the Deputy Governor, you want to proceed!

**The Chairperson:** So you wanted me to give you Standing Orders? You had your Standing Order!

**Mr. Nyamodi:** What I am urging you is not deal with this request the same way you dealt with request for Standing Order in the morning! Prove if it exists that that letter has been supplied. I have said that it was not.

**The Chairperson:** The documents were received on 5<sup>th</sup> June, at 3.14 p.m. including signed submission by Acting Chief Officer Finance and related attachments

**Mr. Nyamodi:** When is it dated? Because the one that we were supplied...

**The Chairperson:** On 5<sup>th</sup> June

**Mr. Nyamodi:** This is the letter dated 5<sup>th</sup> June, this is what we were supplied and this is the document!

*(Loud consultations)*

**The Chairperson:** But you have the letter?

**Mr. Nyamodi:** I don't have the letter dated 2<sup>nd</sup> of June, I have a letter received yesterday and it refers to a document by the Chief Officer Finance and it says; assigned submission by Acting Chief Officer Finance and related attachments.

That letter I have shown you is the letter dated the 9<sup>th</sup> of May not the 2<sup>nd</sup> of June.

**The Chairperson:** What we are asking, what were these related attachments?

**Mr. Nyamodi:** I have shown you the attachments! And it is for the gentleman who gave you that letter to tell you what the related attachments are! They are not my documents.

**The Chairperson:** There is a specific document we are referring to, which one is that?

**Mr. Odinga:** The email communication from the Deputy Governor to pay pending bills.

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**The Chairperson:** In these other things everything you have apart from this letter?

**Mr. Nyamodi:** Chairman, the letter says related attachments, I don't know what else he is going to produce, so as he testifies what I don't have I will let the chair know.

**The Chairperson:** Okay, take note of what you don't have then we will avail.

**Mr. Nyamodi:** My position is that if the Deputy Governor has not been supplied with them then it's improper for the witness to refer to them.

**The Chairperson:** Let him testify. I am telling you, we are investigating, we are not in court. You will appear here on Thursday, any other, while we are giving you report tomorrow, we shall ensure that all other evidence relying on are attached and we are confirming that we shall ensure that you have everything.

**Mr. Nyamodi:** It sounds like you have a report because if you don't want the Deputy Governor's input as you prepare the report...

**The Chairperson:** It is you who does not want us to proceed because as he proceeds we will avail to you. Our report as a Committee, you will face it and you will ask us questions

**Mr. Nyamodi:** The Constitution does not allow that kind of procedure where as he proceeds you avail

**The Chairperson:** What does it allow? Can you guide me on matters investigations, what does the Constitution say on how to conduct an investigation?

**Mr. Nyamodi:** The invitation to the Deputy Governor does not say it is an investigation! It is the Chairman who has said it is an investigation. Perhaps we can go back to the invitation.

**The Chairperson:** Can you read us the Standing Order on the Select Committee?

**Mr. Agola:** Letter addressed to the Deputy Governor

*(Letter read)*

Provisions of Standing Order no. 71(7) of the County Assembly Siaya

*(Read)*

**The Chairperson:** By that particular reading, it is my direction that the findings of this Committee we will get evidences from anywhere else and any person on any defense, don't try to pin us, try to convince us to fit in to your shoe and feel what you are feeling.

We sit here as the judges, we present your case, we get witnesses from both sides but you will not gag us from getting any information that we are getting.

If you want to do that, you wait for us on Thursday then you block us from saying what we are supposed to say but for this at the investigative stage that this particular Assembly or the Ad hoc Committee has been constituted to do the investigation, do a report and present to the whole House, we will present a report when all of you are seated. Whichever information that you want now, you can get it now and use it when you will be facing impeachment Motion in full.

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As you appear here, you are appearing here to give us information that we want, to convince this Committee that, to convince the other Members that actually there are more grounds for impeachment or try to convince that Committee that for sure the evidence has been proved.

Whoever is here appearing as a witness for whatever reasons is to try to tell us that actually there is a bullying. On the other side there is that feeling, now we don't think that amounts to bullying.

**Mr. Nyamodi:** Chair, the letter was not read completely

**Hon. Adiala:** I just wanted to request through your leadership that so far, maybe you would have given *wakili* a chance instead of interrupting to give us a list of the letters, since we started in the morning, the documents that he wants this Committee to provide him with. I know the real function of an Ad hoc Committee is to do an enquiry or an advisory.

**Hon. Omwende:** Chair, let me add my voice. Being a senior in this Assembly for the 3<sup>rd</sup> time, I am not speaking just for the sake of speaking. Once the Chair has made direction, any Member cannot come back and turn against the direction that the Chair has made.

Never on earth! I kindly request you, if not we are not going to move and we are here to move. It has been indicated that we are here for investigations! We are not superb. I agree with you we have to get solution to this. You have already made a direction!

**The Chairperson:** Thank you, I think we are going to move on! Waziri and the DG, be guided that whichever information he is giving and that you think is not relevant to you don't pick and if see what is relevant you can pick.

I think all that is being said here, there are those which the Committee will adopt. Other matters we shall find not approved, other matters will be approved, so we allow us to progress with the process as we were moving. This is just a Committee of 14, the House is for 42.

If the Committee of 14 will be unjust and you have reasons why you feel the 14 is unjust to you, when you are appearing before 42, try to convince the other 28 that you know the small Committee was biased to us. This is not the end, there is another level. Proceed Jack!

**Mr. Odinga:** Thank you, Chair. Based on what I submitted earlier, allow me to indicate some areas where I feel that as a Civil Servant, as an employee of the County Government of Siaya, I have been bullied, intimidated and humiliated.

In relation to this matter, from the onset, when these matters started, you can remember that the Assembly requested the DG to give evidence of his allegations on misappropriation of funds in the County Executive.

On the submissions that were given, when I went through because I was given an opportunity by the Assembly to respond to those issues which were raised by the DG in relation to financial mismanagement. When I was going through the submission by the DG, literally the name Jack Odinga was mentioned 13 times in that submission. Every paragraph would not go without the mention of Jack Odinga.

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To me Chair, this is intimidation because even in the finance, as much as I am the accounting officer, I don't make a unilateral decision. All decisions that are made are in the County Treasury are collective.

I want to invite you when you retire as a Committee maybe to write the report, to look at Section 103 of the PFM Act, I think up to 105, on establishment and the roles of the County Treasury.

In submission of the DG, if you look at the Section that I have quoted, the composition of the Treasury is the CECM finance, the Chief Officer finance and the department of finance in its entirety. But look at the submissions that were given, there is only one culprit that is called Jack Odinga even in situations or in periods where Jack Odinga was not acting as Finance Officer.

Number two, you are all aware and I want to rely on your earlier statement that we rely both on social media, whatever was going round on the social media, what has been in the radios and TVs. There has been something going round on the social media that Jack Odinga transferred and withdrew Kshs. 21Million in a single day.

Look at what I submitted earlier in my responses, there are two letters, one, there was a request by Jack Odinga, requesting CECM in charge of finance to transfer funds to imprest account for operations of the County.

This was approved by the CECM in charge of Finance, the then CECM Hon. Mungla. But now what goes out everywhere even the TVs, is only that part that Jack Odinga requested, this part where the CECM approved by the law is nowhere where the DG is making his remarks.

I feel profiled! Is it because I come from Ugenya? This approval by the CECM finance, why is it not going round, is it because he comes from Alego? These are questions I keep asking myself which make me feel that I am being profiled, I am getting humiliated.

Once we did responses, the House pronounced itself and it said that all the submissions, all the allegations by the DG were not substantiated. I thought after that this would stop here and we will start working harmoniously.

After that, it is on record, it is in public domain that now the DG went to every radio station, every TV station that he could access, he went to every social media, every forum to portray me as a thief after the Assembly had said that all those issues are not substantiated. Remember this is my boss telling the public that Jack Odinga has stolen, a narrative that he has driven up to now, even up to yesterday that Chief Officer Jack Odinga has stolen.

As I said, that when you will be retiring to look at the composition of the County Treasury, why is it that it is only Jack Odinga that is being mentioned? Is Jack Odinga the treasury? Those are the questions I ask myself.

There are other instances, the last one as I said, when I saw my name in a National TV, Citizen TV saying that Jack Odinga has stolen Kshs. 2Million and even in my submissions, in my responses, I attached a copy of a letter appointing me as acting CO Finance as from October 2022 but now if you look at the attachments and the petitions that have been taken to court is relating back to 2 to 3 years when Jack Odinga was not even a CO, not even near a person making a decision.

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I want to be brief, so much has happened but for me I feel that when it is my boss who is going round and telling the public, I know chair that people have families, including the DG, he has family. You can imagine when your name is announced on National TV saying that you stole Kshs. 2Million and you have friends, in-laws, looking at the news, I have nowhere to hide my face. Even as I come to work I look side by side because I don't know what people are saying behind me.

It is an opportunity that incase if, in any case DG will be having an evidence implicating me as somebody who has stolen even a single cent, there are legal avenues how this can be done and more so that I am a public servant.

It doesn't happen that my character is destroyed through social media, radios, TVs and DG to him am his servant. These are the reasons I think there is that humiliation. Lastly, when you invited me, when I walked out, I was expecting maybe to answer to that payment which was made to DG.

I wanted to say that this payment was made through a cheque and it was through that imprest account that he keeps on saying that there are withdrawals to the tune of Kshs. 100Million. If there are withdrawals to the tune of Kshs. 100M which is not true, then the Kshs. 400,000, is part of the withdrawals that were done in his favour.

*(Laughter)*

Thank you.

There's only one area that I would wish to ask chair that this issue of withdrawal of one out of Kshs. 21 million in a single day, I would wish chair that as you will engage the DG on this, let him prove, even let him table that evidence that in a single day, a County Government of Siaya through imprest account has withdrawn Kshs. 21 million.

As far as I know is that transactions, whatever has been transacted in this account between that period up to yesterday, was Kshs. 65 million, but not all of these transactions are withdrawals.

Some of these are direct payments, direct cheque payments, and an example is what was paid to his PA or administrative officer. So most of those payments are direct cheque payments, and some of them are even made to institutions.

I want to give an example here, that when DG, the Governor, Chief Officers and CECs were going for induction course in Nairobi, Kenya School of Government insisted that they wanted to be issued with the cheques, and not any other payment.

Among these payments, that he says were withdrawn, they were cheques which were drawn directly to Kenya School of Government. And there are a number, I may not list all of them here. But I have a list of transactions that have been done in the imprest account that add up to Kshs. 65Million and a quarter of that could it be cash withdrawal, three quarters of that are direct cheque payments.

Thank you, I just wanted to make that clarification.

**The Chairperson:** I think that the last few words that you have spoken are not part of the Motion. Do you think they add in to what you're referring to as bullying?

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**Mr. Odinga:** Yes, Chair. The reason I say this is that in every radio station, in every TV station in every forum, within Siaya and outside Siaya, there has been that issue that Jack Odinga withdrew Kshs. 21 million, this humiliates me.

Since I have no forum, I can't go to Radio, I can't go to television. I can't go to these forums now to argue out with my boss, remember the DG is my boss, I have no that opportunity? So for me, this is humiliation because I've been gagged.

No, I can't talk about it in any social place rather than say, for example, here, but these really humiliate me, because whenever I go whenever I walk, somebody is asking, did you withdraw Kshs. 21 million? And where did you take this money?

Then lastly, maybe there's been question of, I don't know Kshs. 950,000 withdrawn, 800,000 withdrawn, 700,000 withdrawn. Chair the question that I thought somebody would be asking, is the accountability of this money.

Because there's nowhere in PFM act, there is nowhere in law where withdrawal is an offence but as it goes around, is that withdrawal of Kshs. 950,000 is an offense but somebody is not asking the accountability of the money withdrawn, which will be very ready to table and discuss at any level.

**The Chairperson:** Thank you. *Wakili* proceed!

**Mr. Nyamodi:** Jack Odinga, I have listened to you very keenly give your statement although without notice to my client very passionately. But you remind me of the English saying Jack if you allow me to call you Jack, that *the guilty are afraid* but before we get there I want to ask you, what are your professional qualification?

**Mr. Odinga:** I am an accountant part 2

**Mr. Nyamodi:** Are you what we will call a CPAK?

Mr. Odinga: Am a step away from that.

**Mr. Nyamodi:** Are you a CPAK?

**Mr. Odinga:** No.

**Mr. Nyamodi:** But you are the accounting officer in the finance unit of the Siaya County Government?

**Mr. Odinga:** Yes.

**Mr. Nyamodi:** Would you agree with me if I said you are perhaps punching above your level without being a CPAK?

**Mr. Odinga:** Not true, because that does not form part of the qualifications for becoming an accounting officer.

**Mr. Nyamodi:** Okay. Now, there's a matter, listening to you that has pricked you. It has troubled your conscience. The statement that you have made that my client stated repeatedly that you withdrew 21 million shillings in one day.

**Mr. Odinga:** Repeat the question?

**Mr. Nyamodi:** the statement, that you have made repeatedly over and over again, that my client has stated that you withdrew 21 million shillings in one day?

**Mr. Odinga:** Yes!

**Mr. Nyamodi:** You insist that it is not true.

**Mr. Odinga:** It is not true. Let him table the evidence. We didn't do it.

**Mr. Nyamodi:** Now. Jack? Do you recall the 28th of November last year?

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**Mr. Odinga:** Yeah.

**Mr. Nyamodi:** All right. As the CO finance, what are some of your responsibilities if there is money to be withdrawn from a County account? Is it withdrawn under your hand? Are you one of the signatories?

**Mr. Odinga:** I am the authorizing officer?

**Mr. Nyamodi:** Without your authorization can that money be withdrawn?

**Mr. Odinga:** No.

**Mr. Nyamodi:** All right, I want to show Jack a letter. I don't know we'll hand it to him dated the 28th of November last year. And perhaps you can just read to the committee what that letter says at face value.

*(Serjeant-at-Arms gave Mr. Odinga the document to read)*

**Mr. Odinga:** IFMIS in charge, County Treasury is dated 28th of November, 2022.

**The Chairperson:** Which document is that?

**Mr. Nyamodi:** Whatever document we want to produce on the direction we have, I have produced that document.

**The Chairperson:** Which one is that? We don't know it.

**Mr. Nyamodi:** That was the direction from the chair. What the committee wants to produce the committee produces, what the DG wants to produce he produces and you make a decision!

**The Chairperson:** Oh, now you're agreeing. That's okay. Now we can produce you produce. I wanted you to agree on that, okay, just proceed now!

**Mr. Odinga:** I can start again; IFMIS in charge, County Treasury. The letter is dated 28th of November 2022. A references is charge account 0-0501300000000-00001001-6530101.

Then it says, the subject matter refers; the purpose of this letter is to authorize you to charge the following in the above account. number one, in Siaya County imprest account Kshs.8 million, Siaya County imprest account Kshs.7 million, Siaya County imprest account Kshs. 6 million. Signed by myself, Jack Odinga, noted down there, CECM in charge of finance.

Chair, can I explain further? He is saying, this is a withdrawal

**Mr. Nyamodi:** What I have said, and it is incorrect for the witness to put words in my mouth, as I said earlier on the guilty are afraid and that is all I have said.

**The Chairperson:** What was he to do? Only to read or to read and make a statement about it?

**Mr. Nyamodi:** I was leading the witness through the document now. My deamination became a conversation between the chair and the witness! Maybe I step back, that conversation concludes and I pick it up again.

**The Chairperson:** No, we only questioning the document that he introduced. And I wanted you to appreciate or appreciate each other in the spirit of ensuring that whatever we are doing, we don't put unnecessary huddles so that we allow you not to put unnecessary huddles, you allow us not to put unnecessary huddles and we proceed.

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So, that was the only point that I said we accept your document directly even if not passing through the chair, but let's proceed. So, he has read it what next, proceed with the interrogations!

**Mr. Nyamodi:** I am uncomfortable with the characterization of the hurdles as unnecessary, they are not put in place by Mr., they are put in place by the Constitution. I am cross examining.

If the document has caused discomfort, then perhaps I give everybody who is uncomfortable with the document an opportunity to get comfortable I have time I will proceed!

**The Chairperson:** proceed! We agreed for the purpose of sorting out this matter today whether in or out, we will be able to make a decision. So we allow you to present any document and sometimes we open up, so proceed.

**Mr. Nyamodi:** I am happy with that direction. Jack, what is that letter?

**Mr. Odinga:** This is a transfer letter, a letter authorizing in charge of IFMIS to transfer funds from one account to another. arAight?

**Mr. Nyamodi:** What account is the money being transferred to?

**Mr. Odinga:** It is a recurrent account.

**Mr. Nyamodi:** and what is the destination account?

**Mr. Odinga:** Imprest account

**Mr. Nyamodi:** If my memory of the government financial systems are correct, a recurrent account is managed and please forgive me if I don't have the right terminology is managed, operated within IFMIS.

**Mr. Odinga:** Yes.

**Mr. Nyamodi:** all right. Are imprest accounts operated within IFMIS?

**Mr. Odinga:** In a commercial bank?

**Mr. Nyamodi:** So, what that letter is doing, is that it is removing money from an IFMIS environment and putting it in a non IFMIS environment?

**Mr. Odinga:** Yes.

**Mr. Nyamodi:** Out of interest, what is the total amount of that instruction? How much? **Mr. Odinga:** 21 million?

**Mr. Nyamodi:** Yeah. Is that a different figure from the one that is causing you discomfort?

**Mr. Odinga:** This transfer is not withdrawal, this is transfer from one account to another.

**Mr. Nyamodi:** Allow me to make my case. You are not able to go into an IFMIS account and collect cash.

**Mr. Odinga:** Cash you can't.

**Mr. Nyamodi:** But you are able to go to a non-IFMIS account and collect cash?

**Mr. Odinga:** Yes

**Mr. Nyamodi:** I still have not used the word 'withdraw'. You acknowledge on that day, that is the effect of that letter.

**Mr. Odinga:** Let me clarify, when you give instructions to IFMIS in charge to make a transfer from one imprest account it doesn't necessarily mean that all transactions will go through the same day.



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The system would process Kshs. 21 million out to IB but now it will depend on availability of funds. If the funds available can only accommodate Kshs. 8 million, it will transfer Kshs. 8 million.

In this case the money that was transferred to imprest account was only Kshs. 13 million I can confirm from the statement, not withdrawn but transferred to imprest account because at that time that was the only money which could be transferred.

**Mr. Nyamodi:** In the extensive time which you have taken this evening to testify, have you produced any evidence or any document to qualify that very clear document that was only Kshs. 13 million.

**Mr. Odinga:** I did that in my responses.

**Mr. Nyamodi:** This afternoon as you testified?

**Mr. Odinga:** I have the statements here

**Mr. Nyamodi:** Have you this afternoon?

**Mr. Odinga:** What I am saying is, this was part of allegations by the DG so in my earlier responses, I provided those documents.

**Mr. Nyamodi:** I have given you a letter which in your own testimony has the effect of transferring money from an environment where you cannot withdraw cash to an environment where you can withdraw cash. Those are your words, they are not mine and you have confirmed that the amount is Kshs. 21 million

**Mr. Odinga:** The request for transfer is Kshs. 21 million but the money that was transferred is Kshs. 13 million.

**Mr. Nyamodi:** You don't have any proof of that.

**Mr. Odinga:** I have bank statements

**Mr. Nyamodi:** As we speak it is not anything that you have shared or in any of the documents that you exchanged with the Chair as you testified.

**Mr. Odinga:** You are raising as to the matter whether this Kshs. 21 million was withdrawn in a single day. What I am seeing is that this Kshs. 21 million is not a withdrawal, it's a transfer.

**Mr. Nyamodi:** I have not used the word withdrawal. I have only said and I have confirmed that you moved it from an IFMIS environment to a non IFMIS environment and you have also confirmed that in that known IFMIS environment one of the significant differences is that you can draw cash

**Mr. Odinga:** Yes.

**Mr. Nyamodi:** Do you have any proof or documents with you that you can share immediately that the requisitions were requisitioned through the office of the Controller of Budget

**Mr. Odinga:** Yes. These are internally generated requisitions.

**Mr. Nyamodi:** Let me conclude my questions. The requirement for you to liaise with the Controller of Budget is a constitutional requirement, it's not even a statutory requirement including for interest.

Can you demonstrate that in interest of those 3 requisitions there was any liaison and or approval from the office of the Controller of Budget?

**Mr. Odinga:** This is what happens, let me explain so that *Wakili* can understand, that before you make a requisition from the CoB you process the payments up to IB, when you process this up to IB then you do a requisition is when you are able to get funds then you transfer this.

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So before even this was transferred to imprest account that is why I was saying that you can transfer this if funds are not available. Funds become available when you have requested CoB and the money is transferred to our account then is when you can transfer to any other account.

**Mr. Nyamodi:** I will ask the question again I have not heard an answer to it; request to the Office of the CoB in respect of those transfers.

**Mr. Odinga:** This is what I am saying that you cannot transfer any funds which have not been requested, processed through IB and approved by the CoB.

**Mr. Nyamodi:** Is there any evidence that there was any request whether you sought approval from the Office of the Controller of Budget?

**Mr. Odinga:** The requests are there.

**Mr. Nyamodi:** Is there any proof

**Mr. Odinga:** Yeah, it's approved with your request.

**Mr. Nyamodi:** Is there any proof that there was any request or whether you sought approval from the office of the CoB?

**Mr. Odinga:** The requests are there.

**Mr. Nyamodi:** Is there any proof?

**Mr. Odinga:** The requests were done with me. I don't have them here but they are in the office.

**Mr. Nyamodi:** Now I want to show you another two requisitions. One dated the 16th of December and another dated the 28th of December last year. Can you see those two documents?

**Mr. Odinga:** Yes.

**Mr. Nyamodi:** Confirm that they are for the same purpose as the one you saw earlier.

**Mr. Odinga:** Yes, these are transfers to imprest accounts.

**Mr. Nyamodi:** How much are they for?

**Mr. Odinga:** There's one for Kshs. 15 million and there is one for Kshs. 7 million and another for Kshs. 21 million.

**Mr. Nyamodi:** Is there any difference between those requisitions and the one I showed you earlier on?

**Mr. Odinga:** Between these and the ones he showed me? Yes there's a difference.

**Mr. Nyamodi:** What is the difference?

**Mr. Odinga:** The difference one is when these transfers were done, one was done in November. The other one was done in December. Yes. Number two is in relation to figures one for Kshs. 15 million was done then the other one Kshs. 7 million was done. The other one was broken into 3-3, 6, 8 and 7.

**Mr. Nyamodi:** In respect of the execution or the annotation of non authorization in those documents, are they the same?

**Mr. Odinga:** Authorization, yes, the same. In the two documents that I have given you at the end, the ones for Kshs. 15 million and Kshs. 7 million, is there authorization by the CECM Finance?

**Mr. Odinga:** This is a request written by myself, then the authorization is supposed to be done by Waziri from his end.

**Mr. Nyamodi:** Are those authorized? Is the question I am asking.

**Mr. Odinga:** Yes I have signed them

**Mr. Nyamodi:** Are they authorized by Waziri?

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**Mr. Odinga:** No this is not from *Waziri*, this is my request to *Waziri*.

**Mr. Nyamodi:** In the same way that the first one was your request to *Waziri*.

**Mr. Odinga:** It depends on how *Waziri* feels, the former one used to comment on this.

**Mr. Nyamodi:** You have this document in front of you. Let's not run rings around each other. Are those two authorized by *Waziri*?

**Mr. Odinga:** These are my requests to *Waziri* then there is a letter that *Waziri* writes authorizing this.

**Mr. Nyamodi:** Let's go back to the last letter. Who is the addressee in that letter?

**Mr. Odinga:** IFMIS

**Mr. Nyamodi:** Who then authorizes?

**Mr. Odinga:** There are two addressees here, the first one I have addressed to CECM in charge of Finance. This other one I have addressed to in charge of IFMIS, what happens when CECM in charge of Finance to approve the transfer.

Once there is that letter by the CECM then I write to the person in charge of IFMIS to go ahead and transfer the figure.

**Mr. Nyamodi:** As the officer in charge of the county finance function. I want to ask the question, whether you are required by the Public Finance Management Act to have limits or a limit on some sort of cap on interest and funds that you can have and operate from your imprest account.

**Mr. Odinga:** I have gone through the PFM Act, it allows governments and county government of Siaya is not an exception to use imprest account but there is none I have never seen, I have never come across on the PFM setting a limit up to this much. This can be done by the County Government in form of a policy.

You can do a policy and decide that every month, you cannot exceed this level but in the PFM Act if there exists, then I invite *Wakili* to show me.

**Mr. Nyamodi:** I am not testifying and we are not arguing. All I am doing this evening is testing your evidence. Is there any requirement to have a cap or some sort of limit on the amounts that counties can pass through their imprest account?

**Mr. Odinga:** As I said Chair, this is a policy issue which can be developed by the county or by any entity on it's own but in the PFM Act I have never come across that.

**Mr. Nyamodi:** Does the county government have any policy to the amounts that can be passed through it's imprest account?

**Mr. Odinga:** Initially, there was no policy but in the past one or two months, there is a discussion which was forwarded to the cabinet in my knowledge by the CECM Finance on policy to regulate or to give a cap on what can be the limit that can be used as imprest and there is also a proposal that these imprests would be regulated within all the 10 departments but as we speak, as I sit here it has not been finalized.

**Mr. Nyamodi:** As we speak the County Government of Siaya can run its entire Budget through imprest accounts.

**Mr. Odinga:** No.

**Mr. Nyamodi:** What stops it?

**Mr. Odinga:** There are circumstances under which this account is normally used. Normally under ordinary circumstances all our payments go through the IFMIS. What are these circumstances under which imprest account can be used? Normally when you process a

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transfer to imprest account, normally is to cushion, to provide a buffer because there are circumstances when IFMIS does not work.

Network for IFMIS can be down even for two days. When there is a function that is supposed to be attended by the Governor and the DG and any other officer it happens you go to imprest account I give a cheque and that activity is facilitated.

Two, there are instances where certain nature of payments which cannot be processed through the IFMIS System. For example, when a county is sponsoring KISA used to go and play safe. For example, the last one was in Meru, whoever these students who are going to Meru they are not defined in the system.

You cannot define 212 students that are going to Meru to process their facilitation and upkeep and pay through IFMIS. In this situation, an imprest or a cheque is given to an official officer of the county in respect to who is relevant to that activity, who will go spend this money and then account for it.

Three, is that in most cases also in IB that breakdown it doesn't work. Those are instances. In short, this imprest account is normally to supplement the IFMIS where there are challenges and more so when financing an activity that ordinarily cannot be processed through IFMIS.

**Mr. Nyamodi:** Just to go back so as to understand you fully.

**The Chairperson:** Can I give you two minutes? Because we still have quite a number

**Mr. Nyamodi:** I need more than two minutes. I don't know how many the Assembly wants to call because we were not given but I need perhaps another 30 minutes with this witness.

**The Chairperson:** I will give you a maximum of 5 minutes.

**Mr. Nyamodi:** To go back to your example, the county officer accompanying the students to Meru is defined in IFMIS. What is the difficulty in transmitting the money to his account if you are issuing a cheque that they go to the bank and cash?

**Mr. Odinga:** As I said, when for example there is that IFMIS breakdown for example the network is not operational, you cannot process this through IFMIS because for you to process this and ensure that this person is paid through IFMIS becomes impossible.

When you give them a cheque because it is an imprest and whatever cheque we are giving, we are giving from an imprest account, there is no difference.

**Mr. Nyamodi:** The constraints in IFMIS cause discomfort but they create control about how the money is spent.

**Mr. Odinga:** It doesn't create discomfort, in most cases and 90% of our payments we do through IFMIS. You will agree with me Jack that money that is held outside an IFMIS environment. It depends on the person handling that account.

**Mr. Nyamodi:** But if the person is a person who is not 100% he can abuse it.

**Mr. Odinga:** But for accountability purposes it is audited. It is part of the accounts that get audited.

**Mr. Nyamodi:** I want to show you some withdrawals, an analysis of withdrawals from an imprest account belonging to the county government of Siaya held in Equity Bank. I will give you two documents, I will give you an analysis, and the statements and the requisition for the statement.

**The Chairperson:** Will you do that within the next 5 minutes? We are only entertaining for the public consumption because I do recall when I was talking about this and

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what he calls bullying which that was the final issue but you can try to squeeze yourself within 5 minutes.

**Mr. Nyamodi:** You can make my task infinitely easier if you tell me as the Chair that you don't want to hear that testimony I will abandon it because it is your mind I am trying to shape.

My mind you can't read very easily

**Mr. Nyamodi:** I am not trying to read it, I am trying to shape it. If you tell me you don't want to hear it, I leave it.

We will not be here forever, even if you appear in any court there is time you are limited to and you are given this is the time, we still have witnesses, we won't sleep here. It's already 5. So can we proceed.

**Mr. Nyamodi:** Give me back my documents, I am sure you are familiar with them, I will not cause you any more discomfort in that direction. Now, are you familiar with your letter of appointment? Do you have it with you?

**Mr. Odinga:** Yes

**Mr. Nyamodi:** Let's look at it together. Can you confirm that that letter dated 6<sup>th</sup> October 2022 is your letter of appointment?

**Mr. Nyamodi:** Who is it addressed to?

**Mr. Odinga:** To myself.

**Mr. Nyamodi:** Who is it signed by?

**Mr. Odinga:** By the Governor.

**Mr. Nyamodi:** Now, I want you to read the second paragraph that starts, 'In your new position...'

**Mr. Odinga:** 'In your new position you report to the CECM for Finance and Economic Planning. Additionally, you will be required to brief the Deputy Governor on departmental progress on a weekly basis or more frequently upon request.'

**Mr. Nyamodi:** Is it then correct to say that your letter of appointment then creates a reporting line in terms of your briefing to the Deputy Governor?

**Mr. Odinga:** Yes, it does

**Mr. Nyamodi:** And it would be in order, in consistency with your letter of appointment if the DG followed you up for any update or briefing in respect of your appointment?

**Mr. Odinga:** If you read my response clearly, I said that in our briefings we used to brief...

**Mr. Nyamodi:** Let's just focus on the letter. Don't take me away from the letter. You had an opportunity to dwell on your response. Is that what this letter authorizes or instructs you to do with the DG? If he followed you up and saw the briefing that would be in order?

**Mr. Odinga:** It is not a follow up because when I was given this letter...

**Mr. Nyamodi:** Do you brief your inferior or superior?

**Mr. Odinga:** My immediate supervisor.

**Mr. Nyamodi:** And who else? According to this letter, who else?

**Mr. Odinga:** The DG.

**Mr. Nyamodi:** Let's go back to the statements, the analysis of those withdrawals show certain large withdrawals on certain days by one officer. What is the officer's name?

**Mr. Odinga:** Vivian Ochieng'.

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**Mr. Nyamodi:** Just read quickly some of the withdrawals in that analysis and their single day analysis.

**The Chairperson:** Our accounting officer will not use imprest to organize some dinner as I see. We might be done at midnight. It's a bit tricky. DG I hope you don't have any other appointment? We can be here up to *Saa Tano*. I know my sister won't complain.

**Mr. Nyamodi:** I am glad to note that the committee is making the best use of home ground advantage. You have people who know where the photocopiers are. We were visitors, we were not able to photocopy some of those documents earlier with such haste.

**The Chairperson:** We have something here for you, we are soon establishing a resource center. *Waziri Finance*, I know you are really pressed up and *Waziri Otumba* you were also to run, I know there are people who are running to the airport. You have changed to tomorrow? The flight is at 7.00 p.m.? Okay.

I hope the discussion is healthy, Wakili, from here when we meet in the evening we can eat together because you now know everything. It's only that Damian...

**Mr. Nyamodi:** As the Republic of Kenya and as the citizens of the Republic of Kenya, we appreciate the importance of discussion because we know when people are not given an opportunity to discuss then we resolve our differences differently so let us give each other the opportunity to talk and discuss.

**Mr. Odinga:** Yes, I do. First of all, Chairman, before I explain, I had indicated earlier that my name is being drawn, even areas or periods when I was not acting CO Finance. And this confirms what I was saying. Because if you look at this document...

**Mr. Nyamodi:** Chairman, he may answer the question. I haven't given him the documents to defend himself. I've asked him whether he has an explanation and he can't then start answering the question by saying that this confirms that I was not the Ag. CO.

**Mr. Odinga:** This is what I'm explaining. The first part, which is August 2022, I was not the CO of Finance. So I cannot explain this part then this other part where Vivian Ochieng' has withdrawn, this one, I am conversant with this. Vivian Ochieng' is an appointed...

**Mr. Nyamodi:** Perhaps Chairman, before he proceeds from there. You say you were not the CO Finance?

**Mr. Odinga:** Yes. Substantively, I was the Director of Budget.

**Mr. Nyamodi:** Was there a substantive CO Finance in place at that juncture?

**Mr. Odinga:** Yes.

**Mr. Nyamodi:** Was he present that in at work?

**Mr. Odinga:** Yes.

**Mr. Nyamodi:** Was he away from work at any time?

**Mr. Odinga:** No, could be one or two days. But that doesn't mean that I would authorize things.

**Mr. Nyamodi:** Do you recall that perhaps he may have been bedridden for three months?

**Mr. Odinga:** But he was signing in from home.

**Mr. Nyamodi:** Do you recall that he have we may have been bedridden?

**Mr. Odinga:** He was not bedridden.

**Mr. Nyamodi:** But he was not in the office.

**Mr. Odinga:** He was working from home.

**Mr. Nyamodi:** He was not in the office.

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**Mr. Odinga:** He could come twice or thrice in a week. But the rest of the day he would work from home.

**Mr. Nyamodi:** Who was the alternate signature?

**Mr. Odinga:** But not in terms of authority.

**Mr. Nyamodi:** Who was the alternate signatory?

**Mr. Odinga:** There is no alternative authorizing officer in any county government. The authorizing officer the accounting officer is only one at a time.

**Mr. Nyamodi:** Who was the alternate signatory in the account? Was it not you?

**Mr. Odinga:** In imprest account? Yes. So can I say, talk about Vivian?

**Mr. Nyamodi:** Were you signing at the time those amounts are being drawn between the month of July and August and October last year?

**Mr. Odinga:** Yeah, some of them, Yes.

**Mr. Nyamodi:** It's okay. That is to my mind a sufficient explanation.

**The Chairperson:** You're done?

**Mr. Nyamodi:** For now.

**The Chairperson:** Okay, I think we need to close this. And Jack, *Wakili* asked a question in relation to processing and you said when you requisition the papers you were having was for requisitions for money to be transferred. And they were not withdrawals. Now, my question is, and he asked you, is there any proof of CoB approval or anything? I want just to know, can we have can these withdrawals go through without a CoB approval?

**Mr. Odinga:** No, you cannot withdraw any money without approval of the CoB. And in fact, it has to be budgeted for approved and appropriated by this Assembly.

**The Chairperson:** So in this particular there is in all those, if at all, there was any other payments on those requisitions, they were approved.

**Mr. Odinga:** Yeah, these were transfers against approved requisitions.

**The Chairperson:** Okay, and, Mr. Jack, I just wanted to know, before, before you say you in all these allegations. You feel bullied with all these allegations against you, is there any other mode or in any other way other than the allegation that you think you were bullied by the DG? Other than this.

**Mr. Odinga:** The other one I started with is on the emails instructions that he gave me through the events that he instructed me to pay pending bills. And by that time chair, he was the Chair of Pending Bills Committee and also the Deputy Governor so you can imagine when you are instructed by your boss in writing.

**Mr. Nyamodi:** That email has not been forthcoming perhaps he can read it for our benefit. We haven't seen it We've waited we haven't seen it maybe he can read it

**The Chairperson:** They are how many emails?

**Mr. Odinga:** I see an email for 2<sup>nd</sup> November, 2022 at 12:11 p.m.

**Mr. Nyamodi:** Is it possible we have sight of the email?

**The Chairperson:** We just want to give you so if we have a...

**Mr. Odinga:** Chair can I hand over this?

**The Chairperson:** They are two?

**Mr. Odinga:** So we have one dated 16<sup>th</sup> November 2022, then we have another one for 4<sup>th</sup> January? 2<sup>nd</sup> November. Okay, we have 31<sup>st</sup> October. So we have others at 31<sup>st</sup>, 25<sup>th</sup>, This was how many 1, 2, 3, 4, 5, 6? So this six, these are six documents. Give them to refer, then you ensure you give it me back after we finish.

**Mr. Nyamodi:** If Chairman perhaps he can he can read out the emails.

**The Chairperson:** He has given us the emails. So I wanted to give you for your reference, if at all you have ask anything.

**Mr. Nyamodi:** If he's producing these emails in in respect of bullying, he needs to identify what part of the email is bullying?

**The Chairperson:** I think he has said according to him that he needed not to get instructions from the DG and make any payments. And I think that Jack, what is it?

**Mr. Odinga:** That is a position. Ordinarily, remember, DG was the chair of Pending Bills Committee, a subcommittee and this sub-committee would sit down deliberate on what is passed as a payable pending bill or legible pending bill.

Then ordinarily, this would be communicated to the cabinet. Then from the cabinet now the CS would communicate to CECM in charge of Finance, who in turn would now instruct me to go ahead and make payments. But now when it comes directly from the DG to my office instructing me to process and make payments, and with attachment or specific projects to pay, then what would I do?

How to process but of course, I've been bullied because I feel intimidated. If I don't do it, this is my boss, I can lose my job.

**Mr. Nyamodi:** Chairman, the document I've been given and instructions I've gotten from my client is that the email that the witness is referring to as bullying is addressed to his boss and to him and that's why it is important that he reads it. I don't have an opportunity to cross examine.

I would have put this to him in cross examination unless you give me that opportunity to cross examine him, because the procedure he has he has described is apparent from the face of the email, for example, the email of the second Member says Richard/Jack, my instructions are that Richard is Jack's boss.

**Mr. Odinga:** In normal situations, when is addressed to Jack and Richard, are we in the same position? Am I in equal position with my CECM?

**Mr. Nyamodi:** Perhaps maybe he can read out to the contents because even the contents speak to that procedure. For example, the email dated the 2<sup>nd</sup> of November 2022.

**Mr. Odinga:** Let me read one that directly was to me.

**Mr. Nyamodi:** Perhaps the one dated the 2<sup>nd</sup> of November 2022

**Mr. Odinga:** I have all the documents I can read whatever I feel is bullying.

**Mr. Nyamodi:** But perhaps then maybe I will ask he reads the one he wants and he also reads the one of the 2<sup>nd</sup> of November 2022.

**Mr. Odinga:** There's one for 18th of October,

'Jack, please receive pending bills payable. Please go ahead and initiate payment process. I will send more in the course of the day'

Then there is an attachment of list for me to process and I will read the 2<sup>nd</sup> November one.

'Richard/Jack, find attached the final pending bills cleared for payments totalling to, Kshs. 282 million. Please let us go ahead and expedite payments where appropriate. Please note that a further Kshs. 170 million worth of development pending bills with missing documents was taken back to the cabinet, the cabinet sub-committee for further validation and regularization.

I should be able to communicate this to you once they are done and have communicated the status back to me. I have not committed our position on pending bills for



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recurrent expenditure as it was discovered that there was no rollover at the end of the fiscal. We await further reports from the above sub-committee before taking a position on this’.

To me out of all the narrative what I pick is process payment because all these narrative I think were not relevant to me

**Mr. Nyamodi:** But the email was not one bullet line that says, process payment. It is a very complete email and perhaps he can tell the committee who that email is copied to.

**Mr. Odinga:** There is one Mr. Mungla, who are the CECM in charge of finance, *Wakili* Wakla and this other person I don't know him.

**Mr. Nyamodi:** Who was *Wakili* Wakla?

**Mr. Odinga:** He was a former CECM

**Mr. Nyamodi:** And? Was he the chairman of the pending bills?

**Mr. Odinga:** No, I'm not aware.

**Mr. Nyamodi:** May he have been the Chairman of the pending bill?

**Mr. Odinga:** Maybe.

**The Chairperson:** Okay, Jack, who was supposed to process those pending bills. When a decision has been made, but maybe sub-committee, okay for now, who was the chair of the sub-committee?

**Mr. Odinga:** Chair of sub-committee, I don't know. What I know is the chair of the Pending Bills Committee, there was also the sub-committee but the Chair of the Pending Bills Committee was the DG. Yeah, that is what I was made aware.

**The Chairperson:** Okay. Do you have maybe a document within you that was directed was at a point I had about the freezing of this payment and the rest.

**Mr. Odinga:** There was a communication, which was done by the Office of the County Secretary and if you allow me chair can read it briefly.

**The Chairperson:** Yes.

**Mr. Odinga:** It is from Office of the County Secretary. It is going to CECM for Finance and Economic Planning. Reference is CGS/OSC Executive/36/2 Volume IV of 129. Then it is dated 17th of October 2022. The subject matter is: Liftings of freeze on procurement and expenditure on pending bills. Then it goes ahead and says,

‘The executive committee in its meeting held on 6<sup>th</sup> of October 2022 vide minute number 16 has 6/10 of 2022 decided that the memoratorium on procurement and expenditure on pending bills be lifted. You are therefore authorized to implement the report of the sub-committee on pending bills chaired by the Deputy Governor while also ensuring availability of funds in the budget for the purpose’ signed by Ambassador P.R. Owade, EBS Office of the County Secretary.

**The Chairperson:** So it was to implement the payment.

**Mr. Odinga:** It was addressed to the CECM of Finance.

**The Chairperson:** Okay. Anybody have any question? I think because of time we want to end that there. And we will wish to because *Waziri* is running for some meeting in Nairobi. We want to give him an opportunity to take the stand. Take note and release him. Jack, thank you, you can sit.

**7. CPA BENEDICT ABONYO OMOLLO**  
CECM FINANCE AND ECONOMIC PLANNING

*(Oath administered to CPA Abonyo)*

**The Chairperson Hon. Otiato:** Tell us your name and duties.

**CPA Abonyo:** My name is Benedict Omolo. I am the CECM in charge of Finance and Economic Planning in the County Government of Siaya.

**The Chairperson Hon. Otiato:** There are very few issues that we wanted you to confirm for us. The one issue is about Siaya Stadium. The issue here is that it is alleged that the Deputy Governor misled the public, and as such there are a few issues.

One of them is the funds that were allocated towards completing Siaya stadium were re-allocated in the supplementary I. What do you have to say about it?

**CPA Abonyo:** Thank you, Chair, but before I go into that, let me just bring a clarification, one on the imprest, that once they have been surrendered, they are generalized back into IFMIS. So that's very, very important that the House remembers that.

So, I'll go into the Siaya Stadium. In the Budget estimates for the Financial Year 2022/2023, approved in June 2022, construction of Siaya Stadium was allocated Kshs. 50 million. In the Supplementary Budget I estimates, which was prepared under the Nyalore government, the project received an additional Kshs. 839,101.

In the proposed supplementary budget II estimates which has been approved by the County Executive Committee and is before the County Assembly for approval, the project allocation has not been interfered with and stands at Kshs. 50,839,101.

So, Chair, I want to confirm that there was no reduction in the Siaya stadium, indeed it was enhanced.

**The Chairperson Hon. Otiato:** Okay, our number part B, Deputy Governor misled the public and the House that there was discriminatory budgetary allocation to disadvantage the residents of Alego Usonga Constituency?

**CPA Abonyo:** Okay, on that one, Chair, I think the specific issue was around the Segere-Ouru-Ogaso Road, which in the financial year 2022/2023, the County Government had the desire to upgrade some of the roads to bitumen standards in partnership with KERRA, (Kenya Rural Roads Authority).

The County Executive therefore identified, approved and allocated Kshs. 20 million towards upgrading to bitumen standards on Segere-Ouru-Ogaso Road to 6.5 kilometers in the budget estimates in the said year, in the hope that KERRA would infuse their funding so it was going to be complementary between the two, KERRA and the County Government.

However, the County Executive Committee approved the estimates, which were then presented to the County Assembly which also approved the estimates in June 2022 in line with the provisions of the PFM Act 2012 and PFM Regulations 2015.

After the general elections in August 2022 and the assumption of office, in the Nyalore government, there was need to incorporate some of the programs and projects captured in the manifesto. This desire triggered a revision for the June 2022 approved budget through a supplementary budget I.

During the process of preparing the supplementary budget I estimates some of the projects which had not been awarded or were not going to be completed within the same Fiscal year were reversed or their allocations partially reduced with an assurance of providing

the reduced amounts in the subsequent Budgets and those whose allocations were reversed were to be considered in the subsequent budget estimates dependent on the availability of funds after the confirmation of whether there were still priority projects.

So Segere, Ouru, Ogaso Road had not been contracted by the time Supplementary Budget 1 estimate was being prepared. It is on this basis that the allocation was reversed with a commitment to undertake the project in future.

The reversal was procedurally done and approved by the county executive committee in which the deputy governor participated and subsequently by the county assembly in November 2022. So that was adjusted in supplementary budget one. Thank you.

**The Chairperson Hon. Otiato:** What is the general view in the supplementary I? Because it's like the issue was around the supplementary, other than that, generally by reducing that or by any other reduction, then the whole ALEGO was disadvantaged in this supplementary.

**CPA Abonyo:** In the analysis that we have, Alego Usonga still gets the bulk of the funding from the other Sub-counties. So, if you look at the development fund overallly, Alego-Usonga still gets the bulk. Thank you.

**The Chairperson Hon. Otiato:** Yes, *Wakili*.

**Mr. Nyamodi:** I just want to give you my client's position, which is the subject of this impeachment Motion and I want you perhaps just to mirror your response to my client's issue. And this is my client's position, and this is the basis of this impeachment.

‘On the issue of the stadium, I need to mention here that I chaired the Siaya County Stadium Implementation Team. I was aware of the goings-on and the project status. Governor while opening Migwena Festival in December 2022 had committed to completing Siaya Stadium by March 2023.

Unfortunately, nothing significant happened between January and March, prompting my protestation. I am, however, happy that the contractor is now back on site and that the roofing structure is on course. Thank you’.

**CPA Abonyo:** We are equally happy that the contractor came back, so we are making progress.

**Mr. Nyamodi:** Now, that is what he submitted. What was the relevance of your presentation to that?

**CPA Abonyo:** Because the issue that was raised was that the Budget for the stadium in Siaya had been reduced.

**Mr. Nyamodi:** Where is that issue raised?

**CPA Abonyo:** In the initial letter from the Assembly.

**Mr. Nyamodi:** The letter from the Assembly to you?

**CPA Abonyo:** Yes.

**Mr. Nyamodi:** But it is not the issue that my client raised?

**CPA Abonyo:** Maybe he changed afterwards because maybe in his reply, he then gave the progress because the progress was in March.

**Mr. Nyamodi:** Maybe it is the letter to the assembly to you that is not accurate?

**CPA Abonyo:** We shall look at the record.

**Mr. Nyamodi:** Okay. Now, *Bwana* Omollo another quick question. Your letter that we have is dated 9th of May this year, and the two positions that you have just put before the Committee are contained in that letter. Now, was that letter written for another process?

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**CPA Abonyo:** It was for the initial process before this. That was the response during the first investigation.

**Mr. Nyamodi:** By the General Oversight Committee?

**CPA Abonyo:** Yes, before this particular process that led to the final impeachment.

**Mr. Nyamodi:** Please confirm that it is that process that has then either rolled in or metamorphosized to this?

**CPA Abonyo:** I would say that they considered the matter because the Assembly did consider the matter and then you then have the impeachment process. Okay. So those are two things that happened.

**Mr. Nyamodi:** And you have made the same presentation before this committee as you made before the General Oversight Committee?

**CPA Abonyo:** In terms of the statement?

**Mr. Nyamodi:** In terms of the content of your letter dated the 9th of May.

**CPA Abonyo:** Yes, the letter for the 9th of May, that was the position I took.

**Mr. Nyamodi:** And you responded to the General Oversight Committee and it is that response that has been carried here?

**CPA Abonyo:** Yes.

**Mr. Nyamodi:** All right. It's consistent. No changing comma, no changing full stop, nothing?

**CPA Abonyo:** No further, no further.

**Mr. Nyamodi:** Okay, Thank you very much.

**The Chairperson Hon. Otiato:** You're done?

**Mr. Nyamodi:** Yes, this one I'm done.

**The Chairperson Hon. Otiato:** Have you ever appeared before the committee and presented anything? Because you are talking about the initial issue. What was the initial issue?

**CPA Abonyo:** There was the initial investigation, which we were asked to make written submissions. That is where we wrote the submissions.

**The Chairperson Hon. Otiato:** Was it an investigation or a request for information? What was it?

**CPA Abonyo:** It was a request for information based on what we had received.

**The Chairperson Hon. Otiato:** So, you sent the document, you sent your document.

**CPA Abonyo:** Yes.

**The Chairperson Hon. Otiato:** But did you come here to say anything?

**CPA Abonyo:** No, we were not invited.

**The Chairperson Hon. Otiato:** So up to now you can confirm that there have not been any other proceedings that has ever gone on other than requesting you to provide that information?

**CPA Abonyo:** Correct.

**The Chairperson Hon. Otiato:** So, what you are depending on today is the information you provided to the assembly that possibly formed the basis of the impeachment?

**CPA Abonyo:** Correct

**The Chairperson Hon. Otiato:** Yes Hon. Dorothy.

**Hon. Oinga:** Would you kindly confirm if Migwena was ever budgeted for in this financial year

**CPA Abonyo:** No. It wasn't budgeted for? No, no.

**Hon. Oinga:** You can confirm that it was not budgeted for?

**CPA Abonyo:** Yes, yes.

**Hon. Oinga:** Thank you.

**Hon. Ochieng:** Waziri, in your own assessment, I know you are advanced with the budget. Can you confirm to this house that maybe Alego Usonga is disadvantaged in terms of budget allocation?

**CPA Abonyo:** No, it is not.

**Hon. Arika:** Mr. Chair, maybe just to jog our minds, Waziri, while introducing yourself, you are a CPA?

**CPA Abonyo:** Yes.

**Hon. Arika:** Did you attend the workshs.op in Mombasa? The one that the DG attended? I did not attend. I think, if I'm not wrong, I had not even joined the county government. But I did not attend. You did not get the invitation?

**CPA Abonyo:** Okay. For the CPA functions, they are advertised. We have an annual calendar. So you can select which one you want to attend. So, if I want to attend a particular CPA training because we need to gather, I think it's 40 CPD points, so you basically will select the ones which are relevant to you and then you will go. So, you basically apply, and then they send you the invoice, you pay, you attend.

**Hon. Arika:** If you are to be invited today, probably you will attend, or will choose the one to attend.

**CPA Abonyo:** Yes, yes.

**Hon. Arika:** Would it be proper for the County Government to facilitate?

**CPA Abonyo:** Yes, it depends, because it could be a training. So, for example, if you're going for an ICPAK training on, for example, the government is going to be changing from cash basis to accrual.

Now, if there's an ICPAK training on public finance and they are going to ask that it's going to highlight transition of the government from cash-based accounting to accrual-based accounting. That makes a lot of sense and yes, we will actually even send a couple of our accountants to attend it. Yes.

**Hon. Arika:** You will attend by virtue of being the CEC finance?

**CPA Abonyo:** Correct, but if you are not the CEC of finance, then it would depend. If they would pay for you, it can be approved. But if not, then you would have to pay for yourself.

**Hon. Arika:** Is it proper for you to be paid for if you are not in the Department of Accounts?

**CPA Abonyo:** I think it depends on the policy that exists.

**The Chairperson Hon. Otiato:** Ooh, so if every time you go you get around Kshs. 180,000 and depending on the number; you can choose any, you can even do monthly. So that I get the money because I heard Damian getting Kshs. 98,000 per week. If we have 20 meetings, then?

**CPA Abonyo:** Like, for example, what we have done this particular year for the accountants, we have a schedule. So that we would then know that this accountant will attend this and the other.

**The Chairperson Hon. Otiato:** I think that is all. You don't need to explain. Thank you.

**CPA Abonyo:** Thank you very much.

**The Chairperson Hon. Otiato:** I think we need to proceed because we have a bigger thing. We have not listened to our DG.

**8. DR. EDGAR OUKO OTUMBA**

CECM EDUCATION, YOUTH AFFAIRS, GENDER &amp; SOCIAL SERVICES

**Mr. Nyamodi:** Perhaps chairman maybe you can indicate after this witness, how many more the Committee intends to call.

**Hon. Omwende** Chair can you be loud on the issue that *Wakili* is asking, we also want to get the information, how many witnesses are we still ...

**The Chairperson:** Am saying after *Waziri*, we still have two witnesses.

**Ho. Omwende** Alright

**The Chairperson:** Proceed

**Dr.Otumba:** I, Dr. Edgar Ouko Otumba, do swear that the information and evidence that I shall present before this Special Committee in respect to the matter before the Committee shall be the truth, the whole truth and nothing but the truth, so help me God.

**The Chairperson:** Who is Dr. Otumba?

**Dr.Otumba:** Yes, Chair, I am Dr. Edgar Ouko Otumba, CECM in charge of Education, Youth Affairs, Gender and Social Services in the County Government of Siaya. Now I am here to respond to the issue raised in (d)

**The Chairperson:** Yeah what we are saying in short...

**Dr. Otumba:** Yes

**The Chairperson:** ...we were told that your Bursary is riddled with corruption and I think that is what we wanted to know

**Dr.Otumba:** Yes

**The Chairperson:** And I know you have read through the responses from the Deputy Governor and you ...you can talk to us

**Dr.Otumba:** Yeah, there were three issues that were raised but all in all, we have filed our responses, they were not very major issues but one of them that was raised was involving heads of institutions.

In our responses, we have supplied the County Government Act of 2016 revised in 2019 which specifies how the vetting of the applicants is done and who sits in those Committees. We have also supplied Members with samples of the Bursary application forms and we can confirm that in those forms there is a section that is signed and approved by the head of the specific institution.

So far, I also wish to inform Members that we have already disbursed all the Bursary for this Financial Year. I am not aware that there was any corruption. Probably I throw it back to my boss, the Deputy Governor of Siaya if there are any heads of institutions who have complained that they were not involved in the process.

And if you have evidence of any monies that probably changed hands or were misapplied to the beneficiaries. Chair, that is my short response on the issue; Bursaries.

**The Chairperson:** Yes, *Wakili*

**Mr. Nyamodi:** Daktari, good evening

**Dr.Otumba:** Good evening

**Mr. Nyamodi:** You started off on the right track and I had organized in my mind that I was not going to cross-examine you.

**Dr.Otumba:** Yes

**Mr. Nyamodi:** You spoke about the three issues that were raised by my client and in the other proceedings which we are now clear on took place and in respect of which those issues were raised, there were responses and recommendations.

But then you lost me when you challenged my client to show where there has been any corruption and perhaps in the allegations made about Education by my client was the issue he had, maybe you can point out where the C word is used.

**Dr.Otumba:** Now, there are the issues, let me read them.

**Mr. Nyamodi:** No, the issues are clear, I have asked you about corruption. You have dwelt on corruption at the end. I have looked at the issues and the responses and I don't see the issue of corruption.

**Dr.Otumba:** Through the Chair

**The Chairperson:** Yes, Wakili, I think in one of the issues that you said as part of the evidence and the letter we wrote, we did make it clear that we would play the video for the whole of that speech where those messages were coming from and one of the videos or even in the responses that your client did make that is page eighty, he responded to the current Bursary allocation and ...distribution...with corruption.

So that was the genesis of that corruption I think.

**Mr. Nyamodi:** Perhaps maybe I can start with the video

**The Chairperson:** You start with the video?

**Mr. Nyamodi:** I can start with the video.

**The Chairperson:** Ok

**Mr. Nyamodi:** The issues of the video is first brought up in the letter that was read this morning by the County Assembly to my client on the 2<sup>nd</sup> of June and this is what the letter says, 'Kindly note that the Committee also received and analyzed a video clip of you addressing a funeral in March 2023 or thereabout.

Of importance and I wish to emphasize this part the video will also be shared with you. Chair this video has not been shared. One may argue that it is a video of my client but it is not being produced as a video of my client but as an evidence for his impeachment and it has not been shared.

**The Chairperson:** Okay. We have the video, actually we were supposed to play that video here and if it was supposed to be shared then I don't know why it has not been shared with him but we have the video, if you want us to play it, then we can.

**Mr. Nyamodi:** Am objecting to it being played having not been shared.

**The Chairperson:** Thank you. I know we will not play it if you don't want it to be played. But you know that we have had response to that video because even in the preliminary request for information, your client has substantively answered to the content of that video, so it is a video that he knows of.

**Mr. Nyamodi:** Which was the preliminary request for information chair?

**The Chairperson:** The motion that was moved, maybe you are not aware of what has happened.

**Mr. Nyamodi:** Am very keen to find out about it chair.

**The Chairperson:** What happened in this House having heard the genesis of all these was a statement by the Deputy Governor in a funeral and the responses that has reached to date is the utterances of that funeral including some of the text he made in a particular platform.



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That is where we have all these things we are now calling up for answers. You are today serving here as Wakili for Deputy Governor based on that funeral video, nothing else.

**Mr. Nyamodi:** And perhaps are these the issues that were dealt with by the Committee on General Oversight?

**The Chairperson:** Unless you didn't get the Motion of Information presented before the Committee on General Oversight. The General Oversight Committee when we give you the prayers, this is the misconception, on what we presented, having gotten what the Deputy Governor was speaking on the funeral, what the Assembly said is that we think that the Deputy Governor has no proper platform to air his views.

We are providing him with a platform to come and say what he has to say what he can say or even provide us with documents so that we can look at them. So we invited him to provide information on the allegations he was talking about. It was not a disciplinary process, not a proceeding, whether he either decide to send documents or just come to speak to us and tell us, you know what, what I was saying here is that for me to go to a funeral to start speaking, my communication channels are broken so I need you guys to help us.

This is the information that I have. So based on those pieces of information, then in your own volition, I heard you say this, can you tell me, whatever I used with that information and evidence, it is me to decide what to use it for.

But reading from some of the responses, it is as if there was some sort of disciplinary process or a case which was being handled by another Committee against the Deputy Governor. Which is not true. And if you didn't get the copy of the Motion, I will supply you with one so that you know the genesis of this story.

**Mr. Nyamodi:** Chairman I hear what you are saying but I have a different view but I will keep it to myself.

**The Chairperson:** Why do you want to keep it to yourself?

**Mr. Nyamodi:** It is my view, it is a different view and because we are from different positions hence it is difficult for us to try and persuade each other to see one thing in the same way. That is the way the Assembly has chosen to see it, we choose to see it differently.

**The Chairperson:** But we have been persuading each other since morning.

**Mr. Nyamodi:** We don't have the ability to write the report chair, we are merely here on an impeachment Motion. I keep saying that that is your privilege and I don't intend to take it away.

**The Chairperson:** Okay. Mr. Otumba can we proceed? Do you have any question for Mr. Otumba?

**Mr. Nyamodi:** Other than the issue of Corruption, because the issue of Corruption didn't arise from any of these issues, if it arose in the video, the video has not been shared and I object to that being played.

**The Chairperson:** Okay

**Mr. Nyamodi:** If he walks away from the issue of Corruption, then I have nothing for him

**The Chairperson:** It is okay. We have it and there is a submission about it, you have been given an opportunity to interrogate, if you don't have any question, then we sort it out and say thank you.

**Dr. Otumba:** Yeah thank you Chair, so *Wakili* do we conclude therefore that was no Corruption?

**Mr. Nyamodi:** The Chair is here and he is going to arrive at the conclusion.

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**Dr. Otumba:** So there was no corruption, Bursary is well done, thank you very much.

**The Chairperson:** Thank you again. Next is the County Secretary

**9. JOSEPH OGUTU**  
COUNTY SECRETARY

*(Oath administered to Mr. Ogutu)*

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**Chairperson:** Thank you, Bwana Ogutu so can you introduce yourself, tell us what you do.

**Mr. Ogutu:** Thank you Chair, Honourable members. My name is Joseph Ogutu, am the County Secretary. Thank you.

**Chairperson:** What do you do? Me I don't know, County Secretary you write letters?

**Mr. Ogutu:** Yah, the main duties of the County Secretary as per the County Government act is the Secretary to the County Executive Committee and also head of Public Service.

**Chairperson:** Ok. Now what do you know about this issue of renovation that you will want us to...

**Mr. Ogutu:** Thank you, Mr. Chair, What I recall on the matter under review is that around September when the new administration had just taken over office, there were concerns raised about the status of office of the Deputy Governor and to which my attention was drawn to do with the repairs and which we looked at together with the Deputy Governor and the Chief Officer for Governance.

The Chief Officer for Governance was advised to seek advice from the department of public works in as far as quantification of the works to be done are concerned. However, at that time, the chief officer observed that there was no budgetary provision for the works and so the work could not start immediately.

This was in September when the Deputy Governor had just assumed office. Unfortunately, by 4<sup>th</sup> October, I proceeded on compulsory leave when the matter was still pending on account of lack of budget and there after I was told the process started and ended before I came back from leave. That is the much I know on the subject.

**Chairperson:** See you say the issue was? What was the main issue here?

**Mr. Ogutu:** At the time of the request for renovation works, the Chief Officer for Governance observed that there was no budgetary provision to support the work but he was looking forward to re-allocation or acquisition of funds in the subsequent budgeting process.

So the process did not start in September. But as I said by 4<sup>th</sup> of October, I stepped out of office having been given compulsory leave and so am not able to account for what transpired thereafter. And by the time I came back I think the works had been done.

**Chairperson:** Counsel

**Mr. Nyamodi:** Bwana Ogutu good afternoon?

**Mr. Ogutu:** Good afternoon.

**Mr. Nyamodi:** Am looking at your letter, am looking at the documents that we were given by the County Assembly yesterday afternoon and the documents from you don't seem to say anything about the procurement process. Have you recorded statements that touch on the procurement process?

**Mr. Ogutu:** No, the office of the County Secretary does not deal with procurement matters but I was called to be a witness and so that's why am stating what I know on the matter.

**Mr. Nyamodi:** Ok, if you don't deal with procurement matters and issue here is procurement then what are you witnessing?

**Mr. Ogutu:** I have been given a chance to testify so it is my duty to say what I know and as I said, as The County Secretary, when the Governor and Deputy Governor assumed office, they were settling in the month of September,

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My attention was drawn to the fact that there was need to undertake renovations and that is the only part I have talked about but at that time the Chief Officer who was supposed to start the process indicated that there was no budgetary provision and before the next actions could take place I proceeded on leave so am not able to account for what happened there after.

**Mr. Nyamodi:** But maybe you will take this one later on. Because of the documents that were shared with the Deputy Governor and I, am compelled to ask you the question. Joseph Ogutu are you still the County Secretary of Siaya County?

**Mr. Ogutu:** Yes I am.

**Mr. Nyamodi:** Ok

**Mr. Ogutu:** Thank you.

**Chairperson:** Ok, just to may be know, you said you are the Secretary to the cabinet?

**Mr. Ogutu:** Yes Chairman.

**Chairperson:** This thing you call the need identified. When was it identified can you recall whether it was within the cabinet discussions, did it form any of the agenda Within the period when you were there?

**Mr. Ogutu:** Chairman, this was not at cabinet level. The DG upon assuming office was just concerned about the status of the office and he called me as the County Secretary to see....just if I may give examples, there were some tiles on the floor which were broken about two three pieces and the ceiling board was also hanging loose and that's what I meant by the need.

But now the procurement process for the works to be done procedurally would be undertaken by the chief officer for the Department of Governance but who said that at that instance there was no budgetary provision to support the work and promised that they would look at how they could deal with it may be through reallocation or through supplementary budget.

But unfortunately, these processes took place when I was already away on leave. Thank you.

**Chairperson:** You are the head of Public Service. In situations all these in a way are your people that you need to check on their welfare. In the event that there is a need, how is it processed to find its self in the Budget either supplementary or how do this need get to you and after the identification because for my village we will do public participation, we call the villagers we sit and they say we need a pond here in this where there is need for renovation in the office.

How is the need documented and how is it communicated to a point where we allocate money for it.

**Mr. Ogutu:** Mr. chairman as I said earlier, these were basic repairs of replacing broken tiles and repairing the ceiling at that instance and so the Deputy Governor and he was new in office, could be his second or third week. Just made a call so that he could address what he has seen and that is how we responded by seeing but the next thing was to see how the work could be done and I think that's where the Chief Officer was coming in but he indicated that there was no budget at that time to support the work and that's why I think the process delayed to start at a much later date. Thank you.

**Chairperson:** In your experience, when already you have decided or you found there is a need and you don't have money. How do u handle it?

**Mr. Ogutu:** Mr. Chairman

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**Chairperson:** Is it a discussion between the departments or is it a discussion that is subject to Executive Committee meeting? How is it? How do we and then possibly come with a proposal even that issue you have mentioned about reallocation? How do you arrive at a reallocation?

**Mr. Ogutu:** Mr. Chairman that is what the Chief Officer for the department promised to undertake unfortunately the discussions thereafter took place when I was away. In terms of sourcing for the funds.

**Chairperson:** So reallocation can be done within the department without necessarily going through the cabinet?

**Mr. Ogutu:** Yes the reallocation can be done with the approval of the CEC Finance depending on the magnitude. Thank you.

**Chairperson:** Any member? Yes!

**Hon. Omwende:** Mine will be just a point of may I know. County Secretary, I have two issues. One, you said that u were given a compulsory leave and I want also to be in.... to feel like in your status.

Suppose you were not given this compulsory leave, would you allow this kind of process to proceed? That's one. Two, Chairman there is something am forgetting. If I will recall I will come back again. Thank you.

**Chairperson:** Yes.

**Mr. Ogutu:** Thank you chair, ordinarily and by law we do not procure when there is no Budget and so if there was no budget there is no way procurement process was going to take place. But again as a County Secretary I said earlier I am nowhere in the procurement process, I don't requisition, I don't approve.

So if the Chief Officer of a department satisfies himself that there is a budgeted provision, they communicate to the Procuring Office. Thank you.

**Chairperson:** Mr. Ogutu, I think this is a very technical issue. You are saying the approval must be done by the CECM finance for any reallocation then possibly after approval you can proceed to procure.

I don't know. I would then have asked if because as things are, and you are the head of public service, there have been back and forth communication between us and your department and the executive passing through your office, possibly then and noting these challenges then you would have told us that ok that for sure we appreciate these challenges.

These are the actions we have been taking towards this because the situation as it is and as I know this Assembly that they will not approve money to be used to buy one point something million seat, one seat for somebody at that amount,

Therefore possibly if up to now this thing has not been financed, I don't think, I just, I don't know how you will convince these members to pass this.

So in you at the state as the head of this and you are in charge, all these people are under you and you are in charge up to now. How are you sorting this out? Where are u going to get 18 million to pay? Because it's not going to be financed by this house?

**Mr. Nyamodi:** Chairman if u allow me to interject? These were the issues I had highlighted before lunch that exist between the assembly and the executive.

**Chairperson:** You know you will get the importance when your man will be on the dock. Right now it might be between us. Just take note.

**Mr. Nyamodi:** We will continue to watch as the Mistry unravels.

**Chairperson:** Ok

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**Mr. Ogutu:** Mr. Chairman if reallocation is to be done, it must be put on paper. And as I said, by the time I proceeded on leave there was no reallocation process that had started.

**Chairperson:** Ok. Thank you. That is what I wanted you to confirm there was no reallocation approval from anywhere else and therefore possibly the works that have been done in government office without reallocation,

Without approval from anywhere else is foreign and if you do that in a police station then you should be arrested for dirtying the police station. As we will take it as dirt. It's not approval. So it is dirt that we need somebody to remove. Thank you Mr. Ogutu.

**Mr. Ogutu:** Thank you

**Chairperson:** Next. Next issue is on bullying and on this issue of bullying, no there is misuse of public resources and it is on record that in November 2022 the Deputy Governor William while attending ICPAK meeting in Sarova white Sand Hotel, allegation of misuse of public resource.

**Mr. Ogutu:** I am here to make a clarification on whether I was forced to resign from service, but before I make this statement, I would like to state that I am in office as we speak and I am the serving County Secretary.

Having said that, I would like to confirm that the decision to resign came from me and it was a notice of intention to resign to the Governor and which he granted. Sometime back in February, I indicated my intention to resign from service towards the and this was done in a letter which I submitted to the county assembly and subsequently the governor granted this formally in another communication. Thank you. So, the point is I was not coerced to resign and the intention was expressed by myself willingly.

**The Chairperson Hon. Otiato:** Yes, *Wakili*.

**Mr. Nyamodi:** Good evening, Bwana County Secretary. Good evening. It's been a long day. I don't intend to keep you in the witness stand for too long. It's also difficult, bordering on unpalatable, for me to put a public servant of your stature through the cross-examination that I am about to put you through. But since you have chosen to testify, that then becomes my duty. when did you commence your tenure as the County Secretary of this County?

**Mr. Ogutu:** In July 2020.

**Mr. Nyamodi:** So, would I be correct to say that you became County Secretary under the previous governor?

**Mr. Ogutu:** Yes, indeed.

**Mr. Nyamodi:** And would I also be correct to say that in respect of the administration, in which my client is the Deputy Governor, you are a carryover from the previous administration?

**Mr. Ogutu:** Yes, indeed.

**Mr. Nyamodi:** Now, when my client and his running mate were elected as governor and they took up their positions to serve the people of this great County, what happened to you in terms of your employment?

**Mr. Ogutu:** From the time of swearing in up to 4th of October when I proceeded on compulsory leave.

**Mr. Nyamodi:** Okay. Compulsory leave is not normal?

**Mr. Ogutu:** It is normal.

**Mr. Nyamodi:** Compulsory leave?

**Mr. Ogutu:** Yes.

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**Mr. Nyamodi:** When you are compelled to go on leave, in what circumstances does that happen?

**Mr. Ogutu:** At that time there were reports of investigations to be carried out by a task force that was put in place by the Governor and that those of us who may have been mentioned prior to that were asked to step aside by the Governor and it was not me alone, it was a number of other officers including myself.

**Mr. Nyamodi:** Okay. There is perhaps for the purposes of clarity, there is ordinary annual leave, there is maternity leave, there is now paternity leave, there is even compulsion leave, and then there is compulsory leave. Would we be correct if we put all those four or five types of leave in the same basket?

**Mr. Ogutu:** I have pronounced myself that I was sent on compulsory leave. I was not entitled to paternity leave at that time, and I have never been entitled to maternity leave.

**Mr. Nyamodi:** Did you voluntarily go on leave or were you compelled to go on leave?

**Mr. Ogutu:** Compulsory leave means you are compelled to go on leave. You are compelled to go on leave by the appointing authority.

**Mr. Nyamodi:** Okay. When you were employed in 2020, what terms were you employed on in terms of your tenure? Not your other terms of service, but your tenure?

**Mr. Ogutu:** A five-year contractual service.

**Mr. Nyamodi:** So, in your calculation, as at August 2022, how long did you have to go to run on your contract?

**Mr. Ogutu:** The contract I have indicates that we can separate with the employer at any given time, provided either party gives a notice of at least 30 days, and so resigning or expressing intention to resign is within my right and choice.

**Mr. Nyamodi:** I want to drag you back to my question, Bona County Secretary, and I'm sorry to do that. As of August 2022, how long did you have left on your contract?

**Mr. Ogutu:** About two years, slightly over two and a half years. Two and a half years.

**Mr. Nyamodi:** Now, were you the only one who was sent on compulsory leave?

**Mr. Ogutu:** As I said earlier, I was sent on compulsory leave with many other officers.

**Mr. Nyamodi:** Okay. I take it that now that you are back and you have stated that you are the substantive county secretary, you have returned to work?

**Mr. Ogutu:** Yes.

**Mr. Nyamodi:** When did you return to work?

**Mr. Ogutu:** End of February, sometime towards the end of February this year.

**Mr. Nyamodi:** So, you were away for how many months?

**Mr. Ogutu:** About four and a half months.

**Mr. Nyamodi:** Okay. Now, did you all return back together from compulsory leave, you and your colleagues who were sent on compulsory leave?

**Mr. Ogutu:** Yes, as far as I'm concerned, the officers who were sent on compulsory leave came back, and they are in service.

**Mr. Nyamodi:** I'll ask my question again. Did you all return to work at the same time?

**Mr. Ogutu:** No, we came back at different times. I came back when I received a letter asking me to come back. I did not see the others' letters, but I found them working.

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**Mr. Nyamodi:** So, is it safe to say, *Bwana* County Secretary, that they came back before you?

**Mr. Ogutu:** Yes, they came back before me.

**Mr. Nyamodi:** Okay. Now, I noticed that you have stated that you were leaving in December?

**Mr. Ogutu:** Yes.

**Mr. Nyamodi:** Are you leaving of your own volition?

**Mr. Ogutu:** Yes, indeed.

**Mr. Nyamodi:** Is the fact that you are leaving in December or is your leaving in December part of the compromise you reached for you to return to work?

**Mr. Ogutu:** There was no compromise. I made the request on my own volition, as I have stated earlier,

**Mr. Nyamodi:** Nobody twisted your arm?

**Mr. Ogutu:** No.

**Mr. Nyamodi:** You just chose to leave one and a half year before the end of your contract?

**Mr. Ogutu:** Yes, indeed, for a reason, which I stated in my letter.

**Mr. Nyamodi:** As you are entitled to do. Thank you very much, *Bwana* County Secretary. Mr. Chairman, I have no further cross-examination for this witness.

**The Chairperson Hon. Otiato:** *Wakili* you wanted to force him to resign.

**Mr. Nyamodi:** I have no job for him. How can I force him to resign?

**The Chairperson Hon. Otiato:** Thank you. I think it's okay, we are done with you.

**Hon. Omwende:** Oh, Chair, just one. Just one minute. One minute. One minute. One minute, County Secretary. There is something that, County Secretary, there is something that is not adding up.

During your representation, it is from your own decision. You're compelled to go to leave. Get me right, get me right. I'm on the floor. This is to make me to understand you. That's why I'm asking this question. For answers. That means that somebody, your boss, has decided to go for relief, which I agree with that one.

Then when you are interrogating further, there is one area that you are saying it was your own making. I don't know whether I'm the one that I'm not the one understanding this?

**Hon. Otiato:** I think let's just say that he was saying, that he was on a compulsory leave, he was compelled. During the investigations, all the chief officers and some of the staff were told to go home and leave room for investigations, and he was home for four and a half, about four and a half months. When he came back, he found it necessary to quit on his own volition, thank you.

Now, we have Mr. Austin Otieno. Do we have him here?



**10. AUSTIN OTIENO OGOLLA**  
SOCIAL WELFARE OFFICER

*(Oath was administered to Mr. Otieno)*

**Mr. Otieno:** I, Austin Otieno Ogolla do swear that the information and evidence that I shall present before this committee in respect to the matter before the Committee shall be the truth, the whole truth, nothing but the truth, so help me God.

**The Chairperson:** Yes, Austin, introduce yourself

**Mr. Otieno:** Mr. Chair before I start, I wish to inform you that this is the first time am hearing about that am a witness before this Committee. I have not received any communication from anyone that am supposed to testify before the Committee. I have been called here, I do not even know what am supposed to say, the issues am supposed to answer to, so kindly guide me on that.

**The Chairperson:** I will guide you but just hold on there. Chief Officer Governance, did you communicate to Austin?

**Mr. Omondi:** ..... he warned me that if I have anything to tell him, then I should do so before he blocks me from communicating with him. So I .....

**The Chairperson:** Austin, I hear that you had threatened lives of Chief Officer to communicate before you block him.

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**Mr. Otieno:** I think Chairman, the CO has just confirmed that I have not been informed of what am supposed to do here. That is the message he is trying to pass.

**The Chairperson:** Okay

**Mr. Otieno:** Yes

**The Chairperson:** Let me now just brief you, maybe we are sorry for that .... but then these are the issues, it is alleged that the Deputy Governor once made a pronouncement that one Mr. Austin Otieno, who is a Political Affairs officer in the County service had been interdicted without being given an opportunity to show cause why disciplinary action could not be taken against him.

In that we just wanted to know who is Austin Otieno and what does he do for Siaya.

**Mr. Otieno:** Austin Otieno Ogolla was employed by the County Government of Siaya in November 2017 as a Social Welfare Officer attached to the Political Advisor's office, an office that is charged with the overall responsibility of offering political advice to both the Governor and the Deputy Governor. Yes, sir.

**The Chairperson:** Ok. That's good, so attached to the Political Affairs office?

**Mr. Otieno:** Yes, Political Advisor's office.

**The Chairperson:** So you are not Political Affairs officer?

**Mr. Otieno:** Yes, but I am attached to that office.

**The Chairperson:** Okay, That's okay

**Mr. Otieno:** Yes

**The Chairperson:** Are you at work now?

**Mr. Otieno:** Am not at work.

**The Chairperson:** What has happened?

**Mr. Otieno:** I received an interdiction from the CO

**The Chairperson:** Okay. For what? What happened?

**Mr. Otieno:** The letter that I received, the CO claimed that I had been involved in a political activity and he further stated that according to the HR guidelines, am not supposed to engage in politics and I was left wondering that am getting an interdiction letter on something that am paid to do.

I receive salary because I offer political advice to both the Governor and the Deputy Governor. Now he is giving me a letter that I am interdicted because I attended a political function. In that letter, he has not even stated the function, when and where it took place and if there are any images or videos, there was nothing.

**The Chairperson:** Okay.

**Mr. Otieno:** He further alleged in that letter that I beat up people in that political function. Now I wish to clarify that up to date, I have no pending criminal case either within the country or outside.

**The Chairperson:** Outside? Your claim can be international criminal?

**Mr. Otieno:** No. am just trying to ....

**The Chairperson:** The issue here is that you were interdicted without due process?

**Mr. Otieno:** Yes.

**The Chairperson:** What did you expect before interdiction?

**Mr. Otieno:** A show cause.

**The Chairperson:** Mmmh.

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**Mr. Otieno:** I was expecting to get a show cause letter that was explaining that there is information that you attended this function. What is your response on it? Then I was to respond after which they were to act.

What I received was an interdiction letter that stated that I had already been interdicted from work and I was to receive half pay.

**The Chairperson:** Mmmh.

**Mr. Otieno:** Yes.

**The Chairperson:** And then they go ahead and say in their last paragraph that this letter also serves as show cause to which you are expected to respond to in writing and explain why further disciplinary action cannot be taken against you. Your written explanation should reach this office within seven working days from the date of this letter. Did you ...

**Mr. Otieno:** Yes. my interpretation of it, it says that I should give a written explanation why further action should not be taken. By further, I interpreted it as action that was to follow the interdiction.

I was expecting that before I am to be interdicted, I am to first of all respond. Now you've already interdicted me and now you would want me to inform you why further action should not be taken against me when I haven't even responded to the first one.

**The Chairperson:** So you feel that you were unfairly interdicted?

**Mr. Otieno:** Very true.

**The Chairperson:** Okay.

**Mr. Otieno:** Yes.

**The Chairperson:** Members anybody with a question?

**Mr. Otieno:** Maybe to add, chairman, the reason why I feel that I was unfairly dismissed, had it been that it was a new CO, it is something that I would have understood. But this is someone who has been facilitating me to attend political function for the last five years.

By facilitating, it starts from transportation because you know I cannot attend a political function in Rarieda something that is to benefit the Governor if am not facilitated and authorized to attend by my CO.

So this is someone I have worked with for the last five years. He knows what I do and he knows that politics is part of my roles. Now he is giving me a letter saying that am not supposed to participate in politics. Something that am paid to do. In the event that I don't do that, don't you think that I'll be marked as a ghost worker?

**The Chairperson:** Yeah, for sure you can be a ghost worker.

**Mr. Otieno:** Thank you.

**The Chairperson:** And from here, did you ever write to say that you don't want to be a ghost worker? Because you were told to write within seven days and the same letter they are saying that this is an interdiction come show cause, two in one.

**Mr. Otieno:** Am considering other options.

**The Chairperson:** Yes

**Mr. Otieno:** Yes, and I lost faith in the CO, am sorry to say this, because if he is someone that I have been dealing with and he is the one that is writing me the letter. What guarantee do I have that if I respond to him, I stand a chance of being given a fair hearing?

**The Chairperson:** Mmmh. Okay. Madingu you were saying something?

**Hon. Madingu:** Thank you so much, Chair. Mine is just a question and first of all sorry Austin for what transpired.

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**Mr. Otieno:** Thank you.

**Hon. Madingu:** My question was that apart from warning that if the CO continues talking to you on phone you will block him, what any other legal measures did you take towards the activity that took place through the CO?

**Mr. Otieno:** Which activity?

**Hon. Madingu:** Of interdicting you and you felt that it was infringing your right. What actions or steps did you take probably towards trying to regain your right?

**Mr. Otieno:** I just said that I am still exploring my options. Yes, sir.

**Hon. Oinga:** Good evening Austin

**Mr. Otieno:** Good evening

**Hon. Oinga:** I have heard your submission and from them, let me just jog your mind a bit on interdiction. You have mentioned your expectations but in HR practices and even in the discipline manual, indeed it is true that you can be interdicted and a show cause included in that interdiction. So we have confirmed that your interdiction letter had the clause to show cause why, is it right?

**Mr. Otieno:** Yes.

**Hon. Oinga:** The interdiction letter had a clause?

**Mr. Otieno:** It had “further” to show cause to further actions, not the initial one for interdiction.

**Hon. Oinga:** But it had that clause that you should show cause.

**Mr. Otieno:** Yes.

**Hon. Oinga:** Thank you. Now, you’ve also mentioned expectations. Let me just inform you that the government is guided by procedures and not expectations.

Probably you would have expected that the CO behaves in a manner that is not in line with the procedures and law as regards to Human Resource (HR) practices. Aside from that, when you were being employed, your appointment letter what designation are you?

**Mr. Otieno:** Social Welfare Officer.

**Hon. Oinga:** Thank you.

**Mr. Otieno:** Yes.

**Hon. Oinga:** Not a Political Advisor?

**Mr. Otieno:** Social welfare officer but am stationed at the Political Advisor’s office

**Hon. Oinga:** Just a minute

**Mr. Otieno:** Yes

**Hon. Oinga:** Thank you that’s the question I wanted, Social Welfare Officer, right?

**Mr. Otieno:** Yes

**Hon. Oinga:** Were you issued with a job description from the HR?

**Mr. Otieno:** Yes

**Hon. Oinga:** Are you able to furnish this committee with your job description?

**Mr. Otieno:** Just as I had said...

**Hon. Oinga:** Are you able to? Do you have the document?

**Mr. Otieno:** No because I was not informed ...

**Hon. Oinga:** You don’t have the document?

**Mr. Otieno:** I was not informed that I was to ...

**Hon. Oinga:** Not here, not in this House. Can you produce the document in case you are requested to do so?

**Mr. Otieno:** Yes

**Hon. Oinga:** You have the job description?

**Mr. Otieno:** Yes

**Hon. Oinga:** Okay thank you.

**The Chairperson:** Anybody else? Arika

**Hon. Arika:** Okay. Thank you Chairman. Bwana Austin what do you understand by the role of being a Political Advisor? Does it mean that you have to actively participate in politics or your role is just to advise?

**Mr. Otieno:** My take, advising is part of being active in politics. You cannot advise if you are not active in politics.

**Hon. Arika:** Another question, you are a welfare officer, right?

**Mr. Otieno:** Yes

**Hon. Arika:** If today, you found yourself being attached at the County Attorney

**Mr. Otieno:** Yes

**Hon. Arika:** You are attached to that office

**Mr. Otieno:** Yes

**Hon. Arika:** Will you play the role of being a legal advisor or go ahead and do legal representation?

**Mr. Otieno:** I will perform based on the instructions I get from the County Attorney

**Hon. Arika:** So if Attorney was to instruct you to probably go and represent the County in a certain case, will you do that?

**Mr. Otieno:** In a case, it depends on the role am to play in that case. If am to carry a file, it is okay.

**Hon. Arika:** Not carrying a file.

**Mr. Otieno:** Yes

**Hon. Arika:** The question is, if you find yourself in the Attorney's office and you are welfare officer and the Attorney decides to delegate a duty of representing the County in a certain case, will you have the capability of doing that?

**Mr. Otieno:** I will play that role, guided by my appointment letter that says I follow any other duty as instructed by my immediate supervisor which in that case will be the County Attorney.

So if he is to order me, then it's a task, my appointment letter directs that I obey my immediate supervisor. If I am to go against him, then it would lead to insubordination.

**Hon. Arika:** Now that brings me back to the first question. Would it be that is the reason you were interdicted because you decided to participate actively in politics while in real sense you are not supposed to do that?

**Mr. Otieno:** Actively? I've not even been informed...

**Hon. Arika:** You are a welfare officer? Where are you attached to?

**Mr. Otieno:** The political advisor's office

**Hon. Arika:** Then you found yourself in a political forum

**Mr. Otieno:** Forum?

**Hon. Arika:** A political forum or a funeral forum

**Mr. Otieno:** Yes

**Hon. Arika:** Then you decide to engage in active politics in a political forum

**Mr. Otieno:** It depends on ...

**Hon. Arika:** Both from what I understand, if you were to play any role then it should be within the premise of that office where you are attached to but not in a funeral forum.

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**Mr. Otieno:** Now *Mheshimiwa* allow me to inform you that the function that you are referring to, it depends on what has taken me there. If I have been instructed to go there and talk about politics, then I will. I am a junior officer so whatever I do, I do it under the instruction of my senior bosses.

**Hon. Arika:** Still your position that if the county attorney was to instruct you to go and represent the County probably at the Siaya court, you will do that exactly?

**Mr. Otieno:** As my immediate supervisor

**Hon. Arika:** You will do that?

**Mr. Otieno:** As my immediate supervisor

**Hon. Arika:** You believe you have the capability of doing that?

**Mr. Otieno:** I do not. But maybe the county attorney will give reasons to why he did that.

**Hon. Arika:** So if you were to be told to go and kill someone then you will do because your senior has told you to do it.

**Mr. Otieno:** **Killing** I do not know. Yeah....

**The Chairperson:** I think we need to now proceed to our final .... You have confirmed that you are a welfare officer attached to the Political advisor's office

**The Chairperson:** Political advisor's office

**Mr. Otieno:** Yes

**The Chairperson:** To do what in the Political advisor's office

**Mr. Otieno:** Political advisor's office in overall mandated to offer political advice to both the Governor and the Deputy Governor. We are supposed to research on areas that will make both the Governor and the Deputy Governor to remain politically correct.

**The Chairperson:** So you are a researcher?

**Mr. Otieno:** Yes. Now my research, just as he has said, it can be in funerals, Bunge la Mwananchi, anywhere where there are party functions. If that is where I can do that research I will, when and if facilitated by the County Government of Siaya through my Chief Officer that is here.

**The Chairperson:** So are you a civil servant?

**Mr. Otieno:** Yes, I am,

**The Chairperson:** As a civil servant are you allowed to engage on active politics?

**Mr. Otieno:** It depends on what I have been employed to do *Mheshimiwa*. If am employed to do politics ...

**The Chairperson:** Have you heard of civil servants that have been employed to do politics?

**Mr. Otieno:** Now I think that question you should ask the CO because for me to have survived for five years in County Government then it means that I have been doing it right.

*(Loud consultations)*

**The Chairperson:** So you are a ghost worker?

**Mr. Otieno:** I am not a ghost worker.

**Hon. Omwende:** Chair! Chair!

**The Chairperson:** Okay. I think we need to stop at that...

**Hon. Omwende:** I only have one question. Just one.

**The Chairperson:** Yes

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**Hon. Omwende:** County Governments do have structures and if you think you cannot be served by the CO, I think you can also get another step. In that department, CO is not working as a vacuum.

Did you manage if you think that the CO already has decided to give you the interdiction letter, did you make any attempt of reaching the CECM for Governance and Administration?

**Mr. Otieno:** Thank you for that question.

**Hon. Omwende:** Yes

**Mr. Otieno:** My answer is no because of the following reasons; before my interdiction, I got communication from the CO that my association with the Deputy Governor would lead me to trouble because there was tension in the Executive between the Governor and the Deputy Governor and a lot of officers including the CO are amongst the people that took sides.

I was frequently and in public seen with the Deputy Governor. So when the CO told me that and I then got a letter, I said I stand no chance. If the genesis is the fight between the Governor and the Deputy Governor, maybe even the CO is operating under the instruction from somewhere. so if I am to approach the CECM, what if the instruction was from the CECM?

**The Chairperson:** You are the political Advisor advising both the Governor and the Deputy Governor.

**Mr. Otieno:** Yes, sir

**The Chairperson:** So you opted to go for Deputy and left the Governor or do you still go and advise the Governor?

**Mr. Otieno:** I do both

**The Chairperson:** When did you meet the Governor last?

**Mr. Otieno:** Sometime in January before these fights ...

**The Chairperson:** And when were you interdicted?

**Mr. Otieno:** Around February, March I am not so sure on the dates

**The Chairperson:** It was around March because we have the letter there. So in between this one month, you were not working because you ought to advise both Governor and the Deputy Governor or you decided just to advise the Deputy?

**Mr. Otieno:** I was advising both but now they want you to be seen with the Governor but not with the Deputy Governor. Now when ....

**The Chairperson:** Who?

**Mr. Otieno:** I had mentioned the CO. do I really need to repeat?

**The Chairperson:** Okay the CO wants to see you with the Deputy?

**Mr. Otieno:** I am supposed to be seen with the Governor but not the Deputy Governor. Now the very minute I start ....

**The Chairperson:** So where did you choose to be?

**Mr. Otieno:** Where did I choose to be how?

**The Chairperson:** Now, like the environment you are working has subjected you to a situation that you choose only between two, either you are with the Governor or with the Deputy, which one did you choose?

**Mr. Otieno:** I have not chosen any.

**The Chairperson:** So you are non-partisan?

**Mr. Otieno:** I am non-partisan

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**The Chairperson:** How did you come here today?

**Mr. Otieno:** I came here as a member of the public that was interested in following the proceedings of the House.

**The Chairperson:** Okay, thank you. And I see where you are seated was very strategic as a member of the public. Wakili ...just say something...

**Mr. Nyamodi:** It's my turn?

**The Chairperson:** Yeah because we want to finish ...

**Mr. Nyamodi:** Okay I won't keep you long. Augustine, is that your name?

**Mr. Otieno:** Austin

**Mr. Nyamodi:** Austin, Austin, Austin

**Mr. Otieno:** Yes, sir

**Mr. Nyamodi:** First I want to tender an apology. The manner in which you have been questioned tonight, one might think that you are the one on trial. I will not go down that direction because my legal training...

**The Chairperson:** Are you challenging us, *Wakili*?

**Mr. Nyamodi:** No, it's my observation.

**The Chairperson:** No when you are challenging us then you don't even need to proceed.

**Mr. Nyamodi:** If you tell me to keep quiet chair, then I will

**The Chairperson:** Keep quiet and thank you, sit down.

## SUBMISSION BY THE D.G.

**WILLIAM ODHIAMBO ODUOL DENGE**

DEPUTY GOVERNOR

**The Chairperson:** It has been said after which I know Members might be having questions. I know you want to sit next to your council just in case.

**Deputy Governor:** We are grateful for that privilege.

**The Chairperson:** Proceed!

**Deputy Governor:** Thank you, very much; Chair! Members of the Committee, my council and the rest of the County Government staff and indeed members of the fourth estate and the public. I know the energy levels are running extremely low so I'm going to be very quick. I want to mention from the outside that I made our submissions yesterday and those submissions largely obtain.

I want to make a few remarks following comments from a good number of the people that have spoken today and I want to start with aspects around procurement. I'm happy to note that Mr. Okwata mentioned that I did not in any way shape or form interfere, coerce or exercise undue influence in the procurement of the Kshs. 18million for the renovation of my office that he mentioned under oath and I would like this Committee to take note of that.



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I want to register my disappointment on Mr. Okwata's decision to not copy me on an email that was obviously talking about my purported attempted influence and the word here is attempted influence.

The only thing that I want to agree with him and it is important that the Committee note is that he confirmed that of the 86 road tenders that initially was said that I had influenced the changes on specifications; he confirmed that I did not change those specifications and that what went to tender were the original specifications.

Mr. Okwata also alleged that I threatened him and that he handed over the evaluation report for the fertilizer and seeds tender. Yes, I agree because I summoned him to my office only after there was an article in the Citizen newspaper talking about corruption not to ordinary activities around that tendering process.

I invited Mr. Okwata to my office to shed light on that because I was very concerned as the Deputy Governor of this County. Don't forget the Governor delegated me the responsibility of superintending over finance and economic planning and Mr. Okwata sits in finance and economic planning.

I delegated responsibility to seek clarification especially on an aspect that could potentially tarnish the name of Siaya County. He did not hand over the evaluation report. I remember the Vice chair asking Mr. Okwata when he handed over to my secretary and he said, no! True to my suspicion and apprehension, two days later I received a letter from E.A.C.C. questioning the tendering process and I'm happy that the tendering process was terminated.

In the past I have raised concerned with the way we subsequently procured the fertilizer and seeds because after the tender we went ahead and did a direct procurement.

Direct procurement is a process and of course before you go to direct procurement you have to put it in the procurement plan that you are going to go that route. I also questioned whether that was done but I'm not sure whether that was done.

I think that addresses the issues raised by Mr. Okwata; on Chief officer for Governance, Joseph Omondi and acting Chief officer for Governance, Abayo. They did confirm again that I was not involved at all in the procurement process for the 18million renovation of my office/ I want to also clarify that the kshs.18million was not just for renovation of my office.

It also included renovation of the holding office next to the Deputy Governor's office, the gates and the toilets. That renovation encompassed a few other things including exteriors not just interiors. I also want to let this Committee know that I as Deputy Governor; I'm nowhere in the procurement process, I don't reacquisition, I don't approve, I don't sign nothing. I don't sign anything.

The accounting officer is the chief officer for Governance; that is the man with the authority to incur expenditure so if procurement was done un-procedurally; I think the buck stops with the chief officer, Governance and director of procurement because there are certain processes that they should have undertaken to carry out that.

Nobody shared with me the quotation I didn't even know the cost of the renovation, nobody shared with me the invoice. I think I only met with the contractor once in my office when he was coming to do some inspections.

In my position I would never have known; I remember my position initially when we started I was informed that we had a Kshs. 5.4million budgetary allocation. At some point we had a meeting with the Governor and the quotation we had was Kshs 7million and we tasked

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either Abayo or Joseph to go and see whether we could make some reallocations which they talked about earlier on when they were here with a view to providing furniture in my office and making some basic renovations in my office.

I was actually under the impression that the reallocation was done and let me address myself to that reallocation. When we were doing supplementary one we have certain ballpark numbers. In terms of flagship projects that we wanted to undertake and I think I took a screen shot of those flagship projects that we wanted to undertake hence the reason for the Supplementary Budget I was rice mill at Kshs. 40million, and then there was health refrigeration at Kshs. 60million, Ugunja Bondo upgrading at Kshs. 27,900,000 and then we were going to recruit staff we needed about Kshs.85, 500,000, N.H.I.F. medical cover renewal at Kshs. 79million, purchase of seeds fertilizer Kshs. 120million.

In the discussion that we had with Governor Orengo we agreed that they were going to do some reallocations so that we have enough budget and I think Jared Abayo confirmed here through a letter which has been circulated that he attempted to do reallocations. There was an official letter he wrote requesting for reallocation for some two vote heads.

I want to invite you to critic our budgeting process because the way it works; it is approved at Cabinet Executive, it comes Assembly and then Assembly deliberates on budget and then often times and particularly for Supplementary budget 1 the Assembly approves with amendment.

When it was approved with amendments there was a team that went to Kisumu to make certain amendments together with Jack Odinga. That is when reallocation for renovation of office did not take place. I already mentioned that I'm not an accounts officer neither am I the procurement manager and I also want to disabuse very strongly with respect the Committee. I want to disabuse the notion that I pushed anybody to renovate my office at Kshs. 18million. Thankfully, Jared Abayo a faithful man and I owe him a beer when we leave here. He mentioned that nobody pushed him; it's good to have a few honest men and women in our midst.

Please note that no one and specifically the Deputy Governor, William Oduol; did not know that the renovation of his office was going to cost Kshs.18million; William Oduol did not push anybody least of Jared Abayo to procure the Kshs.18million. For the media people in the House;

I know there have been very exciting discussion around my surgical seat that cost Kshs. 1million. I want to clarify and on behalf of Abayo Jared; that seat is not called a surgical seat it's an orthopedic seat. There were three seats that were procured at Kshs.1.1million. I think it needs clarifications so that the media doesn't leave here and say the Deputy Governor procured his seat at Kshs.1.1million that would be a misnomer. I thought I need to clarify that.

The coffee table is not Kshs. 1million it was Kshs. 756,000 and that coffee table has four stools. Damien you didn't do a good job today. On ICPAK meetings; I think the CEC Finance prosecuted this matter effectively.

I just want to augment on what he said. I'm a CPA and Benedict is a CPA and like every profession; there is what they call continuous professional development that are minimum points as a professional we were expected to attain every year and Benedict talked about 40. Hon. Odinga asked Damien that if you are a sweeper and you are a CPA and you are invited for these functions would you attend?

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The long and short answer is no; however, you can still attend depending on the policy of the organization. Why would the Deputy Governor or somebody in Finance attend this forum? For the simple reason that they are training opportunities. We are dedicated to continuous improvement in this County. We improve our systems or internal controls, moving from cash accounting to accrual accounting so those seminars are extremely important for people in the line of duty.

A CPA is somebody qualified as an accountant but is not registered with the institute of certified public accountants in Kenya. A C.P.A-K. is slightly senior to a CPA; I'm C.P.A-K, Benedict C.P.A.-K and we have a good number of C.P.A-Ks in finance department.

I would answer it this assuming there is no policy is a Member of the Budget Committee or Member of Public Investments; I think those are Committees that are relevant and so it would be wise and indeed benefit the Assembly for somebody like that to attend.

I hope then that explains why in my capacity and having had delegated the responsibilities from James Orengo to superintend over finance. That the explains in November last year I attended the annual ICPAK seminar and there are only two of them. I think it is in the best interest for somebody like me who's trying to put in place procedures and processes and trying to streamline things to attend those courses for learning. I want to also add that last year when I attended the ICPAK seminar; I didn't just attend as a CPA-K. I actually carried the flag of Siaya County very high.

I was the key note speaker in that event and I was addressed as a Deputy Governor in fact my council forgot to share that with you but the invite that came was as Deputy Governor for Siaya County and we even shared copies with the Assembly.

I was a key note speaker; I was talking about financial reporting in County Governments in Kenya. Promoting this County and showing the whole Republic that Siaya County is very serious about the stuff that they are doing and that you only address yourself to me.

That particular event we had a record 14CPA-Ks from Siaya County so it was not just William Oduol. We were invited in individual capacity but it is relevant because they sit in finance and that course is absolutely important for the work they do. I want to submit to this Assembly that I have no personal difference with Jack Odinga; I just want us to work in a particular way.

**The Chairperson:** Deputy Governor; you are addressing me as the Chair.

**Deputy Governor:** I wanted to give him comfort but I'm guided I have absolutely no personal differences with Jack Odinga. I have serious governance issues when it comes to how we are running and managing finance. It will please you Chair and the Committee that then CECM for Finance was on Spice radio station last week; accepted and agreed with me on most of the things.

In fact, in his radio address I have been saying that in three months we lost Kshs. 100million. In October, November, December and January, I said we lost over Kshs. 100million. The CECM for Finance said we lost Kshs. 65million but he was very deliberate in his feedback to the public. He said between November and May; that's what he said we lost Kshs. 65million.

Further ahead, he said that when I started making noise in February they withdrew through imprest Kshs. 3.1million and then in March they withdrew Kshs. 2.5million and they closed imprest account in April. That Kshs. 65million if ideally in November to January

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because in February and March they withdrew Kshs. 5million. I'm not against imprest and I'm neither saying it is illegal; I'm concerned at the huge flagrant abuse of imprest.

If the March withdrawal continues it is a normal, it is reasonable I will not make noise. We still need imprest because occasions will rise when we have emergency and we need quick money. Imprest is Kshs. 200,000 and Kshs. 300,000 it can never be crazy ridiculous withdrawals that we are seeing here.

I want to response to Jack Odinga because he said some of the money that was withdrawn was used to pay my travel in ICPAK. I'm not saying 100% of imprest is illegal but I want to submit without any fear of contradiction in this Floor of the House that 30% maybe legal but 70% is absolute theft and I want to be taken on that.

**Chairperson:** Can you provide any other evidence to that statement?

**Deputy Governor:** I have provided to this Assembly evidence of abnormal huge withdrawals. You have an officer that goes to the bank; Chair with respect 4-5-6 times in a day. Withdrawing Kshs. 900,000, 950,000, 800,000 and its five times and its one individual. What are we going to refer that to? Even the bank I believe is complicit.

**Chairperson:** Can we get that evidence?

**Deputy Governor:** I will show you the bank statements; I already shared and I can share 100times. I have said in the past that it is not just imprest that I was complaining about but I want to tell the people of Siaya that I'm very happy because through my noise in February I have managed to save them Kshs. 40-50million monthly withdrawals because it has been stopped. How are they operating now that they have stopped it? In February they withdrew Kshs. 3million, In March they withdrew Kshs 2.5million; why were they withdrawing Kshs. 40-50million earlier?

Let me address myself to the other thefts or attempted thefts as Jack Odinga called it in his submissions to the Assembly. In December, there was a Kshs. 5.4million theft through payroll and in March I said Kshs. 2.5million I was corrected that it was Kshs. 2million.

Theft is theft whichever shade or color you want to paint it. Attempted theft is an offense in the penal code. Why are the culprits still seating in finance? And the lady that stopped this transaction was sanctioned and transferred from her station.

The cartels are protected by this administration in the Executive. Let me talk about the Kshs. 13million that Jack Odinga talked about. Remember he said when he transferred; when he requisitioned for 21million he only transferred Kshs. 13million.

Now that Kshs. 13million transfer is a transfer back to universal health services a donor account. The money in the donor account was withdrawn in July. Somebody needs to ask Jack Odinga and perhaps the Assembly and the rest of finance; what was the purpose of that withdrawal of Kshs. 13million?

I talked about the Kshs. 6.5million Kenya Urban Support Program; another donor account withdrawn in the month of August. I realize that people are looking very tired so I won't go on and on. By the way, I am a proper accountant so by the time I'm talking and I am saying this I have looked at the numbers and I'm qualified.

These requisitions that he is saying that controller of budget has approved have not been approved. What these guy do is they use DSA (daily subsistence allowance) from employees. Early last month they used Kshs. 40million daily subsistence allowance. Let me give you a general picture of how requisitions are done and then how it is abused.

**The Chairperson:** DG we don't want to get the whole story; how I wish you present us with one classic example.

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**Deputy Governor:** I want to be challenged on these things I'm talking about in fact finance have confirmed what I have been saying including Jack Odinga said Kshs.5.4million was about to be lost but we stopped it.

Why are the perpetrators still in office; why did they transfer the lady that stopped it? I talked about Kshs. 18million assumption of office money; they withdrew Kshs 22million and they only gave the chief officer governance Kshs. 3.9 million.

Where is Kshs. 18.1 million? I asked this question in the presence of James Orengo when we were in a meeting in the presence of finance team. I even told him that these people have stolen and nothing has happened.

Early last month there was a global requisition and within that requisition there was Kshs 40million requisition for staff allowances of Siaya County. When that money was approved via budget the only paid 40% of the staff and 60% was diverted and this has been the cycle. That is the financial discipline I'm trying to address.

On budgeting and Siaya stadium; in my submissions I may have been misunderstood. I did not say that we had reallocated the stadium money to Migwena; I was only concerned because remember I was the Chair of that Committee.

I was concerned that why had the Governor in December when we were in Migwena he had promised that in March he would be launching but by March nothing was taking place. Now I'm happy that we are back to work and that's no longer an issue. I only talked about two other things; this generalization of Alego is a pigment of the Assembly's imagination.

I only talked about three things; the stadium in Siaya, Ogaso-Segere road and I talked about the Governor and Deputy Governor's residence. The Deputy Governor's residence was Kshs. 31million and Ogaso-Segere road was Kshs. 20million. If you look at the Supplementary budget one, it is not there and Kshs 20million was removed.

In the Executive wing we passed those block numbers and then of course when it came here approved with amendments then some folks went to Kisumu and did some gymnastics on the budget.

**The Chairperson:** This is a Parliamentary Sitting; you say their folks that went to Kisumu and did gymnastics...

**Deputy Governor:** Let me paraphrase; this is perhaps the second or third time I'm coming to the Assembly so I'm not very used to your parliamentary language. I seek your indulgence.

There are Hon. Members who went to Kisumu and mutilated the budget and disorganized it. What was eventually brought was not what we had sanctioned. Mr. Otumba, I never said there was corruption in bursary. I was concerned; I raised three issues and I really don't want to address myself to that because I think there was general consensus between him and us.

I want to specifically talk about one thing that may be of benefit even to the Members of the County Assembly and even us as Executive. An example is; Hon. Ochanda in Bondo gives Kshs. 6000 bursaries and the County Government gives Kshs. 5000; that's Kshs 11,000. Chances are that even those beneficiaries through National Government they could still get further allocations.

Even through other banks like Equity and K.C.B. further allocations. I was suggesting that there need to be a mechanism of harmonizing the County Government and

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National Government bursary allocation for effective delivery because in the process of doubling up sometimes we leave out deserving cases.

Last but not least; I think in my submission to this Assembly I referred to Austin Ogola as a political advisor but his work is not too divorced from political advising because he said he is a social worker in the political advisor's office.

Perhaps you need to correct that; I stand corrected. He is social advisor in both the Governor and Deputy Governor's office. That's my submission and I'm happy to take up questions.

**The Chairperson:** I know now we have a series a questions from Members.

**Hon. Arika:** Thank you, Mr. Chairperson; good evening Deputy Governor. The information within my knowledge is you are an accomplished accountant. Such that if you were to get into the office after renovation you will easily quantify what was spent to renovate that office. When did you realize that the amount spent was Kshs. 18million to renovate your office?

**Deputy Governor:** I was very conscious about spending in my office; I kept asking people in governance I also wanted to see the invoices but they were never availed but of course because of business exigencies I only got to know about this Kshs. 18million spent in March timeframe. I had started making noise and people were looking for fault lines.

**Hon. Arika:** How come having noticed that Kshs. 18million was spent to renovate how come you didn't include it in your noises?

**Deputy Governor:** I don't procure and I have not said it is outrageous; you had your day with the procurement director here and the accounting officer for governance. These guys went through a competitive procurement process so that's not my forte. I'm just an account not a procurement guy. As to whether it was competitive or not I think you need to direct that to them with respect.

**Hon. Arika:** I am so happy with your question; from my own observation is that when it fits it is ok but if it doesn't serve your interest it a theft.

**Deputy Governor:** That's your perception; the furniture wasn't just for my office but the entire floor, the boardroom, my assistant, my personal assistant. The office was falling apart, the roof was leaking, the floor tiles had gone and it's not just the interior. They also mentioned they did the waiting lounge together with the toilets so it's not just my office.

**Hon. Arika:** According to you Kshs. 18million is justifiable?

**Deputy Governor:** In the absence of verifiable data people that submitted their bids because it's the only way we are able to know there was value for money.

**Hon. Arika:** You have always made utterances on Kshs.21million being withdrawn in a particular day and I think the public and people of Siaya are anxiously waiting for you to substantiate this.

When your legal representative was examining Odinga I think the two words came across; withdrawal and transfer. What was confirmed is these amounts were transferred and were not withdrawn. I want you to confirm to the public now that you are on the Floor. Were there any withdrawals for a particular day?

**Deputy Governor:** Yes, I agree with you but I don't want us to focus only on the Kshs 21million. Remember my council gave three transfers and there more than ten.

**Hon. Arika:** I am talking about withdrawals not transfers.

**Deputy Governor:** The withdrawals I have been talking about I have said Kshs. 3 to 4million withdrawals every two to three days.

**Hon. Arika:** Not Kshs. 21million in one day?

**Deputy Governor:** I have requisitioned and I'm not taking back what I said; the requisition is there and I am an accountant. Requisitioned and approved by CECM finance for Kshs.21million, Kshs 8million, Kshs. 7million and Kshs. 6million withdrawn.

**Hon. Arika:** Not transferred?

**Deputy Governor:** If you are transferring to imprest the eventual objective is to be withdrawn because you can't take it back.

**Hon. Arika:** Unless, I don't understand the word withdrawing the hard cash.

**Deputy Governor:** We have recurrent and development accounts; ordinarily you transfer from recurrent to imprest. Those requisitions are asking the head of IFMIS to transfer money from recurrent to petty cash imprest.

Once you have transferred to imprest you can't transfer back, you can only withdraw. So only transfer to imprest is effectively a withdrawal. The issue is the timing.

**Hon. Arika:** Yes, they were transferred but are you able to confirm that Kshs. 21million was withdrawn on that particular day? That is what we are waiting.

**Deputy Governor:** Hon. Arika; with respect I will not allow you to box me into the Kshs. 21million withdrawal. I have said that it is the principle that we are addressing here. It is not the event; that Kshs 21million I still hold that it was transferred because I have requisitions.

**The Chairperson:** I know why Hon. Arika is saying this because we want this matter to come out clear that there have been transfers of money and I wanted you to answer this without even blinking an eye and Jack Odinga said it here. We might make requisitions on projected activities to be done.

Not necessarily those requisitions will get payments or will get money to the imprest. It will come in intervals on what is available. The issue is; was the Kshs 21million money requisitioned or withdrawn? If yes, can you confirm to us to when it was withdrawn or misappropriated.

**Deputy Governor:** This County is now talking about those big withdrawals; that I think is a good thing because the conversation has changed and everyone is focused on imprest. I still hold the view until we confirm although Jack in his submission and to be fair to them he said that Kshs. 21million requisition; only Kshs 13million was transferred which means Kshs. 8million was not transferred.

**The Chairperson:** This information is coming from you; not it that as long as you are saying it is interesting Jack is crying that his family, his friends, his children that he has stolen Kshs. 21million.

**Deputy Governor:** I don't want to blame Jack on withdrawals; you see Jack is an officer of this company he is an agent of Siaya County. I have not said that this money is going...

**The Chairperson:** Dg, you said and maybe I was to ask you the delegated functions overlooking at his financial issues. Can you tell us here that on the Kshs. 21million you have been talking about on our televisions, that it was transferred to another account and was never withdrawn and that whatever was withdrawn Jack made it clear that in that particular the amount withdrawn was Kshs. 13million and as we speak today you can tell us that even the kshs13million that was withdrawn was misappropriated.

**Deputy Governor:** Isn't it interesting that we have zeroed out this very important subject of flagrant huge abnormal withdrawals to just one event of the 28<sup>th</sup>...

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**Hon. Arika:** I can see you are in a hurry to respond please allow me to finish my point.

**The Chairperson:** We are going to handle all those withdrawals that you are saying; we have just started with this one can we conclude it then we proceed to the next.

**Deputy Governor:** from the information I have and until Jack confirms; Kshs.21million was transferred in three; Kshs. 8million, Kshs. 7million and 6million. That the requisition I have signed by the CECM finance.

**The Chairperson:** That was a transfer and not a withdrawal?

**Deputy Governor:** Yes!

**The Chairperson:** And on this transfer we cannot actually say whether the money was transferred or it was just requisitioned but what was available for transfer was just Kshs. 21million.

**Deputy Governor:** That requisition is debiting imprest those three trenches are debiting imprest as to whether they have been withdrawn is another subject but the point I'm trying to make is that once you transfer from recurrent to imprest there is no reverse gear or you can write checks and pay.

**The Chairperson:** You are a boss here; you can confirm to us today that when you say this money is lost you are very sure that the amount went to imprest have been misappropriated.

**Deputy Governor:** Over Kshs 100million withdrawn; I have said and I will repeat again and it's on Hansard that 30-40% maybe legitimate but 60% is theft because the 30-40% has paid KIKOSCA games, ICPAK...

**The Chairperson:** You are an accountant; why do you want to make such overriding statements? Can't you just be very specific?

**Deputy Governor:** That definitive feedback that you are looking for I can only give it after I have been given the opportunity to review the vouchers.

**The Chairperson:** At the moment you don't have opportunity?

**Deputy Governor:** I don't have the opportunity to review the vouchers.

**The Chairperson:** Meaning you have no evidence to what you are talking about?

**Deputy Governor:** Petty cash is imprest so if you are withdrawing Kshs. 200,000 Or 300,000 or maximum Kshs. 500,000 it is ok but if you are withdrawing Kshs. 4million as is the case here.

This is withdrawal not transfer. I have withdrawn Kshs. 4.5million on the 5<sup>th</sup>, 7<sup>th</sup> Kshs. 2.5million, On 8<sup>th</sup> Kshs. 3.4million, On the 10<sup>th</sup> Kshs.2.7million, on the 13<sup>th</sup> Kshs.3.8million. These kind of withdrawals are abnormal withdrawals.

I want the controller of budget to come here and confirm to us whether these are normal withdrawals. I ask this Hon. Committee to invite Oscar to come and confirm whether these withdrawals from petty cash are normal business and whether the controller of budget has approved the requisition to transfer to imprest and hence the withdrawals.

Lastly, whether accounting officers are mandated to set limits for imprest because Jack said he is not aware of that.

**The Chairperson:** Before Arika because Arika needed to finish up; do you have legal limits for imprest in any statute or law that is saying you must have a maximum?

**Deputy Governor:** The General rule is Kshs. 300,000.

**The Chairperson:** Is it written anywhere?



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**Deputy Governor:** If you talk to Margaret Nyakango the Controller of Budget she will tell you Kshs. 300,000. I have even written a letter to her on these requisitions by the way.

**The Chairperson:** Our activities are either governed by statutes or law; is there a law, any statutes or even a regulation stipulating the amount that should be withdrawn?

**Deputy Governor:** I will have to check that.

**Hon. Arika:** I want to refer you to the testimony by one Jack Odinga; he did put it clear that if indeed you have any evidence confirming that he has been part of the misappropriation of funds or any evidence that the money has been stolen from the County Government coffers; how come you resulted to the court of public opinion, funeral forums, radio stations knowing very well that there better legal forums.

How come you didn't follow the right channels by even reporting this to the E.A.C.C. or any relevant authority?

Lastly, there was a statement made by your council that the guilty are afraid. Would it be fair if I was to make the statement that empty "debes" make a lot of noise? I'm happy before the public that the Deputy Governor, Dr. William Oduol has confirmed that in no particular time Kshs.21million was withdrawn from the County Government coffers in a day.

**Deputy Governor:** Hon. Arika, you are a lawyer of repute and it is not my place to ask you to retract I think that's the forte of the Chair but I think that statement was unnecessary. Anyway I think I have prosecuted myself with this Kshs. 21million discussion that we are belaboring.

I have said and I still hold the view that Kshs.21million was transferred and somebody needs to show me proof that it was not transferred because so far the documents I have are three trenches of transfers.

**Hon. Adala:** Thank you, so much Chair; I thank the Dg for availing himself for this sitting for us to discuss this matter of grave concern to the people of Siaya and Kenya at large. Allow me to ask the Deputy Governor in terms of law; what are his roles?

**Deputy Governor:** I deputize Hon. James Orengo; I'm his principle assistance and I work on delegated responsibilities. As you have been informed today by my council; he delegated finance responsibility to me in the month of October.

**Hon. Adala:** Thank you, so much; you have really spoken so well about certain functions being assigned to. Is there evidence of that whole thing or was it by word of mouth?

**Deputy Governor:** In the month of October; the letter that was read here instructing Jack Odinga that he would be reporting to me in a weekly basis or as necessary as would be required on matters finance and through the Governor I have chaired a couple of Cabinet sub committees.

**Hon. Adala:** I take it that this assignment had been written and signed by the Governor.

**Deputy Governor:** Yes, do you have a copy? If you don't we can share with you.

**Hon. Adala:** I find you as a gentleman per excellence; I mean that you are somebody who is so much articulate. And somebody who is so much focused in that which you do but then again listening to your submission.

I tend to find you as being a fox in a way because when it comes to matters that would touch renovation of your office. The submission was that you were not aware of the amount spent. This is the second in command in Siaya who is also aware that, the elements of the works that were done were not things that had been planned.

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You suggested this in the supplementary. According to you, some folks and chair for the sake of this session refers to the Hon's of the Assembly. Some folks changed some of these things in the Kisumu meeting.

You are aware that it was removed and as a CPA-K for that matter; who is so keen to everything; you sat comfortable watching works being done knowing very well that it was not part of the things that were ratified in this house in the supplementary. Did this simple act of omission affect you, or it was just, okay, I don't care? It is being done in my office, so be it.

**Deputy Governor:** I think I have pronounced myself, but I shall take a go at that again. Now, what is the position of a Deputy Governor or indeed a governor for that matter in the procurement process? I don't requisition. I don't approve. I do not even receive the invoices from contractors. How would I know what it is costing?

**Hon. Adala:** With due respect; based on your submission, you stated very eloquently that certain folks removed this item. My focus is as a DG you have realized that this item that you had planned has been removed and therefore it has got no funds, you are seeing work being done. I'm asking myself as a CPA, accountant K; is this thing normal?

**Deputy Governor:** Perhaps, you did not understand me. I said that I only discovered that the budget, the two vote heads had not been approved because when we came here the original, as I shared with you on my phone, we had those flagship, projects that were coming from about Kshs. 400million.

Those other reallocations are done at departmental level. In my assumption and my estimation because they didn't come back to me, I assumed that they were successful in that relocation. I only discovered much later sometime in March thereabout that they had not been approved or they had not been relocated.

**Hon. Adala:** Thank you, Chair; I want to move ahead of that because he has answered me on whatever I wanted to hear from him. I also want to register that he is my friend so that it goes on record that the DG is my friend. That note withstanding, I will handle this issue in the fairest manner as per what the law dictates of me and after this we still remain friends.

You have explained in detail that you did attend in Mombasa ICPAK to the extent that you said that you were up to 14 CPAs from Siaya County, but the Assembly is focusing on you and not the other ones.

The reason Mr. Chair; we are focusing on his excellence in the DG is because we want to understand in your submission, you have not succeeded in making me understand that you did go to that meeting as the DG who was there on behalf of the County Government of Siaya, or you went there in your own individual capacity and you were supported by the County Government funds.

That is why we are focusing on you and not the other 13. When we were handling the other teams; we were asking them, if there was evidence of a letter to the effect that you are attending this meeting on behalf of the County Government? In your submission; I am still here to hear that, make me understand in whose interest you are acting on.

**Deputy Governor:** This is one of the invites that went out from ICPAK and you can see that I was a keynote speaker and they have not referred to me just as William Oduol; but they have referred to me as the Deputy Governor Siaya County. I was speaking on challenges and opportunities for elected leaders.

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**Hon. Adala:** Mr. Chair, allowed me to note that I was the first Member of this House by virtue of my party ODM nominating me Here. I acquired the Honorable title; I will have it until I die. If I win and I lose elections until where we are, you are His Excellency.

In the second Assembly, Hon. Ben Adala was in a meeting in Rwanda Health function that had all African states. In the meeting; I was a keynote speaker. In the invitation it was sent to Honorable Bernard Adala but I went there in my own capacity, not as a Member of the County Assembly.

When I did my submission in Rwanda, I was introduced as a Member of County Assembly from Siaya County. I want to be made to understand; Is there evidence other than the photo you are sharing from afar of, other than that photo, is there evidence that you are invited to act for and on behalf of the County?

**Deputy Governor:** I don't know how to convince you Hon. Adala. I have just told you, unlike your Rwanda trip where you are keynoting, this was a professional event that only takes place twice a year.

That's when ICPAK holds their conference for their members. I am a member; It is the interest of Siaya County that we encourage their members as the CECM for finance said earlier that he has even worked on a calendar.

You cannot take everyone that is a CPA-K to ICPAK function. He is worked on a calendar because he recognizes the importance of that event. This is a professional event and I don't know how else to tell you, but the lawyers in the house will probably agree with me that they also have their own. Actually the County attorney; allows, his team to attend professional events or even pay subscriptions.

In fact, the Executive should be paying for my subscription. I pay for my subscription, but ideally the County should be paying for my subscription. The other day, we paid for the subscription of staff and the lawyers.

By the way, I have been task by a governor task, it has not been withdrawn to look at finance. How do remember that Finance if I am not going interact with the professionals and get myself appraised and get informed of current affairs. We're talking accrual accounting from cash accounting.

When we go to those events; it's a cross pollination of ideas.

**Hon. Adala:** Fair enough; Chair, I want to finish by reminding my friend the DG that in Siaya we have lawyers, engineers, doctors. Are telling us that today if engineers are having a meeting for engineers if we have one employed by the county government, they attend and we pay even when they are they been invited on the individual capacity? Chair, I am done, thank you.

**Deputy Governor:** If we want to run a working organization that is in tandem with itself; If you have professionals within our midst, if we want to encourage them to grow continuous professional development whether you are an engineer, whether you are a lawyer, as long as you have a profession that is recognized in this Republic, we of essence need to encourage employees and especially those that are working in those particular relevant areas.

If there's a lawyer working as the County Attorney; engineer working in public works; accountant working in finance. If you ask me, I would encourage that we come up with the policies that encourage continuous professional development and we as so this must put money towards their personal development and growth. That is what is going to grow this County.

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**Hon. Omwende:** I will be too lenient to our DG; Instead of asking you many questions I will try to limit myself to one question. I just wanted if you can confirm this, if you know persons by the name John Apidi, Calvin Omondi, Charles Nanja, Rose Kodero Atieno, Damien Omondi, Christine Ogola, Edwin Oswaga.

**Deputy Governor:** I know Christian Ogola; that's my secretary. I do know Calvin and Damien is my administrative officer. John Apidi, is a messenger in our office. Charles was an enforcement officer who was redeployed.

**Hon. Omwende:** Do you know anything about these people that have mentioned?

**Deputy Governor:** Gosh! Damian is my administrative officer. Christian is my secretary. Charles does not work for me anymore. I don't know. Calvin Omondi? No, He doesn't work for me.

**Hon. Omwende:** Alright! Are you aware they mentioned benefitted out of procurement? Are you aware of this?

**Deputy Governor:** Well, that's a very strange question. How am I supposed to be aware?

**Hon. Omwende:** I know you told us prior that you are not a party to any procurement duty.

**Deputy Governor:** Yes.

**Hon. Omwende:** They have been mentioned somewhere. I don't whether you are aware.

**Deputy Governor:** No, I'm not aware and obvious and there are no sacred cows. In Siaya County; I keep saying if it is, William Oduol and I have been mentioned, let me step aside so that investigation can be carried out.

If it is in my office and I have people that I perhaps are abusing their position of proximity with me, they should be investigated. I am happy for them to be investigated. But take note that Calvin Omondi doesn't work for me. The procurement officer, works for Martin Okwata.

**Hon. Omwende:** Alright! Thank you Chair.

**The Chairperson:** We are going to speak all over us. Mr. DG going by the two; you heard what Hon. Adala said. He was bringing one thing that you are either a fox and maybe it is good when it serves you and it is bad when it serves somebody. What we are talking about here or what I am getting from the two members that we need to clarify before we go to the next question is that;

You openly say here that you as the DG; have nothing to do with the procurement and it is never in any of your role. At the same time, you make a statement when it comes to issues of fertilizer and seeds and say that the procurement process for this product was suspect.

First attender was put out with interesting eligibility requirements and so on. You are referring to procurement functions and trying to dismantle all the professional opinions from the professionals on that particular department, a function done by a different department but when it comes to the procurement within your office, something which is helping you in your office. All of the officers, including evaluation officer, tender, the opening officer, all of them are your officers in your office, but you have no idea.

**Deputy Governor:** Chair with due respect, honestly, are you not being unfair to me in as much as you hold that position that you hold? Quite honestly, how am I culpable? We

cannot be making stupid statements and we get away with them. The procurement process starts from, submitting a bid, a quote from public works.

When it goes to tender, evaluation is done, then an award is given, then work is done. The contractor brings in an invoice, and then payment is made. Where does the Deputy Governor sign anywhere or in this particular tendering process?

Did I even send an SMS or even send an email to anybody? Martin Okwata; on oath Here in the morning said that on the renovation of my office at Kshs. 18 million; there was no interference. By the way, I was very surprised, in fact, yesterday because this evidence was only given to me yesterday and I'm being a hundred percent honest. This thing has shocked me because I also understand procurement bit. That list of the, the people that opened, the people that evaluated. And I even discussed with my council, in fact, when we went for lunch, I was admonishing my people. Cause I didn't know, and I'm saying, I am not guilty as charged.

We have people that are responsible for this. The buck does not stop with me. The buck stops with the director of procurement and the chief officer, governance. They need to explain how did we get these people in evaluation. I was admonishing them over lunchtime because I didn't know.

**The Chairperson:** We are not putting you at fault of this. when you are doing the impeachment here we are saying it's not about criminality. We are not about the criminality. What we are only asking is that your fighting spirit, that you can easily go out of your way in your fight to help Siaya and go to department of Agriculture, know the tenders and how it's been done.

How tender conditions or procurement in those particular areas but when it comes to the tender in your office because for sure the tender doesn't even start by the advert, it starts right from, uh, allocating money on the budget. From there then procurement plan.

In all these scenarios that were relating to your office, you confirmed to this House. You are not partisan, you don't know anything that happened but you can confidently give us finer details on how fertilizer and seeds were procured. We are only concerned of how selective your decision to...

**Deputy Governor:** You're in a fishing expedition and like the proverbial omnibus; I don't know where this is heading. I have zero tolerance to corruption. Hon. James Orendo and I said it, I believe in good governance, transparency and accountability. And if any member within my organization is involved, they must be held accountable.

I am not going to be crucified for the omissions or commissions of other people, but again we must define accountability levels at the risk of belaboring this point and again, I don't procure, I don't requisition. I do not even pay. I, by the way, did not know about this Kshs.18 million until much time from when I started making noise and people were trying to find for rebottles and mistakes.

I have told Martin Okwata and he needs to be honest in the past because I understand procurement a bit. And by the way, I did not go sniffing for fertilizer seeds procurement. The only reason chair I invited a quarter to my office is for the simple reason that this thing had come out in the Citizen news; that's what prompted me.

I got interested and when that came up. I am not, I have not said here, and this is for Okwata and Joseph Omondi; the Chief Officer Governance. He's the accounting officer. I have not said that the Kshs.18 million procurements is not valid for money. I have not said

we, and we cannot make that sweeping statement. For the simple reason that these people went through a programming process.

There was a bidding. I am sure the minimum of three quotations were received, and I have told, because you see, if you are a smart procurement guy, all you need to do is get one person with three companies and inflate the price.

Still you'll not get value for money. And told Martin; if he is here, he would confirm that sometimes when you go to, even as you are looking at those quotations, please also find out what the market price is so that you know you do not fall into that sacco. For the record; It is not renovation only. It renovation and furniture and fixing will fixtures because we also put Kshs.18 million is not just a renovation because you see if the public and media hear Kshs.18 million because renovation was about Kshs. 5 million.

**Hon. Madingu:** Thank you, so much; Chair, my question will be very precise to the point. I just wanted to ask a question that; do you feel offended that your visitation to the ICPAK meeting was funded through imprest account? Do you think it wasn't right?

**Deputy Governor:** Yes, 100%. Imprest is easily abused, as I've said in the past. Ideally, all payments should go through with IFMIS. Why would you pay me through imprest? Just transfer the money to my account and my people's accounts.

**Hon. Madingu:** What action did you take once you were paid via invoice? Did you return the money? Probably, you decided to...

**Deputy Governor:** I have not been paid that money to this day. That's the irony.

**Hon. Madingu:** Okay! The next question I wanted to ask was, you started by saying that you don't even understand the amount that was used in procurement especially in procuring the furniture's in your office and the Kshs. 1M in question was used to buy 3 chairs, the orthopaedic and the two, how did you know that it was Kshs. 1M that was used?

**Hon. Deputy Governor:** I said Mr. Abayo, was in my office, I was reminding him yesterday, I think he was preparing himself for this meeting. The first time I saw the delivery note, and I can confirm!

The Chairperson: Just to guide you, Hon. Madingu, I want this to get out clear so that we don't confuse here. There is this chair, we call it executive orthopaedic chair, Kshs. 1.1M, one chair, let that be clear.

The Deputy Governor: That is the one I am taking about! If you listened earlier on when I was, I clarified, it says one orthopedic chair, and they are 3.

The Chairperson: we have an invoice, so this invoice was wrong?

The Deputy Governor: That is a typo. You just need to walk into my office and confirm! My office is 100m away!

Hon. Madingu: We just need to confirm if the typo is in invoice. From the invoice we have, we are trying to investigate appearance vs reality here. In the invoice we have one quantity but from the delivery they are 3

The Deputy Governor: They were 3. Let me explain, so there is my seat that is different from the other two, the other two are red or maroon I am color blind, I think it is red and the other one is red if you have come to my boardroom there is one red seat at the back and if you have come to my office there is also another red seat next to the visitors' seat; so those three...Abayo am I right? Is that correct. Yeah, he has just confirmed.

**The Chairperson:** Abayo what are you saying? You are saying?

**Mr. Abayo:** Chair, the documentation, as he was saying I was trying to look at the invoice against what is there physically in the office yesterday. He is talking about the chair that he sits on, there are two other visitors' chair just next to his table and then there are two red chairs and in my verification then the declaration or the paper work there seems not to tally with some of the seats that you are talking about; the description.

**The Chairperson:** So technically the paper work was done after the delivery?

**Mr. Abayo:** it was done and when they were delivered our Damion, is the one who actually received them. So when I realized those gaps, I did ask Damion and this is one thing, chair that what I am talking about is one thing that we need to be verified,

I asked because the copy that I got from the file was not signed so I said can we be able to get the copy that he signed; the delivery note that he signed, so that is one thing that I wanted to follow up but he did not get me the copy as at yesterday. The copy that he signed, the delivery. Okay otherwise, there is disparity on the paper work.

**Hon Madingu:** Okay chair I now think that, that one having being said I only have one last question because talking about chairs through this invoice we have several chairs so we do not know whether part of those chairs are the once that form the visitors chairs because it has not been given but I just wanted to confirm, before I ask them one last question is that both the chairs; are all of them orthopaedic or is that the only one the D.G is sitting on, or there is no orthopaedic chair in the D.G's office?(directing the question to Mr. Abayo).

**Mr. Abayo:** There are two more. If you look at the invoice there are two more fully spring.

**Hon Madingu:** Okay.

**Mr. Abayo:** There are four chairs that are of not of that description, the visitor's chair of the colour of his and then the two that he is referring to.

**Hon Madingu:** Okay, you know the reason as to why we are asking, is because we also want to know which areas of interest. The last question chair.

**The Deputy Governor:** Before you go to the last question, even on the chairs they are many because in the boardroom they were to bring twelve chairs they have only brought eight right?

**Mr. Abayo:** Yes, there is a balance of four, four have not been delivered. They have only brought eight not twelve there is a balance of four.

**Hon Madingu:** The last question I wanted to ask Mr. Chair was that from the submission of the D.G we have realized that some forks who went to Kisumu and mutilated the budget meaning there are some budget which at first stage were there but later they were no longer existing.

The D.G, do you want to be on record that the mutilation by those folks probably turned and amounted to theft of the public money in Siaya? Then the last one is that I wanted to ask is that you talked about some of the documents you have been searching for to prove your allegations that there was theft existing, as a CPA-K is it a common practice that when you are not given chance to probably peruse the documents you are talking of automatically it becomes theft?

Or if you are given a chance to peruse those documents you are yearning for it would be probably a different story, probably it will not be theft again? Because you are saying you do not have evidence and therefore it is theft.

**The Deputy Governor:** So, I have most evidence, I do not have all the evidence, for imprest I had the bank statements that had the requisitions. And I just mentioned to you that when we started making noise in February, that imprest that they used to withdraw forty million, fifty million, in march they withdrew 3.1. No... no...In February 3.1.

In March they withdrew 2.5 and in April they closed imprest all together. And you see that governor has heightened his activities. So, it means we can survive with two million monthly petty cash, with three million. Ten million, twenty million, thirty million outrageous. So, perhaps this assembly and indeed the people of Siaya should be thanking me for helping seal that loophole.

**The Chairperson:** Still you are just back to what you were saying. Is it withdrawal or transfer?

**The Deputy Governor:** Yes, this is withdrawal, I'm talking about withdrawal. I talked about, these are bank statements from .... This is Equity bank withdrawals.

**The Chairperson:** Of how much?

**The Deputy Governor:** So, I have an analysis here of how money is withdrawn....6.5 million, 2.5 million, 3.4 million, 2.7 million, 1.8, 3.3, 4.7, I attached it. All these and which dates and just one employee going to the bank four times. This is five times. Every two to three days

**The Chairperson:** Have you gotten surrender to those....?

**The Deputy Governor:** Sorry

**The Chairperson:** Have you gotten surrender to those imprest?

**The Deputy Governor:** I have also explained. Chair, and you know, you are entitled to opinion. Let me make this very clear. I have also explained that in the month of February and March, imprest withdrawal was 3.1 and 2.5 after I started making noise. Before, imprest withdrawal was forty million. What were they doing with forty million? And why are they not withdrawing it now? So, how else can I explain this theft?

**The Chairperson:** Ok. Yes

**Hon. Baraka:** Through the chair I beg, I need now to stand. I have heard the Deputy Governor referring to Hon. Adala as his friend and Mr. chair I want to thank you.

**The Deputy Governor:** You are also my friend. Acknowledge.

**Hon. Baraka:** Thank you very much. I want to thank you for giving the Deputy Governor, I think enough time to respond to these issues. I want to go quick, quick one. First of all, Mr. Chair,

I think I interrogated one Mr. Damian here and asked him how much he was paid when they went for the ICPAK and I think he said it was Kshs. 98,000 for seven days.

True? But here the Deputy Governor is saying he has not been paid, what happened. Mr. Damian, you were paid but the Deputy Governor was not paid? Okay, thank you.

**Mr. Omollo:** Because I gave someone money to give him.

*(Loud laughter)*



**Hon. Baraka:** Okay, I think somebody is playing the Deputy Governor here.

**Mr. Omollo:** Yeah clearly

**Hon. Baraka:** Somebody is playing the Deputy Governor and I think we are going to follow up on that money. Now you understand why the Deputy Governor is so upset because how can you take the Deputy Governor's money and yet you are paid? Okay, a quick one, Mr. Deputy Governor...

**The Deputy Governor:** Yes, sir

**Hon. Baraka:** I heard you carefully say that you don't take part in Procurement, but from my understanding, I get to know that Procurement basically falls under Finance and you are mandated to receive reports from the Finance so I think it will not be right for you to deny that at one point you've involved yourself in Procurement. Maybe we don't mean that when you get involved, it must be for a wrong reason. But the fact remains that at one point, you've been involved the Procurement processes, true?

**The Deputy Governor:** I am involved and particularly, the one in fertilizer and seeds, when I saw something that would paint us in bad light, I summoned my friend Okwata. So, yeah circumstances dictate that I would get involved.

**Hon. Baraka:** Mr. Chair, it means now that DG has accepted that he has been involved in one way or the other...

**The Deputy Governor:** One particular one, the fertilizer and seeds, don't put words into my mouth

**Hon. Baraka:** But I also want to say that if it were not you who called the Chief Officer to your office ...

**The Deputy Governor:** Yes

**Hon. Baraka:** ... to initiate the process of renovation, would it have been done?

**The Deputy Governor:** The process of what?

**Hon. Baraka:** Who summoned the CO to your office?

**The Deputy Governor:** I did, I did, Director Procurement.

**Hon. Baraka:** ...to your office and showed him what was supposed to be renovated?

**The Deputy Governor:** Oooh, sorry, you talking about my office renovation?

**Hon. Baraka:** Yes sir

**The Deputy Governor:** In fact the person that started this was the Governor. He walked into my office one day and that office was looking very bad, the floor tiles were coming out, the ceiling was also falling down, in fact it was leaking and there was one mabati, I think Joseph Omondi used his money to repair that roof.

So when he walked in, he was very shocked and he said that you have to get your office sorted. So then I think the following day or a few days later I invited Joseph Ogutu and we looked at the renovations required.

**Hon. Baraka:** Thank you and that's why am saying that it's not only one time that you were involved, because when I read the submissions and you are admitting that you called the officer and showed him what was supposed to be done for example for renovation, for a good reason not for a bad one.

**The Deputy Governor:** Yes

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**Hon. Baraka:** Yeah, that's why am saying it is not only once that you got involved in procurement. Okay Mr. DG, you are one man that I respect so much and you are the Deputy CEO of Siaya County. I have listened to you many a times in the media stations talking about maybe wrong governance in Siaya because one of your agenda was good governance.

But I want to ask you a question, as far as am concerned, I know that there are internal mechanisms of solving any issue that arises. For instance, I tend to believe that Siaya County has got an internal auditor. Do you have any report from the internal auditor or any external auditor that maybe points out mismanagement or lack of good governance in the Nyalore government? Is there any report or did you attempt to get any report from the auditor?

**The Deputy Governor:** On the Nyalore Government or the previous government?

**Hon. Baraka:** The Nyalore government that you are serving.

**The Deputy Governor:** You see, we had only been in office for now eight months so a proper audit report requires one year. so auditor general's report would come in the next fiscal. Internal Auditor works on direction from the Governor, sometimes Governor asking the County Secretary to ask the internal auditor for specific audit. I, in my previous life would ask but today I can't because no one would listen to me.

**Hon. Baraka:** Okay thank you DG, lastly because I know my ...

**The Deputy Governor:** ...and am sorry, on internal mechanism, I exhausted. Mheshimiwa, you see I am part of that administration. It doesn't excite me when I wash our linen in public. Okay. For three good months, I was talking to James Orengo my Governor on the loop holes and the internal control challenges that I was seeing.

November, December, January I talked to him, actually, January, February he had disengaged completely, he was not consulting me as was the practice. And the final nail on the coffin, is when he returned all the people that were under investigation on the 600,400 million theft, that's when I went out to talk.

**Hon. Baraka:** Okay thank you. I want to finish Mr. DG. Back to another issue that was asked, you said clearly that you got the information about the 18 million of the office once you had started complaining and people were raising issues that they could trap you.

**The Deputy Governor:** Mmmh

**Hon. Baraka:** But again in another statement here, you said you only realized this thing yesterday when Mr. Abayo was confirming, so which is which?

**The Deputy Governor:** No, I only realized the one million, we were talking about the one million because Abayo was doing a physical stock count of the seats and the tables and when they were delivered. That's how I knew that one million was for three chairs.

**Hon. Baraka:** I want you to take it in record but let me just finish by saying this, in your opinion as you talk about good governance, accountability, how do you feel as a Deputy Governor when you know that the chair that you sit on has taken one million tax payers money?

**The Deputy Governor:** You see, you need to retract that statement, unless you have an agenda that you are trying to pursue...

**Hon. Baraka:** I will only retract it if I have been given a right to ....

**The Deputy Governor:** No, but I just ...

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**Hon. Baraka:** The document you submitted is showing 1.1...

**The Deputy Governor:** I will not respond to that coriograf questioning

**Hon. Baraka:** So who gave out this document?

**The Deputy Governor:** Because I just told you and you just confirmed that that one million refers to three ergonomic chairs, it is not one chair. So when you say that one chair one million, what are you imputing improper motives on me and my office?

**Hon. Baraka:** Mr. Deputy Governor, is it true that Udonga General Merchants supplied these chair?

**The Deputy Governor:** Yes. I don't know who supplied but I saw the invoice yesterday.

**Hon. Baraka:** Okay, thank you.

**Hon. Achieng:** Thank you, Chair, I think you have given me permission. I want to ask the DG, I don't know whether he is dismissing this issue. In his submission, he had said there was money that was withdrawn from Siaya stadium and it was taken to Migwena. I don't know whether you have withdrawn that. It is very clear in your submission.

**Hon. Deputy Governor:** In my submission, I never said that that money was withdrawn from Siaya stadium to Migwena stadium, what I said, I was concerned because I was chairing that Committee.

When we were in Migwena, the governor said that we will be launching the Siaya stadium in March and come March nothing is going on. I was concerned, I didn't say that the money was transferred.

**Hon. Achieng:** I don't know how to express it, because that is what was in the submission.

**Hon. Deputy Governor:** I have my submission here.

**Hon. Achieng:** Another question. You have just said right now that there were withdrawals every day, four to three times in a day. I don't know why you are mixing issues. When you were reading the statement, I was hearing that on 7<sup>th</sup>, on 8<sup>th</sup> and other days. I fail to understand your issues.

**Hon. Deputy Governor:** Maybe you don't understand...

**Hon. Achieng:** Then the last one, can't you get a better way of expressing these issues rather than going to the TV, radios and everywhere?

**Hon. Deputy Governor:** Thank you, very much mheshimiwa. On the question of withdrawals I said that there is one employee that goes to the bank even 6 times in a day. And those withdrawals are done two to three days.

I did not say withdrawals are done daily. My submission is there and the Chair can confirm.

**Hon. Achieng:** I think you are talking to many people and so you are confusing things. What you have said here is everyday withdrawals are done three to four times in a day. In fact this issue that I am talking about, there is a time a heard from the radio, and you said withdrawals are done every day.

**The Chairperson:** Do you have to answer to it? Making she is making a reference when you were showing the statement for Equity bank.

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**Hon. Deputy Governor:** I said that somebody goes to the bank 3,4,5 and sometimes 6 times in a day but the withdrawals are done every 2 to 3 days.

**The Chairperson:** Very well, Hon. Cynthia!

**Hon. Akinyi:** Bwana DG, just to confirm that you are my very good friend.

*(Laughter)*

My question is, you said that the Governor delegated to you the function of finance and procurement is domiciled in the department of finance. But again, when issues procurement come you run away from them.

I am just thinking, if you were as passionate as procurement, the same way you are passionate about this imprest account, maybe you would not have gotten into a point of discussing a Kshs. 1M shilling share.

My question is, when the governor delegated to you the finance department, did you say finance or issues imprest, bank accounts etc. or it was finance as a whole? And if it was finance as a whole, which means procurement is part of it. Do you think you have failed the people of Siaya?

The other one, is just to confirm, to follow up, it is a question you have been asked and you have answered and am not just satisfied with your answer. There is a perceived conflict between you and Governor.

You have said that by the time you went out there to the media and public forums you had tried to reach out to the Governor maybe 3 to 4 times. I am just concerned, one reason or the other, as luos said.... Maybe there was a breakdown of communication between you and your boss. My question is, did you try any other mechanism, did you try to reach out probably to someone else the Governor listens to? Did you try to reach out even to the Assembly and it didn't it work?

Lastly, do you feel that whatever it is, washing dirty linen of Siaya County is in the best interest of the citizen of Siaya? These are people you stood in front when you were campaigning and you made a commitment. I find it so malicious, I want to know your thought process as you have dealt with the situation.

**Hon. Deputy Governor:** You never disappoint Mheshimiwa. Very three interesting questions. I will start with the last one. There is no malice in this and there is no lunch or Christmas cards I am expecting from anybody. I am 100% accountable to the people of Siaya County and if at any point I feel that they are being trampled on I will talk about it. I have had to sacrifice a lot of things at personal level which is okay.

Coming to the second question, I tried to resolve this thing internally within executive and, it was not possible and I went to the people in mid, towards the end of February. Then they assembly summoned me and I submitted my written evidence. I was disappointed that I was not given the opportunity to present my oral evidence.

Between the 14<sup>th</sup> and the 16<sup>th</sup> of May, I was very quiet. I did not speak because I wanted to give the assembly the opportunity to prosecute this matter. I think the assembly made a determination, I forget when. One month later when I realized the assembly was taking too long, then I started going to radio to speak about it.

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Then assembly made a determination and, I was unhappy that I was not given, the opportunity to substantiate, all my allegations were dismissed on account that they were unsubstantiated. I was never given the opportunity.

People that I had adversely mentioned, submitted their reports, their responses, but nobody came back to me to ask for my rebuttal. So that's what happened. So the first question was about procurement.

So, when I was asked to look after finance, I assumed that I was looking after the totality of finance, including, procurement. I want to tell you that, this animal called tenders is a very interesting animal. I mean, Martin Okwata, will tell you I used to engage with him once, once in a while because I'm proficient.

I am not a professional in procurement but I'm proficient in procurement. So once in a while we would engage, but I stopped, completely stopped engaging with Martin, when this tendering tenders came up, this, these tenders, that we were being advertised and, and you can confirm, I have not talked to him since that time because you see, there was this notion that I wanted to influence some tenders.

I was interested in the tendering process, so I told myself, let me take a back seat. So that's why I disengaged from tendering and procurement.

**The Chairperson:** Thank you. We now need to finalize.

**Hon. Oinga:** Thank you Hon. DG, from the submissions which were made by officers in this room from the executive, one, Mr. Okwata, claim that you called him and he had to share with you some documents, which is an evaluation report and undersigned professional opinion on the issue of fertilizers and some of the concerns you mentioned that you were raising was that why the tender was reserved for the youth?

So my question, how did you want it to be done? Or were you just profiling the youths that are representing in this house? That's the first question.

**Hon. Deputy Governor:** Can I answer that? I apologize if I gave the impression that I do not support that segment of our population. This tender was a Kshs. 80 million tender. And from my experience and I'm be limited and from my observation, I thought that we needed to open it up cause we were going to advertise many more tenders, which we were going to 30% we were going to restrict to youth and women.

Now together, youth with Kshs. 80 million or there about is not easy. So I in my assumption I believe that if we did this and restricted it to youth, we would end up having a non-responsive tender.

The other thing is which I disagree with Okwata, he did not submit to me the evaluation forms, and you did ask him whether he left with my secretary, he also confirmed that he did not do that.

**Hon. Oinga:** when you say that, does it mean that you participated or you got involved in this process and tried to, to direct to, to make this thing take a direction that you wanted, that you felt was okay with you?

**Hon. Deputy Governor:** No, not at all. On the contrary, restricting it would mean that, because you see this is an open, tender restriction, it would mean that you have particular people that you've identified, so you are restricting it to off competition. When Okwata explained to me, I left it at that. I did not insist, I did not direct, I did not coerce him

to change. And indeed it was not changed. I just sought clarification but the tender, the advert was restricted to youth. There was no change.

**Hon. Oingi:** I appreciate but now what I'm trying to read is that Mr. Okwata is the professional in this field. And so he had all the mandate to advise or advise your office on how this is to be done.

So I think that, from that point, then based on their professionalism, they had reasons why this had to be done. So it means that you came in when they had

**Hon. Deputy Governor:** And I'm saying I hear you, but I'm saying that Mr. Okwata, in his professional opinion and advice, advice that we stick with youth and we stuck with the youth.

**Hon. Oinga:** Thank you. The next question, you have confirmed that the governor delegated you the role of overseeing the general financial management issues. Now, what actions did you take when you learned that renovations in your office was done without budgetary provisions?

**Hon. Deputy Governor:** I didn't know that there was no budgetary allocation.

**Hon. Oinga:** You had informed the house that indeed you asked the C O governance whether they had budget for renovation and furniture? I mean, purchase of furniture for your office.

You also indicated in this house, this is a house of record, that they informed you the money was not enough and now you started to look for other avenues whether the money would be relocated, is that not what you said?

**Hon. Deputy Governor:** So it is not within my province to procure. You asked me a question and I was very attentive. So allow me to make my points. It is not within my to ambit procure. Procurement and availability or non-availability of money is the sole absolute responsibility of the accounting officer.

**Hon. Oinga:** I just needed a simple answer, but you appreciate that there were no budgetary allocation for this.

**Hon. Deputy Governor:** So the accounting officer wrote an official letter copied, and you have a copy of the letter from Mr. Jared Abayo, and his minister, Madam Dorothy, was involved. They had essentially agreed that they were going to transfer money from two vote heads, you have the letter.

**Hon. Oingi:** Thank you. Mr. Abayo, also mentioned that, he talked about it in a meeting, which you were part of,

**Hon. Deputy Governor:** and governor was part of.

**Hon. Oingi:** Yes. So it means that you are aware that it was not in the budget?

**Hon. Deputy Governor:** Yes.

**Hon. Oingi:** Thank you. You've answered my question. The next one, you are the user of this office and you have told us very well that the seat which was brought to your office takes care of the back.

**Hon. Deputy Governor:** Yes.

**Hon. Oingi:** Do you have a back problem?

**Hon. Deputy Governor:** Yes.

**Hon. Oingi:** Thank you. So you are the one who gave specification of the chair to be used in your office?

**Hon. Deputy Governor:** No.

**Hon. Oingi:** Then who gave, who gave the specification of the chair, an orthopedic chair to take care of your back?

**Hon. Deputy Governor:** So, let me put it this way. As you grow older, you always, not even just growing older or growing old, if you sit in one position for a long time, you always have a back problem, and that is why invariably it is advisable that you have ergonomic seats, orthopedic seats.

So it doesn't matter whether you have a back problem, I'm finishing. It doesn't matter whether you have a back problem, even if you are just an ordinary citizen that cares about their health, it is a desirable that we have an ergonomic seat.

**Hon. Oingi:** So is this an invoice? I can see there's your chair, Orthopedic. And I can also see there are some two other more chairs, orthopedic for your guest, which you confirmed that your office has other two more chairs. Those ones are also priced differently.

**Hon. Deputy Governor:** Yes.

**Hon. Oingi:** So were you generous enough for any person visiting your office also to take care of their backs?

**Hon. Deputy Governor:** So, listen, I don't know how many times I need to say this unless, where is my lenses? I have said countless times that I, William Oduol, I am nowhere in the procurement process. I don't requisition, I don't approve.

By the way, you see there's a bidding process, so Procurement, in fact, I think some, you asked that same question. Was it procurement you asked? And they said that the specification comes from Chief Officer Governance, the user department. He is the accounting officer, it's not me.

**Hon. Oinga:** Thank you, you've answered me. Now, my last one, you know, social media doesn't forget.

**Hon. Deputy Governor:** Yes.

**Hon. Oingi:** And you were in public funerals that you attended, you claimed that moneys were reallocated from Siaya Stadium to Migwena. The social media doesn't forget. And you mentioned this in a funeral. Now let me ask you, was the moneys allocated for Siaya stadium

Reallocated Migwena Stadium?

**Deputy Governor:** No.

**Hon. Oinga:** And was Migwena in the budget?

**Hon. Deputy Governor:** I think I answered that same question. So you have decided to ask it again?

**Hon. Oinga:** I did because there was a video which was to be played here and I told you that, social media doesn't forget.

**Hon. Deputy Governor:** So, this is my interpretation of what I said in that funeral. And I said it, and I'll say it again. I was concerned because I was chairing that committee, Stadium committee.

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The governor in Migwena, maybe I was misunderstood or misquoted, a governor in Migwena committed, he said he was going to upgrade Migwena, of course, there was no budget for Migwena, but he said that by 1st of March, he will be launching Siaya Stadium. I have it, I submit, I made the submission and, and the cutting.

So I was only concerned by the slow pace the Siaya stadium. But like I said, it is no longer an issue because after that noise, at least the roofing structure is back and they're working.

**Hon. Oinga:** But you appreciate your misinterpretation as it went to the public.

**Hon. Deputy Governor:** It's not a misinterpretation.

**Hon. Oinga:** But that is what you've said.

**Hon. Deputy Governor:** No.

**Hon. Oinga:** People misinterpreted.

**Hon. Deputy Governor:** Yes, believe me. I was very clear in what I said.

**Hon. Oinga:** But now can you agree with me that that was a misinforming the public?

**Hon. Deputy Governor:** No. I said I was concerned about the slow pace of progress of Siaya Stadium. It was supposed to have been completed 1st of March. 1st of March, there was nobody on site. I made noise, the contractor came back to site. That was the only concern.

**Hon. Oinga:** The last one, you also mentioned that Austin was a political advisor and it is recorded as well.

**Hon. Deputy Governor:** Yes.

**Hon. Oinga:** And Mr. Austin has confirmed here that he's not, he's a social welfare officer. Can that amount to misguiding this House through an earlier submission that you had submitted to this House already?

**Hon. Deputy Governor:** Hon. Vice Chair, that's a cosmetic irritation as it were. You know what a cosmetic irritation is? It's neither here nor there. I, in my earlier submission, I see it. I am the first one to admit, I said that I had referred to him as a political advisor only to discover today that he is Social welfare officer in the political advisor office. So really, I mean, I already, apologize and I said I wasn't aware and I'm not a God really, I'm human. I'm to make errors and then make remedial actions, as I indeed I have done.

**Hon. Oinga:** Thank you. I return it back to Chair.

**The Chairperson:** Hon. Adiala, you have something?

**Hon. Adiala:** I know guys are tired, but just a quick one. Thank you, Chair for giving me this time and I don't know, good evening Deputy Governor! I'll just go straight to the point. When you begin your submission, you said that there was some flashy flaggy project that you intended to do and one of them was, uh, the rice mill. Rice milk, and the cold?

**Hon. Deputy Governor:** Let me just tell you now. It's the rice mill and the refrigeration.

**Hon. Adiala:** Thank you. What was the cost of the rice mill that you're looking for?

**Hon. Deputy Governor:** 40 million.

**Hon. Adiala:** What about the cold?

**Hon. Deputy Governor:** 60 million.



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**Hon. Adiala:** What about your furniture? Let's do the range. What is here? My furniture plus renovation.

**Hon. Deputy Governor:** Kshs. 18 million.

**Hon. Adiala:** So we can see that the figures are not far away from each other.

**Hon. Deputy Governor:** What is your point?

**Hon. Adiala:** My point is, you were given a task by the governor and I think if the dates are not deceiving me, it was around 21<sup>st</sup> of October, 2022, right? And that is the same time that, renovation was to be done and repairs in your office? True?

**Hon. Deputy Governor:** I don't know, perhaps. I have not checked the dates, but maybe it's possible. But remember, I did not influence, I did not coerce. You people have come here, **Hon. Adiala:** Take it slow and relax.

**Hon. Deputy Governor:** I see where you're heading, I'm not very stupid.

**Hon. Adiala:** We are friends, so don't take it personal. We can see that the figures are, are more of the same. You find that the rice mill wanted 60, I don't know 40 million. But now when you look at the task and responsibility that you were given by the governor.

We find that, the figures that you've been unearthing are nearly the same that you, the DG, just worked on one project in your office. Can you say that you are prudent enough? Because you know you're an accomplished accountant and what we see from what you've been crying is misuse and misappropriation of funds and resources.

Do you see that in this part where Kshs. 18 million was used to do renovation while the area where I come from, Rarienda, where I come from, an office that was supposed to be done, the money had to be relocated, the way you were crying when monies were being, I don't know, the stadium where you come from, me I come from Rarienda, as we speak we don't have that office, but all the office money is in your office. What can you say about this?

**Hon. Deputy Governor:** I don't think so I don't think that is money Mheshimiwa is in my office because again, they just say that it was not approved, that the re-allocation was not approved. I want us to get one principle clear here. That office is the office of the Deputy Governor.

It's not William Oduol's office. That office is going to outlive me. So, we spent it, and by the way, it's not just renovation, I said please, let us be deliberate in our choice of words. It is renovation and furniture, that costed us Kshs. 18million.

Those seats are going to serve me for the rest of my term, and if James Orengo makes me his Deputy for another second term, they will serve me for the next 10 years and perhaps even serve somebody else. So it is not a sank investment, I don't think it is.

**Hon. Adiala:** Bwana Deputy Governor, the figure was justified.

**Hon. Deputy Governor:** You know, we are putting the cat before the horse, right? because I don't procurement, I am not the account officer. I have just explained here that these people go through big process. You see, you are indicting these people, by the way, Chair, procurement stands indicted, and the Chief Officer Governance. They both stand indicted by their own submission here, because really I am not involved in that whole ecosystem.

**Hon. Adiala:** You know, we cannot, we cannot stop marrying all these issues because when you look at it, there's a link between your office and the procurement because if someone brings a table in your office, the table is very good.

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You'll call the person who supplied it or maybe the procurement office and just ask how much is this thing. It's common sense. If there is something nice that has been brought in your office, you cannot claim that you'd know nothing completely until yesterday, and then when it comes to other issues, you come out strongly.

**Hon. Deputy Governor:** You see, you need to be an accountant, I perhaps need to take you through accounting 1 0 1. You need to separate, and please listen to this one. You need to separate capital expenditure from revenue expenditure. The Kshs. 4 million, Kshs. 5 million every two, three days is recurrent. The 18 million is capital expenditure.

By the way, we will even be claiming wear and tear in those things. In another four years, we shall have recovered that money from KRA. So that's a capital expenditure. Again, like I told you, obviously, I don't know whether it is value for money. Martin Okwata needs to tell you that and Joseph Omondi, because that's not my forte. I would be micro-managing them if I got involved in, trying to cross the Ts and dot the Is.

By the way, this renovation, it also includes ACs. It is renovation in my office. It's furniture in my office. It's ACs both in my office and the boardroom and the governor's boardroom.

**The Chairperson; Hon. Otiato:** Yes Hon. Oguta.

**Hon. Oguta:** Thank you Chairman. His Excellency, the DG, I'm also your friend.

**Hon. Deputy Governor:** Yes. I have many friends in the house.

**Hon. Oguta:** My concern is only one and it'll be a very short one. Do you want us to believe on the document you presented to us of the transfers of Imprest?

**Hon. Deputy Governor:** Yes. Hundred percent.

**Hon. Oguta:** If so, then I want also to put it with the DG that we must also trust this one of Udonga in having done an invoice of a chair of 1.12 million for the DG. Thank you.

**Hon. Deputy Governor:** Well, I mean, the jury is out. It's, it's not, my decision, neither is it my responsibility, that sits with procurement and, the, AIE holder, they are the ones ultimately responsible. I am not involved anywhere in that food chain.

**The Chairperson; Hon. Otiato:** Okay. Thank you very much, uh, Bwana DG for taking your time. I know we are just to finish this. There has been a lot of mention on financial misappropriation. Yes, you made a comment here, the key thing that has been coming is on the imprest and some of this money is being exchanged here and there.

This is why I wanted at a point you talk, but now you see it is now taking us back to do what I didn't want to do. Jack? There has been a presentation by the DG and I think you are aware of it, and, those mentions of those transactions, it's good that you are here. What do you say about them?

**Hon. Deputy Governor:** Can I ask him a simple question? The simple question to what you are asking, just to establish that there is no goodwill on a fight in corruption. I talked Kshs. 5.4 million. Purportedly stopped in December. The person who stopped it was transferred, and the cartels, the people that were perpetrators are in office.

**The Chairperson; Hon. Otiato:** Just take a seat to DG or relax. Let's wait, because you know you have talked, you have made your statements. Let's verse here. We always have one person standing at a time. Jack?

**Hon. Odinga:** Thank you, chair. Chair, let me start by saying that, I'm still saying this under oath and that whatever the DG has said is also said it under oath. In his, address, he has said and reiterated that 40 million was withdrawn in November, I don't know, 30 million in December, 3 million, 2 million in December and April and May. Chair, I want to ask that if

the DG still stands with what he has said, let him confirm to this house that he can prove that 40 million was withdrawn in November. Chair.

I want to say it categorically that between November to date, there is no single month that we transacted more than 25 million. That is in November and as he put it, but towards April and March withdrawal came down to 2 million. And as I said earlier, there is a policy which was presented before the Cabinet to now approve up to what limit. This is why the transactions have gone as we await approval of the policy.

That is one. Chair under oath, I want to say that the DG has said that there was an attempt to, steal Kshs. 5.4 million. Chair. He has also said that the person who was in charge of IFMIS who stopped this transaction was moved out, Chair, let me say this, that true, there was that attempt, but whoever gave instruction for the processing. Of these Kshs. 5.4 million is the one in charge of, IFMIS.

I didn't want to say this chair earlier because this would amount to discussing a staff, but now that he has brought it, let me say it. This staff in charge of with IFMIS, it is in record and anybody can, uh, go to her file and look at this.

She's the one who was interdicted when she was serving at Bondo County Referral Hospital, uh, with the fact that she was paying ghost casual workers. She was suspended for two years and then later on she was brought back, when she was brought back.

These are the people that Digi insisted that must be at the Treasury. But now when I realize, because what I did when I went in, instead of getting praised, I'm getting beatings. When I went in a chair as acting CO finance, I changed the system briefly because initially whatever used to happen was that payroll will come from governance. Then this payroll is taken to CO Finance to authorize.

Once they're authorized, they go into, IFMIS, they get processed and then they get paid. No at any point would this payroll again come back to Chief Officer Finance. So when I went in and because I've heard of issues of payroll, payroll, payroll, I changed the system.

Now when the payroll comes, I give this payroll to accountant in charge of payroll, who in turn gives the, uh, if miss in charge of if, who in charge of, IFMIS is the one who authorizes the processing of this payroll or any other transaction.

So she's the one, and I can confirm, I can print out the approvals, which were done by the in charge of witness. If she's the one who approved processing of this, then now again, or she's stopping this, she's the one who approved and authorized officers within her office to process this.

When these were processed up to IB, now for payment, then I told the accountant in charge of payroll. That before I signed the, the vouchers, before I signed the, the Fiscal vouchers, I want to see what has been processed in the system that is in IB that we now use to request for funds and pay for the same.

Now when she brought me whatever has been processed to IB then I compared with the manual payroll, there was that difference of Kshs. 5.4 million over and above. Then immediately, I wrote a letter to cashier that kindly stop that payment. I did it myself, and evidence is there. I can provide that.

Then after I stopped there, I called for a meeting. I invited the cashier and those in charge of IFMIS. So when I sat them down, I told them, now what should happen? Each and every one of you must do a statement to confirm to me what really transpired, have those statements, and in my earlier submissions, I said that in the

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process there was no loss of funds, yes, there was an attempt, but there was no loss because I stopped it.

After stopping it was not requested and therefore it was not paid. But there are internal, investigations that we are carrying on. I wrote this to our CECM in charge of Finance, and I recommended that a payroll audit be done so that we know where the problem could be. As we speak, as we talk, there is audit of payroll that is being taken by the internal audit control unit.

Then the one in charge of, IFMIS is the one who approved, is the one who authorized her officers to do this. The first thing that I did was to transfer her so that as we are doing investigation, as we are doing the audit, she's not within the office to interfere with some of these things. So when I hear DG say that this is a person, a clean person who ought to be this, but maybe he has not looked at the past record of this officer, I'm not accusing her, but from the past, that is it.

Lastly this narrative of withdrawal, withdrawal, withdrawal, DG is my senior, is my boss. Even in our profession he is my senior in profession. Let me ask a question. We know there is a rule by the Central Bank that you cannot do a check for 1 million. You cannot write a check for 1 million unless, there are other requirements that we will even go to for approval from the other end. But now if you want to withdraw cash for operations within the county, even you are advised by the bank that if you want to do, if you want to withdraw 2 million and the chair, this is a county, this a government that may require operations more than say 2 million.

If you want to withdraw 2 million, obviously you will write three checks because you cannot write 1 million. You have to do, say, for example, 950, 300 and the balance. So you'll do three checks.

This three checks chair, when I came in initially you heard of a situation where, 10 or 20 people would go to bank to withdraw imprest or something like that, but when I came in, I said that we can have a one person who is introduced to the bank as a county cashier.

So when you see this, Vivian, Vivian, Vivian, Vivian is accounting cashier, and in my responses chair, I attached that letter Introducing Vivian to equity bank that is in charge of withdrawals and also accounting.

Accounting for this will be easier because it'll be one person that withdrew and she should tell us where she spent the money. Rather than sending five, 10 people to withdrew of 2 million, then uh, accountability will be a problem. So there is a letter, which I did to bank introducing Vivian as the County cashier.

Lastly, when you do, when you do three checks, you present all these cheques at the counter. Obviously check number 0 0 1, which is 800,000. The moment it gets cleared, even in the statement, it'll left reflect time when this check was cleared.

Definitely when the second cheque number 0 0 2 say for 700 is getting cleared, it'll not be the same time as the first one. So those ones who are saying 10 times we are working to bank 10 times or four times, withdraw this, no, it's just that this check will be cleared at different times, say a difference of 20 minutes. 30 minutes, 10 minutes, but this cashier will be waiting in the banking hall to take the money to the office for operations. That is the only clearance that I, can say. Thank you.

**The Chairperson Hon. Otiato:** Thank you. Members, I want us to, to thank you very much, but again, this is a House of record, so I want to make this clear.

**Hon. Deputy Governor:** Before, before move, uh, can I respond to Jack briefly?

**The Chairperson Hon. Otiato:** Can you just do one minute?

**Hon. Deputy Governor:** Yes. One minute. So, nothing stops, Jack. from withdrawing 3 million at once, only thing you do, is write a check for 3 million with an explanation. That's what Central Bank requires. It does not need to grade the bank. 900, 900, 900, 900. And again, the fundamental concern is that Imprest is the emergency petty cash.

By the time we're withdrawing 2 million, 3 million every three, four days, there is a problem. And he has also confirmed to us that in February he withdrew Kshs. 3million the entire month, March Kshs. 2 million, the entire month have completely withdrawn 40 million in the past. Even if it's 30 million. Why per month? So, it is possible to be done. I just wanted to clarify that.

The Chairperson; Hon. Otiato: Thank you *Bwana* DG. Thank you members and our members of, fourth state, members of the public who are here. One of the things that I wanted to make clear was on their allegations that of particular house tampering with the budget. Let me just make it clear for the purposes of records that when we are dealing with a supplementary budget, we don't introduce new projects. Supplementary remains supplementary and therefore when you hear that there are projects proposed, supplementary is just for unforeseen arising budget issues.

Therefore, it is obvious that when you introduce completely new projects in the budget, it might suffer the same fate. But again, if there was any compromise position to, embrace new government within starting its structures, then that should not be the routine.

So I do want to clear it here that our house doesn't tamper, then I don't see the situation where The CEC Finance and the Governor signs those budgets into law, especially when it's affected. Number two, *Bwana* DG, I hear some people here, I know they're some of your supporters, but you see here, this is my almost seventh year here.

We entertain those music every time, and this might be even the 20th that we receive in this house. The only problem is that; we don't take it kindly when we get such kind of interferences with the proceedings in the house.

You might not have a control, but when you have some people around you that run around, then they create a perception. And, you know, politics is about a perception. Last time we had to suspend a member here for almost one year just because of when we were going through a disciplinary process, he brought some people to jump into this place and some were singing around and it brought us a lot of issues.

So in, in case they still want to proceed like that. Maybe they need to be informed that it's only tomorrow. Again, Thursday we are around. They can come and start in the morning, but we'll proceed with this that we have to do.

I want to say that, from today I know the, our able secretariat and going to sleep. We want to dissect. these Members very early in the morning we will be on this document. I know if you have to appear before the whole house on Thursday, then certainly by the end of tomorrow we will give you the report of this particular house. County Attorney, do you have any comment to make? As a representative from the other side, your observation?

**Mr. Owade:** Not really chairman, but, I think just to thank you, to thank, members, Honorable Members of the Assembly, the DG, the council, for the efforts that I think we have made today. It was not an easy day, but I think it has been a very constructive engagement. I don't think any of the members of the Executive have anything to add, but just to thank you for the day.

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**Mr. Nyamodi:** Also just to add my voice to my Learned Senior colleague and thank the Committee for your patience and even perseverance during some of these proceedings, and we wish you, all the very best as you commence your deliberations and your report writing, and we look forward to receiving your report.

**The Chairperson; Hon. Otiato:** Thank you. You'll give us your official mail to our clerks for the purposes of processing. We have our pastor here to pray for us.

*(Prayers by Hon. Baraka)*