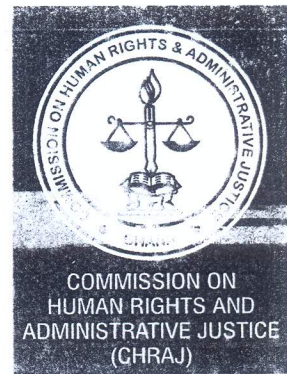


CASE NO. 322/2017 | 413



IN THE MATTER OF THE COMMISSION ON HUMAN RIGHTS AND  
ADMINISTRATIVE JUSTICE, ACT 1993 (ACT 450)

AND

IN THE MATTER OF ALLEGATIONS OF CORRUPTION, "THIEVERY"  
AND ABUSE OF POWER

BETWEEN

DYNAMIC YOUTH MOVEMENT OF GHANA

COMPLAINANT

AND

MR. SAMUEL A. JINAPOR &

MR. FRANCIS ASENSO-BOAKYE,

RESPONDENTS

DEPUTY CHIEFS OF STAFF,

OFFICE OF THE PRESIDENT

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DECISION

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## 1.0. INTRODUCTION

On 29<sup>th</sup> September, 2017 the Commission on Human Rights and Administrative Justice (the Commission) received a complaint from Edward Tutter, Executive Convener of the Dynamic Youth Movement of Ghana (DYMOG) (the Complainant), which alleged, among others, corruption, "thievery" and abuse of power against Mr. Samuel A. Jinapor and Mr. Francis Asenso-Boakye, Deputy Chiefs of Staff at the Presidency (the Respondents).

The Commission decided to initiate investigation into the allegations of corruption and abuse of power levelled against the Respondents under Article 218(a) and (c) of the 1992 Constitution of Ghana and Sections 7 (1) (a) and (f) of Act 456 of 1993, which mandate it to investigate the issues and take appropriate action resulting from the investigations.

In accordance with Regulation 3 (3) of the Commission on Human Rights and Administrative Justice (Investigations Procedure) Regulations, 2010 (C.I. 67), the Commission undertook Preliminary Investigations into the complaint. This is the decision of the Commission resulting from the findings of the Preliminary Investigations.

## 2.0. SUMMARY OF THE ALLEGATIONS

A summary of allegations made against the Respondents by the Complainant in the letter dated 29<sup>th</sup> September, 2017 and titled "*PETITION TO INVESTIGATE ALLEGED CRIMES OF "CORRUPTION" AND "THIEVERY" LEVELLED AGAINST DEPUTY CHIEFS OF STAFF; MR. FRANCIS ASENSO-BOAKYE AND MR. SAMUEL ABU JINAPOR, BY KWAME OBENG ASARE (A PLUS)*", is as follows:

- i. That the Commission should investigate the infamous alleged crime of "thievery" and "corruption" perpetrated by the Deputy Chiefs-of-staff Mr. Francis Asenso-Boakye and Mr. Samuel A. Jinapor. These allegations were made by Mr. Kwame Asare Obeng (A Plus) a Citizen of Ghana.
- ii. That the Commission should trigger fresh and thorough investigations into the allegations of "Thievery" and "Corruption" made by Mr. Kwame Asare Obeng against the two public officials namely, Mr. Francis Asenso-Boakye and Mr. Samuel A. Jinapor; who are both Deputy Chiefs of Staff at the Presidency.
- iii. That these allegations were made in connection with an impropriety at the Korle-Bu Teaching Hospital in Accra.
- iv. That the controversy surrounding a leaked tape which captures a dialogue between the complainant, Mr. Kwame Asare Obeng (A Plus) and a Deputy Director

General of the CID, Mrs Tiwaa Addo-Danquah in the course of the investigation will be scientifically validated once an independent body like CHRAJ takes the matter on.

The Complainant stated that the decision to petition the Commission was premised on three main grounds, namely:

- i. The Credibility and Integrity of the Ghana Police Service will be brought into question if proven beyond reasonable doubt that, the voices in the tape are voices of Mr. Kwame Asare Obeng and Mrs. Maame Tiwaa Addo Danquah.
- ii. Secondly, the authenticity of the final investigations report released earlier by the CID, which 'sought' to clear Mr. Francis Asenso-Boakye and Mr. Samuel A. Jinapor is in a state of immense and intense incredulity due to the emergence of the tape.
- iii. The Peace and Stability of this Nation will be heavily threatened if proven that the Ghana Police Service has elements within it that compromise truth and justice. The Trust of Citizens in the Ghana Police Service is as vital as the duty of the latter to discharge its duties in honesty.

Furthermore, the Complainant invited the Commission to invoke its powers under Articles 218 (a) and (e) of the 1992 Constitution to investigate and establish the following:

- a. Whether or not the claims by Mr. Kwame Asare Obeng (A Plus) against Mr. Francis Asenso-Boakye and Mr. Samuel A. Jinapor are true or otherwise.
- b. Whether or not the investigations as reported by the CID of the Ghana Police Service on this matter is credible.
- c. Whether or not the voices of Mr. Kwame Asare Obeng (A Plus) and Mrs. Tiwaa Addo-Danquah as captured on the tape are originally theirs or not.

The Complainant attached to the complaint a CD ROM labelled "DYMOG EXHIBIT" purported to be evidence of the voice recording.

### 3.0. THE RESPONDENTS' POSITION

#### 3.1. *Response by Mr. Samuel A. Jinapor*

On Friday 6<sup>th</sup> October, 2017 the Commission requested Mr. Samuel A. Jinapor to submit his comments on the allegations. In a written response dated 9<sup>th</sup> October, 2017, Mr. A. Jinapor denied all the allegations made against him. In his response he alluded extensively to the purported investigation by the CID of the Ghana Police Service.

Concerning the alleged unfair intervention in the affairs of the Management of the Korle-Du Teaching Hospital (KBTH) in relation to UniBank, the Respondent stated that: *"I categorically deny any allegation of corruption and/or wrong doing in all my dealings in this matter and indeed in the discharge of all my duties as a public officer. These interventions I made were regular and absolutely consistent with the official duties assigned to me by the Chief of Staff".*



The Respondent also in relation to taking of bribes and kickbacks from people who apply for government contracts stated that: *"Mr. Kwame Asare Obeng alias 'A-Plus' both publicly and in his statement to the Criminal Investigations Department (CID) of the Ghana Police Service categorically denied ever making any allegation of bribery or kickbacks against me."* The Respondent also added that: *"... I wish to categorically state that I have never attempted and/or actually received any 'bribes' or 'kickbacks'. I am eager to confront anybody who asserts the contrary"*.

Turning to Mr. Asare Obeng's allegation that: *"... Messrs Asenso-Boakye and A. Jinapor are ..., arrogant, corrupt and ...hence do not merit the appointment"*, Mr. A. Jinapor stated that, *"... I have never engaged in any corrupt practices and I will be very eager to confront anybody who asserts the contrary"*.

### *3.2. Summary of documents Mr. Samuel Abu Jinapor attached to his comments*

#### *3.2.1. Termination of Agreement*

The Commission received a Termination of Agreement letter dated 12<sup>th</sup> July, 2017 which Mr. Jinapor attached to his comments. The letter shows that Korle-Bu Teaching Hospital wrote to the Managing Director, uniBank Ghana Limited, to terminate a contract the Hospital had with uniBank. The contract was to provide a billing platform and accept all payments effected by its customers in settlement of bills issued from the billing system by the KBTH from its departments. The letter further stated that clause 10 of the MOU provides any of the Parties the option to terminate the agreement by giving a ninety (90) days' written notice.

#### *3.2.2. Re-Termination of Agreement*

The Commission received another letter dated 17<sup>th</sup> August, 2017 titled "RE: TERMINATION OF AGREEMENT" also attached to Mr. Jinapor's comments. The letter shows that uniBank Ghana Limited sent a reply to Korle-Bu Teaching Hospital in relation to the termination of the contract between the two parties.

The letter also made reference to the termination clause in the Memorandum of Understanding (MOU) signed by the two institutions and the election to invoke the said clause giving ninety days' notice. The letter further stated that: *"We are aware of your right under the termination clause in the MOU, but as partners in the delivery of healthcare services, we would have thought that your action would have been preceded by a discussion with us on any issues of concern to the Hospital, especially as we have gone far in the process of procuring a state-of-the art Hospital Management System for the hospital, based upon your request."* The letter requested KBTH to reconsider their decision to terminate the agreement. The letter further requested a meeting with management of KBTH to discuss any issues of mutual concern.

#### *3.2.3. Dr. Felix Kwaku Anyah's statement to the CID*

The Commission again received from Mr. Jinapor as an attachment to his comments a copy of a handwritten statement made by the Chief Executive Officer (CEO) of KBTH, Dr. Felix Kwaku Anyah, to the Criminal Investigation Department (CID) of Ghana Police Service. The statement is dated 6<sup>th</sup> September, 2017. The statement provides



reasons for the termination of the contract by Management of the Hospital. Firstly, it stated that Stanbic Bank had demonstrated in the period of operation in the Hospital to be effective and better than unibank in supporting the Hospital to resolve all its lapses and weaknesses.

Secondly, it stated that uniBank was invited on three occasions to make a presentation to Management on the standards provided by Stanbic, but consistently unibank failed to do so.

Dr. Anyah wrote that he was requested by Mr. Peter John Amewu, the Minister of Lands and Natural Resources, Mr. Kwaku Agyemang Manu, the Minister for Health, and the two Deputy Chiefs of Staff to rescind his decision in relation to the termination of the agreement between the Hospital and uniBank Ghana Limited. He further stated that no reasons were given in their request to rescind the termination but just that they wanted UniBank to continue to collect the Hospital's revenue even though there were records of poor performance at both Ridge and Police Hospitals. He further stated that *"the pressure and frustration encountered gave me no option than to write a letter telling Unibank to disregard my earlier letter on the termination clause in MOU."*

#### ***3.2.4. Statements by Mr. Kwame Asare Obeng to the CID***

Mr. Jinapor also attached to his comments two separate statements made by Mr. Kwame Asare Obeng, affectionately called "A Plus", to the Criminal Investigation Department (CID) of Ghana Police Service, both dated 5<sup>th</sup> September, 2017. One of the statements is handwritten and on a Ghana Police Statement form and the other is a transcribed statement with each paragraph bearing the official stamp of the Deputy Director-General, CID. Each page of the transcribed statement also bears Mr. Asare Obeng's signature and the date at the top left-hand corner and only his signature at the bottom right-hand corner, except for the last page. Mr. Kwame Asare Obeng (A Plus) stated in the handwritten statement that: *"I wish to state that I have never said anywhere that the two (2) Deputy Chiefs of Staff at the Presidency have taken bribe-money."*

With regard to his transcribed statement, A-Plus stated that when Dr. Felix Anyah was appointed as Ag. Chief Executive Officer of KBTH, he visited several departments and concluded that efficient Hospital Information System which links units and equipment such as X-ray, CT Scan, Laboratory to indicate actual services rendered was urgently needed to stop the revenue leakage and improve KBTH's finances.

Mr. Asare Obeng indicated that Management of Korle Bu Teaching Hospital had had arrangements before the appointment of Dr. Anyah with Stanbic Bank to develop software for KBTH, which will efficiently stop revenue leakages in the whole Hospital including the mortuary. He further stated that the management Team of Korle-Bu Teaching Hospital also saw that it would be in the public interest if one Bank (Stanbic Bank) did the collection for KBTH as UniBank has had several weaknesses starting from the SELECTION STAGE through to where THEY ARE IMPLEMENTING.

Mr. Asare Obeng stated also that the hospital interviewed 9 Banks for the billing and Revenue Collection after which 5 Banks were shortlisted to select the best performing Bank. The 5 Banks were scored on a scale of 1 – 5 in the areas under consideration.

The analysis produced the following results in order of performance:

NAME OF BANK	SCORE
1 <sup>st</sup> Stanbic Bank	59.4
2 <sup>ND</sup> GT Bank	58.7
3 <sup>rd</sup> Universal Merchant Bank	57.1
4 <sup>th</sup> UniBank	55.4
5 <sup>th</sup> Ghana Commercial Bank	48

STANBIC BANK SCORED EXCELLENT in selection.

According to Mr. Asare Obeng, by a letter dated 14<sup>th</sup> September, 2015 the then Chief Executive Officer of KBTH wrote to the Controller and Accountant General indicating the decision to choose Stanbic Bank and UniBank. The Controller and Accountant General in a letter dated 14<sup>th</sup> October, 2015 through Mr. Seidu Kotomah, Deputy Controller and Accountant General, replied to the CEO of KBTH with copies to other authorities. The Deputy Controller and Accountant General made some comments about Stanbic Bank and UniBank and recommended that 6 additional banks should be considered.

The comments made on the performance of UniBank suggested INEFFICIENCY IN ITS OPERATIONS AND THIS AGAIN WAS EVIDENT IN KORLE BU TEACHING HOSPITAL IN 2017.

On 28<sup>th</sup> June, 2017, Mr. Asare Obeng said that KBTH team of about 10 Directors and the Chief Executive Officer went to seek clarification at the Flagstaff House with the Vice President.

On 5<sup>th</sup> July, 2017 the KBTH Management Team went to the Flagstaff House again to confer with the Vice President on challenges facing the Hospital. Some of the issues discussed included:

- timely access to comprehensive revenue information
- general data sharing within hospital ...
- inefficient billing system and gaps
- multiple integrations and interfacing
- multiplying effect
- patient data protection
- lack of serious commitment in financing the hospital's needs



In the same meeting with the Vice President, Management Team also discussed the benefits of using Stanbic Bank as the only on-site Revenue collection Bank. The Vice President agreed that it makes economic and efficient management sense to use Stanbic Bank as one Revenue Collection Bank and to use its Premium Billing and Revenue Collection Software to better manage KBTH financially and enhance its operations to prevent the loss of lives and increase its revenue.

The Vice President also agreed that Ministry of Finance should not decide the on-site bank for Korle Bu Teaching Hospital.

Following the meeting, on 12<sup>th</sup> July 2017, KBTH Management Team sent a letter of Termination of Agreement between KBTH and UniBank giving a 90-day notice.

Following the Termination of the contract between the two parties, Mr. Asare Obeng indicated that Mr. Asenso-Boakye and Mr. Agyemang-Manu called Dr. Anyah to cancel or stop the Termination of the contract between KBTH and Unibank. He further stated that *"several pressures were put on Dr. Anyah to cancel the Termination of Agreement even though it was Korle Bu Teaching Hospital's Management Team decision and not the Acting Chief Executive Officer's personal decision."*

Mr. Asare Obeng alleged that Mr. Asenso-Boakye and Mr. Jinapor took advantage of their positions as government officials to favour a private business – UniBank Ghana Limited – to the disadvantage of the Public Interest. He further stated that Mr. Asenso-Boakye and Mr. Jinapor *"are extending protection, favouritism towards Unibank for its operations in Korle Bu Teaching Hospital in exchange for UniBank's contributions towards political Campaign. According to Mr. Asare Obeng, this "is a corrupt conduct."* He also said that *"for UniBank to profit inappropriately from their position in the operations and perpetuates loss of revenue, loss of human lives in KBTH because of their contributions to NPP is also corrupt"*.

He again stated that for *"Mr. Asenso, Mr. Abu Jinapor and Minister of Health to be demanding Acting CEO of KBTH to withdraw the Termination letter sent to UniBank or else his perceived preference for KBTH Board Chairman may be changed amounts to political Extortion"*.

### 3.2.5. Pen Drive of Joy Fm's Super Morning Show

Mr. A Jinapor also enclosed to his response to the Commission a pen drive containing a recording of a public interview between the Host of Joy Fm's Super Morning Show and Hon. Kwaku Agyemang-Manu, the Minister for Health. The Minister explained on the Show the steps he took when his attention was drawn to the issue at Korle-Bu. The Minister also said he *"officially instructed the CEO of Korle-Bu to rescind his decision to terminate UniBank's contract"*.

### 3.3. Response by Mr. Francis Asenso-Boakye

On 6<sup>th</sup> October, 2017 the Commission requested Mr. Asenso-Boakye in a separate letter to submit his comments on the allegations. In a written response dated 10<sup>th</sup> October, 2017, Mr. Asenso-Boakye also denied all the allegations made against him. Again, he also



made reference in his comments to the substantive allegations made by Mr. Asare Obeng (A-Plus) which were investigated by the Ghana Police Service. He stated that, *"His Excellency the President, sometime in late August 2017, instructed the Ghana Police Service to conduct an investigation into a Facebook post made by Mr. Kwame Asare Obeng, aka A-Plus, in which he accused me and my colleague, Mr. Abu Jinapor, of being corrupt, stupid and thieves. The Police, as part of their investigations, invited me to provide a written response to the events that apparently constituted the basis for Mr. Obeng's posts"*.

He stated that, *"The report of the Ghana Police Service, following the completion of their investigations, concluded that the allegations of corruption made by Mr. Kwame Asare Obeng against me was baseless, unsubstantiated and without merit"*. Continuing, he said *"Mr. Obeng denied calling myself and Mr Jinapor thieves when contacted by the Police although his Facebook post was unambiguous. This inconsistent position of Mr Obeng has now become his hallmark. Indeed when offered by media houses an opportunity to provide evidence of his allegations, Mr Obeng goes on a circuitous journey that is wholly intangential"*.

Mr. Asenso-Boakye highlighted the role of the Office of the Chief of Staff, indicating that, *"One of the cardinal duties of the Chief of staff (and by extension the Deputies) is to ensure that the President's appointees are discharging their functions properly and in accordance with due process"*. With regard to the termination of uniBank's contract to provide on-site banking revenue collection services to Korle-Bu, Mr. Asenso-Boakye said his advice to Dr. Felix Kwaku Anyah, the Acting Chief Executive Officer, was in line with best practice and our procurement rules. He said his advice was to the effect that, *"in the absence of a duly constituted governing Board and without giving a fair opportunity for the affected party to compete favourably, the action could be misconstrued as being bias, discriminatory and unjustified"*.

Mr. Asenso-Boakye emphasised that, *"... no material benefit accrued to me in the discharge of my duties. I acted within the limits of my authority in a fair and conscientious manner with the paramount consideration of consolidating cordial relations and harmony between Korle-Bu and it's constitutional partners"*.

### *3.3.1. Summary of documents Mr. Francis Asenso-Boakye attached to his comments*

#### *3.3.2. Statement made by Francis Asenso-Boakye to CID*

The Commission received a transcribed copy of a statement made by Mr. Francis Asenso-Boakye, Deputy Chief of Staff, to the Criminal Investigation Department (CID) of the Ghana Police Service, dated 7<sup>th</sup> September, 2017. Mr. Francis Asenso-Boakye wrote that his colleague Deputy Chief of Staff, Mr Samuel A. Jinapor, drew his attention to the fact that Korle-Bu Teaching Hospital had terminated a contract/an agreement between Korle-Bu and UniBank.

Mr. Asenso-Boakye stated that, *"I contacted the Chief Executive of the Korle Bu Teaching Hospital to understand the issues leading to the said termination. In discussing the issues, I did not put any pressure, whatsoever, on him to rescind the decision to terminate, as has been mischievously and*

*erroneously perceived. What I sought to do was to draw the Chief Executive's attention to the irregularities in abrogating the contract of UniBank, based on a supposedly more beneficial proposal from a competing party."*

He said, *"the decision was without the consent and approval of a governing board, which was yet to be constituted. I pointed this fact out to the Chief Executive".* Again, *"the party affected was not given an opportunity to make a counter offer/proposal. This created an unequal playing field and was neither fair nor justified".* Additionally, *"UniBank as a local bank would be unduly disadvantaged in growing its business."*

He further stated that, *"I did not at any time in my interaction with the Chief Executive make a demand on him for any favours that would inure to my personal benefit, or seek any monetary consideration from him."*

He concluded his statement as follows: *"I believe these allegations are nothing, but a vicious attempt to smear me with a view to soiling my hard won reputation and bring my office into disrepute. I'm inclined to believe that this unwarranted accusation is in response to my inability to accede to his [Asare Obeng's] request to get the Controller General to give him a printing contract."*

### **3.3.3. Whatsapp message from "A Plus" to Mr. Asenso-Boakye**

The Commission received a copy of a WhatsApp message sent by "A Plus" to Mr. Francis Asenso-Boakye, Deputy Chief of Staff, dated Tuesday 25<sup>th</sup> April, 2017, which the latter attached to his comments. The message purportedly sent to Mr. Asenso-Boakye from "A-Plus" reads as follows: *"now you be deputy chief of staff so when I spend precious time to drive my 6.3 litre engine to ask you to make a single call you throw your weight about. Masa I went to the man myself. You people think power is forever. Me a no see any of you self. You know what people went through for you to become deputy chief of staff? Just phone call too you are acting as if someone is asking you to kill Jesus. Abore. A for make you know."*

## **4.0. MANDATE OF THE COMMISSION**

### **4.1. THE 1992 CONSTITUTION**

Article 218 (a) and (e) of the 1992 Constitution, provide for the functions of the Commission, which include the duty:

*218 "(c) to investigate complaints of violations of fundamental rights and freedom, injustice, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties."*

*218 "(e) to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and Auditor-General, resulting from such investigations".*

### **4.2. THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE ACT, 1993 (ACT 456)**

S. 7 (1) (a), (b) and (f) of Act 456 in accordance with article 218 of the Constitution, provide for the functions of the Commission as follows:



7(1) "(a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;"

7(1) "(b) to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, the offices of the Regional Co-ordinating Council and the District Assembly, the Armed Forces, the Police Service and the Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services";

7(1) "(f) to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigation".

#### 4.3. COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE (INVESTIGATIONS PROCEDURE) REGULATIONS, 2010 C.I.67

Regulations 5 (1) (a) and (b) of C.I. 67, 2010 provide that:

- "5(1) The Commission may receive or act on an allegation from any source in respect of
- a. alleged or suspected corruption, and
  - b. misappropriation of public moneys by officials."

#### 5.0. APPLICABLE CONSTITUTIONAL AND LEGAL FRAMEWORK

##### 5.1. Ghana's Constitution, 1992

The Commission's work generally, especially in the area of anti-corruption, is guided by the all-embracing values and principles underpinning the 1992 Constitution which, inter alia, comprise Ghana's commitment to "Freedom, Justice, probity and Accountability". Again, the Directive principles of State Policy, particularly article 35 (8) provides as follows:

*"The State shall take steps to eradicate corrupt practices and abuse of power".*

##### 5.2. The Criminal and Other Offences Act, 1960 (Act 29)

Section 239 (1) of Act 29 provides that:

*"A public officer or juror who commits corruption, or wilful oppression, or extortion, in respect of the duties of office, commits a misdemeanour".*

Explaining the term "corruption by public officers", section 240 of Act 29 provides:

*"A public officer, juror, or voter commits corruption in respect of duties of office or the vote, if the public officer, juror, or voter directly or indirectly agrees or offers to permit the conduct of that person as a public officer, juror, or voter to be influenced by the gift, promise, or prospect of a valuable consideration to be received by that person or by any other person, from any person".*



6.0. MATTER ALREADY INVESTIGATED AND CONCLUDED BY THE GHANA POLICE SERVICE

It is important to accentuate the fact that the Criminal Investigations Department (CID) of the Ghana Police Service has already investigated the instant allegations and drawn its conclusions. There are various facets of the evidence on record which would be considered in this regard.

6.1. The Complainant

The Complainant stated in the complaint that he was calling on the Commission to "investigate the infamous alleged crime of 'thievery' and 'corruption' perpetrated by the Deputy Chiefs-of-Staff ..." He further requested that "a leaked tape which captures a dialogue between the complainant, Mr. Kwame Asare Obeng (A Plus) and a Deputy Director General of the CID, Mrs. Tiwaa Addo-Danquah in the course of the investigations" would be "scientifically validated" by the Commission. He believed the "Credibility and Integrity of the Ghana Police Service will be brought into question if proven beyond reasonable doubt that, the voices in the tape are voices of Mr. Kwame Asare Obeng and Mrs. Maame Tiwaa Addo-Danquah".

Furthermore, the Complainant noted thus:

"The authenticity of the final investigations report released earlier by the CID, which 'sought' to clear Mr. Francis Asenso-Boakye and Mr. Samuel Abu Jinapor is in a state of immense and intense incredibility due to the emergence of the tape attached" (emphasis added).

He finally called on the Commission to "investigate and establish", among others, "whether or not the investigations as reported by the CID of the Ghana Police Service on this matter is credible."

Clearly, the Complainant admits that the matter has already been investigated and a final investigations report released by the CID.

6.2. The Respondents

- (i) As proof of the matter having been investigated by the CID, Mr. Samuel A. Jinapor attached to his comments to the Commission handwritten statements made by Dr. Felix Kwaku Anyah and Kwame Asare Obeng (a.k.a. A-Plus) to the CID on 5<sup>th</sup> September, 2017 and 6<sup>th</sup> September, 2017 respectively. There is also a transcribed statement of Kwame Asare Obeng to which he appended his signature also on 5<sup>th</sup> September, 2017 and with every paragraph marked with the stamp of the Deputy Director-General, CID.

In fact, Mr. Samuel A. Jinapor indicated that some individuals made statements to the CID which suggests that some investigations had commenced. But he did not state whether the CID concluded its investigations or not.

- (ii) On his part, Mr. Francis Asenso-Boakye stated in his comments on the allegations that sometime in late August, 2017, His Excellency the President instructed the Ghana Police Service to conduct an investigation into a Facebook post made by Mr. Kwame Asare Obeng (a.k.a. A-Plus) "in which he accused me and my colleague, Mr. A. Jinapor, of being corrupt, stupid and thieves." Mr.

Asenso-Boakye said he gave a statement to the Police, a transcribed version dated 7<sup>th</sup> September, 2017 of which he attached to his comments.

Mr. Asenso-Boakye stated in his comments thus:

“The report of the Ghana Police Service, following completion of their investigations, concluded that the allegations of corruption made by Mr. Kwame Asare Obeng against me was baseless, unsubstantiated and without merit” (emphasis added).

**6.3. The Criminal Investigations Department (CID) of the Ghana Police Service**

The Commission has formally requested for a certified true copy of the Police Investigation Report on the allegations made by Mr. Kwame Asare Obeng (a.k.a. A-Plus) against the Deputy Chiefs of Staff. Although the Commission has not yet secured a copy of the said Investigation Report, DCOP Maame Yaa Tiwaa Addo-Danquah, Acting Director-General, CID, has intimated on phone that the Police duly investigated the matter and issued a report. She said the report was signed by the Inspector-General of Police (IGP).

From the available evidence, therefore, there is no denying the fact that the allegations the Commission is being called upon to investigate have already been investigated by the Ghana Police Service and a Report duly issued.

**7.0. ISSUES FOR DETERMINATION**

Several issues emerge for determination, namely:

- (i) Whether the Commission can investigate a matter which has already been investigated and concluded by the Ghana Police Service (CID).
- (ii) Whether KBTH terminated its contract for revenue collection with uniBank.
- (iii) Whether Messrs A. Jinapor and Asenso-Boakye, Deputy Chiefs of Staff, asked the Acting Chief Executive Officer (CEO) of KBTH to cancel/reverse the termination of the Hospital's contract with uniBank.
- (iv) Whether the two Deputy Chiefs of Staff engaged in any corrupt practice and abuse of power in asking the Acting Chief Executive Officer (CEO) of KBTH to cancel the termination of uniBank's contract.
- (v) Did Kwame Asare Obeng (a.k.a A-Plus) have any ulterior motive for making the allegations against the two (2) Deputy Chiefs of Staff?
- (vi) Whether the phone conversation captured on a CD Rom relates to the matter under investigation and, if so, whether the conversation is between Mrs. Tiwaa Addo-Danquah, Deputy Director-General, CID, and Mr. Kwame Asare Obeng (a.k.a. A-Plus), the original Complainant.
- (vii) Whether it is appropriate for the Commission to investigate allegations of professional misconduct against a Police Officer.



#### 8.0. THE INVESTIGATION

This investigation was conducted in terms of Articles 218(a) & (c) of the 1992 Constitution and Sections 7(1) (a) & (f) of Act 486 and comprised the following:

##### Interviews with:

- The Complainant (DYMOG) represented by Mr. Edward Tutter and Mr. Daniel Annan, Executive Convener and Director of Operations respectively; and
- DCOP Tiwaa Addo-Danquah, former Deputy Director-General, but now Acting Director-General, CID.

##### Evaluation of Information/Documents

- The complaint received from the Dynamic Youth Movement of Ghana (DYMOG)
- CD Rom from DYMOG
- Response to the allegations by Mr. Samuel A. Jinapor
- Response to the allegations by Mr. Francis Asenso-Boakye
- KBTH letter terminating the contract of uniBank
- uniBank letter of response to KBTH on termination of the contract
- Copy of Statement by Dr. Felix Kwaku Anyah, Acting CEO of Korle-Bu to the CID
- Copies of Statements by Mr. Kwame Asare Obeng (a.k.a A-Plus) to the CID – one handwritten on a Police Statement Form and the other a transcribed version.
- Pen Drive of Joy FM's Super Morning Show
- Copy of transcribed version of statement by Mr. Francis Asenso-Boakye to the CID.
- Whatsapp message from "A-Plus" to Mr. Asenso-Boakye.

#### 9.0. SUMMARY OF EVIDENCE/INFORMATION

Adequate summary of the evidence/information has already been provided under Summary of Allegations and the Respondents' Position. The following précis of interviews conducted is intended to augment what has been summarized earlier:

##### The Complainant

The Commission held two separate interviews with representatives of the Complainant organization. At the first meeting on 5<sup>th</sup> October, 2017, the Complainant said the allegations involved here relate to corruption and "thievery", which are the words of A-Plus. The Complainant said they had no idea of what the specific allegations are and that whatever they know they heard on social media. The DYMOG urged the Commission to go into the matter and bring "clarity and finality" to it. The DYMOG stated that the reason for coming to the Commission was for "a control experiment". The DYMOG representatives said they were "only calling for an independent job to determine whether the Police did a good job or not".

At the second interview on 30<sup>th</sup> October, 2017, the Complainant assured the Commission of its full co-operation in the investigation, adding that, "we do not have evidence anywhere; all that we have is what we have given to the Commission.

DCOP Tiwaa Addo-Danquah, former Deputy Director-General, CID, but now Acting Director-General



In a phone interview with DCOP Tiwaa Addo-Danquah, she confirmed that the Police Service had investigated the allegations against the two (2) Deputy Chiefs of Staff. She said the Police Investigation Report was duly signed by the Inspector-General of Police.

#### 10.0. ANALYSIS OF THE EVIDENCE

- (i) Whether the Commission can investigate a matter which has already been investigated and concluded by the Ghana Police Service.

The Complainant has made it abundantly clear that the Commission should investigate the same allegations which the Ghana Police Service had earlier investigated. He stated in the complaint that, *"We are only calling for an independent job to determine whether the Police did a credible job or not"*. The Complainant has stated that he does not have any new or fresh evidence to add to what Mr. Kwame Asare Obeng submitted to the Ghana Police Service. In effect, the Complainant is calling on the Commission to investigate the matter *de novo*.

It is relevant to state the subject matter of the allegations investigated by the CID. The crux of the allegations relates to corruption, bribery, collection of kickbacks, "thievery" and abuse of power. The question is: are these matters the Police can investigate?

First of all, Article 200 of the 1992 Constitution endorses the existence of a Police Service of Ghana. Article 200(1) of the Constitution states as follows:

*"There shall be a Police Service of Ghana."*

Again, the Police Service Act, 1970 (Act 350) states the functions of the Police Service. Section 1(1) of Act 350 states thus:

*"It shall be the duty of the Police Service to prevent and detect crime, to apprehend offenders, and to maintain public order and the safety of persons and property"* (emphasis added).

The Police, therefore, exercised their function by investigating the matters Mr. Kwame Asare Obeng complained about. In fact, the frontiers of corruption are broad. Most of its strands are of criminal import. The only strand of corruption over which the Commission has exclusive power to investigate is Conflict of Interest.

In *Okudzeto Ablakwa (No.2) v. Attorney-General & Obetsebi-Lamptey (No.2)* (2012) 2SCGLR 846 (hereinafter referred to as "the Okudzeto Ablakwa Case"), the question as to the appropriate forum for investigating complaints of conflict of interest against public officers under Articles 284 and 287 was settled by the Supreme Court.

In the Okudzeto Ablakwa Case, reference was made to the decision of the Supreme Court in *Yeboah v. Mensah* [1998-99] SCGLR 492, which also endorsed a similar decision of the court in *Edusei v. Attorney-General* [1996-97] SCGLR 1 and *Edusei v. Attorney-General* [1998-99] SCGLR 753. In the earlier case of *Yeboah v. J.H. Mensah* [1998-99] SCGLR 492, the Supreme Court, per Hayfron-Benjamin, JSC, held that:

*"When a remedy is given by the Constitution and a forum is given by either itself or statute for ventilating that grievance, then it is to that forum that the plaintiff may present his petition."*

From the foregoing, the Commission is the only competent forum – exclusively so – to investigate allegations of conflict of interest. None of the issues investigated by the Police falls into the class of conflict of interest. The issues fell within the criminal mandate of the Police which they duly exercised.

In the instant case, the Police have investigated the allegations and concluded on same. That notwithstanding, the Commission is being invited to conduct investigations into the same allegations which border on corruption, “thievery” and abuse of power.

It bears emphasizing that the Commission is not investigating the Police Service in this case, but rather two (2) Public Officers – Deputy Chiefs of Staff. It is provided under Section 7(1) (b) of Act 456 that one of the functions of the Commission is:

“to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, the offices of the Regional Co-ordinating Council and the District Assembly, the Armed Forces, the Police Service and the Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those Services or equal access by all to the recruitment of those services or fair administration in relation to those services” (emphasis added).

The Complainant has invariably complained about the “functioning” of the Police Service and the failure of the said Police Service to achieve “fair administration” in relation to the services the Police Service provides. One of the services of the Police Service has to do with investigation of complaints. When the Police Service fails to render efficient and credible service to the public, the Commission is empowered under Section 7(1) (b) of Act 456, on a complaint brought by a member of the public or as in this case, by a non-governmental organisation to investigate the Police Service.

From the available evidence, and in the circumstances of this particular case, the Commission is satisfied that the law is clear that the Commission can investigate the Police Service and make its own findings of fact on the same allegations which the Police Service investigated.

(ii) Whether KBTH terminated its contracts for revenue collection with UniBank.

Mr. Asare Obeng (a.k.a. A-Plus) said in his statement to the CID – the transcribed version – that following consultations that the Management of KBTH had with the Vice-President at the Flagstaff House on 28<sup>th</sup> June, 2017 and 5<sup>th</sup> July, 2017, on some proposals put forward by the Ministry of Finance on whether to maintain either one or two banks for the billing and collection of revenue at Korle-Bu, “Management Team on 12<sup>th</sup> July, 2017 sent a letter of TERMINATION OF AGREEMENT between Korle-Bu Teaching Hospital and UniBank giving 90-day notice.”

The letter dated 12<sup>th</sup> July, 2017 and signed by Kwame Gyamfi, Esq. Solicitor, KBTH, addressed to the Managing Director, UniBank Ghana Limited, with a copy to The Chief Executive Officer, KBTH, reads in part as follows:

“Pursuant to a Memorandum of Understanding (MOU) dated 27<sup>th</sup> day of May, 2016 executed between your outfit and KBTH, KBTH agreed for your outfit to



provide a billing platform and accept all payments effected by its customers in settlement of bills issued from the billing system by the KBTH from its departments.

Further, clause 10 of the MOU provides any of the parties the option to terminate the agreement by giving a Ninety (90) days written notice. For the avoidance of doubt, the said clause 10 states as follows:

"THIS AGREEMENT may be terminated by either party giving ninety (90) days written notice. The termination of this agreement for any reason shall be without prejudice to any right or obligations which shall have accrued or become due between KBTH and uniBank prior to the date of termination".

Consequently, we wish to notify you and your outfit of our decision to terminate the above agreement as stipulated" (emphasis added)

The Commission finds as fact that KBTH terminated its billing and revenue collection contract with UniBank.

- (iii) Whether Messrs A Jinapor and Francis Asenso-Boakye, Deputy Chiefs of Staff, asked the Acting Chief Executive Officer (CEO) of KBTH to cancel/reverse the termination of the Hospital's contract with uniBank.

The evidence reveals that following receipt of the Termination of Agreement letter, UniBank per Michael Anokye, Head, Legal Department, wrote back to the Solicitor, KBTH, on 17<sup>th</sup> August, 2017 with copies to His Excellency The Vice President, The Hon. Chief of Staff and several other authorities. In the letter under reference, UniBank informed the KBTH thus:

"We are aware of your right under the termination clause in the MOU, but as partners in the delivery of healthcare services, we would have thought that your action would have been preceded by a discussion with us on any issues of concern to the hospital, especially as we have gone far in the process of procuring a state-of-the-art Hospital Management System for the hospital, based upon your request".

Furthermore, UniBank concluded its letter as follows:

"In the light of the foregoing, we request that you reconsider your decision to terminate our agreement. We further request a meeting with management of KBTH to discuss any issues of mutual concern and the way forward" (emphasis added).

Mr. Asare Obeng (a.k.a. A-Plus) made several allegations in his transcribed statement to the CID. He alleged that:

"Mr. Asenso and Mr. Jinapor called me several times as well as Dr. Felix Anyah to stop the Termination of Agreement with uniBank because uniBank has made donations to New Patriotic Party Political Campaigns".



He further alleged that:

"The Minister of Health also called the Acting Chief Executive while we were together to stop the Termination Letter to uniBank".

Again, A-Plus claimed that:

"Several pressures were put on Dr. Felix Anyah to cancel the Termination Agreement even though it was Korle-Bu Teaching Hospital's Management Team decision and not the Acting Chief Executive Officer's personal decision".

Dr. Felix Anyah, Acting CEO, KBTH, also alleged in his handwritten statement to the CID that:

"... the Minister for Lands, Hon. Mr. Peter John Amewu, Minister of Health, Hon. Kwaku Agyemang-Manu and the two (2) Deputies of Staff, Samuel A. Jinapor and Asenso-Boakye requested me to reverse the decision to terminate the MOU with UNIBANK".

Dr. Felix Anyah said the Government officials mentioned above did not give reasons for the request "but just that they want UNIBANK to continue to collect Korle-Bu's revenue, period." Concluding his statement to the CID, Dr. Anyah said:

"The pressure and frustrations encountered gave me no option to write a letter telling uniBank to disregard my earlier letter on the termination clause in the MOU".

Mr. A Jinapor indicated in his response to the allegations that "the management of uniBank Ghana Limited lodged a complaint to the office of the Chief of Staff, through me, to the effect that their contract for the receivership of revenue with Korle-Bu Teaching Hospital had been abrogated ..."

Mr. Jinapor stated that:

"This complaint was a follow up to a protest letter addressed to Korle-Bu Teaching Hospital and copied to the Presidency. As the schedule officer in charge of petitions and/or complaints at the Presidency, the management of uniBank followed up on their letter for purposes of seeking a resolution to their grievances. This was absolutely in accordance with the practices, conventions and procedures at the Office of the President" (emphasis added).

Mr. Jinapor admitted that he telephoned Dr. Anyah, "a colleague in Government, to seek clarity on the matter". Unfortunately, according to Mr. Jinapor, Dr. Anyah said "he was at a District Chief Executive confirmation event in the Volta Region." He said Dr. Anyah promised to call back so they discuss the matter but the latter never did. Mr. Jinapor said they spoke for only two minutes and since then he has "not seen and/or spoken to him again."

Mr. Jinapor revealed that he brought the matter to the attention of the Hon. Chief of Staff and the Supervising Minister of Korle-Bu Teaching Hospital (i.e. the Hon. Minister of Health) and together they discussed the matter whereupon Hon. Kwaku Agyemang-

Manu, the sector Minister, "resolved to take up the matter with the management of the Hospital". Mr. Jinapor also admitted that he had earlier brought the matter to the attention of his colleague Deputy Chief of Staff, Hon. Francis Asenso-Boakye, "who also promised to take the issue up."

On his part, Mr. Asenso-Boakye dilated on the role of a Chief of Staff. He said that:

"One of the cardinal duties of the Chief of Staff (and by extension the Deputies) is to ensure that the President's appointees are discharging their functions properly and in accordance with due process. The President is committed to good governance and accountability and wholly expects that all his appointees will perform their routine tasks faithfully and in the supreme interest of our country".

Referring to his involvement in the handling of the uniBank complaint, Mr. Asenso-Boakye stated as follows:

"... my advice to Dr. Felix Kwaku Anyah, the Acting Chief Executive Officer, was in line with best practice and our procurement rules. My advice was to the effect that, in the absence of a duly constituted governing Board and without giving a fair opportunity for the affected party to compete favourably, the action could be misconstrued as being bias, discriminatory and unjustified. Such actions, likely to bring the institution in which he heads and potentially government into long drawn out dispute ought to be avoided."

Mr. Asenso-Boakye reasoned that:

"Dr. Anyah was of course at liberty to accept or reject my advice, given without threat or intimidation".

In a Joy FM's Super Morning Show involving the Hon. Minister for Health, Mr. Kwaku Agyemang-Manu, which was captured on a pen drive, the Hon. Minister explained how he intervened to cause KBTH "to rescind a decision to cancel a uniBank contract and go with Stanbic Bank for the provision of collections service." He admitted on radio that it was Mr. Abu Jinapor who hinted him about the termination of the uniBank contract and when he checked with Dr. Felix Anyah, the CEO of KBTH, he confirmed that that had happened.

The Hon. Minister of Health said during the Show that when Dr. Anyah was appointed the CEO, he informed him that he (the Minister) was working with His Excellency the President to get a Board in place for Korle-Bu. And that in the absence of the Board Dr. Anyah should be consulting him on key decisions he wanted to take. However, the termination of the uniBank contract was done on his "blind side." The Hon. Minister said emphatically that he:

"Officially instructed the CEO of Korle-Bu to rescind his decision to terminate uniBank's contract."

Mr. Kwaku Agyemang-Manu, the Hon. Minister for Health, also spoke about the implications of what Dr. Anyah had done and noted that:



"This was not the time for somebody to go to court and attract a judgment debt"

From the available evidence, the Commission finds as fact that Messrs Abu Jinapor and Francis Asenso-Boakye both intervened in seeking clarity from the Acting Chief Executive Officer of KBTH about the termination of the Hospital's contract with uniBank. The Commission is satisfied that the two officials intervened within the reasonable ambit of their office. Other Government officials, notably the Minister for Lands and the Minister for Health, also intervened in the matter. However from the preponderance of evidenced adduced, the Commission is satisfied that the directive for a reversal of the termination came from the Minister for Health Honorable Kwaku Agyemang-Manu.

- (iv) Whether the two Deputy Chiefs of Staff engaged in any corrupt practice and abuse of power in requesting the Acting Chief Executive Officer of KBTH to cancel/reverse the termination of uniBank's contract.

Mr. Abu Jinapor categorically denied "any allegation of corruption and/or wrong doing in all my dealings in this matter and indeed in the discharge of all my duties as a public officer". He added that:

"These interventions I made were regular and absolutely consistent with the official duties assigned to me by the Chief of Staff. I am required to diligently and justly deal with all complaints and/or petitions lodged to the Office of the President, be it written or oral".

In a similar fashion, Mr. Francis Asenso-Boakye also indicated that:

"I must herein reiterate that no material benefit accrued to me in the discharge of my duties. I acted within the limits of my authority in a fair and conscientious manner with the paramount consideration of consolidating cordial relations and harmony between Korle-Bu and its institutional partners."

Apart from alleging that some named Government officials mounted "pressure" on him to rescind his decision, Dr. Anyah has also not alleged any corruption and/or bribery on the part of Messrs A. Jinapor and Francis Asenso-Boakye.

Significantly, in his handwritten statement to the CID dated 5<sup>th</sup> September, 2017, Mr. Kwame Asare Obeng (a.k.a. A-Plus) wrote thus:

"I wish to state that I have never said anywhere that the two (2) Deputy Chiefs of Staff have taken bribe-money".

Accordingly, based on the incontrovertible evidence available to the Commission, the Commission is satisfied that the Respondents did not engage in any corrupt practice or abuse of power when they intervened in the cancellation/reversal of the termination of uniBank's contract with the KBTH.

- (v) Did A-Plus have any ulterior motive for making certain allegations against the two (2) Deputy Chiefs of Staff?

Although the evidence on record shows that apart from the 2 Deputy Chiefs of Staff, other prominent Ministers of State – Hon. Peter John Amewu, Minister for Lands, and Hon. Kwaku Agyemang-Manu, Minister for Health – also intervened on behalf of uniBank, Mr. Kwame Asare Obeng (a.k.a. A-Plus) seems to have taken a swipe at only the Deputy Chiefs of Staff in his statement to the CID. Meanwhile, the scope and extent of the intervention by the Minister for Health surpasses that of the 2 Deputy Chiefs of Staff. Could there have been any underlying reason for Mr. Obeng's behaviour?

In his response to the Commission, Mr. A. Jinapor said he has had only "two encounters with A-Plus since my appointment as Chief of Staff and on both occasions they were at his instance." Mr. Jinapor claimed that Mr. Obeng (A-Plus) visited his office and "sought my assistance on a complaint by an importer regarding efficiency at the port". In any case, Mr. Jinapor did not state whether he offered Mr. Obeng (A-Plus) the assistance he sought.

In his response to the Commission, however, Mr. Asenso-Boakye made a counter allegation against Mr. Kwame Asare Obeng. Mr. Asenso-Boakye alleged as follows:

"... sometime in April 2017, Mr. Kwame Asare Obeng approached me to facilitate the award of a printing contract by the Controller and Accountant General for him.

Mindful of the need to protect the integrity of my office and wary of the implications on the ability of the Controller General to make an independent assessment of whom to award the contract, I refused Mr. Obeng's request to intervene".

Mr. Asenso-Boakye alleged further that since then he had received "hostile and abusive messages" from Mr. Kwame Obeng who has also "set about to deliberately besmirch" his reputation and bring him into public ridicule. Mr. Asenso-Boakye attached to his response a copy of a screenshot of one such whatsapp message he purportedly received from Mr. Asare Obeng. The message which is dated "Tue, 25 Apr" was sent at "11:45 A.M." and reads as follows:

"Now you be deputy chief of staff so when I spend precious time to drive my 6.3 litre engine to ask you to make a single call you throw your weight about. Masa I went to the man myself. You people think power is forever. Me a no see any of you self. You know what people went through for you to become deputy chief of staff? Just phone call too you are acting as if someone is asking you to kill Jesus. Abore. A for make you know".

Although Mr. Kwame Asare Obeng's reaction to the above allegations have not been sought, he made a comment in his statement to the CID – transcribed version – which suggests a possible rift between him and Mr. Asenso-Boakye. Mr. Obeng wrote thus:

"At a point, the Acting Chief Executive Officer gave me a confidential letter to be given to His Excellency the President. I did not know the content but Mr. Asenso saw me on the day of delivery and has since then been accusing me of having reported him to His Excellency the President, and has held me in contempt to the extent of snubbing me publicly on stage in Cape Coast".



The above excerpts show that there is a possible strained relationship between Mr. Kwame Asare Obeng (A-Plus) and Mr. Asenso-Boakye and this might have been extended to Mr. A Jinapor as well. That could possibly be the ulterior motive for the allegations Mr. Asare Obeng leveled against the two Deputy Chiefs of Staff.

- (vi) Whether the phone conversation captured on a CD Rom relates to the matter under investigation and, if so, whether the conversation is between Mrs. Tiwaa Addo-Danquah, Deputy Director-General, CID, and Mr. Kwame Asare Obeng (a.k.a A-Plus), the original complainant.

The CD Rom has been played and some voices have been heard on it relating to some matters of mutual interest to the parties. However, it would be difficult to identify the context within which the conversation was held. The Complainant claims the voices are those of Mrs. Tiwaa Addo-Danquah, Deputy Director-General, CID, Ghana Police Service, and Mr. Kwame Asare Obeng (a.k.a. A-Plus). The Complainant is requesting that the CD Rom which captures a dialogue between the above-mentioned persons "in the course of the investigations" should be "scientifically validated" by the Commission.

In fact, the Complainant specifically called on the Commission to "investigate and establish" one of three (3) things, namely: "whether or not the voices of Mr. Kwame Asare Obeng (A-Plus) and Mrs. Tiwaa Addo-Danquah as captured on the tape are originally theirs or not."

Indeed, "scientific validation" of voices on tapes is never a part of the Commission's mandate as provided under Article 218 of the 1992 Constitution and its counterpart provisions under Section 7 of the Commission's enabling Act, Act 456.

Besides, it must be made clear that the Commission is not investigating the Police here. The Commission is investigating the same allegations which the Police have already investigated and drawn conclusions on.

Accordingly, the Commission is unable to tell whether the dialogue on the CD Rom relates to the matter under investigation and whether the voices are those of Mrs. Tiwaa Addo-Danquah and Mr. Kwame Asare Obeng (a.k.a. A-Plus), neither does the Commission deem that exercise necessary in the light of the available evidence.

- (vii) Whether it is appropriate for the Commission to investigate allegations of professional misconduct against a Police Officer

By referring the CD Rom with voices purported to be those of Mrs. Tiwaa Addo-Danquah and Mr. Kwame Asare Obeng (A-Plus) to the Commission for investigations, the Complainant is indirectly imputing professional misconduct on the part of Mrs. Addo-Danquah, a very senior Police Officer at that. The Complainant stated in the complaint as follows:

"The Credibility and Integrity of the Ghana Police Service will be brought into question if proven beyond reasonable doubt that, the voices on the tape are voices of Mr. Kwame Asare Obeng and Mrs. Maame Tiwaa Addo-Danquah".

The Complainant also wrote:

"... the authenticity of the final investigations report released earlier by the CID, which 'sought' to clear Mr. Francis Asenso-Boakyee and Mr. Samuel A Jinapor is in a state of immense and intense incredulity due to the emergence of the tape attached" (emphasis added).

The assumption is that having engaged in a dialogue with a complainant in a matter the Police were investigating, which dialogue has allegedly rendered the investigation report incredulous, then Mrs. Tiwaa Addo-Danquah has impliedly engaged in a professional misconduct as a Police Officer.

The Police Service Act, 1970 (Act 350), provides for "Misconduct and unsatisfactory Service" and "Complaints by the Public" under Sections 17 and 23 respectively. Section 17(k) of Act 350 states that:

*"17 It shall be misconduct for a police officer –*

*(k) to do any other act without reasonable excuse which amounts to a failure to perform in a proper manner any duty imposed on him as such, or which contravenes any enactment relating to the Police Service, or which is otherwise prejudicial to the efficient conduct of the Police Service or tends to bring the Police Service into disrepute."*

Again, Sections 23(1) (b) & (c) of Act 350 state that:

*"(1) Any member of the public shall be entitled, without prejudice to any other means of redress legally available to him, to make a complaint in writing, signed by him, as to –*

*(b) any neglect or non-performance of his duties by a police officer;*

*(c) any other misconduct by a police officer"* (emphasis added).

Significantly, the Police Service Act, 1970 (Act 350) has provided adequately for a complaint of misconduct by a police officer and its resolution.

#### 11.0. CONCLUSIONS/FINDINGS

On the basis of the evidence before the Commission, it has come to the following conclusions:

- (i) The Criminal Investigations Department of the Ghana Police Service has duly investigated and concluded on the allegations which the Commission has been called upon to investigate.
- (ii) In the circumstances of this particular case, the Commission can investigate and make its own findings of fact on allegations which the Police Service has already investigated.
- (iii) The Korle-Bu Teaching Hospital (KBTH) actually terminated its billing and revenue collection contract with uniBank.



Apart from Messrs Jinapor and Francis Asenso-Boakye, Deputy Chiefs of Staff, who intervened for the purpose of seeking clarity from the Acting Chief Executive Officer (CEO) of KBTH regarding the termination of the Hospital's contract with uniBank, other Government officials namely the Minister for Lands and the Minister for Health also did so. However, it was the Minister for Health who officially directed the Acting CEO to reverse the termination of the contract.

- (iv) The evidence does not support the allegations that Messrs Samuel A. Jinapor and Francis Asenso-Boakye engaged in any corrupt practice and abuse of power when they severally requested the Acting CEO of KBTH for clarity over the termination of the Hospital's contract with uniBank
- (v) The relations between Mr. Kwame Asare Obeng (a.k.a. A-Plus) and the two (2) Deputy Chiefs of Staff appear frosty and this presumably accounted for the allegations Mr. Obeng leveled against the two (2) Government officials.
- (vi) It is not within the Commission's mandate, neither is it necessary, nor does it have the wherewithal, to scientifically validate voices of persons on either a tape or a CD Rom.
- (vii) The Police Service Act (Act 350) has made adequate provision for the handling of complaints relating to professional misconduct.

#### 12.3. DECISION

The Commission is satisfied that the evidence does not support the allegations of corruption and abuse of power against Messrs A. Jinapor and Asenso Boakye, the two (2) Deputy Chiefs of Staff. The allegations could not be substantiated whatsoever. Accordingly, this complaint is hereby dismissed as being without merit and totally unwarranted.

With regard to the allegation of professional misconduct against a police officer, the Commission observes that there is alternative remedy available to the Complainant. Section 13(1) (a) of the CHRAJ Act, Act 456 provides that:

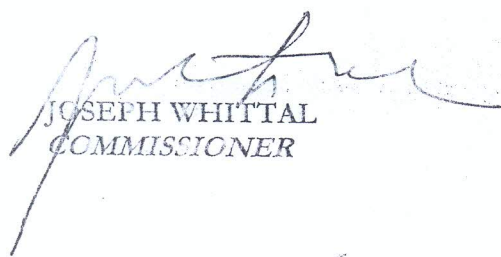
*"(13)(1) Where in the course of the investigation of any complaint it appears to the Commission –*

*(a) that under the law or existing administrative practice there is adequate remedy for the complaint, whether or not the complainant has availed himself of it;*

*it may refuse to investigate the matter further."*

The Complainant is advised of its options accordingly.

DATED THIS 1<sup>st</sup> DAY OF DEC 2017 AT THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE, OLD PARLIAMENT HOUSE, JOHN EVANS ATTA MILLS HIGH STREET, ACCRA.



JOSEPH WHITTAL  
COMMISSIONER