

Minutes for the panel hearing for Chris Oanda S/N 8242 Held on 12th October 2017 at 2.30 pm to 6.15 pm at KQ the Finance Board Room, Block B

Present

Francis Musila: Director Ground Services - Chairing
Sammy Chepkwony: Director Human Resources
Dick Muriuki: Ag Finance Director
Teodosia Osir: Head of Legal Services

Chris Oanda: Head of Procurement
Zachary Kariuki: Procurement Manager, Network Support (Witness)

Meeting opened by Francis Musila

Francis introduced all present and welcomed all to the meeting and thanked Chris and Zachary as witness for attending the panel hearing.

Chris asked for a word of prayer before the proceedings begin.

Francis provided guidelines on how the hearing will run and explained why the current process had been called.

Dick gave a background of the process and highlighted the issues in Chris's show cause letter as follows:

- That the Procedure as laid out in the Procurement Manual specifically relating to the procurement of Jet Fuel – open tender not being followed;
- Situations where we did not follow open tendering,
- Jet fuel covers a big component of our costs – consequently the company lost opportunity to save costs.

Chris Oanda's Statement in response

Chris requested that he be allowed to make following opening as follows:

He did not have enough time to prepare. His request to postpone the hearing to Monday next week was declined.

This process has taken too long to conclude. Indeed the process started last year when we were dealing with Deloitte when we responded to queries raised by them. Same questions were asked and responded to by me and my team.

Regrettably from the leakages of our responses in the media – it appears that the subject and our explanations were misunderstood and misrepresented. I need the Deloitte audit report made available to me. I would like my request to be honored. Our responses and explanations should have been included.

Secondly – he indicated that quite a number of lay people were involved in the Jet fuel procurement investigations and not experts. Hence there was lack of use of experts in concluding the findings of the investigations. I would request that you would need to call the CEOs of the various Jet Fuel companies to give you a proper context on the Deloitte report as well as the AFRAA Secretary General and the DG of ERC.



I feel that the process of my hearing process has been unfriendly. I was traumatized when I was called a day before my sister's burial. I however commend Sammy for immediately reversing this and giving me time until today to respond to the issues at a panel hearing.

All allegations are based on an inaccurate report. Through my lawyers I have put them on notice that I am being accused based on such a report which fact is blatantly negligent. I also notified Sammy, the HRD, accordingly. I will hold Deloitte accountable for consequences of use of inaccurate report

I also got information that this process is just aimed at the Company taking civil and criminal proceedings against me. My boss the GFD and the former CEO asked me about the issues in the report and I stated to them that I have been serious about correcting the issues in the report. It is important that the errors in the report are corrected. I submit that more work needs to be done for KQ to have an accurate report for correction or otherwise.

Chairman based on the anomalies I asked Sammy if the panel could be delayed. He told me that looking at the response and Dick's recent calculations, he had drafted a letter to absolve me but could not do so without seeing the Deloitte report. He pleaded that in fairness we should use correct instruments to carry out a panel hearing. Let us use experts on the subject. He indicated that he had in fact saved over USD 280 million for the Company.

Chairman's Response

Given the date of your show cause letter dated 24th February 2017 we are of the view that you have had enough time. We should continue with the process and this is an internal Company Procedure and you should be allowed to respond to the issues raised in your letter.

This internal Company Process is to establish whether you are indeed culpable and /or responsible for the loss occasioned. It would be premature to bring in outsiders to verify what you should or should not have done.

The accusation that you raised on Criminal /Civil proceedings is new to us and such a threat has not come from us as a panel. The Deloitte report had not been seen by the Chair, HRD and Teddie.

Chris Oanda Response

I am shocked the panel has not seen this Deloitte report on which basis I am being accused. My request for the involvement of outsiders is necessary to put a technical matter into context. Use of experts to compile the report was abused by Deloitte. Calling experts is very important for the sake of KQ.

The allegations on Criminal or civil proceedings I confidentially heard from outside, and this raised great concern for me.

Deloitte was an agent of the KQ Board and their leakage in the media was wrong. The panel hearing will be based on a report that is inaccurate and I had repeatedly requested through Dick and Mbuvi for an audience with the team leader/ Partner of Deloitte who carried out the audit. I also wrote to the former Chairman of the Board – Amb Awori. He made reference to the annex in the Report which contained relevant correspondence with Amb Awori. He had invited him to seek the services of an independent Jet Fuel SME to investigate and advise the KQ leadership the correct position on various pricing models and address the issue which he felt had been misinterpreted by Deloitte Auditors who had given a wrong impression that millions of USD had been lost as a result of wrong and expensive pricing adopted by KQ.

My view is the best way is to give Deloitte clarification on what has been raised by them. I submit that the



Deloitte Report ("DFA" Report) is central to the proceedings in this panel. Deloitte must produce a correct report.

Chairman

Have you lost any money for the business?

Chris Oanda's Response

No and we have never failed to have Open Tender procedures in procurement of fuel.

We only did not invite certain companies that had been blacklisted by the Company – for instance Kobil, Vivo, Oil Libya – all this and his responses to Deloitte have been referred to in his detailed response Report – Annex 7 which he tabled before the panel. The report details the questions and the responses provided by him and the procurement team. The blacklisting was guided by the senior leadership which included former CFO - Alex Mbugua and former CEO - Titus Naikuni on behalf of the Board. The sourcing minutes confirm this. He was however unable to confirm that indeed such decision was actually made by the Board – and asked that only the above executives could confirm this. Chris clarified that he acted on instructions from his director the CFO – refer to the Exhibits in his report referred to above.

The periods when we did not tender for the Jet Fuel at all but negotiated for contract extensions – Observation correct for each instance we have explained why it was not done. It was from a directive from the Company leadership. A Consultant Dorothy Marami-Kiarie carried out an exercise and worked with the Ministry of Energy, Kenya Pipeline – refer to my report – Annex 7 – question 6, for details. Period covered 2012-13.

The contract extensions were occasioned by the self supply Pride Oil Project driven by the Board.

As regards each fuel contract extension we even had an opportunity to reduce the fuel price. So we did not lose opportunity to lower the jet fuel price for the airline as per attached Annex 7 (Sourcing reports and signed contracts by CFO and CEO).

Chairman

Did you see a Board Memorandum on this exemption request to the Board?

Chris – No Chairman I did not and he clarified that he acted on instructions from the CFO the Chairman of the Tender Board.

Decisions were made by the committee as evidenced in my report.

Dick Murianki

The fact that we did not go to OTS – we did not get the benefit of open tender in terms of pricing.

Chris Oanda

We got the best value from the firms whom we considered to be eligible suppliers when we extended the contracts. It is important for the panel to appreciate that the Jet Fuel Tender Committee negotiates for less than 2% of the total cost of fuel. 98% is fixed by market forces.

Dick Murianki

When we only extended to those we were already dealing with – we did not go to others who could have given us a better price.

Chris Oanda

Other suppliers whom we did not approach during the extensions were not eligible /did not qualify



Eligible suppliers are Oil Libya, Bakri, Gulf Energy, Air Total International (ATI). Instructions were given for extension for 3 firms by the CFO.

In the restricted cases we were already dealing with those eligible suppliers who had the capacity to supply the fuel. All this is clear from the various sourcing reports approved by the tender committee, the CFO and the CEO.

Dick Murianki

Who determines who is an eligible supplier – the criteria? Was there a clear process to define the blacklisting process of certain suppliers?

Chris Oanda

Sourcing reports are clear on the criteria. E.g. Vivo pulled out of KQ contract in 2015 leaving us in distress, but we still invite them to bid during our fuel tenders. Blacklisting procedure is in the sourcing report that is signed by the Committee before the trading period starts.

Chairman

The Purchasing Manual (the “PM”) stipulates that we should procure fuel in accordance with the relevant provisions thereof.

Chris Oanda

We did follow the PM which was in force then. It has since been improved in the current version of the Procurement Manual.

Chairman

Are there any fuel suppliers with whom we do not have contracts?

Chris Oanda

Certain firms like Air Total International refused to sign a contract because of our financial situation and their request for a bank guarantee which we could not provide. It is an exposure and it was brought to the leadership's attention and despite their intervention – this firm refused to sign a formal contract. They just sign a price list. The situation remains today and they are the biggest supplier to the Company.

Sammy Chepkwony

Could we have done more to achieve more savings as regards fuel procurement?

Chris Oanda

It is still possible that we could have saved more – from perhaps new players and market dynamics. However with my team we did the best in terms of savings with the abilities we have.

Dick Murianki

Illustrate how the savings are achieved.


FM

Chris Oanda

We achieve that in the differentials achieved based on the volumes we use compared year on year.

Dick Murianki

So you do compare within ourselves and not compared with other players in the market?

Chris Oanda

Yes we do.

The market differential is not readily available.

We get better prices than say KLM in this market.

Chair to your question, we would be surprised if they had a better price than us. Refer to my Letter dated 28th June 2017 addressed to the Ag GFD attached herewith.

Dick Murianki

Don't we have an AFRAA benchmark that we can use to compare?

Chris Oanda

The AFRAA benchmark uses a different basis in different markets depending on different circumstances.

Chairman

You would go for the cheapest for KQ?

Chris Oanda

Yes we would – but we would go by our contracts.

Dick Murianki

MOPAG and Differential which Chris has eluded to – which one do you use – per second billing or per minute billing.

Chris Oanda

We use the method more advantageous to KQ and as approved by the leadership of KQ.. This was done in 2012!

Sammy Chepkwony

Did the Company accept your expert opinion?

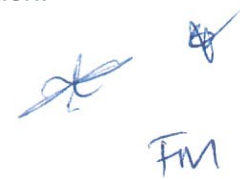
Chris Oanda

We are all learning and the Leadership did not respond with an alternative. I believe my opinion /recommendation was correct. Refer to Appendix A 2 – Audit Report on Jet Fuel, March 2015.

From 2015 the company took a hit from fuel hedging and it was risky to go for another method then that would be risky to the company.

Dick Murianki

My analysis for the period between 2013 – 2017 - the actual loss for KQ was over USD 8 Million.


FM

Chris Oanda

AFRAA tender volumes are only 10% of KQ's volumes at JKIA.

That is why you need to speak to an expert to explain the difference as they are two different supply chains. Please also refer to my email dated 25th July 2017, [OTS KQ Vs MOPAG AFRAA Price Models], where I wrote to the management as part of the resolution of the issue relating to Jet Fuel pricing attached herewith which is self explanatory, and which explains why I do not agree with Dick's analysis that KQ lost over USD 8 million.

Chairman

We have the biggest volume in this market so we should have leverage and should attract a better unit price.

Chris Oanda

Yes – that is why you should get an expert.

I want to clarify that the negotiations are not owned by me – this is the committee's work. This why there is a need to engage an expert to clarify what are KQ's obligations and they can explain the real dynamics in the jet fuel procurement process and KQ leadership be guided accordingly.

Chairman

Your job is to get KQ the best price

Chris Oanda

Yes and we do through the Jet Fuel Committee tenders.

Chairman

Are you saying that it is possible for say LAM who flies 4 times to JKIA to get a better price than KQ at JKIA?

Chris Oanda

Yes even one who flies in at a certain time say midnight / schedule when supplier's equipment is idle will get a better price than KQ.

Dick Murianki

What about the volume discount aspect?

Chris Oanda

We do negotiate based on KQ volumes. This is a very complex subject and you sit down with another Jet Fuel expert besides me for SME advice. Where you have the benefit of volume then you squeeze the negotiations. You should not reason simply as if these are oranges.

In 2012 we got a consultant to guide us on Pride Oil and this shaped much of our thinking. We were baffled that a small airline gets better pricing than us. We have different tender systems. An expert will be able to explain this to confirm or dispute our approach and the dynamics behind this. We have asked severally that KQ needs to invest in this expert advice to assist it get better understanding of the pricing dynamics to put to rest the perception that KQ losses or gains in Fuel Procurement.

We are continuously improving the pricing and indeed we have already made improvements.



FM

We have floated suggestions /recommendations on improvements on the jet fuel procurement process as detailed in his report. He read out the relevant portion from his report to the panel – Exhibit A2 in reference to the Jet fuel Audit dated March 2015.

A robust explanation/opinion from an external expert has also been one of the committee's requests to the leadership in the area of Jet fuel procurement. It is important to note that this has never been taken up. Due to indecision in the organisation the company suffers as is the current case where doubts arise if we are getting value for money.

A consultant who is an expert to review our pricing basis would greatly assist the Company and to date no decision has been made by the leadership.

CLOSING REMARKS

Dick Murianki

The DFA Report was commissioned by the Board for the Board and they alone can determine how it is to be distributed. Open issue – did KQ lose opportunity to save more by the OTS or MOPAG system – I gave my analysis

Chris Oanda

I raise the issue that the DFA report needs correction as the logic did not take into account the explanations given verbally and in writing. Any improvements from us should have been backed by alternative expert views on jet fuel as I have championed. Deloitte observations were not backed my expert evidence which was ignored. There is always opportunity for improvement.

Issue of fuel needs to be looked at by experts as the internal view has become stale. Decisions of the committee were being viewed as the views of Brian and Chris which is not correct and unfortunate. We were well guided under the Pride Oil Project. For KQ's volumes we have always gotten the best prices and there is room for improvement. The year on year movements of differentials confirms this. In 2009 the differential was Kshs 6 per litre, through continuous negotiations both at JKIA and AFRAA; by 2017 we had reduced the differential to Kshs 1.6 per litre average.

I have done commendable work for KQ as documented – over USD 300 Million saved and creation of AFRAA Fuel Procurement. I am the most audited department. I need to reiterate that most other procurement departments in the country when audited reveal a lot of thieves. The records for KQ procurement show otherwise. Above all we have not created a hole through which the company has lost a lot of money.

I want to thank the committee for their patience and guidance. I have satisfied all the queries pointed out by management in the show cause letter. Reference made to the Report.

Sammy Chepkwony

Happy with the way the process has been conducted. We said this is a fair company and due process would be carried out in accordance with the Kenyan Laws. It is not a premeditated event but in line with the disciplinary process of the Company. I thought I should make this remark for record purposes.

Allow me to thank Chris for being a true employee by showing up for the Panel Hearing as requested.

When I wrote my first response to Chris as regards the hearing – it was not done with any malice and to hurt him more during the time he was bereaved. It was with the intention of completing the process expeditiously and I was then not aware that his leave had been approved as later clarified by his boss Dick. I did apologise for the misunderstanding and I apologise again.


FM

Allow me to express my great disappointment on the way he reacted when I sent him a message this week that I could not reschedule the hearing to next week. My message was in line with the fair process and his reaction is disappointing as he displayed a lot of mistrust and engaged in a lot of rumours. He indicated that there was a scheme of a premeditated outcome and quoted a source which to me was baseless and untrue. Ref to Letter dated 11th October 2017 from him.

Chris was asked to disclose his source. He has violated the Company Policy by writing the Letter and involving 3rd Parties contrary to the HR Manual as this should be kept as an internal process. This is in violation of the Kenya Airways PLC Code of Business Conduct and Ethics. This is a matter which is serious as others have disclosed matters even to the press. His communication even contains company data. He has copied the CEO and Chairman and there was no need for that at this stage. According to the HR Manual, he can do that at the appeal stage if dissatisfied with the process at this stage. Therefore he has violated the HR Manual.

Chris Oanda Response

I take note of Sammy's comments. When you are under immense strain one is likely to make judgemental errors. The source tipped me off and I apologise where I have offended you in this regard. This is a culmination around a grieving period. It is a learning opportunity for all of us. When I received your letter I had an emotional breakdown. It will not be repeated. This matter has traumatised me, and I took steps to protect myself from further pain. I want to keep compliance with the Company Code of Ethics. I was not aware of the fact that I was violating CBCE in my trauma and stress and apologised to Sammy for the violation.

Chairman

Are you prepared to disclose your source to us or to Sammy in camera?

Chris Oanda

Not yet. I will meet Sammy over the matter and explain to him my emotional status.

Chairman

The Chairman thanked Chris and Zachary for attending the hearing. This process has been carried out in accordance with the relevant Company HR Manual.

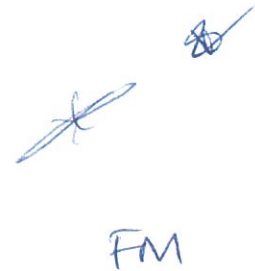
"To whom much is given much is expected." To senior management this is a serious responsibility. It is natural, and it is expected that you as Head of Supply Chain are required to answer to issues raised.

Zachary Kariuki

I have worked with Chris for 8 years. The procurement profession is under serious threat. If you look at where we have come from as KQ as regards the cost structure there is a lot of improvement and value added. Chris as our leader has greatly assisted this. Many of the items we buy are way below the normal prices. McKinsey has even confirmed this. There has been deliberate effort to create value where it is possible. We are not aware of any inflated prices, in particular over the time Chris has been our Leader. He has never forced us to deal with any vendor during the 8 years I have worked with him.

The wrong public perception that the procurement department is responsible for the KQ losses is defective and lacks proven evidence as happens in other organisations.

Chairman



FM

Closed the session for now and Chris will be allowed to sign the records once complete.

Thereafter the conclusion will come in the normal manner.

Dick finished with a closing prayer.

Minutes of hearing prepared by Teodosia Osir

Signed.......... Chris Oanda Date 13/10/2017

Signed.......... Zachary Kariuki Date 13/10/2017
[Witness]

Signed.......... Sammy Chepkwony Date 12/10/2017

Signed.......... Dick Muriangi Date 13-10-2017

Signed.......... Francis Musila [Chair] Date 13/10/2017