

DEBT MANAGEMENT
DEPARTMENT
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OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

19th February 2014

ZZ/TS 36/183/02

AG/CONF/6/D/109 VOL 11



Dr. Kamau Thugge, EBS
Principal Secretary
National Treasury
NAIROBI

CONFIDENTIAL

Dear *Thugge*

Re: Case No. C/1861/2008-17 First Mercantile Securities Corporation -vs- The Republic of Kenya - Attachment of Mission Property in Geneva due to Unpaid Debts

We refer to the above matter and our letter dated 23rd December 2013.

We wish to inform you that the Embassy of Switzerland has now served the Ministry of Foreign Affairs and International Trade in Nairobi with a notice of attachment of the Kenya Government Mission property in Geneva Switzerland for non-payment of the judgement awarded to the claimant amounting to USD 10,561,008.00 see attached copy. This new development has further prejudiced the process of issuance of the Sovereign Bond which is on-going as it is possible the Swiss law may allow the attachments sought.

We therefore advice that your Ministry makes every effort to urgently resolve this matter to avoid further loss which is accruing through interest on the Court Award and further legal cost which will be incurred if the Republic has to appoint Counsel to represent it in the execution proceedings in which there is no plausible defence.

Yours *Sincerely*

[Signature]
Njee Muturi
SOLICITOR-GENERAL

Encl:

Copy to:

Attorney General

CONFIDENTIAL

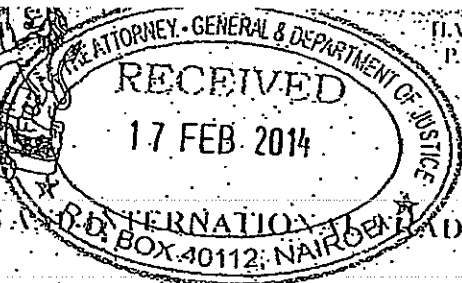
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MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE

Ref. No.

MFA.HSE.9/23.VOL.II(3)
2014

14th February,

Attorney General
Office of the Attorney General
& Department of Justice
Attorney General Chambers
NAIROBI



Handwritten notes:
Hon
A.G
S
I have discussed this matter with the Attorney General
17/2/14

ATTACHMENT OF MISSION PROPERTY IN GENEVA DUE TO UNPAID DEBTS

We have received a Note from the Embassy of Switzerland (Copy attached) and also an explanation from our mission in Geneva to the effect that the second claim by First Mercantile contained in the documents herewith attached relates to Anglo-Leasing cases. Mercantile intends to attach the Mission property to satisfy its claim.

The purpose of this letter is to therefore request you to examine the issue and advise us on the way forward since your office has been handling the matter.

We will greatly appreciate your prompt action hereon.

Signature
JOSEPH MUNGO
FOR: PRINCIPAL SECRETARY

Encls

Note No 14/2014

The Embassy of Switzerland presents its compliments to the Ministry of Foreign Affairs and International Trade of the Republic of Kenya and has the honour to transmit to the Ministry an attachment report. The attachment relates to various previous communications in that matter.

The Embassy would like to kindly advise the Ministry to act in conformity with applicable Swiss debt enforcement law in order to safeguard the Republic of Kenya's rights.

The present service of documents is exercised through diplomatic channels. Given that these documents are addressed to the Republic of Kenya, service is deemed to be effected by receipt of the documents by the Ministry of Foreign Affairs. In conformity with international practice the time-limits mentioned in the documents, that is 10 days, begin to run two months after the date of receipt of the present note.

The Embassy of Switzerland avails itself of this opportunity to renew to the Ministry of Foreign Affairs and International Trade of the Republic of Kenya the assurances of its highest consideration.

Nairobi, 13th January 2014

Encl.



Ministry of Foreign Affairs
and International Trade
of the Republic of Kenya

Nairobi