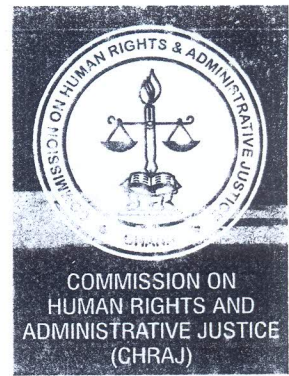


CASE NO. 322/2017 | 413



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-Bu 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 6.5 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:

