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Mr. Frank Adu-Poku (retd)

The Executive Director

Economic and Organised Crime Office (EOCO),

Behind Old Parliament House,

Accra.

## **PETITION**

**COMPLAINT AGAINST THE GHANA EDUCATION TRUST FUND FOR INAPPROPRIATE ADMINISTRATIVE ACTIONS & DECISIONS, WASTAGE OF PUBLIC FUNDS, CAUSING OF FINANCIAL LOSS TO THE STATE AND WILFUL BREACH OF THE OBJECT OF THE FUND AND ILLEGAL FUNDING OF FOREIGN SCHOLARSHIPS CONTRARY TO SECTION 2(2b) OF ACT 581 IN RELATION TO AWARD AND MONETARY TRANSACTION OF SCHOLARSHIPS AND ACTIVITIES SURROUNDING THE OUTCOME OF THE PERFORMANCE AUDIT REPORT OF THE AUDITOR - GENERAL OF THE ADMINISTRATION OF SCHOLARSHIPS BY GETFUND.**

**PART 1:**

1. My name is Peter Bismark Kwofie, and I am the Executive Director of the Institute for Liberty & Policy Innovation (ILAPI), a free enterprise and educational Professionals dedicated to the provision of innovative economic research, citizen accountability and multi-disciplinary public policy advocacy.
2. I am lodging this complaint in the name of ILAPI and myself but on behalf of all Ghanaians in pursuance of the public law objectives established under Article 41(f) of the 1992 Constitution of the Republic of Ghana (“the Constitution”) which empowers all citizens to take steps to combat the misuse of public funds as a public duty.
3. We are by this action enact an investigative forensic Audits which is in conformance to your powers under section 2 of the objects of your office and section 3 (a) (i, ii, and vi) & (b) (c) (d) (e) (f) (g) of Act 804
4. We take note of the guidance on your website (<http://eoco.org.gh/>) regarding the subject matters and areas of mandate in respect of which complaints may be filed and the procedures prescribed therefor.
5. We believe that the subject matter of our complaint falls under your jurisdiction of adjudication of CRIMINAL act in pursuance to:  
  
Take[s] appropriate action to investigate, recoup, correct or prevent any action or decision that can be described as economic crime, fraud, financial loss to the state and other serious financial crimes or which undermines sound public use of funds and administration.

6. We believe that the decision to award scholarships to needy students to study in Ghana and abroad have suffered several symptoms of misappropriation and hijacking of awards and funding of scholarships with most notably, the illegal funding of scholarships and transactions of monies – manifests: a) financial loss to the state; b) unsound administration of scholarship funds; and d) awarding of funds to non-existing beneficiaries or ghost names.

7. Ghost names arise when a person is recorded on payroll system but does not exist as human or still the ghost can be a real person whose name is placed among the awardees of funding scholarships but never received a penny. A basic foundation of the ghost name doctrine is to fraudulently insert names of persons whose emolument or scholarship funding would be enjoyed by the one who orchestrated it or diverted for other purpose.

8. Where the law is breached systematically and persistently, with a willful and not just a neglectful posture, the conduct complained of attains the character of malfeasance and misapplication of funds in public office. And intentional wrongdoing amounts to the worst form of administrative abuse and misapplication of public funds.

9. The GETFund Act Section (2) (2b) exist to provide supplementary funding to the Scholarship Secretariat for the grant of scholarships of gifted but needy students for studies in the second-cycle and accredited tertiary institutions in Ghana;

10. Where the fraudulent misconduct being of concerns to scholarship funding and decisions, the potential financial impropriety is very high.

11. In contrary to the mandate of section 2(2b) of GETFund Act, scholarship award can lead to abuse of power and secret vertical relationship between one

or more beneficiaries and the selection process materializes into a conflict of interest, extortions or bribery and financial disbursement leading to misappropriation of funds, kickback and ghost names.

12. The basis of our complaint is that the GETFund selections and scholarship awards may have led to payment of scholarship funds to ghost names or monies for awards were underpaid, overpaid or never reached the beneficiaries studying on scholarships, thereby predetermining the outcome of agitations of beneficiaries on scholarships and that this conduct amounts to, financial loss to the state, abuse of office, fraud, maladministration, and acts preparatory to the facilitation of corruption and organized crime. We shall provide facts already in the public domain to support this position and urge EOCO to conduct detailed, further, investigations of the sort warranted by the sheer amounts of public funds involved and total number of scholarships awarded and to ascertain whether all the disbursed funds in the said periods reached the beneficiaries without ghost names.

13. Before we provide these important facts, we would like to make further procedural and doctrinal observations of criminological forensic financial investigations regarding the funding, selection and wards of scholarships. Firstly Section 2(2b) of the GETFUND Act 2000 (Act 581 emphasizes vividly that: a supplementary funding is provided to the Scholarship Secretariat for the grant of scholarships to gifted but needy students to study in Ghana. Hence, notwithstanding proof that the frontline organizers and award of scholarships is the Scholarship Secretariat – offer local and foreign scholarships. However, the GETFund Secretariat discontinued scholarship funding to the Scholarship Secretariat contrary to Section 2(2b) of Act 581 and administered scholarships on its own – foreign scholarship.

14. The most salient guidance from Section 2 (2b), of the Act has been extracted and presented hereunder:

2(2b) to provide supplementary funding to the Scholarship Secretariat for the grant of scholarships of Brilliant but needy students for studies in the second-cycle and accredited tertiary institutions in Ghana;

The composite effect of these provisions is that GETFund as a public entity has no mandate to undertake activities to select students and award funding scholarships or whatsoever as a duty.

15. We also contend that in the Criminal Offences Act, 1960 (Act 29) as amended by the Criminal Offences (Amendment) Act, 2012 (Act 849) (hereinafter, “the Criminal Code”), the chapter 1 offences involving dishonesty is intimately linked to the umbilical cord of financial loss, creating a spectrum of malfeasance where one act seamlessly morphs into the other. **This is made amply clear in Section 179 A:**

*(1) A person who in the course of a transaction or business with a public body or an agency of the Republic intentionally causes damage or loss whether economic or otherwise to that body or agency commits a criminal offence.*

16. It would thus be unreasonable if all investigations of financial improprieties and corrupt practices were to be limited solely to those circumstances where preliminary evidence of a promise of valuable consideration existed from the Performance Report of the Auditor - General. We believe that should EOCO be persuaded to follow the clear trail of financial loss to the state and abuse of office, wanton breaches of law, and defiant episodes of ghost names, the basis for a full-blown organized economic crime (financial lost to the state) investigation shall also be established.

17. To buttress the beliefs expressed above, we have produced the key facts of the matter which is the subject of this complaint below. These facts are in the public domain and have not been repudiated. We have relied extensively on

the Performance Audit Report of the Auditor – General on the administration of scholarships by GETFund in compliance with Article 187(2) of the 1992 Constitution of Ghana and Section 13(e) of the Audit Service Act, 2000 (Act 584), an of no mean repute, quoting in seriatim and verbatim, wherever necessary, to preserve the accuracy of the contents of their detailed investigative findings.

## **PART 2: FACTS**

1. On or about 24<sup>th</sup> February, 2020 the Auditor-General released its performance audit report on the administration of scholarships by GETFund.
2. We quote verbatim of the executive summary of the report:

### **EXECUTIVE SUMMARY**

- According to Section 2(2b) of the GETFund Act, 2000 (Act 581), the Fund is to provide supplementary funding to the Scholarship Secretariat for granting of scholarships to gifted but needy students to study in second cycle and accredited tertiary institutions in Ghana. The Act made a provision under Subsection 2(2) (e) that allows GETFund Secretariat to promote other educational activities.
- GETFund Secretariat breached the object of the Fund and administered the scholarship themselves, and illegally funded foreign scholarships thus, acting outside their mandate.
- Prior to 2009, GETFund Secretariat allocated and disbursed funds to Scholarship Secretariat in fulfilment of its obligation in section 2(2)(b) of Act 581. It is observed that GETFund Secretariat discontinued

scholarship funding to the Scholarship Secretariat contrary to Section 2(2b) of Act 581 and administered scholarships on its own.

- It was observed that in administering the scholarships, GETFund Secretariat did not establish any systems, policies and procedures to ensure the economic, efficient and effective use of public funds. The GETFund Administrator, at his discretion, made all decisions on whom to award scholarships, leading to the imprudent administration of scholarships from 2012 to 2018.
- With a Board of Trustees in place to oversee the operations of GETFund Secretariat, it was expected that, the Board would restrain the Administrator (2012-2016) when the Administrator was going overboard under its watch. Instead, the Board did not exercise its oversight responsibility to restrain the Administrator from using his discretion to award scholarships which depleted the Fund. The Board continuously discussed the way the scholarship budget was being over-spent and the need to streamline the spending on scholarship awards but it failed to act on its decisions. GETFund Secretariat through its actions wasted public funds entrusted to its care.
- . GETFund Secretariat did not institute measures to ensure scholarship expenditures stayed within scholarship budgets. The GETFund Secretariat exceeded scholarship allocation amount by 300 per cent from 2012 to 2014 and over 100% in 2015, 2016 and 2018; whilst in 2017, it exceeded its budgetary allocation amount by 60.98 per cent.
- Additionally, GETFund failed to establish a robust selection process to ensure the scholarships were granted to gifted but needy Ghanaians. The selection process for scholarship award by GETFund Secretariat was none structured, unfair, dominated by one person and porous. This

allowed unqualified applicants to benefit rather than brilliant but needy Ghanaians as contemplated by Act 581.

- . Finally, GETFund did not institute controls to secure the efficient and effective disbursement of public funds resulting in the payment of GH¢1,895,238.31 for course extensions, change of schools and cost of deferrals which could have been minimized.
3. The 63<sup>rd</sup> paragraph of the report indicates the award of scholarship higher than the budget amount.
  4. In the 86<sup>th</sup> paragraph, the report indicated GETFund Secretariat received 9,474 applications for both foreign and local scholarships from 2012 to 2018. Out of the total applications, GETFund Secretariat granted scholarships to 3,112 applicants made up of 2,217 for foreign scholarships and 895 for local scholarships from 2012 to 2018.
  5. The 89<sup>th</sup> paragraph also indicates lack of due diligence and financial misappropriation of public funds. We quote verbatim from the report:
    - four beneficiaries were awarded scholarships even though they did not have the prerequisite grades in English language as demanded by the schools they intended to enroll,
    - eight applicants residing abroad who claimed to be Ghanaian students in the middle of their studies requested support and the Administrator approved the payment of \$562,307.20 on their behalf without any verification or evaluation of their claims.
  6. Paragraph 111 of the report identified inefficient use of public funds. We quote verbatim: As a pre-requisite for venturing into the use of public funds for awarding scholarship, GETFund Secretariat was expected to



establish controls to safeguard scholarship funds. From 2012 to 2016, the GETFund Secretariat paid full tuition fees of 53 awardees who did not enroll in the year they were expected to begin their studies. We found that the beneficiaries could not enroll because of reasons such as not fulfilling all requirements for enrolment, late processing of visa by beneficiaries, delay in payment of tuition fees by GETFund Secretariat, visa refusal, late enrolment, among others. Altogether, the GETFund Administrator caused the inefficient use of GH¢1,895,238.31 on the 53 beneficiaries for the following reasons:

- From 2012 to 2016, GETFund Secretariat paid additional fees of GH¢149,038.06 for 24 beneficiaries who deferred their enrolment as

**follows:**

- o Nine of the 24 beneficiaries gained admission to universities in the United Kingdom but were denied visas to travel and the Secretariat paid additional fees amounting to GH¢60,208.43 when they got their visas
- o GETFund Secretariat delayed in paying fees for six of the 24 beneficiaries leading to the deferral of their programme of studies at an additional cost of GH¢14,111.90
- o GETFund Secretariat paid additional tuition fees amounting to GH¢19,586.82 for three of the 24 beneficiaries who could not enroll in schools because they did not have the English proficiency requirement of their prospective schools to be enrolled. The three deferred to subsequent academic years, took the test with the Secretariat having to top up their fees

o GETFund Secretariat permitted five beneficiaries out of the 24 to defer their programmes of study for no apparent reason and paid an extra GH¢44,430.59

o GETFund Secretariat paid GH¢10,700.32 for a beneficiary with the reason that there was a notice from the University that the class was full.

•GETFund Secretariat granted scholarship extension to 23 beneficiaries at a cost of GH¢1,539,873.10 as **follows:**

o Seventeen of the beneficiaries extended their studies due to delays in the beneficiaries completing their thesis (GH¢877,224.38)

o Two beneficiaries, due to schools extending programme of study (GH¢258,434.44)

o One beneficiary, due to clash in a compulsory and elective course (GH¢10,331.51)

o One beneficiary, due to suspension after GETFund Secretariat's inability to pay fees on time (GH¢59,032.62)

o One beneficiary, due to inability to take a two-year course in a year (GH¢47,029.12)

o One beneficiary asked for an extension before the commencement of his programme of study without any reason, costing GETFund GH¢59,218.42.

•GETFund Secretariat paid tuition fees of GH¢449,269.62 to six

universities (5 in UK and 1 in Dubai) on behalf of six beneficiaries who did not enroll. The Secretariat later paid GH¢700,713.42 for these beneficiaries to attend different universities at later dates. GETFund Secretariat could not provide records to show they requested for refunds of the tuition fees from the schools where the beneficiaries were unable to enrol. We however found from our review of bank statements that the University of Aberdeen refunded GBP 4,651.00 (GH¢14,294.85) out of GBP 15,500 paid for one of the six beneficiaries.

## **7. GHOST NAMES:**

Some beneficiaries whose names were captured in the Report had denied receiving any funding or whatsoever from GETFund scholarship programme. The following have been captured from media reportage:

- i. Anita Musah is 8th on the published list to have benefited from an amount of €24,447, comprising €11,900 tuition and €12,547 living stipend. Anita only received confirmation letter but GETFund did not pay money to the school where she was to study Msc Urban Management and Development at Erasmus University in the Netherlands.

Please see link: <https://www.theghanareport.com/another-getfund-beneficiary-denies-receiving-e24447/>

- ii. Hajjia Ramana Shareef was listed to have benefited from an amount £22,700 GETFund scholarship but claim not to have received the said amount allocated to her name on the list. She is a former Metro TV journalist and was listed as the 46th person to have received tuition of £12,600 and living stipend of £10,130. According to Shareef, she received a letter of award but the money was not paid. Who took the money on her behalf? Whose hands was the money paid? She eventually had to abandon the program of study. Please see link(s):

<https://www.myjoyonline.com/news/2020/February-24th/lady-listed-as-beneficiary-of-22700-getfund-scholarship-disputes-claim.php> AND <https://www.theghanareport.com/i-never-received-a-pesewa-getfund-beneficiary-denies-receiving-22000-scholarship/>

- iii. Kennedy Nyarko Osei, Deputy Agriculture Minister, had his name in the list but no money was attached to his name. The lawyer for the minister subsequent wrote accusing the Auditor General to have known better. However, the Auditor-General response that the information contained in the published list was from GETFund, the audited entity, and that if the minister wants a redress then such redress should be sought after from GETFund Please see link(s):

<https://citinewsroom.com/2020/02/getfund-scholarship-regetfund-scholarship-retract-my-name-or-ill-sue-dep-agric-minister-to-auditor-generalrtract-my-name-or-ill-sue-dep-agric-minister-to-auditor-general/>

AND

<https://starrfm.com.gh/2020/02/scholarship-saga-seek-redress-from-getfund-not-me-a-g-to-dep-minister/>

8. This is evidently clear that among the 3,112 beneficiaries there could be more ghost names of which state funds were paid to causing fraud and financial lost to the state.
9. In presenting this complaint, Sir, we are encouraged by your office's strong commitment to its mandate and confident in your ability to investigate this matter thoroughly, dispassionately and in a rigorous fashion in order to uncover all the facts relevant to these matters.

10. We are also highly confident in your capacity to investigate economic and financial transactions and apply just remedies to recoup and rectify the financial improprieties that have occurred and thereby save this country the huge amounts of money involved once you have satisfied yourself of the propriety of doing so after uncovering the salient facts in respect of these matters. We thank you and your team for your time.

Yours in the Service of the Nation

Peter Bismark Kwofie

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**Cc:**

1. The Office of the Special Prosecutor
2. The British High Commissioner
3. The Canadian High Commissioner
4. The Delegation of the European Union
5. The Commission of Human Rights and Administrative Justice (CHRAJ)
6. Indian High commissioner, Accra Ghana
7. The US Embassy, Ghana
8. The Netherlands embassy, Ghana
9. The German Embassy, Ghana
10. CSO Platform on SDGs
11. All Media Houses