BISMILLAAHI RAHMAAN RAHIIM
REPORT OF THE COMMISSION OF INQUIRY
INTO THE PROPERTIES OF
THE UGANDA MUSLIM SUPREME COUNCIL

PLOTS 102/104, 30 WILLIAM STREET KAMPALA
AND 12-16 PORT BELL ROAD LUZIRA

AUGUST-SEPTEMBER 2006
Forward

This report is an accomplishment of the commission of inquiry set up by the Executive Committee of the Uganda Muslim Supreme Council in its sitting of 28\textsuperscript{th} to 30\textsuperscript{th} July 2006.

It follows the need for the UMSC to provide expiations about certain plots of UMSC that had been reported sub leased, leased or sold. This raised anxiety in the Muslim community which led to the establishment of this independent commission to investigate the matter. The commission hopes that the recommendations contained in this report shall be implemented expeditiously, and within the UMSC constitution.

\textit{Members of the Commission}
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On behalf of the Commission of inquiry team comprising of Dr. Muhammad Mpezamihigo (Chairman), Mr. Hassan Kulany (Secretary), Mr. Sekabira Abdul (member), Mr. Hassan Achoma (member), Mr. Kisambira Muhammad (member), Mr. Mustafa Bahiiga (member) and Mr. Amir Kiirya (member), I wish to express our gratitude to the members of the Muslim community who exercised great patience during the time of the commission.

We wish to thank the Executive Committee of the UMSC for entrusting us with the responsibility to investigate properties of the UMSC. In addition, we thank the executive for providing the necessary facilitation. We express our gratitude to all respondents who voluntarily appeared before the commission. In addition, we thank the management of hotel Africana who allowed the commission to conduct its business from their premises.

We thank the members of the press and the general public who showed enthusiasm in the matter under inquiry and also volunteered information about the properties under inquiry.

Special thanks go to the following organizations who allowed members of the Commission time off their duty station in order to fulfill the obligation entrusted upon them by the UMSC Executive Committee: M/S Kalenge, Ssemambo and Mubiru advocates, Bilal Islamic institute, Tororo local Government, Mubende District Local Government, Jamuiyyat Da’awah al Salafiyya, Advocacy for social development and environment Uganda, Arua Muslim District Council, Kampala Muslim District Council and Islamic University in Uganda.

Lastly, we thank the almighty Allah who enabled us as a commission to accomplish this noble task. We ask Him to accept it. Ameen!

Dr. Mpezamihigo Muhammad, Chairman.
REPORT WRITING

This report constitutes the final official document which summarizes the entire work of this Commission. This report addresses all matters under inquiry as contained in the Commission’s Terms of Reference.

The Report is divided into Chapters for purposes of treating different items distinctly. The language of the Report is intendedly simple and clear to enable all readers understand its contents. The Commission has refrained from using technical language. In some instances however, a few legal terms have been used, especially where no substitute terms would easily be found.

The Report contains annexes at its end. These are some of the documents that the Commission gathered as evidence and were found useful to determine the matters under inquiry.
Preamble
The establishment of the Commission of Inquiry into the properties of Uganda Muslim Supreme Council (UMSC) by the Executive Committee (EC) of the UMSC was a landmark decision particularly because this Commission unlike the previous ones conducted its business in a manner of clear transparency and openness. And for this reason it is right to say that this is the first of its kind in the life and history of the UMSC and the Muslim community in Uganda. As such the findings of this Commission are widely expected to lay a foundation for not only good practices of property management but also for the proper functioning of the UMSC in future.

In view of the importance of this probe into UMSC properties therefore, we the members of the Commission have been humbled by the enormous task bestowed upon us by the EC of the UMSC. We have therefore tried our best to carry out the assignment honestly, justly and fairly, without fear or favour and only hoping that we shall please Allah and make our little contribution to the betterment of the Muslim community in Uganda. We have had mounting pressure in realizing our task particularly when one of our key respondents H.E. the Mufti Sheikh Shaban Ramadhan Mubajje declined to appear before the Commission. Almost all respondents cooperated fully and came to the Commission voluntarily without any form of coercion. The other respondent who did not appear before the Commission is Mr. Drake Lubega, the current proprietor (owner) of plot 30. One respondent, Sheikh Muhammad Musa Mayanja Luyombya requested that his testimony be made without the presence of the press. The Commission was satisfied with the reasons advanced by Mr. Mayanja and accordingly granted his request.

After listening to the testimony from 28 witnesses who appeared before us and after scrutinizing various documents that were availed to us, we do hereby submit this report as part of the requirement in our terms of reference as given
by the UMSC Executive Committee. The Commission believes that despite the absence of H.E. the Mufti Sheikh Shaban Ramadhan Mubajje, the report is comprehensive enough for the UMSC Executive Committee to take action on the recommendations herein.
CHAPTER ONE
INTRODUCTION

1. The Problem

1.1 General
Uganda Muslim Supreme Council was established in 1972 as a result of existing disunity among Muslims at that time. Therefore its formation aimed at uniting Muslims of different factions. The Government of Uganda at the time considered disunity as a source of insecurity among its citizens. The different Muslim factions convened on 29th April 1972 and formed one unifying body known as the Uganda Muslim Supreme Council (UMSC) that would cater for all the affairs of Muslims faith (page 4 of UMSC constitution).

1.2 Previous administrations
Since its inception, UMSC has had over eight (8) officially recognized and three (3) parallel (unrecognized) administrations. The recognized administrations with headquarters at the Old Kampala headquarters were headed by Sheikh Maulana Abdurazak Matovu, late Sheikh Siliman Matovu, late Sheikh Kassim Mulumba, Sheikh Abdu Obeid Kamulegeya, Sheikh Rajab Kakooza, late Sheikh Ibrahim Saad Luwemba, late Sheikh Muhammad Semakula, and the current Mufti Sheikh Shabaan Ramadhan Mubajje. The parallel administrations were headed at different times by Sheikh Abdu Obeid Kamulegeya during the reign of late Sheikh Kassim Mulumba, late Sheikh Kassim Mulumba during the time of Sheikh Abdu Obeid Kamulegeya and Sheikh Ahmad Mukasa during the leadership of late Sheikh Saad Ibrahim Luwemba.
1.3 UMSC challenges and problems

It is also true and has been documented that the UMSC has faced a lot of challenges and problems some of which have emanated from within the organization itself, while on the other hand external forces have also played a very significant role during the life of the organization. On many occasions, the Government of the day at a given time has involved itself either directly and/or indirectly in the affairs of the UMSC.

One of the greatest challenges to the UMSC has been leadership wrangles, which has made it difficult for successive administrations to concentrate on development issues. Instead every next administration has solicited funds, alliances and government support to fuel infighting and divert attention from addressing the needs of the Community as a minority group in the Ugandan Community.

It is not known how much money, time and other resources have been so far spent in promoting non-developmental issues since the inception of the UMSC. The UMSC has nothing tangible to show its membership as proof of progress in their social lives and the improvement of their well being. In fact one of the respondents during his testimony to the Commission of Inquiry rightly posed a challenge to the UMSC to mention a single primary school in the country under the management of UMSC.

The situation of most UMSC districts in terms of financing and activities is not any better than at the headquarters, with the exception of very few which are actually better organized than the UMSC head office. Unfortunately, in some cases there has been interference from the UMSC head office where such successful UMSC districts are considered as threats by the headquarter office.
1.4 Constitutionalism at the UMSC

Another issue that has been neglected by the UMSC administration is to update the current UMSC Constitution, which is very outdated and has to some extent caused administrative and management bottle necks in the day-to-day operations of the UMSC. A case in point is the double role of H.E. the Mufti as the overall leader of the Muslims including all officials of the UMSC organs, at the same time being the Chairman of the UMSC Management Committee which is the organ that administers UMSC business on a daily basis. This discrepancy is probably the main cause of the stalemate between H.E. the Mufti and the Commission of Inquiry. Whereas it is appropriate for H.E The Mufti to be leader of all Muslim males and females in the Country, it is not appropriate for him to manage the routine activities of the UMSC.

The UMSC Executive Committee during the time of the H.E. the Mufti Sheikh Shaban Ramadhan Mubajje instituted a Constitution review Commission three years ago. To date, the said commission has never had a single meeting. In some cases the constitution review process remains undesired by some officials in the UMSC because if the Constitution is revised personal interests shall be foregone.

The Commissions’ experience during the testimonies of the respondents and from UMSC documents indicated that on several occasions, the UMSC Constitution has been bypassed and breached probably for personal benefits or due to ignorance of the provisions of the constitution. It is clear that some of the office bearers in the UMSC have usurped powers of higher organs and undermined other officials who are lower in hierarchy. This has bred internal misunderstandings and the game of blame on almost all business of the UMSC. It is therefore justified for the Commission to affirm that much more would have been achieved by the Muslims of Uganda if the UMSC was properly managed and the Constitution amended to address the realities of today given that it is over
thirty years since it was made and contains inadequacies and issues of contention. The Commission noted that although there were amendments made to the Constitution in the 1980’s, inadequacies still exist.

1.5 Property acquisition

When the Asians were expelled from the country in the 1970’s, UMSC was authorized by the Government then to take custody of the properties of non-citizen Muslim Asians. Some of these properties were donated by their former owners to UMSC. Plots donated to the UMSC included among others 23, 30, 32, 102/104 William Street and Plots 4, 7, 9 Commercial Street Masindi. Additionally, UMSC in its capacity bought/acquired other properties such as Plot 12-16 Old Port Bell Road Luzira; Najjanankumbi Estates (21 in number), Migyera farm (5 square miles) and others.

It is also said that some of the properties put into the custody of UMSC were paid for by the Government of the day so that they become properties of the UMSC. No thorough work has been done to ascertain how many such properties are still under UMSC or what happened to them if they are no longer registered in the names of UMSC. The UMSC needs to conduct verification and investigations into the status of such properties and inform the Muslim community as soon as possible.

1.6 Organs and officials of UMSC

UMSC is an unlimited company without share capital, whose membership comprises of all Muslim men and women of Uganda {UMSC Constitution Article 1 (2)}. According to the UMSC Constitution, UMSC has four organs namely the General Assembly (GA), Majlis-al-ulama, Executive Committee (EC), Joint Session (JS), and the Management Committee (MC). Similar organs exist at the Muslim District level.
Given the task of the Commission of inquiry into selected properties of the UMSC, the Commission found it necessary to briefly explain selected functions of the UMSC organs and duties and roles of essential UMSC officials in as far as the management of properties and finances of the UMSC are concerned. The officials of UMSC who will consistently future in this report and were involved in the day-to-day running of UMSC business are: H.E. the Mufti, H.E. the Deputy Mufti and the Secretary General (SG). And at policy level, the Chairman and the Deputy Chairman of UMSC have been considered in this report. The Secretary General (SG) is the accounting officer of the UMSC.

In addition it is important that the functioning of the UMSC organs in relation to the day-to-day operations of the UMSC administration, policy formulation and matters of general nature of the UMSC should be clearly understood and enshrined in the UMSC constitution.

1.6.1 Management Committee (MC)

According to UMSC Constitution Article 12(1), the MC comprises of Mufti, Deputy Mufti, Secretary General, Secretary for Religious affairs, Secretary for finance and planning, secretary for education and social affairs, secretary for administration and any other appointed secretaries who must be approved by the Joint Session. H.E. the Mufti shall be the Chairman of the MC, and in his absence his deputy shall chair the MC. The duties of the MC are more specifically set out in Schedule B of the UMSC constitution as stipulated in Article 12 (4), which states interalia that, 'subject to the provisions of Paragraph 8 of Article 10, the MC shall be the principle instrument for running the day to day affairs of the council.

The stated paragraph 8 of Article 10, states that, 'the Executive Committee (EC) shall be the principle organ governing, conducting and administering the affairs of the Council and shall have full powers to act on behalf of the general Assembly (GA) between the meetings of that body but subject to subsequent
approval of the Assembly’ The functioning relationship between MC and EC is clearly stipulated in schedule B(5) of the UMSC Constitution, which states among others, ‘to initiate and negotiate agreements subject to the approval of the EC’. The above quotes have been singled out in this report because they are the most relevant to the subject of the commission’s inquiry.

The Secretary General shall have the Executive powers exercisable after consultation with the Mufti {Article 13(4)} and is the head of the Secretariat and shall have powers to give directives to other Secretaries {Article 13(6)}. The MC is constitutionally supposed to sit twice a month {Article 12(6)}.

1.6.2 The Executive Committee

According to Article 10(1), the EC is comprised of four representatives each from Buganda, Eastern, Northern and Western regions, and Kampala District elected by the General Assembly from the entire Muslim population of Uganda. In addition to the 20 members, H.E. the Mufti, H.E Deputy Mufti, Chairman and Deputy Chairman and SG are also members. The Chairman of UMSC chairs the EC and in his absence the Deputy Chairman does. The EC is constitutionally supposed to meet at least once every three months.

The duties of the EC are among others as earlier enshrined in Article 10(8, 9). For purposes of the Commission’s work, the most relevant function of the EC in as far as the management of finances and properties is concerned as stated in Article 10(9) (d) as follows, ‘to administer the property and finances of the council; enter into or approve any agreement, loans, mortgages or charges; approve any projects intended to generate funds for council and approve any supplementary or additional estimates of revenue and expenditure of the council’. This section shall be referred to in later chapters of this report.
Article 13(5) stipulates that SG shall be directly answerable to the Chairman on matters relating to the business of EC, joint session and the Assembly. The SG presents MC business to the EC. The relationship between EC and GA is such that, EC shall have full powers to act on behalf of the Assembly between the meetings of that body but subject to subsequent approval by the Assembly {Article (10)(8)}.

1.6.3 The General Assembly (GA)

Article 2 of the UMSC constitution describes the composition and representation of the GA. Every Muslim district shall be represented by four (4) members and the District Kadhi (DK) as the fifth member. All new Muslim districts shall be represented by two (2) members and the DK shall be the third. At the moment the GA has a membership of over 100. The GA is constitutionally supposed to sit at least once a year and is chaired by the chairman (elected by the GA) and in his absence the Deputy Chairman (also elected by the GA).

1.7 Appointment of the Commission of inquiry

1.7.1 Membership

Most members appointed to the Commission learnt of the decision first in the media and took at least five days before there was official communication from the UMSC administration. There was lack of proper communication to the Commissioners. However, members ignored the procedural gap and in good faith took on the task as described in the terms of reference.

The membership is as follows:

1. Dr. Muhammad Mpezamihigo, Chairman
2. Mr. Hassan Kulany, Secretary
3. Mr. Muhammad Kisambira, Member
4. Mr. Amir Kirya, Member
5. Mr. Hassan Achoma, Members
6. Mr. Abdul Sekabira, Member
7. Mr. Mustafa Bahiiga, Member

In addition, the Commission of Inquiry co-opted Mr. Kalenge Bashir of Kalenge, Ssemambo and Mubiru Advocates as the lead counsel in the Commission’s work. His roles were mainly advisory in legal matters and also led the Commission in the questioning of respondents during their testimonies.

1.7.2 Terms of reference
The following were the terms stipulated in the letters of appointment:
a) To ascertain the status of Plots 30 and 102/104 William Street, and Plot 12-14 Old Port Bell Road Luzira.
b) To find out the alleged sale of the above plots and who sold them?
c) Who bought them and at how much?
d) Give recommendations to the Executive Committee
e) The report should be given to the Chairman of the Executive Committee within two weeks from the time of inaugural.

The Commission was also given the mandate to establish clear Rules of Procedure that would guide its operation to success.

1.7.3 Extension of the time of the Commission
The Commission was inaugurated on 4th August 2006 and was meant to conduct its business and accomplish its task within 14 days with effect from 4th August 2006, i.e. the report was to be submitted by 21st August 2006. However, the Executive Committee, the appointing authority underestimated the volume of work at hand. For this reason, the Commission asked for two extensions in order to accomplish its work and present a report to the Executive Committee for action. In both instances, the permission was granted by the Chairman of UMSC on behalf of the Executive Committee.
1.7.4 Financing of the Commission

The Commission spent **Shs 30 million** (thirty million Uganda shillings) in forty five (45) days, which funding it received from the UMSC. The bulk of the expenditure was on upkeep, accommodation and transport of the Commissioners. The expenditure is on a higher side because all commissioners came from upcountry namely Kamuli, Tororo, Arua, Kapchorwa, Mubende and Mbale. Additional costs were on legal services and the hire of the venue i.e. Hotel Africana, where the Commission conducted its business.

We would like to reject the rumours that the Commission has been receiving funding from groups opposed to H.E. the Mufti of Uganda or from opposition parties as it appeared in some sections of the press and the media.
2.1 Rules of Procedure

1. The Commission shall conduct all its activities and business from Hotel Africana Business Center.
2. The official business hours for the Commission shall be between 9 am to 1 pm and from 2.30pm to 5pm every Tuesday to Friday. The Commission shall not hold an afternoon session on Fridays.
3. The quorum for the Commission for purposes of its proceedings shall always be five members.
4. The Commission shall open and close its business with recitation from the Holy Quran.
5. All proceedings of the Commission shall be chaired by the Chairman of the Commission or by any other person who the Chairman may delegate from time to time.
6. The Commission shall conduct its proceedings in the English language. However, Luganda or Swahili languages may be used where a respondent is not fluent or comfortable with the English language.
7. The official Spokesperson of the Commission shall be the Chairman of the Commission or any other person that the Chairman may delegate from time to time.
8. The final report of the Commission shall be generated by concession of all commissioners.
2.2 Description of properties

The properties under inquiry include:

1. Plot number 102, Lease Register Volume 3017, Folio 3 William Street, Kampala. Twenty five percent of the five storied commercial building housing Kololo High School stands on this Plot (herein after referred to as Plot 102).

2. Plot 104, Lease Register Volume 928, Folio 23, William Street, Kampala. This contains 75% of the building referred to in (1) above. It also contains an empty piece of land that is fenced with a brick wall (herein after referred to as Plot 104).

3. Plot 30, Lease Register Volume 116, Folio 22, William Street Kampala. This property is a commercial building with many shops. It also houses a mosque (herein after referred to as plot 30).

4. Plot 12-16, Lease Register Volume 425, Folio 18. This houses the former brush ware factory. Most of the land is vacant without any major economic activity, with two old structures (herein after referred to as plot 12-16).

2.3 Selection of respondents

The Commission interviewed various individuals to get evidence about the matter under inquiry. The Commission targeted officials of the UMSC who are directly or indirectly concerned with properties under inquiry. Some opinion leaders in the Muslim community were also interviewed, mainly to guide on the way forward after the completion of the work of the Commission.

Some members of the executive Committee of the UMSC were also interviewed. The Commission targeted those individuals who were directly or indirectly involved in the transactions in the above properties.
Some members of the Investment Committee (Sub-Committee of the Executive Committee) were also interviewed because of their knowledge and/or role about the properties under inquiry.

In addition, some opinion leaders and members of the general public in the Muslim Community were also interviewed seeking information, knowledge and advice with regard to the UMSC properties under inquiry.

2.4 Profile of Respondents

TRUSTED PROPERTY MANAGER LIMITED

a) This is the company that was awarded the management of plot 30 William Street controversially.
b) This is the company jointly sued with others for causing financial loss to the UMSC.
c) This is the company that later sub-leased plot 30 William street.
d) This is the company whose sub-lease was extended by the UMSC management for another two years without the consent of the executive Committee.
e) This is a company that applied lease plot 30 William street at the expiry of the UMSC lease.
f) This is the company whose original Directors are said to be fictitious and or unknown by any official of the UMSC management or executive Committees.
g) This is the company with directors such as Godfrey Tenywa Mukasa who bought plot 104.
h) This is the company that was registered and within 23 days of its existence, was controversially contracted to manage plot 30.
i) This is the company that was last registered as proprietor (owner) of plot 30 before Haks Express Limited and currently, Drake Lubega.

j) This company was not invited to testify before the commission of inquiry because all its Directors are fictitious and or unknown except Geoffrey Tenywa Mukasa who is said to be living abroad.

THE SECRETARY GENERAL OF THE UMSC

- He is called Dr. Edris Serugo kasenene.
- He is the accounting officer of the UMSC.
- He is in charge of all UMSC finances
- He is in charge of planning for the UMSC
- He is the financial technical advisor to the Management, Executive Committee and General assembly.
- He initiated the sub-lease of plot 12-16 at Luzira.

SECRETARY FOR FINANCE AND PLANNING

- He is called Hajji Adnan Koire.
- He is in charge of all UMSC finances through the Secretary General.
- He is in charge of planning for the UMSC.
- He is the financial technical advisor to management, and executive Committees and to the general Assembly.
- He is a member of the Management Committee.
- He is responsible for all UMSC properties.
H.E THE MUFTI

- His name is Sheikh Shaban Ramadhan Mubajje.
- He is the spiritual leader of the UMSC.
- He is the chairman of the Management Committee of the UMSC.
- He is a member of the Executive Committee.
- He is a member of the college of sheikhs (Majlis al Ulama).
- He is a member of the Joint session.
- He is the initiator of transactions at plot 102 and plot 30.
- He is a signed the transfer forms of plots 102 and 30 into the names of their current proprietors (owners).
- He ordered the lodging of caveats on plots 30,102 and 12-16.
- He ordered for the extension of the lease of plot 30 to Trusted property managers Limited for two years without the consent of the executive Committee.
- He declined to appear (physically and filing a written submission) and defend himself before the Commission.

HAAMID BYAMUGENZI

- He is the former chairman of MUMSA.
- He is a young Muslim scholar interested in the affairs of the UMSC.
- He carried out an investigation on UMSC properties during his tenure as chairman of MUMSA.
- He responded.
TWAHA KASULE

- He was a secretary General MUMSA and participated in the UMSC MUMSA property investigation.
- He is a Muslim scholar.
- He carried out an investigation of UMSC properties while still a student at Makerere University.
- He responded to the invitation.

HAJJI BADRU SABILA

- He is the member of the General Assembly representing Kapchorwa.
- He is the member of the executive committee.
- He is the chairman of the investment committee.
- He is the one who chaired the executive committee meeting which leased Plot 102 to HAKS EXPRESS LTD.
- He responded to the invitation.

SHEIKH NOOH MUZAATA BATTE

- He is a sheikh
- He is an opinion leader in the Islamic community
- He is a vocal cleric in the subject matter i.e. Plot 102, 30, Will Sir and 12-16 Old Port Bell Rd Luzira
- He responded to the invitation of the commission.

HAJJI SHADDAAD KINTU

- He is the member of the General Assembly representative from Palisa District
- He is a concerned Muslim citizen concerning UMSC properties
- He volunteered information
- He responded to the invitation of C.O.I
SHEIKH MUHAMMED KIBANGA

- He is a former Secretary for Religious Affairs
- He was highly involved in UMSC properties
- The Commission failed to trace him.

SHEIKH MAHDI KAKOOZA

- He is Secretary for Religious Affairs.
- He is the member of the Management Committee and a member of College of Sheiks.
- He is a former Secretary for Religious Affairs in Kakooza’s leadership.
- He is an ex-official to the Executive Committee.
- He responded to the invitation of COI into the properties of UMSC.

IMAAM KASOZI

- He is the operations officer in UMYA
- He is a founding member of MUMSA
- He is a regular preacher
- He is an opinion leader in Islamic Community
- He is a former member of the General Assembly
- He responded to the invitation of COI

RAYHAAN GOLOOBA

- He is the member of General Assembly representing Mubende
- He is the member of the Executive Committee
- He is the member of the Joint session
- He responded to the invitation of COI
SULAIMAN MUSANA
- He is the Land Officer UMSC
- He has no designated position in the office of the Mufti
- He responded but was completely ignorant about land matters in the UMSC.

SHEIKH ABDUL-QADIR MBOGO
- He is a sheikh
- He is one of the important opinion leaders in Muslim community
- He lived on Plot 32, on behalf of UMSC for 30yrs
- He responded to the invitation of COI into UMSC properties

ANAS SESSIMBA
- He is a sheikh
- He was a member of UMSC first UMSC administration.
- He was a member of General Assembly of 1996-2000
- He was the organizing Secretary in the Mufti’s office
- He is the member of the College of Sheikhs
- He is the member of the joint session
- He is a vocal cleric
- He was a leading participant in the transaction in which MTN was leased a plot of land at the UMSC headquarters Kampala. According to the minutes, he is the one who handled the largest bulk of money.
- He responded to the invitation of COI.

SIRAJ ZAID KAVUMA
- He is a member of the General Assembly
- He is a member of the executive- Committee
- He is a member of the Joint session
- He is one of the 4 people who lodged a caveat on plots 30, 102 and 12-16 old port bell Road
- He is the Secretary for Hijja committee
- He declined the invitation from the COI
- He responded to the invitation of COI

**MUHAMMED MBABAZI**
- He is an advocate
- He is the one who was appointed by UMSC to recover the properties from Malkan
- He defended UMSC in court
- He is the one who negotiated to the out of court settlement between Hamdan and Hussein Malkan
- He was the lawyer for Hamdan
- He is the lawyer for Muhammad Mayanja Luyombya
- He is the lawyer for Trusted Property Managers
- He is the lawyer for Godfrey Mukasa Tenywa
- He is the lawyer who transacted the sale of plot 32 to John B. Muwonge
- He is the lawyer who transacted the sale of plot 104 to Godfrey M. Tenywa
- He is the lawyer for the defendants in civil suit no 353 of 2004:- Adrama Muhammad, Edris Kasenene. Trusted Property Manager, Bosco Muwonge, Bombokka L. and the chief Reg. of Titles
- He represented Trusted Property Manager in the sub-lease extension for 2 years
- He responded to the invitation of the COI
SHEIKH AHMADA YAHAYA LUKWAGO

- He is a member of the General Assembly for Kampala District
- He is a member of the Executive- Committee
- He is a member of the Joint session
- He and others took the top leadership of UMSC to court over plots, 102/104; 30; 32 William Street and other properties for mismanagement and illegal disposal of properties.
- He is one of the 4 members of the executive- Committee who lodged a caveat on plots 102, 30 William and 12-16 Port Bell Rd Luzira.
- He has been a leading activist of the protection of UMSC properties
- He responded to the invitation of the COI

SHEIKH YUSUF ISA BYEKWASO

- He is a member of the General Assembly for Kabarole District
- He is a member of the Executive- Committee
- He is a member of the Joint Session
- He is a member of the Investment Committee
- He has been a leading activist of the protection of UMSC properties
- He has responded to the invitation of the COI

SHEIKH MUGOMBA ISMAIL MOHAMMED

- He is a member of the Executive for Kampala District
- He is a member of Joint session
- He and 4 others took the top leadership of UMSC to court of plots 102-104, 30, 32 William Street and other properties for mismanagement and illegal disposal of the same.
- He is one of the 4 members of the Executive Committee who lodged a caveat on plots 102, 30 William Street and 12-16 Old Pot Bell Rd Luzira

**SHEIKH SULAIMAN KAKEETO**

- He is the Amiir Daulah
- He is an opinion leader in the Muslim Community
- He is the leader of the Uganda Muslim Tabligh Community one of the Islamic groups in Uganda.
- He is a big stake holder in Muslim Affairs
- He responded to the invitation

**SHEIKH ABDUL HAKIIM SEKIMPI**

- He is the Amir -il- Ummah
- He is an opinion leader in Muslim community
- He is the leader of Jamuiyyat Adda-awa-Assalafiya, one of Islamic groups in Uganda, which is a big stake holder in Muslim affairs.
- He is one of the leading activists of the properties of UMSC
- He responded to the invitation of the COI

**ENG. ABBAAS MUGISHA**

- He is the member of General Assembly representing Kabale
- He is a member of the Executive- Committee
- He is a member of the Joint Session
- He is a member of investment committee
- He and others went to court for the protection of plots 102, 30,32
- He is a supervisor of the construction for the perimeter shopping mall
- He is the leading crusader in fighting for the properties of UMSC
- He responded to the invitation of COI
Mr. DRAKE LUBEGA

- He is the registered owner of plot of 30 William street
- He is the registered owner of plot 23 William street which originally belonged to UMSC
- He declined the invitation of the COI saying that he recognized only Hajj Hassan Bassajjabalaba because he is the one who sold to him plot 30 and not UMSC.

HAJJI SAKKA KAMOGA

- He is a former secretary general of UMSC
- He is a former Headmaster of Kololo High School
- He entered into a contract with UMSC on behalf of Kololo High School
- He initiated the extension of the lease of plot 102 and paid 20m to Muhammad Mbabazi of Nyanzi, Kiboneka & Mbabazi Advocates
- He caveated plot 102 which was removed without his consent or knowledge
- He responded to the invitation of the C.O.I

HASSAN KIRYA

- He is a member of the General Assembly for Kampala District
- He is a member of the Executive Committee
- He is a member of the Joint Session
- He and others took the top leadership of UMSC to court for leasing or subleasing of plot 30, selling of plot 32, and other properties of UMSC
- He is one of the 4 members of the executive committee who lodged a caveat on plot 102,30 William street and 12-16 Luzira
- He has been a leading crusader for the protection of UMSC properties
- He responded to the invitation of the COI
SHEIKH MUHAMMED MUSA LUYOMBYA MAYANJA

- He is the former Secretary General
- He is a former Secretary for Administration
- He is the one who took Hussein Malakhan and UMSC to court to determine who owned plot 23 William street
- He is the one who signed the transfer forms of plot 32 to John Bosco Muwonge in place of the secretary general
- He is the one who received plot 30 from Hamdan
- He is the one who contracted Kololo High School into Plot 102
- He resigned in protest that the Secretary General was incompetent
- He was denied by UMSC through the Secretary General and Sheikh Sesimba that he was acting in the interest of UMSC
- He responded to the COI invitation and submitted in camera

UMSC CHAIRMAN

- Hajji Ali Muhammad Adrama
- He is a member of the General Assembly
- He is the chairman of the General Assembly
- He is a member of the Executive Committee
- He is the Chairman of the Executive Committee
- He is a member of the Joint Session
- He is the Chairman of the Joint Session
- He is a principal signatory to all transfer forms of the council properties
- He witnessed the memorandum of understanding between Haks Express Ltd and UMSC
- He was taken to court in civil suit no 353 of 2004 by 5 members of UMSC including UMSC
H.E. THE DEPUTY MUFTI

- Sheikh Twaib Mukuye
- He is a member of the Executive Committee
- He is a member of the Management Committee and the Deputy Chairman therein
- He chaired the meeting of the 17th March 2005 which allocated plot 12-16 Old Port Bell Rd to Haks Express Ltd.
- He signed the resolutions emanating from the above meeting on the 18th March 2006
- He chaired the meeting of the 17th March 2005 which suggested that UMSC should sublease 42mx30m for 30 yrs to Haks Express Ltd.

THE DEPUTY CHAIRMAN

- He is a member of the General Assembly
- He is the Deputy Chairman of UMSC General Assembly
- He is a member of the Executive Committee
- He is the Deputy Chairman of the Executive Committee
- He is a member of the Joint Session and also the deputy chairman of that body
- He represented the interests of Haks Express Ltd
CHAPTER THREE
FINDINGS

3.1 General
The findings of the Commission are based on the written documents and reports received by the Commission during the testimonies and site visits. As far as possible, the Commission made every effort to verify the critical information used as a basis of these findings. The main findings of the Commission are based on the information the Commission was able to receive as of Tuesday 19th September 2006.

3.2 Status of the Plots 102/104 and 30 William Street, and 12-16 Old Port Bell Road Luzira

3.2.1 Status of Plot 102/104 William Street
This Commission received proof that this property which was originally registered on one title was subdivided on 29th August 2002 into two plots i.e. Plot 102, L.R.V 3017 Folio 3 and Plot 104 L.R.V 928 Folio 22. The Commission was able to confirm the following facts about these two plots:

a) Plot 102
In a letter dated 2nd April 2003, Mr Hamdani acting on behalf of the Dawood Bohra Community re-donated this plot to UMSC. Consequently, the plot was transferred into the names of UMSC on 29th December 2004. In an agreement signed between the UMSC and M/S HAKS Express Ltd. on 30th December 2004, only a day after the property was registered in the UMSC names, the UMSC is purported to have subleased this plot to the latter for 20 years at a cost of Shs 600 million Uganda shillings (six hundred million Uganda shillings). M/S HAKS Express Ltd. was supposed to pay the Shs 600 million within one year from 25th January 2005 by twelve (12) post dated cheques of Shs 50 millions (fifty million
Uganda shillings) each. The Commission noted that while HAKS Express Ltd. first gave the Cheques to the Secretary General (SG), it later withdrew the Cheques. In other words, the UMSC never received any cash in this transaction.

The Commission learnt that HAKS EXPRESS LTD was first given a sublease on the 31st December 2004. It also learnt from Mr. Mugomba Ismail, Ahmad Yahya Lukwago and Mr. Ishak Kasakkya who are members of the Executive Committee that there was an Executive Committee meeting of the council which sanctioned the sub-lease of the plot to HAKS EXPRESS LTD. The Commission, on two occasions, requested for minutes of this meeting from the Secretary General. He did not provide them. The UMSC later sold the lease (ownership) to HAKS EXPRES LTD on 1st February 2005. Therefore as from 1st February 2005, Plot 102 ceased to be a property of the UMSC and became that of M/S HAKS Express Ltd.

The Commission noted that on 27th December 2004, a High Court Order in Civil Suit 353 of 2004 Order number 3, instructed that, 'no sale, lease or disposal of UMSC properties should be undertaken without a unanimous resolution of EC of the UMSC’. Despite the High Court Order the Commission noted that thirty five (35) days after signing of the consent judgment some UMSC officials signed transfer forms for Plot 102 in favour of HAKS Express Ltd on 1st February 2005.

The Commission was able to confirm through testimonies and by certified documentation from the Ministry of Lands and Housing that the transfer of Plot 102 from UMSC to M/S HAKS Express Ltd. was signed by the following UMSC officials:

1) H.E. The Mufti Sheik Shabaan Ramadhan Mubajje
2) UMSC Secretary General, Dr. Idris Serugo Kasenene
3) UMSC Chairman, Hajji Muhammad Ali Adrama
The Commission noted that there was no minute or decision of the EC authorizing the final full transfer of ownership of Plot 102 from UMSC to M/S HAKS Express Ltd as required by Article 10(9) (d) of the UMSC Constitution. The SG of the UMSC Dr. Idris S. Kasenene informed the Commission that the decision to sublease Plot 102 to M/S HAKS Express Ltd. was made by the Management Committee (MC). Although it is indicated in the minutes of the special UMSC Executive Committee sitting on 11\textsuperscript{th} January 2005, that the Investment Committee reported on the utilization of Shs 600 million (six hundred million Uganda shillings ‘accrued’ from the sublease of Plot 102 to M/S HAKS Express Ltd., the Commission did not find evidence of a previous EC meeting that authorized the sublease of Plot 102.

The Commission noted that the entire transaction through which the UMSC lost ownership of Plot 102 to M/S HAKS Express Ltd. was done without the UMSC engaging the services of a valuer or lawyer. The Commission therefore could not rule out the possibility of the UMSC having lost money in the transaction.

When the Commission visited the school on 11\textsuperscript{th} August 2006, the Deputy Head Teacher Ms Joy Kagambo informed the Commission that a Commissioner for Secondary Education Mr. John Agaba had informed the school authorities that the property housing the school was no longer the property of UMSC because it had been acquired by the Government of Uganda under the Ministry of Education and Sports. The testimony of Mr. Sakka Kamoga, former Head Teacher to the same school confirmed this position. The Commission was not able to ascertain the authenticity of both the revelation by the Deputy Head Teacher and the testimony of Hajji Sakka Kamoga. On the other hand, in his testimony to the Commission, Mr. Hassan Basajjabala on behalf of HAKS Express Ltd. maintained that Plot 102 was still a property of HAKS Express Ltd.
**b) Plot 104 William Street**

Through a settlement cum compromise agreement of 2\textsuperscript{nd} October 2002 between Mr. Hamdan and Mr. Malkan, Plot 102/104 was awarded to Mr Hamdani on behalf of the Dawood Bohra Community. The information available to the Commission indicated that Plot 104 had been transferred in the names of Hamdani Properties Ltd. on 17\textsuperscript{th} September 2002 prior to the consent judgment. There was no information available to the Commission to indicate that Mr. Hamdani thereafter either donated or transferred ownership of the Plot 104 to the UMSC.

The Commission was however able to find out the following:

1) Plot 104 was transferred into the names of Godfrey Tenywa Mukasa on 10\textsuperscript{th} December 2003. Mr Godfrey Tenywa Mukasa happens to be one of the Directors of M/S Trusted Property Managers Ltd. a company that was contracted to manage Plot 30 William Street by the UMSC.

2) The Plot was later transferred into the names of Teopista Nabbale on 24\textsuperscript{th} February 2005.

3) The Plot was then transferred into the names of HAKS Express Ltd. on 1\textsuperscript{st} September 2005. Therefore, as at the time of compiling the report, Plot 104 was registered under HAKS Express Ltd.

The Commission was informed and noted that about 75\% of the buildings housing Kololo High School are situated on Plot 104. So whoever owns this plot owns 75\% of the buildings in which the school is housed.

The Commission was not able to talk to Mr. Hussein Abdullah Hamdani and therefore could not get a reason as to why when he (Mr. Hussein Abdullah Hamdani) donated Plot 102 to UMSC he did not do the same of Plot 104 since the two plots were originally on one land title and the buildings housing Kololo High School sits on both plots 102 and 104; and were said to have been donated
to the UMSC by the Dawood Bohra Community in 1972. Further more, the Commission noted that even the consent judgment of 2\textsuperscript{nd} October 2002 gave Plots 102/104 as one entity to Dawood Bohra Community.

c) Plot 30 William Street
This plot was donated to the UMSC by the Dawood Bohra Community on 10\textsuperscript{th} July 1972. The property was not transferred into the names of the UMSC until on 6\textsuperscript{th} August 1998. As a result of a case filed by one Mr. Hussein Tahir Amiji Malkan in which he contested the ownership of Plot 30 William Street, the UMSC was de-registered and the property re-registered into the names of Dawood Bohra Community on 17\textsuperscript{th} September 1998. Consequently as a result of a consent judgment of 2\textsuperscript{nd} October 2002 of the Supreme Court, Plot 30 was given to UMSC. It was accordingly registered in the names of UMSC on 19\textsuperscript{th} September 2003. Five minutes after its registration as a property of the UMSC, the Management of UMSC on the same day (19\textsuperscript{th} September 2003) subleased Plot 30 to M/S Trusted Property Managers for five years but with effect from 1\textsuperscript{st} July 2003, that is, the sublease was backdated for eighty one (81) days.

3.2.2 The illegality involved
The Commission noted that the decision to sublease Plot 30 to M/S Trusted Property Managers was made by the UMSC management and \textbf{NOT} by the Executive Committee. This was in contravention of Article 10 (9) (d) of the UMSC Constitution, which requires that such a transaction must be authorized by the UMSC Executive Committee.

The Commission noted that in the entire transaction involving Plot 30 William Street, there was no independent valuation report to ascertain the market value of the plot. The Commission did not find any evidence of premium paid to UMSC by M/S Trusted Property Managers Ltd. for the 7 year sublease period. Under the sublease agreement between Trusted Property Managers Ltd and the UMSC, the
former was to pay the latter only Shs 8 million (eight million Uganda shillings) as the monthly rent. The Commission further noted that the Shs 8 million (eight million Uganda shillings) was far less than expected given the value and location of the property.

3.2.3 Individuals involved
The Commission was further able to confirm through testimonies and by certified documentation that the UMSC officials who signed the sublease agreement for the five years were the following:

1) H.E. The Mufti of Uganda Sheikh Shabaan Ramadhan Mubajje
2) UMSC Secretary General, Dr. Idris Serugo Kasenene
3) UMSC Chairman, Hajji Muhammad Ali Adrama
4) UMSC Secretary for Administration, Sheikh Muhammad Musa Luyombya

The Commission further noted that the sublease of Plot 30 to M/S Trusted Property Managers Ltd. was extended for another two (2) years. This extension was communicated to M/S Trusted Property Managers Ltd. in a letter dated 5th May 2004 by the UMSC SG Dr. Idris Serugo Kasenene on behalf of UMSC Management. The SG’s letter was copied to H.E. the Mufti Sheikh Shabaan Ramadhan Mubajje, Secretary for Finance and Planning Mr. Adnani Koire, and Nyanzi, Kiboneka and Mbabazi and Co. Advocates. There was no evidence that the two (2) year extension for the sublease was approved by the EC. The Commission did not find any evidence of any objection by any of the officials who were copied the letter of extension to Trusted Property Managers by the SG.

The Commission found evidence that Plot 30 William Street was fully leased (NOT SUBLEASED) from the UMSC ownership to that of M/S HAKS Express Ltd on 12th May 2005. This transfer was effected on the strength of a resolution passed by a special EC meeting of the UMSC that took place on 11th January
2005 under the Chairmanship of Mr. Hassan Basajjabala, in his capacity as Deputy Chairman UMSC. It is stated in the minutes that when the matter to sublease the property was tabled, Mr. Basajjabala was asked not to chair that bit of the meeting because he had vested interests in the deal as he represented HAKS Express Ltd., and therefore an unnamed official is claimed to have chaired that session.

The Commission noted that during that special EC meeting of 11th January 2005, the resolution to sublease Plot 30 to M/S HAKS Express Ltd. was tabled and supported by most members except two people who opposed it namely: Sheikh Muhammad Kasakya and Sheikh Hassan Ibrahim Kirya. However the Commission noted that the resolution to sublease could not be sustained although supported by the majority of members of the EC. This is because an earlier High Court Order under Civil Suit 353 of 2004 Order number 3, instructed that no sale, lease or disposal of UMSC properties should be undertaken without a unanimous resolution of the EC of the UMSC. The resolution of the EC meeting of 11th January 2005 to sublease Plot 30 William Street to M/S HAKS Express Ltd. was not unanimous and therefore there should have not been any subleasing of the plot to any one. In effect therefore, the sublease was in contravention of the High Court Order.

Even if the resolution of the EC meeting of 11th January 2005 was to be valid, it was a resolution to **sublease** and **NOT** to **lease**. In other words change of full ownership from UMSC to HAKS Express Ltd. The Commission did not find any EC resolution whatsoever authorizing any one to transfer Plot 30 William Street to M/S HAKS Express Ltd. or any one else whether an individual, group, company or organization. Hence the transfer was in contravention of the UMSC constitution.
3.2.4 Individuals involved

The Commission was able to confirm through testimonies and by certified documentation that the UMSC officials who signed the transfer of Plot 30 William Street from UMSC ownership to M/S HAKS Express Ltd. were the following:

1) H.E. The Mufti of Uganda Sheikh Shabaan Ramadhan Mubajje
2) UMSC Secretary General, Dr. Idris Serugo Kasenene
3) UMSC Chairman, Hajji Muhammad Ali Adrama

The Commission further noted that in the entire transactions involving Plot 30 the UMSC administration did not use their own lawyer and instead used the lawyer of M/S HAKS Express Ltd. The commission feels that as a result of this anomaly, the UMSC interests were not well protected. For instance, the Shs 800 million contained in the MOU as consideration for the transfer of Plot 30 William Street to M/S HAKS Express Ltd. remained a subject of controversy. Mr. Basajjabalaba testified that the property was leased for 3.2 billion.

The UMSC top officials i.e. H.E. the Mufti Sheikh Shabaan Ramadhan Mubajje and the SG Dr. Idris Serugo Kasenene went ahead to ignore the legal advice provided to them as was evident in a letter dated 5th July 2005 from Kituma-Magala and Company Advocates written moreover on the request of the UMSC SG on the legality of MOU. M/S Kituuma-Magala and Co. Advocates warned the UMSC Management that the MOU, ‘can be questioned as far as its enforceability is concerned and if it becomes invalid abinitio, therefore all the subsequent transactions based on it become ineffective.’

The Commission also noted both H.E. the Mufti Sheikh Shabaan Ramadhan Mubajje and the Secretary General Dr. Idris Serugo Kasenene, were aware of earlier transactions between HAKS Express Ltd. and UMSC. In addition, they did not act honestly when they concealed information from the members of the
Management Committee meeting about the land transactions. They were also dishonest by keeping silent when the idea to lodge a caveat on UMSC properties was made in the meeting. The resolution was nevertheless left to proceed as stated in Minute 15/MGT/07/2005 of the same Management Committee meeting. The same Minutes 15/MGT/07/2005 clearly state other decisions that were made about UMSC properties. And these included:

a) legal procedures should be reviewed with respect to the properties  
b) Members observed that agreements should reviewed  
c) Members agreed that UMSC properties of the Council should not be sold  
d) Members recommended that transfer forms to return UMSC properties from HAKS Express Ltd. should be issued.

It should also be noted that the same MOU contained the sublease of other properties under inquiry by the Commission, that is, Plots 102 William Street, 12-16 Old Port Bell Road Luzira and another Plot at the UMSC Headquarters of size 42 by 30 meters. The Commission found contradictory size dimensions of the said Plot at the UMSC Headquarters. According to the MOU, it was 42 meters by 30 meters, and as per the variation deed signed by the UMSC SG to lease the said properties it was stated to be 50 meters by 40 meters; while in HAKS Express Ltd. documentation presented by Mr. Hassan Basajjabala the plot was said to be 30 meters by 20 meters!

The Commission noted that inspite of the warning made by Kituuma-Magala Advocates of the defects of the MOU the SG Dr. Idris Serugo Kasenene proceeded to sign the variation deed in which M/S HAKS Express Ltd. gained full ownership of Plot 30 William Street instead of it being subleased to the latter.
3.3 Another discrepancy about Plot 30 William Street

Some respondents testified to the Commission that when some members of the UMSC Executive Committee learnt that Plot 30 William Street had been fully acquired by HAKS Express Ltd. and that the latter was planning to sale it to another party, some members of the Executive Committee were asked by the Mufti to lodge a caveat on the property on 4th July 2005 at 3:20pm. At 3:23pm M/S HAKS Express Ltd. through its sister company M/S First Merchant International Ltd placed a mortgage on the same property. This was explicitly confirmed by Mr. Hassan Basajjabalaba during his testimony to the Commission.

The Commission noted with concern that whereas the caveat was lodged in earlier at 3:20pm, the mortgage which was registered at 3:23pm (3 minutes later) appears first on the encumbrance page of the land title. The Commission believes that there was some form of manipulation in the process of registering the caveat and the mortgage on the property in Ministry of Lands because the error cannot be explained as simply human since the Ministry of Land officials were already aware of the circumstances surrounding all plots in contention as per the Consent judgment of 2nd October 2002.

On successfully registering the mortgage on Plot 30 William Street by First Match International Ltd., M/S HAKS Express Ltd. was able to transfer the ownership of the plot to one Mr. Drake Lubega for an undisclosed amount of money. Although Mr. Hassan Basajjabala testified that it was agreed with Mr. Lubega that at the expiry of Drake Lubega’s lease period Plot 30 would revert to UMSC, there was no written undertaking to that effect.

The Commission was therefore able to confirm that as at the time of compiling this report, Plot 30 William Street was registered in the names of Drake Lubega with a lease period of 30 years.
3.4 The Perimeter shopping mall at UMSC Headquarters

According to testimonies by the UMSC SG and records of the UMSC Management meetings chaired by H.E. the Mufti Sheikh Shabaan Ramadhan Mubajje and attended by other members of Management, the perimeter shopping mall project resulted from financial pressures to run the operations of UMSC. The top officials of UMSC took it upon themselves without authorization of the Executive Committee to enter transactions with HAKS Express Ltd. in the hope that UMSC would raise money from such transactions. This was however done against the consent judgment of the High Court of 2004 which required the unanimous consent of the Executive Committee. This appears to have been a good idea from the surface of it, but the manner in which it was handled has resulted into immense anxiety in the Muslim Community. So, a sub-committee was established to consider the various options for fundraising for the UMSC, this sub-committee was named the Investment Committee.

3.4.1 The genesis of the Investment Committee

The Commission noted a significant contradiction in as when the Investment Committee was actually formed. According to the Investment Committee report to the Executive Committee of 29th July 2006, the Investment Committee was formed on the 11th January 2005. On the other hand according to the minutes of 11th January 2005, minute 4/1/2005, the Investment Committee was already in existence since on that same, it submitted a report to the Executive Committee on its progress on issues pertaining to the UMSC properties. In the same minutes of 11th January 2005, the Investment Committee had purportedly had several previous sittings.

The commission therefore concluded on this contradiction and discrepancy that either there was a deliberate cover-up of the truth about the establishment of the Investment Committee in order to legitimize the transactions between M/S HAKS Express Ltd. and some of the UMSC officials or there was negligence of
minute taking or a combination of both. The vivid contradictions in the minutes were also raised by various respondents during their testimonies to the Commission, who included among others H. E. the Deputy Mufti Sheikh Twalib Mukuye, Engineer Abbas Mugisha, Sheikh Hassan Ibrahim Kirya, Sheikh Ahmed Yahya Lukwago. Most of the mentioned members of UMSC doubted the authenticity of the said minutes, saying that they falsified by the Secretary General Dr. Idris Serugo Kasenene, the UMSC official responsible for the Secretariat at Management, Executive and General Assembly levels.

3.4.2 Perimeter construction events and deals

On 24th January 2005, “Top officials and the Management Committee deliberated on the financial constraints facing UMSC and the danger of depositing cash on UMSC Accounts. The UMSC officials claimed that the reason as to why they did not deposit any money on the UMSC accounts was the fear of attachment of such money by UMSC creditors. The Commission was not given the actual debt of the UMSC that culminated in such serious indebtedness.

The 24th January 2005 meeting ‘realized’ that the cost of drawing and approval of project plans for the perimeter shopping mall by Kampala City Council, leveling the ground and removing the soil from the site would consume all the Shs 600 million (six hundred million Uganda shillings), which had accrued (but actually not received) from the sub-lease of Plot 102 William Street. This meant that the perimeter shopping mall project at the UMSC headquarters would not be completed without another source of funding.

On 31st January 2005, the UMSC Secretary General Dr. Idris Serugo Kasenene in a letter to the EC, wrote to the Investment Committee that the reason to lease Plot 30 William Street to M/S HAKS Express Ltd. for 30 years for Shs 800 million (eight million Uganda shillings) was to save Plot 30 from the eminent loss, and that M/S Trusted Property Managers Ltd. was contemplating acquiring it, instead
of just being managers of rent collection and maintenance of the property under the sublease agreement earlier entered into with the UMSC. It should be noted that Godfrey Mukasa Tenywa, one of the Directors of Trusted Property Managers Ltd, is the same person who also bought plot 104 William Street.

The Investment Committee found the initiative by the ‘Top’ Management appropriate and did not have any objection and recommended it to the EC meeting of the 13th February 2005 which is claimed to have accepted the suggestions by the Secretary General and therefore allowed the commencement of construction work.

The Commission could not establish when exactly (date, day, and year) the actual construction of the perimeter shopping mall started because there was no documentation to that effect.

Plot 30 William Street would therefore be leased by the UMSC at Shs 800 million (eight hundred million Uganda shillings only) to M/S HAKS Express Ltd. so that M/S HAKS Express Ltd would undertake the construction of the first phase of the project, that is, the ground floor. In addition HAKS Express Ltd would compensate Trusted Property Managers Ltd. Shs 450 million (four hundred fifty million shillings) for the three years remaining on its sublease with the UMSC and another Shs 700 million (seven hundred million Uganda shillings) for the extra two year sublease extension earlier unknown to HAKS Express Ltd but known by UMSC officials, bringing the total amount paid by HAKS Express Ltd. to Trusted Property Managers Ltd to 1.15 billion Uganda shillings.

The commission also learnt that there was no premium disclosed by UMSC Management for the original five years and the two year extension of the sublease of Plot 30 William Street in favour of Trusted Property Managers. The letter of extension from the Secretary General Dr. Idris Serugo Kasenene only appreciated the rentals so far paid by Trusted Property Managers for the period
30th June 2003 to 30th June 2004 i.e. 96 million Uganda shillings. The commission noted with concern that while the Secretary General was aware of the fact that Trusted Property managers Ltd was trying to take over the lease for Plot 30, he went ahead to extend their sub-lease for two years without the consent of the EC as required by the constitution. The SG did not also revise the rentals for the property for the period of extension.

The commission learnt that the Trusted Property Managers was incorporated on 30th May 2003. The same company was contracted to manage Plot 30 William Street only a month after its incorporation. The commission felt that such a company was not the most qualified to manage Plot 30 and did not have the necessary experience to manage the property. In addition, not a single respondent including the secretary general and the deputy mufti could name any of the Directors of Trusted Property Managers Ltd. However, according to the testimony of Mr Muhammad Mbabazi, then advocate for Trusted Property Managers, the Directors of Trusted Property Managers were well known to the management of UMSC. He specifically pointed out a one Mr. Godfrey Tenywa Mukasa as having negotiated on behalf of the company and that the said Godfrey Mukasa was introduced to H.E. the Mufti of Uganda Sheikh Shabaan Ramadhan Mubajje by Mr. Mbabazi. It should be noted that H.E. the Mufti refused to testify to the Commission and therefore the Commission cannot confirm or deny the testimony of Mr. Mbabazi. The Commission failed to physically trace the Directors of trusted property managers. The only known Director of Trusted Property Managers Mr. Godfrey Tenywa Mukasa is said to be living in the USA.

In addition, the agreement for managing Plot 30 William Street was drafted by the Nyanzi, Kiboneka and Mbabazi advocates who were representing Trusted Property Managers Ltd. The UMSC did not have an independent legal representative in this transaction. The members of UMSC who signed the said
agreement were: Chairman UMSC, Muhammad Ali Adrama; H.E Mufti Sheikh Shaban Shaban Ramadhan Mubajje; Secretary General Dr. Kasenene and Luyombya Mayanja, Secretary for administration on 19th September 2003.

3.4.3 The raw deal out of the perimeter shopping mall

The Commission found the ‘sublease’ and thereafter the ‘lease’ of two properties i.e. Plot 102 for twenty (20) years and Plot 30 for thirty 30 years both going for a total amount of 1.4 billion Uganda shillings, while the mere surrender of the sublease interests of Trusted Property Managers Ltd on Plot 30 to HAKS Express Ltd. for five years going for 1.15 billion plus other costs to the Kampala City Council and unknown ‘backdoor’ monies as a ridiculous and an unacceptable transaction. Trusted Property Managers surrendered the sub-lease to HAKS Express Ltd on the 12th May 2005.

To make matters worse, this transaction was entered into without any independent valuation and the services of an independent lawyer, as part of the perimeter shopping mall construction deal. The commission is concerned that there might have been other factors considered by the UMSC officials for them not to seek professional help.

Later on the Commission learnt that Plot 30 was sold to Mr. Drake Lubega at a hefty US$ 1.8 million (one point eight million United States dollars). The Commission could not substantiate this amount, but in his submission, Mr. Hassan Basajjabalaba testifying on behalf of HAKS Express Ltd, valued Plot 30 William Street at 3.2 billion Uganda shillings and denies the Shs 800 million Uganda shilling indicated in the UMSC documents showed to him during his testimony. He maintained that there was a written agreement which carries the 3.2 billion figure and also promised to avail it to the commission. It should be noted that such agreement was never presented to this commission.
During his testimony, Mr Hassan Basajjabala informed the Commission that he is willing to convince his mother to give an area of 1200m\(^2\) plus ten offices of unspecified size dimensions on one of his properties on William Street, as a replacement for the Mosque located on Plot 30 William Street. He also affirmed that he is willing to give titled interests for that particular property to the Muslim community under the condominium law.

d) Plot 12-16 Old Port Bell Road Luzira

This plot was bought in 1977 from MKM Corporation Ltd by Industrial and Commercial holdings Ltd, a holding company of UMSC. By then, it was the home of Uganda Brush ware Manufacturers Ltd., a company belonging to the UMSC. The property was sub-leased by UMSC to Makai Ltd. for a period of 49 years with effect from 1\(^{st}\) November 1998. In his testimony to the Commission, the Secretary General informed the commission that there was no premium paid by Makai Ltd. to the UMSC in respect of the sub-lease, and that only rentals of one million Uganda shillings per month was payable in two installments i.e. 6 (six) million shillings every six months. However, in the Kaaya report, it was stated that Makai was paying a monthly rent of 1.3 million shillings.

The commission noted with concern that it was unreasonable for the UMSC officials to sub-lease such prime property of such size (area= 2.397 hectares) without charging any premium. The commission also noted with concern that like Plot 102, Plot 30 William Street, no valuation of any nature was made by UMSC to arrive at a one million monthly rent.

According to the minutes of the 17\(^{th}\) March 2005 joint meeting of the Investment Sub-and UMSC Management Committees seen by the Commission, it was resolved in that meeting that UMSC sub-leases its property at the former Brush ware Factory at Luzira to HAKS Express Ltd. for 43 years, in turn M/S HAKS
Express Ltd. should complete the second floor of the perimeter shopping mall at the UMSC Headquarters. The Commission noted that it is the ‘Top’ management of the UMSC, which summoned M/S Makai Ltd and entered into negotiations and agreed to pay him off for the remaining period of 43 years.

According to the report of the Investment Committee to the UMSC Executive Committee sitting on 29th July 2006, the UMSC Management that contracted M/S HAKS Express Ltd. to enter negotiations to pay off M/S Makai Ltd. Prior to the sublease arrangement of this property, according to Mr. Hassan Basajjabala, M/S HAKS Express Ltd. was subleased Plot 12-16 without being informed that there was another existing sublease to M/S Makai Ltd for which he paid a compensation of Shs 650 million shillings for the remaining 43 years of the sublease. Interesting though, at the time the Investment Committee inspected Plot 12-16 Old Port Bell Road Luzira, the members of the said Investment Committee observed that the property was already in the possession of M/S HAKS Express Ltd.

The Investment Committee nevertheless supported the arrangement between M/S HAKS Express Ltd and UMSC Management to have this property subleased to HAKS Express Ltd. but subject to the approval of the Executive Committee, which approval was never sought.

It was also agreed between UMSC officials and M/S HAKS Express Ltd. that M/S HAKS Express Ltd. handles all the encumbrances attached to the property and undertake all legal issues pertaining to that effect, incur all the costs thereof on behalf of the UMSC and effect the renewal of the property to 99 years, when it expires. This joint decision by the Investment Sub- and Management Committees was implemented by the UMSC Management one day after the meeting, that is, on the 18th March 2005, without the approval of the Executive Committee as required by Article 10 (9) (d).
It should be noted that at this point in time, the sub-lease of Makai Ltd. was still running with a balance of 43 years to its expiry. According to the testimony of the Secretary General of UMSC Dr. Idris Serugo Kasenene and the Deputy Chairman Mr. Hassan Basajjabalaba, they both acknowledged that M/S HAKS Express Ltd. actually received a sub-lease from the UMSC. The Vice Chairman testified that M/S HAKS Express Ltd. agreed to pay Shs 650 million (six hundred fifty million Uganda shillings only) to Makai Ltd so that their interests are taken by HAKS Express Ltd., although only 300 million has so far been paid as per documentary evidence shown to the Commission by Mr. Hassan Basajjabalaba through Makai Ltd’s lawyers, A. F. Mpanga and Musoke Advocates.

It should however be noted that M/S HAKS Express Ltd. has never been registered as a sub-leasee of this property. Nevertheless, M/S HAKS Express Ltd. took possession of the property. The Commission toured the property during August 2006 and was denied access by the guard at the entrance gate.

The status of Plot 12-16 at the time of compilation of this report is that it is registered in the names of Industrial Commercial Holdings Ltd as proprietor. It bears the encumbrance of Makai Ltd. as a sub-leasee. It also bears a caveat lodged in on 4th July 2005 by Sheikh Ahmad Yahya Lukwago, Sheikh Ibrahim Hassan Kirya, Sheikh Ismail Mugomba, Al-Hajji Badru Sabila and Mr. Siraji Kavuma Zaidi.

3.5 Plot 12-16 Old Port Bell Road and the perimeter shopping mall

Again, according to the minutes of the Special UMSC Executive committee meeting of 11th January 2005 the ‘Top’ UMSC officials, the UMSC could not embark on the construction of the first floor of the perimeter shopping mall due to the lack of finances. The UMSC ‘Top’ officials justified their actions by stating that the construction of the first floor would bring a good shape of the building and attract more tenants. M/S HAKS Express Ltd. therefore took upon itself after meeting with the said ‘Top’ UMSC officials to look for funds for the construction
of the 1st floor on the perimeter shopping mall. This is where the ‘catch’ of Plot 12-16 Old Port Bell Road Luzira comes in as an additional give away property of the UMSC in exchange of the perimeter shopping mall project. It was then added on the list of UMSC properties that were to be possessed by M/S HAKS Express Ltd.

The Commission learnt from the Secretary General during his testimony that the second floor on the same structure is being sponsored by what he called a ‘kind Muslim’ whose name he could not mention. He affirmed that the second floor was a donation to Muslims of Uganda. In contrast, when asked about the status of 2nd Floor on the same structure, Mr Hassan Basajjabala showed ignorance as to who was constructing it, but hinted that the Commission should direct the question to H. E. the Mufti of Uganda Sheikh Shabaan Ramadhan Mubajje.

As if that was not enough, the UMSC officials also agreed that after completion of the project, M/S HAKS Express Ltd. would manage the perimeter shopping mall for 12 years and recover ‘their’ money at the rate of 40% for the company and 60% to UMSC.

The Commission noted that unlike Plots 102 and 30 William Street where a monetary value (i.e. Shs 600 million and Shs 800 million respectively) was stated, no such value was stated in respect of Plot 12-16 Old Port Bell Road, and the plot at the UMSC Headquarters.

This was clearly a row deal for UMSC and an exploitative benefit on the part of HAKS Express Ltd., and negligence, incompetence and fraudulent on the part of the UMSC officials involved.

The commission noted that there were a number of transactions between Haks express Ltd and UMSC. Some of the transactions were authorized by the Executive Committee while others were in contravention of the UMSC
constitution. The commission also noted that the top UMSC management officials acted with dishonesty in certain instances. For example, by the time the issue of lodging a caveat was raised in the Management committee meeting of 28th March 2006, the top management had already lodged a caveat on plots 102, 30 and 12-16 Luzira. In addition, the Top officials concealed information from Haks Express Limited when they were leasing plots 102/104, 30 and 12-16 Luzira. By the time the UMSC leased plot 102 75 per cent of the building has already been leased along with plot 104 to Godfrey Mukasa Tenywa. By the time the top officials leased plot 30 to Haks, the same plot has already been subleased to Trusted Property Managers Ltd. In addition, by the time plot 12-16 Luzira was leased to Haks, it had already been leased to Makai Limited for 50 years. The lease was still running with a balance of 43 years. According to the testimony of Mr. Basajjabalaba, this dishonesty raised the cost of acquiring these properties by Haks Express Ltd since it had to compensate various people. Basajjabalaba testified that Haks express Ltd only acquired “hot air” from these transactions.

The commission also noted that there was poor, disjointed, and contradictory and un-coordinated recording of minutes, agreements, among others. The commission associated this to either negligent or incompetent officials or deliberate attempt to defraud the UMSC of its properties for personal interests.

In addition there were flaws identified in the transaction between UMSC and TPM. It is also clear to the commission that the different organs of the council involved in the said transactions performed functions outside their jurisdiction according to the UMSC constitution. Further more, specific UMSC officials conducted UMSC business in total disregard of the laid down procedure of the Council.
CHAPTER FOUR
CONCLUSIONS

1) Plot 12-16 Port Bell road, Luzira is registered in the names of Industrial and Commercial holdings Ltd, a holding company of UMSC. It is leased to HAKS Express Ltd for 43 years.

2) Plot 102 William Street once the property of UMSC, no longer belongs to UMSC. It is now the property of HAKS Express Ltd.

3) Plot 30 William Street once the property of UMSC, was leased to HAKS Express Ltd, is now the property of Mr. Drake Lubega.

4) The value of Plot 102 was Shs 600 million (six hundred million Uganda shillings), while the value for Plot 30 was Shs 800 million (eight hundred million Uganda shillings. The value of Plot 12-16 Luzira as well as the value for the 50 meter x 40 meter plot at the UMSC Headquarters was not established. All this money was to be used by HAKS Express Ltd. to put up the perimeter shopping mall at the UMSC Headquarters.

5) The unknown value of plot 12-16 Port Bell Road Luzira and that of the 50 metre x 40 meter plot at UMSC Headquarters was also used to construct the perimeter shopping mall at the UMSC Headquarters.

6) The UMSC officials who signed the transfer of plot 102 William Street from UMSC to HAKS Express Ltd. were:

   1. H.E Mufti Sheikh Shaban Ramadhan Mubajje,
   2. Secretary General Dr. Idris Kasenene and
   3. UMSC Chairman Hajji Muhammad Ali Adrama.
7) The UMSC officials who signed the transfer of plot 30 William Street from UMSC to HAKS Express Ltd were:

1. H.E Mufti Sheikh Shaban Ramadhan Mubajje,
2. Secretary General Dr. Idris Kasenene and
3. UMSC Chairman Hajji Muhammad Ali Adrama.

8) In all cases the sale of the properties constituted in Plots 102 and 30 William Street was done illegally as it was not approved by UMSC Executive Committee as required by the UMSC Constitution.

9) The decision to surrender Plot 12-16 Port Bell Road Luzira to M/S HAKS Express Ltd. was also done without the approval of the UMSC Executive Committee.

10) The deal between UMSC and HAKS Express Ltd. to build a perimeter shopping mall at the UMSC Headquarters was used by the latter to acquire plots 102 and 30 William Street, 12-16 Port Bell Road Luzira and the 50 meter by 40 meter plot at the UMSC Headquarters without UMSC administration ascertaining the cost of constructing the perimeter shopping mall.

11) The UMSC is at the mercy of HAKS Express Ltd. who can declare any amount as having been the money spent on constructing the shopping mall and could as such ask UMSC to surrender more properties if the figure is higher than what it might have got from the entire value obtained from all the properties UMSC had already leased to HAKS Express Ltd.

12) The deal was unfair to the UMSC and one wonders how the UMSC administration could have allowed M/S HAKS Express Ltd such a lee way in the handling of the UMSC property.
13) The Commission is in no doubt that the UMSC administration headed by H.E. the Mufti Sheikh Shabaan Mubajje and assisted by the Secretary General; Dr. Idris Kasenene acted in the most irresponsible way possible in the handling of the UMSC properties referred to herein.

14) While the role of the Chairman of the UMSC Hajji Muhammad Ali Adrama was prominent in the signing of the transfers of Plots 102 and 30 William street, the Commission was not able to ascertain whether he was acting from the same vantage information point as the other two who are responsible for the day to day running of the affairs of the UMSC. This is because he ordinarily resides in Arua and only comes to the Supreme Council for meetings and signing documents. He confirmed this in his testimony to the Commission.

15) The central key player in all these transactions seems to have been Mr. Hassan Basajjabala who doubles in this case as a ‘special envoy’ of HAKS Express Ltd and at the same time being the Deputy Chairman of the UMSC. It was clear to the Commission that Mr. Basajjabala had a conflict of interest in the whole matter, which interest was known to other UMSC officials. Mr. Basajjabala however views himself as a good Muslim whose actions were meant to save the properties of the UMSC.

16) H.E the Deputy Mufti Sheikh Twaib Mukuye signed a resolution said to have been arrived at by a special joint meeting of UMSC Management and Investment Committees subleasing the 50 meter by 40 meter plot of land for forty (40) years at the UMSC Headquarters to M/S HAKS Express Ltd. without the authorization of the EC of UMSC. This resolution was certified by Dr. Kasenene the Secretary General. It is also the same resolution that was used to sublease Plot 12-16 Port Bell Road. It is the considered opinion of the Commission that both the Secretary General and H.E. the Deputy Mufti should have known that such a commitment
required approval of the Executive Committee of UMSC. Their action was therefore in contravention of the UMSC Constitution.

17) The commission noted that the financial management system at the UMSC is poor, defective and inadequate.

18) Some UMSC officials acted outside their jurisdiction as laid down in the UMSC Constitution. According to the evidence before the commission, there was usurping of powers and conflict of roles at the UMSC.
CHAPTER FIVE
RECOMMENDATIONS AND WAY FORWARD

Preamble

The Members and Lead Counsel of the commission of Inquiry into the properties of Uganda Muslim Supreme Council;

Recalling the history of the Islamic faith in Uganda and particularly the history of the properties under inquiry;

Taking into consideration the virtues of Islam which teach forgiveness, reconciliation and brotherhood;

Recognizing on the one hand the dignity and status of all UMSC officials that have been named in this inquiry and the need to solve all issues (as contained in the terms of reference) before this Commission of Inquiry on the other hand,

Cautious of the need to maintain unity and stability of all Muslims in Uganda,

Convinced that the findings and recommendations of this Commission will lay a firm background for the future management of UMSC affairs;

Considering the oral evidence of all respondents that testified before this Commission and documentary evidence presented by respondents to the Commission, evidence gathered by the commission, as well as opinions of Muslim leaders and members of the governing bodies of UMSC,

Have agreed and recommend as follows:
A) RECOMMENDATIONS TO THE UMSC EXECUTIVE COMMITTEE

1) The Executive Committee should fund the Constitutional review commission to carry out a review of the UMSC Constitution.

2) The roles and powers of the office of the Mufti should be restricted to spiritual affairs.

3) The office of the Mufti should not be involved in the management affairs of any kind.

4) All officials of the Uganda Muslim supreme Council should follow the council constitution.

5) The UMSC should always use qualified professionals in their relevant fields when entering into any transactions.

6) The office of the Secretary General should be held by a Ugandan Muslim of impeccable character and proven integrity, assisted by a team of other officials under this office.

7) The UMSC should establish the Estates Department which takes care of all Council properties. This Department should be distinct from the office of the Secretary General.

8) The Constitution should decentralize the running of Council properties in the country according to Islamic districts in the country.

9) The recommendations of the Kaaya commission should be implemented by the Executive Committee, especially those concerning Council properties.
B) RECOMMENDATIONS ABOUT UMSC OFFICIALS

1) **The Secretary General**: The Commission is satisfied that despite his vast experience in UMSC affairs, Dr. Idris Kasenene exhibited high levels of incompetence and dishonesty in the exercise of his duties. The commission is further satisfied that he conducted himself in a manner unbefitting of his office with regard to the properties under inquiry. Accordingly, he should be relieved of his duties.

2) **The Chairman of UMSC**: Hajji Muhammad Ali Adrama should be strongly cautioned. The Commission noted that he is not a day-to-day manager at the UMSC. He testified to the satisfaction of this Commission that he travels from Arua to Kampala to normally sign hips of documents that were already prepared by the Management Committee of the Council.

3) **The Vice Chairman of UMSC**: Mr. Hassan Basajjabalaba exhibited a high level of conflict of interest during the land transactions between the UMSC and Haks Express Ltd. The commission finds that he is no longer fit to hold his office as Vice Chairman. However, the commission is also very cautious about the intricate nature in which the issue of Council properties has to be resolved. The Commission recommends that he should hold his office until such a time when the Executive committee is satisfied that the issue of UMSC properties is dealt with conclusively.

4) **His Eminence the Mufti**: Sheikh Shaban Ramadhan Mubajje should be relieved of his duties. He conducted himself in a manner unbefitting his office. The Commission is satisfied that he is no longer a fit and proper person to head the Islamic faith in Uganda. The Commission is satisfied that the Mufti’s exit will promote more unity and peace among the Ugandan Muslim population than his stay in office.
5) **His Eminence the Deputy Mufti**: The commission finds that Sheikh Twaib Mukuye conducted himself in a manner unbefitting his office. He should be relieved of his duties.

6) In view of the above recommendations in which some officials will be relieved of their duties, the Executive Committee should ensure that such officials are replaced according to the UMSC Constitution.

**C) RECOMMENDATIONS ABOUT THE PLOTS**

1) The commission recommends that the plots under inquiry be regained by the UMSC. However, their current proprietors (owners) have to be compensated for the amount of money they used in the purchase of those properties.

2) The services of a qualified property valuer should be engaged to ascertain the proper market value of the properties. That is what should be paid by the UMSC in order to regain the properties.

3) The UMSC officials who are responsible for the loss of the UMSC properties should be held responsible under the law.

4) The Executive Committee should cause an inquiry into all other properties of UMSC to ascertain their status.
DECLARATION

We, the undersigned, certify this Report as a true and authentic record of the work, findings and recommendations of the Commission of Inquiry into the properties of Uganda Muslim Supreme Council this 19th day of September 2006.

1. Dr. Mouhamad Mpezamihigo........................................... Chairman

2. Hassan Kulany ............................................................. Secretary

3. Muhammad Kisambira.................................................. Member

4. Amir Kirya................................................................. Member

5. Hassan Achoma.......................................................... Member

6. Abdul Sekabira .......................................................... Member

7. Mustafa Bahiiga .......................................................... Member

8. Kalenge Bashir ........................................................... Lead Counsel