

## NATIONAL RECORD

# Triton boss charged

By OMARI JUMA

**RUN-AWAY** Triton boss Agness Mohanal Devani was yesterday charged over the Shs 1.6 billion oil scandal.

Devani and nine employees of the Kenya Commercial Bank were charged in the Nairobi Chief Magistrate's court with stealing over US\$ 12 million from the bank and fraudulently obtaining US\$ 1 million from Petro Kenya Limited all worth over Shs 1 billion.

But the business tycoon who has been in charge of the bank since last December was accused of a fuel scam amounting to over Shs 2.4 billion, was charged in absentia as he is said to be in India from where he has filed

an application in the High Court to have criminal proceedings against him terminated.

A warrant for his arrest which he wants lifted in his application, is still in force.

But his co-accused, William Mundia, Collins Otieno, Julius Kilonzo, Job Kangogo, Samson Waka, Patrick Ngare and Peter Muthungu were each released on cash bail of Shs 1 million and their case will be heard on September 21 to run for four days.

Devani's Triton Petroleum Company Limited has also been enjoined in the suit.

The accused denied before Chief Magistrate Gilbert Mutembei that they stole the

amount between July 31 and August 1, 2008 at KCB's Moi avenue branch in Nairobi. The charge said that they committed the offence jointly with other people who were not before court.

They also denied a count of conspiring to defraud the bank by fraudulently discounting Triton Petroleum Company Limited four invoices amounting to US\$ 12, 241, 873.90 in breach of the limit approved and the conditions imposed by the Board of Directors of the KCB.

The charge said that they did the discounting when in actual fact, no oil was sold by Triton Petroleum Company to Total Kenya Limited as falsely

represented by the said invoices. The offence is said to have been committed between July 28 and August 1, 2008, at the bank's Moi Avenue branch in Nairobi.

And Job Kangongo, Samson Waka, Patrick Ngare and Peter Muthungu - all officers from the bank, denied a separate count of failing to prevent a felony.

The charge stated that between July 31 and August 1, 2008, at the bank, being officers of the bank and knowing that Devani and Triton Petroleum Company designed to commit or were committing a felony, namely theft of the above stated amount, from the bank, failed to use all reasonable means to prevent the commission or completion of the

said theft.

And before the Anti-corruption court, Devani, his company and seven other suspects were charged with fraudulent disposition of mortgaged goods.

Before Nairobi Senior Principal Magistrate Rose Ougo, Devani, the director of Triton Company, was charged again in absentia.

The rest, who were present, namely Mahindra Pathak, the Triton company's Supply and Planning manager, Julius Kyalo Kilonzo - the Planning manager, Collin Otieno, the head of Business Risk and Strategy and the finance manager of Devani's firm were charged and denied the offence.

Again enjoined in the suit was Triton Petroleum Company Limited. It was alleged that the five, on September 5, last year, in Nairobi, being the mortgagors of 19,186.130 cubic meters of AGO diesel, jointly and with intent to defraud the mortgagee, Emirates National Oil Corporation (Singapore) Limited, disposed off a volume of 13,054.850 cubic meters valued at US\$ 10, 446, 888.36 and Shs 32,047,783.66 of the fuel to Total Kenya Limited without the consent of Emirates National Oil Corporation (Singapore) Limited, the mortgagee.

The four also denied another count of fraudulently disposing of 675.592 cubic metres of Jet A 1 aviation fuel worth US\$ 550,020 to Total Kenya without the consent of the Emirates corporation.

The offence is said to have been committed on October 6, 2008, within Nairobi.

## Poll case requirement is punitive, affirms lawyer

By PAUL MUHOHO

THE requirement that election losers must deposit Shs 250,000 as security for costs three days after lodging petitions offends public policy and national interest, veteran lawyer Cecil Miller told the High Court yesterday.

The punitive sanctions locked out the majority of genuine election losers from challenging poll outcomes and unfairly denied courts of law the opportunity to intervene in election disputes, Miller told Constitutional Court Judges Roselyne Wendoh and George Dulu.

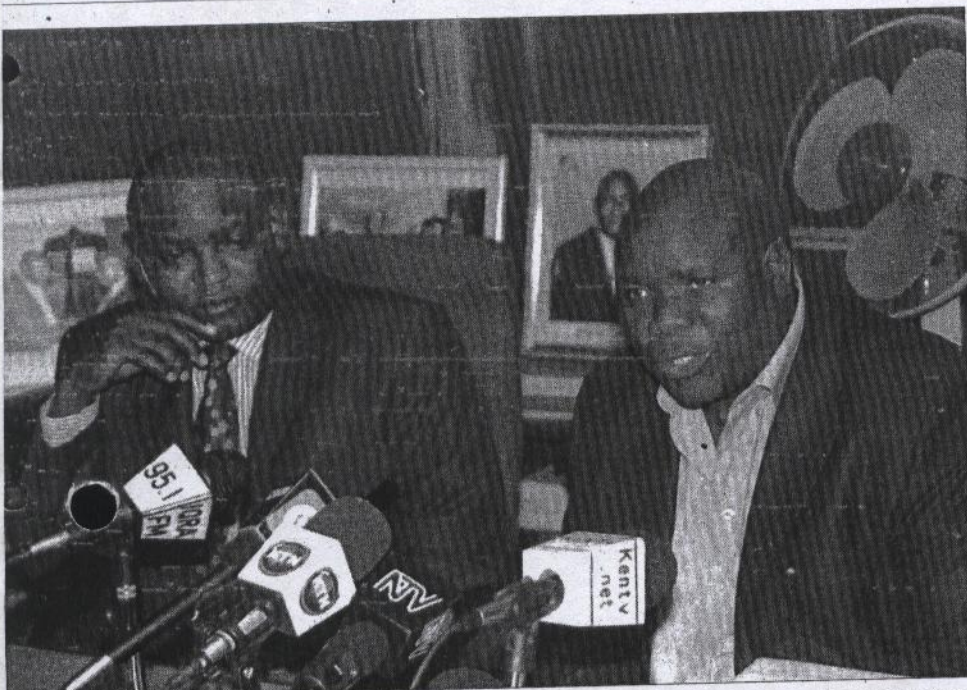
Miller, who is representing flamboyant Malindi politician and Magarini parliamentary election loser Franco Esposito, is seeking a declaration that all Kenyan citizens are entitled to equal protection of the law and that the requirement for security of costs is inconsistent with the supreme law of the land.

Esposito vied for the parliamentary seat on a KENDA ticket and garnered 6,456 votes

against East Africa Community (EAC) minister Jeffa Amason Kingi, the Orange Democratic Movement (ODM) flag-bearer who bagged 6,600 votes.

Esposito is aggrieved by the decision made on April 24, last year by High Court Judge Nicholas Ombija dismissing his application for an extension of time to present the deposit. He claims his lawyers were denied the opportunity to make the payment by the Malindi High Court registry staff on the basis they were time-barred.

"The restriction placed by Section 21 of the National Assembly and Presidential Elections Act is unreasonable and discriminatory against Esposito since it creates an unequal playing field between him, who for whatever reason was unable to pay the security for costs, and those of a respondent, who is not required to pay a similar deposit for security of costs within the same period," Miller argued.



Nairobi deputy mayor John Chege with Viwandani councillor Malna Kangara (right) address a press conference where they demanded the resignation of the mayor for allegedly presiding over the purchase of a second cemetery at an inflated price Shs 283 million instead of Shs 110 million - JOHNSON NJENGA

## City mayor in trouble over Shs 283m cemetery scandal

By NDUNG'U SARAH

**NAIROBI** Mayor Geoffrey Majiwa is a man under siege following the ongoing pressure for his resignation over the Shs 283 million cemetery scandal.

It was understood that Majiwa's stint at City Hall would end prematurely as a section of civic leaders are planning to force him out of office pending investigation into his role in the Shs 173 million rip-off.

The civic leaders led by deputy mayor John Chege Njoroge demanded that Majiwa resign immediately failure to which they will force him out of office barely a month before he complete his tenure.

"Majiwa should resign immediately for presiding over such a scandal and denying the dead their final resting place as Lang'ata cemetery has filled up," said Njoroge.

But in a quick rejoinder, Majiwa said he read malice in

the allegation leveled against him, saying his deputy (Njoroge) does not understand the operations at City Hall. "This is politic due to the forth coming mayoral elections, I will be calling a press conference to put the record straight, my deputy does not understand the Local Government Act Cap 265," Majiwa said on phone.

The Government lost Shs 170 million when it bought a 120-acre piece of land in South of Athi River Town for a new cemetery.

## Priest denies unnatural act claims

By MERCY MWAI

A CATHOLIC priest yesterday denied allegations of having unnatural act with young children in the country as aired by a local television station.

Speaking yesterday, Fr Kizito Sesena claimed that he is innocent as he has been out of the country since the beginning of the year.

Accompanied by his two lawyers, Fr Kizito explained that he only jetted into the country on Monday morning after he was informed of the allegations leveled against him.

While distancing himself

from the scandal, the Catholic priest, instead disclosed that the current scandal started last October where an anonymous email was sent, purportedly depicting him naked with a young adult but chose to ignore the matter.

He said: "Let me state very clearly. I have not had any unnatural act with any child whether here in Kenya or outside. I am ready to face anybody who can prove the opposite."

He added: "If the accusations against me are true, I am willing to face the full force of the law

and if the accusations are found to be false, those who have originated and stage managed them should equally be prepared to face the law."

Addressing the press, the cleric instead pointed an accusing finger to former board of trustees members of Koinoni home for the street children of being behind the allegations.

According to him, the former board of trustees members wanted to take over the properties of the Koinoni which he said amounts to more than Shs 3 billion.