

# TOBENNA EROJIKWE

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8<sup>th</sup> June 2024

The Chairman  
Electoral Committee of the Nigerian Bar Association  
ECNBA Secretariat  
NBA House, 9 Oro Ago Street  
Garki, Abuja.

Dear Sir,

## **SUNDRY ISSUES AND CONCERNS RELATING TO THE 2024 GENERAL ELECTIONS OF THE NIGERIAN BAR ASSOCIATION**

### **Introduction**

I am writing again in my capacity as a candidate cleared by the Electoral Committee of the Nigerian Bar Association (**ECNBA**) to contest for the office of the President of the Nigerian Bar Association ("**NBA**" or the "**Association**") in the forthcoming 2024 national elections of the Association being organized by your committee (the "**Election**"). In particular, I write to express concerns regarding certain issues relating to the conduct of the Elections.

As a preliminary matter, I would like to acknowledge and commend the ECNBA for the speedy response to my earlier concerns regarding the qualifications and suitability of the shortlisted companies selected to act as election platform service providers for the Election. It is in the faith that your good judgement and discretion will likewise be exercised towards the concerns raised in this letter that I am constrained to write to you regarding certain developments pertaining to the Election which I have found disconcerting.

As you are aware, the modality for the Election is as stipulated in the Constitution of the NBA 2015 (as amended) (the "**Constitution**"). These requirements are for good order, to ensure certainty of the electoral process and, to the extent possible, to eliminate post-electoral conflicts. These constitutional stipulations are sacrosanct, and strict compliance is mandatory, serving as an indicator of a free, fair and unimpeachable election. Mr Chairman, it saddens me to inform you that certain provisions of the Constitution which are critical to the Election have not, and are not being, complied with. I will now go on to enumerate these infractions which have the potential of tainting the credibility of the Election and the processes associated with it.

### **Failure to Provide Election Guidelines and Voters' List**

Firstly, the Constitution provides that the ECNBA is to issue guidelines for electronic voting at least sixty days before the date of an election. For purposes of comprehensiveness, I will lay out the provision verbatim. Paragraph 2 of Part VII of the Second Schedule of the Constitution provides thus:

*“The ECNBA shall, not less than sixty (60) days to the date of election, issue guidelines for conduct of electronic voting, which shall amongst other things provide for verification of voters, time, and platform to be utilised for electronic voting.”*

Being that the election is slated to hold 20<sup>th</sup> July 2024, it is expected that the guidelines ought to have been released, at the latest, on 21 May 2024. However, as of today, the guidelines for electronic voting have not been released. Even more so, members of the Association have not been apprised of the platform, if any, to be used for the electronic voting.

Secondly, the ECNBA also is mandated to publish a full list of the members of the NBA eligible to vote no less than forty-five days before the Election. Paragraph 9 of Part IV of the Second Schedule to NBA Constitution provides thus:

*“[t]he full list of the members of the Association qualified to vote shall be published by the ECNBA at least forty-five (45) clear days before the date of the election.*

Again, counting from the tentative date of the Election, this requirement ought to have been fulfilled no later than 5 June 2024. Even though I am aware that a verification process is being carried out by the NBA, I do not believe that the exercise amounts to a publication of voters' names. At the very best, it may well be a precursor to the said publication, but invariably means that a crucial requirement for the conduct of the Election remain unfulfilled and casts a shadow of doubt on the preparedness of the ECNBA to credibly conduct the Election.

Mr. Chairman, these timelines and stipulations are in place in order to give voters ample time to get familiar with the electronic voting platform and process prior to an election date, and to ask questions where necessary while still allowing the ECNBA ample time to resolve any issues arising without impacting the timelines or credibility of an election. You would recall that these provisions were introduced into the Constitution following a meticulous review and overhaul of the Association's electoral process by the Ayodele Akintunde SAN-led Electoral Reform and Audit Committee set up under the presidency of Mr. Olumide Akpata. The expectation when they were introduced is that they would eliminate any complications that the voters may experience during the process and provide the ECNBA with ample data regarding the suitability of any chosen platform. These were the permutations that informed why the previous administration strictly complied with these constitutional requirements during the 2022 NBA general elections.

With these matters outstanding, there is unavoidably a high degree of skepticism regarding the possibility of the Elections holding on the tentative dates as that would be tantamount to flagrantly deviating from Constitutional requirements, opening up a potential quagmire post the Election.

However, and more importantly, the departure from constitutional requirements and timelines raises the question whether the ECNBA was not aware of these deadlines, whether contingent plans were not in motion to address them and, more importantly, if they would have been addressed in the absence of a notice from me or any other candidate in the Election. The election process is expected to be both transparent and collaborative. Where the ECNBA, for reasons which, understandably, may be outside its control, fails to meet up with constitutionally-stipulated timelines, my expectation is that such failures, reasons for same, and amelioration strategies, would be communicated both to the candidates and the electorate. It is disheartening that this has not been the case.

### **Data Security Concerns with the Voter Verification Process**

I would also like to bring to light several issues that I have encountered regarding the voter verification process employed by the ECNBA. By the ECNBA Notice No. 8 of 28 May 2024, the ECNBA requested members of the NBA to verify their personal details and contact information on the provisional voters' list published by the ECNBA. The aim, I believe, was to enable voters to correct errors in their personal details, as well as enumerate any issues they encountered during the process. Please consider the succeeding paragraphs as my report of observations from the verification process.

As many would attest, the verification process is seamless: members of the Association are required to visit the NBA portal using a link provided, insert their Supreme Court Numbers (SCN) and their details would be displayed. Thereupon, they are allowed to edit the details, as necessary. *The simplicity of the process may well be its bane.* As must be evident from the preceding narration, anyone (whether a member of the Association or not) can alter details of any member on the portal simply by having access to the other member's SCN. Aside from the data privacy issues the porous security infrastructure provided for the verification process portends, there is also a very glaring concern regarding malicious alteration of voter information and tampering with the voting process. As one who is familiar with the history of data security breach allegations in some NBA elections, the risk of such untoward conduct is neither unthinkable nor ridiculous.

I understand that this security lacuna may be an oversight, but thankfully can be easily rectified by the ECNBA. There simply needs to be an authentication process for access to member details on the NBA portal. This could be in the form of the requirement for further details such as mobile telephone numbers or having the portal accessible to members using password or codes sent to their mobile numbers or their emails on the record. I do not believe that the process of pooling such mobile numbers or email addresses will be arduous considering that these details were most recently used by members in paying their Bar Practicing Fees. There has to be a middle-ground between ease of access and security compromise and a solution that factors both in will be acceptable to me, and I believe, a large number of the voters.

It would be belabouring the point to state that the absence of appropriate safeguards of voters' data both prior to, during and post the Election would impact the credibility of the Election. Security mechanisms ought to be visibly in place such that voters can be confident that their votes are not tampered with, and to reduce, if not at least obliterate, the grounds for a challenge of the Election which an obvious vulnerability, such as the one pointed out, would be a ground for.

### **Recommendations**

My immediate recommendations will be for the ECNBA to very quickly (i) let the candidates and the voters know the platform that will be used for the Elections in a manner consistent with the provisions of the Constitution; (ii) give the candidates reasonable time and opportunity to question the integrity of the process and the platform – including through their expert advisers; (iii) call a meeting of candidates and stakeholders to discuss any challenges of the ECNBA and provide assurances as to the ECNBA's preparedness for the Election and the overall integrity of the process; (iv) formulate measures to protect an safeguard unauthorised access to members' data during and after the verification exercise; and (v) actively ward off/resist any external interference or involvement with the process of the Election.

### **Conclusion**

Again, I must reiterate my general commendation of the work done by the ECNBA thus far. However, the job is not done until the Election is **successfully** delivered. Permit me also to state that this letter is not intended to be antagonistic or unnecessarily pedantic. It is rather a result of genuine concerns regarding the plans and processes being put in place for the Election and expresses my hope and desire to have a successful Election.

Please be assured that my team and I will continue to very closely monitor the process of the Election and will not hesitate to write again, or engage the ECNBA further, if we become aware of any act or omission that could impact the credibility of the elections of an Association that ought to be a shining example to other professional associations and indeed the Federal Republic of Nigeria, on how elections should be conducted.

I am confident that the ECNBA will take steps to speedily address the issues in this letter and look forward to providing any further assistance that you may require.

Accept my sincerest regards,

A handwritten signature in black ink, appearing to be 'Tobenna Erojikwe', written over a white rectangular background.

Tobenna Erojikwe.