

TOBENNA EROJIKWE

NIPOST TOWERS (1st Floor)

98, Adeola Odeku Street, Victoria Island, Lagos.

Tel: +234(0)8096955974 Email: tobenna.erojikwe@thelawcrest.com

PRESS RELEASE:

Dear Colleagues,

You would recall that on 22nd July, 2024, I wrote to the Electoral Committee of the Nigerian Bar Association (**ENCBA**) requesting for an audit of the 20th July, 2024 NBA National Officers Elections (the "**Elections**") in line with the relevant provisions of the Constitution of the Nigerian Bar Association (the "**Constitution**"). Interestingly, on 26th July, 2024 the ECNBA responded and refused the request for an audit contrary to the clear provisions of the Constitution.

Since that refusal, I have received several telephone calls and messages from many of our colleagues who were, understandably, worried that a bad precedent has been set in our electoral process by the ECNBA, and that the ECNBA's posture has heightened their misgivings about the Elections. I am particularly concerned about some callers and well-wishers who expressed despair and lack of faith in the electoral process of our noble Association, even going forward. I am worried because despondency and apathy cannot augur well for our Association. We cannot allow ourselves to become disenchanted or uninterested in the affairs of the Nigerian Bar Association because of what appears to be the untoward conduct of a few.

It is on the basis of the foregoing that I am issuing this brief press release to reassure lawyers across Nigeria that we must and ought to continue to show interest in our Association, to engage and to interrogate our processes at every turn. It is only by holding the operators of the system accountable that we can make progress both as an Association and as a nation. On my part, I am determined to continue working to improve the system and make it more accountable to members of the Association. This is what I have always done, even at a time when I had no intention of running for office. I encourage all members of the Nigerian Bar Association to adopt similar disposition.

In keeping with this spirit, on 31st July, 2024, I lodged a Petition with the NBA National Officers Elections Appeal Committee ("**Appeal Committee**") challenging the results and conduct of the Elections. On Friday, 9th August, 2024, I further submitted three different *subpoena duces tecum* to the Appeal Committee. These subpoenas are aimed at compelling the production of relevant materials and documents used for the Elections so as to be able to give the Appeal Committee a fair and complete picture of what transpired.

On Saturday, 10th August, 2024, by 1:50PM, I received a notification from the Appeal Committee informing my legal team and I that hearing would commence on my Petition on Monday, 12th August, 2024. The email further stated that we would be advised if our

physical presence would be required. Without receiving any further direction, on Sunday, 11th August, 2024, my legal team sent another email to the Appeal Committee asking for the time of the sitting and the medium. By 4.45Pm on that same Sunday, the Appeal Committee tersely responded in this manner – “physical sitting of the Appeal Committee will commence tomorrow at 9.am”. The notice was awfully short and did not state the venue of the meeting. We promptly wrote back to the Appeal Committee and complained of the short notice while asking for the venue of the sitting.

We did not receive any response from the Appeal Committee until 9.04am on Monday, 12th August, 2024 wherein the Appeal Committee informed us that it would be sitting at No. 9 Oro Ago Crescent, Garki, Abuja. In view of the fact that senior members of my legal team are based in Lagos, we quickly asked a colleague in Abuja to rush down to the venue and explain our inability to attend at such a short notice and to get another date. We also sent an email to the Appeal Committee asking that the matter be adjourned to Wednesday or Friday. The Committee refused to adjourn but informed our colleague that they would sit by 1PM to enable counsel for the Respondents to attend.

When the Committee eventually sat, the Chairman stated that it would not receive any evidence or hear witnesses because the Appeal Committee was a fact-finding Committee. The Chairman also stated that he heard that my legal team had filed a suit in Court and directed my colleague who represented me to send copies of the processes to him by email. The observation and remark were strange because the Appeal Committee and its Chairman are not parties to the suit referenced and the processes were filed ex parte without service on any party. What was obvious was that the Chairman of the Appeal Committee had discussed my Petition and related matters outside the sitting of the Appeal Committee.

In all, while I have no intention of discussing the merits or otherwise of the Petition while it is pending, I am worried by some events: (i) the very short notice sent to my lawyers on Sunday for a sitting happening on Monday without stating the venue; (ii) my colleague who appeared for me was informed by a member of the Appeal Committee that Monday's sitting was the second sitting of the Appeal Committee; (iii) the Committee unilaterally directed that no evidence would be entertained without considering the subpoenas already filed before it; (iv) the pronouncement by the Appeal Committee that it was merely a fact-finding Committee; and (v) the want of jurisdiction of the Appeal Committee in terms of its composition – (while pursuant to section 14(1)(L) of the NBA Constitution, the Appeal Committee was set up and its membership delineated to be seven persons, the Appeal Committee that sat on 12th August, 2024 comprised of six members).

Further to the foregoing, on Tuesday, 13th August, 2024, my attention was drawn to reports in the social media that the ECNBA had conducted an audit and issued a “Final Report” of the Elections. This is curious considering the fact that ECNBA had informed me in no uncertain terms that conducting an audit as mandated by the NBA Constitution would violate data privacy rights and that no such audit would be conducted. What ECNBA has done instead is to become a judge in its own case. The audit contemplated by the NBA Constitution is an independent one where persons outside the ECNBA will be able to interrogate the process and be reassured that the Elections was transparent. The

ECNBA has refused to facilitate this process but instead has made a mockery of it with its latest outing.

I will like to reproduce the relevant provisions of the NBA Constitution to enable our members understand the extent of the accountability and transparency expected from ENCBA in an Elections audit:

Second Schedule, Part II, Paragraph 8(b), (c), (d) and (e) of the NBA Constitution-

"8. The ECNBA shall display openness and transparency in all its activities and its relationship with all members, particularly the candidates for the Elections, and shall ensure the following:

(b) provide an explanation in response to reasonable requests, for a decision it has made as part of the electoral process or a decision made as part of the general conduct of the Elections;

(c) establish a system that allows interested parties to access, in a timely manner, all critical information, documents, and databases used in an Elections process, or used in the normal operation of the Elections administration;

(d) disclose fully any deficiency in the administration of an Elections when it comes to its attention;

(e) make freely available and in a timely manner, the information on which each decision was based." (Emphasis supplied)

CONCLUSION:

I want to make it clear that all I have done since after the Elections is to ask the ECNBA to abide by the above provisions of the NBA Constitution and I will continue to do so.

Thank you.



Tobenna Erojikwe
13th August, 2024.