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The Chairman and Members of the Nigeria Bar Association National Officers Elections Appeal Committee (Appeal Committee)
NBA Institutes' Building
No. 9 Oro-Ago Crescent, off Twon Brass Street
Muhammadu Buhari Way, Garki, Abuja

Ladies and Gentlemen,

THE LIKELIHOOD OF BIAS AGAINST ME IN THE WAY AND MANNER THE APPEAL COMMITTEE HAS CONDUCTED ITS PROCEEDINGS IN THE PETITION I FILED AGAINST THE ELECTIONS OF 20TH JULY, 2024.

I am constrained to humbly ask that you recuse yourselves from further conduct of the proceedings of the Nigeria Bar Association National Officers Elections Appeal Committee (the Appeal Committee) as Chairman and Members, with regard to the Petition I filed against the Elections of 20th July, 2024 because I strongly believe that there is the likelihood of bias against me. My opinion is partly based on (i) the events that happened between Friday, 9th August to Monday, 12th August, 2024; (ii) and public expression of partisanship from the Chairman and some members of the Appeal Committee.

On Friday, 9th August, 2024, my legal team filed three subpoenas *duces tecum* against three of the Respondents to compel them to produce relevant documents used in the conduct and administration of the Elections of 20th July, 2024. The following day, Saturday, 10th August, 2024, by 1:50PM, my legal team received an email from the Appeal Committee informing them that sitting would commence on Monday, 12th August, 2024. The email did not contain the time and the venue of the sitting but stated that my lawyers would be informed if their physical presence would be required. However, we did not receive any further directives about the venue and the time.

Therefore, on Sunday, 11th August, 2024, my legal team sent an email to the Appeal Committee asking for the time of the sitting and the medium. On that same Sunday, by 4.45Pm, the Appeal Committee tersely responded in this manner – “physical sitting of the Appeal Committee will commence tomorrow at 9.am”. This very short notice did not include the venue of the sitting. My legal team wrote back to the Appeal Committee and complained of the short notice while asking for the venue of the sitting. The Appeal Committee did not respond until 9.04am on Monday, 12th August, 2024, the same day that sitting was scheduled to start by 9.am. When the Appeal Committee sent the

information that the venue would be at No. 9 Oro Ago Crescent, Garki, Abuja, it was already four minutes past the scheduled time of the sitting and too late for me and my lawyers to proceed to Abuja from Lagos to appear in the proceedings.

My legal team therefore delegated a colleague in Abuja to quickly proceed to the venue to obtain an adjournment to Wednesday, just two days away. My legal team also sent an email making the same request.

Refusal of Adjournment Despite the Short Notice:

The Appeal Committee flatly refused our application for adjournment in the circumstances narrated above, thereby greatly hampering my constitutional right to fair hearing and to have legal representation of my choice. Conversely, the Appeal Committee was very magnanimous to reschedule the sitting to 1PM to enable counsel appearing for one of the Respondents to attend the proceedings. I am inclined to believe that the refusal to disclose the venue to my legal team was deliberate and intended to keep my lawyers and I away from the proceedings.

Ex-Parte Communication Relating to My Petition and Other Matters:

In the course of the proceedings of 12th August, 2024, the Chairman of the Appeal Committee observed that I had filed a suit in Court relating to the Elections and directed that same be forwarded to the Committee through email. However, there were no processes filed before the Appeal Committee containing this information and neither was that information supplied to the Appeal Committee by any of the parties at the proceedings. It is inexplicable how the Appeal Committee became seised of this pending suit and the circumstances. The reasonable inference is that the Appeal Committee have had ex-parte communication/deliberations over my Petition and related matters, including the said suit, behind my legal team and I. If this is correct, it is a very grave misconduct for which the Appeal Committee ought to withdraw from further conduct of this matter.

To further highlight the issue of holding proceedings behind me, the Appeal Committee informed my colleague that attended the proceedings that his presence was not necessary and that the Appeal Committee had sat prior to that date without informing me or my lawyers.

Refusal of the Appeal Committee to Conduct Hearings and Admit Evidence:

The Appeal Committee foreclosed any hearing and presentation of evidence because it claimed that it was merely a "fact-finding Committee". This refusal to play an adjudicatory role is contrary to the provisions of **section 14(1)(L) and 14(2)(L) of the NBA Constitution** pursuant to which the Appeal Committee was set up. In particular, section 14(2)(L) provides as follows:

"National Officers Election Appeal Committee shall receive and resolve electoral complaints and disputes arising from the election of National Officers..."

Clearly, "resolving disputes" as used in the Constitution is an adjudicatory function/power conferred on the Appeal Committee to resolve disputes arising from National Officers Election. Thus, the Appeal Committee must observe the principles of natural justice in the conduct of its proceedings. Having submitted a dispute to the Appeal Committee, it is inimical to its role for the Appeal Committee to refuse to function in an adjudicatory capacity.

Non-Partisan Disposition of the Members of the Appeal Committee:

I have also been made aware that some members of the Appeal Committee have openly declared their support for the candidate that was declared winner (the 5th Respondent in the Petition). I have received media evidence of such non-partisanship regarding some members of the Appeal Committee but I will briefly dwell on the Chairman, Mr. Usman Ogwu Sule, SAN who issued a congratulatory message to the 5th Respondent and circulated same widely. In part of that message, the Chairman of the Appeal Committee commended the leadership of NBA "for being steadfast for the emergence of the people's President". He went on to describe the Elections as "historic", "epochal" and "the freest and fairest NBA General Election".

Having publicly expressed such partisan opinion over the conduct of the Elections, the Chairman of the Appeal Committee is not qualified to sit as an unbiased umpire over disputes arising from that Elections. Indeed, he had a moral obligation to excuse himself from the Appeal Committee and it is a travesty that he did not.

Conclusion:

It is for the above reasons that I reasonably believe that there is a likelihood of bias against me from the Appeal Committee. Therefore, for justice to be done and be seen to be done, I respectfully ask that a new and independent Elections Petitions Committee be set up to hear and determine my Petition against the NBA Elections of 20th July, 2024.

Thank you.



Tobenna Erojikwe
13th August, 2024.

CC:

The President, Nigerian Bar Association