



NIGERIAN BAR ASSOCIATION

ELECTORAL COMMITTEE 2020

C/O NATIONAL SECRETARIAT, PLOT 110, OFF MUHAMMED BUHARI WAY, CBD, ABUJA

August 5, 2020

CITY LAWYER

The Chairman,
Board of Trustees,
Nigerian Bar Association

Dear Sir,

RE: **PETITION BY JULIUS OLADELE ADESINA SAN IN RESPECT OF THE NIGERIAN BAR ASSOCIATION 2020**

Kindly refer to the above subject and your letter on the same dated the 3rd August, 2020. I have seen the correspondence by Mr. Dele Adesina SAN, FCI Arb titled "THE NIGERIAN BAR ASSOCIATION 2020 NATIONAL OFFICERS ELECTION: A CASE OF CLASSICAL ELECTRONIC FRAUD, ILLEGAL AND UNCONSTITUTIONAL PROCESS: CALL FOR CANCELLATION AND A NEW ELECTION CONDUCTED FOR THE NIGERIAN BAR ASSOCIATION (NBA)" and make the following response as you have requested of the Committee.

1.0 Preamble

The preparations for the 2020 NBA national officers' elections began with the inauguration of the ECNBA on the 12/3/2020. Compelled by the global health challenges of the COVID-19 restrictions, the Committee interacted with stakeholders through its several Press Releases/Statements (1-21). It compiled the voters list from the record of payment of Bar Practicing Fees (BPF) and Branch Dues (BD). It called for nominations and screened Candidates for the elections. The ECNBA, through a transparent process, engaged an IT Consultant to advise the committee on the best possible

options to achieve maximum result for the e-voting system and an enterprise voting platform to conduct the election. A record of Over 18,000 members of the NBA voters participated in the NBA national officers elections. In specific terms, the list of legal practitioners qualified to vote in the 2020 NBA national officers elections stood at 39,000. The verified voters were in excesses of 30,000. Of this number, 18,256 voters cast their ballot, representing over 62% or verified/accredited Voters. The results were observed from all locations real time and same were later officially announced by the ECNBA. The election was adjudged by many as free, fair and transparent.

It is noteworthy that in 2016, a total of 24,305 Lawyers made the final voters' list. 11,646 members (47.92%) verified, 5,439 voted representing 22.38% of the electorate and 46.7% of those verified by accreditation to vote. In 2018, a total of 32,228 Lawyers made the final voters' list. 16,825 (52.2%) verified, 12,421 voted representing 38.54% of the electorate and 73.82% of those verified by accreditation to vote. In 2020, a total of 39,321 Lawyers made the final voters' list, 29,632 (75.36%) verified, 18,256 voted representing 46.43% of the electorate and 61.61% of those verified by accreditation to vote.

Specifically on the kernel of the issues raised by Mr. Adesina SAN, the ECNBA states that no illegal, inaccurate or flawed Voters Register was used in the 2020 National officers' elections of the Nigerian Bar Association neither was the process subverted nor manipulated against or in favour of anybody by any person.

2.0 **Pre-election Concern and Agitations**

The learned Silk raised some issues under the following subheadings.

The Elections:

1. Illegal Voters Register.
 - a) Publication of Voters Register.
 - b) Inaccurate and Flawed Voters Register

- c) Use of Stamp and Seal Payment by the National Secretariat/ECNBA
- d) Final Voters List.

The ECNBA states that it did not make, use or deploy any illegal Voters Register for the 2020 NBA National officers' election. Every single voter in the 2020 national officers' election is a member of the Nigerian Bar Association with record of payment of Bar Practising Fees and Branch Dues as stipulated by the NBA Constitution. The Electronic voting platform is designed in such a manner that a post-election audit can identify every voter and his choices at the election.

In complying with Article 1.2 (d) NBA Constitution, the ECNBA in conjunction with the National Secretariat of the NBA published the **full list of all legal practitioners qualified to vote on the 1/7/2020**, at least twenty eight days before the date of the election-29/7/2020. See the ECNBA Statement No.012. The said Final Voters' list contained a total of about 39,321 members properly displayed according to their branches. This list was compiled from the records supplied by the NBA Branches, members and the National secretariat. The stamp and seal list for 2020 was a mere handmaiden provided by the National secretariat based on data supplied by the Branches of persons who had paid their Bar practicing fees and Branch dues as prequalification for application for stamp and seal. The Branches sent further details to cover those whose names were not on the stamp and seal list.

Members were thereupon urged to do their verification personally on the NBA portal. Verification simply meant 'confirm your data/personal details and your preparedness to vote'. This is the same process known as accreditation. The Independent National Election Commission (INEC) does accreditation on the day of election, announces the results of both accreditation and voting the same day.

The verified/accredited (29,635) voters' list presented on 29/7/2020 by the ECNBA Statement No-018 is the accredited voters' list. At the virtual engagement with stakeholders on Saturday 25/7/2020, the ECNBA

promised to make public the list of all those verified/accredited to vote at the elections to enable a transparent process of audit before and after the elections. This must not be confused with the (39,321) final voters' list of legal practitioners qualified to vote as required by Article 1.2.(d) to be published at least twenty-eight (28) days before the election.

Paragraph 1.2(f) of the second schedule provides thus:

*"All members of the Association shall be eligible to vote at the general election for National Executives provided that such members must belong to a branch and must have paid both the practicing Fees and branch Dues as at when due and **are duly registered to vote at that election**"*

On the issue of names of Lawyers on the accredited list without Branches indicated, it should be noted that the said names already had their branches indicated in the full list of all legal practitioners qualified to vote which was published on the 1st of July 2020. Similarly, the names that were erroneously tagged as International Diaspora, had their correct branches indicated on the aforesaid list of 1st July 2020. The error of the International Diaspora designation arose from the fact that same was amongst the list of branches on the NBA Verification portal (perhaps for futuristic projections) and became a default place holder for any member who did not indicate his/her Branch during verification. This was addressed in the contents of ECNBA Statement No.019 thereto.

2. Loading of Predetermined data and Disenfranchisement

It is unclear what the Petitioner means by 'loading of pre-determined data'. The ECNBA however denies any untoward activity in the upload of data on the voting platform that would affect the outcome of the elections or disenfranchise any voter in the elections. The ECNBA by Statement No.019 explained the circumstances around the complaints of members that they were put in branches other than their own. The full text of the statement reads:

On this 29/7/2020, the ECNBA circulated the list of accredited voters for the NBA National Officers election slated to commence at 11:00pm of Wednesday, 29/7/2020.

Members are assured that the unique identifier of each voter to be able to vote remains the enrollment number which is peculiar to each voter.

The ECNBA received complaints of members being placed in branches other than their own. This situation is regretted but arose because members in the course of verification did not fully update information on their current branches and or sex and consequently were assigned the default positions (place holder) on the verification platform.

Members are advised to proceed to vote and disregard any such branches and or sex assigned to them as these do not bear on eligibility, convenience or result of the elections.

Members may wish to update their details on the membership portal of the NBA after the elections. In respect of omitted names, please see the ECNBA previous Statements, more particularly ECNBA Statement No.018..."

In the ECNBA Statement No.018, it was indicated that 1604 names with duplicated phone numbers and or email addresses were excluded.

The accredited Voters' list with the proper Branches of members reflected will be forwarded to the BOT. It may be compared with the names on the final voters' list prior to verification/accreditation. It should be noted that the active element for the election or unique identifier for each member was the Supreme Court Enrollment Number (SCN). At no time did the Committee receive any complain about 'SAN Number' which may well have been a reference to SCN number, if at all such an incident occurred. There is no such requirement for eligibility to vote in the elections.

The ECNBA reiterates that no data was programmed and/or preconfigured to a premeditated result "in any case of data diddling". There was never

and could never be any unholy alliance and collaboration between any candidate and the ECNBA.

3. Use of Service Provider(s) to develop the Election Portal and manage the election process.

The duty to manage the electoral process rests squarely on the ECNBA, not on the ICT Consultant or Service/Platform provider or candidates and it is a duty the ECNBA takes very seriously. In furtherance of this responsibility, the ECNBA was solely responsible for engaging the IT Consultant and determining the Platform to be used for the elections on the advice of its Consultants. Negotiations with the service providers were necessarily carried out by the ECNBA IT Consultants on its behalf. The election platform deployed for the voting is not the NBA portal nor is it a newly developed platform registered in the morning of the Election Day as alleged by my learned brother Silk. Rather, it is a foreign enterprise platform called *Election Buddy* with a pedigree for the kind of electoral exercise conducted by the NBA. Prior to the voting exercise, the platform had been put through series of trials via mock elections involving the ECNBA members and national officers (excluding the NBA President), with a good showing. At the end of the elections, the Certification of the election results by *Election Buddy* (platform provider) has also been received by the ECNBA and is forwarded with this report.

The ECNBA is not unaware that for two previous elections, the IT consultants/Service providers have been subject to litigations and invitations to the various organs of the States in a manner that have not given so much credit to the NBA. This state of affairs has made many service providers wary of doing business with the NBA.

4. Undeliverable Notices

On the issue of undeliverable notices, the ECNBA Statement No. 20 clarifies the position. It has been determined that the number of undelivered notices indicated on the screen was an aggregate of the number of

attempts by the Service Provider to deliver election notices to Voters. The screen on which the results were observed intermittently flashed the said explanations. The election was programmed to deliver 5 notices of the election to each voter's phone number and email and each failed attempt was aggregated. The failure to deliver the notices had nothing to do with the capacity of the platform but the phone number/email or the facility on the receiving device. Even then a good number of such failed deliveries were subsequently resolved for those who complied with the directions in the said ECNBA Statement and the Help desk. As such, many voters who initially could not receive notices were eventually able to do so and did cast their ballot.

5. Abdication of Duty by the ECNBA.

The members of the ECNBA are very mindful of their duties to control, conduct and manage the elections for which they were appointed and did not abdicate their duties. No complaint of violation of the NBA Constitution or Elections Guidelines issued by the ECNBA was received from the petitioner or any one which the Committee failed to address. At no time did the petitioner complain of breach of electoral rules by any Candidate throughout the electioneering process.

The ECNBA is required by Article 1.4(c) 2nd Schedule NBA Constitution to issue guidelines for conduct of electronic voting which shall among other things provide for **verification** of voters, place time and platform to be used for electronic voting. This duty the Committee discharged by its Statements No.017-Guidelines for Electronic Voting.

Prior to the issuance of the said Statement, the Committee had consistently warned in its releases, on the need to strictly abide by the NBA Constitution and the Electoral Guidelines issued by the ECNBA. While not a constitutional requirement for pre-election validity, the ECNBA was also ready to brief NBA NEC on its activities. However, it should be noted that since the NBA NEC meeting of March 12th 2020 when the ECNBA was appointed by NEC, no meeting of the body has held, obviously due to the

intervening Covid-19 pandemic and the accompanying restrictions against meetings. When the NEC reconvenes, the ECNBA is ready to dutifully report on its activities to the NEC.

The ECNBA states for the avoidance of doubt, that the NBA President did not usurp the powers of the Committee to engage the Service Provider “contrary to the provisions of section 18(2) of the NBA Constitution which obligates the ECNBA to engage the service provider for the election” (sic) as alleged. The MOU for the engagement for the ICT consultant was necessarily signed by the NBA because the ECNBA is a committee of the NBA and the former has no resources of its own to pay for the services.

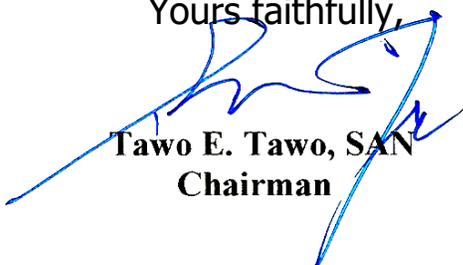
3.0 Conclusion

Mr. Chairman Sir, until your directive that the ECNBA responds to the petition by Mr. Oladele Adesina SAN, the Committee had commenced work on the full report of the entire electoral process which, it is hoped, will answer to the issues raised by the petitioner.

There is no gainsaying the fact that there is room for improvement in the NBA electoral process, especially in the manner members’ data are maintained at the Branches and the need for Lawyers to optimize their digital skills to enable the e-voting system to be user friendly cannot be over-emphasized. The Committee intends to give more details on these and some other issues in its final report to the NBA NEC.

We thank the Trustees for the opportunity to present the position of the ECNBA on the petition.

Yours faithfully,



Tawo E. Tawo, SAN
Chairman

Copy to: Mr. Paul Usoro SAN, President, NBA

