

DECISION OF THE NIGERIAN BAR ASSOCIATION BRANCH ELECTION APPEALS COMMITTEE (EAST).

RE: APPEAL BY ROMEO ISOKARIARI ESQ. ON BREACH OF NBA PORTHARCOURT BRANCH ELECTORAL COMMITTEE GUIDELINES BY MR. VIKTOR BENEBO ESQ.

The above appeal dated *16th May, 2022* refers;

INTRODUCTION

The petition by **ROMEO ISOKARIARI ESQ.** an aspirant to the post of the Port Harcourt branch Chair is premised on the following grounds

- 1.0. That supporters of **MR. VIKTOR BENEBO Esq** another aspirant to the office of Chairman in the NBA Portharcourt branch breached and disregarded the electoral guidelines as published by the electoral committee by circulating short message service (SMS) to the members of the Portharcourt branch targeted at **ROMEO ISOKARIARI ESQ.** which he believes are innuendos and disparaging to his character vilifying his person and that of persons associated with him.
- 1.1. That the said messages published to members of the NBA Portharcourt branch clearly offends item 2 (d) of part B of the Notice and guidelines for the branch election 2022.
- 1.2. That **MR. VIKTOR BENEBO Esq** be disqualified and prevented from participating in the branch election of *30th June, 2022*.

DOCUMENT TENDERED

The petition of the petitioner dated *9th June, 2022*

Exhibits tendered by the the petitioner:

- Short (SMS) message and bulk messages sent out to some members of the branch.
- Published campaign materials.
- Covering Letter titled Submission of cv, manifesto,E-fliers..,

The petition of **ROMEO ISOKARIARI ESQ** dated *16th May, 2022* to the branch Electoral Committee (Electoral Committee).

The response and the decision of the Electoral Committee dated **13th June, 2022**.
The response of **MR. VIKTOR BENEBO** Esq dated **17th day of June, 2022**.
Exhibits tendered by the respondent:

Response

The Electoral Committee in its response dated **13th June, 2022** stated that it had treated the petition and complaints of all the contestants and that it had ruled against the petitioner Romeo Isokariari Esq.

On the **17th of June, 2022** **MR. VIKTOR BENIBO** sent in a response to this committee denying all the allegations against him over the said bulk SMS against the petitioner **and calling** his only opponent/the petitioner to also be disqualified.

The Electoral Committee the provision of Article 16(2) of the uniform bye Laws that deals with time to appeal.

The short (SMS) message and bulk messages sent out to some members of the branch.

Publication of campaign materials with regards to the provision of Article 14(5) and (7) of the uniform bye-Laws.

The conduct of the candidates all through the campaign, discussions and meetings of the ELECO with all the aspirants to various positions.

All the campaign materials presented by the candidates for their campaign.

FINDINGS

The appeals committee in investigating the petition found as follows

1. That there were only two contestants to the post of NBA Port-Harcourt branch chairmanship Victor Benebo Esq and Romeo Isokariari Esq.
2. That unprintable SMS were being sent against the petitioner
3. That they were sent via bulk SMS
4. That members of Port Harcourt branch received this bulk SMS
5. That the bulk SMS had the phone number +2348030008420
6. That bulk SMS were also sent campaigning for the respondent Victor Benebo Esq with the same number +2348030008420

7. That supporters of Victor Benebo sent SMS in favour of their candidates using the same number +2348030008420.
8. That the respondent Victor Benebo sent some bulk sms messages using the same phone number +2348030008420
9. That some of the bulk SMS sent that were favourable to Victor Benebo Esq and the horrible defamatory ones sent against the petitioner Romeo Isokariari Esq were sent using the same phone number +2348030008420

Some of the publications against the petitioner using the same phone number read as follows

1. *'Beware of a wolf in sheep's clothing, a gigolo and his sweetheart turned political godmother'*
2. *"Continue to steer clear of NBA'S notorious gigolo and his accomplice sweetheart" (the unscrupulous lovers) nothing God is promised, and nothing good can come from there. Besides we must insist on, and maintain a minimum ethical/moral standard in the NBA"*
3. *PORT HARCOURT BRANCH! Ignore the propaganda and follow the facts: We have had vice chairs as well as secretary from the MOJ: It is all about competence, character, therefore we have no reason to look beyond the God-fearing Victor Benibo, a quintessential bar man of proven integrity...'*

Some of the favorable bulk sms sent by Victor Benebo from this phone no. +2348030008420 read

1. *'Happy New Month & Happy Workers' Day celebration to you and your lovely family. May you stay in good health to enjoy the fruits of your labour.*
VIK-BENEBO

2. *PORT HARCOURT BRANCH! Ignore the propaganda and follow the facts: We have had vice chairs as well as secretary from the MOJ: It is all about competence, character, therefore we have no reason to look beyond the God-fearing Victor Benibo, a quintessential bar man of proven integrity...'*

The petitioner stated that following this act of bullying, he has received several calls with colleagues asking him if he is in an adulterous relationship.

That he has answered all kinds of embarrassing questions and according to him, some colleagues now treat him with disdain and coldness.

That he has been portrayed as an unscrupulous person with no morals.

That the offending sms against the petitioner went viral and was posted on Eastern Bar Forum (EBF) that has about 200 participants.

That he has been made a laughing stock and some colleagues have reached out to express their disgust at how low the Victor Benebo campaign group is willing to go.

The petitioner pleads that he does not deserve to have his character so assassinated over a branch election.

The petitioner named several colleagues who received the sms and included their phone numbers. He referenced how disgusted they were at the news making the rounds.

To further link the text sms to the respondent , the petitioner stated that when he asserted in different fora that the Rivers State ministry of Justice had never produced a chairman of the NBA PH branch, the respondent and his supporters sent out the sms from the same phone which read as follows"

"ignore the propaganda and follow the facts: We have had vice chairs as well as secretary from the MOJ: It is all about competence, character, therefore we have no reason beyond the God-fearing Victor Benibo, a quintessential bar man of proven integrity..."

The petitioner insists that the other two sms were targeted at his cordial working and professional relationship with a female colleague who he has worked with for the past 18years both at the bar and in the ministry of Justice. According to the petitioner his closeness with the said female colleague who happens to be the first and only female secretary of the bar is known to all and that it is this relationship that is targeted and for which his opponent refers to him as a gigolo. He further stated that due to the pivotal role the female colleague is playing in his campaign team the respondent has referred to the female as the petitioner's "sweetheart turned political godmother".

The petitioner produced 3 sms messages sent by the respondent from the same phone

The petitioner alleged that the Electoral committee did not publish the campaign materials which he forwarded to them.

The petitioner stated that messages were received on his Android phone TECNO POP 1 with his MTN line: 07035087374 as bulk SMS. The messages were screenshot and transmitted from the same TECNO POP 1 via email to the NBA Branch Election Appeals Committee East.

ANALYSIS

Article 16 (1) of the Uniform Bye-Law empowers the Electoral committee to amongst other things issue election and eligibility guidelines. It provides thus:

Duties of the Electoral Committee 1. Not later than Ninety (90) days to the date of the election, the Electoral Committee shall announce the date of the election as fixed by the Electoral Committee and invite nominations of candidates for the various offices and shall publicize the provisions of the Bye- Law relating to eligibility to contest and eligibility to vote and also issue election and campaign guidelines.

The provision of item 2(d) of part B of the Notice and Guidelines for the branch elections provides

"If the candidate sponsors or is associated with the sponsoring newspaper or magazine article or any electronic broadcast vilifying candidates or extolling a candidate's or extolling a candidate's virtues during campaigns' '.

The Appeals Committee painstakingly deliberated on all the documents and exhibits tendered by all the parties and came to the unfortunate conclusion that the said defamatory and odious publications were sent through the same bulk SMS that was used by respondent and his campaign team to campaign for Victor Benebo.

The committee observed that even though the respondent is associated with the electronic bulk SMS that used words like 'gigolo' to describe his only opponent in the race for branch chairmanship, the respondent never called his campaign team to order nor did he publicly dissociate himself from the offending bulk SMS.

For a statement to be considered defamation, **it must be about the plaintiff.**

Even if the statement does not mention him or her by name, it can be actionable on grounds of defamation if a reasonable person would understand the communication as referring to the plaintiff.

Tort law

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To state a defamation claim, **the person claiming defamation need not be mentioned by name**—the plaintiff only needs to be reasonably identifiable.

DECISION

The Appeals Committee believes that **VIKTOR BENEBO Esq** offended Article 15(5) and 17(1)-(5) of the uniform bye Law and item 2(d) Part B of the Notice and Guidelines for the Port Harcourt branch elections which provides as follows:

2. **DISQUALIFICATION OF CANDIDATES**

"A candidate for any office shall be disqualified from contesting the elections on the following grounds.

- (d) *If a candidate sponsors or is associated with sponsoring a newspaper or magazine article or any electronic broadcast vilifying other candidates or extolling a candidate during campaigns."***

Bar election is for lawyers who are professionals and no salary is earned but our integrity is at stake.

The unpalatable bullying through a campaign of calumny was linked to the respondent and his supporters and so it would be a disservice to the association to allow such odious precedent to show up in our Association without calling it out fully.

Article 15 (3) of the Uniform Bye-law stipulates that no provision of this Bye-Law relating to qualification to vote and be voted for shall be waived by any person, the Branch, its organs, or committee set up by the Branch.

On the issue raised by ELECO on the time frame to appeal based on the provisions of Article 16(2) of the uniform bye-Law, the Appeals committee begs to differ from the position of the ELECO as the Uniform Bye-Law provides thus;

"the electoral committee shall scrutinize all nominations to ensure that they comply with the provisions herein and shall notify candidates who fails to qualify of the reason(s) for their disqualification within seven (7) days of any decision to such effect provided that such A DISQUALIFIED CANDIDATE may apply to the election Appeal Committee for a review of the decision of the Electoral Committee within seven (7) days whose decision shall be final"

The above provision deals with a disqualified candidate right of Appeal to the electoral Appeal Committee upon notification of disqualification by the electoral committee. The petitioner herein was not disqualified and so does not fall within the category of candidate(s) who should appeal within seven (7) days as was canvassed by ELECO in their decision and response of **13th June 2022**.

The Appeals Committee frowns at the campaign of calumny carried out against the petitioner. This attitude does not represent the noble ideals of the Nigerian Bar Association. Every member or aspirant to serve in an elective position has the right to be heard or considered without damaging their reputation or robbing them of their self-respect.

According to the Article 2 (2) of the Uniform Bye-laws of the NBA Constitution 2021 one of the objects of a branch is

2. The maintenance and enforcement of the highest standards of professional ethics, conduct, etiquette and discipline;

It is the decision of this Appeals committee that the respondent Victor Benebo is hereby disqualified from contesting for the post of Chairman Port-Harcourt branch.

The branch Electoral committee is hereby directed to remove the name of Victor Benebo on the list of those qualified to contest as chairman.

The decision of the ELECO that the petition of the petitioner is time barred is hereby set aside as the petition can be heard by the Appeal Committee.

This is a majority decision of the NBA Branch Elections Appeal Committee (East)

Dated this 25th of June, 2022

Members of the committee:

1. MRS NNENNA UKO
2. TEDDY OMEZIRI
3. EKANEM EKANEM
4. HOPE ANEMHEN
5. CHIBUEZE OGUCHIENTI
6. PROMISE ICHEGBO
7. SHEILA DISE OGBISE
8. ASSAM ASSAM JR
9. STANLEY IMO



MRS. NNENNA UKO
CHAIRPERSON



ASSAM ASSAM JR
SECRETARY