

NBA BRANCH ELECTIONS APPEAL COMMITTEE (EAST)

**C/o office of the Secretary,
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Our Ref: NBA/BEAC (E) /ABA/01

Your Ref: _____

Date: 17/06/2024

The Chairman,
Nigerian Bar Association, Aba Branch

Dear Sir,

**THE DECISION OF THE NBA BRANCH ELECTIONS APPEAL COMMITTEE (EAST)
ON THE PETITIONS AND COMPLAINTS FROM NBA, ABA BRANCH**

On 29th May, 2023, Yakubu Chonoko Maikyau, OON, SAN, the President of the Nigerian Bar Association, by the powers vested on him by Section 14(3)(I) of the Constitution of the Nigerian Bar Association, 2015 (as amended in 2021) announced the constitution of Branch Elections Appeal Committee subject to ratification by the National Executive Council (NEC) which Committee is empowered to entertain and resolve complaints and petitions with regards to Branches elections and to give directions and interpretations to guide the conduct of the elections, and the qualification or disqualification of candidates to participate in the said elections which said Committee is constituted, for East, as follows:

1. Ndukwe Nnawuchi, SAN as the Chairman - Owerri Branch
2. Dennis Okwakpam as the Alternate Chairman - Port Harcourt Branch
3. Amaka Ezeno as the Secretary - Awka Branch
4. Ogbonnaya Igwenyi - Aba Branch
5. Marc Enameh - Ogoja Branch
6. Ogbonna Okorie - Abakaliki Branch
7. Ume Maduka - Ohafia Branch
8. Mrs. Nkoyo Amah - Calabar Branch later replaced with Onyinye Anita Ochi of the same Branch
9. Gerald Eze - Nsukka Branch
10. Henry Onyiuke - Onitsha Branch
11. Dise Sheila Ogbise - Sagbama Branch

Our Committee was thereafter inaugurated by Mr. President on 30th May, 2023 whereupon our Committee commenced sat on the various petitions and complaints brought before us from various Branches in 2023.

Our Committee is now saddled with hearing and determining the petitions and complaints brought before us from various Branches this year, 2024, including four petitions from NBA,

Aba Branch plus one (+1). The "plus one (+1)" is used advisedly by us because the Appeal was purportedly withdrawn albeit under "duress".

The Appeals are from the following members of NBA, Aba Branch in no particular order :

1. Brendan Chukwuma Nwaokoro, Esq.
2. E. O Dimoriaku, Esq.
3. James, James, Effiong, Esq
4. C. K Anyanwu, Esq
5. Eluwah, Nnamdi Nwachukwu, Esq.

We will take them seriatim:

(a) Brendan Chukwuma Nwaokoro, Esq.

He is a candidate for the office of Branch Secretary.

FINDING:

Brendan Chukwuma Nwaokoro was disqualified by the Branch Electoral Committee on the ground that one (1) of his nominators, Uchenna Ejiogu, Esq. allegedly presented a cloned and doctored BPF receipt for the year 2023. These conclusions if confirmed are indeed damning and smacks of both gross professional misconduct and rank criminality.

It is unclear if the Election Committee drew the attention of the said Uchenna Ejiogu to their "findings" which could at least afford the said Uchenna Ejiogu an opportunity to present his own side of the case in line with the doctrine of *audi alteram partem*. Alternatively, the Aba branch Election Committee would just have sought clarifications from the NBA National Secretariat at Abuja. We found that the NBA Secretariat remains the Clearing House for all matters on BPF receipts. Accessing the Secretariat would have put paid to all the alleged "observable doubts" arising on the face of the said 2023 BPF receipt of the Nominator, Uchenna Ejiogu, Esq. including the said allegation of fraud.

We found further that the branch Election Committee failed to exercise due diligence in respect of the genuineness or otherwise of the said receipt.

DECISION:

Having earlier found that the NBA Secretariat remains the Clearing House for all matters on BPF receipts and that the branch Election Committee failed to exercise due diligence in respect of the genuineness or otherwise of the said receipt, our Committee did the needful by interfacing with the NBA National Secretariat through the office of the General Secretary genuineness or otherwise of the said receipt of the said Uchenna Ejiogu, Esq. and who CONFIRMED that the BPF receipt of the year 2023 submitted by Uchenna Ejiogu was regular, genuine and authentic.

It is trite law that an Appellate court can admit FRESH evidence on appeal if such new evidence would be a game changer even though such power is exercised with circumspection. See the Supreme Court case of **DIKE-OGU & ORS V. AMADI & ORS (2019) LPELR-47847(SC)** where the court *Per BAGE ,J.S.C (Pp. 14-20, paras. E-D)* in relying on another Supreme Court case of *OWATA VS ANYIGOR (1993) 2 NWLR (Pt.276) 380, P 383-384* held *inter alia*:

"The law is that ordinarily, an Appellate Court is wary of receiving fresh evidence not available at the stage of trial. The Appellate Court is not however inhibited, but only treads with caution in accepting fresh evidence on appeal.

We took the pains to make the search not only for the purpose of the instant case but for the larger interest of the Bar to deal with emerging trends if any of cloning and or doctoring of BPF receipts, which is an allegation bothering on crime.

In the premises, having confirmed that the BPF 2023 receipt submitted by Uchenna Ejiogu is valid and genuine, we have no other option but to hold that the disqualification of the petitioner by the Election Committee was not justifiable.

We therefore rescind the disqualification of the said Brendan Chukwuma Nwaokoro, Esq. based on the ineligibility of Uchenna Ejiogu as Nominator for submitting an alleged "cloned" 2023 Bar Practising Fee receipt. This appeal therefore succeeds. The Election Committee of NBA, Aba Branch is hereby directed to include the name of the petitioner, Brendan Chukwuma Nwaokoro, Esq., in the list of aspirants for the forthcoming election of the Branch and for the position of Secretary of the Branch.

N/B: The confirmed 2023 BPF receipt from the National Secretariat is shown at the bottom of this Report.

(2) James, James Effiong, Esq.

An aspirant for the post of Branch Provost.

FINDING:

By a letter dated 13th May, 2024, the Election Committee of NBA, Aba Branch disqualified **James, James Effiong, Esq.** for failing to attach appropriate Bar Practising Fee receipts. We found that there was a letter to the Election Committee of NBA, Aba Branch from the said James, James Effiong, Esq. dated 20/05/2024. The said letter has attached the said Bar Practising Fee (BPF) receipts of James, James Effiong, Esq. for the relevant years of 2022, 2023 and 2024.

We found that the Bar Practising Fee receipts of the petitioner are regular on the face of them. In the absence of any position to the contrary, we found that the disqualification of the petitioner by the Election Committee is not justified.

DECISION:

We hold that the petitioner has satisfied the requirements as set down by **Section 14(1)(d) the NBA Uniform Bye laws for branches** which provides that an aspirant shall be a financial member of the branch and should have paid his /her annual practicing fees and branch dues as and when due for the three years preceding the election, inclusive of the year of election.

We therefore hold that the petitioner's name ought to be included in the list of aspirants. His disqualification is thus set aside. His appeal succeeds. We therefore hereby direct the Election Committee to include the name of the petitioner, James, James Effiong, Esq., in the list of aspirants for the forthcoming election of the Branch and for the position of Provost of the Branch.

(3) E. O Dimoriaku, Esq.

A Vice Chairman candidate.

FINDING:

The disqualification of the petitioner herein borders on name differentials before and after marriage.

We found that election in question is a branch election. It is desirable that a female lawyer who gets married needs to change her surname to reflect her current surname but not mandatory. It is also given that everyone at the Branch knows one another and that the petitioner satisfied other requirements as she was disqualified by the Election Committee solely on the ground of name differential. The appellant complains at Ground 2 and 2(3) of her appeal that the Election Committee of NBA, Aba Branch invited another candidate with similar issues to make clarifications but failed to invite her. This omission goes to the root of fair hearing (*audi alteram partem*) and is a good ground to set aside her disqualification.

We found that there is no provision in the UNIFORM BYE LAW FOR BRANCHES, 2015, AS AMENDED IN 2021 that disqualifies a female married candidate for not having changed her name at the Supreme Court roll. The Election Committee is not in doubt that E. O Dimoriaku, Esq. is a lawyer, she pays her practising fees, has her stamp and seal and is an active barman.

DECISION:

Section 14(1) (a) &(b) of the Uniform Bye Laws for Branches provides that:

14. (1) To be eligible to stand for election into an office, a member shall:

- (a) Be validly nominated in writing by two members who are eligible to vote herein and who must themselves be qualified for the particular office as provided for in these Bye-Laws;
- (b) Have attended a minimum of five (5) monthly meetings of the Branch within the twelve (12) months prior to the close of nominations for the election;

We therefore hold that the petitioner is qualified to be included in the list of aspirants in the forthcoming election. Her appeal succeeds.

We therefore hereby direct the Election Committee to include the name of the petitioner, E. O Dimoriaku, Esq., in the list of aspirants for the forthcoming election of the Branch and for the position of Vice Chairman of the Branch.

(4) C. K Anyanwu, Esq.

A candidate for the office of Publicity Secretary.

FINDING:

According to the letter of the Election Committee dated 13/05/24, the reason for his disqualification was that " the Committee discovered that Uzoma Ebenezer Nwogu, one of your Nominators paid his branch and Welfare dues on 07/07/23 for the year, 2023" as against on or before 31 /03/2023.

Our Committee found, from the Bank Statement of NBA, Aba Branch Welfare Account from Access Bank Plc annexed to the said Petition that Nwogu Uzoma Ebenezer, the said Nominator of the petitioner, paid his said the said dues on 07th March, 2023.

It is curious that the Eleco oversighted such an important Bank document in verifying date of payment of local dues.

We agree entirely with the appellant that the date on a branch receipt is not indicative of the date of payment. The ultimate indicia is the date on the bank teller.

We were therefore satisfied that the Nominator paid the local dues as at when due as shown on the bank statement.

DECISION:

Section 14 of the Uniform Bye Laws for Branches set out in clear terms the criteria for eligibility to contest elections at the Branch level and same provided *inter alia*:

1. To be eligible to stand for election into an office, a member shall:

- (a) *Be validly nominated in writing by two members who are eligible to vote herein and who must themselves be qualified for the particular office as provided for in these By-Laws;*
- (b) *Have attended a minimum of five (5) monthly meetings of the Branch within the twelve (12) months prior to the close of nominations for the election;*
- (c) *Attain the post-enrolment qualification requirement for the affected office as at the date of the election as follows: (i) Chairman and Vice Chairman, ten (10) years; (ii) Secretary, Treasurer and Financial Secretary, seven (7) years (iii) Social Secretary, Publicity Secretary, Welfare Secretary, and Provost, five (5) years; and (iv) Assistant Secretary, three (3) years.*
- (d) *Be a financial member of the Branch and shall have paid his/ her Bar practicing fees and annual Branch dues as and when due for the three (3) years preceding the election, inclusive of the year of election.*

Indubitably, the purport of the aforecited is that a person must be a financial member of a branch before he can be allowed to run or nominate another for an executive position. The question becomes, who is a financial member of a Branch? A financial member as defined in **Section 3(3) of the Nigerian Bar Association Uniform Bye Laws for Branches** is a member who by the 31st of March of the relevant year has paid his annual practicing fees and Branch dues.

We therefore hold that the payment made by Nwogu Uzoma Ebenezer, the said Nominator of the petitioner, of his said the said dues on 07th March, 2023 was thus made within "regulation time".

We hold further that the disqualification of C. K Anyanwu, Esq. on the said ground fails and his appeal succeeds. We therefore hereby direct the Election Committee to include the name of the petitioner, C. K Anyanwu, Esq., in the list of aspirants for the forthcoming election of the Branch and for the position of Publicity Secretary of the Branch.

(5) Appeal against the clearance of Victor Chinonye Onwere, Esq. to contest the office of Chairman.

This case is tricky as the appellant by a letter dated 24 /05/24 purports to withdraw the appeal citing his "deference" to representations made to him by senior members of the branch. The "appeal" raises some grave issues that cannot be glossed over, particularly for the very important office of a Branch Chairman.

The substance of the Appeal is that Chinonye Onwere, Esq "is not qualified to stand election as one of his Nominator, E. E. Agwulonu, Esq. who has held two elective offices within the last five 5 years is not qualified to stand election for the same office and as such not eligible to

nominate any body for any elective office of the branch". "furthermore, the said Victor Chinonye Onwere, Esq. is equally not qualified to contest the said election having held two elective positions which he is still holding one presently. He was elected the Vice Chairman of NBA Aba branch in 2020 to 2022 and was equally elected as a member of the General Council of the Bar which election took place in July 2022 and which office he is still occupying till date to expire in July 2024.

DECISIONS:

These allegations, appraised against the backdrop of Article 14(1) (A) and the provisions of the Third Schedule, Part 1 of NBA Uniform Bye- Laws of Branches, Article 6 (3), present very triable issues.

Article 14(1)(a) of the Uniform Bye-Law for Branches as contained in the Constitution of NBA 2015 as amended in 2021 provides as follows :

" To be eligible to stand for election into an office a member shall :

(a) Be validly nominated in writing by two members who are eligible to vote herein and who must themselves be qualified for the particular office as provided for in these Bylaws".

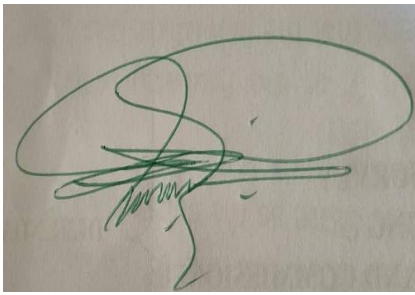
This in effect demands that a candidate must be as qualified as his Nominators.

The provision of **Article 6(3)** is quite explicit as it provides as a disqualifying factor thus :

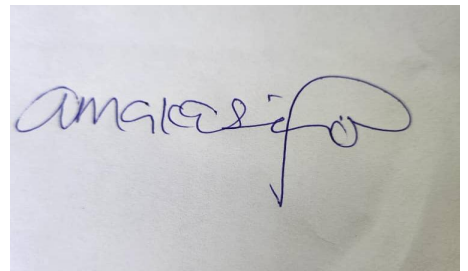
" No member of a branch shall occupy the same office for more than two (2) years and any member who has held elective offices as a branch officer for two (2) terms shall not be eligible to contest for a branch office until at least five (5) years after his /her tenure of office ".

The Committee considered the backdrop of this " appeal " and even though the "appellant" has sheathed his sword to allow peace to reign in the Branch and has purported to have withdrawn his appeal, our Committee cannot give our blessing to the qualification of a member that is not qualified especially where the said disqualification stems from violation of **Uniform Bye-Law for Branches as contained in the Constitution of NBA 2015 as amended in 2021.**

We therefore hereby direct the Election Committee to **remove** the name of the said **Victor Chinonye Onwere, Esq.** in the list of aspirants for the forthcoming election of the Branch and for the position of Chairman of the Branch.



Ndukwe Nnawuchi, SAN
Chairman



Amaka Ezeno, MCI Arb.
Secretary