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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT -THIRD SESSION (2024)

COMMITTEE ON APPOINTMENTS

SECOND REPORT ON THE APPROVAL HEARINGS OF NOMINEES FOR APPOINTMENT AS CABINET SECRETARIES

VOLUME IIIB
MEMORANDA FROM THE PUBLIC AND RESPONSE BY NOMINEES

AUGUST 2024

1st August 2024

Mr. ~~David~~ Njoroge
Clerk of the National Assembly
The National Assembly
Parliament Road
NAIROBI

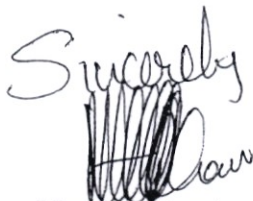
Dear

RE: IN THE MATTER OF THE MEMORANDA SUBMITTED BY AHMED M. SIGAT, MERCY MURUGI KURIA, SONIA MSHILA, AISHA ADAN, KHALID IBRAHIM, ELIUD KARANJA MATINDI, AND JOSEPH MWATHI NYANJUI THAT OPPOSES MY NOMINATION AS CABINET SECRETARY FOR TOURISM & WILDLIFE.

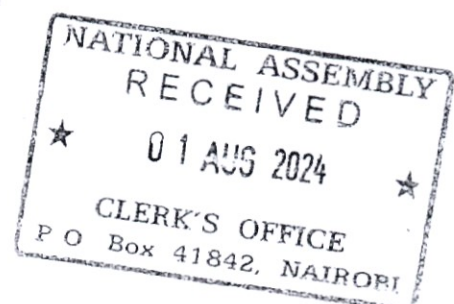
I refer to the above matter. I enclose my Replying Affidavit dated 1st August 2024 that responds to the following memoranda that seek to oppose my nomination as Cabinet Secretary for Tourism and Wildlife -for consideration by the Committee of the National Assembly on Appointments.

- a) The memorandum of Ahmed M. Sigat dated 24th July 2024;
- b) The memorandum of Mercy Murugi Kuria dated 24th July 2024;
- c) The memorandum of Sonia Mshila dated 24th July 2024;
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- e) The memorandum of Khalid Ibrahim dated 24th July 2024;
- f) The memorandum of Eliud Karanja Matindi dated 26th July 2024; and
- g) The memorandum of Joseph Mwathi Nyanjui dated 26th July 2024.

Yours

Sincerely


REBECCA MIANO, Nominee for Cabinet Secretary, Tourism & Wildlife.



1st August 2024

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Clerk of the National Assembly
The National Assembly
Parliament Road
NAIROBI

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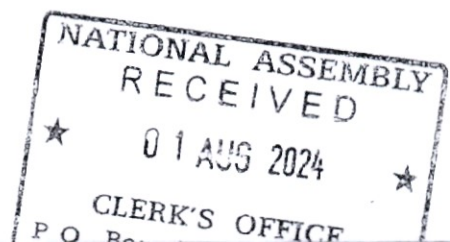
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1st August 2024

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Mr. David Njoroge
Clerk of the National Assembly
The National Assembly
Parliament Road
NAIROBI

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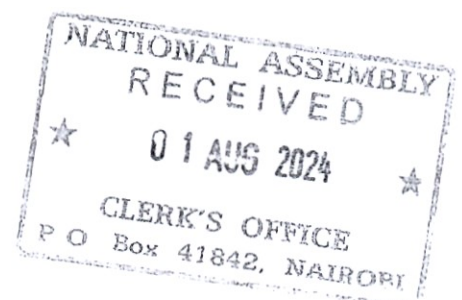
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- g) The memorandum of Joseph Mwathi Nyanjui dated 26th July 2024.

Yours

Sincerely
Rebecca Miano

REBECCA MIANO, Nominee for Cabinet Secretary, Tourism & Wildlife.



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY OF KENYA

**IN THE MATTER OF NOMINATION AND SUITABILITY FOR APPROVAL OF MEMBERS OF
THE CABINET OF THE NATIONAL GOVERNMENT;**

**IN THE MATTER OF THE INVITATION FOR VETTING BY THE COMMITTEE ON
APPOINTMENTS OF THE NATIONAL ASSEMBLY FOR VETTING FOR THE POSITION OF
CABINET SECRETARY FOR TOURISM & WILDLIFE;**

AND

**IN THE MATTER OF THE MEMORANDA SUBMITTED BY AHMED M. SIGAT, MERCY
MURUGI KURIA, SONIA MSHILA, AISHA ADAN, KHALID IBRAHIM, ELIUD KARANJA
MATINDI, AND JOSEPH MWATHI NYANJUI THAT OPPOSES THE NOMINATION OF
REBECCA MIANO AS CABINET SECRETARY FOR TOURISM & WILDLIFE.**

**REPLYING AFFIDAVIT OF REBECCA MIANO, NOMINEE FOR CABINET SECRETARY
TOURISM & WILDLIFE.**

I, REBECCA MIANO, a resident of Nyandarua County and of Post Office Box 66596-00800 Nairobi within the Republic of Kenya do hereby make an oath and swear as follows:

- 1. THAT** I am an adult female of sound mind and the nominee for the position of Cabinet Secretary responsible for Tourism and Wildlife. Therefore, I am competent to swear this affidavit
- 2. THAT** I have read and understood the following memoranda that have been submitted to the National Assembly to oppose my nomination as Cabinet Secretary:
 - a)** The memorandum of Ahmed M. Sigat dated 24th July 2024;

- b) The memorandum of Mercy Murugi Kuria dated 24th July 2024;
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- g) The memorandum of Joseph Mwathi Nyanjui dated 26th July 2024.

3. THAT I wish to respond to the said memoranda as follows.

4. THAT on 27th October 2022 His Excellency the President of the Republic Kenya, Dr. William Ruto appointed me as Cabinet Secretary responsible for East African Community, the ASALs and Regional Development.

5. THAT thereafter, under the guidance and leadership of His Excellency the President, I discharged my duties to the President and the people of Kenya as Cabinet Secretary in the most diligent, competent, and dutiful manner.

6. THAT in my tenure as Cabinet Secretary for East African Community, the ASALs and Regional Development, the Ministry was able to:

- a)** revitalise the EAC cooperation under the Northern Corridor Integrated Projects (NCIP), where Kenya, Uganda, and Rwanda resumed engagement after a six-year hiatus;
- b)** resolve over 10 Non-Tariff Barriers to trade, opening trade for commodities such as cement, fruit juices, lubricants, Mercedes Benz Actros and Sino trucks assembled in Kenya and exported to the region;
- c)** improve trade ties by championing government-to-government (G2G) across the EAC region. For example, in June 2023, I unlocked Tanzania's ban on the exportation of maize, flour and rice;
- d)** spearhead the sensitization of the East Africa Community Political Federation in Kenya;
- e)** strongly vouch and rally for the hosting of the East African Monetary Institute;
- f)** admit the Federal Republic of Somalia to the EAC, thus expanding the market for Kenyan goods and services;
- g)** develop a Relief Assistance Management Information System;
- h)** hold roundtable meetings with Development partners and ASAL County leadership to drive relief to resilience initiatives;

7. THAT that on 4th October 2023, the His Excellency the President reassigned me to the Ministry of Investments, Trade, and Industry. Under my leadership the Ministry was able to:

- a) undertake International Fora culminating in the signing of significant Agreements; Comprehensive Economic Partnership Agreement (CEPA), Kenya- US Trade and Investment Partnership (STIP), European Union Economic Partnership Agreement (EU-EPA);
- b) sign MoU with 18 Counties on CAIPs and fast-tracked the release of funds from the National Treasury for implementation;
- c) hold forums with the private sector to resolve long-standing bottleneck problems;
- d) initiate Business Reforms Action Plan Committee, where 75 issues affecting business have been prioritized for resolution;
- e) in January this year, AfCFTA endorsed a recommendation from the Ministry to make me a Champion of Digital Trade at a forum in Durban, South Africa;
- f) spearhead operationalisation of SEZ, Providing opportunities in power, tax incentives; and
- g) launch the Karibu Business Support Centre- a one stop shop that brings all Government departments together to support the ease of doing business.

8. THAT I wish to state that during my tenure at both ministries, I served with valour, diligence, and integrity. I have not been mentioned in any scandal whatsoever. Moreover, I have not adjudged by any constitutional body or statutory organ to have violated the fundamental values and principles of governance as enshrined in the Constitution of Kenya.

- 9. THAT** I am aware that on 11th July 2024, His Excellency the President, in exercise of his constitutional prerogative powers and based on the need to re-organise the Cabinet and improve service delivery, dismissed all the members of the Cabinet of the National Government and promised Kenyans to constitute a new one that will enable him to discharge functions of government to Kenyans.
- 10. THAT** I verily believe that the His Excellency President can dismiss or reassign a Cabinet Secretary. In doing so, the Constitution vests His Excellency the President with powers to determine the suitability of Cabinet Members and to assign them portfolio.
- 11. THAT** on 24th July 2024, His Excellency the President nominated me to serve the people of Kenya as Cabinet Secretary responsible for Tourism and Wildlife in the re-organised Cabinet.
- 12. THAT** I verily believe that the decision to nominate me to serve the people of Kenya as Cabinet Secretary for Tourism and Wildlife-is based on His Excellency the President's assessment of my suitability, competence, and ability to serve the people of Kenya in this ministry.
- 13. THAT** if confirmed by the National Assembly, I undertake to continue discharging the duties of a Cabinet Secretary with the required diligence and honesty. I will continue to infuse into leadership the fundamental national values and principles of governance and meet the expectations of Kenyans in repositioning our country as a tourism hub in the region. I will also lead comprehensive effects to address the salient problems that affect the wildlife sector in Kenya.

14. THAT there is no cogent reason adduced in the memoranda to warrant the National Assembly not to approve me for the position of Cabinet Secretary Tourism & Wildlife. I sincerely request the National Assembly to reject all the memoranda.

15. THAT what is deponed hereinabove is true to the best of my knowledge and belief.

SWORN at NAIROBI

On this 1st day of *August* 2024

By the said **REBECCA MIANO**

BEFORE ME



DEPONENT

COMMISSIONER FOR OATHS



DRAWN BY:

CKM ADVOCATES LLP

MIRIAM KIMONDIU ADVOCATE

PRACTICE NUMBER; LSK/2024/06293

ADMISSION NUMBER: P.105/9134/12

MARSABIT PLAZA, 2ND FLOOR, SUITE 213, NGONG ROAD

P. O. BOX 3181-00100

NAIROBI, KENYA

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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF NOMINATION AND SUITABILITY FOR APPROVAL OF MEMBERS OF THE CABINET OF THE NATIONAL GOVERNMENT;

IN THE MATTER OF THE INVITATION FOR VETTING BY THE COMMITTEE ON APPOINTMENTS OF THE NATIONAL ASSEMBLY FOR VETTING FOR THE POSITION OF CABINET SECRETARY FOR TOURISM & WILDLIFE;

AND

IN THE MATTER OF THE MEMORANDA SUBMITTED BY AHMED M. SIGAT, MERCY MURUGI KURIA, SONIA MSHILA, AISHA ADAN, KHALID IBRAHIM, ELIUD KARANJA MATINDI, AND JOSEPH MWATHI NYANJUI THAT OPPOSES THE NOMINATION OF REBECCA MIANO AS CABINET SECRETARY FOR TOURISM & WILDLIFE.

REPLYING AFFIDAVIT OF REBECCA MIANO, NOMINEE FOR CABINET SECRETARY TOURISM & WILDLIFE.

I, REBECCA MIANO, a resident of Nyandarua County and of Post Office Box 66596-00800 Nairobi within the Republic of Kenya do hereby make an oath and swear as follows:

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14. THAT there is no cogent reason adduced in the memoranda to warrant the National Assembly not to approve me for the position of Cabinet Secretary Tourism & Wildlife. I sincerely request the National Assembly to reject all the memoranda.

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BEFORE ME

COMMISSIONER FOR OATHS


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DEPONENT

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BEFORE ME

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- e) strongly vouch and rally for the hosting of the East African Monetary Institute;
- f) admit the Federal Republic of Somalia to the EAC, thus expanding the market for Kenyan goods and services;
- g) develop a Relief Assistance Management Information System;
- h) hold roundtable meetings with Development partners and ASAL County leadership to drive relief to resilience initiatives;

7. THAT that on 4th October 2023, the His Excellency the President reassigned me to the Ministry of Investments, Trade, and Industry. Under my leadership the Ministry was able to:

- a) undertake International Fora culminating in the signing of significant Agreements; Comprehensive Economic Partnership Agreement (CEPA), Kenya- US Trade and Investment Partnership (STIP), European Union Economic Partnership Agreement (EU-EPA);
- b) sign MoU with 18 Counties on CAIPs and fast-tracked the release of funds from the National Treasury for implementation;
- c) hold forums with the private sector to resolve long-standing bottleneck problems;
- d) initiate Business Reforms Action Plan Committee, where 75 issues affecting business have been prioritized for resolution;
- e) in January this year, AfCFTA endorsed a recommendation from the Ministry to make me a Champion of Digital Trade at a forum in Durban, South Africa;
- f) spearhead operationalisation of SEZ, Providing opportunities in power, tax incentives; and
- g) launch the Karibu Business Support Centre- a one stop shop that brings all Government departments together to support the ease of doing business.

8. THAT I wish to state that during my tenure at both ministries, I served with valour, diligence, and integrity. I have not been mentioned in any scandal whatsoever. Moreover, I have not adjudged by any constitutional body or statutory organ to have violated the fundamental values and principles of governance as enshrined in the Constitution of Kenya.

9. **THAT** I am aware that on 11th July 2024, His Excellency the President, in exercise of his constitutional prerogative powers and based on the need to re-organise the Cabinet and improve service delivery, dismissed all the members of the Cabinet of the National Government and promised Kenyans to constitute a new one that will enable him to discharge functions of government to Kenyans.
10. **THAT** I verily believe that the His Excellency President can dismiss or reassign a Cabinet Secretary. In doing so, the Constitution vests His Excellency the President with powers to determine the suitability of Cabinet Members and to assign them portfolio.
11. **THAT** on 24th July 2024, His Excellency the President nominated me to serve the people of Kenya as Cabinet Secretary responsible for Tourism and Wildlife in the re-organised Cabinet.
12. **THAT** I verily believe that the decision to nominate me to serve the people of Kenya as Cabinet Secretary for Tourism and Wildlife-is based on His Excellency the President's assessment of my suitability, competence, and ability to serve the people of Kenya in this ministry.
13. **THAT** if confirmed by the National Assembly, I undertake to continue discharging the duties of a Cabinet Secretary with the required diligence and honesty. I will continue to infuse into leadership the fundamental national values and principles of governance and meet the expectations of Kenyans in repositioning our country as a tourism hub in the region. I will also lead comprehensive effects to address the salient problems that affect the wildlife sector in Kenya.

14. THAT there is no cogent reason adduced in the memoranda to warrant the National Assembly not to approve me for the position of Cabinet Secretary Tourism & Wildlife. I sincerely request the National Assembly to reject all the memoranda.

15. THAT what is deponed hereinabove is true to the best of my knowledge and belief.

SWORN at NAIROBI

On this 1st day of *August* 2024

By the said **REBECCA MIANO**

BEFORE ME



DEPONENT

COMMISSIONER FOR OATHS



DRAWN BY:

CKM ADVOCATES LLP

MIRIAM KIMONDIU ADVOCATE

PRACTICE NUMBER; LSK/2024/06293

ADMISSION NUMBER: P.105/9134/12

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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY OF KENYA

**IN THE MATTER OF NOMINATION AND SUITABILITY FOR APPROVAL OF MEMBERS OF
THE CABINET OF THE NATIONAL GOVERNMENT;**

**IN THE MATTER OF THE INVITATION FOR VETTING BY THE COMMITTEE ON
APPOINTMENTS OF THE NATIONAL ASSEMBLY FOR VETTING FOR THE POSITION OF
CABINET SECRETARY FOR TOURISM & WILDLIFE;**

AND

**IN THE MATTER OF THE MEMORANDA SUBMITTED BY AHMED M. SIGAT, MERCY
MURUGI KURIA, SONIA MSHILA, AISHA ADAN, KHALID IBRAHIM, ELIUD KARANJA
MATINDI, AND JOSEPH MWATHI NYANJUI THAT OPPOSES THE NOMINATION OF
REBECCA MIANO AS CABINET SECRETARY FOR TOURISM & WILDLIFE.**

**REPLYING AFFIDAVIT OF REBECCA MIANO, NOMINEE FOR CABINET SECRETARY
TOURISM & WILDLIFE.**

I, REBECCA MIANO, a resident of Nyandarua County and of Post Office Box 66596-00800 Nairobi within the Republic of Kenya do hereby make an oath and swear as follows:

1. THAT I am an adult female of sound mind and the nominee for the position of Cabinet Secretary responsible for Tourism and Wildlife. Therefore, I am competent to swear this affidavit

2. THAT I have read and understood the following memoranda that have been submitted to the National Assembly to oppose my nomination as Cabinet Secretary:

a) The memorandum of Ahmed M. Sigat dated 24th July 2024;

- b) The memorandum of Mercy Murugi Kuria dated 24th July 2024;
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- g) The memorandum of Joseph Mwathi Nyanjui dated 26th July 2024.

3. **THAT** I wish to respond to the said memoranda as follows.

4. **THAT** on 27th October 2022 His Excellency the President of the Republic Kenya, Dr. William Ruto appointed me as Cabinet Secretary responsible for East African Community, the ASALs and Regional Development.

5. **THAT** thereafter, under the guidance and leadership of His Excellency the President, I discharged my duties to the President and the people of Kenya as Cabinet Secretary in the most diligent, competent, and dutiful manner.

6. **THAT** in my tenure as Cabinet Secretary for East African Community, the ASALs and Regional Development, the Ministry was able to:

- a) revitalise the EAC cooperation under the Northern Corridor Integrated Projects (NCIP), where Kenya, Uganda, and Rwanda resumed engagement after a six-year hiatus;
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14. **THAT** there is no cogent reason adduced in the memoranda to warrant the National Assembly not to approve me for the position of Cabinet Secretary Tourism & Wildlife. I sincerely request the National Assembly to reject all the memoranda.

15. **THAT** what is deponed hereinabove is true to the best of my knowledge and belief.

SWORN at NAIROBI

On this 1st day of *August* 2024

By the said **REBECCA MIANO**

BEFORE ME

COMMISSIONER FOR OATHS



DEPONENT

DRAWN BY:

CKM ADVOCATES LLP

MIRIAM KIMONDIU ADVOCATE

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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY OF KENYA

**IN THE MATTER OF NOMINATION AND SUITABILITY FOR APPROVAL OF MEMBERS OF
THE CABINET OF THE NATIONAL GOVERNMENT;**

**IN THE MATTER OF THE INVITATION FOR VETTING BY THE COMMITTEE ON
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MURUGI KURIA, SONIA MSHILA, AISHA ADAN, KHALID IBRAHIM, ELIUD KARANJA
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TOURISM & WILDLIFE.**

I, REBECCA MIANO, a resident of Nyandarua County and of Post Office Box 66596-00800 Nairobi within the Republic of Kenya do hereby make an oath and swear as follows:

1. THAT I am an adult female of sound mind and the nominee for the position of Cabinet Secretary responsible for Tourism and Wildlife. Therefore, I am competent to swear this affidavit

2. THAT I have read and understood the following memoranda that have been submitted to the National Assembly to oppose my nomination as Cabinet Secretary:

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14. **THAT** there is no cogent reason adduced in the memoranda to warrant the National Assembly not to approve me for the position of Cabinet Secretary Tourism & Wildlife. I sincerely request the National Assembly to reject all the memoranda.

15. **THAT** what is deponed hereinabove is true to the best of my knowledge and belief.

SWORN at NAIROBI

On this 1st day of *August* 2024

By the said **REBECCA MIANO**

BEFORE ME

COMMISSIONER FOR OATHS



A handwritten signature of the deponent, Rebecca Miano, written over a dotted line.

DEPONENT

DRAWN BY:

CKM ADVOCATES LLP

MIRIAM KIMONDIU ADVOCATE

PRACTICE NUMBER; LSK/2024/06293

ADMISSION NUMBER: P.105/9134/12

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1st August 2024

Burrell
Mr. David Njoroge
Clerk of the National Assembly
The National Assembly
Parliament Road
NAIROBI

Dear

RE: IN THE MATTER OF THE MEMORANDA SUBMITTED BY AHMED M. SIGAT, MERCY MURUGI KURIA, SONIA MSHILA, AISHA ADAN, KHALID IBRAHIM, ELIUD KARANJA MATINDI, AND JOSEPH MWATHI NYANJUI THAT OPPOSES MY NOMINATION AS CABINET SECRETARY FOR TOURISM & WILDLIFE.

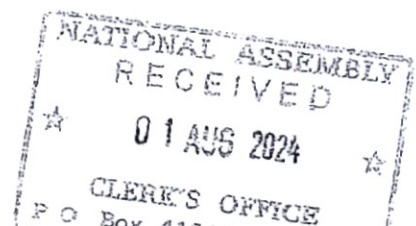
I refer to the above matter. I enclose my Replying Affidavit dated 1st August 2024 that responds to the following memoranda that seek to oppose my nomination as Cabinet Secretary for Tourism and Wildlife -for consideration by the Committee of the National Assembly on Appointments.

- a) The memorandum of Ahmed M. Sigat dated 24th July 2024;
- b) The memorandum of Mercy Murugi Kuria dated 24th July 2024;
- c) The memorandum of Sonia Mshila dated 24th July 2024;
- d) The memorandum of Aisha Adan dated 24th July 2024;
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- f) The memorandum of Eliud Karanja Matindi dated 26th July 2024; and
- g) The memorandum of Joseph Mwathi Nyanjui dated 26th July 2024.

Yours

Sincerely
Rebecca Miano

REBECCA MIANO, Nominee for Cabinet Secretary, Tourism & Wildlife.



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY OF KENYA

**IN THE MATTER OF NOMINATION AND SUITABILITY FOR APPROVAL OF MEMBERS OF
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**REPLYING AFFIDAVIT OF REBECCA MIANO, NOMINEE FOR CABINET SECRETARY
TOURISM & WILDLIFE.**

I, REBECCA MIANO, a resident of Nyandarua County and of Post Office Box 66596-00800 Nairobi within the Republic of Kenya do hereby make an oath and swear as follows:

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SWORN at NAIROBI

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DEPONENT

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DRAWN BY:

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- f) admit the Federal Republic of Somalia to the EAC, thus expanding the market for Kenyan goods and services;
- g) develop a Relief Assistance Management Information System;
- h) hold roundtable meetings with Development partners and ASAL County leadership to drive relief to resilience initiatives;

7. THAT that on 4th October 2023, the His Excellency the President reassigned me to the Ministry of Investments, Trade, and Industry. Under my leadership the Ministry was able to:

- a) undertake International Fora culminating in the signing of significant Agreements; Comprehensive Economic Partnership Agreement (CEPA), Kenya- US Trade and Investment Partnership (STIP), European Union Economic Partnership Agreement (EU-EPA);
- b) sign MoU with 18 Counties on CAIPs and fast-tracked the release of funds from the National Treasury for implementation;
- c) hold forums with the private sector to resolve long-standing bottleneck problems;
- d) initiate Business Reforms Action Plan Committee, where 75 issues affecting business have been prioritized for resolution;
- e) in January this year, AfCFTA endorsed a recommendation from the Ministry to make me a Champion of Digital Trade at a forum in Durban, South Africa;
- f) spearhead operationalisation of SEZ, Providing opportunities in power, tax incentives; and
- g) launch the Karibu Business Support Centre- a one stop shop that brings all Government departments together to support the ease of doing business.

8. THAT I wish to state that during my tenure at both ministries, I served with valour, diligence, and integrity. I have not been mentioned in any scandal whatsoever. Moreover, I have not adjudged by any constitutional body or statutory organ to have violated the fundamental values and principles of governance as enshrined in the Constitution of Kenya.

9. **THAT** I am aware that on 11th July 2024, His Excellency the President, in exercise of his constitutional prerogative powers and based on the need to re-organise the Cabinet and improve service delivery, dismissed all the members of the Cabinet of the National Government and promised Kenyans to constitute a new one that will enable him to discharge functions of government to Kenyans.
10. **THAT** I verily believe that the His Excellency President can dismiss or reassign a Cabinet Secretary. In doing so, the Constitution vests His Excellency the President with powers to determine the suitability of Cabinet Members and to assign them portfolio.
11. **THAT** on 24th July 2024, His Excellency the President nominated me to serve the people of Kenya as Cabinet Secretary responsible for Tourism and Wildlife in the re-organised Cabinet.
12. **THAT** I verily believe that the decision to nominate me to serve the people of Kenya as Cabinet Secretary for Tourism and Wildlife-is based on His Excellency the President's assessment of my suitability, competence, and ability to serve the people of Kenya in this ministry.
13. **THAT** if confirmed by the National Assembly, I undertake to continue discharging the duties of a Cabinet Secretary with the required diligence and honesty. I will continue to infuse into leadership the fundamental national values and principles of governance and meet the expectations of Kenyans in repositioning our country as a tourism hub in the region. I will also lead comprehensive effects to address the salient problems that affect the wildlife sector in Kenya.

14. **THAT** there is no cogent reason adduced in the memoranda to warrant the National Assembly not to approve me for the position of Cabinet Secretary Tourism & Wildlife. I sincerely request the National Assembly to reject all the memoranda.

15. **THAT** what is deponed hereinabove is true to the best of my knowledge and belief.

SWORN at NAIROBI

On this 1st day of August 2024

By the said **REBECCA MIANO**

BEFORE ME:

COMMISSIONER FOR OATHS



DEPONENT

DRAWN BY:

CKM ADVOCATES LLP

MIRIAM KIMONDIU ADVOCATE

PRACTICE NUMBER; LSK/2024/06293

ADMISSION NUMBER: P.105/9134/12

MARSABIT PLAZA, 2ND FLOOR, SUITE 213, NGONG ROAD

P. O. BOX 3181-00100

NAIROBI, KENYA

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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY OF KENYA

**IN THE MATTER OF NOMINATION AND SUITABILITY FOR APPROVAL OF MEMBERS OF
THE CABINET OF THE NATIONAL GOVERNMENT;**

**IN THE MATTER OF THE INVITATION FOR VETTING BY THE COMMITTEE ON
APPOINTMENTS OF THE NATIONAL ASSEMBLY FOR VETTING FOR THE POSITION OF
CABINET SECRETARY FOR TOURISM & WILDLIFE;**

AND

**IN THE MATTER OF THE MEMORANDA SUBMITTED BY AHMED M. SIGAT, MERCY
MURUGI KURIA, SONIA MSHILA, AISHA ADAN, KHALID IBRAHIM, ELIUD KARANJA
MATINDI, AND JOSEPH MWATHI NYANJUI THAT OPPOSES THE NOMINATION OF
REBECCA MIANO AS CABINET SECRETARY FOR TOURISM & WILDLIFE.**

**REPLYING AFFIDAVIT OF REBECCA MIANO, NOMINEE FOR CABINET SECRETARY
TOURISM & WILDLIFE.**

I, REBECCA MIANO, a resident of Nyandarua County and of Post Office Box 66596-00800 Nairobi within the Republic of Kenya do hereby make an oath and swear as follows:

1. THAT I am an adult female of sound mind and the nominee for the position of Cabinet Secretary responsible for Tourism and Wildlife. Therefore, I am competent to swear this affidavit

2. THAT I have read and understood the following memoranda that have been submitted to the National Assembly to oppose my nomination as Cabinet Secretary:

a) The memorandum of Ahmed M. Sigat dated 24th July 2024;

- b) The memorandum of Mercy Murugi Kuria dated 24th July 2024;
- c) The memorandum of Sonia Mshila dated 24th July 2024;
- d) The memorandum of Aisha Adan dated 24th July 2024;
- e) The memorandum of Khalid Ibrahim dated 24th July 2024;
- f) The memorandum of Eliud Karanja Matindi dated 26th July 2024; and
- g) The memorandum of Joseph Mwathi Nyanjui dated 26th July 2024.

3. **THAT** I wish to respond to the said memoranda as follows.

4. **THAT** on 27th October 2022 His Excellency the President of the Republic Kenya, Dr. William Ruto appointed me as Cabinet Secretary responsible for East African Community, the ASALs and Regional Development.
5. **THAT** thereafter, under the guidance and leadership of His Excellency the President, I discharged my duties to the President and the people of Kenya as Cabinet Secretary in the most diligent, competent, and dutiful manner.
6. **THAT** in my tenure as Cabinet Secretary for East African Community, the ASALs and Regional Development, the Ministry was able to:

- a) revitalise the EAC cooperation under the Northern Corridor Integrated Projects (NCIP), where Kenya, Uganda, and Rwanda resumed engagement after a six-year hiatus;
- b) resolve over 10 Non-Tariff Barriers to trade, opening trade for commodities such as cement, fruit juices, lubricants, Mercedes Benz Actros and Sino trucks assembled in Kenya and exported to the region;
- c) improve trade ties by championing government-to-government (G2G) across the EAC region. For example, in June 2023, I unlocked Tanzania's ban on the exportation of maize, flour and rice;
- d) spearhead the sensitization of the East Africa Community Political Federation in Kenya;
- e) strongly vouch and rally for the hosting of the East African Monetary Institute;
- f) admit the Federal Republic of Somalia to the EAC, thus expanding the market for Kenyan goods and services;
- g) develop a Relief Assistance Management Information System;
- h) hold roundtable meetings with Development partners and ASAL County leadership to drive relief to resilience initiatives;

7. THAT that on 4th October 2023, the His Excellency the President reassigned me to the Ministry of Investments, Trade, and Industry. Under my leadership the Ministry was able to:

- a) undertake International Fora culminating in the signing of significant Agreements; Comprehensive Economic Partnership Agreement (CEPA), Kenya- US Trade and Investment Partnership (STIP), European Union Economic Partnership Agreement (EU-EPA);
- b) sign MoU with 18 Counties on CAIPs and fast-tracked the release of funds from the National Treasury for implementation;
- c) hold forums with the private sector to resolve long-standing bottleneck problems;
- d) initiate Business Reforms Action Plan Committee, where 75 issues affecting business have been prioritized for resolution;
- e) in January this year, AfCFTA endorsed a recommendation from the Ministry to make me a Champion of Digital Trade at a forum in Durban, South Africa;
- f) spearhead operationalisation of SEZ, Providing opportunities in power, tax incentives; and
- g) launch the Karibu Business Support Centre- a one stop shop that brings all Government departments together to support the ease of doing business.

8. THAT I wish to state that during my tenure at both ministries, I served with valour, diligence, and integrity. I have not been mentioned in any scandal whatsoever. Moreover, I have not adjudged by any constitutional body or statutory organ to have violated the fundamental values and principles of governance as enshrined in the Constitution of Kenya.

9. **THAT** I am aware that on 11th July 2024, His Excellency the President, in exercise of his constitutional prerogative powers and based on the need to re-organise the Cabinet and improve service delivery, dismissed all the members of the Cabinet of the National Government and promised Kenyans to constitute a new one that will enable him to discharge functions of government to Kenyans.
10. **THAT** I verily believe that the His Excellency President can dismiss or reassign a Cabinet Secretary. In doing so, the Constitution vests His Excellency the President with powers to determine the suitability of Cabinet Members and to assign them portfolio.
11. **THAT** on 24th July 2024, His Excellency the President nominated me to serve the people of Kenya as Cabinet Secretary responsible for Tourism and Wildlife in the re-organised Cabinet.
12. **THAT** I verily believe that the decision to nominate me to serve the people of Kenya as Cabinet Secretary for Tourism and Wildlife-is based on His Excellency the President's assessment of my suitability, competence, and ability to serve the people of Kenya in this ministry.
13. **THAT** if confirmed by the National Assembly, I undertake to continue discharging the duties of a Cabinet Secretary with the required diligence and honesty. I will continue to infuse into leadership the fundamental national values and principles of governance and meet the expectations of Kenyans in repositioning our country as a tourism hub in the region. I will also lead comprehensive effects to address the salient problems that affect the wildlife sector in Kenya.

14. **THAT** there is no cogent reason adduced in the memoranda to warrant the National Assembly not to approve me for the position of Cabinet Secretary Tourism & Wildlife. I sincerely request the National Assembly to reject all the memoranda.

15. **THAT** what is deponed hereinabove is true to the best of my knowledge and belief.

SWORN at NAIROBI

On this 1st day of *August* 2024

By the said **REBECCA MIANO**

BEFORE ME

COMMISSIONER FOR OATHS



DEPONENT

DRAWN BY:

CKM ADVOCATES LLP

MIRIAM KIMONDIU ADVOCATE

PRACTICE NUMBER; LSK/2024/06293

ADMISSION NUMBER: P.105/9134/12

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Salim Mvurya Mgala

P.O Box 4-80403

Kwale, Kenya

Tel: 017434829

Email: salimmvurya2@gmail.com

01/08/2024

To:

The Clerk

National Assembly

Parliament Building

P.O Box 41842-00100

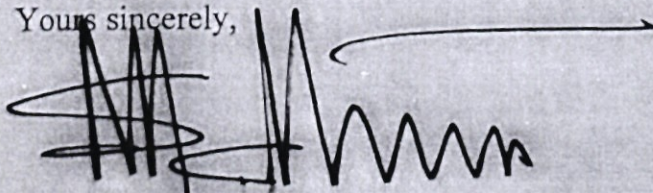
Nairobi, Kenya

RE: Reply to memorandum on my Nomination as Investment Trade and

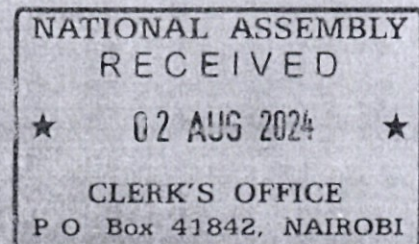
Industry Cabinet Secretary

I am in receipt of two memorandums dated 26th July from Joseph Mwathi Nyanjui and Eliud Karanja Matindi, opposing my nomination. I hereby submit my affidavit in response to the same.

Yours sincerely,



Hon. Salim Mvurya Mgala.



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF THE PUBLIC APPOINTMENTS (PARLIAMENTARY
APPROVAL) ACT, CHAPTER 7F OF THE LAWS OF KENYA;

IN THE MATTER OF NOMINATION AND SUITABILITY FOR APPROVAL OF
MEMBERS OF THE CABINET OF THE NATIONAL GOVERNMENT;

AND

IN THE MATTER OF THE MEMORANDA SUBMITTED BY JOSEPH MWATHI
NYANJUI OF KILELE YOUTH ORGANISATION & ELIUD KARANJA MATINDI
TO OPPOSE THE NOMINATION OF SALIM MVURYA MGALA FOR CABINET
SECRETARY INVESTMENTS, TRADE, & INDUSTRY

REPLYING AFFIDAVIT OF SALIM MVURYA MGALA, NOMINEE FOR CABINET
SECRETARY INVESTMENTS, TRADE, & INDUSTRY

I, SALIM MVURYA MGALA, a resident of Kwale and of POST OFFICE BOX 4 KWALE within
the Republic of Kenya do hereby make an Oath and swear as follows:

1. **THAT** I am an adult male of sound mind and the nominee for the position of Cabinet
Secretary responsible for Investments, Trade, and Industry in the National Executive.
Therefore, I am competent to swear this affidavit.

2. **THAT** I have read and understood the Memorandum of:

(a) Joseph Mwathi Nyanjui of Kilele Youth Organization dated 26th July 2024; and

(b) Eliud Karanja Matindi dated 26th July 2024

that seek to oppose my nomination as Cabinet Secretary for Investments, Trade, and Industry and wish to respond as follows.

3. **THAT** on 27th October 2022 His Excellency the President of the Republic Kenya, Dr. William Ruto appointed me as Cabinet Secretary responsible for Mining, Blue Economy and Maritime Affairs after vetting by the National Assembly.

4. **THAT** thereafter under the guidance and leadership of His Excellency the President, I discharged my duties to the President and the people of Kenya as Cabinet Secretary in the Ministry of Mining, Blue Economy and Maritime Affairs in the most diligent, competent, and dutiful manner.

5. **THAT** during my tenure at the Ministry, I served with absolute integrity and was not mentioned in any scandal whatsoever. Moreover, I was not adjudged by a constitutional organ or statutory body to have violated the fundamental national values and principles of governance in Article 10 of the Constitution, the values of leadership and integrity contained in Chapter 6 of the Constitution, and values and principles of public service in Article 232 of the Constitution.

6. **THAT** on 11th July 2024, His Excellency the President in exercise of his constitutional prerogative powers and based on the need to re-organise the Cabinet and improve

service delivery-dismissed all the members of the Cabinet of the National Executive and promised Kenyans to constitute a new one that will enable him to fulsomely discharge functions to Kenyans.

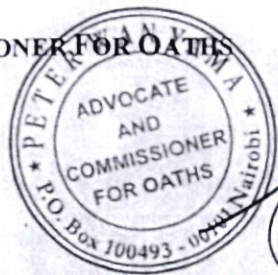
7. **THAT** I verily believe that the His Excellency President can dismiss or reassign a Cabinet Secretary. In doing so, the Constitution vests His Excellency the President with powers to determine the suitability and the portfolio of a Cabinet Secretary.
8. **THAT** on 24th July 2024, His Excellency the President nominated me to serve the people of Kenya as Cabinet Secretary in the Ministry responsible for Trade, Investments, and Industry-in the re-organised Cabinet.
9. **THAT** I verily believe that the decision to nominate me to serve the people of Kenya as Cabinet Secretary for Investments, Trade and Industry-is based on the His Excellency the President's assessment of my suitability, competence, and ability to serve the people of Kenya in this new portfolio. It is purely his prerogative.
10. **THAT** if confirmed by the National Assembly, I undertake to continue discharging the duties of a Cabinet Secretary with the required diligence and honesty. I will fulsomely continue to infuse into leadership the fundamental national values and principles of governance and meet the expectations of Kenyans in reposition our country as the focal point for trade and investments in the region.
11. **THAT** in the premises, there is no cogent reason in the Memorandum of Joseph Mwathi Nyanjui of Kilele Youth Organization dated 26th July 2024 and Eliud Karanja Matindi dated 26th July 2024-that seek to oppose my nomination.

13. THAT what is deponed hereinabove is true to the best of my knowledge and belief.



DEBONET

COMMISSIONER FOR OATHS



CKM ADVOCATES LLP

PRACTICE NUMBER; LSK/2024/06293

ADMISSION NUMBER: P.105/9134/12

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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA

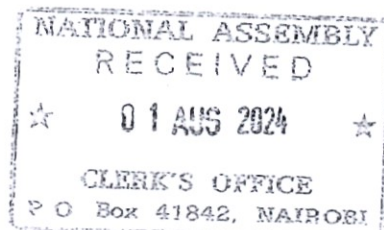
IN THE MATTER OF NOMINATION AND SUITABILITY FOR APPROVAL OF
MEMBERS OF THE NATIONAL EXECUTIVE

IN THE MATTER OF A PETITION BY JOSEPH MWATHI OF KILELE YOUTH
ORGANISATION AND ELIUD KARANJA MATINDI

REPLYING AFFIDAVIT

I, **SALIM MVURYA MGALA**, a resident of Kwale and of **P.O BOX 4 KWALE** within the Republic of Kenya do hereby make an Oath and swear as follows:

1. **THAT** I am an adult male of sound mind and the nominee for the position of Cabinet Secretary responsible for Investments, Trade, and Industry in the National Executive.
2. **THAT** I have read and understood the Memorandum of Joseph Mwathu Nyanjui of Kilele Youth Organization dated 26th July 2024 and another one of Joseph Karanja Matindi dated 26th July 2024 both of which oppose my nomination as Cabinet Secretary and wish to respond as follows.
3. **THAT** on 27th October 2022 His Excellency the President of the Republic Kenya, Dr. Wiliam Ruto appointed me as Cabinet Secretary responsible for Mining, Blue Economy and Maritime Affairs.
4. **THAT** thereafter under the guidance and leadership of His Excellency the President, I discharged my duties to the President and the people of Kenya as Cabinet Secretary in the most diligent, competent, and dutiful manner.



5. **THAT** during my tenure at the Ministry, I served with absolute integrity and was not mentioned in any scandal whatsoever. Moreover, I was not adjudged by any organ to have violated the constitutional values and principles of integrity and leadership as contained in Chapter 6 of the Constitution of the Republic of Kenya.
6. **THAT** on 11th July 2024, His Excellency the President in exercise of his constitutional prerogative powers and based on the need to re-organise the Cabinet and improve service delivery- dismissed all the members of the Cabinet National Executive and promised Kenyans to constitute a new one that will enable him to fulsomely discharge functions to Kenyans.
7. **THAT** I verily believe that the His Excellency President can dismiss or reassign a Cabinet Secretary. In doing so, the Constitution vests His Excellency the President with powers to determine the suitability and portfolio to assign to a Cabinet Secretary.
8. **THAT** on 24th July 2024, His Excellency the President nominated me to serve the people of Kenya as Cabinet Secretary in the Secretary responsible for Trade, Investments, and Industry- in the re-organised Cabinet.
9. **THAT** I verily believe that the decision to nominate me to serve the people of Kenya as Cabinet Secretary for Investments, Trade and Industry-is based on the His Excellency the President's assessment of my suitability, competence, and ability to serve the people of Kenya in this new portfolio. It is purely his prerogative.
10. **THAT** if confirmed by the National Assembly, I undertake to continue discharging the duties of a Cabinet Secretary with the required diligence and honesty. I will fulsomely continue to infuse into leadership the fundamental national values and

principles of governance and meet the expectations of Kenyans in reposition our country as the focal point for trade and investments in the region.

11. THAT in the premises, there is no cogent reason in the Memorandum of Joseph Mwathu Nyanjui of Kilele Youth Organization dated 26th July 2024 and another one of Joseph Karanja Matindi dated 26th July 2024-that seek to oppose my nomination.

12. THAT I swear this affidavit to oppose the said memoranda.

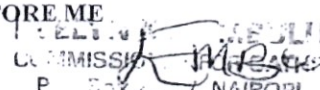
13. THAT what is deponed hereinabove is true to the best of my knowledge and belief.

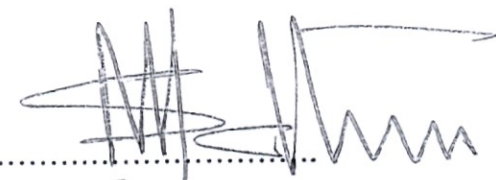
SWORN at NAIROBI

On this...31st day of **July** 2024

By the said **SALIM MVURYA MGALA**

BEFORE ME


COMMISSIONER FOR OATHS


.....
DEPONENT

DRAWN AND FILED BY:

MANYONGE WANYAMA & ASSOCIATES LLP

PETER WANYAMA MANYONGE

ADMISSION NUMBER: P.105/6652/07

PRACTICE NUMBER: LSK/2024/00451

MARSABIT PLAZA, 1ST FLOOR, ROOM 107-108,

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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF NOMINATION AND SUITABILITY FOR APPROVAL OF
MEMBERS OF THE NATIONAL EXECUTIVE

IN THE MATTER OF A PETITION BY JOSEPH MWATHI OF KILELE YOUTH
ORGANISATION AND ELIUD KARANJA MATINDI

REPLYING AFFIDAVIT

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3. THAT on 27th October 2022 His Excellency the President of the Republic Kenya, Dr. William Ruto appointed me as Cabinet Secretary responsible for Mining, Blue Economy and Maritime Affairs.
4. THAT thereafter under the guidance and leadership of His Excellency the President, I discharged my duties to the President and the people of Kenya as Cabinet Secretary in the most diligent, competent, and dutiful manner.

5. **THAT** during my tenure at the Ministry, I served with absolute integrity and was not mentioned in any scandal whatsoever. Moreover, I was not adjudged by any organ to have violated the constitutional values and principles of integrity and leadership as contained in Chapter 6 of the Constitution of the Republic of Kenya.
6. **THAT** on 11th July 2024, His Excellency the President in exercise of his constitutional prerogative powers and based on the need to re-organise the Cabinet and improve service delivery- dismissed all the members of the Cabinet National Executive and promised Kenyans to constitute a new one that will enable him to fulsomely discharge functions to Kenyans.
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10. **THAT** if confirmed by the National Assembly, I undertake to continue discharging the duties of a Cabinet Secretary with the required diligence and honesty. I will fulsomely continue to infuse into leadership the fundamental national values and

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12. THAT I swear this affidavit to oppose the said memoranda.

13. THAT what is deponed hereinabove is true to the best of my knowledge and belief.

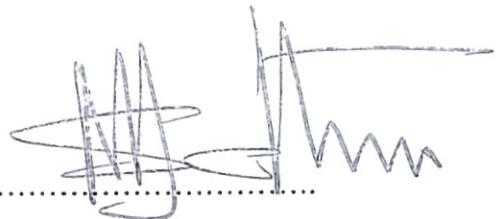
SWORN at NAIROBI

On this...**31st** day of **July** 2024

By the said **SALIM MVURYA MGALA**

BEFORE ME

COMMISSIONER FOR OATHS
P. Box 100493, NAIROBI



DEPONENT

DRAWN AND FILED BY:

MANYONGE WANYAMA & ASSOCIATES LLP

PETER WANYAMA MANYONGE

ADMISSION NUMBER: P.105/6652/07

PRACTICE NUMBER: LSK/2024/00451

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Telephone: (Call and WhatsApp)-0706129153, 0790497880 & 0112125347



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF NOMINATION AND SUITABILITY FOR APPROVAL OF
MEMBERS OF THE NATIONAL EXECUTIVE

IN THE MATTER OF A PETITION BY JOSEPH MWATHI OF KILELE YOUTH
ORGANISATION AND ELIUD KARANJA MATINDI

REPLYING AFFIDAVIT

I, **SALIM MVURYA MGALA**, a resident of Kwale and of **P.O BOX 4 KWALE** within the Republic of Kenya do hereby make an Oath and swear as follows:

- 1. THAT** I am an adult male of sound mind and the nominee for the position of Cabinet Secretary responsible for Investments, Trade, and Industry in the National Executive.
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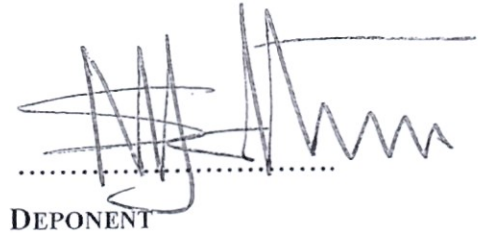
SWORN at NAIROBI

On this...31st day of **July** 2024

By the said **SALIM MVURYA MGALA**

BEFORE ME

EVELYN M. MUGALI
COMMISSIONER FOR OATHS
COMMISSIONER FOR OATHS



DEPONENT

DRAWN AND FILED BY:

MANYONGE WANYAMA & ASSOCIATES LLP

PETER WANYAMA MANYONGE

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Email: -manyongeadvocates@gmail.com or pmo@manyongewanyama.com.

Telephone: (Call and WhatsApp)-0706129153,0790497880 & 0112125347



REPUBLIC OF KENYA
IN THE MATTER OF OATHS & STATUTORY DECLARATIONS ACT
CAP 15 LAWS OF KENYA
AND
IN THE MATTER OF ROSELINDA SOIPAN TUYA
AFFIDAVIT

I, **ROSELINDA SOIPAN TUYA** of ID Number **22186489** and of **P. O BOX 28043-00100 NAIROBI**, a resident within Nairobi County within the Republic of Kenya, do hereby make oath and state as follows:

1. **THAT** I am an adult female of sound mind and disposition and therefore competent to swear this affidavit.
2. **THAT** I am the holder of Kenyan National Identity Card Number **22186489** (*Annexed herewith and marked "RST 1" is a copy of the Identity Card*).
3. **THAT**, I am the nominee for the position of Cabinet Secretary responsible for Defiance.
4. **THAT**, I have read and understood the memoranda contesting my nomination as the Cabinet Secretary for the Ministry of Defence submitted by the Citizens of Kenya mentioned below and thus competent to swear this affidavit in response to the said memoranda shared with me by the Clerk of the National Assembly vide a letter dated 30th July, 2024 and referenced NA/DAA&GPC/COA/2024/55:
 - a) EliudKaranjaMatindi;
 - b) Isaac Aluochier;
 - c) Joseph MwathiNyanjui
 - d) Khalid Ibrahim;
 - e) Aisha Adan;
 - f) Sonia Mshila;
 - g) Mercy Murugi Kuria; and
 - h) Ahmed M. Sigat
5. **THAT**, on 27thOctober 2022 His Excellency the President of the Republic Kenya, Dr. Wiliam Ruto appointed me as Cabinet Secretary responsible for Environment, Climate Change and Forestry.
6. **THAT**, thereafter under the guidance and leadership of His Excellency the President, I discharged my duties to the President and the people of Kenya as Cabinet Secretary in the most diligent, competent, and dutiful manner.

7. **THAT**, during my tenure at the Ministry, I served with absolute integrity and was not mentioned in any scandal whatsoever. Moreover, I was not adjudged by any organ to have violated the Constitutional values and principles of integrity and leadership as contained in Article 10 and Chapter 6 of the Constitution of the Republic of Kenya.
8. **THAT**, on 11th July 2024, His Excellency the President in exercise of his Constitutional prerogative powers and based on the need to re-organise the Cabinet and improve service delivery, dismissed all members of the Cabinet, with the exception of the Deputy President and Prime Cabinet Secretary. His Excellency the President promised Kenyans to constitute a new Cabinet that will enable him to wholesomely discharge functions to Kenyans.
9. **THAT**, I verily believe that His Excellency the President has the Constitutional discretion to dismiss or reassign a Cabinet Secretary. In doing so, the Constitution vests His Excellency the President with powers to determine the suitability and portfolio to assign to a Cabinet Secretary.
10. **THAT**, in particular, in exercise of powers conferred by Article 152 (2) of the Constitution of Kenya 2010 as read with sections 3 and 5 of the **Public Appointments (Parliamentary Approval) Act No 7 Laws of Kenya**, His Excellency the President notified the National Assembly of the nomination of twenty persons for appointment as Cabinet Secretaries to the respective Ministries and kindly nominated me to serve the people of Kenya as Cabinet Secretary responsible for Defence in the re-organised Cabinet.
11. **THAT**, Article 132 of the Constitution of Kenya 2010 confers upon the President the power to nominate and with the approval of the National Assembly, appoint Cabinet Secretaries in accordance with Article 152 of the Constitution of Kenya 2010. The Article may be subject to interpretation in the sense that it does not impose any limitations against the appointment of any caliber of persons subject to the approval of the National Assembly.
12. **THAT**, neither the Constitution of Kenya 2010 nor the Act has provisions limiting and or prohibiting the President from nominating a person who has previously been dismissed from office and; Article 152 (5) of the Constitution 2010 provides the president with the options to re-assign a Cabinet Secretary.
13. **THAT**, it suffices that a Cabinet Secretary cannot and should not be disbarred from subsequently holding any public office pursuant to a dissolution of Cabinet by the President unless for reasons of abuse of office contravening Public Officers Ethics Act of 2003. The President's dissolution of the Cabinet was not subject to any allegations and or charges related to gross misconduct and or abuse of public office or any acts

and or omissions contravening the Public Officers Ethics Act of 2003. Guided by Article 152 (5) (b) of the Constitution of Kenya 2010, His Excellency the President Honorable Dr. William Ruto dissolved his Cabinet.

14. **THAT**, further, it is notable that the Constitution does not provide for grounds for dismissal of a Cabinet Secretary by the President and it is hence at will and at the discretion of the President.
15. **THAT** further, guided by Article 152 (5) of the Constitution of Kenya 2010, His Excellency the President Honourable Dr. William Ruto in re-organizing his Cabinet nominated me as Cabinet Secretary for Defence. Guided by Article 152 (5) (b) of the Constitution of Kenya 2010; His Excellency the President Honourable Dr. William Ruto issued a statement nominating myself and 19 others as Cabinet Secretaries.
16. **THAT**, Section 6 (7) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 mandates the Committee on appointments during its approval hearings to examine a nominee's suitability, having regard to among other things, the nominee's personal integrity, qualities, experience, and background.
17. **THAT**, Section 20 (c) of the Act emphasizes that whereas an appointing authority may nominate a person who has previously been dismissed from office the vetting Committee is mandated to determine the suitability of such a nominee. The dismissal envisaged under the criteria in the Act applies where state officers have, following appropriate disciplinary procedures, been found to have contravened Article 75 (1) of the Constitution of Kenya 2010 (Conduct of State Officers), Article 76 of the Constitution of Kenya 2010 (Financial probity of State Officers), Article 77 of the Constitution of Kenya 2010 (Restriction of Activities of State Officers); or Article 78 of the Constitution of Kenya 2010 (Citizenship and Leadership).
18. **THAT**, the word contravention in Article 75 of the Constitution of Kenya 2010 implies that there must be a court finding or judgment that the nominee contravened Article 75 of the Constitution. At the moment, there is no finding by any Court of Law and or Authority against me in regards to breach of Article 75 of the Constitution of Kenya 2010.
19. **THAT**, in any case, I have submitted to the Committee clearance certificates from the DCI and from EACC indicating that I have not been under investigation from the respective agencies in the past in regards to any illegal activities.
20. **THAT**, during my tenure as the Cabinet Secretary for Environment, Climate Change and Forestry, I exercised my responsibilities in a manner that was consistent with the

purposes and objects of the Constitution; demonstrated respect for the people; brought honour to the Nation and dignity to office; and promoted public confidence in the integrity of the office.

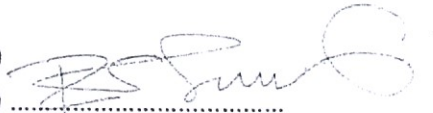
21. **THAT**, if confirmed by the National Assembly, I undertake to continue discharging the duties of a Cabinet Secretary with the required diligence and honesty. I will continue to infuse into leadership, the fundamental national values and principles of governance and meet the expectations of the people of Kenya.

22. **THAT** what is deponed to herein is true to my own knowledge, information and belief.

Sworn at **NAIROBI** by the said

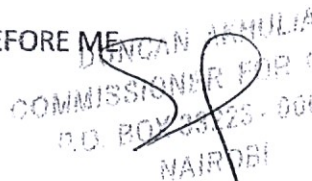
ROSELINDA SOIPAN TUYA

This 30th day of July 2024

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) **DEPONENT**
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BEFORE ME


DANIEL O. ONDABU
COMMISSIONER FOR OATHS
P.O. BOX 225-00000
NAIROBI

COMMISSIONER FOR OATHS

DRAWN AND FILED BY:-

Daniel O. Ondabu & Company Advocates,

Occidental Plaza, 3rd Floor,

Muthithi Road, Westlands

Nairobi.

Tel: +254706810477

Email: ondabuclarence@gmail.com

REPUBLIC OF KENYA
IN THE MATTER OF OATHS & STATUTORY DECLARATIONS ACT
CAP 15 LAWS OF KENYA
AND
IN THE MATTER OF ROSELINDA SOIPAN TUYA
AFFIDAVIT

I, ROSELINDA SOIPAN TUYA of ID Number 22186489 and of P. O BOX 28043-00100 NAIROBI, a resident within Nairobi County within the Republic of Kenya, do hereby make oath and state as follows:

1. **THAT** I am an adult female of sound mind and disposition and therefore competent to swear this affidavit.
2. **THAT**, I am the holder of Kenyan National Identity Card Number **22186489** (*Annexed herewith and marked "RST 1" is a copy of the Identity Card*).
3. **THAT**, I am a nominee for the position of Cabinet Secretary responsible for Defence.
4. **THAT**, I have read and understood the memoranda disapproving my nomination as the Cabinet Secretary for the Ministry of Defense submitted by one, **Fredrick Manoah Egunza** through the Speaker of National Assembly and Chairman, approval hearing of Cabinet Secretary nominees and thus; competent to respond to the said memoranda dated 27th July, 2024 and shared with me by the Clerk of the National Assembly.
5. **THAT**, at the outset and for the record purposes, I object in totality to the claims made by the claimant, save as otherwise stated in this Response, as follows:
6. **THAT**, by way of background information on Shiru and Shaviringa settlement schemes in kakamega forest:
 - i. *The Government initiated a land exchange between the private land owners in Mbale and the then Ministry of Environment and Natural Resources. The private land owners of Mbale were to surrender their land to the Government and the Government on its part was to cede forest land in Kakamega Forest.*
 - ii. *An area measuring approximately 134.8 Hectares in Shiru area of Kibiri Forest, which is part of the larger Kakamega Forest, was identified for this purpose. Boundary Plan No. 180/215 was subsequently prepared in anticipation of the de-gazettement. It is noteworthy that the latter Boundary Plan was prepared by the Director of Survey from Registry Index Maps (RIMs). Thereafter, no Survey was carried out to enable preparation of the Boundary Plan as required.*

- iii. *Sometime in 1992, an area measuring 36.00 Hectares of the 134.8 Hectares was earmarked and set aside for landowners affected by the expansion of Mudete Tea Factory in Vihiga and relocated to an area that came to be known as Shaviringa Settlement Scheme.*
 - iv. *While the proposed Shaviringa Scheme was meant to be 36.0 Ha, a ground confirmation by Kenya Forest Service (KFS) in November 2019 on the extent that was occupied, confirmed that the area covered measured approximately 43.5Ha meaning, that an additional 7.5Ha had been occupied.*
 - v. *None of the areas earmarked for excision were degazetted and therefore remain under the jurisdiction of Kenya Forest Service (KFS) despite the fact that the two areas (Shaviringa and Shiru) are fully settled until the degazettment process is undertaken as required by the law.*
7. **THAT,** I thus admit the contents of Paragraphs 1, 2 3 and 4 of the memorandum filed herein.
 8. **THAT,** With regard to Paragraph 5 of the memorandum, I am a stranger to these allegations and as clearly stated by the Claimant, the Ministry of Environment and Forestry under the then Cabinet Secretary Keriako Tobiko, SC, EGH formed a multi-agency team to expedite the resolution of the matter. Save to state that during my tenure as Cabinet Secretary, I have never engaged in any acts or omissions against the Claimant as pleaded. The Claimant is a complete stranger to me and I put him to strict proof thereof.
 9. **THAT,** the Claimant is untruthful to this Honourable House in his averments at Paragraphs 9, 10, 11 and 12 of the memoranda by raising unsubstantiated allegations of persistent acts of deceit and unreasonable conduct on my part; and I put the Claimant to strict proof thereof.
 10. **THAT,** in any event and relating to Paragraph 6 of the memoranda, it is not accurate that it was resolved that the team would degazette, resurvey and issue title deeds within 3 months as this assumes that the degazettment process is all under the purview of the one Ministry, yet it is a multi agency function.
 11. **THAT,** The true position is that the degazettment process involves many more stakeholders including Parliament and a robust public participation process as defined under the Forest Conservation and Management Act (FCMA) 2016. In particular, the legal framework set out in the FCMA 2016 stipulates as follows:

- i. Part IV—Conservation and Management of Forests on degazettement is provided in Section 34: -

(1) Any person may petition the National Assembly for the variation of boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest.

(2) A petition under subsection (1) shall demonstrate that the variation of boundaries or revocation of the registration of a public forest or a portion of a public forest does not—

(a) Endanger any rare, threatened or endangered species; or

(b) Adversely affect its value as a water catchment area; and prejudice biodiversity conservation, cultural site protection of the forest or its use for educational, recreational, health or research purposes.

(2A) A petition under subsection (1) shall only be forwarded to the National Assembly on the recommendation of the Service.

(3) A petition made under subsection (1) shall be considered in accordance with the provisions of the Petitions to Parliament (Procedure) Act and the Standing Orders of the National Assembly.

(4) The Cabinet Secretary shall, within thirty days of the petition being committed to the relevant Committee, submit a recommendation on whether the petition should be approved subject to—

(a) The petition being subjected to an independent Environmental Impact Assessment; and

(b) Public consultation being undertaken in accordance with the Second Schedule.

(5) If the relevant Committee, reports that it finds that the petition—

(a) does not disclose a ground for the variation of the boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest, no further proceedings shall be taken; or

(b) discloses a ground for the variation of the boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest, the National Assembly shall vote on whether to approve the recommendation.

(6) If the resolution under subsection (5)(b) is supported by a majority of the members of the National Assembly, present and voting, the Cabinet Secretary shall publish a notice in the Gazette.

12. **THAT**, the Claimant is hence misleading this Honorable National Assembly Bby way of fabricated statements in Paragraphs 13, 14 15, 16 and 17 of the Memoranda by alleging that I authorized a budget related demand letter. I do

state that I am a stranger to the Claimant and all these allegations and do put the Claimant to strict proof thereof.

13. **THAT**, in response to Paragraph 13 and 18, I have indeed engaged on the matter with the offices of the Prime Cabinet Secretary and that of the Governor of Vihiga; a process that is still ongoing.
14. **THAT** Further, the question of the draft budget for the survey process was raised and discussed after the Vihiga meeting of December 2021, long before my appointment as Cabinet Secretary in the Ministry of Environment, Climate Change and Forestry. I was not in office when it was authored and at no time during my tenure was it used as a demand for funds before any degazettment process was undertaken as alleged by the claimant. I therefore put the claimant to strict proof hereof.
15. **THAT** In March 2024, the Clerk of Senate wrote to the Ministry of Environment, Climate Change and Forestry to communicate a request for a statement by the Honorable Senator of Vihiga County on the status of the degazettment of Shiru and Shaviringa in Kakamega forest, to which I made a comprehensive written statement of reply and as a matter of duty.
16. **THAT**, It is true that some of the matters raised by the claimant are vested within the Ministry of Environment, Climate Change and Forestry. As such, the process has been ongoing, including developing a cabinet memorandum on the same as well as other similar issues which require regularization.
17. **THAT**, contrary to the Petitioner's claim in paragraph 20, in April 2024, I provided to the Senate a response to issues raised on the draft budget, being a matter that was on record and to which we were simply giving a status update as required and requested by Senate. *(Attached hereto and marked RST 2 is my then Cabinet Secretary's response to Senate of April 2024).*
18. **THAT**, I confirm that I furnished the Senate of Kenya with all relevant details and documents necessary, towards speedy resolution of the matter.
19. **THAT**, the allegations raised by the Claimant against my person herein are not only false, but unsubstantiated and also perjury punishable through imprisonment.
20. **THAT**, Due to the weighty nature of the allegations and or false statements made by the claimant under oath, I will be seeking to exercise my right to cross-examine the Claimant on the said false averments at the earliest opportunity and, through appropriate legal channels.

REASONS WHEREOF I pray:

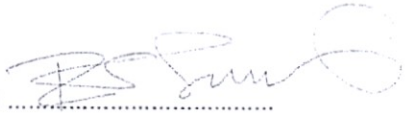
21. THAT the Claimant's memorandum be dismissed forthwith.

22. THAT what is deponed to herein is true to my own knowledge, information and belief.

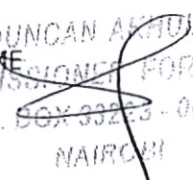
Sworn at **NAIROBI** by the said

ROSELINDA SOIPAN TUYA

This 30th day of July 2024

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DUNCAN AKHOLLA
BEFORE ME
COMMISSIONER FOR OATHS
P.O. BOX 33223 - 00600.
NAIROBI

COMMISSIONER FOR OATHS

DRAWN AND FILED BY:-

Daniel O. Ondabu & Company Advocates,
Occidental Plaza, 3rd Floor,
Muthithi Road, Westlands
Nairobi.

Tel: +254706810477

Email: ondabuclarence@gmail.com

JAMHURIYA KENYA

REPUBLIC OF KENYA

703447245

22186489

ROSELINDA SOIPAN TUYA



24.07.1978

FEMALE

NAROK

HDM CITY SQUARE

11.02.2022



This is the exhibit marked PST
affidavit
referred to in the annexed 3 of
Rosemnd S. Tuya declaration
sworn 30
declared July before me this 24
day of 2022
at Nairobi
Commissioner for Oaths Notary Public

NAROK SOUTH
OSUPUKO
NAROSORA
EESHUTA



IDENTIFICATION CARD

Signature

T0348078165

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7807242F2202118<B022186489L<<3
ROSELINDA<SOIPAN<TUYA<<<<<<<<<

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95,
97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156,
157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION
OF KENYA, 2010.

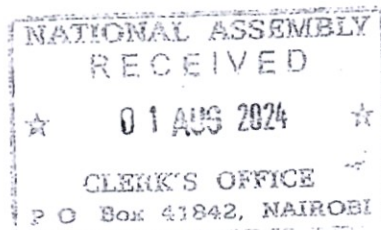
IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY
APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF
THE NATIONAL ASSEMBLY OF KENYA [6TH
EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR
APPOINTMENT TO THE NATIONAL EXECUTIVE
OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE
NOMINATION AND SUITABILITY FOR APPROVAL
FOR APPOINTMENT AS MEMBERS OF THE
NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE MUTHONI WAHOME
3. ADEN BARE DUALE
4. ROSELINDA SOIPAN TUYA
5. DAVIS KIMUTAI CHIRCHIR
6. SALIM MVURYA
7. REBECCA MIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND



14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF
KENYA NAIROBI.

THE RESPONSE OF JOHN MBADI NG'ONGO TO THE STATEMENT OF
PROTEST BY ELIUD KARANJA MATINDI

I, John Mbadi Ng'ongo, being a Kenyan citizen and currently a nominated member of the National Assembly, and of c/o Post Office Box Number 26090 00504 Nairobi in the Republic of Kenya do hereby solemnly make oath and state as follows:

1. THAT I have been served with a statement of protest of one Eliud Karanja Matindi an alleged resident of Poole in the local authority area of Bournemouth Christchurch and Poole United Kingdom of Great Britain and Northern Ireland, protesting my nomination, and I have read through the said statement.
2. THAT in specific response to paragraphs 25, 26 and 28, it is my response that I have been a member of ODM since 2005 and was in deed nominated by the said political party to serve in the House as currently constituted.
3. THAT I have read the paragraphs of the said statement which specifically address my nomination to cabinet by His Excellency the President for approval of the National Assembly and that I do now respond wholly to the same statement in my subsequent paragraphs.
4. THAT the constitution of Kenya 2010 must necessarily be read in whole for purposes of interpretation.
5. THAT Article 19 (2) of the said constitution of Kenya provides that the purpose of recognising and protecting human rights and fundamental freedoms is threefold; one is to preserve the dignity of individuals and communities; two is to promote social justice and three is for the realisation of the potential of human beings.
6. THAT further at Article 19 (3) (a) the said constitution of Kenya recognises that the rights and freedoms outlined in the Bill of rights belong to each individual.

constitution does not exclude any categories of persons from such nomination by the President.

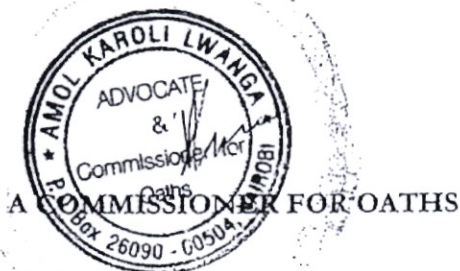
8. THAT I identify as both Suba and Luo and as a recognised leader in my community it is my obligation to balance my personal interests viz a viz the interests of my community.
9. THAT inclusion is a key principle underlying the provisions of the constitution of Kenya and it would not reflect positively on me as a leader within my community, to fail to consider and/or take up an opportunity that promotes the inclusion of all Kenyans in the governance of Kenya at any level, and in deed more particularly at policy level.
10. THAT in deed the constitution of Kenya is so firm on inclusion that at Article 27 it has specifically outlined that every person has equal right to benefit of the law. Exclusion and/or discrimination is prohibited.
11. THAT in addition, I have the desired background required of the position for which I have been nominated.
12. THAT it is in the public domain that in the preceding about 18 months there have been calls for the rejuvenation of our governance in order to realise the ideals we all seek as Kenyans. My nomination by the President provides an opportunity which I, as a patriotic citizen, can take to contribute to this national ideal.
13. THAT what is stated herein above is true to the best of my knowledge, information and belief.

SWORN AT NAIROBI BY THE SAID

JOHN MBADI NG'ONGO

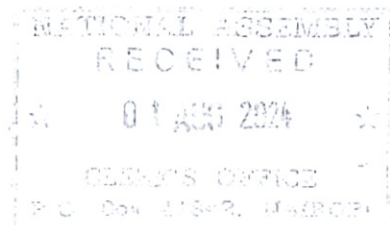
THIS 1st DAY OF AUGUST 2024

BEFORE ME



SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA



REPUBLIC OF KENYA
IN THE NATIONAL ASSEMBLY OF KENYA

TO: THE NATIONAL ASSEMBLY OF KENYA,
NAIROBI.

THE RESPONSE OF JOHN MBADI NG'ONGO TO THE SUBMISSIONS BY
JOEL OTIENO ODHIAMBO, PETER MUGA & JOSEPH KIBERENGES SENT
VIA EMAIL IN RESPECT OF NOMINATION AS CABINET SECRETARY

I, John Mbadi Ng'ongo, being a Kenyan citizen and currently a nominated member of the National Assembly, and of c/o Post Office Box Number 26090 00504 Nairobi in the Republic of Kenya do hereby solemnly make oath and state as follows:

1. THAT I have been served with the email statements of memoranda challenging my nomination as Cabinet Secretary Finance by His Excellency the President of the Republic of Kenya.
2. THAT one statement is by Joel Otieno Odhiambo of email joelotn@gmail.com and challenges my said nomination on the ground that I was accused by Aden Duale of being linked to the NYS scandal through companies allegedly associated with me.
3. THAT the said Joel Otieno Odhiambo goes on to state that I denied the said allegation of Aden Duale and stated that the said companies had been inactive since 2011. He thus seeks clarity on these allegations.
4. THAT in my response I wish to confirm that I did deny and still deny the said allegations by Aden Duale and reiterate that the said companies were companies that have remained inactive since 2011, which is now about 13 [thirteen] years ago.
5. THAT in deed even at the time of the allegation by Duale Aden, the said companies were inactive and thus could not have been involved in any procurements with NYS and they remain inactive to date.
6. THAT the said Joel Otieno Odhiambo goes on to make reference to an alleged removal of Hon Otiende Amolo from a key position allegedly done within the ODM party in a bossy manner by myself and that the action led to party wrangles.
7. THAT it is my response to this allegation that as ODM party Chairman I executed my mandate without fear or compromise and was able to steer the party in such position for a period of almost a decade.

8. THAT in fact the manner in which I executed my mandate during my term as ODM chairperson supports my identification as a person capable to taking on the reins of the docket for which the President has nominated me.
9. THAT I have read the email statement of one Peter Muga of email mugap527@gmail.com alleging that I do not have the economic ideas that will meet the demands of IMF and World Bank and that my accounting skills is not above the average of these demands.
10. THAT in my response to the said Peter Muga, I wish to state that in addition to my academic professional qualifications I have consistently worked in the field of finance including sitting in the relevant oversight committees that have afforded me the opportunity to grow my experience in issues finance. I have also been extensively trained both locally and internationally; trainings that have gone to further hone my skills relevant in the docket for which I have been nominated.
11. That further in deed my most recent role as Chairman PAC [Public Accounts Committee] has afforded me an opportunity to look into loopholes within our systems that frustrate the implementation of planned budgetary programs and this only goes to make me a well-rounded professional aptly suited to take up the role for which I have been nominated.
12. THAT I have read the statement of one Joseph Kiberenge sent vide email josephkibe65@gmail.com requesting that my docket be interchanged with that of Hon. Oparanya.
13. THAT is response to the said Joseph Kiberenge I wish to state that it is the lawful and in fact constitutional prerogative of the President to nominate best suited persons for approval by the National Assembly and I remain willing and ready to take up the docket for which His Excellency has nominated me should the National Assembly approve my said nomination.

REPUBLIC OF KENYA
IN THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF: ARTICLES: 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95,
97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152,
153, 156, 157, 201, 223, 232, 258 AND 259 OF THE
CONSTITUTION OF KENYA, 2010.

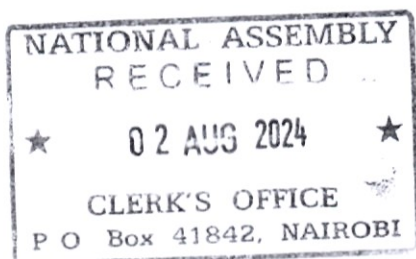
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IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING
THE NOMINATION AND SUITABILITY FOR
APPROVAL FOR APPOINTMENT AS
MEMBERS OF THE NATIONAL EXECUTIVE
OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE MUTHONI WAHOME
3. ADEN BARE DUALE
4. ROSELINDA SOIPAN TUYA
5. DAVIS KIMUTAI CHIRCHIR
6. SALIM MVURYA
7. REBECCA MIANO



8. ONESIMUS KIPCHUMBA MURKOMEN

9. ALFRED NGANGA MUTUA

10. JUSTIN BEDAN NJOKA MUTURI

11. JOHN MBADI NG'ONGO

12. JAMES OPIYO WANDAYI

13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA

**AFFIDAVIT IN RESPONSE TO THE TWO MEMORANDA OPPOSING THE
NOMINATION OF DR. ALFRED NGANGA MUTUA AS THE CABINET SECRETARY
FOR LABOUR AND SOCIAL PROTECTION**

I, DR. ALFRED NGANGA MUTUA, of P.O BOX 68179-00200, Nairobi, a Citizen of the Republic of Kenya, with regard to the Memoranda challenging my nomination as Cabinet Secretary Labour and Social Protection, do hereby make oath and state as follows:

1. **THAT** I am a male adult of sound mind and disposition, one of the nominees affected by the memoranda forming the gist of this response, and therefore competent to respond thereto.
2. **THAT** on 31st July 2024, I received a letter from the Clerk of the National Assembly notifying me that following my nomination as CS Labour and Social Protection, the National Assembly has received memoranda challenging my suitability for appointment as Cabinet Secretary for the Ministry of Labour and Social Protection.
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7. **THAT** I am further shocked by the proposition that our dismissal arose from the President's determination that we, as the Cabinet Secretaries, were no longer accountable individually/collectively in the exercise of our powers and the performance of our functions.
8. **THAT** in this regard, I vehemently deny the propositions and innuendos that I am unfit for appointment. As matter of fact, I confirm that I meet the Leadership and Integrity requirements set forth in Chapter Six (6) of the Constitution and in Leadership and Integrity Act.
9. **THAT** to attest to this fact, I have submitted relevant clearances by the Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), The Higher Education Loans Board (HELB) and the Credit Reference Bureau (CRB) which are the bodies charged with the role of clearing individuals on Leadership and Integrity issues.
10. **THAT** further I also confirm that in my public life spanning over 20 years, I have never been charged in any court of law in relation to integrity issues.

11. **THAT** in any event, I am legally advised and which advice I verily believe to be true that Article 75 of the Constitution specifies the contraventions and disciplinary process which upon a finding of guilt, would bar a state or public officer from holding public office. For purposes of clarity, it provides as follows:

(1) A State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids--

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16. **THAT** additionally, I am legally advised and which advice I verily believe to be true that the issues raised in the memoranda do not meet the threshold required to bar my nomination under Section 6(9) of the Public Appointments (Parliamentary Approvals) Act which contemplates that the *written statement on oath provided to the Clerk should be accompanied with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated.*
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25. **THAT** for avoidance of doubt, I strongly believe that in nominating me, the President followed the correct procedure as laid down in the Constitution, that I meet all the constitutional

requirements for appointment as Cabinet Secretary and that this Committee will be able to determine my suitability in terms of experience, abilities and qualities during the vetting process as required under the Law. I must emphasize that I am suitable to hold the office of Cabinet Secretary.

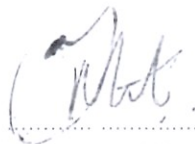
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SWORN at NAIROBI by the said
DR. ALFRED NGANGA MUTUA
this *1st* day of *August 2024*
BEFORE ME

COMMISSIONER FOR OATHS




Signature of Deponent

DRAWN & FILED BY:

DR. ALFRED NGANGA MUTUA
C/O P.O BOX 2170-00200

NAIROBI.

Mobile: 0717132437

REPUBLIC OF KENYA
IN THE NATIONAL ASSEMBLY OF KENYA

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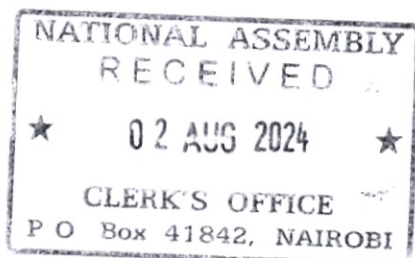
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**AFFIDAVIT IN RESPONSE TO THE TWO MEMORANDA OPPOSSING THE
NOMINATION OF DR. ALFRED NGANGA MUTUA AS THE CABINET SECRETARY
FOR LABOUR AND SOCIAL PROTECTION**

I, DR. ALFRED NGANGA MUTUA, of P.O BOX 68179-00200, Nairobi, a Citizen of the Republic of Kenya, with regard to the Memoranda challenging my nomination as Cabinet Secretary Labour and Social Protection, do hereby make oath and state as follows:

1. **THAT** I am a male adult of sound mind and disposition, one of the nominees affected by the memoranda forming the gist of this response, and therefore competent to respond thereto.
2. **THAT** on 31st July 2024, I received a letter from the Clerk of the National Assembly notifying me that following my nomination as CS Labour and Social Protection, the National Assembly has received memoranda challenging my suitability for appointment as Cabinet Secretary for the Ministry of Labour and Social Protection.
3. **THAT** enclosed with the letter were two memoranda both dated 26th July 2024 addressed to the National Assembly by one Eliud Karanja Matindi and Joseph Mwathi Kinyanjui (deponents) respectively.

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5. **THAT** foremost, I am legally advised and which advice I verily believe to be true that the power to determine whether my nomination by the President is constitutional or not lies with the High Court. Article 165(3)(d)(ii) of the Constitution provides that the High Court shall determine *whether anything said to be done under the authority of the Constitution or of any law is inconsistent with, or in contravention of the Constitution*. No such determination has been made by the High Court hence this committee has no binding decision to rely on as to the constitutionality or otherwise of my nomination.
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8. **THAT** in this regard, I vehemently deny the propositions and innuendos that I am unfit for appointment. As matter of fact, I confirm that I meet the Leadership and Integrity requirements set forth in Chapter Six (6) of the Constitution and in Leadership and Integrity Act.
9. **THAT** to attest to this fact, I have submitted relevant clearances by the Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), The Higher Education Loans Board (HELB) and the Credit Reference Bureau (CRB) which are the bodies charged with the role of clearing individuals on Leadership and Integrity issues.
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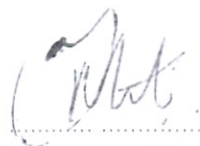
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SWORN at NAIROBI by the said
DR. ALFRED NGANGA MUTUA
this *1st* day of *August 2024*
BEFORE ME

COMMISSIONER FOR OATHS




.....
Signature of Deponent

DRAWN & FILED BY:

DR. ALFRED NGANGA MUTUA
C/O P.O BOX 2170-00200

NAIROBI.

Mobile: 0717132437

REPUBLIC OF KENYA
IN THE NATIONAL ASSEMBLY OF KENYA

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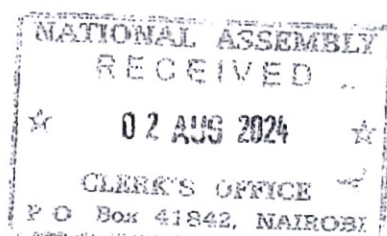
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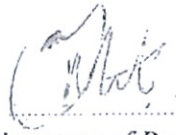
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 - (b) any constitutional or statutory requirements relating to the office in question; and*
 - (c) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.*
25. **THAT** for avoidance of doubt, I strongly believe that in nominating me, the President followed the correct procedure as laid down in the Constitution, that I meet all the constitutional

requirements for appointment as Cabinet Secretary and that this Committee will be able to determine my suitability in terms of experience, abilities and qualities during the vetting process as required under the Law. I must emphasize that I am suitable to hold the office of Cabinet Secretary.

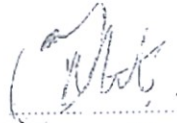
26. **THAT** it is my humble prayer that this committee finds the two memoranda contesting my suitability for appointment as unmerited based on the facts and the law as above stated, and proceed to conduct my approval hearing in accordance with the law.

27. **THAT** whatever is deposed to hereinabove is true to the best of my personal knowledge, information and belief, save for information sources whereof I have otherwise disclosed.

SWORN at NAIROBI by the said
DR. ALFRED NGANGA MUTUA
this 1st day of August 2024
BEFORE ME

COMMISSIONER FOR OATHS




Signature of Deponent

DRAWN & FILED BY:
DR. ALFRED NGANGA MUTUA
C/O P.O BOX 2170-00200
NAIROBI.
Mobile: 0717132437

Responses to the Memoranda contesting the suitability of Prof Kithure Kindiki as Cabinet Secretary for Interior and National Coordination

Wamuyu Gatheru Wamuyu Memoranda

-The Memorandum seeks the rejection of all Cabinet nominees alleging that their nomination offends the Constitution for various reasons including failing the test of public trust. The petitioner argues that the people of Kenya expressed displeasure with performance of the Cabinet and therefore the nomination of same persons is a slap in the face of Kenyans and unconstitutional

Response: There is no collective scientific assessment or performance matrix that was done to indicate that Kenyans think the performance of the Cabinet collectively or even individually was poor. Opinions on performance of individuals in public office will always vary. That the surveys and opinion polls conducted since the new Cabinet assumed office indicate that Prof Kithure Kindiki in particular has consistently topped the charts in terms of performance. This is further supported by the effective control of banditry as ably lauded by many in those areas, quick turnaround in passport issuance, etc.

That further, the power to nominate and dismiss Cabinet Secretaries is a Presidential prerogative that is only qualified by requiring the approval of Parliament. That this power is not shared, and the President is accorded this power by the Constitution to constitute his government for service delivery. This ought to remain so.

Faith Karimi Mbogo

-Calls for rejection of the nominees for failing to meet the 2/3 gender rule/test, demanding that at least 8 of the nominees must be of a different gender.

Response: The contestation is now overtaken by events as the President recently nominated two additional women, being the Attorney General Dorcas Oduor and EAC Cabinet Secretary nominee Beatrice Moe, making a total of 8 female nominees.

-Claimed that the nominees who had been nominated once again, including Prof Kithure Kindiki, be rejected as they had been dismissed hence becoming unsuitable for reappointment.

Response: The President has power to nominate, dismiss, appoint and renominate persons to enable him exercise executive authority delegated to him by the people of Kenya as per article 132(2) 152(20 and 156(20 of the Constitution. No one can guess the mind of the President when he dismissed the Cabinet. Further, the suitability of a person to serve in Cabinet is not a question for determination by any one person (whatever their views or status in society may be)-such determination on suitability must be determined dispassionately by the bodies/institutions set up by our law to so determine-these would be the courts and constitutional commissions. To my knowledge, none of these institutions has found me unsuitable to hold any public office. There is neither legal basis whatsoever nor any judicial precedent that states that a Cabinet Secretary dismissed cannot be nominated once again. Further, performance appraisal can only be done individually even though Cabinet members must own decisions of Cabinet collectively.

Joshua Abaki

-Contests the suitability of Prof Kindiki in light of recent events where he alleges the shooting of peaceful protestors by police officers under the jurisdiction of the Ministry of Interior.

Response: The incidences of violence perpetrated against innocent and peaceful protestors is regrettable. That the process for holding such officers accountable is ongoing and cannot be rushed, and it ought to remain so, in fidelity to the Constitution and respect for institutions. That we must acknowledge that policing can be difficult especially where protests are infiltrated by goons and other lawless individuals keen on fomenting anarchy as we witnessed in some days, including the invasion of this August House and other instances where the lives of the very police officers are at stake. Striking the correct balance in such delicate and difficult situations is not easy, and mistakes are likely to happen in such instances. But where such mistakes occur, and especially mistakes that border on indiscipline, indiscretions and infractions of the law, action has and will be taken.

The request by some to release all protestors from custody unconditionally and compensate those who were injured is not a decision I can make as a Cabinet nominee or even as a Cabinet secretary. To attempt so would be to infringe on the powers of the DPP and the court and other players within the criminal justice system. We believe the right decision will be made when all issues are considered by those competent and legally empowered to do so.

Davis Malombe (Kenya Human Rights Commission)

-Contests the suitability of Prof Kindiki on grounds that he was initially dismissed for want of performance; increase in overall crime incidents in Kenya in recent past; killings and violence by police officers against protestors; failure to resolve challenges in passport issuance; failure to address the bandit problem despite significant budgetary allocation.

Response: The allegation that we have not improved passport issuance, not handled bandit problem and there has been increased crime is not borne by evidence. It is at best non-factual and at worst anecdotal. Passport issuance turnaround has reduced from....to...days. We have since addressed banditry compared to the few months when we assumed office.

Antony Gitau Murumba

-Claims rejection of the nominees nominated again since they were earlier dismissed.

Response: See above answer on this issue. The President has powers to do so, and the Constitution and the law do not provide that a person dismissed from Cabinet under article 152(2)b as was the case, cannot be nominated once again. The dismissal was not the one envisaged under article 75(3) that arises as a result of constitutional violation nor was the dismissal pursuant to any disciplinary procedure that found any culpability on my part.

Okiya Omtatah Okoiti

-He wrote a letter to the Director, Internal Affairs Unit of the National Police Service demanding that the Unit conducts urgent investigations into killings, abductions and violations of human rights during protests.

Response: This is okay and indicates there are institutions and mechanisms both within and outside the National Police Service to take action and ensure accountability of officers. I cannot interfere, and we hope that the Unit will conduct its work independently and fairly.

Collins Onyango

-Contests the suitability of Prof Kindiki on the basis that there have been abductions and enforced disappearances, police brutality & extra judicial killings, violation of the court order in Malindi which prohibited the police from using cannons, tear gas, ammunition and rubber bullets during the protests.

Response: See the answers above

Esther Wangeci Wachira

-Claims that the nominees were earlier dismissed hence should not be nominated again

Response: See answers above

REPUBLIC OF KENYA

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT CAP. 7F, LAWS OF KENYA

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

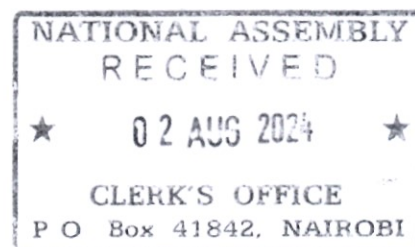
IN THE MATTER OF: CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT FOR HON. ONESIMUS KIPCHUMBA MURKOMEN AS CABINET SECRETARY FOR YOUTH AFFAIRS, CREATIVE ECONOMY AND SPORTS

IN THE MATTER OF: THE LEADERSHIP AND INTEGRITY ACT, NO. 19 OF 2012

IN THE MATTER OF: THE PUBLIC OFFICER ETHICS ACT, NO. 4 OF 2003

IN THE MATTER OF: THE OATHS AND STATUTORY DECLARATIONS ACT CAP 15 LAWS OF KENYA

TO:
THE NATIONAL ASSEMBLY OF KENYA
NAIROBI



REPLYING AFFIDAVIT

I, **HON. ONESIMUS KIPCHUMBA MURKOMEN, EGH** of P.O. Box 9653-00200, Nairobi being an adult of sound mind and a citizen of Kenya, hereby make oath and state as follows:

1. **THAT** I am the immediate former Cabinet Secretary for Roads and Transport and currently nominated as Cabinet Secretary for Youth Affairs, Creative Economy and Sports, and thus well-versed with the responsibilities and expectations of public office.

2. **THAT** I am fully conversant with the facts surrounding my nomination and therefore competent to swear this affidavit
3. **THAT** I swear this affidavit in opposition and response to the memoranda contesting my suitability for appointment as Cabinet Secretary for Youth Affairs, Creative Economy and Sports, as submitted by **Mr Allan Amdany Chebon, Mr. Collins Kipkemoi Sang, Mr. Eliud Karanja Matindi, Ms. Elizabeth Mugure Kinuthia, Mr. Isaac Aluochier, Mr. Joseph Mwathi Nyanjui, Ms Nyabuta Elizabeth Aghan, Mr Robbin Murimi Karani and Ms. Susan Justine Opwanda.**
4. **THAT** I have read and understood the contents of the memoranda raised against me and wish to address the concerns and allegations raised therein.
5. **THAT** I categorically deny all allegations levelled against me and maintain that they are unfounded, baseless, and politically motivated, aimed at tarnishing my reputation and impeding my appointment.
6. **THAT** on the allegations of my unsuitability to be nominated ostensibly due to purported misconduct and impropriety, I hereby respond as follows:
 - a) **THAT** the allegation involving funds from Out of the Box Solutions through SMS Advocates was previously addressed and settled during my vetting for Cabinet Secretary for Roads and Transport and a judgment was delivered in **Petition No. 275 of 2017**, which absolved my previous law firm from any wrongdoing, thus rendering the matter res judicata and not subject to reconsideration.
 - b) **THAT** the accusation raised by the Senator of Nandi County is categorically false and I have filed a defamation claim against the Senator, vide **Civil Suit No. E783 of 2024**, which is currently pending adjudication before a competent court of law.
 - c) **THAT** the reports of my alleged arrest for money laundering are malicious, unsubstantiated and wholly false and I assert that I have never been involved in any such activities.
 - d) **THAT** the purported video evidence is taken out of context, lacks a certificate of translation, and does not accurately reflect my

conduct or intentions as I have consistently advocated for unity and collaboration among leaders.

- e) **THAT** perceptions of arrogance and opulence are subjective and influenced by political rhetoric. Throughout my public service career, I have maintained humility and integrity, aligning my lifestyle and conduct with the principles of public service.
- f) **THAT** I have no role in the procurement process of any parastatal under the ministry and the procurement processes are independently managed by the respective parastatal in accordance with their established laws and regulations. For the avoidance of doubt, a Cabinet Secretary is not an accounting officer in the Ministry or the Agencies under it.

7. **THAT** on the allegation of my unsuitability to be nominated ostensibly because of the decision to dismiss all Cabinet Secretaries on **11.07.2024**, I hereby respond as follows:

- a) **THAT** pursuant to Article 132(2) of the Constitution, the President has the power to nominate and, with the approval of the National Assembly, appoint and dismiss Cabinet Secretaries in accordance with Article 152 of the Constitution.
- b) **THAT** Article 152(5) grants the President the discretion to dismiss a Cabinet Secretary without providing specific reasons, as outlined in Article 152(5)(b).
- c) **THAT** the referenced dismissal was not under Article 75(3) of the Constitution, which pertains to dismissals due to contraventions of Articles 75(1), 76, 77, or 78(2) following the applicable disciplinary procedures.
- d) **THAT** the dismissal by H.E. the President was not subject to any disciplinary procedures as per Article 75(2)(a).
- e) **THAT** the decision by H.E. the President to dismiss members of the Cabinet, including myself, does not fall under the dismissals envisaged by Article 75(3) that would disqualify me from holding State office.
- f) **THAT** Article 152(5)(b) allows for dismissal at the President's discretion and does not bar reappointment or holding other public office and consequently, my dismissal under this article does not affect my eligibility for reappointment.

- g) **THAT** further, Section 2 of the Public Appointments (Parliamentary Approval) Act includes provisions for reappointment to a different position under the definition of "**appointment**", affirming that my nomination is consistent with the legal framework governing public appointments.
 - h) **THAT** nonetheless the decision of the President to reassign me from Cabinet Secretary for Roads and Transport to Cabinet Secretary for Youth Affairs, Creative Economy and Sports, following a holistic appraisal of the collective performance of Cabinet, demonstrates his continued trust in my abilities and integrity which underscores my capability to effectively serve in various capacities within the national executive.
 - i) **THAT**, therefore, the allegations questioning the constitutionality of my nomination are without merit and the President's actions were within his constitutional powers, and there is no legal basis to disqualify my nomination based on the referenced dismissal.
8. **THAT** I have consistently upheld the principles enshrined in Article 10 and Article 73 of the Constitution of Kenya, which mandate public officers to demonstrate the highest standards of integrity, transparency, and accountability in their duties.
9. **THAT** throughout my public service career, I have adhered to the requirements of the Public Officer Ethics Act 2003, the Anti-Corruption and Economic Crimes Act 2003, and the Leadership and Integrity Act 2012, ensuring that my actions and decisions align with the ethical standards expected of a public servant.
10. **THAT** my track record in public service is a testament to my unwavering commitment to these principles. I have strived to foster transparency in all my dealings, holding myself accountable to the people of Kenya and ensuring that my conduct promotes the highest standards of integrity.
11. **THAT** my tenure as Cabinet Secretary for Roads and Transport was marked by significant achievements that contributed to national development and improved infrastructure, reflecting my dedication to public service.
12. **THAT** I am confident in my ability to serve as Cabinet Secretary for Youth Affairs, Creative Economy and Sports with the same dedication, professionalism, and integrity that have characterized my previous roles. My experience has equipped me with the skills and knowledge

necessary to address the challenges and opportunities in the youth, creative economy and sports sectors, and I am prepared to bring innovative solutions and effective leadership to this portfolio.

13. **THAT** what is deposed to hereinabove is true and to my own knowledge, save as to matters deposed to on information, sources whereof have been disclosed and matters deposed to on belief the grounds whereupon have been given.

SWORN at **NAIROBI** by the said
ONESIMUS KIPCHUMBA MURKOMEN

This 2nd day of AUGUST 2024

BEFORE ME

COMMISSIONER FOR OATHS

DEPONENT

To be served upon:

The Office of The Clerk of the National Assembly
Main Parliament Buildings
P.O. Box 41842-00100

NAIROBI

Email: cna@parliament.go.ke

REPUBLIC OF KENYA

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

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NAIROBI

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3. **THAT** I swear this affidavit in opposition and response to the memoranda contesting my suitability for appointment as Cabinet Secretary for Youth Affairs, Creative Economy and Sports, as submitted by **Mr Allan Amdany Chebon, Mr. Collins Kipkemoi Sang, Mr. Eliud Karanja Matindi, Ms. Elizabeth Mugure Kinuthia, Mr. Isaac Aluochier, Mr. Joseph Mwathi Nyanjui, Ms Nyabuta Elizabeth Aghan, Mr Robbin Murimi Karani and Ms. Susan Justine Opwanda.**
4. **THAT** I have read and understood the contents of the memoranda raised against me and wish to address the concerns and allegations raised therein.
5. **THAT** I categorically deny all allegations levelled against me and maintain that they are unfounded, baseless, and politically motivated, aimed at tarnishing my reputation and impeding my appointment.
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e) **THAT** perceptions of arrogance and opulence are subjective and influenced by political rhetoric. Throughout my public service career, I have maintained humility and integrity, aligning my lifestyle and conduct with the principles of public service.

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7. **THAT** on the allegation of my unsuitability to be nominated ostensibly because of the decision to dismiss all Cabinet Secretaries on **11.07.2024**, I hereby respond as follows:

a) **THAT** pursuant to Article 132(2) of the Constitution, the President has the power to nominate and, with the approval of the National Assembly, appoint and dismiss Cabinet Secretaries in accordance with Article 152 of the Constitution.

b) **THAT** Article 152(5) grants the President the discretion to dismiss a Cabinet Secretary without providing specific reasons, as outlined in Article 152(5)(b).

c) **THAT** the referenced dismissal was not under Article 75(3) of the Constitution, which pertains to dismissals due to contraventions of Articles 75(1), 76, 77, or 78(2) following the applicable disciplinary procedures.

d) **THAT** the dismissal by H.E. the President was not subject to any disciplinary procedures as per Article 75(2)(a).

e) **THAT** the decision by H.E. the President to dismiss members of the Cabinet, including myself, does not fall under the dismissals envisaged by Article 75(3) that would disqualify me from holding State office.

f) **THAT** Article 152(5)(b) allows for dismissal at the President's discretion and does not bar reappointment or holding other public office and consequently, my dismissal under this article does not affect my eligibility for reappointment.

- g) **THAT** further, Section 2 of the Public Appointments (Parliamentary Approval) Act includes provisions for reappointment to a different position under the definition of "**appointment**", affirming that my nomination is consistent with the legal framework governing public appointments.
 - h) **THAT** nonetheless the decision of the President to reassign me from Cabinet Secretary for Roads and Transport to Cabinet Secretary for Youth Affairs, Creative Economy and Sports, following a holistic appraisal of the collective performance of Cabinet, demonstrates his continued trust in my abilities and integrity which underscores my capability to effectively serve in various capacities within the national executive.
 - i) **THAT**, therefore, the allegations questioning the constitutionality of my nomination are without merit and the President's actions were within his constitutional powers, and there is no legal basis to disqualify my nomination based on the referenced dismissal.
8. **THAT** I have consistently upheld the principles enshrined in Article 10 and Article 73 of the Constitution of Kenya, which mandate public officers to demonstrate the highest standards of integrity, transparency, and accountability in their duties.
9. **THAT** throughout my public service career, I have adhered to the requirements of the Public Officer Ethics Act 2003, the Anti-Corruption and Economic Crimes Act 2003, and the Leadership and Integrity Act 2012, ensuring that my actions and decisions align with the ethical standards expected of a public servant.
10. **THAT** my track record in public service is a testament to my unwavering commitment to these principles. I have strived to foster transparency in all my dealings, holding myself accountable to the people of Kenya and ensuring that my conduct promotes the highest standards of integrity.
11. **THAT** my tenure as Cabinet Secretary for Roads and Transport was marked by significant achievements that contributed to national development and improved infrastructure, reflecting my dedication to public service.
12. **THAT** I am confident in my ability to serve as Cabinet Secretary for Youth Affairs, Creative Economy and Sports with the same dedication, professionalism, and integrity that have characterized my previous roles. My experience has equipped me with the skills and knowledge

necessary to address the challenges and opportunities in the youth, creative economy and sports sectors, and I am prepared to bring innovative solutions and effective leadership to this portfolio.

13. **THAT** what is deposed to hereinabove is true and to my own knowledge, save as to matters deposed to on information, sources whereof have been disclosed and matters deposed to on belief the grounds whereupon have been given.

SWORN at **NAIROBI** by the said
ONESIMUS KIPCHUMBA MURKOMEN

This 2nd day of AUGUST 2024

BEFORE ME

COMMISSIONER FOR OATHS


DEPONENT

To be served upon:

The Office of The Clerk of the National Assembly
Main Parliament Buildings
P.O. Box 41842-00100

NAIROBI

Email: cna@parliament.go.ke

REPUBLIC

OF

KENYA

IN THE MATTER OF: ARTICLES 132(2)(a) AND 152(2) OF THE
CONSTITUTION OF KENYA 2010;

AND

IN THE MATTER OF: SECTIONS 6 AND 7 OF THE PUBLIC
APPOINTMENTS (PARLIAMENTARY APPROVAL)
ACT, CAP 7F;

AND

IN THE MATTER OF: THE VETTING AND APPROVAL HEARINGS OF
NOMINEES FOR APPOINTMENT AS CABINET
SECRETARIES UNDER ARTICLE 152 OF THE
CONSTITUTION;

AND

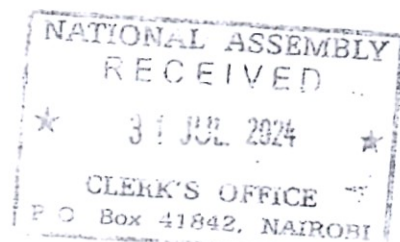
IN THE MATTER OF: THE NATIONAL ASSEMBLY STANDING ORDER 204
ESTABLISHING THE COMMITTEE ON
APPOINTMENTS;

IN THE MATTER OF: THE MEMORANDUM BY MR. ISAAC ALUOCHIER
DATED 25TH JULY 2024

**THE NOMINEE FOR APPOINTMENT AS CABINET SECRETARY, MINISTRY
OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY REPLYING
AFFIDAVIT**

I, **Hon. Duale Aden Bare, EGH**, a resident of Nairobi in the Republic of Kenya
and of Post Office Box Number 47436-00100, Nairobi aforesaid, do make oath and
state as follows, **THAT:**

1. I am the nominee for appointment as the Cabinet Secretary for the Ministry
of Environment, Climate Change and Forestry.
2. I am fully conversant with the facts giving rise to this matter thus competent
to make this affidavit.



3. I have read and understood, and where necessary, had explained to me by my Counsel Nuru Said Ahmed of HMS Africa Advocates LLP, the memoranda dated 25th July 2024 by Mr. Isaac Aluochier, against me and other nominees who were former Members of Parliament.
4. I make this affidavit in response and in opposition to the memoranda submitted under section 6(9) of the Public Appointments (Parliamentary Approval) Act Cap. 7F "(hereinafter referred to as "the Act").
5. Mr. Isaac Aluochier contends that he served as an Arbitrator between Advocate Lempaa Vincent Suyianka and over 1,900 Kenyan Legislators who served from the Year 2013 to the Year 2022.
6. Mr. Isaac Aluochier further alleges that in an Arbitral Award dated 21st July 2024, the Tribunal issued Orders which have not been adduced as Evidence and to which I am a stranger to. I do however note that the Arbitration proceedings mentioned in his Memoranda commenced on 10th April, 2024.
7. From the onset, the subject matter is not capable of settlement by Arbitration. The issue as to whether a Member of parliament has resigned from a political party is not a matter capable of settlement by Arbitration.
8. I am advised by advocate on record, Nuru Said Ahmed, which advise I verily believe to be true that all matters related to the resignation and resultant vacancy in a political seat cannot be determined by arbitration as it falls within the exclusive jurisdiction of the High Court under Article 105(1)(b) of the Constitution of Kenya 2010. Therefore, it is only the High Court that can determine whether a seat of a Member of Parliament has become vacant or not.
9. Mr. Isaac Aluochier therefore did not and does not possess any authority to issue the alleged Arbitral Award and any such Award would therefore be null and void.
10. I also note that the alleged arbitral award was not recognized and enforced through an application made in writing to the High Court as required under Section 36 (1) of the Arbitration Act, which states –

"A domestic arbitral award, shall be recognized as binding and, upon application in writing to the High Court, shall be enforced subject to this section and section 37".

11. I further reiterate that, Mr. Isaac Aluochier has not produced any evidence to suggest that the alleged award was brought before the High Court for adoption and in the absence of such evidence the alleged arbitral award has no binding effect on any party.
12. I do not recall ever having been involved in this matter and no arbitration agreement was ever made with the applicant as required in law and neither have I been served with a certified copy of the award. I have only interacted with this matter when the Clerk of the National Assembly wrote bringing my attention to the existence of this memorandum following a call for the public to submit Memoranda on the suitability of the presidential Nominees.
13. I ask the Committee to dismiss this memorandum as it is an abuse of the process.
14. Save as otherwise expressly stated, the contents of this affidavit are based on my own knowledge and are true. To the extent that any statement made herein is based on information or belief, I have disclosed the source or ground thereof (as the case may be), of such information or belief, and I verily believe the same to be true.
15. Additionally, in my entire long spanning career as a Member of Parliament, I have never been subjected to any Arbitration as to my position be it for appointment, resignation or otherwise.
16. I reiterate my commitment to continue serving the people of Kenya and if approved by the Committee, I wish to state that I undertake to do my best to deliver effectively as the Cabinet Secretary for Environment and Climate Change Affairs.
17. I am fully compliant with the provisions of Article 10 of the Constitution on the national values and principles of governance, Article 73 of the Constitution on the responsibilities of leadership and the entire Chapter Six of the Constitution on Leadership and Integrity.

18. What is deposed to herein, is correct to the best of my knowledge and belief.

SWORN by the said **HON. ADEN DUALE BARE**
at Nairobi.

This 30th day of July 2024

ALIBHAI FAKHRUDIN HASSAN
COMMISSIONER FOR OATHS
& NOTARY PUBLIC
P.O. Box 8632-00200
Nairobi
BEFORE ME
COMMISSIONER FOR OATHS


30/7/2024
DEPONENT

DRAWN AND FILED BY:

HMS Africa Advocates LLP
Gateway Place, Ground Floor,
Jakaya Kikwete Road
P.O. Box 8632-00200
NAIROBI

TO BE SERVED UPON

The Clerk of the National Assembly of Kenya
E-mail: clerk@parliament.go.ke and crs@parliament.go.ke
Delivered to the Clerk Main Parliamentary Building

REPUBLIC OF KENYA

IN THE MATTER OF: ARTICLES 132(2)(a) AND 152(2) OF THE
CONSTITUTION OF KENYA 2010;

AND

IN THE MATTER OF: SECTIONS 6 AND 7 OF THE PUBLIC
APPOINTMENTS (PARLIAMENTARY APPROVAL)
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AND

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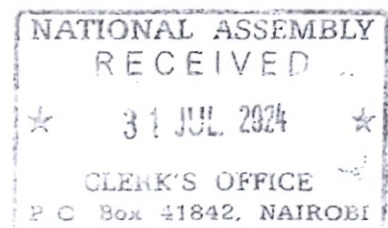
AND

IN THE MATTER OF: THE NATIONAL ASSEMBLY STANDING ORDER 204
ESTABLISHING THE COMMITTEE ON
APPOINTMENTS:

**THE NOMINEE FOR APPOINTMENT AS CABINET SECRETARY, MINISTRY
OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY REPLYING
AFFIDAVIT**

I, **Hon. Duale Aden Bare, EGH**, a resident of Nairobi in the Republic of Kenya and of Post Office Box Number 47436-00100, Nairobi aforesaid, do make oath and state as follows, **THAT**:

1. I am the nominee for appointment as the Cabinet Secretary for the Ministry of Environment, Climate Change and Forestry.
2. I am fully conversant with the facts giving rise to this matter thus competent to make this affidavit.
3. I have read and understood, and where necessary, had explained to me by my Counsel Nuru Said Ahmed of HMS Africa Advocates LLP, the memoranda dated 30th July 2024, contesting that persons who have been previously dismissed from office cannot be re-appointed to the Cabinet.



4. I make this affidavit in response and in opposition to the memoranda submitted under section 6(9) of the Public Appointments (Parliamentary Approval) Act Cap. 7F "(hereinafter referred to as "the Act").
5. Save as otherwise expressly stated, the contents of this affidavit are based on my own knowledge and are true. To the extent that any statement made herein is based on information or belief, I have disclosed the source or ground thereof (as the case may be), of such information or belief, and I verily believe the same to be true.
6. In the exercise of his powers conferred by Article 152(2) of the Constitution, as read together with sections 3 and 5 of the Act, H.E. The President notified the National Assembly of the nomination of twenty (20) persons for appointment as Cabinet Secretaries to the respective Ministries including my nomination for appointment as the Cabinet Secretary for the Ministry of Environment, Climate Change and Forestry.
7. The process of vetting and approval of Cabinet Secretaries is provided for in the Constitution, the Act and the National Assembly Standing Orders.
8. Article 132 of the Constitution confers upon the President the power to nominate and with the approval of the National Assembly, appoint Cabinet Secretaries in accordance with Article 152 of the Constitution.
9. The President **has discretion to nominate any person** including a person who has been dismissed as a Cabinet Secretary under Article 152(5)(b) of the Constitution.
10. **Neither the Constitution nor the Act** has provisions limiting or prohibiting the President from nominating a person who has been previously dismissed from office.
11. Further, Article 152(5)(b) of the Constitution empowers the President to dismiss a Cabinet Secretary from office. It is notable that the Constitution does **NOT** provide for grounds of dismissal of a Cabinet Secretary by the President and it is hence at will and at the discretion of the President. In the

ensuing circumstances, the President dismissed the Cabinet Secretaries to re-organize his government.

12. Pursuant to Article 152(5)(b) of the Constitution, on Thursday 11th July, 2024, H. E. the President issued a statement dismissing all the Cabinet Secretaries and the Attorney-General from the Cabinet except the Prime Cabinet Secretary.
13. It is notable that the statement did **NOT** fall within the parameters of Article 135 of the Constitution which provides that a decision of the President in the performance of any function of the President under the Constitution shall be in writing and shall bear the seal and signature of the President.
14. To give effect to the action to dismiss the Cabinet Secretaries, H.E The President, in a *Gazette Notice No. 8440 dated 11th July, 2024, Executive Order No. 6 of 2024*, gazetted the dismissal of Cabinet Secretaries from office.
15. It is worth noting that the Gazette Notice did **NOT** state the reasons for the dismissal of the Cabinet Secretaries.
16. Section 6(7) of the Act obligates the Committee on Appointments during approval hearings to examine a nominee's suitability, having regard to, among other things, the nominee's personal integrity, qualities, experience, and background.
17. Further, section 7 of the Act, provides that the Committee shall consider the procedure used to arrive at the nominee; any constitutional or statutory requirements relating to the office in question; and the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.
18. From the foregoing, whereas the Constitution does not prohibit the President from nominating persons who have been previously dismissed as Cabinet Secretaries, it is the responsibility of the Committee on Appointments to determine the suitability of the nominees based on the oral submissions that shall be made by a nominee during the approval hearing;

the memoranda submitted by the public, if any and the clearance certificates from the relevant agencies.

19. Additionally, section 6(8) of the Act requires that the Committee on Appointments shall be guided by the criteria set out in the Schedule to the Act in conducting the vetting and approval hearings.
20. Paragraph 20(c) of the vetting criteria requires a nominee to state whether he or she has been dismissed or otherwise removed from office for a **contravention of the provisions of Article 75 of the Constitution**.
21. Paragraph 20(c) of the Schedule to the Act also emphasises the issue that whereas an appointing authority may nominate a person who has previously been dismissed from office, it is the Committee on Appointments that determines the suitability of such a nominee.
22. Further, the dismissal envisaged under the criteria in the Schedule to the Act also applies where state officers have, **following appropriate disciplinary procedures**, been found to have **contravened** Article 75(1) of the Constitution (*Conduct of State Officers*), Article 76 of the Constitution (*Financial probity of state officers*), Article 77 of the Constitution (*Restriction of activities of state officers*); or Article 78 of the Constitution (*Citizenship and leadership*).
23. Reference to the word "contravention" of the provisions of Article 75 of the Constitution implies that there must be a court finding or judgement that the nominee contravened Article 75 of the Constitution. Only a court of law of competent jurisdiction can make a finding on contravention of a provision of the Constitution.
24. To this end, I have never been charged in court of law or found by a court of law or a quasi-judicial body to have contravened Article 75 of the Constitution or any other provision of the Constitution or law.
25. Additionally, in my entire long spanning career as a State Officer, I have never been subjected to any disciplinary procedures.
26. Further, I am required to submit to the Committee clearance certificates from various relevant agencies including the EACC which is the body

mandated to deal with the implementation of Chapter Six of the Constitution on Leadership and Integrity.

27. In this regard, I confirm that I duly submitted to the Committee the clearance certificates from all relevant agencies including the EACC and DCI.
28. It is notable that all the relevant agencies have all cleared me and indicated that I have never been under investigation and presently do not have any pending cases under investigation.
29. I previously served as a Fourth Term Member of Parliament for Garissa Town Constituency for 14 years commencing the year 2008 until 2022 when I was appointed to the Executive. During my service in Parliament as a legislator, I discharged my duties effectively and upheld the Constitution. I was never charged in a court of law or found to have contravened the Constitution or any known law by a court or quasi-judicial body.
30. I also served as the Leader of Majority Party of the National Assembly in the 11th and 12th Parliament and my track record as an astute legislator is a matter of public notoriety.
31. I am also the former Cabinet Secretary for Defence for which I served effectively and was ranked as one of the best performing Cabinet Secretaries in discharging my duties as a Cabinet Secretary.
32. During my tenure as the Cabinet Secretary for Defence, I exercised my responsibilities in a manner that was consistent with the purposes and objects of the Constitution; demonstrated respect for the people; brought honour to the nation and dignity to the office; and promoted public confidence in the integrity of the office.
33. In the recent past, you will recall my efforts towards protecting key government installations including Parliament during the unprecedented events of 25th June, 2024 and restoring order across the country.
34. The re-appointment is a nod on my suitability to continue serving the people of Kenya.

35. The Gazette Notice by H.E The President dismissing the Cabinet did not anywhere or in any way indict my suitability from holding public office.

36. Article 75(2) of the Constitution bars state officers who have been subjected to disciplinary procedures such as impeachment processes from holding any other state office, a matter that the Supreme Court in Petition 11 (E008) of 2022 did also guide accordingly in respect of the impeachment of the governor of Nairobi City County. I have never been subject to any impeachment processes in my entire career as a State Officer.

37. I reiterate my commitment to continue serving the people of Kenya and if approved by the Committee, I wish to state that I undertake to do my best to deliver effectively as the Cabinet Secretary for Environment and Climate Change Affairs.

38. I am fully compliant with the provisions of Article 10 of the Constitution on the national values and principles of governance, Article 73 of the Constitution on the responsibilities of leadership and the entire Chapter Six of the Constitution on Leadership and Integrity.

39. What is deposed to herein, is correct to the best of my knowledge and belief .

SWORN by the said **HON. ADEN DUALE BARE**
at Nairobi.

This.....^{31st}.....day of July 2024




DEPONENT 30-7-24

Drawn & Filed By:

HMS Africa Advocates LLP
Gateway Place, Ground Floor,
Jakaya Kikwete Road
P.O. Box 8632-00200
NAIROBI

To be Served Upon:

The Clerk of the National Assembly of Kenya
E-mail: Clerk@parliament.go.ke and qua@parliament.go.ke
Delivered to the Clerk Main Parliamentary Building

REPUBLIC OF KENYA
IN THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF THE PUBLIC APPOINTMENTS (PARLIAMENTARY
APPROVAL) CAP. 7F LAWS OF KENYA

AND

IN THE MATTER OF THE INVITATION FOR VETTING BY THE COMMITTEE
ON APPOINTMENTS FOR THE POSITION OF CABINET SECRETARY,
MINISTRY OF ROADS AND TRNASPORT

AND

IN THE MATTER OF THE MEMORANDA SUBMITTED BY ELIUD KARANJA
MATINDI, JOSEPH MWATHI NYANJUI, KHALID IBRAHIM, AISHA ADAN,
SONIA MSHILA, MERCY MURUGI KURIA AND AHMED M. SIGAT, ELIZABETH
MUGURE KINUTHIA, ALLAN AMDANY CHEBON AND SUSAN JUSTINE
OPWANDA

TO:

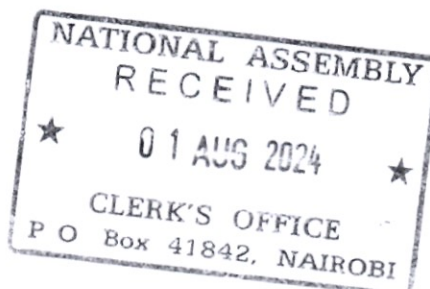
THE CLERK OF THE NATIONAL ASSEMBLY

RESPONSE TO THE MEMORANDA

I, **DAVIS KIMUTAI CHIRCHIR**, a resident of Nairobi City County and of P.O. Box 7128 Nairobi do solemnly make oath and state as follows: -

1. I am the nominee for appointment to the position of Cabinet Secretary, Ministry of Roads and Transport, duly nominated by H.E. Dr. William Samoei Ruto, President of the Republic of Kenya, thus competent to swear this affidavit.
2. I have read, understood and where necessary sought legal advice on the memoranda submitted by way of written statements under oath listed below: -

Leah Wang'ani
COA to consider.
Scan and transmit to
legal for brief.
01/08/24



- a. The memorandum of Eliud Karanja Matindi dated 26th July 2024;
 - b. The memorandum of Joseph Mwathi Nyanjui dated 26th July 2024
 - c. The memorandum of Khalid Ibrahim dated 24th July 2024;
 - d. The memorandum of Aisha Adan dated 24th July 2024;
 - e. The memorandum of Sonia Mshila dated 24th July 2024;
 - f. The memorandum of Mercy Murugi Kuria dated 24th July 2024;
 - g. The memorandum of Ahmed M. Sigat dated 24th July 2024;
 - h. The memoranda of Elizabeth Mugure Kinuthia dated 31st July, 2024;
 - i. The memoranda of Allan Amdany Chebon dated 30th July, 2024; and
 - j. The memoranda of Susan Justine Opwanda
3. The ten (10) memoranda of the individuals listed in paragraphs 2 above, some of which were forwarded by a letter dated 30th July, 2024 from the Clerk, National Assembly, raise substantially similar issues of law relating to the discretionary powers exercised by H.E. the President on 11th July 2024 to dismiss the Cabinet. I therefore wish to address these memoranda jointly.
 4. On 27th September 2022 I was nominated by H.E. Dr. William Samoei Ruto, the President of the Republic of Kenya, for the position of Cabinet Secretary, Ministry of Energy and Petroleum. Thereafter, the National Assembly considered my nomination in an extensive vetting process and approved it.
 5. On 27th October 2022 H.E. the President appointed me to serve the people of Kenya as Cabinet Secretary.
 6. On 11th July 2024 H.E. the President, in exercise of his prerogative powers dismissed all members of the Cabinet after a holistic appraisal of the National Government's achievements and challenges. This action by H.E. the President

does not in any way isolate me or any other member of the Cabinet for any misconduct that would disqualify me for a reappointment or an elective position in the future. If that were the case, then the process would have been one that I would have been given an opportunity to answer to any charges or allegations of breach of the law, incompetence and misconduct.

7. On 19th July 2024 H.E. the President in exercise of his prerogative powers reconstituted the Cabinet and nominated me to serve the people of Kenya as the Cabinet Secretary in the Ministry of Roads and Transport.
8. I verily believe that the decision of H.E. the President to nominate me to this position was based on his assessment of my competence, ability and suitability to discharge the functions of Cabinet Secretary in the said Ministry.
9. On the allegation of my unsuitability to be nominated with a view to serve the people of Kenya as a Cabinet Secretary, premised on decision by H.E. the President to dismiss all Cabinet Secretaries, including myself, on 11th July, 2024, I hereby respond as follows:-
 - a. In accordance with Article 152 of the Constitution, the President has the power and discretion to appoint Cabinet Secretaries and may dismiss such Cabinet Secretaries without giving reasons.
 - b. The dismissal by the President on 11th July, 2024 was not a dismissal envisaged Article 75(3) of the Constitution, which specifies that such dismissal or removal ought to be as a result of a violation of Article 75(1) or Articles 76, 77 or 78(2) of the Constitution.
 - c. The removal contemplated under the Articles stated above is to be subjected to the applicable disciplinary procedures for the office in question under Article 75(2)(a).

- d. The dismissal of the Cabinet Secretaries by the His Excellency the President was not subject to any disciplinary procedures.
- e. It can therefore be surmised that the decision by H.E. the President to dismiss members of the Cabinet, including myself, is not a dismissal as contemplated by Article 75(3) such as to disqualify myself from holding a public office.
10. In light of my nomination to serve as Cabinet Secretary in the Ministry of Road and Transport, I undertake to faithfully, dutifully and diligently discharge my duties to the people of Kenya.
11. I wish to unequivocally confirm that I have not faced any issues related to performance, integrity, misconduct or bad governance prior and during my tenure as Cabinet Secretary.
12. In the foregoing premise there is no merit in any of the memoranda against my nomination for the position of Cabinet Secretary, Ministry of Roads and Transport.
13. That what I have deposed to hereinabove is true and to my knowledge, save as to matters deposed to on information, sources whereof have been disclosed and matters deposed to on belief the grounds thereof have been provided.

SWORN at NAIROBI by the said

DAVIS KIMUTAI CHIRCHIR

On this 18th day of August 2024

BEFORE ME:

COMMISSIONER FOR OATHS



DEPONENT

DRAWN AND FILED BY:

MOHAMMED MUIGAI LLP

LUCY W. KIBACHIA

ADMISSION NUMBER: P.105/15937/19

PRACTICE NUMBER: LSK/2024/08427

K-REP CENTRE, 4TH FLOOR,

MM CHAMBERS, WOOD AVENUE,

P.O BOX 61323 - 00200,

NAIROBI.

Email: -lkibachia@mohammedmuigai.com

TO BE SERVED UPON:

THE CLERK OF THE NATIONAL ASSEMBLY

The National Assembly

Main Parliament Buildings

Nairobi

Email: cna@parliament.go.ke

REPUBLIC OF KENYA
IN THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF THE PUBLIC APPOINTMENTS (PARLIAMENTARY
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AND

IN THE MATTER OF THE INVITATION FOR VETTING BY THE COMMITTEE
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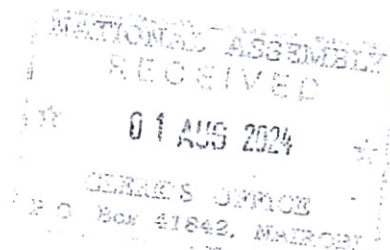
IN THE MATTER OF THE MEMORANDA SUBMITTED BY ELIUD KARANJA
MATINDI, JOSEPH MWATHI NYANJUI, KHALID IBRAHIM, AISHA ADAN,
SONIA MSHILA, MERCY MURUGI KURIA AND AHMED M. SIGAT, ELIZABETH
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OPWANDA

TO:
THE CLERK OF THE NATIONAL ASSEMBLY

RESPONSE TO THE MEMORANDA

I, DAVIS KIMUTAI CHIRCHIR, a resident of Nairobi City County and of P.O. Box 7128
Nairobi do solemnly make oath and state as follows: -

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of Roads and Transport, duly nominated by H.E. Dr. William Samoei Ruto,
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 12. In the foregoing premise there is no merit in any of the memoranda against my nomination for the position of Cabinet Secretary, Ministry of Roads and Transport.
 13. That what I have deposed to hereinabove is true and to my knowledge, save as to matters deposed to on information, sources whereof have been disclosed and matters deposed to on belief the grounds thereof have been provided.

SWORN at NAIROBI by the said

DAVIS KIMUTAI CHIRCHIR

On this 18th day of August 2024

BEFORE ME:

COMMISSIONER FOR OATHS



DEPONENT

DRAWN AND FILED BY:

MOHAMMED MUIGAI LLP
LUCY W. KIBACHIA
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NAIROBI,
Email: -lkibachia@mohammedmuigai.com

TO BE SERVED UPON:

THE CLERK OF THE NATIONAL ASSEMBLY
The National Assembly
Main Parliament Buildings
Nairobi
Email: cna@parliament.go.ke

REPUBLIC OF KENYA
IN THE MATTER OF THE OATHS

STATUTORY DECLARATIONS ACT CHAPTER 15 OF THE LAW OF KENYA
AND
IN THE MATTER OF ARTICLE 118(1)(b) AND 152(2) OF THE CONSTITUTION AND
IN THE MATTER OF PUBLIC APPOINTMENTS (PARLIAMENTARY
APPROVAL) ACT, CAP.7F

IN THE MATTER OF APPROVAL BY THE NATIONAL ASSEMBLY OF PERSONS
NOMINATED FOR APPOINTMENT AS CABINET SECRETARIES

IN THE MATTER OF INVITATION TO SUBMIT MEMORAN

AND

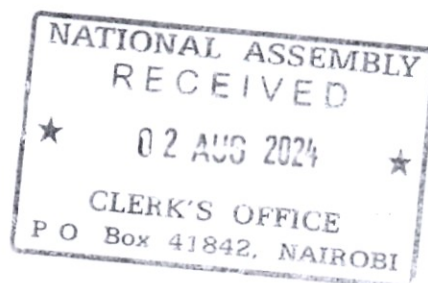
IN THE MATTER OF NOMINATION OF HASSAN ALI JOHO AS THE CABINET
SECRETARY FOR MINING. BLUE ECONOMY AND MARITIME AFFAIRS IN THE

GOVERNMENT OF KENYA

HAKI YETU'S MEMORANDA AGAINST THE NOMINATION OF HASSAN ALI JOHO
AS THE CABINET SECRETARY FOR MINING BLUE ECONOMY AND MARITIME
AFFAIRS IN THE GOVERNMENT OF KENYA

To:

The National Assembly of Kenya
Thro'
The Clerk of the National Assembly
P. O. Box 41842-00100
Parliament Buildings
NAIROBI.



REPLYING AFFIDAVIT
(OF HASSAN ALI JOHO)

I **HASSAN ALI JOHO**, resident of Nyali in Mombasa and of post office box number 8220-80100 Mombasa in the republic of Kenya, make oath and state as follows:

1. **THAT** am a Cabinet Secretary Nominee, and the subject of the affidavit sworn by one Munira Ali Omar Advocate, on **1st August 2024**, to which I now respond.
2. **THAT** I will start by referring to **Article 118(1) (b)** of the Constitution, being one of the Articles quoted by the drafter of the affidavit.
3. **THAT Article 118** falls under **Part 5 of Chapter 8** of the Constitution. In particular, the **Article 118 (1) (b)** specifically provides that Parliament shall:

“ (b) facilitate public participation and involvement in the legislative and other business of parliament and its committees”

4. **THAT** it will clearly be seen that this provision has nothing to do with my person and competence as a Cabinet Secretary nominee.
5. **THAT** Article 152 (2) of the Constitution also relied on by Munira Ali provides as follows:

“ (2) The president shall nominate and with the approval of Parliament, appoint Cabinet Secretaries.”

This has already been done, and is the reason for this session.

6. **THAT** it is clear that Munira Ali Omar is an Advocate of the High Court. She has gone ahead and accused me of breaching Chapter Six of the Constitution. She also accuses me of being responsible for increase in youth gangs, drugs menace and high insecurity in Mombasa. All these matters are at paragraph 7 of her affidavit.
7. **THAT** I expected this Advocate to provide concrete and tangible evidence to which I could then respond. She did nothing of the sort. As an advocate, Munira Ali Omar knows that she was only maligning my name and person, without evidence.

PART 2

8. That I now refer to the allegations on **“wastage of Public Resources under Hassan Ali Joho’s Tenure”**

I begin by stating that although the request for these were advertised on 24th and 25th July 2024, it was not until 1st August 2024 that Munira Chose to write her Memorandum. Despite the short notice, I will fully respond.

9. **THAT** the building of a stadium in Mombasa was advertised in a public Tender, which was competitively awarded. The tender was awarded to Sitara Construction and Supplies Limited.
10. **THAT** the facility had not been completed by the year 2022, when I left office as Governor of the County. This explains why the facility has not been made accessible to the Public.

PART 3

11. **THAT** the suspension of the project works referred to as paragraph 13 of the Memorandum were not done by Me.
12. **That** I now refer to the “ **development of a Sports Facility at Uwanja Wa Mbuzi**”. It is obvious from the statement of Munira Ali at paragraphs 14 and 15 that this facility was completed and operationalized by Commissioning.
13. **THAT** I can confirm that this facility is fully in use upto now.
14. **THAT** I now turn to reply to paragraph 16 and 17 as follows:
- a) Munira Ali has based her complaints on what she has read in the Auditor General’s Report.
 - b) Had she visited the site, obvious developments already done on the road could have been seen.
 - c) Therefore, it is clear that the Mtopanga road was completed, and is now in use.
15. **THAT** Munira Ali Omar, has referred to an internal report, compiled by her Organization and entitled:

“Housing for who – a look at the place of the urban poor”

16. **THAT** It is deplorable that this Advocate s complaining about Me, based her arguments on a Report prepared by her organization, which she has not only not attached to her affidavit, but has also never been shown to one.

In the circumstances, there is no rational basis for the complaints at paragraphs 18, 19,20, and 21 of the memorandum.

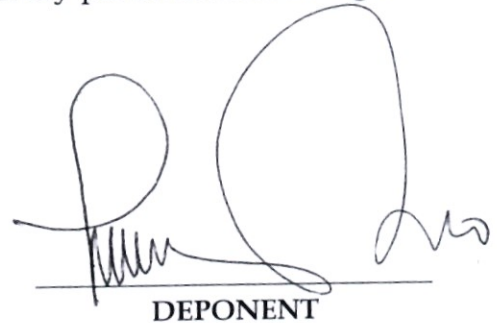
17. **THAT** the matters stated at paragraph 22 to 25 are matters that deal with among others a suit filed in the High Court, against the County Government of Mombasa, for the provision of certain information.

18. **THAT** such a suit is ordinarily not filed against the Governor, but the **Information Officer** of an Organization. A governor is not such an Information officer.
19. **THAT** as stated, Munira Ali Omar is an Advocate. If any Order existed such as that she refers to, then she should have attached it to the Memorandum. She did not do so. It is almost obvious that no such order against Me exists.
20. **THAT** if there is any disobedience of any order of the Court, the Advocate should have taken the necessary steps in enforcing that order. If she failed to do so then she can only have herself to blame, for failing to execute a Court Order, **and not to transfer** such blame to Me.
21. **THAT** I now refer to paragraphs 26 and 30 of the Memorandum and respond as follows:
- a) It is wrong to imply that the public has demonstrated against Me.
 - b) I have at no time been found to be unsuitable for any office.
 - c) The allegation that my nomination is unconstitutional has no legal foundation or any basis in Law.
 - d) The allegations that my nomination is a threat to the Constitution is unfounded.
22. **THAT** paragraphs 31 and 35, dabbed "**Conclusion**" consist of the personal opinion of Munira. This does not affect the factual and correct status of the matters in the manner I have responded to them.
23. **THAT** what is herein stated is true and within my personal Knowledge.

SWORN at NAIROBI this 2nd day August of 2024)
by the said HASSAN ALI JOHO

BEFORE ME S. MWANGI
ADVOCATE, COMMISSIONER FOR OATHS
& NOTARY PUBLIC
ROBSON HARRIS ADVOCATES LLP
P. O. Box 81245 - 00200, NAIROBI
COMMISSIONER OF OATHS
LSK/2024/02101

DRAWN BY:
Hassan Ali Joho
P. O. Box 8220- 80100
MOMBASA.


DEPONENT

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT –CAP.7F, LAWS OF KENYA.

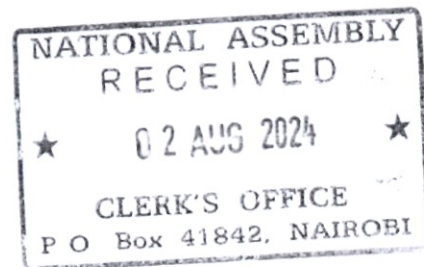
IN THE MATTER OF : STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA (6TH EDITION -07.06.2022).

IN THE MATTER OF : APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTENTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE MUTHONI WAHOME
3. ADEN BARE DUALE
4. ROSELINDA SOIPAN TUYA
5. DAVIS KIMUTAI CHIRCHIR
6. SALIM MVURYA
7. REBECCA MIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

TO
THE CLERK
THE NATIONAL ASSEMBLY OF KENYA
NAIROBI



REPLYING AFFIDAVIT
(of Hassan Ali Joho)

I, Hassan Ali Joho, a citizen of Kenya, resident of Nyali within Mombasa County, and of post office box number 8220-80100 Mombasa, in the Republic of Kenya, hereby **make Oath** and state as follows:

1. **That** by a letter dated 30th July 2024, from the ***office of the clerk***, The National Assembly, there was forwarded to me one Memorandum from ***Eliud Karanja Matindi*** contesting my suitability for appointment as Cabinet Secretary for Mining, Blue Economy and Maritime Affairs.
2. **That** I was requested for a response to that Memorandum, to be submitted to the Clerk of the National Assembly, "***on or before***" my "***approval hearing on Sunday, 4th August 2024***." For that reason, I now provide my response, also on oath, as I respond to the Affidavit comprising the Memorandum I received.

Part 2

3. **That** I have read the subject Memorandum. It is clearly divided into ***two broad parts***. The first part deals with nominees numbered at *numbers 1 to 10*. My name does not fall under that part, which is discussed at *paragraphs 1 to 24* of the Memorandum.
4. **That** my name is listed at *number 13*, which is at second part of the Memorandum, discussed from *paragraph 25* of the Memorandum onwards.

I will now respond specifically to the paragraphs touching on me as an individual.
5. **That** it is a known fact that am a member of the *Orange Democratic Movement*, and that from the year 2013 upto the year 2022, I was Governor of the County of Mombasa. These Statements at paragraphs 26 and 27 of the Memorandum concerning me are correct.
6. **That** *paragraphs 29,30 and 35* of the Memorandum deal with the provisions of ***Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132 and 152*** of the Constitution.
7. **That** my reading and understanding of these Articles is that none of them prohibits me from being nominated and approved for the position of Cabinet Secretary. I will elaborate by referring to what each of the Articles provides.

(a) **Article 1**

This Article provides for ***Sovereignty of the people*** in which sovereign power belongs to the people of Kenya, to be exercised in accordance with the Constitution.

(b) **Article 2**

This Article, among others, provides that:

"This Constitution is the supreme law of the Republic and binds all persons and State Organs at both levels of government."

(c) **Article 3**

This Article allows every person "to respect, *"uphold and defend this Constitution"*, and that to establish any government other than *"in compliance with this Constitution is unlawful."*

(d) **Article 4(2)**

This declares that the Republic of Kenya *"shall be a multiparty democratic state founded on national values at Article 10."*

(e) **Article 10**

This refers to ***National values and principles of governance***. **Article 10(2)** provides, specifically, that:

(2) *The national values and principles of governance include:*

- (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;*
- (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;*
- (c) good governance, integrity, transparency and accountability; and*
- (d) sustainable development.*

8. **That** it is obvious, that the provisions contained in the **Articles** that I have reproduced above, do not prohibit or bar my nomination and approval as a Cabinet Secretary.
9. **That** when *Mr. Eliud*, the drafter of the Memorandum, chose to refer to the **Articles** of the Constitution which I have reproduced above, he made no

effort at all to explain, or elaborate on how those **Articles** operate to bar my nomination and approval as Cabinet Secretary. My nomination does not contravene any of the Articles I have referred to.

10. That there are other Articles of the Constitution that I specifically refer to which have been relied on by *Mr. Eliud*. They are::

(a) Article 90

This Article falls under **Chapter Seven** of the Constitution, on **Representation of the people** and **Electoral System and process**. Then Article 90 specifically deals with **Allocating of party list seats**.

(b) Article 91

This Article clearly states that it is concerned with **Basic Requirements for political parties**.

(c) Article 98

This Article is at **Chapter 8** of the Constitution, and is on **Membership of the National Assembly**.

11. **That** again, as before, it is obvious that am not an elected Member of Parliament, either to the Senate or the National Assembly.
12. **That** these Articles of the Constitution which *Mr. Eliud*, the drafter of the Memorandum, has raised against me, do not affect me any way.
13. **That** I have quoted the provisions in the Articles referred to in the Memorandum, to demonstrate that they do not affect me as an individual.
14. **That** the next Article I refer to is **Article 108** of the Constitution, which mainly provides for presiding of **party leaders in parliament**.
Again, as before, am not a party leader in parliament.

15. That I now refer to the other Articles at **Chapter Nine** of the Constitution as follows:

(a) Article 129

This provides for principles of **Executive Authority** that:

- (1) *Executive authority derives from the people of Kenya and shall be exercised in accordance with this Constitution.*

(2) *Executive authority shall be exercised in a manner compatible with the principle of service to the people of Kenya, and for their wellbeing and benefit.*

(b) Article 130

This has provisions on the **National Executive** as follows:

- (1) *The national executive of the Republic comprises the President, the Deputy President and the rest of the Cabinet.*
- (2) *The composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya.*

(c) Article 132

This Article has a long list of **Functions of the president**. I need not reproduce them here.

16. **That** again, as previously stated, **none of these Articles has provided for prohibition of my nomination and approval** as a Cabinet Secretary.

17. Finally, there is **Article 152**, and I quote 152(2) and 152(3) which provide that:

(2) The President shall nominate and, with the approval of the National Assembly, appoint Cabinet Secretaries.

(3) A Cabinet Secretary shall not be a Member of Parliament.

18. **That** again I state that **am not a Member of Parliament**.

19. **That** I now return to respond to **paragraph 31** of the Memorandum which seeks to prohibit nomination of:

“persons who are or have been publicly, generally and notoriously known as, associated with and or are or have been members of political parties or coalition of political parties in opposition to the president’s.”

This statement has no basis or foundation to be found in either the Constitution or elsewhere.

20. **That** there is no requirement in law that only persons who support the Ruling party politically during an election are the only persons to be

considered for Cabinet as the drafter of *paragraph 31* of the Memorandum unequivocally suggests. This suggestion is an obvious mistake.

21. **That** contrary to the conclusion at **paragraph 31** of the Memorandum which I have reproduced above, the Constitution provides at **Article 130(2)** which I have quoted above, and which I now quote again **for emphasis**, that

(2) The composition of the National Executive shall reflect the regional and ethnic diversity of the people of Kenya.

This regional and ethnic diversity is not meant to apply to any political party but to all Kenyans as a whole. Therefore, party affiliation does not bar any Kenyan from appointment to Cabinet.

22. **That** viewed from the stand point of the Constitution, and in particular the parts I have quoted above, it is clear that the Memorandum has no support in law to oppose my nomination and approval as Cabinet Secretary.
23. **That** I have confined my response to the Articles of the Constitution quoted by Mr. Eliud, and those matters which touch on me as an individual. I have also refrained from commenting on any allegations which were made by persons who did not comply to the advertisements of the Clerk of the National Assembly as advertised on 24th and 25th July 2024. Such persons provided no affidavits to which I can respond. *(Excerpts of Articles of the Constitution referred to are attached)*
24. **That** what is herein stated is true to the best of my knowledge and understanding, and belief.

Sworn at Nairobi by
Hassan Ali Joho this 1st
day of August 2024

Before me
JANE S. MWANGI
ADVOCATE, COMMISSIONER FOR OATHS
& NOTARY PUBLIC
ROBSON HARRIS ADVOCATES LLP
Commissioner for Oaths
P.O. Box 87845 - 00200, NAIROBI
P.105/1657/87
Drawn by: ESK/2024/02101
Hassan Ali Joho

P.O Box 8220-80100

Mombasa.

Email:hassanjoho@gmail.com

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**ARTICLES OF THE CONSTITUTION
REFERED TO IN THE REPLYING AFFIDAVIT**

(of Hassan Ali Joho)

	<i>Reference</i>	<i>Page</i>
1.	Articles 1, 2, 3 and 4	1 – 2
2.	Article 10	3 – 4
3.	Article 90 and 91	5 – 7
4.	Article 97	8
5.	Article 108	9 – 10
6.	Articles 129, 130 and 132	11 – 13
7.	Article 152	14

Dated at Nairobi.

Hassan Ali Joho
Email:hassanjoho@gmail.com

THE CONSTITUTION OF KENYA

CHAPTER ONE—SOVEREIGNTY OF THE PEOPLE AND SUPREMACY OF THIS CONSTITUTION

Sovereignty of the people.

1. (1) All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.

(2) The people may exercise their sovereign power either directly or through their democratically elected representatives.

(3) Sovereign power under this Constitution is delegated to the following State organs, which shall perform their functions in accordance with this Constitution—

(a) Parliament and the legislative assemblies in the county governments;

(b) the national executive and the executive structures in the county governments; and

(c) the Judiciary and independent tribunals.

(4) The sovereign power of the people is exercised at—

(a) the national level; and

(b) the county level.

Supremacy of this Constitution.

2. (1) This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.

(2) No person may claim or exercise State authority except as authorised under this Constitution.

(3) The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.

(4) Any law, including customary law, that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.

(5) The general rules of international law shall form part of the law of Kenya.

(6) Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.

Defence of this Constitution.

3. (1) Every person has an obligation to respect, uphold and defend this Constitution.

(2) Any attempt to establish a government otherwise than in compliance with this Constitution is unlawful.

CHAPTER TWO—THE REPUBLIC

Declaration of the Republic.

4. (1) Kenya is a sovereign Republic.

(2) The Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance referred to in Article 10.

Territory of Kenya.

5. Kenya consists of the territory and territorial waters comprising Kenya on the effective date, and any additional territory and territorial waters as defined by an Act of Parliament.

Devolution and access to services.

6. (1) The territory of Kenya is divided into the counties specified in the First Schedule.

(2) The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.

(3) A national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of the service.

National, official and other languages.

7. (1) The national language of the Republic is Kiswahili.

(2) The official languages of the Republic are Kiswahili and English.

(3) The State shall—

(a) promote and protect the diversity of language of the people of Kenya; and

- (b) promote the development and use of indigenous languages, Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with disabilities.

State and Religion.

- 8. There shall be no State religion.

National symbols and national days.

- 9. (1) The national symbols of the Republic are—
 - (a) the national flag;
 - (b) the national anthem;
 - (c) the coat of arms; and
 - (d) the public seal.
- (2) The national symbols are as set out in the Second Schedule.
- (3) The national days are—
 - (a) Madaraka Day, to be observed on 1st June;
 - (b) Mashujaa Day, to be observed on 20th October; and
 - (c) Jamhuri Day, to be observed on 12th December.
- (4) A national day shall be a public holiday.
- (5) Parliament may enact legislation prescribing other public holidays, and providing for observance of public holidays.

National values and principles of governance.

10. (1) The national values and principles of governance in this Article bind all State organs, State officers, public officers and all persons whenever any of them—

- (a) applies or interprets this Constitution;
 - (b) enacts, applies or interprets any law; or
 - (c) makes or implements public policy decisions.
- (2) The national values and principles of governance include—

- (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
- (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;
- (c) good governance, integrity, transparency and accountability; and
- (d) sustainable development.

Culture.

11. (1) This Constitution recognises culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation.

(2) The State shall—

- (a) promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage;
 - (b) recognise the role of science and indigenous technologies in the development of the nation; and
 - (c) promote the intellectual property rights of the people of Kenya.
- (3) Parliament shall enact legislation to—
- (a) ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage; and
 - (b) recognise and protect the ownership of indigenous seeds and plant varieties, their genetic and diverse characteristics and their use by the communities of Kenya.

CHAPTER THREE—CITIZENSHIP

Entitlements of citizens.

12. (1) Every citizen is entitled to—

- (a) the rights, privileges and benefits of citizenship, subject to the limits provided or permitted by this Constitution; and
- (b) a Kenyan passport and any document of registration or identification issued by the State to citizens.

- (b) progressively work towards ensuring that the number of inhabitants in each constituency and ward is, as nearly as possible, equal to the population quota.

(8) If necessary, the Commission shall alter the names and boundaries of constituencies, and the number, names and boundaries of wards.

(9) Subject to clauses (1), (2), (3) and (4), the names and details of the boundaries of constituencies and wards determined by the Commission shall be published in the *Gazette*, and shall come into effect on the dissolution of Parliament first following their publication.

(10) A person may apply to the High Court for review of a decision of the Commission made under this Article.

(11) An application for the review of a decision made under this Article shall be filed within thirty days of the publication of the decision in the *Gazette* and shall be heard and determined within three months of the date on which it is filed.

(12) For the purposes of this Article, "population quota" means the number obtained by dividing the number of inhabitants of Kenya by the number of constituencies or wards, as applicable, into which Kenya is divided under this Article.

Allocation of party list seats.

90. (1) Elections for the seats in Parliament provided for under Articles 97(1) (c) and 98 (1) (b), (c) and (d), and for the members of county assemblies under 177 (1) (b) and (c), shall be on the basis of proportional representation by use of party lists.

(2) The Independent Electoral and Boundaries Commission shall be responsible for the conduct and supervision of elections for seats provided for under clause (1) and shall ensure that—

- (a) each political party participating in a general election nominates and submits a list of all the persons who would stand elected if the party were to be entitled to all the seats provided for under clause (1), within the time prescribed by national legislation;
- (b) except in the case of the seats provided for under Article 98 (1) (b), each party list comprises the appropriate number of qualified candidates and alternates between male and female candidates in the priority in which they are listed; and

- (c) except in the case of county assembly seats, each party list reflects the regional and ethnic diversity of the people of Kenya.

(3) The seats referred to in clause (1) shall be allocated to political parties in proportion to the total number of seats won by candidates of the political party at the general election.

PART 3—POLITICAL PARTIES

Basic requirements for political parties.

91. (1) Every political party shall—

- (a) have a national character as prescribed by an Act of Parliament;
- (b) have a democratically elected governing body;
- (c) promote and uphold national unity;
- (d) abide by the democratic principles of good governance, promote and practise democracy through regular, fair and free elections within the party;
- (e) respect the right of all persons to participate in the political process, including minorities and marginalised groups;
- (f) respect and promote human rights and fundamental freedoms, and gender equality and equity;
- (g) promote the objects and principles of this Constitution and the rule of law; and
- (h) subscribe to and observe the code of conduct for political parties.

(2) A political party shall not—

- (a) be founded on a religious, linguistic, racial, ethnic, gender or regional basis or seek to engage in advocacy of hatred on any such basis;
- (b) engage in or encourage violence by, or intimidation of, its members, supporters, opponents or any other person;
- (c) establish or maintain a paramilitary force, militia or similar organisation;
- (d) engage in bribery or other forms of corruption; or

- (e) except as is provided under this Chapter or by an Act of Parliament, accept or use public resources to promote its interests or its candidates in elections.

Legislation on political parties.

92. Parliament shall enact legislation to provide for—

- (a) the reasonable and equitable allocation of airtime, by State-owned and other specified categories of broadcasting media, to political parties either generally or during election campaigns;
- (b) the regulation of freedom to broadcast in order to ensure fair election campaigning;
- (c) the regulation of political parties;
- (d) the roles and functions of political parties;
- (e) the registration and supervision of political parties;
- (f) the establishment and management of a political parties fund;
- (g) the accounts and audit of political parties;
- (h) restrictions on the use of public resources to promote the interests of political parties; and
- (i) any other matters necessary for the management of political parties.

CHAPTER EIGHT—THE LEGISLATURE

PART 1—ESTABLISHMENT AND ROLE OF PARLIAMENT

Establishment of Parliament.

93. (1) There is established a Parliament of Kenya, which shall consist of the National Assembly and the Senate.

(2) The National Assembly and the Senate shall perform their respective functions in accordance with this Constitution.

Role of Parliament.

94. (1) The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.

(b) exercises oversight of State organs.

(6) The National Assembly approves declarations of war and extensions of states of emergency.

Role of the Senate.

96. (1) The Senate represents the counties, and serves to protect the interests of the counties and their governments.

(2) The Senate participates in the law-making function of Parliament by considering, debating and approving Bills concerning counties, as provided in Articles 109 to 113.

(3) The Senate determines the allocation of national revenue among counties, as provided in Article 217, and exercises oversight over national revenue allocated to the county governments.

(4) The Senate participates in the oversight of State officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with Article 145.

PART 2—COMPOSITION AND MEMBERSHIP OF PARLIAMENT

Membership of the National Assembly.

97. (1) The National Assembly consists of—

- (a) two hundred and ninety members, each elected by the registered voters of single member constituencies;
- (b) forty-seven women, each elected by the registered voters of the counties, each county constituting a single member constituency;
- (c) twelve members nominated by parliamentary political parties according to their proportion of members of the National Assembly in accordance with Article 90, to represent special interests including the youth, persons with disabilities and workers; and
- (d) the Speaker, who is an *ex officio* member.

(2) Nothing in this Article shall be construed as excluding any person from contesting an election under clause (1) (a).

Membership of the Senate.

98. (1) The Senate consists of—

- (a) forty-seven members each elected by the registered voters of

PART 3—OFFICES OF PARLIAMENT

Speakers and Deputy Speakers of Parliament.

106. (1) There shall be—

- (a) a Speaker for each House of Parliament, who shall be elected by that House in accordance with the Standing Orders, from among persons who are qualified to be elected as members of Parliament but are not such members; and
- (b) a Deputy Speaker for each House of Parliament, who shall be elected by that House in accordance with the Standing Orders, from among the members of that House.

(2) The office of Speaker or Deputy Speaker shall become vacant—

- (a) when a new House of Parliament first meets after an election;
- (b) if the office holder, as a member of the relevant House, vacates office under Article 103;
- (c) if the relevant House so resolves by resolution supported by the votes of at least two-thirds of its members; or
- (d) if the office holder resigns from office in a letter addressed to the relevant House.

Presiding in Parliament.

107. (1) At any sitting of a House of Parliament—

- (a) the Speaker presides;
- (b) in the absence of the Speaker, the Deputy Speaker presides; and
- (c) in the absence of the Speaker and the Deputy Speaker, another member of the House elected by the House presides.

(2) At a joint sitting of the Houses of Parliament, the Speaker of the National Assembly shall preside, assisted by the Speaker of the Senate.

Party leaders.

108. (1) There shall be a leader of the majority party and a leader of the minority party.

(2) The leader of the majority party shall be the person who is the leader in the National Assembly of the largest party or coalition of parties.

(3) The leader of the minority party shall be the person who is the leader in the National Assembly of the second largest party or coalition of parties.

(4) The following order of precedence shall be observed in the National Assembly—

- (a) the Speaker of the National Assembly;
- (b) the leader of the majority party; and
- (c) the leader of the minority party.

PART 4—PROCEDURES FOR ENACTING LEGISLATION

Exercise of legislative powers.

109. (1) Parliament shall exercise its legislative power through Bills passed by Parliament and assented to by the President.

(2) Any Bill may originate in the National Assembly.

(3) A Bill not concerning county government is considered only in the National Assembly, and passed in accordance with Article 122 and the Standing Orders of the Assembly.

(4) A Bill concerning county government may originate in the National Assembly or the Senate, and is passed in accordance with Articles 110 to 113, Articles 122 and 123 and the Standing Orders of the Houses.

(5) A Bill may be introduced by any member or committee of the relevant House of Parliament, but a money Bill may be introduced only in the National Assembly in accordance with Article 114.

Bills concerning county government.

110. (1) In this Constitution, "a Bill concerning county government" means—

- (a) a Bill containing provisions affecting the functions and powers of the county governments set out in the Fourth Schedule;
- (b) a Bill relating to the election of members of a county assembly or a county executive; and

- (i) necessary for the well-being of the members and staff of Parliament; or
- (ii) prescribed by national legislation.

Clerks and staff of Parliament.

128. (1) There shall be a Clerk for each House of Parliament, appointed by the Parliamentary Service Commission with the approval of the relevant House.

(2) The offices of the Clerks and offices of members of the staff of the Clerks shall be offices in the Parliamentary Service.

CHAPTER NINE—THE EXECUTIVE

PART 1—PRINCIPLES AND STRUCTURE OF THE NATIONAL EXECUTIVE

Principles of executive authority.

129. (1) Executive authority derives from the people of Kenya and shall be exercised in accordance with this Constitution.

(2) Executive authority shall be exercised in a manner compatible with the principle of service to the people of Kenya, and for their well-being and benefit.

The National Executive.

130. (1) The national executive of the Republic comprises the President, the Deputy President and the rest of the Cabinet.

(2) The composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya.

PART 2—THE PRESIDENT AND DEPUTY PRESIDENT

Authority of the President.

131. (1) The President—

- (a) is the Head of State and Government;
- (b) exercises the executive authority of the Republic, with the assistance of the Deputy President and Cabinet Secretaries;
- (c) is the Commander-in-Chief of the Kenya Defence Forces;
- (d) is the chairperson of the National Security Council; and
- (e) is a symbol of national unity.

(2) The President shall—

- (a) respect, uphold and safeguard this Constitution;
- (b) safeguard the sovereignty of the Republic;
- (c) promote and enhance the unity of the nation;
- (d) promote respect for the diversity of the people and communities of Kenya; and
- (e) ensure the protection of human rights and fundamental freedoms and the rule of law.

(3) The President shall not hold any other State or public office.

Functions of the President.

132. (1) The President shall—

- (a) address the opening of each newly elected Parliament;
- (b) address a special sitting of Parliament once every year and may address Parliament at any other time; and
- (c) once every year—
 - (i) report, in an address to the nation, on all the measures taken and the progress achieved in the realisation of the national values, referred to in Article 10;
 - (ii) publish in the *Gazette* the details of the measures and progress under sub-paragraph (i); and
 - (iii) submit a report for debate to the National Assembly on the progress made in fulfilling the international obligations of the Republic.

(2) The President shall nominate and, with the approval of the National Assembly, appoint, and may dismiss—

- (a) the Cabinet Secretaries, in accordance with Article 152;
- (b) the Attorney-General, in accordance with Article 156;
- (c) the Secretary to the Cabinet in accordance with Article 154;
- (d) Principal Secretaries in accordance with Article 155;
- (e) high commissioners, ambassadors and diplomatic and consular representatives; and

(f) in accordance with this Constitution, any other State or public officer whom this Constitution requires or empowers the President to appoint or dismiss.

(3) The President shall—

- (a) chair Cabinet meetings;
- (b) direct and co-ordinate the functions of ministries and government departments; and
- (c) by a decision published in the *Gazette*, assign responsibility for the implementation and administration of any Act of Parliament to a Cabinet Secretary, to the extent not inconsistent with any Act of Parliament.

(4) The President may—

- (a) perform any other executive function provided for in this Constitution or in national legislation and, except as otherwise provided for in this Constitution, may establish an office in the public service in accordance with the recommendation of the Public Service Commission;
- (b) receive foreign diplomatic and consular representatives;
- (c) confer honours in the name of the people and the Republic;
- (d) subject to Article 58, declare a state of emergency; and
- (e) with the approval of Parliament, declare war.

(5) The President shall ensure that the international obligations of the Republic are fulfilled through the actions of the relevant Cabinet Secretaries.

Power of mercy.

133. (1) On the petition of any person, the President may exercise a power of mercy in accordance with the advice of the Advisory Committee established under clause (2), by—

- (a) granting a free or conditional pardon to a person convicted of an offence;
- (b) postponing the carrying out of a punishment, either for a specified or indefinite period;
- (c) substituting a less severe form of punishment; or

removal of the Deputy President.

Remuneration and benefits of President and Deputy President.

151. (1) The remuneration and benefits payable to the President and the Deputy President shall be a charge on the Consolidated Fund.

(2) The remuneration, benefits and privileges of the President and Deputy President shall not be varied to their disadvantage while in office.

(3) The retirement benefits payable to a former President and a former Deputy President, the facilities available to and the privileges enjoyed by them, shall not be varied to their disadvantage during their lifetime.

PART 3—THE CABINET

Cabinet.

152. (1) The Cabinet consists of—

- (a) the President;
- (b) the Deputy President;
- (c) the Attorney-General; and
- (d) not fewer than fourteen and not more than twenty-two Cabinet Secretaries.

(2) The President shall nominate and, with the approval of the National Assembly, appoint Cabinet Secretaries.

(3) A Cabinet Secretary shall not be a Member of Parliament.

(4) Each person appointed as a Cabinet Secretary—

- (a) assumes office by swearing or affirming faithfulness to the people and the Republic of Kenya and obedience to this Constitution, before the President and in accordance with the Third Schedule; and
- (b) may resign by delivering a written statement of resignation to the President.

(5) The President—

- (a) may re-assign a Cabinet Secretary;

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88,90, 91, 93, 94, 95, 97, 103,108, 115,118,129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT -CAP.7F, LAWS OF KENYA.

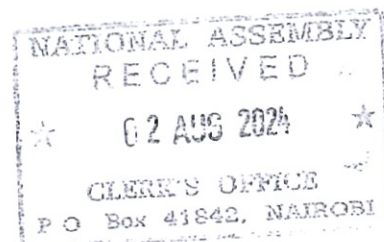
IN THE MATTER OF : STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA (6TH EDITION -07.06.2022).

IN THE MATTER OF : APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTENSTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REBULIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE MUTHONI WAHOME
3. ADEN BARE DUALE
4. ROSELINDA SOIPAN TUYA
5. DAVIS KIMUTAI CHIRCHIR
6. SALIM MVURYA
7. REBECCA MIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

TO
THE CLERK
THE NATIONAL ASSEMBLY OF KENYA
NAIROBI



REPLYING AFFIDAVIT
(of Hassan Ali Joho)

I, Hassan Ali Joho, a citizen of Kenya, resident of Nyali within Mombasa County, and of post office box number 8220-80100 Mombasa, in the Republic of Kenya, hereby ***make Oath*** and state as follows:

1. **That** by a letter dated 30th July 2024, from the ***office of the clerk***, The National Assembly, there was forwarded to me one Memorandum from ***Eliud Karanja Matindi*** contesting my suitability for appointment as Cabinet Secretary for Mining, Blue Economy and Maritime Affairs.
2. **That** I was requested for a response to that Memorandum, to be submitted to the Clerk of the National Assembly, "***on or before***" my "***approval hearing on Sunday, 4th August 2024.***" For that reason, I now provide my response, also on oath, as I respond to the Affidavit comprising the Memorandum I received.

Part 2

3. **That** I have read the subject Memorandum. It is clearly divided into ***two broad parts***. The first part deals with nominees numbered at *numbers 1 to 10*. My name does not fall under that part, which is discussed at *paragraphs 1 to 24* of the Memorandum.
4. **That** my name is listed at *number 13*, which is at second part of the Memorandum, discussed from *paragraph 25* of the Memorandum onwards.

I will now respond specifically to the paragraphs touching on me as an individual.
5. **That** it is a known fact that am a member of the *Orange Democratic Movement*, and that from the year 2013 upto the year 2022, I was Governor of the County of Mombasa. These Statements at paragraphs 26 and 27 of the Memorandum concerning me are correct.
6. **That** *paragraphs 29,30 and 35* of the Memorandum deal with the provisions of ***Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132 and 152*** of the Constitution.
7. **That** my reading and understanding of these Articles is that none of them prohibits me from being nominated and approved for the position of Cabinet Secretary. I will elaborate by referring to what each of the Articles provides.

(a) Article 1

This Article provides for ***Sovereignty of the people*** in which sovereign power belongs to the people of Kenya, to be exercised in accordance with the Constitution.

(b) Article 2

This Article, among others, provides that:

"This Constitution is the supreme law of the Republic and binds all persons and State Organs at both levels of government."

(c) Article 3

This Article allows every person "to respect, *"uphold and defend this Constitution"*, and that to establish any government other than *"in compliance with this Constitution is unlawful."*

(d) Article 4(2)

This declares that the Republic of Kenya *"shall be a multiparty democratic state founded on national values at Article 10."*

(e) Article 10

This refers to ***National values and principles of governance***. Article 10(2) provides, specifically, that:

(2) *The national values and principles of governance include:*

- (a) *patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;*
- (b) *human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;*
- (c) *good governance, integrity, transparency and accountability; and*
- (d) *sustainable development.*

8. **That** it is obvious, that the provisions contained in the **Articles** that I have reproduced above, do not prohibit or bar my nomination and approval as a Cabinet Secretary.
9. **That** when Mr. Eliud, the drafter of the Memorandum, chose to refer to the **Articles** of the Constitution which I have reproduced above, he made no

effort at all to explain, or elaborate on how those **Articles** operate to bar my nomination and approval as Cabinet Secretary. My nomination does not contravene any of the Articles I have referred to.

10. That there are other Articles of the Constitution that I specifically refer to which have been relied on by *Mr. Eliud*. They are::

(a) **Article 90**

This Article falls under **Chapter Seven** of the Constitution, on **Representation of the people and Electoral System and process**. Then Article 90 specifically deals with Allocating of party list seats.

(b) **Article 91**

This Article clearly states that it is concerned with **Basic Requirements for political parties**.

(c) **Article 98**

This Article is at **Chapter 8** of the Constitution, and is on **Membership of the National Assembly**.

11. **That** again, as before, it is obvious that am not an elected Member of Parliament, either to the Senate or the National Assembly.
12. **That** these Articles of the Constitution which *Mr. Eliud*, the drafter of the Memorandum, has raised against me, do not affect me any way.
13. **That** I have quoted the provisions in the Articles referred to in the Memorandum, to demonstrate that they do not affect me as an individual.
14. **That** the next Article I refer to is **Article 108** of the Constitution, which mainly provides for presiding of **party leaders in parliament**. Again, as before, am not a party leader in parliament.

15. That I now refer to the other Articles at **Chapter Nine** of the Constitution as follows:

(a) **Article 129**

This provides for principles of **Executive Authority** that:

- (1) *Executive authority derives from the people of Kenya and shall be exercised in accordance with this Constitution.*

(2) *Executive authority shall be exercised in a manner compatible with the principle of service to the people of Kenya, and for their wellbeing and benefit.*

(b) Article 130

This has provisions on the **National Executive** as follows:

- (1) *The national executive of the Republic comprises the President, the Deputy President and the rest of the Cabinet.*
- (2) *The composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya.*

(c) Article 132

This Article has a long list of **Functions of the president**. I need not reproduce them here.

16. **That** again, as previously stated, ***none of these Articles has provided for prohibition of my nomination and approval*** as a Cabinet Secretary.

17. Finally, there is **Article 152**, and I quote 152(2) and 152(3) which provide that:

(2) The President shall nominate and, with the approval of the National Assembly, appoint Cabinet Secretaries.

(3) A Cabinet Secretary shall not be a Member of Parliament.

18. **That** again I state that **am not a Member of Parliament**.

19. **That** I now return to respond to **paragraph 31** of the Memorandum which seeks to prohibit nomination of:

"persons who are or have been publicly, generally and notoriously known as, associated with and or are or have been members of political parties or coalition of political parties in opposition to the president's."

This statement has no basis or foundation to be found in either the Constitution or elsewhere.

20. **That** there is no requirement in law that **only persons who support the Ruling party politically during an election are the only persons to be**

considered for Cabinet as the drafter of *paragraph 31* of the Memorandum unequivocally suggests. This suggestion is an obvious mistake.

21. **That** contrary to the conclusion at paragraph 31 of the Memorandum which I have reproduced above, the Constitution provides at **Article 130(2)** which I have quoted above, and which I now quote again *for emphasis*, that

(2) The composition of the National Executive shall reflect the regional and ethnic diversity of the people of Kenya.

This regional and ethnic diversity is not meant to apply to any political party but to all Kenyans as a whole. Therefore, party affiliation does not bar any Kenyan from appointment to Cabinet.

22. **That** viewed from the stand point of the Constitution, and in particular the parts I have quoted above, it is clear that the Memorandum has no support in law to oppose my nomination and approval as Cabinet Secretary.
23. **That** I have confined my response to the Articles of the Constitution quoted by Mr. Eliud, and those matters which touch on me as an individual. I have also refrained from commenting on any allegations which were made by persons who did not comply to the advertisements of the Clerk of the National Assembly as advertised on 24th and 25th July 2024. Such persons provided no affidavits to which I can respond. (*Excerpts of Articles of the Constitution referred to are attached*)
24. **That** what is herein stated is true to the best of my knowledge and understanding, and belief.

Sworn at Nairobi by
Hassan Ali Joho this *1st*
day of *August* 2024

Before me
IANE S. MWANGI
ADVOCATE, COMMISSIONER FOR OATHS
& NOTARY PUBLIC
ROBSON HARRIS ADVOCATES LLP
Commissioner for Oaths
P.O. Box 87845 - 00200, NAIROBI
P.105/1657/87
Drawn by: K/2024/02101
Hassan Ali Joho

P.O Box 8220-80100

Mombasa.

Email:hassanjoho@gmail.com



**ARTICLES OF THE CONSTITUTION
REFERRED TO IN THE REPLYING AFFIDAVIT**
(of Hassan Ali Joho)

	<i>Reference</i>	<i>Page</i>
1.	Articles 1, 2, 3 and 4	1 - 2
2.	Article 10	3 - 4
3.	Article 90 and 91	5 - 7
4.	Article 97	8
5.	Article 108	9 - 10
6.	Articles 129, 130 and 132	11 - 13
7.	Article 152	14

Dated at Nairobi.

Hassan Ali Joho
Email: hassanjoho@gmail.com

THE CONSTITUTION OF KENYA

CHAPTER ONE—SOVEREIGNTY OF THE PEOPLE AND SUPREMACY OF THIS CONSTITUTION

Sovereignty of the people.

1. (1) All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.

(2) The people may exercise their sovereign power either directly or through their democratically elected representatives.

(3) Sovereign power under this Constitution is delegated to the following State organs, which shall perform their functions in accordance with this Constitution—

(a) Parliament and the legislative assemblies in the county governments;

(b) the national executive and the executive structures in the county governments; and

(c) the Judiciary and independent tribunals.

(4) The sovereign power of the people is exercised at—

(a) the national level; and

(b) the county level.

Supremacy of this Constitution.

2. (1) This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.

(2) No person may claim or exercise State authority except as authorised under this Constitution.

(3) The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.

(4) Any law, including customary law, that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.

(5) The general rules of international law shall form part of the law of Kenya.

(6) Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.

Defence of this Constitution.

3. (1) Every person has an obligation to respect, uphold and defend this Constitution.

(2) Any attempt to establish a government otherwise than in compliance with this Constitution is unlawful.

CHAPTER TWO—THE REPUBLIC

Declaration of the Republic.

4. (1) Kenya is a sovereign Republic.

(2) The Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance referred to in Article 10.

Territory of Kenya.

5. Kenya consists of the territory and territorial waters comprising Kenya on the effective date, and any additional territory and territorial waters as defined by an Act of Parliament.

Devolution and access to services.

6. (1) The territory of Kenya is divided into the counties specified in the First Schedule.

(2) The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.

(3) A national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of the service.

National, official and other languages.

7. (1) The national language of the Republic is Kiswahili.

(2) The official languages of the Republic are Kiswahili and English.

(3) The State shall—

(a) promote and protect the diversity of language of the people of Kenya; and

- (b) promote the development and use of indigenous languages, Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with disabilities.

State and Religion.

- 8. There shall be no State religion.

National symbols and national days.

- 9. (1) The national symbols of the Republic are—

- (a) the national flag;
- (b) the national anthem;
- (c) the coat of arms; and
- (d) the public seal.

- (2) The national symbols are as set out in the Second Schedule.

- (3) The national days are—

- (a) Madaraka Day, to be observed on 1st June;
- (b) Mashujaa Day, to be observed on 20th October; and
- (c) Jamhuri Day, to be observed on 12th December.

- (4) A national day shall be a public holiday.

- (5) Parliament may enact legislation prescribing other public holidays, and providing for observance of public holidays.

National values and principles of governance.

- 10. (1) The national values and principles of governance in this Article bind all State organs, State officers, public officers and all persons whenever any of them—

- (a) applies or interprets this Constitution;
- (b) enacts, applies or interprets any law; or
- (c) makes or implements public policy decisions.

- (2) The national values and principles of governance include—

- (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
- (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;
- (c) good governance, integrity, transparency and accountability; and
- (d) sustainable development.

Culture.

11. (1) This Constitution recognises culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation.

(2) The State shall—

- (a) promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage;
- (b) recognise the role of science and indigenous technologies in the development of the nation; and
- (c) promote the intellectual property rights of the people of Kenya.

(3) Parliament shall enact legislation to—

- (a) ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage; and
- (b) recognise and protect the ownership of indigenous seeds and plant varieties, their genetic and diverse characteristics and their use by the communities of Kenya.

CHAPTER THREE—CITIZENSHIP

Entitlements of citizens.

12. (1) Every citizen is entitled to—

- (a) the rights, privileges and benefits of citizenship, subject to the limits provided or permitted by this Constitution; and
- (b) a Kenyan passport and any document of registration or identification issued by the State to citizens.

(b) progressively work towards ensuring that the number of inhabitants in each constituency and ward is, as nearly as possible, equal to the population quota.

(8) If necessary, the Commission shall alter the names and boundaries of constituencies, and the number, names and boundaries of wards.

(9) Subject to clauses (1), (2), (3) and (4), the names and details of the boundaries of constituencies and wards determined by the Commission shall be published in the *Gazette*, and shall come into effect on the dissolution of Parliament first following their publication.

(10) A person may apply to the High Court for review of a decision of the Commission made under this Article.

(11) An application for the review of a decision made under this Article shall be filed within thirty days of the publication of the decision in the *Gazette* and shall be heard and determined within three months of the date on which it is filed.

(12) For the purposes of this Article, "population quota" means the number obtained by dividing the number of inhabitants of Kenya by the number of constituencies or wards, as applicable, into which Kenya is divided under this Article.

Allocation of party list seats.

90. (1) Elections for the seats in Parliament provided for under Articles 97(1) (c) and 98 (1) (b), (c) and (d), and for the members of county assemblies under 177 (1) (b) and (c), shall be on the basis of proportional representation by use of party lists.

(2) The Independent Electoral and Boundaries Commission shall be responsible for the conduct and supervision of elections for seats provided for under clause (1) and shall ensure that—

(a) each political party participating in a general election nominates and submits a list of all the persons who would stand elected if the party were to be entitled to all the seats provided for under clause (1), within the time prescribed by national legislation;

(b) except in the case of the seats provided for under Article 98 (1) (b), each party list comprises the appropriate number of qualified candidates and alternates between male and female candidates in the priority in which they are listed; and

- (c) except in the case of county assembly seats, each party list reflects the regional and ethnic diversity of the people of Kenya.

(3) The seats referred to in clause (1) shall be allocated to political parties in proportion to the total number of seats won by candidates of the political party at the general election.

PART 3—POLITICAL PARTIES

Basic requirements for political parties.

91. (1) Every political party shall—

- (a) have a national character as prescribed by an Act of Parliament;
- (b) have a democratically elected governing body;
- (c) promote and uphold national unity;
- (d) abide by the democratic principles of good governance, promote and practise democracy through regular, fair and free elections within the party;
- (e) respect the right of all persons to participate in the political process, including minorities and marginalised groups;
- (f) respect and promote human rights and fundamental freedoms, and gender equality and equity;
- (g) promote the objects and principles of this Constitution and the rule of law; and
- (h) subscribe to and observe the code of conduct for political parties.

(2) A political party shall not—

- (a) be founded on a religious, linguistic, racial, ethnic, gender or regional basis or seek to engage in advocacy of hatred on any such basis;
- (b) engage in or encourage violence by, or intimidation of, its members, supporters, opponents or any other person;
- (c) establish or maintain a paramilitary force, militia or similar organisation;
- (d) engage in bribery or other forms of corruption; or

- (e) except as is provided under this Chapter or by an Act of Parliament, accept or use public resources to promote its interests or its candidates in elections.

Legislation on political parties.

92. Parliament shall enact legislation to provide for—

- (a) the reasonable and equitable allocation of airtime, by State-owned and other specified categories of broadcasting media, to political parties either generally or during election campaigns;
- (b) the regulation of freedom to broadcast in order to ensure fair election campaigning;
- (c) the regulation of political parties;
- (d) the roles and functions of political parties;
- (e) the registration and supervision of political parties;
- (f) the establishment and management of a political parties fund;
- (g) the accounts and audit of political parties;
- (h) restrictions on the use of public resources to promote the interests of political parties; and
- (i) any other matters necessary for the management of political parties.

CHAPTER EIGHT—THE LEGISLATURE

PART 1—ESTABLISHMENT AND ROLE OF PARLIAMENT

Establishment of Parliament.

93. (1) There is established a Parliament of Kenya, which shall consist of the National Assembly and the Senate.

(2) The National Assembly and the Senate shall perform their respective functions in accordance with this Constitution.

Role of Parliament.

94. (1) The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.

7

(b) exercises oversight of State organs.

(6) The National Assembly approves declarations of war and extensions of states of emergency.

Role of the Senate.

96. (1) The Senate represents the counties, and serves to protect the interests of the counties and their governments.

(2) The Senate participates in the law-making function of Parliament by considering, debating and approving Bills concerning counties, as provided in Articles 109 to 113.

(3) The Senate determines the allocation of national revenue among counties, as provided in Article 217, and exercises oversight over national revenue allocated to the county governments.

(4) The Senate participates in the oversight of State officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with Article 145.

PART 2—COMPOSITION AND MEMBERSHIP OF PARLIAMENT

Membership of the National Assembly.

97. (1) The National Assembly consists of—

(a) two hundred and ninety members, each elected by the registered voters of single member constituencies;

(b) forty-seven women, each elected by the registered voters of the counties, each county constituting a single member constituency;

(c) twelve members nominated by parliamentary political parties according to their proportion of members of the National Assembly in accordance with Article 90, to represent special interests including the youth, persons with disabilities and workers; and

(d) the Speaker, who is an *ex officio* member.

(2) Nothing in this Article shall be construed as excluding any person from contesting an election under clause (1) (a).

Membership of the Senate.

98. (1) The Senate consists of—

(a) forty-seven members each elected by the registered voters of

PART 3—OFFICES OF PARLIAMENT

Speakers and Deputy Speakers of Parliament.

106. (1) There shall be—

- (a) a Speaker for each House of Parliament, who shall be elected by that House in accordance with the Standing Orders, from among persons who are qualified to be elected as members of Parliament but are not such members; and
- (b) a Deputy Speaker for each House of Parliament, who shall be elected by that House in accordance with the Standing Orders, from among the members of that House.

(2) The office of Speaker or Deputy Speaker shall become vacant—

- (a) when a new House of Parliament first meets after an election;
- (b) if the office holder, as a member of the relevant House, vacates office under Article 103;
- (c) if the relevant House so resolves by resolution supported by the votes of at least two-thirds of its members; or
- (d) if the office holder resigns from office in a letter addressed to the relevant House.

Presiding in Parliament.

107. (1) At any sitting of a House of Parliament—

- (a) the Speaker presides;
- (b) in the absence of the Speaker, the Deputy Speaker presides; and
- (c) in the absence of the Speaker and the Deputy Speaker, another member of the House elected by the House presides.

(2) At a joint sitting of the Houses of Parliament, the Speaker of the National Assembly shall preside, assisted by the Speaker of the Senate.

Party leaders.

108. (1) There shall be a leader of the majority party and a leader of the minority party.

(2) The leader of the majority party shall be the person who is the leader in the National Assembly of the largest party or coalition of parties.

(3) The leader of the minority party shall be the person who is the leader in the National Assembly of the second largest party or coalition of parties.

(4) The following order of precedence shall be observed in the National Assembly—

- (a) the Speaker of the National Assembly;
- (b) the leader of the majority party; and
- (c) the leader of the minority party.

PART 4—PROCEDURES FOR ENACTING LEGISLATION

Exercise of legislative powers.

109. (1) Parliament shall exercise its legislative power through Bills passed by Parliament and assented to by the President.

(2) Any Bill may originate in the National Assembly.

(3) A Bill not concerning county government is considered only in the National Assembly, and passed in accordance with Article 122 and the Standing Orders of the Assembly.

(4) A Bill concerning county government may originate in the National Assembly or the Senate, and is passed in accordance with Articles 110 to 113, Articles 122 and 123 and the Standing Orders of the Houses.

(5) A Bill may be introduced by any member or committee of the relevant House of Parliament, but a money Bill may be introduced only in the National Assembly in accordance with Article 114.

Bills concerning county government.

110. (1) In this Constitution, "a Bill concerning county government" means—

- (a) a Bill containing provisions affecting the functions and powers of the county governments set out in the Fourth Schedule;
- (b) a Bill relating to the election of members of a county assembly or a county executive; and

- (i) necessary for the well-being of the members and staff of Parliament; or
- (ii) prescribed by national legislation.

Clerks and staff of Parliament.

128. (1) There shall be a Clerk for each House of Parliament, appointed by the Parliamentary Service Commission with the approval of the relevant House.

(2) The offices of the Clerks and offices of members of the staff of the Clerks shall be offices in the Parliamentary Service.

CHAPTER NINE—THE EXECUTIVE

PART 1—PRINCIPLES AND STRUCTURE OF THE NATIONAL EXECUTIVE

Principles of executive authority.

129. (1) Executive authority derives from the people of Kenya and shall be exercised in accordance with this Constitution.

(2) Executive authority shall be exercised in a manner compatible with the principle of service to the people of Kenya, and for their well-being and benefit.

The National Executive.

130. (1) The national executive of the Republic comprises the President, the Deputy President and the rest of the Cabinet.

(2) The composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya.

PART 2—THE PRESIDENT AND DEPUTY PRESIDENT

Authority of the President.

131. (1) The President—

- (a) is the Head of State and Government;
- (b) exercises the executive authority of the Republic, with the assistance of the Deputy President and Cabinet Secretaries;
- (c) is the Commander-in-Chief of the Kenya Defence Forces;
- (d) is the chairperson of the National Security Council; and
- (e) is a symbol of national unity.

(2) The President shall—

- (a) respect, uphold and safeguard this Constitution;
 - (b) safeguard the sovereignty of the Republic;
 - (c) promote and enhance the unity of the nation;
 - (d) promote respect for the diversity of the people and communities of Kenya; and
 - (e) ensure the protection of human rights and fundamental freedoms and the rule of law.
- (3) The President shall not hold any other State or public office.

Functions of the President.

132. (1) The President shall—

- (a) address the opening of each newly elected Parliament;
- (b) address a special sitting of Parliament once every year and may address Parliament at any other time; and
- (c) once every year—
 - (i) report, in an address to the nation, on all the measures taken and the progress achieved in the realisation of the national values, referred to in Article 10;
 - (ii) publish in the *Gazette* the details of the measures and progress under sub-paragraph (i); and
 - (iii) submit a report for debate to the National Assembly on the progress made in fulfilling the international obligations of the Republic.

(2) The President shall nominate and, with the approval of the National Assembly, appoint, and may dismiss—

- (a) the Cabinet Secretaries, in accordance with Article 152;
- (b) the Attorney-General, in accordance with Article 156;
- (c) the Secretary to the Cabinet in accordance with Article 154;
- (d) Principal Secretaries in accordance with Article 155;
- (e) high commissioners, ambassadors and diplomatic and consular representatives; and

- (f) in accordance with this Constitution, any other State or public officer whom this Constitution requires or empowers the President to appoint or dismiss.

(3) The President shall—

- (a) chair Cabinet meetings;
- (b) direct and co-ordinate the functions of ministries and government departments; and
- (c) by a decision published in the *Gazette*, assign responsibility for the implementation and administration of any Act of Parliament to a Cabinet Secretary, to the extent not inconsistent with any Act of Parliament.

(4) The President may—

- (a) perform any other executive function provided for in this Constitution or in national legislation and, except as otherwise provided for in this Constitution, may establish an office in the public service in accordance with the recommendation of the Public Service Commission;
- (b) receive foreign diplomatic and consular representatives;
- (c) confer honours in the name of the people and the Republic;
- (d) subject to Article 58, declare a state of emergency; and
- (e) with the approval of Parliament, declare war.

(5) The President shall ensure that the international obligations of the Republic are fulfilled through the actions of the relevant Cabinet Secretaries.

Power of mercy.

133. (1) On the petition of any person, the President may exercise a power of mercy in accordance with the advice of the Advisory Committee established under clause (2), by—

- (a) granting a free or conditional pardon to a person convicted of an offence;
- (b) postponing the carrying out of a punishment, either for a specified or indefinite period;
- (c) substituting a less severe form of punishment; or

removal of the Deputy President.

Remuneration and benefits of President and Deputy President.

151. (1) The remuneration and benefits payable to the President and the Deputy President shall be a charge on the Consolidated Fund.

(2) The remuneration, benefits and privileges of the President and Deputy President shall not be varied to their disadvantage while in office.

(3) The retirement benefits payable to a former President and a former Deputy President, the facilities available to and the privileges enjoyed by them, shall not be varied to their disadvantage during their lifetime.

PART 3—THE CABINET

Cabinet.

152. (1) The Cabinet consists of—

- (a) the President;
- (b) the Deputy President;
- (c) the Attorney-General; and
- (d) not fewer than fourteen and not more than twenty-two Cabinet Secretaries.

(2) The President shall nominate and, with the approval of the National Assembly, appoint Cabinet Secretaries.

(3) A Cabinet Secretary shall not be a Member of Parliament.

(4) Each person appointed as a Cabinet Secretary—

(a) assumes office by swearing or affirming faithfulness to the people and the Republic of Kenya and obedience to this Constitution, before the President and in accordance with the Third Schedule; and

(b) may resign by delivering a written statement of resignation to the President.

(5) The President—

(a) may re-assign a Cabinet Secretary;

REPUBLIC OF KENYA
IN THE MATTER OF THE OATHS

AND
STATUTORY DECLARATIONS ACT, CHAPTER 15 OF THE LAW OF KENYA

AND
IN THE MATTER OF ARTICLE 118(1)(b) AND 152(2) OF THE CONSTITUTION AND
IN THE MATTER OF THE PUBLIC APPOINTMENTS (PARLIAMENTARY
APPROVAL) ACT, CAP. 7F

AND
IN THE MATTER OF APPROVAL BY THE NATIONAL ASSEMBLY OF PERSONS
NOMINATED FOR APPOINTMENT AS CABINET SECRETARIES

AND
IN THE MATTER OF INVITATION TO SUBMIT MEMORANDA

AND
IN THE MATTER OF NOMINATION OF HASSAN ALI JOHO AS THE CABINET
SECRETARY FOR MINING, BLUE ECONOMY AND MARITIME AFFAIRS IN THE
GOVERNMENT OF KENYA

HAKI YETU'S MEMORANDA AGAINST THE NOMINATION OF HASSAN ALI JOHO
AS THE CABINET SECRETARY FOR MINING, BLUE ECONOMY AND MARITIME
AFFAIRS IN THE GOVERNMENT OF KENYA

To:

The National Assembly of Kenya

Through

The Clerk of the National Assembly

P. O. Box 41842-00100

Parliament Buildings

NAIROBI

enaa@parliament.go.ke

appointments.nationalassembly@parliament.go.ke

I, **MUNIRA ALI OMAR**, a citizen of Kenya and a resident of Mvita Sub-County in Mombasa County within the Republic of Kenya do hereby make oath and state as follows:-

1. **THAT** I am an adult female of sound mind, disposition and health residing in Mvita Sub-County, Mombasa County within the Republic of Kenya working for gain at Haki Yetu

Organization C/O Star of the Sea Primary, Nyerere Road, Mombasa CBD. P.O. Box 92253-80102, Mombasa.

2. **THAT** I serve as an advocate of the High Court of Kenya and hold the position of Land Program Officer at Haki Yetu Organization and I am aware of the facts herein and duly authorized to swear this Affidavit.
3. **THAT** Haki Yetu Organization is a human rights organization registered as a Charitable Trust working for and with marginalized and excluded Coastal communities to enhance enjoyment of their human rights.
4. **THAT** Haki Yetu's mandate covers the areas of Access to Justice, Governance and Accountability as well as Land and Housing. We implement our programmes through Alternative Justice System, Community Led Advocacy, Research and Public Interest Litigation.
5. **THAT** pursuant to the Notice dated 25th July, 2024 published by the Clerk of the National Assembly inviting public submissions to the Committee on Appointments, I make this statement on behalf of Haki Yetu contesting the nomination by H.E. the President of Hassan Ali Joho to the national executive for approval by the National Assembly as follows.
6. **THAT** Haki Yetu Organization is alarmed by President Ruto's recent decision to appoint the former Governor of Mombasa Hassan Ali Joho as the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs in the Government of Kenya. Given the president's earlier declaration that: "The corrupt have only three choices; they either relocate to another country, go to jail, or go to heaven," we were optimistic about a strict anti-corruption stance, which promised to set a high standard for ethical behavior in the government.
7. **THAT** Hassan Ali Joho has held political office for a total of Fifteen years serving as a Member of Parliament for Kisauni Sub-County for five years and a two-term governor of Mombasa for ten years. During his tenure, Hassan Ali Joho's leadership failed to adhere to the standards and principles set forth in Chapter Six of the Constitution. In his tenure, we witnessed an ~~increase in youth gangs, drug menace and high insecurity in Mombasa County.~~
8. **THAT** our rejection for his appointment is based on the following:

WASTAGE OF PUBLIC RESOURCES UNDER HASSAN ALI JOHO'S TENURE

9. **THAT** in 2020, Haki Yetu conducted a research dubbed "*Unfinished Business and Wasted Resources*," which highlighted a few flagship projects in Mombasa County implemented under the CIDP 2013-2017 and 2017-2022. These include:

a) Development of County Stadium-Mvita Sub-County

10. **THAT** in 2016, the Mombasa County Stadium renovation was valued at approximately **KSH 50 Million**. Later on, in the FY 2017/2018 **KSH. 61, 290 854** was set aside for further "improvement of the facility". In the FY 2018/2019, another **KSHS 1 Billion** had been budgeted still for construction of the stadium and an additional **KSH 10Million** for completion of renovation of the stadium.
11. **THAT** despite over **KSHS 1.12 Billion**, the Mombasa residents are yet to see "*A brand new world class*" stadium.
12. **THAT** this Committee should be alive to the fact that the stadium is inaccessible by members of the public despite it being a public utility. Questions from Mombasa residents is: What happened to over **KSHS. 1.12 Billion** allocated to the construction and renovation of the stadium? What was the role of Hassan Joho in ensuring this dream of "*A brand-new world class*?" Isn't this the same scandal we want to transfer to the Ministry of Mining?
13. **THAT** in the recent Auditor's report for FY 2022/2023, the Auditor General found that on 15th April, 2022, the accounting officer indefinitely suspended the contract, despite completed works being valued at approximately **KSHS 619,782,153**, or around 35% of the total. This suspension was implemented without a proposal from the contract implementation team, which had not yet been appointed and was executed prior to the end of the extended completion period.

b) Development of Sports Facility at Uwanja wa Mbuzi Kongowea in Nyali Sub-County

14. **THAT** on 24th May 2017, Hassan Joho opened a sports facility in Kongowea, Nyali Sub-County that costed **KSHS 75 million**. The Audit Report 2016 confirmed that **KSHS. 66, 270, 664 million** has been utilized which contradicted the County's financial report.
15. **THAT** it was our finding that three years down the line, the facility has been in a deplorable condition characterized by tattered synthetic grass. This raises our concern that Hassan Ali Joho misused public funds and resources, deceiving both the youth and other members of the public who were meant to benefit from the project bringing his integrity, accountability and leadership in question.

c) Improvement of Mtopanga Estate Road-Kisauni Sub-County

16. **THAT** according to the 2018-2022 CIDP, the County Government of Mombasa intended to pave 803 KM of roads with cabro at an estimated cost of KSH. 4 Billion.
17. **THAT** Mtopanga estate 1.3 KM road was flagged as one road to benefit from upgrading at a cost of KSHS 37, 378,538. However, at the time of the research i.e September 2020, the Auditor General's assessment revealed that despite being designated for a KSHS 37, 378,538 upgrade, no contractor had been present on-site for over a year. This lack of on-site activity suggested that, although the road was flagged for improvement, it was effectively considered complete despite its significantly deteriorated condition. This is according to the Auditor General Report FY 2019/2020.

MOMBASA'S AFFORDABLE HOUSING PROGRAM-THE SCAM OF THE CENTURY

18. **THAT** the Mombasa Affordable Housing program is a public shame and one that will long be associated with Joho's nine years in office as the city's first governor. Haki Yetu's 2022 research "*Housing For Who- A look at the place of the Urban poor?*" brought findings of the mistakes and the irregularities of Mombasa's Affordable Housing Program under Joho's nine-year leadership.
19. **THAT** the report highlighted numerous issues and irregularities of Mombasa's Affordable Housing Program under Joho's leadership, particularly the Buxton Housing project which the Parliament of Kenya has proposed to serve as a precedent example in future government housing initiatives. The key issues identified included: illegal tendering process, illegal public participation, illegal evictions, loss of lives and theft of public land worth KSHS. 1 212 000 000/= according to the Ministry of Lands, Public Works, Housing and Urban Development.
20. **THAT** Hassan Ali Joho's Housing Program was and is essentially a misappropriation of public resources, presented under the guise of an Affordable Housing Program. The Buxton housing project was one of the most notable incidences of land corruption in the country.
21. **THAT** according to the Senate in both the 12th and 13th Parliament, it did not conform to the framework of the Affordable Housing Programme of the National Government. (*See Senate's observations in the Senate Report dated November 2023*). *This Committee may request for a copy of the Hansard /Parliamentary report of the National Assembly of 10th September 2021 and 24th March 2023*).

NON-COMPLIANCE WITH THE RULE OF LAW

22. **THAT** in 2016, the County Government of Mombasa came up with a plan known as the Urban Renewal and Regeneration Programme aimed at redeveloping old estates of Mombasa. Following the non-disclosure of information aimed at appreciating the full implication of the Programme to the people of Mombasa, Haki Yetu instituted an access to information suit touching on the Urban and Redevelopment of old estates in Mombasa in order to compel the County Government of Mombasa to provide information and contract documents to the organization and the public at large.
23. **THAT** consequently, high court orders were made to the effect that the County Government of Mombasa through the leadership of Hassan Ali Joho must avail contract information and contract documents to enable the public participate in the project's implementation. These orders were supposed to be complied with at every stage of the project implementation. To date, Hassan Ali Joho has not fully complied with these orders.
24. **THAT** the actual status of land and all the current ownership documents of public land earmarked for Affordable Housing Program in Mombasa and all the transactions that the County Government of Mombasa through the leadership of Hassan Ali Joho has made either in transfers, revocations or surrender regarding have not been made available to date.
25. **THAT** a leader is expected to adhere to the rule of law while in service. It is on record that, in many instances, Hassan Ali Joho has been contemptuous of court orders, Senate orders as well as directives from the Senate. (12th Parliament). It is a fact that his conduct has consistently displayed a disregard for legal and ethical standards marked by arrogance, defiance and a blatant disregard for legal and ethical standards expected by the people of Kenya.

UPHOLDING CONSTITUTIONAL INTEGRITY AND ACCOUNTABILITY BY THE NATIONAL ASSEMBLY

26. **THAT** there was high expectations of the people of Kenya for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic. This demand aligns with the National Values and Principles of Governance outlined in Article 10 of the Constitution.
27. **THAT** under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and with the approval by the National

Assembly, appoint as a member of his Cabinet, a person already deemed unsuitable for State office by the people of Kenya.

28. **THAT** the nomination of Hassan Ali Joho is also an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including Articles 73, 74 and 75. We therefore humbly request the National Assembly to decline to approve the nomination of Hassan Ali Joho.
29. **THAT** the National Assembly cannot sanitize and regularize the unconstitutional nomination of Hassan Ali Joho by the President. It must instead, as required by the Constitution, including Articles 1, 2, 3, 10 and 94 decline to approve the nomination of Hassan Ali Joho.
30. **THAT** further and in addition, the nomination of **HASSAN ALI JOHO** for approval for appointment as a member of the national executive of the Republic, is a threat to the Constitution of Kenya.

CONCLUSION

31. **THAT** according to Business Daily dated 20th March 2024, Kenya's largely untapped mining sector is estimated to have the potential to earn the country USD 6.6 Billion (About KSH. 977 Billion), or 10% GDP. Given this significant economic potential, Hassan Ali Joho should and **CANNOT** be entrusted with such a crucial responsibility of managing the mining and blue economy sectors.
32. **THAT** it is not too late for the National Assembly to reconsider and align with the broader objectives of complying with Article 6 of the Constitution of Kenya.
33. **THAT** Haki Yetu's Memo is aimed at revealing the unfitness of Hassan Ali Joho in serving Kenyans as a Cabinet Secretary for Mining, Blue Economy and Maritime Affairs in the Government of Kenya and to also remind the National Assembly that the public has woken up and are keen to ensure that bogus and incompetent leaders who have continuously wasted public resources are locked out of leadership positions.
34. **THAT** based on the foregoing, we oppose the nomination of Hassan Ali Joho by H.E. the President for approval by the National Assembly for him to be appointed as member of the National Executive of the Republic.
35. **THAT** in support of this statement, we submit the following documents as evidence, these being:
 - a) A copy of Haki Yetu's Unfinished Business and Wasted Resources report

- b) A copy of Haki Yetu's Housing For Who- A look at the place of the Urban poor Report.
- c) A copy of the Senate Report dated November 2023.
- d) A copy of the Legal Advice Centre & 3 others -vs- County Government of Mombasa & 4 others [2016] eKLR.
- e) Mombasa County Integrated Development Plans 2013-2017 and 2018-2022.
- f) Mombasa Annual Development Plans 2017/2018 and 2018/2019.
- g) Auditor's Report FY 2022/2023.

36. THAT I do swear this Affidavit to confirm the aforesaid facts.

37. THAT I now swear this Affidavit conscientiously believing the same to be true and in accordance with the oath and statutory declarations Act Cap 15, Laws of Kenya.

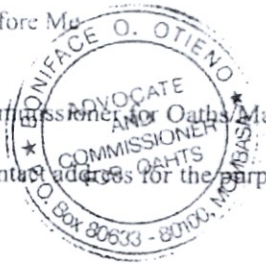
38. THAT what I have deponed to hereinabove is known to me of my own personal knowledge save as is otherwise stated.

SWORN by the said
MUNIRA ALI OMAR
At Mombasa this 1st day of August 2024


(DEPONENT)

Before Me
BONIFACE O. OTIENO
Advocate
Commissioner for Oaths/Magistrate

Contact addresses for the purpose of this statement: +254 700 266 056 and mali@hakiyetu.ke



REPUBLIC OF KENYA
IN THE MATTER OF THE OATHS AND STATUTORY DECLARATIONS ACT
CAP 15 OF THE LAWS OF KENYA

STATUTORY DECLARATION

IN THE MATTER OF ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108,
115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE
CONSTITUTION OF KENYA, 2010

IN THE MATTER OF PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT -
CAP 7E, LAWS OF KENYA;

IN THE MATTER OF STANDING ORDER NO. 204, STANDING ORDERS OF THE
NATIONAL ASSEMBLY OF KENYA (6TH EDITION- 07.06.2022)

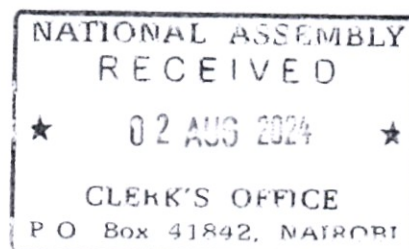
IN THE MATTER OF APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO
THE NATIONAL EXECUTIVE OF THE REPUBLIC;

IN THE MATTER OF SUBMISSION OF STATEMENT CONTESTING THE NOMINATION
AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE
NATIONAL EXECUTIVE OF THE REPUBLIC OF;

REPLY TO THE AFFIDAVIT OF ISAAC ALUOCHIER

I, JUSTIN BEDAN NJOKA MUTURI of Post Office Box Number 60512-00200 Nairobi and of ID Number 02997621 and a resident of Nairobi in the Republic of Kenya, do hereby make oath and state as follows: -

1. THAT I am an adult male of sound mind hence competent to swear this Affidavit.
2. THAT I have been nominated by His Excellency the President of the Republic of Kenya to take up the docket of Cabinet Secretary for Public Service.
3. THAT one Isaac Aluochier has objected to the said nomination vide his Affidavit dated 25th July 2014.
4. THAT I have understood the said Deponent to be objecting to my nomination on the grounds that when I served as the Speaker of the National Assembly for the terms 2013-2017 and 2017-2022 "*certain persons who were sitting members of Parliament changed Political Parties to others than those that had sponsored them to Parliament, thus their offices became vacant but continued to draw salaries illegally? That I failed to give written notices to the IEBC and thus I allowed those members to continue drawing salaries?*"



5. THAT assuming that the above is the import of the Deponent's Affidavit I wish to respond thereto as I hereunder do;
6. THAT first and foremost this is the first time I have become aware of the purported Arbitration Proceedings and the said Arbitral Award.
7. THAT when I served as the Speaker of the National Assembly for the period stated by the Deponent none of the stated members of Parliament issued my office with a letter of resignation.
8. THAT during the said period I did not receive any communication from the Registrar of Political Parties to notify me of resignation or switching of Parties by sitting members of Parliament.
9. THAT I did not receive the Arbitral Award stated by the Deponent, but I also wish to state that even if I were to have received the same chances are that I would not have acted upon the same unless official communication was done through the Registrar of Political Parties.
10. THAT to answer the totality of the Deponent's Affidavit, I wish to state that political realignments in the runners-up to General Elections and pronouncements by individuals in political gatherings by sitting members of Parliament about party loyalty do not come under supervision of the Speaker and do not amount to anything much to warrant intervention by the Speaker of the National Assembly.
11. THAT in the circumstances I humbly pray that you find the objection by the said Mr. Isaac Aluochier unmerited, and proceed to dismiss the same.
12. THAT what is deponed to herein is true to the best of my knowledge, information and belief.

SWORN at NAIROBI by the said

JUSTIN BEDAN NJOKA MUTURI

This 2nd day of August 2024

BEFORE ME

COMMISSIONER FOR OATHS




DEPONENT

REPUBLIC OF KENYA
IN THE MATTER OF THE OATHS AND STATUTORY DECLARATIONS ACT
CAP 15 OF THE LAWS OF KENYA

STATUTORY DECLARATION

IN THE MATTER OF ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108,
115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE
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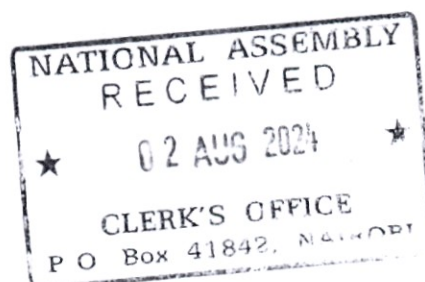
IN THE MATTER OF SUBMISSION OF STATEMENT CONTESTING THE NOMINATION
AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE
NATIONAL EXECUTIVE OF THE REPUBLIC OF;

1. PROF. KITHURE KINDIKI
2. ALICE MUTHONI WAHOME
3. ADEN BARE DUALE
4. ROSELINDA SOIPAN TUYA
5. SALIM MVURYA
6. REBECCA MIANO
7. ONESIMUS KIPCHUMBA MURKOMEN
8. ALFRED NGANGA MUTUA
9. JUSTIN BEDAN NJOKA MUTURI
10. JOHN MBADI NG'ONG'O
11. JAMES OPIYO WANDAYI
12. HASSAN ALI JOHO, AND
13. WYCLIFFE AMBETSA OPARANYA

REPLY TO THE AFFIDAVIT OF ELIUD KARANJA MATINDI SWORN ON 26TH JULY 2024

I, JUSTIN BEDAN NJOKA MUTURI of Post Office Box Number 60512-00200 Nairobi and of ID Number 02997621 and a resident of Nairobi in the Republic of Kenya, do hereby make oath and state as follows: -

1. THAT I am an adult male of sound mind hence competent to swear this Affidavit.



2. **THAT** I have been nominated by His Excellency the President of the Republic of Kenya to take up the docket of Cabinet Secretary for Public Service.
3. **THAT** in opposition to my nomination abovesaid, one Eliud Karanja Matindi has filed an Affidavit dated 26th July 2024 raising certain issues.
4. **THAT** I have read and understood the said Mr. Eliud Karanja Matindi's Objection to my nomination to mean that he objects to my nominations, among those of nine (9) other nominees, merely because we were members of the previous Cabinet, and as such we "*were unfit*" and that the President could not "*lawfully nominate us for approval for appointment by the National Assembly*".
5. **THAT** with regard to that Objection I wish to respectfully respond as I hereunder do;
6. **THAT** in the previous Cabinet I held the Office of the Attorney General, who by virtue of the Constitution, is also a member of the Cabinet.
7. **THAT** the Office of the Attorney General is governed by the Office of Attorney General's Act Cap 6A of the Laws of Kenya.
8. **THAT** the said Act provides for the manner through which the Attorney General can vacate office. Section 11 thereof provides that the Attorney General may resign from office in writing, addressed to the President. Section 12 provides for removal of the Attorney General from office by the President only for the following reasons: -
 - a) Serious violation of the Constitution
 - b) Gross misconduct
 - c) Physical or mental incapacity
 - d) Incompetence
 - e) Bankruptcy
9. **THAT** as regards my departure from the previous Cabinet, I resigned in accordance with Sec. 11 of the Attorney General Act Cap 6A Laws of Kenya aforesaid, in consultation with His Excellency, the President, so as to give him an opportunity to reorganize his Cabinet. (*Please see attached a copy of the Gazette Notice NO. 8440 of 12th July 2024*).
10. **THAT** I was not removed from the Cabinet under Section 12 of the Attorney General Act or at all.
11. **THAT** the President has the prerogative under Articles 132(2) and 152(2) of the Constitution to nominate, and with approval of the National Assembly, appoint Cabinet Secretaries.
12. **THAT** at no time have I ever been accused of, or become guilty of any of the issues listed under Section 12 (1) (a) (b) (c) (d) & (e) of the Attorney General's Act when I served as the Attorney General and as such sat in the Cabinet.

13. THAT in the circumstances I humbly pray that you find the Petition/ Affidavit/Objection to my nomination by the said Mr. Eliud Karanja Matindi as unmerited.

14. THAT what is deponed to herein is true to the best of my knowledge, information and belief.

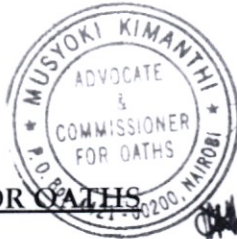
SWORN at NAIROBI by the said

JUSTIN BEDAN NJOKA MUTURI

This 2nd day of August 2024

BEFORE ME

COMMISSIONER FOR OATHS



DEPONENT

SPECIAL ISSUE



THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol. CXXVI—No. 102

NAIROBI, 12th July, 2024

Price Sh. 60

GAZETTE NOTICE No. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby:

I. RESIGNATION OF THE ATTORNEY-GENERAL

ACCEPT the resignation of Hon. Justin B. N. Muturi, E.G.H., as the Attorney-General of the Republic of Kenya in accordance with section 11 of the Office of the Attorney-General Act (Cap. 6A) Laws of Kenya.

II. DISMISSAL OF CABINET SECRETARIES

IN ACCORDANCE with Article 152 (5) (b) of the Constitution, dismiss the Cabinet Secretaries listed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.,
Mr. Simon Kiprono Chelugui, E.G.H.,
Hon. Aden Bare Duale, E.G.H.,
Prof. Njuguna Sospeter Ndung'u, E.G.H.,
Mr. Davis Kimutai Chirchir, E.G.H.,
Hon. Alfred Nanga Mutua, E.G.H.,
Hon. Alice Muthoni Wahome, E.G.H.,
Hon. Ababu Namwamba, E.G.H.,
Hon. Salim Mvurya, E.G.H.,
Hon. Onesimus Kipchumba Murkomen, E.G.H.,
Hon. Moses Kiarie Kuria, H.S.C.,
Hon. Soipan Tuya, E.G.H.,
Hon. Franklin Mithika Linturi, E.G.H.,
Hon. Aisha Jumwa Karisa Katana, E.G.H.,
Hon. Ezekiel Machogu Ombaki, E.G.H.,
Mr. Eluid Okech Owalo, E.G.H.,
Ms. Rebecca Miano, E.G.H.,
Ms. Susan Nakhumicha Wafula, E.G.H.,
Hon. Peninah Malonza, E.G.H.,
Mr. Zacharia Mwangi Njeru, E.G.H.,
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (a) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA.

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE MUTHONI WAHOME
3. ADEN BARE DUALE
4. ROSELINDA SOIPAN TUYA
5. DAVIS KIMUTAI CHIRCHIR
6. SALIM MVURYA
7. REBECCA MIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

**THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.**

I, **ELIUD KARANJA MATINDI**, an adult of sound mind, disposition and a citizen of Kenya presently resident in **POOLE** in the local authority area of **BOURNEMOUTH, CHRISTCHURCH AND POOLE**, United Kingdom of Great Britain and Northern Ireland, hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely:**

- 1) PROF. KITHURE KINDIKI**
- 2) ALICE MUTHONI WAHOME**
- 3) ADEN BARE DUALE**
- 4) ROSELINDA SOIPAN TUYA**
- 5) DAVIS KIMUTAI CHIRCHIR**
- 6) SALIM MVURYA**
- 7) REBECCA MIANO**
- 8) ONESIMUS KIPCHUMBA MURKOMEN**
- 9) ALFRED NGANGA MUTUA**
- 10) JUSTIN BEDAN NJOKA MUTURI**
- 11) JOHN MBADI NG'ONGO**
- 12) JAMES OPIYO WANDAYI**
- 13) HASSAN ALI JOHO, AND**
- 14) WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.
5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.
6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.
7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.
8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.
9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.
10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.
12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.
13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.
14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.
15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.
16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

- 1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.
- 2) Upholding the national values and principles of governance and public service.
- 3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.
- 4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;
- 5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. Articles 132(2)(a and b), 152(2) and 156(2) of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259 of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2)**.

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the **first ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last **four** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.
27. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.
28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.
29. The Constitution, including under **Articles 4(2), 10(2), 90, 91 and 108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.
30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.
31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA**, the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.
33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of **ODM** party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.
34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.
35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132 and 152**.
36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74 and 75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcasses of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.
37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.
39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.
40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.
41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scarce public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.
42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.
43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009**.

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega County under their case reference No. **EACC/FI/INQ/18/2023**.
45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.
46. It is my belief, including based on the recent High Court judgment in *Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)*, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.
47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4) and 95(1, 2 and 5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.
48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.
49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.
50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, these being:

- 1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;
- 2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;
- 3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

Page 12 of 12



REPUBLIC OF KENYA

**STATEMENT BY HIS EXCELLENCY WILLIAM
RUTO, C.G.H.; PHD; PRESIDENT AND
COMMANDER-IN-CHIEF OF THE KENYA DEFENSE
FORCES ON THE CHANGES IN THE NATIONAL
GOVERNMENT EXECUTIVE**

JULY 11, 2024

STATE HOUSE, NAIROBI


Paul Wintle, Notary Public
27 Bascott Road Bournemouth
Dorset BH11 8RJ
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1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.
2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.
3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).
4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.
5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.
6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.



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7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.
8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.
9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.
10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.
11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.
12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

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13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.
14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.
15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.
16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.
17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

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SPECIAL ISSUE



THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol. CXXVI—No. 102

NAIROBI, 12th July, 2024

Price Sh. 60

GAZETTE NOTICE No. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (b) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuyu, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (a) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

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[2629]



THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol. CXXVI—No. 22

NAIROBI, 23rd February, 2024

Price Sh. 60

CONTENTS

GAZETTE NOTICES

PAGE

The State Corporations Act—Appointment	586
The Public Procurement and Asset Disposal Act—Appointment	586
The Wildlife Conservation and Management Act—Appointment	586–587
The Estate Agents Act—Appointment	587
Street Families Rehabilitation Trust Fund—Re-Appointment	587
The Senate—Calendar	588
The Land Registration Act—Issue of Provisional Certificates, etc	588–605
Customs and Border Control Department—Goods to be Destroyed at Kisumu, Malaba, Busia and Isebania	605–619
The East African Community Customs Management Act—Appointment and Limits of Transit Shed, Customs Areas, etc	619–620
The Land Act—Corrigenda and Addendum, etc	620–656
The Kenya Accreditation Service Act—Accredited Bodies	656–658
The Geologists Registration Act—Registered Geologists ...	658–662
County Governments Notices	662–668, 684
The Anti-Corruption and Economic Crimes Act—The 4th Quarterly Report Covering the Period from 1st October, 2023 to 31st December, 2023	668–677
The Kenya Information and Communications Act—Application for Licences	677
The Water Act—Public Consultation Meeting on Licensing Water Service Provider	677
The Co-operative Societies Act—Appointment of Liquidator	678

GAZETTE NOTICES—(Contd.)

The Mental Health Act—Appointment	678
The Physical and Land Use Planning Act—Completion of Part Development Plan	678
The Environmental Management and Co-ordination Act—Environmental Impact Assessment Study Reports	679–681
The Insolvency Act—Appointment of Liquidator and Creditors' Meeting	681
Disposal of Uncollected Goods	681
The Records Disposal (Courts) Rules—Intended Destruction of Court Records	681–682
Closure of Private Roads and Footpaths, etc	682
Change of Names	682–684

SUPPLEMENT Nos. 32 and 34

National Assembly Bills, 2024

	PAGE
The Cooperatives Bill, 2024	141
The Breastfeeding Mothers Bill, 2024	281

SUPPLEMENT No. 33

Legislative Supplements, 2024

LEGAL NOTICE NO.	PAGE
45—The Energy (Energy and Petroleum Regulatory Authority Petroleum Levy) Regulations, 2024	395

1. Along Kenyatta Avenue
 - (a) KCB Bank parking lot;
 - (b) Khetias Supermarket parking lot;
 - (c) Bank of Baroda parking lot;
 - (d) Davis and Shirliff parking lot;
 - (e) Equity Bank parking lot; and
 - (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
 - (a) Noor Plaza parking lot; and
 - (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

MR/6208579 **DANIEL MUSITA,**
Municipal Manager, Kakamega Municipality.

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
COUNTY GOVERNMENT OF KAKAMEGA
THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC
(DESIGNATED PARKING PLACES) BY-LAWS, 2022
PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (c) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (d) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
 - (a) Frankmatt Supermarket parking lot;
 - (b) Mama Watoto Supermarket parking lot;

Paul Wintu, Notary Public
17 Boma Road Boma
Tel: 011 881 1881
Email: paulwintu@gmail.com

- (c) Lulu Pub parking lot;
 - (d) Aljazeera shop parking lot;
 - (e) Family Bank parking lot;
 - (f) Equity Bank parking lot;
 - (g) KCB Bank parking lot;
 - (h) Along Level 4 Hospitals;
 - (i) Old Mumias Bus Park;
 - (j) New Frankmatt Supermarket parking lot; and
 - (k) Old parking bay.
2. Shibale parking lot
 3. Ekero
 - (a) Franco shop parking lot – Junction to Sabatia parking lot;
 - (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
 - (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

MR/6208579 **AGGREY MUSINDALO,**
Municipal Manager, Kakamega Municipality.

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003
ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST
OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (d) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM
1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services Involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of KShs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

- (a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.
- (b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.
- (c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.
- (d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.
- (e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.
- (f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003
- (g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.
- (h) Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.
- (i) Attempt to commit an offence involving corruption contrary to section 47 (a) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

- (i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from

participating in public procurement and asset disposal processes in compliance with section 41 (3) (a) of the PPDA, 2015 and Regulation 22 (1) (c) of the PPDR, 2020.

- (ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

- (iii) Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/PI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

- (a) One count of conspiracy to commit an offence of corruption contrary to section 47 (a) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.
- (b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003
- (c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003
- (d) Five counts of Money laundering contrary to section 3 (B) (1) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularities at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

Paul Wintle, Notary Public
27 Bascott Road Bournemouth
Dorset BH11 8RJ
0044 1202 267818

REPUBLIC OF KENYA
IN THE MATTER OF THE OATHS AND STATUTORY DECLARATIONS ACT
CAP 15 OF THE LAWS OF KENYA

STATUTORY DECLARATION

IN THE MATTER OF ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108,
115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE
CONSTITUTION OF KENYA, 2010

IN THE MATTER OF PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT -
CAP 7E, LAWS OF KENYA;

IN THE MATTER OF STANDING ORDER NO. 204, STANDING ORDERS OF THE
NATIONAL ASSEMBLY OF KENYA (6TH EDITION- 07.06.2022)

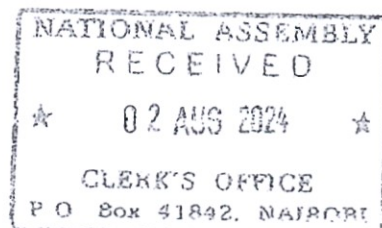
IN THE MATTER OF APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO
THE NATIONAL EXECUTIVE OF THE REPUBLIC;

IN THE MATTER OF SUBMISSION OF STATEMENT CONTESTING THE NOMINATION
AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE
NATIONAL EXECUTIVE OF THE REPUBLIC OF;

REPLY TO THE AFFIDAVIT OF ISAAC ALUOCHIER

I, JUSTIN BEDAN NJOKA MUTURI of Post Office Box Number 60512-00200 Nairobi and of ID Number 02997621 and a resident of Nairobi in the Republic of Kenya, do hereby make oath and state as follows: -

1. THAT I am an adult male of sound mind hence competent to swear this Affidavit.
2. THAT I have been nominated by His Excellency the President of the Republic of Kenya to take up the docket of Cabinet Secretary for Public Service.
3. THAT one Isaac Aluochier has objected to the said nomination vide his Affidavit dated 25th July 2014.
4. THAT I have understood the said Deponent to be objecting to my nomination on the grounds that when I served as the Speaker of the National Assembly for the terms 2013-2017 and 2017-2022 "*certain persons who were sitting members of Parliament changed Political Parties to others than those that had sponsored them to Parliament, thus their offices became vacant but continued to draw salaries illegally? That I failed to give written notices to the IEBC and thus I allowed those members to continue drawing salaries?*"



- DÉPONENT

REPUBLIC OF KENYA
IN THE MATTER OF THE OATHS AND STATUTORY DECLARATIONS ACT
CAP 15 OF THE LAWS OF KENYA

STATUTORY DECLARATION

IN THE MATTER OF ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108,
115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE
CONSTITUTION OF KENYA, 2010

IN THE MATTER OF PUBLIC APPONTMENTS (PARLIAMENTARY APPROVAL) ACT -
CAP 7E, LAWS OF KENYA;

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NATIONAL ASSEMBLY OF KENYA (6TH EDITION- 07.06.2022)

IN THE MATTER OF APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO
THE NATIONAL EXECUTIVE OF THE REPUBLIC;

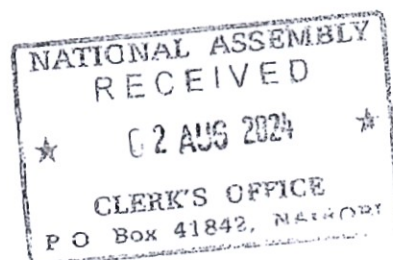
IN THE MATTER OF SUBMISSION OF STATEMENT CONTESTING THE NOMINATION
AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE
NATIONAL EXECUTIV OF THE REPUBLIC OF;

1. PROF. KITHURE KINDIKI
2. ALICE MUTHONI WAHOME
3. ADEN BARE DUALE
4. ROSELINDA SOIPAN TUYA
5. SALIM MVURYA
6. REBECCA MIANO
7. ONESIMUS KIPCHUMBA MURKOMEN
8. ALFRED NGANGA MUTUA
9. JUSTIN BEDAN NJOKA MUTURI
10. JOHN MBADI NG'ONG'O
11. JAMES OPIYO WANDAYI
12. HASSAN ALI JOHO, AND
13. WYCLIFFE AMBETSA OPARANYA

REPLY TO THE AFFDIAVIT OF ELIUD KARANJA MATINDI SWORN ON 26TH JULY 2024

I, JUSTIN BEDAN NJOKA MUTURI of Post Office Box Number 60512-00200 Nairobi and of ID Number 02997621 and a resident of Nairobi in the Republic of Kenya, do hereby make oath and state as follows: -

1. THAT I am an adult male of sound mind hence competent to swear this Affidavit.



2. THAT I have been nominated by His Excellency the President of the Republic of Kenya to take up the docket of Cabinet Secretary for Public Service.
3. THAT in opposition to my nomination abovesaid, one Eliud Karanja Matindi has filed an Affidavit dated 26th July 2024 raising certain issues.
4. THAT I have read and understood the said Mr. Eliud Karanja Matindi's Objection to my nomination to mean that he objects to my nominations, among those of nine (9) other nominees, merely because we were members of the previous Cabinet, and as such we "were unfit" and that the President could not "lawfully nominate us for approval for appointment by the National Assembly".
5. THAT with regard to that Objection I wish to respectfully respond as I hereunder do;
6. THAT in the previous Cabinet I held the Office of the Attorney General, who by virtue of the Constitution, is also a member of the Cabinet.
7. THAT the Office of the Attorney General is governed by the Office of Attorney General's Act Cap 6A of the Laws of Kenya.
8. THAT the said Act provides for the manner through which the Attorney General can vacate office. Section 11 thereof provides that the Attorney General may resign from office in writing, addressed to the President. Section 12 provides for removal of the Attorney General from office by the President only for the following reasons: -
 - a) Serious violation of the Constitution
 - b) Gross misconduct
 - c) Physical or mental incapacity
 - d) Incompetence
 - e) Bankruptcy
9. THAT as regards my departure from the previous Cabinet, I resigned in accordance with Sec. 11 of the Attorney General Act Cap 6A Laws of Kenya aforesaid, in consultation with His Excellency, the President, so as to give him an opportunity to reorganize his Cabinet. (Please see attached a copy of the Gazette Notice NO. 8440 of 12th July 2024).
10. THAT I was not removed from the Cabinet under Section 12 of the Attorney General Act or at all.
11. THAT the President has the prerogative under Articles 132(2) and 152(2) of the Constitution to nominate, and with approval of the National Assembly, appoint Cabinet Secretaries.
12. THAT at no time have I ever been accused of, or become guilty of any of the issues listed under Section 12 (1) (a) (b) (c) (d) & (e) of the Attorney General's Act when I served as the Attorney General and as such sat in the Cabinet.

13. THAT in the circumstances I humbly pray that you find the Petition/Affidavit/Objection to my nomination by the said Mr. Eliud Karanja Matindi as unmerited.

14. THAT what is deponed to herein is true to the best of my knowledge, information and belief.

SWORN at NAIROBI by the said

JUSTIN BEDAN NJOKA MUTURI

This 2nd day of August 2024

BEFORE ME

COMMISSIONER FOR OATHS



[Signature]

[Signature]
DEPONENT