

YAKUBU C. MAIKYAU, SAN, FCI Arb.

Y. C. MAIKYAU AND COMPANY

Legal Practitioner, Notary Public & Arbitrator

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12th May 2022.

**The Chairman,
Electoral Committee of the Nigerian Bar Association,
ECNBA Secretariat,
1st Floor, Abuja Chamber of Commerce and Industry,
Abuja Trade & Convention Centre,
KM 8, Umaru Musa Yar'adua Expressway,
Airport Road,
Abuja.**

Dear Sir,

RE: INELIGIBILITY OF Y. C. MAIKYAU, SAN FOR ELECTION INTO THE OFFICE OF PRESIDENT OF THE NIGERIAN BAR ASSOCIATION (NBA) ON THE GROUND OF NON-FULFILMENT OF SECTION 9(3)(C)(1) OF NBA CONSTITUTION.

1. The above refers.
2. I have gone through the Petition by Tochukwu E. Ohazuruike, Esq, dated **6/5/2022**, alleging that I am not qualified to contest for office of the President of the Nigerian Bar Association(NBA), in the forthcoming election for National Officers of the Association. The Petition alluded to my alleged failure to meet the mandatory eligibility criteria under **section 9(3)(c)(i) of the NBA Constitution**; that I automatically lost my membership of the National Executive Committee (now Council) NEC, when I allegedly failed to attend three (3) consecutive meetings of NEC by virtue of Section 8(8) of the NBA Constitution. I have also seen the further letter dated **10/5/2022**, wherein the Petitioner alleged that I did not attend any of the 9 meetings of the NEC for the period between 2018 and 2020.

My Response:

3. The allegation that I didn't attend the meetings of the 2018 – 2020 NEC is hereby denied. I also deny the allegation that my membership of that NEC ceased at any time before the end of that administration. The Petitioner, beyond citing the provisions of the NBA Constitution and alleging that I did not attend meetings, has failed to show that my membership of the 2018 – 2020 NEC ceased at any time before the **26th of August 2020**. It should be noted that the Petitioner admitted my membership of the NEC for the period between 2018 to 2020, this being no less the action of any institution of the NBA than the NEC itself. Suffice to say that what has been admitted requires no further proof. Nonetheless, see my letter of appointment into the NEC dated **4th May, 2019** attached hereto, as **Annexure 1**.

4. **Section 7(7) of the NBA Constitution, 2015** (as amended) (which was in force during the period under reference) provided thus:

“Any member who is absent from three (3) consecutive meetings of the National Executive Committee shall cease to be a member of the National Executive Committee unless he/she shows reasonable cause for such absence to the satisfaction of the National Executive Committee.”

5. While the above section provided for the circumstances under which a person's membership of the NEC may cease, the proviso ***“...unless he/she shows reasonable cause for such absence to the satisfaction of the National Executive Committee”*** is noteworthy and germane to the resolution of this petition. It is clear from the language of the Constitution that the provision is NOT self-executing. Rather, the provision contemplates that a Member of NEC shall cease to be a member ONLY by or UPON a resolution of the National Executive Committee (now Council) to that effect.

6. Secondly, it is also clear from the language of the Constitution that, before such a resolution or decision is taken by NEC, terminating a person's membership on the stated ground, there must first be a hearing and such a member must be given the opportunity to show reasonable cause for his absence to the satisfaction of the National Executive Committee.

7. In the petition under reference, the Petitioner has neither shown that there was any resolution of the 2018 – 2020 NEC terminating my membership of the Committee for non-attendance at meetings, nor

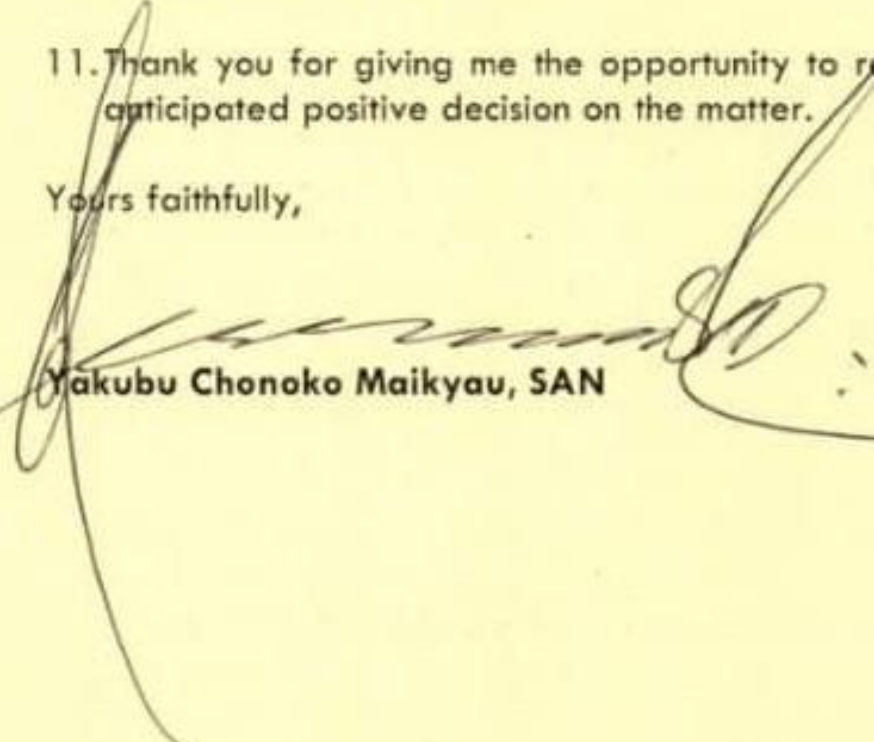
has he alleged that there was any such resolution. The Petitioner has also not shown that I did in fact cease to be a member of the NEC. None of the documents which accompanied the petition, show or contain any complaint regarding my alleged absence from any NEC meeting, any deliberation by NEC on such a complaint or any decision of NEC terminating my membership thereof. What the Petitioner has done or seeks to do, is to call on the ECNBA to do what the National Executive Committee of 2018 – 2020 would have done, were it to have received a complaint against me for alleged absenteeism and upon deliberation as stated above, taken a decision to terminate my NEC membership. By his petition, the Petitioner has not only called on the ECNBA to terminate my NEC membership but to do so with retrospective effect from 2019.

8. With respect to the Petitioner, this honourable Committee cannot do so and ought not to allow any person to drag it into an arena beyond the precincts delineated for its assignment. May I respectfully state for the sake of clarity that, the body that had the power to determine whether my membership of the NEC had ceased was the NEC as constituted in 2018 – 2020 led by President Paul Usoro, not the current National Executive Council and certainly not the ECNBA. A Petition to terminate my membership of NEC should have come during the subsistence of that NEC as led by Mr. Paul Usoro SAN. As stated earlier, no such complaint was made to it and no such decision was taken by that NEC.
9. Finally, may I reiterate the points that (i) the Petitioner has not shown that my membership of the 2018 – 2020 NEC ceased at any point before the **26th of August 2020**; and (ii) the Petitioner admits that I was indeed co-opted into that NEC as a member thereof. His allegation that I ceased to be a member for non-attendance must be strictly proved by him and the way to do so is by presenting before this Committee a Resolution of that NEC, duly signed by the President and General Secretary, declaring that I ceased to be a member thereof. May I also reiterate that this ECNBA cannot go into a forensic audit of Attendance Registers and Minutes of Meetings of NEC to decide whether I was attending meetings or not and whether my membership thereof ought to be terminated. It also cannot take a decision to terminate my membership of the 2018 – 2020 NEC. That is the sole duty of that NEC and it is only the proceedings of that NEC terminating my membership that can form the basis of a petition such as this, I so submit.

10. I therefore humbly request this Electoral Committee of the Nigerian Bar Association to disregard the Petition and the allegations therein as misguided and one predicated on a gross misunderstanding of the Constitution of the NBA.

11. Thank you for giving me the opportunity to respond and for your anticipated positive decision on the matter.

Yours faithfully,


Yakubu Chonoko Maikyau, SAN



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www.nigerianbar.org.ng4th May, 2019.**Yakubu C Maik'yan, SAN**Y.C Maikyau & Co
2ND Floor Akintola Williams House,
Plot 20148, Michael Okpara Street,
Wuse Zone 7,
Abuja.*My brother Yakubu***APPOINTMENT AS CO-OPTED MEMBER OF NATIONAL EXECUTIVE COMMITTEE ("NEC") OF THE NIGERIAN BAR ASSOCIATION ("NBA")**

I am pleased to inform you of your appointment as a co-opted member of the National Executive Committee of the Nigerian Bar Association for the years 2018-2020. Your appointment which took effect from 06 December, 2018 will determine at the end of the current NBA administration in August 2020.

The NBA NEC, as you must be aware, is the highest decision-making organ of the Association, next to the Annual General Meeting, and its scheduled meetings are held quarterly. I suggest that you familiarize yourself with the functions of NEC and ancillary matters related thereto as fully set out in the NBA's Constitution. As a co-opted NEC member, you are expected to attend and contribute to deliberations at all NEC meetings and such other meetings of the Association as you may from time to time be invited to.

Please note that this is a call to service and there are no financial emoluments (howsoever defined) attached to your appointment. In particular, the Association will not be in a position to defray your transport and/or accommodation costs in the service of the NBA. Indeed, your appointment was made in the knowledge and belief that you have the wherewithal, are in a position and are willing to meaningfully contribute to the affairs and development of the NBA as a co-opted NEC member with no expectations for financial compensations and/or reimbursements.

I thank you for accepting to serve our great Association and look forward to working with you to advance the cause of the NBA. Please, feel free to reach me at any time with ideas and thoughts that may occur to you and which would promote the objectives of our Association. Also feel free to reach any of my National Officer colleagues for clarification on any issue that relates directly to their respective functions. Kindly sign and return the acknowledgement receipt copy of this letter in proof of your acceptance of this appointment.

Yours sincerely,

Paul Usoro
Paul Usoro, SAN
President

NATIONAL OFFICERS:

Paul Usoro, SAN, President

Jonathan Guro Talli, General Secretary; Stanley Chidzie Ibe - 1st Vice President; Dr. (Mrs) Fatima D. Dada, 2nd Vice President; Theophilus Tertile Igba, 3rd Vice President; Oigbogi-Olabe Victoria Banka, Treasurer; Elias Emeka Anodika, Financial Secretary; Inemmi Innocent Eze, Legal Adviser; Oluksola O. Edun, Publicity Secretary; Joshua Ezeani Uman, Welfare Secretary; Eemada Onofredo William, 1st Assistant Secretary; Chinyere Okezi, 2nd Assistant Secretary; Inibung Irere Pappie, Assistant Financial Secretary; Abiodun Hakeem Lawal, Assistant Publicity Secretary.