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REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
28 AUG 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA.

IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP/ 007
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF:	**THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**
AND	
IN THE MATTER OF:	**THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**ARTICLE 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
28 AUG 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA

ELECTION PETITION

The Petition of **PAUL CHANDA CHONGO KABUSWE**, a Zambian National resident at Plot No. 842, off Independence Road, Chililabombwe, in the Chililabombwe District of the Copperbelt Province of the Republic of Zambia **SHOWETH** that:

1 Your Petitioner states that he was a candidate in the Parliamentary elections for Chililabombwe Constituency in the Copperbelt Province of the Republic of Zambia, where he was contesting to be elected as Member of Parliament (MP) under the ticket of the United Party for National Development (UPND), on the 13th of August, 2026. The Petitioner claims to have had a right to be elected to the position of Member of Parliament for the aforesaid constituency at the aforementioned elections.

2 Your Petitioner initiates these proceedings to petition the 1st and 2nd Respondents, through this Honourable Court, as a member of the public and as a participant in the 13th August, 2026 General Elections, seeking redress of his grievances regarding the manner in which the aforesaid elections were conducted.

3 Your Petitioner states that in addition to the Petitioner and the 1st Respondent, who contested the election on the Resolute Party ticket, the following persons were also vying to be elected as Member of Parliament for Chililabombwe Constituency:

(i) Moses Mwelwa: Independent
(ii) Abraham Simpamba: Independent
(iii) Lottie Ngwira: Citizens First

4 Your Petitioner states that Chililabombwe Constituency had 57 polling stations presided over by one **ELINA NYIRENDA** as the Returning Officer. The total number of votes cast was 24,058 out of which 673 were rejected by the Returning Officer.

5 Your Petitioner states that he polled eight thousand nine hundred and eighty-six (8,986) votes whereas the 1st Respondent polled ten thousand nine hundred and twenty (10,920) votes, and consequently the 1st Respondent on 14 August 2026 was declared as having been duly elected as Member of Parliament for Chililabombwe Constituency.

6 That the campaigns by the 1st Respondent in the lead up to the election were characterised by and conducted without compliance with the provisions and principles of the Electoral Process Act No. 35 of 2016 and the Code of Conduct set out in the schedule to the Act and that this disregard for the law affected the result of the election to the Petitioner's detriment.

7 Your Petitioner states that the campaign of the 1st Respondent against the Petitioner's candidature was characterised by disparaging and defamatory remarks made of the Petitioner at public rallies attended by thousands of persons being residents and/or voters of Chililabombwe.

8 Your Petitioner states that the campaign by the 1st Respondent was characterised by character assassination that influenced voters at his campaign meetings in the Ishuko area in the following material particulars:

i. The 1st Respondent told members of the public gathered that the Petitioner was a thief.

ii. The 1st Respondent told members of the public that the Petitioner stole Copper and thus was a copper thief too.

iii. The 1st Respondent told members of the public that the Petitioner gave mines to Chola Silomba and that the petitioner was not someone to vote for.

iv. The 1st Respondent told members of the public that the Petitioner, when he was Minister of Mines and Minerals Development, only employed his relatives thereby implying that the Petitioner was a tribalist and nepotist.

v. [not only that public rally, but was recorded and publicised wildly thereby affecting the Petitioner's standing]

9 Your Petitioner states that the election of the 1st Respondent was further characterised by irregularities in the results recorded by the 2nd Respondent.

10 Your Petitioner states that an example of the irregularities in the results recorded by the 2nd Respondent are the results for Lubansa-02 Polling Centre which according to the Voters' Register had a total of 2,356 registered voters.

11 Your Petitioner states that the results recorded and declared by the 2nd Respondent for the said polling centre on GEN20b form and the Announcement of the Result of the G20b form signed by the Presiding Officer for Lubansa-02 Polling Centre reveals that a total of 510 votes were cast of which 232 were in favour of the 1st Respondent while the Petitioner's votes in figures record 207 and in words record Two Hundred and Seventy.

12 Your Petitioner states that on the 13th August, 2026 the 1st Respondent offered financial inducements to various voters within the Constituency in a bid to complicitly solicit votes.

13 Your Petitioner also states that on the 13th August, 2026, being the day of the poll, and at or about 10:13 hours, the 1st Respondent together with his agents at Ishuko Tarven Polling Station in Mukuka Ward shook hands and greeted the various voters that were waiting to vote in the queue.

14 Your Petitioner further states that the 1st Respondent's agent gave money to various voters whom he so greeted.

15 Your Petitioner states that the 1st Respondent's agents, through the 1st Respondent's directive, attended at the polling stations of Vocation Training Centre, Kawama Primary School, Chico Primary School, Mother Angela Convent School, Lubengele Hall, Mine Club, Cricket Club, Lubengele Hall, Old Apostolic Church and Canaan Community School and spoke to voters and bribed them.

16 Your Petitioner states that at Kawama Polling Station the agents of the 1st Respondent flashed money at voters during the actual voting, and made threats to the voters known to align with the Petitioner.

17 Your Petitioner states that the conduct by the 1st Respondent on the 13th August, 2026 being the voting day was characterised by threats and undue influence on voters during voting in the following material particulars:

i. The 1st Respondent attended the Ishuko Tarven Polling Station in Mukuka Ward and passed along the line of voters waiting to vote, shaking hands with and greeting them.

ii. The 1st Respondent's agent, in the presence of the 1st Respondent, gave money to some of the voters in sums of between Fifty Kwacha (K50.00) and One Hundred Kwacha (K100.00) to each voter respectively.

18 Your Petitioner states that the 1st Respondent through his agents perpetrated acts of violence on the day of the poll at Fikolongo in Chitambi Ward whereby large rocks were placed across the road and the petitioner's Nissan Hardbody conveying voters who required a lift to the polling station was prevented from proceeding, and as such the said voters did not vote.

19 Your Petitioner states that two of the persons that perpetrated violence are Justine Mbazi popularly known as **Shikata** and Robam Chansa popularly known as **Matwente** were driving a Chevrolet motor vehicle registration number ADF 2478ZM and that the said two men are presently on the run following reports to the Zambia Police.

20 Your Petitioner states that the said **Justine Mbazi** and **Robam Chansa** assaulted the Petitioner's supporters namely **PETER MUSONDA** and **JEFF CHISENGE** at Lubengele in Yotam Muleya Ward, **PATRICIA BWEUPE** of Kakoso who was voting in Chitambi Ward, and **PATRICK MUSEKA** in Yotam Muleya Ward, as well as **PHILIP SIMWANSA** at E50 Mine Township, respectively.

21 Your Petitioner states that each of the said assaulted persons made a report of the said assault at Chililabombwe Police Station and that a Police Medical Report Form (ZP Form 32) was issued to each of them by the officers therein named being 9709/26, 9711/26, 9713/26, 9715/26 and 9717/26.

22 Your Petitioner states that on the said 13th August, 2026, between 17:00 and 19:00 hours, in the vicinity of Chico Primary School in Kamenza East Ward, agents and supporters of the 1st Respondent chased voters, who were ostensibly not in support of the 1st Respondent.

23 Your Petitioner states that the said persons, while driving a Chevrolet motor vehicle registration number ADF 2478 ZM, known as "Kenti," pursued the said voters to the Petitioner's residence and there rammed the motor vehicles a Toyota Hilux motor vehicle registration number CAF 1634 belonging to one **RASFORD KUNDA**, the Constituency Chairman of the UPND, which was thereby damaged and is presently held at Chililabombwe Central Police Station.

24 Your Petitioner states that by reason of the threats and violence aforesaid the agents of the Petitioner did not freely witness the counting of votes at the polling stations.

25 Your Petitioner states that at Yotam Muleya and at the Old Apostolic Church Polling Station one **MR VINCENT LENGE**, being an agent of the 1st Respondent, performed the functions of an officer of the 2nd Respondent, namely the actual counting of votes, without any identification whatsoever and that the said **MR VINCENT LENGE** is named upon the Form GEN 20a of the said polling station.

26 Your Petitioner states that the officers of the 2nd Respondent opened Chico Primary School Polling Station late, and that in consequence of the said late opening the said polling station did not close until 19:30 hours; that persons who arrived at the said polling station after 18:00 hours were chased away and did not vote; and that the queue of persons then waiting to vote at the said polling station was not less than one hundred and fifty (150) metres in length. One **STEVEN MULENGA**, the Ward Chairman of the UPND, was present at the said polling station and witnessed the whole of the ordeal aforesaid.

27 Your Petitioner states that the incidents aforesaid were reported to the officers of the 2nd Respondent as and when they occurred, and that the said officers took no action whatsoever thereon; and that the agents of the Petitioner confronted the polling agents of the 1st Respondent in the presence of the said officers but were unable to obtain any redress.

28 Your Petitioner states that the officers of the 2nd Respondent permitted the said **MR VINCENT LENGE**, who was not an officer of the 2nd Respondent and who bore no identification whatsoever, to perform the function of counting the votes at Yotam Muleya and at the Old Apostolic Church Polling Station.

29 Your Petitioner states that at Mother Angela Convent School Polling Station in Kakoso the Presiding Officer of the 2nd Respondent was in conversation with one **SYDNEY MUSONDA**, the District Chairman of the National Reconciliation Party for Unity and Prosperity (NRPUP), whilst the agents of the Petitioner were at the same time asked to leave the said polling station, whereupon there was an altercation with on-lookers. It must be noted that NRPUP did not field a candidate in the Chililabombwe constituency.

30 Your Petitioner states that at Chico Primary School Polling Station, after the commotion caused by the 1st Respondent's agents aforesaid, the officers of the 2nd Respondent were unable to commence the counting of votes until officers of the Zambia Army attended at the said polling station to help calm the situation.

31 Your Petitioner states that on the 14th August, 2026 the 2nd Respondent suspended the counting of votes at polling stations throughout the Republic for a period of about six (6) hours, being from about 12:00 hours upto about 18:00 hours and that the 2nd Respondent did not produce records of the discharge, during the said suspension, of the duty of safekeeping of all voting materials imposed upon each presiding officer.

32 Your Petitioner states that no agent of the Petitioner was permitted by the officers of the 2nd Respondent to attend at the constituency tallying centre at the Civic Centre, Chililabombwe, and that in consequence no agent of the Petitioner attested the said Form GEN 20b, the witness block whereof bears the signatures of seven (7) persons, none of whom is an agent or representative of the Petitioner.

33 Your Petitioner states that the officers of the 2nd Respondent accepted the attestation of certain Forms GEN 20a, and of the declaration of the results of the poll upon Form GEN 20b, by persons purporting to act

for the "National Reconciliation Party for Unity and Prosperity," (NRPUP) a political party which fielded no candidate as stated in paragraph 29 above.

34 Your Petitioner states that seven (7) of the Forms GEN 20a in the possession of the Petitioner do not reconcile upon their face, in that the votes recorded against the candidates, together with the ballot papers recorded as rejected, do not equal the total of votes declared by the presiding officer to have been cast; and that particulars of the said seven polling stations are set out in the affidavit verifying this Petition.

35 Your Petitioner states that the Form GEN 20a of the Kawama-01 polling station bears no signature of the presiding officer; that the Forms GEN 20a of the Chico-02 and Saint Louis-01 polling stations bear the signature of no agent of any candidate, the counting of votes thereat having been witnessed by no candidate's agent whatsoever; and that at Saint Louis-01 the Petitioner was recorded as having lost the poll by a single vote.

36 Your Petitioner states that the Form ECZ 19, being the Record of Proceeding at the Totalling of Votes, bears no entry whatsoever against the heading "Date and Time Totalling Commenced", and is accordingly not a record of the proceeding as the Electoral Process (General) Regulations require; and that the 2nd Respondent has not produced the verification report required upon the verification of ballot papers, being Form GEN 24 or its equivalent, so that the Petitioner was unable to test whether the ballot papers found in the boxes correspond to the ballot papers issued.

37 Your Petitioner states that the results announced by the 2nd Respondent's agent under the paragraphs herein, were not a true reflection of what the electorate voted in Chililabombwe Constituency of the Copperbelt Province of the Republic of Zambia.

38 Your Petitioner shall therefore aver that the 1st Respondent was not validly elected as Member of Parliament for Chililabombwe Constituency.

39 Your Petitioner further states that the acts of the 1st Respondent and of his agents set out in Part A hereof, and the acts and omissions of the 2nd Respondent and of its servants and agents set out in Part B hereof, being corrupt and illegal practices and/or other misconducts committed in relation to the Chililabombwe Constituency General Elections held on the 13th August, 2026, were against the spirit of the Republican Constitution, the Electoral Process Act No. 35 of 2016 and the Electoral Code of Conduct of 2016, respectively.

40 **WHEREFORE** the Petitioner respectfully prays for the following relief:

(i) A declaration that the election held on 13th August, 2026 for the Chililabombwe Constituency Parliamentary seat was not conducted in accordance with the principles and provisions of the Constitution and the Electoral Process Act No. 35 of 2016 and was tainted by widespread corrupt and illegal practices, undue influence, violence, intimidation and non-compliance with the Act;

(ii) A declaration that the result of the said election as declared on GEN Form 20b on 14th August, 2026 is void and of no legal effect;

(iii) A declaration that the election of the 1st Respondent as Member of Parliament for Chililabombwe Constituency is null and void;

(iv) An order directing the 2nd Respondent to conduct a fresh election for the Chililabombwe Constituency Parliamentary seat, such election to be conducted freely, fairly and in strict compliance with the Electoral Process Act No. 35 of 2016;

(v) That the Petitioner may have such further or other reliefs as the court shall deem fit; and

(vi) That the Respondents may be ordered to pay costs of and incidental to this Petition.

AND your Petitioner will ever pray.

Dated at Lusaka this_____ day of_____, 2026

SIGNED BY:_____

PETITIONER

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LUSAKA
Co-Advocates for The Petitioner

TO: THE 1ST RESPONDENT
Mr. Nsofwa Kabwe Lupele
Chililabombwe
COPPERBELT

TO: THE 2ND RESPONDENT

Legal Counsel/Director

Electoral Commission of Zambia

Elections House, Haile Selassie Avenue

LUSAKA

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/_____**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: **THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**

AND

IN THE MATTER OF: **THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **ARTICLE 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

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IN THE MATTER OF: **SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

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AND

IN THE MATTER OF: **THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2026/HP/EP/007

IN THE MATTER OF: **THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**

AND

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AND

IN THE MATTER OF: **SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
11 SEP 2026
PRINCIPAL REGISTRY 4
P.O. BOX 50067, LUSAKA.

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

PETITIONER'S REPLY TO THE 1ST RESPONDENT'S ANSWER

The Petitioner, in reply to the 1st Respondent's Answer to the Election Petition filed herein on 7 September 2026, states as follows:

1. In reply to paragraph 1 of the Answer, the Petitioner avers that paragraphs 1 and 2 of the Petition are not traversed thereby and stand admitted.

2. In reply to paragraph 3 of the Answer, the Petitioner joins issue with the 1st Respondent.

3. In reply to paragraph 4 of the Answer, the Petitioner denies that his campaign was premised upon referring to the 1st Respondent, or to any other candidate, as a thief.

4. Further to the preceding paragraph 3 of my reply, the Petitioner avers that the said paragraph 4 of the Answer pleads no answer to any ground of the Petition but a counter-allegation against the Petitioner.

5. In reply to paragraph 5 of the Answer, the Petitioner avers that the copy of the Form GEN 20a for Lubansa-02 Polling Station delivered to his polling agent was fully witnessed and dated 13 August 2026 whereas the copy referred to and exhibited by the 1st Respondent is unwitnessed and dated 14 August 2026.

6. In reply to paragraph 6 of the Answer, the Petitioner does not admit that the 1st Respondent remained in the queue at Ishuko Tavern Polling

Station awaiting his turn, and repeats paragraphs 13 and 14 of the Petition.

7. Further to the preceding paragraph 6 of my reply, the Petitioner admits that on 13 August 2026 he attended Kakoso Combined School Polling Station, being his registered polling station, for the purpose of casting his vote, and avers that he did not canvass, solicit or address any voter there or at any other polling station, and that he greeted no person there save in answer to those who greeted him.

8. Further to the preceding paragraph 7 of my reply, the Petitioner avers that the matters pleaded at the said paragraph 6 concerning the Petitioner disclose no answer to any ground of the Petition.

9. In reply to paragraph 7 of the Answer, the Petitioner joins issue with the 1st Respondent.

10. In reply to paragraph 8 of the Answer, the Petitioner avers that the denial therein that the voters conveyed in the vehicle referred to were prevented from proceeding is confined to prevention "by the Petitioner's agents", which is not alleged, and that the allegation that the said voters were prevented from proceeding by the agents of the 1st Respondent is not traversed.

11. In reply to paragraph 9 of the Answer, the Petitioner denies that his supporters damaged the motor vehicle there referred to on 27 July 2026 or at all, and avers that the said paragraph pleads no answer to any ground of the Petition.

12. In reply to paragraph 12 of the Answer, the Petitioner avers that his agents were disturbed, intimidated and prevented from witnessing the counting of votes, and repeats paragraphs 24 and 30 of the Petition.

13. In reply to paragraphs 13 and 16 of the Answer, the Petitioner notes and relies upon the admission that Mr. Vincent Lenge was an agent of the 1st Respondent, and avers that the said Vincent Lenge was a polling agent of the 1st Respondent.

14. Further, the Petitioner avers that the absence of the name of the said Vincent Lenge Form GEN 20a is no answer to the allegation pleaded, as the name of a person who assumes the functions of an electoral officer without authority not being one which would appear upon the said form.

15. In reply to paragraphs 17 and 22 of the Answer, the Petitioner notes and relies upon the averments of the 1st Respondent that "it was agreed that I would be adopted at parliamentary level by both parties", that the National Reconciliation Party for Unity and Prosperity "was in alliance with RP", and that "the parties conducted their campaigns together" save to add that only the agents of the political party that sponsored a candidate are allowed to witness.

16. Further to the preceding paragraph 15 of my reply, the Petitioner avers that the appointment of election agents and polling agents is a matter of record with the 2nd Respondent, and puts the 1st Respondent to strict proof of the persons appointed and accredited as his election agent and polling agents in the said election.

17. Further to the preceding paragraph 16 of my reply, the Petitioner denies that the National Reconciliation Party for Unity and Prosperity fielded any parliamentary candidate in Chililabombwe Constituency, and repeats paragraph 29 of the Petition. The Petitioner will avert that the "agreement" so referred to by the 1st Respondent is no substitute for an adoption certificate issued to any prospective candidate by a political party.

18. Further to the preceding paragraph 17 of my reply, the Petitioner will rely upon the said averments as going to the knowledge and consent or approval of the 1st Respondent of the acts of persons acting for either of the said parties in connection with the said election, and to the capacity in which the persons who attested Form GEN 20b for the National Reconciliation Party for Unity and Prosperity did so.

19. In reply to paragraphs 19 and 24 of the Answer, the Petitioner avers that paragraphs 31, 35 and 36 of the Petition are not traversed thereby, a statement that the Petitioner is put to strict proof not being a traverse, and that the same stand admitted as against the 1st Respondent.

20. In reply to paragraphs 20 and 21 of the Answer, the Petitioner avers that Chola Silomba, being the person appointed by him to attend the constituency tallying centre, was intimidated and thereby prevented from freely participating in the tallying process by reason of unauthorised persons representing the 1st Respondent who found themselves inside the tallying centre without official identification. The Petitioner denies that Chola Silomba, Obby Chuulu, Derrick Samutondo and Lotson Mando, or any of them, were present throughout the tallying process.

21. Further to the preceding paragraph 20 of my reply, the Petitioner repeats that no representative of the Petitioner and no representative of the United Party for National Development attested Form GEN 20b, and avers that the presence of a person at the tallying centre and the attestation by that person of the said form are distinct matters, the latter of which the 1st Respondent does not address.

22. In reply to paragraph 23 of the Answer, the Petitioner joins issue with the 1st Respondent and avers that the failure of the seven Forms GEN 20a referred to at paragraph 34 of the Petition to reconcile is apparent upon the face of the said forms, upon which, and upon the records of the 2nd Respondent, the Petitioner will rely.

23. In reply to paragraph 29 of the Answer, the Petitioner denies that any inference adverse to him arises from the non-production of a report of the Conflict Management Committee, and avers that the said paragraph pleads evidence and argument and no answer to any ground of the Petition.

24. The Petitioner avers that the 1st Respondent has not pleaded that he took all reasonable means for preventing the commission of corrupt or illegal practices at the said election, and will object to the leading of evidence to that effect without amendment of the Answer.

25. In reply to paragraph 31 of the Answer, the Petitioner avers that no declaration of the kind sought at sub-paragraphs (a), (b) and (c) thereof is available to a respondent under section 99 of the Electoral Process Act No. 35 of 2016.

26. In reply to paragraphs 10, 11, 14, 15, 18, 25, 26, 27, 28 and 30 of the Answer, the Petitioner joins issue with the 1st Respondent.

27. Save as is hereinbefore expressly admitted, the Petitioner denies each and every allegation of fact contained in the Answer as if the same were herein set out and traversed seriatim.

28. The Petitioner repeats the prayer contained in the Election Petition.

Dated at Lusaka this_____ day of _____, 2026

SIGNED BY:_____

PETITIONER

This Reply was drawn by:

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IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2026/HP/EP/007

IN THE MATTER OF:	**THE PARLIAMENTARY PETITION RELATING TO THE PALIAMENTARY ELECTIONS FOR CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**
AND	
IN THE MATTER OF:	**THE CONSTITUTION OF ZAMBIA, AS AMENDED BY THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT NO. 2 OF 2016, CHAPTER 1, VOLUME ONE OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**ARTICLES 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1, VOLUME ONE OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:

PAUL CHANDA CHONGO KABUSWE		**PETITIONER**
AND		
NSOFWA KABWE LUPELE	1st	**RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	2nd	**RESPONDENT**

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 08 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067, LUSAKA

2nd RESPONDENT'S ANSWER

The 2nd Respondent, the **ELECTORAL COMMISSION OF ZAMBIA**, in answer to the Petition filed herein on the 28th day of August, 2026, **STATES AS FOLLOWS**:

1. In response to the contents of paragraph 1 of the Petition, the 2nd Respondent denies that the Petitioner "had a right to be elected to the position of Member of Parliament", the same being a contention and not a fact properly pleaded,

/2

but admits that the Petitioner was one of the persons duly nominated as a candidate for the election of Member of Parliament for Chililabombwe Constituency held on the 13th day of August, 2026.

2. Furthermore in relation to the contents of paragraph 2 of the Petition the 2nd Respondent, in the due exercise of its constitutional mandate under Article 229 of the Constitution of Zambia and its statutory mandate under the Electoral Process Act No. 35 of 2016, conducted the said election on the 13th day of August, 2026, in which the Petitioner, the 1st Respondent and such other persons contested the same accordance with the law as candidates.

3. In response to the contents of paragraphs 3, 4 and 5 of the of the Petition, the 2nd Respondent will state that those particulars are not in dispute.

4. In response to the contents of paragraphs 6, 7, 8 and 9 of the of the Petition, the 2nd Respondent will state that those particulars are within the peculiar knowledge of the Petitioner and the Petitioner will be put to strictly prove the said allegations. The 2nd Respondent will further state that the said allegations were never brought to the attention of the 2nd Respondent's officers via the Conflict Management Committee which receives and attempts to resolve any conflicts that may arise during the election period.

5. In response to the contents of paragraphs 10 and 11 of the of the Petition, the 2nd Respondent will state that those particulars are within the peculiar knowledge of the Petitioner and he will be put to strictly prove the same.

6. In response to the contents of paragraphs 12 -23 of the of the Petition, the 2nd Respondent will state that those particulars are within the peculiar knowledge of the Petitioner as the said allegations were never brought to the attention of the Conflict Management Committee as aforementioned.

7. In response to the contents of paragraph 24-31 of the of the Petition, the 2nd Respondent will state that those particulars are within the peculiar knowledge of the Petitioner and he will be put to strictly prove the same. The 2nd Respondent will rely on the Pooling Register, and official documents to rebut these allegations.

8. In response to the contents of paragraphs 32-39 of the of the Petition, the 2nd Respondent will state that those particulars are within the peculiar knowledge of the Petitioner and he will be put to strictly prove the same. The 2nd Respondent will show that there was no Polling Station named Saint Louis, that the totaling Center was at Kamenza Secondary School Hall and that the Petitioner's polling agents neglected or refused to sign some Gen 20 forms only after they realized after announcing and counting that the Petitioner's results were inferior to the 1st Respondent's. The 2nd Respondent states that none of these allegations discloses a cause of action against the 2nd Respondent and are denied. The 2nd Respondent further avers that it had no knowledge of, and did not authorise, condone or participate in, any of the matters therein alleged, and that no complaint, report or objection concerning any such matter was, at the material time, made by the Petitioner or any of his election or polling agents to any presiding officer, returning officer or other officer of the 2nd Respondent in the manner contemplated by sections 69 and 70 of the Electoral Process Act No. 35 of 2016, or at all.

9. The 2nd Respondent shall further state:

   (a) that by section 68(1)(d) of the Electoral Process Act No. 35 of 2016, a presiding officer is required to "announce and publish the result of each count at that polling station in both figures and words in the prescribed manner", and by section 71(2) of the said Act, to "publicly announce the result of the count at the polling station to members of the public, the accredited observers, monitors, election and polling agents present at the polling station", which duties were duly performed at every polling station in Chililabombwe Constituency;

   (b) that no provision of the Electoral Process Act No. 35 of 2016 imposes upon a presiding officer a duty to furnish a physical copy of the completed results form to a polling or election agent at the polling station, the statutory scheme instead entitling such an agent, under section 36(1) of the said Act, to observe the counting of votes and the announcement and declaration of the result, and to lodge an objection concerning the sorting or counting of ballot papers under sections 69 and 70 of the said Act at the time of the count, before the presiding officer announces the result;

(c) that upon completion of the prescribed form under section 71(1) of the Electoral Process Act No. 35 of 2016, the presiding officer is required by section 71(4) thereof to seal the same together with the voting materials and deliver them to the Returning Officer, which was duly done at every polling station in Chililabombwe Constituency.

(d) that in the premises, no breach of any statutory duty on the part of any presiding officer of the 2nd Respondent is disclosed, and that, in any event, by section 97(4) of the Electoral Process Act No. 35 of 2016, "an election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty in connection with an election if it appears to the Court or a tribunal that the election was so conducted as to be substantially in accordance with the provisions of this Act, and that such act or omission did not affect the result of that election", which the 2nd Respondent shall aver and rely upon in the alternative and without prejudice to the foregoing denial.

(e) Furthermore, Section 38 of the Electoral Process Act No. 35 of 2016, including the power under section 38(4) to exclude from the counting venue any person whose presence was not authorised, the power under section 38(5) to order any person whose conduct was "not conducive to a free and fair election" to leave, and the power under section 38(6) to direct a police officer to forcibly remove any such person who refused to comply, such police officer being obliged to comply with that order. The Petitioner is put to strict proof of the identity of the persons alleged to have made the threats complained of, of their agency for and on behalf of the 1st Respondent, and of any report of the alleged incident made to the 2nd Respondent or to the Zambia Police Service at the material time.

10. The 2nd Respondent avers that the election for the Member of Parliament for Chililabombwe Constituency, held on the 13th day of August, 2026, was, so far as it concerns the 2nd Respondent, conducted substantially in accordance with the Constitution of Zambia and the Electoral Process Act No. 35 of 2016, and that no act or omission on the part of the 2nd Respondent or any of its officers affected the result of the said election, and further and in the alternative relies upon section 97(4) of the Electoral Process Act No. 35 of 2016.

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11. The 2nd Respondent denies that the Petitioner is entitled to a declaration that the election of the 1st Respondent be declared null and void, or to costs, or to any of the relief claimed, as against the 2nd Respondent.

12. SAVE as is hereinafter expressly admitted, the 2nd Respondent denies each and every allegation of fact, law and mixed fact and law contained in the Petition, as if the same were herein set out and traversed seriatim.

13. WHEREFORE the 2nd Respondent prays that this Honourable Tribunal do dismiss the Petition against it with costs.

.....
For the 2nd Respondent

Dated this.....day of.....2026

Per: .....
Messrs George Kunda and Company
Pelican House, Stand No. 35187, 26,
Alick Nkhata Avenue
Opposite Mass Media Complex
P.O. Box 50354,
Lusaka – Zambia.
Email: georgkundaandcompany@gmail.com
Advocates for the 2nd Respondent

To: **Messrs. Keith Mweemba and Company**
Plot 8749, Buluwe Road
Woodlands
Email:keithmweembaadb|vocayes@gmail.com
LUSAKA
Co- Advocates for the Petitioner

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/007**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF:	**THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**
AND	
IN THE MATTER OF:	**THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**ARTICLE 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
11 SEP 2026
PRINCIPAL REGISTRY
P.O. BOX 50067, LUSAKA.

BETWEEN:

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA 2ND RESPONDENT

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
1 SEP 2026
PRINCIPAL REGISTRY 4
P.O. BOX 50067, LUSAKA

PETITIONER'S REPLY TO THE 2ND RESPONDENT'S ANSWER

The Petitioner, **PAUL CHANDA CHONGO KABUSWE**, in reply to the 2nd Respondent's Answer filed herein on 8th September 2026 **STATES AS FOLLOWS**:

1. The Petitioner joins issue with the 2nd Respondent upon its Answer, save in so far as the same consists of admissions.

2. As to paragraph 1 of the Answer, the Petitioner notes the admission that he was one of the persons duly nominated as a candidate for the election of Member of Parliament for Chililabombwe Constituency held on the 13th day of August, 2026, and repeats paragraph 1 of the Petition.

3. Further, the Petitioner avers that his standing to present the said Petition is established by the said admission and by section 98 of the Electoral Process Act No. 35 of 2016.

4. As to paragraph 2 of the Answer, the Petitioner admits that the 2nd Respondent conducted the said election pursuant to Article 229 of the Constitution of Zambia and the Electoral Process Act No. 35 of 2016, but denies that the said election was conducted in accordance with the law, that being the very question raised by the Petition.

5. As to paragraph 3 of the Answer, the Petitioner notes that the matters pleaded at paragraphs 3, 4 and 5 of the Petition are not in dispute.

6. As to paragraphs 4 and 6 of the Answer, the Petitioner repeats the First Schedule to the Petition, and avers that each of the matters therein set out was reported to the Zambia Police Service on the 13th day of

August, 2026, being polling day, under Occurrence Book numbers 9709/26, 9711/26, 9713/26, 9715/26 and 9717/26.

7. Further to the preceding paragraph 6 of my reply, the Petitioner avers that neither the Electoral Process Act No. 35 of 2016 nor any statutory instrument made thereunder makes a complaint to a Conflict Management Committee a condition precedent to the presentation of an election petition, or a condition of proof of any ground under section 97(2) of the said Act.

8. Further to the preceding paragraph 7 of my reply, the Petitioner avers that the matters pleaded in the Petition arose upon polling day and in the course of the counting and the totalling of the votes, and that the 2nd Respondent has pleaded no provision requiring such matters to be reported to a Conflict Management Committee.

9. Further to the preceding paragraph 8 of my reply, the Petitioner avers that the 2nd Respondent's own case, at paragraph 8 of the Answer, is that the channel provided by the Electoral Process Act No. 35 of 2016 for a complaint arising at the count is an objection made to a presiding officer under section 69 or section 70 thereof, and that a Conflict Management Committee is neither a presiding officer nor a returning officer.

10. Further to the preceding paragraph 9 of my reply, the Petitioner avers that the existence, the membership and the contact particulars of the Conflict Management Committee for Chililabombwe Constituency were not notified to the Petitioner or to his election agent at any time before or during the said election.

11. Further to the preceding paragraph 10 of my reply, the 2nd Respondent has not pleaded the constitution of the said Conflict Management Committee for Chililabombwe Constituency, the identity of its members, the dates upon which it sat, the place at which it sat, or the

records which it kept, and the Petitioner will require the 2nd Respondent to prove the same.

12. As regards to the contents of paragraph 5 of the Answer, the Petitioner joins issue with the 2nd Respondent and repeats paragraphs 10 and 11 of the Petition.

13. As regards to the contents of paragraph 12 of the Answer, the Petitioner avers that the matters pleaded at paragraphs 24 to 31 of the Petition concern the conduct of the said election by the 2nd Respondent, the acts and omissions of its officers, and the contents of its own records, and are matters within the knowledge of the 2nd Respondent and not within the peculiar knowledge of the Petitioner.

14. Further to the preceding paragraph 6 of my reply, the Petitioner will require the 2nd Respondent to produce the Polling Register and the official documents referred to in the said paragraph 7.

15. As regards to the contents of paragraph 8 of the Answer, the Petitioner notes the averment, made for the first time in the said Answer, that there was no polling station named St Louis in Chililabombwe Constituency.

16. Further to the preceding paragraph 6 of my reply, the Petitioner will produce and rely upon the Form GEN 20a in his possession bearing the said description, and upon the originals of the fifty-seven Forms GEN 20a and of the Form ECZ 19 for Chililabombwe Constituency, the production whereof is required of the 2nd Respondent.

17. As regards to the contents of paragraph 8 of the Answer, the Petitioner notes the averment that the totalling centre for the said election was at Kamenza Secondary School Hall.

18. As regards to the contents of paragraph 8 of the Answer, the Petitioner denies that his polling agents neglected or refused to sign any Form GEN 20a after they realised, upon the announcement and counting of the votes, that his results were inferior to those of the 1st Respondent.

19. Further to the preceding paragraph 18 of my reply, the Petitioner avers that his polling agents attested not fewer than of the fifty-seven Forms GEN 20a for Chililabombwe Constituency, by name and in their own hand.

20. Further to the preceding paragraph 19 of my reply, the 2nd Respondent has deposed to no fact in the Affidavit in Opposition filed in support of the said Answer capable of supporting the averment as to the state of mind of the Petitioner's polling agents, paragraph 18 of the said Affidavit deposing only that certain election agents "elected not to sign for reasons best known to themselves".

21. As regards to the contents of paragraph 8 of the Answer, the Petitioner avers that he does not allege that the 2nd Respondent authorised, condoned or participated in the corrupt practices, illegal practices and other misconduct pleaded against the 1st Respondent, and that the case pleaded against the 2nd Respondent is confined to the matters set out at paragraphs 24 to 39 of the Petition.

22. Further to the preceding paragraph 21 of my reply, the Petitioner denies that the said matters disclose no cause of action against the 2nd Respondent, and avers that the relief sought at paragraph (a) of the prayer to the Petition is a declaration that the said election, which the 2nd Respondent conducted, was void.

23. As regards to the contents of paragraph 8 of the Answer, the Petitioner avers that sections 69 and 70 of the Electoral Process Act No. 35 of 2016 provide for objections to the sorting of ballot papers and to the counting of the votes or the announcement of a result at a polling station, and have no application to the matters pleaded at paragraphs 24 to 39 of the Petition.

24. Further to the preceding paragraph 23 of my reply, the Petitioner will require the 2nd Respondent to produce, for each of the fifty-seven polling stations in Chililabombwe Constituency, the written record of each

objection and of each decision kept by the presiding officer pursuant to section 70(7) of the said Act and sealed pursuant to section 71(4)(a) thereof.

25. As regards to the contents of paragraph 9(a) of the Answer, the Petitioner denies that the duties imposed by section 68(1)(d) and section 71(2) of the Electoral Process Act No. 35 of 2016 were duly performed at every polling station in Chililabombwe Constituency.

26. As regards to the contents of paragraph 9(b) of the Answer, the Petitioner admits that section 36(1) of the Electoral Process Act No. 35 of 2016 entitles an election or polling agent to observe the counting of the votes and the announcement and declaration of the result of an election, and avers that it is that right which the Petitioner's representative was prevented from exercising, as pleaded in the Petition.

27. Further to the preceding paragraph 26 of my reply, the Petitioner avers that an election or polling agent who is prevented from being present at the count cannot lodge an objection under section 69 or section 70 of the said Act, both of which require the objection to be made before the presiding officer has commenced the count or announced the result, as the case may be.

28. As regards to the contents of paragraph 9(c) of the Answer, the Petitioner denies that the requirements of section 71(1) and section 71(4) of the Electoral Process Act No. 35 of 2016 were duly performed at every polling station in Chililabombwe Constituency, and will rely upon the said Forms GEN 20a and upon the Form ECZ 18 for Kawama Primary School 01.

29. As regards to the contents of paragraph 9(d) of the Answer, the Petitioner avers that section 97(4) of the Electoral Process Act No. 35 of 2016 is confined, by its own terms, to an act or omission by an election

officer in breach of that officer's official duty, and has no application to the ground pleaded under section 97(2)(a) of the said Act.

30. As regards to the contents of paragraph 9(e) of the Answer, the Petitioner avers that the 2nd Respondent has not pleaded that any of its officers exercised any power under section 38 of the Electoral Process Act No. 35 of 2016 in respect of any person at the totalling centre for Chililabombwe Constituency on the 13th or the 14th day of August, 2026.

31. Further to the preceding paragraph 30 of my reply, the Petitioner avers that section 38 of the said Act confers no power upon any person other than an election officer, or a police officer acting upon the instructions of an election officer, and that the persons who prevented the Petitioner's representative from participating at the said totalling centre were neither.

32. As regards to the contents of paragraph 10 of the Answer, the Petitioner denies that the said election was, so far as it concerns the 2nd Respondent, conducted substantially in accordance with the Constitution of Zambia and the Electoral Process Act No. 35 of 2016.

33. Further to the preceding paragraph 32 of my reply, the Petitioner avers that the entry headed "Date and Time Totalling Commenced" upon the Form ECZ 19 for Chililabombwe Constituency.

34. Further to the preceding paragraph 33 of my reply, the Petitioner avers that the Record of Proceeding at the Totalling of Votes for Chililabombwe Constituency bears the attestation of no representative of the Petitioner, whereas the corresponding Record of Proceeding for Konkola Constituency exhibited by the 2nd Respondent bears the attestation of a representative of the United Party for National Development.

35. Further to the preceding paragraph 34 of my reply, the Petitioner avers that the Verification of the Ballot Paper Account for the said election

has not been conducted, the same having been postponed by the Chief Electoral Officer by letter dated 21st August 2026, and no new date therefor having been communicated.

36. As regards to the contents of paragraph 11 of the Answer, the Petitioner joins issue with the 2nd Respondent and repeats the prayer to the Petition.

37. As regards to the contents of paragraph 12 of the Answer, the Petitioner joins issue with the 2nd Respondent.

38. Save as is hereinbefore expressly admitted, the Petitioner joins issue with the 2nd Respondent upon each and every paragraph of the Answer.

Dated at Lusaka this_____ day of_____, 2026

SIGNED BY:_____

PETITIONER

This Petition was drawn by:

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LUSAKA

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LUSAKA

Co-Advocates for The Petitioner

TO: THE 1ST RESPONDENT

Mr. Nsofwa Kabwe Lupele

Chililabombwe

COPPERBELT

TO: THE 2ND RESPONDENT

Legal Counsel/Director

Electoral Commission of Zambia

Elections House, Haile Selassie Avenue

LUSAKA

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/007**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF:	**THE PARLIAMENTARY PETITION RELATING TO THE PALIAMENTARY ELECTIONS FOR CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**
AND	
IN THE MATTER OF:	**THE CONSTITUTION OF ZAMBIA, AS AMENDED BY THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT NO. 2 OF 2016, CHAPTER 1, VOLUME ONE OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**ARTICLES 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1, VOLUME ONE OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1st RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2nd RESPONDENT**

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 08 SEP 2026 PRINCIPAL REGISTRY 4 P.O. BOX 50067, LUSAKA.

AFFIDAVIT IN OPPOSITION TO THE AFFIDAVIT VERIFYING FACTS

I, **ELINA NYIRENDA**, a Zambian National, resident at Chililabombwe Municipal Council, situate along Independence Avenue, in the Chililabombwe District on the Copperbelt in the Republic of Zambia being an Officer in the employ of the **ELECTORAL COMMISSION OF ZAMBIA**, the 2nd Respondent herein, holding the office of Returning Officer for Chililabombwe Constituency, in the Copperbelt Province of the Republic of Zambia, **DO HEREBY** make **OATH** and state as follows:

1. That my particulars are as stated above.

2. That I am an authorised officer of the 2nd Respondent, and I am accordingly competent and duly authorised to depose to the contents herein on the 2nd Respondent's behalf.

3. That the facts deposed to herein are within my personal knowledge, save where the contrary appears from the context, in which case they are derived from the official records of the 2nd Respondent and information supplied to me by officers on duty in Chililabombwe Constituency at the material time, which information I verily believe to be true, correct and accurate.

4. That I have read the Petition and the Affidavit Verifying Facts filed by the Petitioner, **PAUL CHANDA CHONGO KABUSWE,** and I depose to this Affidavit in Opposition thereto, and also in support of the Answer filed on behalf of the 2nd Respondent herewith.

5. That the 2nd Respondent is the body established by the Constitution of Zambia and charged, with the conduct of Presidential, Parliamentary and Local Government elections in the Republic of Zambia, including the election for the office of Member of Parliament, Chililabombwe Constituency held on the 13th day of August, 2026.

6. That the said election was contested by the Petitioner, on the ticket of the United Party for National Development (UPND), the 1st Respondent on the ticket of The Resolute Party (RP), and such other candidates as were duly nominated in accordance with the law, all of whose nomination papers were examined and accepted by the 2nd Respondent's Returning Officer for Chililabombwe Constituency prior to the election. The aforementioned is confirmed in the Petitioner's Affidavit Verifying Facts under paragraph 5.

7. That the contents contained under paragraphs 1-5 in the Petitioner's Affidavit Verifying Facts are not in dispute.

8. That the contents contained under paragraphs 6 in the Petitioner's Affidavit Verifying Facts are not in dispute. However, I wish to state that the exhibit marked as **"PCCK1"** is not the material Record of Proceeding relating to this election Petition. Further, in accordance with the election relating to the office of Member of Parliament herein, there is now shown to me, produced and

collectively marked as exhibit **"EN1"** the true copies of the Record of Proceeding, The Declaration of the Results of the Poll (Gen 20b) and the Announcement of the Result of the Poll for Member of Parliament from the 57 Polling Stations under Chililabombwe Constituency.

9. That the contents contained under paragraph 7 in the Petitioner's Affidavit Verifying Facts are not in dispute.

10. That the contents contained under paragraphs 8-12 in the Petitioner's Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner.

11. That the contents contained under paragraphs 13 and 14 in the Petitioner's Affidavit Verifying Facts are disputed as the Gen 20a and Gen 20b forms exhibited herein do not disclose the said irregularities being raised by the Petitioner.

12. That the contents contained under paragraphs 15-23 in the Petitioner's Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner

13. That the contents contained under paragraphs 24 in the Petitioner's Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner as that was not the situation on the ground.

14. That the contents contained under paragraphs 25-32 in the Petitioner's Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner as the said allegations were never raised to any of the Presiding Officers stationed at the said Polling stations. There was no objection or written grievance received by any of the Presiding Officers at the 57 Polling Stations from the Petitioner and his appointed Polling Agents. This is fortified by the fact that the name of **VINCENT LENGE** does not appear on the list of names authenticated to conduct the election under Chililabombwe Constituency. Herenow shown to me, produced and marked as exhibit **"EN2"** is a list of the Deployment of Poll Staff (2026) for Chililabombwe Constituency in Chililabombwe District.

15. That the contents contained under paragraphs 33-34 are disputed and are vague as to the date and time the said averments allegedly occasioned. Further, the said allegations were never communicated in writing or brought to the attention of the Conflict Management Committee or otherwise.

16. That the contents contained under paragraph 35 of the Petitioner's Affidavit Verifying Facts are not disputed to the extent that there was a suspension of vaunting of votes nationwide. However, the suspension was subsequently lifted and the counting continued in accordance with the law and the counting was completed which resulted in the 1st Respondent being declared as the duly elected Member of Parliament for Chililabombwe Constituency.

17. That the contents contained under paragraph 36 in the Petitioner's Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner as the totaling center for the election for the office of Member of Parliament for Chililabombwe Constituency was actually stationed at Kamenza Secondary School Hall and not at the Civic Centre and at the said totaling center aforementioned the Petitioner's election Agents were present.

18. That the contents contained under paragraphs 37-38 in the Petitioner's Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner. I am reliably informed by the Presiding Officers from the 57 Polling Stations that after the announcement of the vote, the observers and election Agents who elected to sign thereon were allowed to do so. However, it also happened that certain election Agents elected not to sign for reasons best known to themselves. Additionally, the said election Agents who signed or not were all given copies of the said Gen 20a forms to utilize as they wished.

19. That the contents contained under paragraph 39 in the Petitioner's Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner.

20. That the contents contained under paragraphs 40 in the Petitioner's Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner as the Gen 20a form exhibited herein was signed by the Presiding Officer.

21. That the contents contained under paragraphs 41-42 in the Petitioner's Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner and are disputed. This is because the Gen 20a forms exhibited herein are executed, further, the Polling Station referred to as Saint Louis is misleading as the record will show that there is no Polling Station named as such.

22. That the contents contained under paragraph 43 in the Petitioner's Affidavit Verifying Facts are not disputed. I wish to state that the Form employed for the Record of Proceeding was a computer-generated document which was the standard format employed across the country and even from the Constituency

of Konkola, a cursory perusal of the Record of Proceeding therefrom and even the exhibit marked as "PCCK1" from the Petitioner will show that there were no entries thereto. However, the counting and announcement of votes from all 57 Polling Stations was commenced and concluded with all stakeholders including the Petitioner's Polling Agents and thus the said Agent endorsed on the Declaration of the results of the Poll on behalf of the United Party for National Development (UPND). Herenow shown to me, produced and marked as exhibit "EN3" is a copy of the Declaration of the results of the Poll for Konkola Constituency.

23. That the contents contained under paragraph 44 in the Petitioner's Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner.

24. That the contents contained under paragraphs 45-46 in the Petitioner's Affidavit Verifying Facts are disputed. I wish to state that the process requiring the generation of a verification report or Gen 24, is usually conducted after the announcement of all the Presidential, Parliamentary, Mayoral or Council Chairperson and Councilor results from each particular Constituency. In this election, the said process was supposed to commence on the 19th day of August, 2026, however, the Chief Electoral Officer did write a letter postponing the same. Herenow shown to me, produced and marked as exhibit "EN4" is a copy of the said letter.

25. That the contents contained under paragraph 47 in the Petitioner's Affidavit Verifying Facts are disputed as the results herein were the true results of the election held on 13th August, 2026 for the office of Member of Parliament for Chililabombwe Constituency.

26. That I depose to this Affidavit in Opposition to the Petition and the Affidavit Verifying Facts, and I verily believe the contents hereof to be true and correct to the best of my knowledge, information and belief.

SWORN by the said)
ELINA NYIRENDA)
at Lusaka this 08 day)
of SEP 2026)

DEPONENT

BEFORE ME: .....

COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
CONSTITUTIONAL COURT OF ZAMBIA
08 SEP 2026
CLERK OF COURT
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)



2026/HP/EP/007

IN THE MATTER OF: **THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**

AND
IN THE MATTER OF: **THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

AND
IN THE MATTER OF: **ARTICLE 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

AND
IN THE MATTER OF: **SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND
IN THE MATTER OF: **THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND
IN THE MATTER OF: **THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:
PAUL CHANDA CHONGO KABUSWE **PETITIONER**
AND
NSOFWA KABWE LUPELE **1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

1ST RESPONDENT'S AFFIDAVIT IN OPPOSITION TO THE ELECTION PETITION

I, **LUPELE NSOFWA KABWE**, a Zambian National of Farm Block 6, Kasumbalesa, Chililabombwe, in the Chililabombwe District of the Copperbelt Province, in the Republic of Zambia, **DO HEREBY MAKE OATH** and **SAY** as follows:

1. That my Name, Nationality and Address are as above stated.

2. That I am the 1st Respondent herein and was a candidate in the Parliamentary election for Chililabombwe Constituency held on 13th August, 2026 and I am therefore competent to depose to the matters herein within my personal knowledge and, where otherwise stated, upon information which I verily believe to be true.

3. That I have read the Petition herein together with the Affidavit Verifying Facts sworn by the Petitioner, PAUL CHANDA CHONGO KABUSWE, and I depose to this Affidavit in opposition thereto.

4. That in answer to paragraphs 8 to 11 of the Petitioner's Affidavit Verifying Facts, I deny that my campaign was conducted contrary to electoral law or that it was characterised by disparaging, defamatory, tribal or nepotistic attacks against the Petitioner, and aver that, to the contrary, the Petitioner's campaign against me was premised upon referring to me and other candidates outside the United Party for National Development as thieves. Now produced and shown to me Marked "**NKL 1"** is a USB Flash disk document containing video. clips of inter alia the Petitioner calling me and the other candidates thieves and urging voters not to vote for us on that basis.

5. That further to the preceding paragraph, I downloaded the videos from the Petitioner's facebook page using my phone and then transferred the videos to the USB Flash disk. My phone is secured with a password and I am the only one with access to it and the videos were in my custody when I downloaded them.

6. That as regards paragraph 12 of the Petitioner's Affidavit Verifying Facts, I have no personal knowledge of the circumstances under which the Petitioner allegedly downloaded, transferred, stored or delivered the purported video referred to therein and accordingly cannot admit the matters relating to its provenance and custody. Further, I did not in the said video call the petitioner a thief or refer to him nor other candidates in a disparaging manner. I further repeat my averments in paragraph 4 herein.

7. That regarding paragraphs 13 and 14 of the Petitioner's Affidavit Verifying Facts, I deny that the matters complained of constitute irregularities affecting the election result and aver that the counting at Lubansa-02 Polling Centre was undertaken in the physical presence of the respective agents and that the Petitioner's votes were 207. Now produced and shown to me marked **"NKL 2"** is a Gen 20a document from the 2nd Respondent accurately capturing in figures and words the Petitioner's 207 votes obtained in Lubansa 02 ward.

8. That in response to paragraph 15 of the Petitioner's Affidavit Verifying Facts, I admit that on 13th August 2026 I attended Ishuko Tavern Polling Station, being my registered polling station, for the purpose of casting my vote and, while awaiting my turn, greeted persons present there, which conduct was not prohibited. I did not offer money, solicit votes, induce voters or otherwise interfere with the electoral process. Suffice to state that the Petitioner likewise greeted voters before and after casting his vote at Kakoso Secondary School in Kakoso Ward on 13th August 2026, being polling day. Now shown to me and produced Marked **"NKL 3"** is a video clip showing the Petitioner greeting voters prior to and after voting.

9. That I repeat the averments in paragraph 5 in so far as custody of exhibit LNK2 is concerned.

10. That in answer to paragraphs 16 and 17 of the Petitioner's Affidavit Verifying Facts, I deny directing any of my agents to approach or solicit voters at polling stations and further deny that my conduct or that of my agents was characterised by threats, intimidation or undue influence. The petition will be put to strict proof of the allegations thereof.

11. That contrary to paragraphs 18 to 21 of the Petitioner's Affidavit, neither I nor my agents placed rocks, barricades or any obstruction across any road to prevent voters from proceeding to vote or that the voters allegedly being conveyed in the Nissan Hardbody were prevented by me or my agents from proceeding, and the petitioner will be put to strict proof of the allegations thereof.

12. That I further deny directing, authorising or procuring the alleged assault of Peter Musonda, Jeff Chisenge, Patricia Bweupe, Patrick Museka, Philip Simwansa, or any other person.

13. That with regards to paragraphs 22 to 24 of the Petitioner's Affidavit, I deny that my agents or supporters chased voters in the vicinity of Chico Primary School or disturbed, intimidated or prevented the Petitioner's agents from witnessing the counting of votes.

14. That with regards to paragraphs 25 and 32 of the Petitioner's Affidavit, I admit that Mr. Vincent Lenge was an agent but deny that he performed the functions of an electoral officer, took charge of the counting of votes at Yotam Muleya, Old Apostolic Church Polling Station or elsewhere. The mandate of my polling

agents was to observe and report upon the electoral process and not to assume the functions of electoral officers or otherwise intervene therein.

15. That in answer to paragraphs 26 to 30 of the Petitioner's Affidavit Verifying Facts, I deny any suggestion that I or my agents caused the late opening or closing of Chico Primary School Polling Station, caused voters to be turned away or otherwise interfered with the administration of the said polling station. The opening, closing and general administration of polling stations were matters under the control of the officers of the 2nd Respondent and not myself or my agents.

16. That in answer to paragraph 31 of the Petitioner's Affidavit Verifying Facts, I deny any misconduct attributable to my agents. I further aver that my agents had no authority to act as electoral officers or to interfere with the administration of the poll.

17. That in respect of paragraph 33 of the Petitioner's Affidavit Verifying Facts, I have no personal knowledge of the alleged conversation between the Presiding Officer and Sydney Musonda and deny that the same establishes any misconduct attributable to me.

18. That with respect to paragraph 34 of the Petitioner's Affidavit Verifying Facts, I deny that any agent of mine attended Chico Primary School Polling Station and caused the alleged commotion or otherwise interfered with the counting of votes thereat.

19. That with respect to the contents paragraph 35 of the Petitioner's Affidavit Verifying Facts, the alleged suspension of counting by the 2nd Respondent and the safekeeping of electoral materials during such period were matters pertaining to the administration of the election by the 2nd Respondent and were not matters within my control.

20. That with respect to paragraphs 36 and 37 of the Petitioner's Affidavit Verifying Facts, the representatives of the Petitioner were not excluded from the constituency tallying process and aver that the constituency tallying centre was at Kamenza Secondary School, where representatives of participating political parties were present. That in particular, Chola Silwamba was present during the tallying process and remained present until I was declared the winner.

21. That contrary to paragraph 38 of the Petitioner's Affidavit Verifying Facts, the National Reconciliation Party for Unity and Prosperity (NRPUP) had candidates

participating in the election and aver that NRPUP fielded candidates at Presidential, Parliamentary and Councilor levels and was further in alliance with RP, with whom it conducted campaigns.

22. That with regards to paragraphs 39 to 46 of the Petitioner's Affidavit, the preparation, execution, verification, custody and production of Forms GEN 20a, GEN 20b, ECZ 19, GEN 24 and other electoral records referred to therein were matters falling within the administration and custody of the 2nd Respondent. The petitioner will be put to strict proof of the allegations contained in the said paragraph.

23. That I nevertheless deny that any of the matters complained of in paragraphs 39 to 46 arose from any act, direction or misconduct on my part or that of my agents, or that they were of such nature or extent as to affect the outcome of the election.

24. That in answer to paragraph 47 of the Petitioner's Affidavit Verifying Facts, I deny that the results announced by the 2nd Respondent were not a true reflection of the manner in which the electorate of Chililabombwe Constituency voted and aver that the results announced and declared were a true reflection of the votes cast by the electorate. There was no widespread occurrence, misconduct or electoral malpractice attributable to me or my agents which affected or was capable of affecting the outcome of the election and I was consequently duly and validly elected as Member of Parliament for Chililabombwe Constituency.

25. That in answer to paragraph 48 of the Petitioner's Affidavit, I deny that the Petition is a fit and proper case for the reliefs sought and verily believe that the allegations made against me are misconceived and unsupported by facts sufficient to invalidate my election.

26. That this is a proper case for this court to dismiss the Petitioner's petition with costs.

27. That what is hereinbefore deposed to is true and correct to the best of my knowledge, information and belief.

SWORN BY THE SAID)
LUPELE NSOFWA KABWE) .....
Dated at Lusaka this ....7.....)
day of.....Sept..... 2026)

BEFORE ME: .....
COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
7 SEP 2026
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2026/HP/EP/007

IN THE MATTER OF: **THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**

AND
IN THE MATTER OF: **THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

AND
IN THE MATTER OF: **ARTICLE 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

AND
IN THE MATTER OF: **SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND
IN THE MATTER OF: **THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND
IN THE MATTER OF: **THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

CERTIFICATE OF EXHIBITS

These are the Exhibits of one **NSOFWA KABWE LUPELE** referred to in the Affidavit Verifying Facts filed herein marked **"NKL 1"** to **"NKL 3"** produced and shown to me.

Dated at ..... the day of ..... 2026.

.....

COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2026/HP/EP/007

IN THE MATTER OF: **THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**

AND

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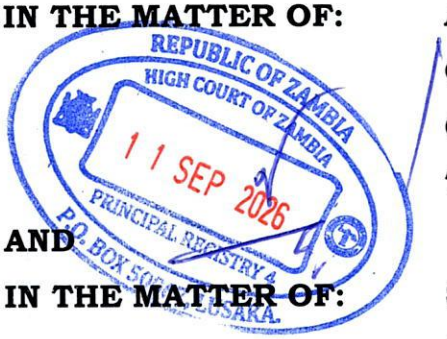


AND

IN THE MATTER OF: **SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

PETITIONER'S AFFIDAVIT IN REPLY TO THE 1ST RESPONDENT'S AFFIDAVIT IN OPPOSITION TO THE ELECTION PETITION

I, **PAUL CHANDA CHONGO KABUSWE**, a Zambian national residing at Plot No. 842, off Independence Road, Chililabombwe in the Chililabombwe District of the Copperbelt Province of the Republic of Zambia, do hereby make oath and state:

1. That my name, nationality, and residential address are as stated above.

2. That I am the Petitioner in this cause, and am duly competent to swear this affidavit, the facts deposed to herein being within my own knowledge save where the contrary appears, in which case I state the source of my information and believe the same to be true.

3. That I have read the Affidavit in Opposition to the Election Petition deposed by **NSOFWA KABWE LUPELE** dated 7 September 2026 (hereinafter called "Affidavit in Opposition"), and I respond as follows.

4. That the filed copy of the said Affidavit in Opposition served upon my advocates exhibited two flash disks marked "NKL 1" and "NKL 3", and I have viewed them.

5. That in reply to paragraphs 4 and 5 of the said Affidavit in Opposition, I deny that my campaign was premised upon referring to the 1st Respondent, or to any other candidate, as a thief.

6. That I have viewed the video produced as "NKL1" and state that I am a speaker of the Bemba language, and that the expression in the video is

that of "ba pompwe," which I verily believe is a general term in that language denoting a dishonest person, and is not a name for, or a reference to, any particular person.

7. That as regards to paragraph 6 of the Affidavit in Opposition, I maintain that the 1st Respondent did call the Petitioner a thief by way of innuendos and that the 1st Respondent carefully initiated the questions to the audience targeting the Petitioner.

8. That the contents of paragraph 7 of the Affidavit in Opposition is not true and that the petitioner avers that he is in possession of the true copy of the Form GEN 20a for Lubansa-02 Polling Station that was delivered to my polling agent at the said station, Thomas Namindo. There is now produced and shown to me marked **"PCCK1"**, a true copy of the Form GEN 20a for Lubansa-02 Polling Station.

9. That the said copy is fully witnessed in the panel thereon headed "Witnessed by" and is dated 13 August 2026, whereas the exhibit marked "NKL2" bears no signature in the said panel and is dated 14 August 2026.

10. That in reply to paragraph 8 of the said Affidavit in Opposition, on 13 August 2026 I attended Kakoso Combined School Polling Station, being my registered polling station, for the purpose of casting my vote, and that I did cast my vote there.

11. That I did not canvass, solicit or address any voter at the said polling station or at any other polling station on the said date, and that I greeted no person at the said polling station save in answer to those who greeted me as I left.

12. That in reply to paragraph 12 of the said Affidavit in Opposition, I refer to the reports made to the Zambia Police Service at Chililabombwe on 13

August 2026 by Peter Musonda, Jeff Chisenge, Patricia Bweupe, Patrick Museka and Philip Simwansa, copies whereof are exhibited to my Affidavit Verifying Facts and marked "**PCCK5**".

13. That further to the preceding paragraph 12 of my affidavit in reply, I am informed by Steven Mulenga, Patricia Bweupe, Jeff Chisanga, Philip Simwanza, Patrick Musaka, Bernard Mwila, and Francis Mutale, and verily believe, that the agents of the Petitioner at Kamenza East, Fitobaula, Kakoso East, Kasumbalesa Primary School, Kawama, Chitambi Ward, Chico Polling Station were disturbed, intimidated and prevented from voting, and/or witnessing the counting of votes.

14. That in reply to paragraph 13 of the said Affidavit in Opposition, I repeat paragraph 23 of my affidavit verifying facts and I maintain that the motor vehicle a Toyota Hilux motor vehicle registration number CAF 1634 belonging to one **RASFORD KUNDA**, the Constituency Chairman of the UPND was damaged by the 1st Respondent's agents. There is now produced and shown to me marked "**PCCK2**", true copies of the pictures of the said vehicle.

15. The said pictures in paragraph 14 above. I captured them using my phone make Iphone 16 then I transferred them from my phone to my HP laptop using a Bluetooth device upon switching on my HP laptop and decided to print them using my HP printer, the LaserJet Pro MFP M283fdw (13AE9C). All the gadgets I used to extract and print the pictures are in good working condition and the said pictures have been in my custody. I put them in a flash discs and gave my lawyers who exbited them in my affidavit.

16. That in reply to paragraph 20 of the said Affidavit in Opposition, I appointed Chola Silomba to attend the constituency tallying centre on my behalf, and I am informed by the said Chola Silomba, and verily believe, that he was intimidated, and thereby prevented from freely

participating in the tallying process, by unauthorised persons representing the 1st Respondent who were inside the tallying centre without official identification, and that neither Chola Silomba nor Obby Chuulu, Derrick Samutondo or Lotson Mando was present throughout the tallying process.

17. That further to the preceding paragraph 16 of my affidavit in reply Form GEN 20b, exhibited to my Affidavit Verifying Facts and marked **"PCCK2"**, bears the signatures of seven witnesses, none of whom is a representative of mine or of the United Party for National Development.

18. That as regards to paragraph 21 of the Affidavit in Opposition, the petitioner avers that the National Reconciliation Party for Unity and Prosperity fielded no parliamentary candidate in Chililabombwe Constituency, as appears from Form GEN 20b exhibited to my Affidavit Verifying Facts and marked **"PCCK3"**, which records the five candidates who contested the said election.

19. That in reply to paragraphs 24, 25 and 26 of the said Affidavit in Opposition, I maintain each and every averment contained in my Affidavit Verifying Facts.

20. That I depose to the above facts verily believing the same to be true and correct to the best of my knowledge, information and belief.

SWORN at LUSAKA by the said)
PAUL CHANDA CHONGO KABUSWE this 11)
day of SEP 2026) DEPONENT'S SIGNATURE

BEFORE ME: _____
COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
11 SEP 2026
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/007**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: **THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**

AND

IN THE MATTER OF: **THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **ARTICLE 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**



AND

IN THE MATTER OF: **SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AFFIDAVIT IN REPLY TO THE 2ND RESPONDENT'S AFFIDAVIT IN OPPOSITION

I, PAUL CHANDA CHONGO KABUSWE, doth **OATH** and **SAY** as follows:

1. That I am a Zambian National resident at Plot No. 842, off Independence Road, Chililabombwe, in the Chililabombwe District of the Copperbelt Province of the Republic of Zambia.

2. That I am the Petitioner in this matter herein as such competent to depose to the contents of this my affidavit on my own behalf from facts within my knowledge, belief and information.

3. That I have read the Affidavit in Opposition sworn by **ELINA NYIRENDA** dated 8 September 2026 (hereinafter called "**the Affidavit in Opposition**") and I wish to respond as follows;

4. That the contents of paragraphs 1 to 7 of the affidavit in opposition are not in dispute.

5. That as regards to the contents of paragraph 8 of the Affidavit in Opposition, I have examined the Record of Proceeding at the Totalling of Votes (Form ECZ 19) for Chililabombwe Constituency exhibited as "EN1", and the entry headed "Date and Time Totalling Commenced" upon the first page thereof is blank.

6. That further to the preceding paragraph 5 of my affidavit in reply the said Record of Proceeding bears, in the panel headed "Witnessed by", five

entries, and the column headed "Organisation" records against those entries, respectively, "NRPUP", an entry I am unable to read, "NRPUP", "FBDF" and "Consortium of CSOs".

7. That further to the preceding paragraph 6 of my affidavit in reply no entry upon the said panel records the organisation of the person signing as the United Party for National Development, upon whose ticket I contested the said election.

8. That as as regards to the contents of paragraph 11 of the Affidavit in Opposition, the Forms GEN 20a exhibited as "EN1" shows the following irregularities:

    a. the form for Mother Angela Convent School 03 declares a total of 505 votes cast, whereas the votes recorded for the five candidates, together with the rejected ballot papers, amount to 515;
    b. the form for Catholic Church 02 declares a total of 512 votes cast, whereas the votes recorded for the five candidates, together with the rejected ballot papers, amount to 508;
    c. the form for Lubansa Primary School 02 is dated the 17th day of August, 2026, being three days after the declaration of the result of the said election;
    d. the form for Maina Soko Primary School 01 is dated the 18th day of August, 2026, being four days after the declaration of the result of the said election;
    e. the forms for Ishuko Tarven 01, Ishuko Tarven 03, Mother Angela Convent School 03, Catholic Church 02, Mine Club 02 and Kawama Primary School 07 are each dated the 14th day of August, 2026;
    f. the form for Fikolongo Primary School 01 bears the year 2020;
    g. the day figure upon the form for Fitobaula Primary School 02 has been written over another figure;

h. the forms for Kasumbalesa Primary School 03, Ishuko Tarven 03, Fitobaula Primary School 01 and Lubansa Primary School 02 bear no entry whatever in the panel headed "Witnessed by";

i. upon the form for Maina Soko Primary School 01 the votes recorded for me are 167 in figures and "ONE HUNDRED AND SEVEN" in words;

j. upon the form for Chico Primary School 01 the votes recorded for me are 162 in figures and "ONE HUNDRED AND TWO" in words;

k. upon the form for Ishuko Tarven 03 the total number of votes cast is recorded as 437 in figures and as "FOUR HUNDRED AND SEVEN" in words;

l. upon not fewer than thirteen of the said forms the number of rejected ballot papers and the total number of votes cast are recorded in figures only, no entry having been made in words;

m. upon the form for Fitobaula Primary School 01 the political party of the 1st Respondent is recorded as "NRPUP", and upon the form for Kakoso Primary School 03 it is recorded as "IND";

n. the form completed by the presiding officer for Kasumbalesa Primary School 03 is headed "Kasumbalesa – 08", the form completed by the presiding officer for Kasumbalesa Primary School 02 bears no polling station number at all, and the form completed by the presiding officer for Mother Angela Convent School 02 bears no polling station number at all;

o. eight of the said forms are exhibited twice, one of the duplicates being reproduced inverted; and

p. the column headed "Total Columns 1-9" upon the Form ECZ 18 for Kawama Primary School 01 exhibited as part of "EN1" is blank.

9. That further to the preceding paragraph 8 of my affidavit in reply, a number of the said forms are headed with a description of the polling station, which differs from the name and number of that polling station

appearing upon the Form ECZ 19, particularly the names of the presiding officers appearing upon the said forms and upon the list of the deployment of poll staff exhibited by the 2nd Respondent as "EN2."

10. That the contents of paragraph 14 of the Affidavit in Opposition are disputed to the extent that there was no objection and that I have examined the said exhibit "EN2" it contains the officers deployed by the 2nd Respondent, namely presiding officers, polling assistants, ushers and uniformed staff, at each polling station in Chililabombwe Constituency.

11. That further to the preceding paragraph 10 of my affidavit in reply, I have at no time alleged that VINCENT LENGE was an officer of the 2nd Respondent or a person authorised by the 2nd Respondent to conduct the said election, as the allegation I make is that he was carrying out activities of the 2nd Respondent without any lawful authority.

12. That as regards to the contents of paragraph 15 of the Affidavit in Opposition, the matters therein referred to occurred upon polling day, being the 13th day of August, 2026, and were reported upon that same day to the Zambia Police Service under Occurrence Book numbers 9709/26, 9711/26, 9713/26, 9715/26 and 9717/26.

13. That further to the preceding paragraph 12 of my affidavit in reply the existence, the membership and the contact particulars of the Conflict Management Committee for Chililabombwe Constituency were at no time notified to me or to my election agent.

14. That the contents of paragraph 16 of the Affidavit in Opposition is not in dispute save to add that the 2nd Respondent does not depose to the approval of the Commission for the said suspension, nor to the time at which the said suspension began, nor to the time at which it was lifted,

nor to the measures taken for the safekeeping of the ballot papers and other election materials during the said suspension.

15. That the contents of paragraph 17 of the Affidavit in Opposition is not in dispute save to add that the person appointed by me to attend the totalling centre for Chililabombwe Constituency was Chola Silomba.

16. That further to the preceding paragraph 15 of my affidavit in reply the said Chola Silomba was, upon his attendance at the said totalling centre, intimidated and prevented from freely participating in the totalling of the votes, by reason of the 1st Respondent's agents' actions.

17. That the contents of paragraph 18 of the Affidavit in Opposition is disputed as the agents who signed the Forms GEN 20a, or those who did not all not given copies of the said forms.

18. That further to the preceding paragraph 17 of my affidavit in reply the deponent identifies no presiding officer by name as the source of the said information, and no exhibits of any presiding officer of the 2nd Respondent has been exhibited herein.

19. That as regards to the contents of paragraph 22 of the Affidavit in Opposition, the Declaration of the Results of the Poll exhibited as "EN3" relates to Konkola Constituency made by KATEBE MICHEAL as Returning Officer for that constituency, and concerns a different election from that which is the subject of this Petition.

20. That further to the preceding paragraph 19 of my affidavit in reply the petitioner avers that the Record of Proceeding at the Totalling of Votes for Konkola Constituency exhibited with the said "EN3" bears, in the panel headed "Witnessed by", an entry in the name of HENRY MHANGO

recording the organisation "UPND", and the entry headed "Date and Time Totalling Commenced" upon the said Record is blank.

21. That further to the preceding paragraph 20 of my affidavit in reply the Declaration of the Results of the Poll (Form GEN 20b) for Chililabombwe Constituency exhibited as part of "EN1" bears, in the panel headed "Witnessed by", five entries, of which one records the organisation "UPND" against a name which I am unable to read as that of any person appointed by me to attend the said totalling centre and that the said Declaration is dated the 14th day of August, 2026.

22. That as regards the contents of paragraphs 24 of the Affidavit in Opposition is not disputed save to add that the deposition that the Verification of the Ballot Paper Account for the said election, which was to have commenced on the 19th day of August, 2026, was postponed and that the letter exhibited as "EN4" is dated the 21st day of August, 2026, signed stating that a new date will be communicated in due course.

23. That further to the preceding paragraph 22 of my affidavit in reply there was no such date that had been communicated to me, and that the said Verification of the Ballot Paper Account has not been conducted for Chililabombwe Constituency.

24. That the contents of paragraph 25 of the Affidavit in Opposition is disputed.

25. That I depose to the facts herein verily believe the same to be true and correct to the best of my knowledge information and belief.

SWORN at LUSAKA by the said)
PAUL CHANDA CHONGO KABUSWE this 11) _____
day of SEP 2026) DEPONENT'S SIGNATURE

BEFORE ME: _____
COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
11 SEP 2026
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)



2026/HP/EP/007

IN THE MATTER OF: THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026

AND

IN THE MATTER OF: THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: ARTICLE 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA

BETWEEN:

PAUL CHANDA CHONGO KABUSWE PETITIONER

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
2 8 AUG 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA.

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AFFIDAVIT VERIFYING FACTS

I, PAUL CHANDA CHONGO KABUSWE, doth **OATH** and **SAY** as follows:

1 That I am a Zambian National resident at Plot No. 842, off Independence Road, Chililabombwe, in the Chililabombwe District of the Copperbelt Province of the Republic of Zambia.

2 That I am the Petitioner in this matter herein as such competent to depose to the contents of this my affidavit on my own behalf from facts within my knowledge, belief and information.

3 That I was a candidate in the Parliamentary elections for Chililabombwe Constituency on the Copperbelt Province of the Republic of Zambia, where I was contesting to be elected as Member of Parliament (MP) under the ticket of the United Party for National Development (UPND), on the 13th of August, 2026.

4 That I initiated these proceedings to petition the 1st and 2nd Respondents, through this Honourable Court, as a member of the public and that as a participant in the 13th August, 2026 General Elections regarding the manner in which the aforesaid elections were conducted.

5 That in addition to the Petitioner and the 1st Respondent who contested the election on the Resolute Party ticket, the following persons were also

vying to be elected as Member of Parliament for Chililabombwe Constituency:

(i) Moses Mwelwa: Independent
(ii) Abraham Simpamba: Independent
(iii) Lottie Ngwira: Citizens First

6 That Chililabombwe Constituency had 57 polling stations presided over by one **ELINA NYIRENDA** as the Returning Officer. The total number of votes cast was 24,058 out of which 673 were rejected by the Returning Officer. There is now produced and shown to me marked "**PCCK1**", a true copy of the Record of Proceeding.

7 That the Petitioner polled eight thousand nine hundred and eighty-six (8,986) votes, the 1st Respondent polled ten thousand nine hundred and twenty (10,920) votes and was declared as having been duly elected as Member of Parliament for Chililabombwe Constituency.

8 That the campaigns by the 1st Respondent in the lead up to the election were characterised by and conducted without compliance with the provisions of the law and the Code of Conduct governing elections.

9 That the campaign of the 1st Respondent against the Petitioner's candidature was characterised by disparaging and defamatory remarks made of the Petitioner at public rallies attended by thousands of persons being residents and voters of Chililabombwe.

10 That the campaign by the 1st Respondent was characterised by character assassination that influenced voters at his campaign meetings in the Ishuko area.

11 That few days before the voting day, the 1st Respondent campaigned on tribal and nepotistic premises and told members of the public gathered at his rally at Ishuko Area using Bemba Language when translated in English means that the petitioner was a thief, the Petitioner stole Copper, the petitioner gave mines to Silomba, the Petitioner was not someone to vote for and that the petitioner only employed his relatives when he was a Minister of Mines. There is now produced and shown to me marked "**PCCK2**" a true copy of the video clip to that effect.

12 That further to paragraph 11 of my affidavit verifying facts, while login on facebook, I downloaded the video on facebook page called Tonse Alliance 2 using my HP laptop and then transferred the videos to the flash discs. My HP laptop is secured with a password. It is only me who has access to my and knows the password laptop and the video was in my custody upon downloading it; I gave the flash discs containing the videos to my lawyers for safe custody pending the hearing of the petition.

13 That the election of the 1st Respondent was characterised by irregularities in the results recorded by the 2nd Respondent. There is now produced and shown to me collectively marked "**PCCK3**", true copies of Forms GEN20a.

14 That the results recorded and declared by the 2nd Respondent for the Lubansa-02 Polling Centre on GEN20b form and the announcement of the Result of the G20b form signed by the Presiding Officer for Lubansa-02 Polling Centre reveals that a total of 510 votes were cast of which 232 were in favour of the 1st Respondent while the Petitioner's votes in figures record 207 and in words record Two Hundred and Seventy as *per* exhibit"**PCCK3**" above.

15 That on the 13th August, 2026, being the day of the poll, and at or about 10:13 hours, the 1st Respondent together with his agents at Ishuko Tarven Polling Station in Mukuka Ward shook hands and greeted the various voters that were waiting to vote in queue. There is now produced and shown to me marked "**PCCK4**", a true copy of the video clip.

16 That the 1st Respondent's agents through the 1st Respondent's directive, attended at the polling stations of Vocation Training Centre, Kawama Primary School, Chico Primary School, Mother Angela, Lubengele Hall, Mine Club, Cricket Club, Old Apostolic Church and Canaan Community School and spoke to voters and encouraged them to vote for him.

17 That the conduct by the 1st Respondent on the 13th August, 2026 being the voting day was characterised by threats and undue influence on voters during voting as categorised in my petition.

18 That the 1st Respondent through his agents perpetrated acts of violence on the day of the poll at Fikolongo in Chitambi Ward where large rocks were placed across the road and the Petitioner's Nissan Hardbody conveying voters who required a lift to the polling station was prevented from proceeding and that the said voters did not vote.

19 That two of the persons that perpetrated violence Justine Mbazi popularly known as **Shikata** and Robam Chansa popularly known as **Matwente** were driving a Chevrolet motor vehicle registration number ADF2478ZM and that the said two men are presently on the run following reports to the Zambia Police.

20 That the said **Justine Mbazi** and **Robam Chansa** assaulted the Petitioner's supporters namely **PETER MUSONDA** and **JEFF CHISENGE** at Lubengele in Yotam Muleya Ward, **PATRICIA BWEUPE** of Kakoso who

was voting in Chitambi Ward, and **PATRICK MUSEKA** in Yotam Muleya Ward, as well as **PHILIP SIMWANSA** at E50 Mine Township respectively. There is now produced and shown to me marked "**PCCK5**", true copies of the Police Medical Reports.

21 That each of the said assaulted persons made a report of the said assault to Chililabombwe Police Station.

22 That on the said 13th August, 2026, between 17:00 and 19:00 hours, in the vicinity of Chico Primary School in Kamenza East Ward, agents and supporters of the 1st Respondent chased voters.

23 That the agents and supporters of the 1st Respondent were driving a Chevrolet motor vehicle registration number ADF 2478 ZM in pursuing the said voters to the Petitioner's residence and that they rammed the motor vehicle a Toyota Hilux motor vehicle registration number CAF 1634 belonging to one **RASFORD KUNDA**, the Constituency Chairman of the UPND and damaged it and that it is currently held at Chililabombwe Central Police Station.

24 That the threats and violence aforesaid made the agents of the Petitioner not to freely witness the counting of votes at the polling stations.

25 That at Yotam Muleya and at the Old Apostolic Church Polling Station one **MR VINCENT LENGE**, being an agent of the 1st Respondent, performed the functions of an officer of the 2nd Respondent, namely the actual counting of votes, without any identification whatsoever and that the said **MR VINCENT LENGE** is named upon the Form GEN 20a of the said polling station.

26 That the officers of the 2nd Respondent opened Chico Primary School Polling Station late, and that in consequence of the said late opening the said polling station did not close until 19:30 hours.

27 That persons who arrived at the said polling station after 18:00 hours were chased away and did not vote.

28 That there were many voters on the queue that were waiting to vote at the said polling station which queue was not less than one hundred and fifty (150) metres in length.

29 That one **STEVEN MULENGA**, the Ward Chairman of the UPND, was present at the said polling station and witnessed the whole of the ordeal aforesaid.

30 That the incident aforesaid were reported to the officers of the 2nd Respondent and that the said officers took no action.

31 That the agents of the Petitioner confronted the polling agents of the 1st Respondent in the presence of the said officers but were unable to obtain any redress.

32 That the officers of the 2nd Respondent permitted the said **MR VINCENT LENGE**, who was not an officer of the 2nd Respondent and who bore no identification whatsoever to perform the function of counting the votes at Yotam Muleya and at the Old Apostolic Church Polling Station respectively.

33 That at Mother Angela Convent School Polling Station in Kakoso the Presiding Officer of the 2nd Respondent was in conversation with one

SYDNEY MUSONDA, the District Chairman of the National Reconciliation Party for Unity and Prosperity (NRPUP), whilst the agents of the Petitioner were at the same time asked to leave the said polling station, whereupon there was an altercation with on-lookers.

34 That at Chico Primary School Polling Station, after the commotion aforesaid, the officers of the 2nd Respondent were unable to commence the counting of votes until officers of the Zambia Army attended at the said polling station.

35 That on the 14th August, 2026 the 2nd Respondent suspended the counting of votes at polling stations throughout the Republic for a period of about six (6) hours, being from about 12:00 hours up to about 18:00 hours and that the 2nd Respondent did not produce record of the discharge, during the said suspension, of the duty of safekeeping of all voting materials imposed upon each presiding officer.

36 That no agent of the Petitioner was permitted by the officers of the 2nd Respondent to attend at the constituency tallying centre at the Civic Centre, Chililabombwe, and that no agent of the Petitioner attested the GEN 20b Form.

37 That the witness block bears the signatures of seven (7) persons whereby the signatures of an agent or representative of the Petitioner is excluded.

38 That the officers of the 2nd Respondent accepted the attestation of certain Forms GEN 20a, and of the declaration of the results of the poll upon Form GEN 20b, by persons purporting to act for the "National Reconciliation Party for Unity and Prosperity," a political party which fielded no candidate.

39 That seven (7) of the Forms GEN 20a in the possession of the Petitioner do not reconcile upon their face as the votes recorded against the candidates together with the ballot papers recorded as rejected, do not equal the total number of votes declared by the presiding officer to have been cast. There is now produced and shown to me marked "**PCCK6**", true copies of Forms GEN 20a

40 That the Form GEN 20a of the Kawama-01 polling station bears no signature of the presiding officer.

41 That the Forms GEN 20a of the Chico-02 and Saint Louis-01 polling stations bear no signature of an agent of any candidate.

42 That the counting of votes was not witnessed by any candidate's agent at Saint Louis-01 and that the Petitioner was recorded as having lost the poll by a single vote.

43 That the purported Form ECZ 19, being the Record of Proceeding at the Totalling of Votes, bears no entry whatsoever against the heading "Date and Time Totalling Commenced".

44 That there was no record of the proceeding as the Electoral Process (General) Regulations require.

45 That the 2nd Respondent did not produce the verification report required upon the verification of ballot papers, being Form GEN 24 or its equivalent.

46 That the Petitioner was unable to test whether the ballot papers found in the boxes correspond to the ballot papers issued.

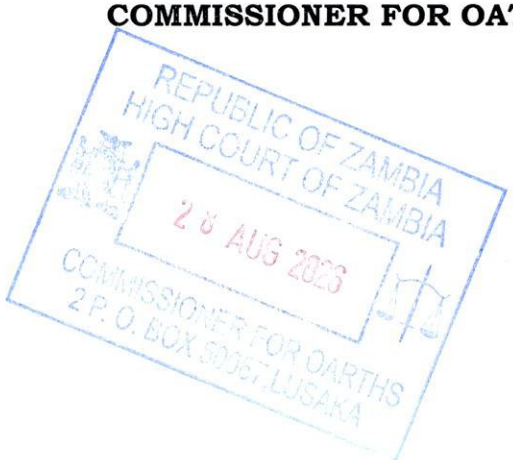
47 That the results announced by the 2nd Respondent's agent were not a true reflection of how the electorate voted in Chililabombwe Constituency of the Copperbelt Province.

48 That this is a fit and proper petition for this Honourable Court to grant the reliefs sought.

SWORN at LUSAKA by the said)
PAUL CHANDA CHONGO KABUSWE this_____) _____
day of_____ 2026) DEPONENT'S SIGNATURE

BEFORE ME: _____

COMMISSIONER FOR OATHS



IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/007**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF:	**THE PARLIAMENTARY PETITION RELATING TO THE PALIAMENTARY ELECTIONS FOR CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**
AND	
IN THE MATTER OF:	**THE CONSTITUTION OF ZAMBIA, AS AMENDED BY THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT NO. 2 OF 2016, CHAPTER 1, VOLUME ONE OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**ARTICLES 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1, VOLUME ONE OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1st RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2nd RESPONDENT**

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 08 SEP 2026 PRINCIPAL REGISTRY 4 P.O. BOX 50067, LUSAKA

SKELETON ARGUMENTS IN SUPPORT OF THE ANSWER AND AFFIDAVIT IN OPPOSITION TO THE AFFIDAVIT VERIFYING FACTS AND LIST OF AUTHORITIES

LIST OF AUTHORITIES

1. Khalid Mohamed v The Attorney General (1982) ZR 49.

2. Akashambatwa Mbikusita Lewanika and Others v Frederick Jacob Titus Chiluba (Constitutional Jurisdiction), SCZ Judgment No. 14 of 1998; [1998] ZMSC 11 (9 November 1998).
3. Abiud Kawangu v Elijah Muchima, Constitutional Court Appeal No. 8 of 2017.
4. Nkandu Luo and the Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General, Selected Judgment No. 51 of 2018.
5. Mbololwa Subulwa v Kaliye Mandandi, Selected Judgment No. 25 of 2018.

LEGISLATION

1. The Constitution of Zambia, Chapter 1 of the Laws of Zambia, as amended by the Constitution of Zambia (Amendment) Act No. 2 of 2016.
2. The Electoral Process Act No. 35 of 2016.

MAY IT PLEASE THIS HONOURABLE TRIBUNAL

1. INTRODUCTION

1.1. These Skeleton Arguments are filed on behalf of the 2nd Respondent, the ELECTORAL COMMISSION OF ZAMBIA, in support of its Answer and Affidavit in Opposition filed herein.

1.2. The 2nd Respondent is the independent constitutional body established under **Article 229 of the Constitution of Zambia** and mandated, under the **Electoral Process Act No. 35 of 2016**, to conduct Presidential, Parliamentary and Local Government elections, including the election for the office of Council Chairperson, Kanchibiya District, held on the 13th day of August, 2026, which is the subject of this Petition.

1.3. At the outset, the gist of the Petition and the Affidavit Verifying Facts is directed at the alleged conduct of the 1st Respondent and/or his agents, supporters and political party, and discloses no cause of action whatsoever against the 2nd Respondent.

2. JURISDICTION AND THE APPLICABLE LAW

2.1. The grounds upon which the election of a council chairperson may be declared void are exhaustively set out in **Section 97(2) of the Electoral Process Act No. 35 of 2016**, which provides:

"(2) The election of a candidate as a Member of Parliament, mayor, council chairperson or councillor shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal, as the case may be, that—

(a) a corrupt practice, illegal practice or other misconduct has been committed in connection with the election—

(i) by a candidate; or

(ii) with the knowledge and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in a constituency, district or ward were or may have been prevented from electing the candidate in that constituency, district or ward whom they preferred;

(b) subject to the provisions of subsection (4), there has been non-compliance with the provisions of this Act relating to the conduct of elections, and it appears to the High Court or tribunal that the election was not conducted in accordance with the principles laid down in such provision and that such non-compliance affected the result of the election; or

(c) the candidate was at the time of the election a person not qualified or a person disqualified for election."

2.2. Critically for the 2nd Respondent's position, **section 97(4) of the Electoral Process Act No. 35 of 2016** provides:

"(4) An election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty in connection with an election if it appears to the High Court or a tribunal that the election was so conducted as to be substantially in accordance with the provisions of this Act, and that such act or omission did not affect the result of that election."

2.3. The 2nd Respondent contends that **section 97(4) of the Electoral Process Act No. 35 of 2016** is the governing provision in respect of the two allegations levelled against it officers and that even if either allegation were proved (which is denied), the election cannot be declared void unless the Court finds both that the election was not substantially conducted in

accordance with the Act and that the act or omission complained of affected the result, neither of which the Petitioner has pleaded.

3. BURDEN AND STANDARD OF PROOF

3.1. It is trite that the burden of proof in an election petition lies throughout on the Petitioner, who must establish the grounds pleaded. In **Khalid Mohamed v The Attorney General (1982) ZR 49**[1], Ngulube, D.C.J. (as he then was) held that an unqualified proposition that a plaintiff should succeed automatically whenever a defence has failed is unacceptable, a principle equally applicable to a petitioner who fails to discharge the burden resting upon him regardless of the sufficiency, or otherwise, of a respondent's answer.

3.2. The standard of proof required is higher than the ordinary civil standard of a balance of probabilities. In **Akashambatwa Mbikusita Lewanika and Others v Frederick Jacob Titus Chiluba (Constitutional Jurisdiction), SCZ Judgment No. 14 of 1998; [1998] ZMSC 11**[2], the Supreme Court held that

"it cannot be seriously disputed that parliamentary election petitions have generally long required to be proved to a standard higher than a mere balance of probability", such that the issues raised are required to be established "to a fairly high degree of convincing clarity".

3.3. This position was affirmed by the Constitutional Court in **Abiud Kawangu v Elijah Muchima, Appeal No. 8 of 2017**[3], where it was held that:

"The standard remains higher and distinct from that required in an ordinary civil matter but lower than the standard of beyond reasonable doubt required in criminal matters. As the Supreme Court opined in the case of Lewanika and Others, parliamentary election petitions are required to be proved to a standard higher than on a mere balance of probabilities and issues raised to be established to a fairly high degree of convincing clarity."

3.4. The allegations against the 2nd Respondent's officers, being general, unparticularised and unsupported by any contemporaneous complaint or objection, fall well short of this exacting standard.

4. THE TWO-FOLD THRESHOLD AND THE REQUIREMENT OF WIDESPREAD EFFECT

4.1. In **Nkandu Luo and the Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General, Selected Judgment No. 51 of 2018**[4], the Constitutional Court held:

> ***"In order for a petitioner to successfully have an election annulled pursuant to section 97(2)(a) there is a threshold to surmount. The first requirement is for the petitioner to prove to the satisfaction of the court, that the person whose election is challenged personally or through his duly appointed election or polling agents, committed a corrupt practice or illegal practice or other misconduct in connection with the election, or that such malpractice was committed with the knowledge and consent or approval of the candidate or his or her election or polling agent... in addition to proving the electoral malpractice or misconduct alleged, the petitioner has the further task of adducing cogent evidence that the electoral malpractice or misconduct was so widespread that it swayed or may have swayed the majority of the electorate from electing the candidate of their choice."***

4.2. Likewise, in **Mbololwa Subulwa v Kaliye Mandandi, Selected Judgment No. 25 of 2018**[5], it was held that the spirit of section 97(2)(a) is to ensure that elections are held in a free, fair and legal manner, and the Court adopted the meaning of "widespread" given by the Supreme Court in Mazoka v Mwanawasa, namely that it must be shown that a sufficient proportion of the constituency was affected such that the majority of voters were, or may have been, prevented from electing the candidate whom they preferred.

4.3. We contend that these principles are dispositive of the two allegations made against the 2nd Respondent. Even taken at their highest, they concern, respectively, an alleged administrative omission said to have occurred generally, and conduct said to have occurred at two out of the other polling

stations in Chililabombwe Constituency. Neither is, without more, capable of meeting the threshold of widespread effect required to void an election.

4.4. **THE GEN 20 / RESULTS-VERIFICATION ALLEGATION**

4.5. The Petitioner's Affidavit Verifying Facts, that the 2nd Respondent's presiding officers failed to provide copies of the completed results forms to the Petitioner's polling agents, depriving him of a means of verification. We submit that this allegation fails for the following reasons.

4.6. No provision of the **Electoral Process Act No. 35 of 2016** creates the duty the Petitioner alleges was breached. The statutory duties of a presiding officer upon the close of counting are set out in **Sections 68 and 71 of the Electoral Process Act No. 35 of 2016**, as follows:

"68. (1) A presiding officer shall open the ballot boxes and—
(a) cause the ballot papers to be sorted on the basis of the ballot papers for each election, if more than one election was held at a polling station on the same day;
(b) cause the ballot papers for each election to be sorted and compare them with the number of ballot papers issued in the prescribed manner;
(c) cause the votes cast in each election to be counted in the prescribed manner; and
(d) announce and publish the result of each count at that polling station in both figures and words in the prescribed manner.
(2) A presiding officer shall reject a ballot paper—
(a) that indicates the identity of the voter;
(b) on which a vote is cast for more than one candidate;
(c) that is unmarked;
(d) that is marked in such a way that it is not reasonably possible to determine the voter's choice;
(e) that does not bear the official mark required in terms of section sixty (5) (c); or
(f)that is not an official ballot paper.
(3) The presiding officer shall mark Afor rejection on the back

of each rejected ballot paper and file the rejected ballot paper separately."

"71. (1) After announcing the result at a polling station, a presiding officer shall complete a form, as may be prescribed, reflecting—
(a) the number of ballot papers supplied to the polling station;
(b) the result at the polling station;
(c) the number of rejected ballot papers;
(d) the number of spoilt ballot papers; and
(e) the number of unused ballot papers.
(2) When a presiding officer has complied with subsection (1), the presiding officer shall publicly announce the result of the count at the polling station to members of the public, the accredited observers, monitors, election and polling agents present at the polling station.
(3) When the presiding officer has complied with subsection (2), the presiding officer shall inform the returning officer of the result of that count at the polling station.
(4) When the presiding officer has complied with subsection (3), the presiding officer shall—
(a) seal in separate ballot boxes each of the items mentioned in subsection (l) and the written record of any objections; and
(b) deliver the form, completed in terms of subsection (l), and the sealed ballot boxes to the returning officer."

4.7. There is no statutory requirement that a copy of the form itself be handed to an agent.

4.8. Secondly, the Act provides a remedy to an aggrieved agent whose role is observational.

Section 36(1) of the Electoral Process Act No. 35 of 2016 provides as follows:

"An election or polling agent may observe the proceedings during—
(a) voting;

(b) the counting of votes; and

(c) the announcement and declaration of the result of an election.

(2) The absence of an election or polling agent from a gazetted or prescribed place where an electoral proceeding is being conducted shall not invalidate those proceedings.

(3) An election or polling agent shall, while at a polling station or venue where the proceedings are taking place—

(a) wear the prescribed identification indicating—

(i) that the person is an election or polling agent; and

(ii) the candidate represented by that election or polling agent; and

(b) comply with any lawful order issued by—

(i) an election officer; or

(ii) a police officer acting on the instructions of an election officer."

4.9. Furthermore, **section 69 of the Electoral Process Act No. 35 of 2016 provides as follows:**

"69. (1) An election or polling agent may object to any alleged irregularity in the sorting of the ballot papers.

(2) An objection under subsection (1) shall be made to a presiding officer, in the prescribed form, at any stage before the presiding officer has commenced the count."

4.10. Lastly, **section 70 of the Electoral Process Act No. 35 of 2016**

"70. (1) An election or polling agent may object to an alleged inaccuracy in the counting of the votes or the announcement of a result under section seventy-one.

(2) An objection under subsection (l) shall be made to a presiding officer, in the prescribed form, at any stage before the presiding officer has announced the result.

(3) A presiding officer shall determine the objection and decide whether to order a recount.

(4) A presiding officer shall notify the objector and any other

party involved in the objection, of the decision made under subsection
(3).
(5) If a presiding officer shall announce the result afresh. orders a recount, the presiding officer
(6) An appeal against the decision of a presiding officer may be made to the returning officer in the prescribed form.
(7) A presiding officer shall keep a written record, in the prescribed form, of each objection under subsection (l) and each decision under this section."

4.11. No such objection was raised at the material time, as deposed to in the Affidavit in Opposition.

4.12. Third, and in any event, even if a presiding officer omitted to furnish a copy of a results form (which is denied), that is, at its highest, an act or omission by an election officer in breach of that officer's official duty within the meaning of **section 97(4) of the of the Electoral Process Act No. 35 of 2016**, which does not void the election unless the Petitioner further proves both that the election was not substantially conducted in accordance with the Act and that the omission affected the result. Neither is pleaded nor capable of proof on the material before the Tribunal.

4.13. Fourth, the allegation is internally inconsistent,the Petition confines the complaint to "a number of polling stations", whereas the Affidavit Verifying Facts asserts it occurred "at all polling stations". Such an inconsistency in the Petitioner's own case, on a matter he alone is best placed to particularise, further undermines any claim to the "fairly high degree of convincing clarity" required.

5. THE ALLEDGED SAINT LOUIS POLLING STATION

5.1. The Petitioner alleges, at paragraphs 32-39 claims that Saint Louis was the Polling Station and totalling center. The 2nd Respondent has demonstrated that there was no Polling Station named Saint Louis, that the totaling Center was at Kamenza Secondary School Hall and that the Petitioner's polling agents neglected or refused to sign some Gen 20 forms only after they

realized after announcing and counting that the Petitioner's results were inferior to the 1st Respondent's.

6. THE SIGNING OF G 20 FORMS AND PUBLICATION OF RESULTS

6.1. the Petitioner's polling agents neglected or refused to sign some Gen 20 forms only after they realized after announcing and counting that the Petitioner's results were inferior to the 1st Respondent's. We contend that by virtue of **Section 38 of the Electoral Process Act No. 35 of 2016**. The 2nd Respondent's officers were, at all times, vested with ample statutory authority to address any disorderly conduct at the totalling centre. No evidence is pleaded that this statutory power was invoked and failed.

6.2. In accordance **section 68(1)(d) of the Electoral Process Act No. 35 of 2016**, a presiding officer is required to "announce and publish the result of each count at that polling station in both figures and words in the prescribed manner", and by **Section 71(2) of the Electoral Process Act No. 35 of 2016**, of the said Act, to "publicly announce the result of the count at the polling station to members of the public, the accredited observers, monitors, election and polling agents present at the polling station", which duties were duly performed at every polling station in Chililabombwe Constituency;

6.3. No breach of any statutory duty on the part of any presiding officer of the 2nd Respondent is disclosed, and that, in any event, by virtual of **section 97(4) of the Electoral Process Act No. 35 of 2016**, "an election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty in connection with an election if it appears to the Court or a tribunal that the election was so conducted as to be substantially in accordance with the provisions of this Act, and that such act or omission did not affect the result of that election", which the 2nd Respondent shall aver and rely upon in the alternative and without prejudice to the foregoing denia

7. <u>THE REMAINING ALLEGATIONS DISCLOSE NO CAUSE OF ACTION AGAINST THE 2ND RESPONDENT</u>

7.1. The overwhelming majority of the particulars pleaded, concerning violence, intimidation, among others, are pleaded exclusively against the 1st

Respondent and/or "his agents", None of these alleges any act, omission, knowledge, consent or approval on the part of the 2nd Respondent or any of its officers.

7.2. As held in **Nkandu Luo (supra)**, the threshold requires proof that the candidate whose election is challenged, personally or through his election or polling agent, committed the malpractice, or that it was committed with his knowledge, consent or approval. The 2nd Respondent is, by definition, not the 1st Respondent's election or polling agent and is the independent statutory umpire of the election. No basis is pleaded, and none could properly be pleaded, for attributing the 1st Respondent's alleged conduct, or that of his supporters and party officials, to the 2nd Respondent. The allegations are accordingly irrelevant to the 2nd Respondent.

8. CONCLUSION AND PRAYER

8.1. For the foregoing reasons, it is submitted that the Petitioner has failed to plead, and cannot prove, any case against the 2nd Respondent to the standard required in an election petition.

8.2. The 2nd Respondent, a constitutional body performing an impartial public function, ought not to be made to bear the costs of unsubstantiated and unparticularised allegations and accordingly prays that this Honourable Tribunal dismiss the Petition against it, with costs.

Dated this.....day of.....2026

Per: .....

Messrs George Kunda and Company
Pelican House, Stand No. 35187, 26,
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P.O. Box 50354,
Lusaka – Zambia.
Email: georgkundaandcompany@gmail.com
Advocates for the 2nd Respondent

To: **Messrs. Keith Mweemba and Company**
Plot 8749, Buluwe Road
Woodlands
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LUSAKA
Co- Advocates for the Petitioner

IN THE HIGH COURT FOR ZAMBIA

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



2026/HP/EP/007

IN THE MATTER OF: **THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**

AND

IN THE MATTER OF: **THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **ARTICLE 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

1ST RESPONDENT'S SKELETON ARGUMENTS

May it please this Honourable Court.

These Skeleton Arguments are respectfully made on behalf of the 1st Respondent in opposition to the Election Petition.

A. INTRODUCTION

1. The Petitioner seeks to have the election of the 1st Respondent as Member of Parliament for Chililabombwe Constituency declared void principally on allegations of corrupt practice, undue influence, violence, misconduct, exclusion of the Petitioner's agents and alleged irregularities in the counting, verification and recording of the election results.

2. The 1st Respondent disputes those allegations and maintains that he was duly and validly elected and that the result declared by the 2nd Respondent represented the lawful choice of the electorate of Chililabombwe Constituency. The Petitioner's Skeleton Arguments ultimately invoke **Section 97 of the Electoral Process Act No. 35 of 2016** as the statutory basis upon which this Honourable Court is invited to avoid the election.

3. It is submitted from the outset that the Petitioner's case improperly tends to treat every allegation made in the Petition as though proof of the occurrence alone is sufficient to invalidate the election. Section 97 does not permit such an approach. The Court must determine not only whether the alleged conduct occurred, but also whether the conduct falls within the statutory category relied upon, whether it can legally be attributed to the 1st Respondent where attribution is required, and whether the statutory consequence necessary for nullification has been established.

B. THE ISSUES

4. It is respectfully submitted that the issues which properly arise for determination are whether the Petitioner has established, to the required standard, any corrupt practice, illegal practice or other misconduct attributable to the 1st Respondent within **Section 97(2)(a) of the Electoral Process Act No. 35 of 2016**; whether any such conduct prevented or may have prevented the majority of voters from electing their preferred candidate; whether the alleged irregularities in the administration of the election amount to non-compliance within **Section 97(2)(b) of the Electoral Process Act No. 35 of 2016** which affected the election result and ultimately, whether the Petitioner has established any statutory basis upon which the election of the 1st Respondent can lawfully be declared void.

C. THE BURDEN AND STANDARD OF PROOF

5. The starting point is that the legal burden rests upon the Petitioner. In **Mundia v Imanga and Another (HP 32 of 2021) [2021] ZMHC 58**, a case determined under the present Electoral Process Act No. 35 of 2016, the Court stated that:

"the burden of proof in this election petition is on the Petitioner and the standard of proof is to a standard higher than on the mere balance of probability."

6. The Court further reiterated the established requirement that the evidence must prove the allegations to a **"fairly high degree of convincing clarity."** The same position was emphatically restated in **Mulope v Shakafuswa and Another (HP 10 of 2021) [2021] ZMHC 60**, which applied the enhanced standard governing election petitions. The effect of these authorities is that an election result, representing the exercise of constitutional electoral choice, cannot be displaced by suspicion, assertion or evidence which merely makes the Petitioner's allegations possible. The evidence must possess sufficient cogency and clarity to satisfy the enhanced standard prescribed for election petitions.

7. The Petitioner relies upon **Raila Odinga and Others v Independent Electoral and Boundaries Commission and Others** for the proposition that an evidential burden may shift once sufficient evidence has been tendered. That proposition does not alter the legal burden of proof. Before any evidential burden can arise against the Respondents, the Petitioner must first establish sufficient credible evidence capable of proving the particular allegation and the elements of the statutory ground upon which he relies. The Respondent is not required to disprove an allegation which has not first attained the evidentiary threshold prescribed by the authorities.

8. This position is further supported by the observation in **Anderson Kambela Mazoka and Others v Levy Patrick Mwanawasa and Others (2005) ZR 138 (SC)**, repeatedly adopted in later election cases, that it is not sufficient for a petitioner merely to contend that a respondent failed to answer an allegation or failed to call evidence. The petitioner's own evidence must establish the alleged electoral defects to the requisite degree and must satisfy the statutory consequences necessary to invalidate the election. That principle has continued to be applied in decisions made under the Electoral Process Act No. 35 of 2016.

D. THE STATUTORY TEST UNDER SECTION 97(2)(a)

9. **Section 97(2)(a) of the Electoral Process Act** provides, in material part, that the election of a Member of Parliament shall be void where a corrupt practice, illegal practice or other misconduct has been committed in connection with the election by a candidate, or with the knowledge and consent or approval of the candidate or the candidate's election agent or polling agent and the majority of voters in the constituency were or may have been prevented from electing the candidate whom they preferred. The statutory wording therefore establishes cumulative elements which must be proved before an election can be avoided under that paragraph.

10. This construction is confirmed in **Chisala v Katotobwe and Another (HP 43 of 2021) [2021] ZMHC 62**, where the Court considered the present **Section 97** and treated the prohibited conduct, its statutory attribution and its effect upon the electorate as matters which must be established before the election can be avoided. The significance is that proof of an electoral offence, standing alone, is not synonymous with proof that an election ought to be nullified. The Legislature imposed an additional requirement directed at the effect of that conduct upon the electorate.

11. The same approach is reflected in **Mundia v Imanga and Another**, where the Court considered **Sections 82, 83** and the relevant Code of Conduct provisions together with **Section 97(2)** for purposes of determining whether the alleged conduct was capable of voiding the election. The allegation must therefore first be proved as a proscribed act under the provision relied upon before the Court reaches the separate question whether it produced the statutory consequence contemplated by **Section 97**.

12. It is against that framework that the Petitioner's allegations of inducement, violence, defamatory campaigning and other misconduct must be considered. It is not enough to characterise the allegations as offences under **Sections 81 Or 83** and then immediately conclude that **Section 97(2)(A)** is satisfied. The Petitioner must establish the alleged conduct, demonstrate its connection to the 1st Respondent in the manner prescribed by the current Act and thereafter establish the requisite effect upon the electorate.

E. THE ALLEGED FINANCIAL INDUCEMENT

13. The Petitioner's case under **Section 81** is that the 1st Respondent offered financial inducements to voters and, in particular, that he was present amongst voters at Ishuko Tavern Polling Station on polling day. **Section 81** prohibits, inter alia, the corrupt giving, offering, procuring or promising of money or another benefit for the purpose of influencing electoral choice. The provision does not prohibit the mere physical presence of a candidate at a polling station at which that candidate is registered to vote, nor does it convert the ordinary act of greeting persons present into bribery.

14. The 1st Respondent's sworn evidence is that Ishuko Tavern was his registered polling station, that he attended it for the lawful purpose of casting his vote, that while waiting in the queue he greeted voters who were present and that he did not give money, solicit votes, induce voters or otherwise interfere with the electoral process. The critical factual question is therefore not whether the 1st Respondent was present or greeted voters, but whether the Petitioner has produced cogent evidence proving the alleged giving or offering of money and its corrupt electoral purpose.

15. In **Mulope v Shakafuswa and Another**, allegations that the respondent distributed money to would-be voters were subjected to the higher evidential standard applicable to election petitions and the Court rejected allegations which were not supported by sufficiently cogent evidence. That approach should be applied here. The serious allegation of polling-day bribery cannot be inferred merely from the 1st Respondent being among voters and greeting them at the very polling station at which he was entitled to cast his vote and.

16. The absence of contemporaneous independent corroboration also bears consideration. The 1st Respondent specifically avers that despite the allegations of violence, intimidation and other serious electoral misconduct, no report from the Chililabombwe Conflict Management Committee has been produced in support of the Petitioner's allegations. While the absence of such a report is not by itself determinative, it materially bears upon whether allegations said to have formed part of widespread electoral misconduct have been established to the required degree of convincing clarity.

F. VIOLENCE, UNDUE INFLUENCE AND ATTRIBUTION TO THE 1ST RESPONDENT

17. The Petitioner further relies upon **Section 83** and alleges that supporters or agents of the 1st Respondent committed acts of violence, threats, road obstruction and intimidation. The 1st Respondent denies those allegations. His case is that neither he nor his agents placed rocks or barricades to obstruct voters, that the persons being conveyed were not prevented from proceeding by him. He further denies directing or authorising the alleged assaults complained of by the Petitioner.

18. Even where the Petitioner establishes that some incident of violence occurred, a further and distinct question arises as to whether that incident is legally attributable to the 1st Respondent for purposes of **Section 97(2)(A).** The current provision does not render a candidate responsible for every act committed by every political supporter. In **Mulope v Shakafuswa and Another**, the Court held that:

> ***"not every alleged member of the Patriotic Front (PF) is the 1st Respondent's appointed agent."***

19. The meaning of that holding is that political membership, sympathy or support is not sufficient, without more, to establish the statutory nexus required by **Section 97(2)(a).** The Court must have credible evidence that the impugned conduct was committed by the candidate, by an appropriately appointed election or polling agent, or with the candidate's knowledge, consent or approval.

20. **Chisakula v Mabumba and Another (3 of 2021) [2021] ZMHC 53** is equally instructive. In rejecting allegations based upon video recordings and photographs, the Court observed that the materials did not depict the 1st Respondent or his registered agents and that the Petitioner had failed to prove the required connection to the 1st Respondent. The principle is directly applicable here. Descriptions such as "cadres", "supporters" or persons sympathetic to the 1st Respondent cannot, without evidence satisfying the statutory nexus, automatically convert the conduct of those persons into conduct attributable to the candidate.

21. The Petitioner's reliance upon **Kankinza and Others v Sayifwanda and Others (HPEP 54 of 2011) [2012] ZMHC 4** concerning election agency must therefore be approached cautiously. That decision was rendered under the repealed Electoral Act No. 12 of 2006. To the extent that it contains general principles concerning election agency, those principles may remain persuasive, but they must now operate subject to the express language of **Section 97(2)(a) of Act No. 35 of 2016** and the more recent authorities construing that provision.

G. THE REQUIREMENT THAT THE MAJORITY OF VOTERS WERE OR MAY HAVE BEEN PREVENTED FROM ELECTING THEIR PREFERRED CANDIDATE

22. The Petitioner submits that the expression **"were or may have been prevented"** does not require him to demonstrate arithmetically that the margin of 1,934 votes would necessarily have been overturned. The 1st Respondent does not contend that **Section 97(2)(a)** is reducible in every case to a mathematical recount. However, the absence of a strict mathematical requirement does not eliminate the express statutory reference to the majority of voters.

23. In **Mubika Mubika v Poniso Njeulu, SCZ Appeal No. 114 of 2007**, as subsequently cited and applied in cases under the current statutory regime, the Court stated:

> ***"it must be shown that the prohibited conduct was widespread in the constituency to the level where registered voters in greater numbers were influenced so as to change their selection of a candidate." Emphasis Ours***

24. The meaning of this principle is that the Court must be satisfied as to the scale and reach of the alleged wrongdoing. Similarly, **Mulope v Shakafuswa and Another** rejected an allegation of violence where the evidence did not establish conduct sufficiently widespread to affect the majority of voters. The important distinction is therefore between proving that an incident happened at a particular place and proving that the incident, or the pattern of which it formed part, was sufficiently widespread to interfere with the freedom of the majority of the constituency's electorate.

25. The Petitioner's Skeleton Arguments seek to establish "generality" by pointing to allegations said to have occurred at several locations. That submission presupposes that those incidents are first proved and properly attributable to the 1st Respondent. Several disputed allegations do not become proof merely because they are presented collectively. Unless the Petitioner establishes, with cogent evidence, both the occurrence and reach of the alleged conduct, there is no evidential basis upon which this Honourable Court can conclude that the majority of Chililabombwe voters were or may have been prevented from exercising their preferred electoral choice.

H. THE ALLEGED EXCLUSION OF THE PETITIONER'S AGENTS

26. The Petitioner separately alleges that his representatives were excluded from verification and tallying and relies upon the Electoral Process (General) Regulations governing the presence of candidates and their agents. That allegation is expressly disputed. The 1st Respondent's evidence is that the constituency tallying centre was **Kamenza Secondary School**, that political party representatives were present and, importantly, that Chola Silwamba was present during the tallying process and remained there until the 1st Respondent was declared winner.

27. The Petitioner's argument also tends to equate the absence of a signature or name on a particular statutory form with proof that his representative was excluded. Those are not necessarily the same proposition. The Petitioner must establish the actual exclusion or prevention complained of and cannot ask the Court to infer it solely from the face of a document where contrary evidence exists concerning the representative's physical presence during tallying.

28. The issue must additionally be tied to the statutory ground relied upon. If the complaint is that an election officer failed to perform a regulatory duty relating to the presence or participation of agents, the Court must consider the matter under the statutory provisions regulating non-compliance by election officers, including **Section 97(2)(b)** read together with **Section 97(4),** rather than automatically attributing the alleged omission to the 1st Respondent.

I. THE ALLEGED IRREGULARITIES IN THE ELECTORAL FORMS AND SECTION 97(4)

29. **Section 97(2)(b)** provides that;

(2) The election of a candidate as a Member of Parliament,

mayor, council chairperson or councillor shall be void if, on the trial

of an election petition, it is proved to the satisfaction of the High

Court or a tribunal, as the case may be, that—

(a) …

(b) subject to the provisions of subsection (4), there has been non-compliance with the provisions of this Act relating to the conduct of elections, and it appears to the High Court or tribunal that the election was not conducted in accordance with the principles laid down in such provision and that such non-compliance affected the result of the election; …

In **Chisala v Katotobwe and Another**, the Court considered this requirement under the current Electoral Process Act and emphasised that the effect upon the result forms part of the statutory test.

30. Section 97(4) materially provides:

"An election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty in connection with an election if it appears to the trial court that the election was so conducted as to be substantially in accordance with the provisions of this Act, and that such act or omission did not affect the result of that election."

31. The meaning of the provision is that the law distinguishes between an electoral imperfection and an invalidating electoral irregularity. Not every omission, clerical error, unsigned entry or defect appearing upon an electoral document automatically destroys the election. The Court must determine the materiality of the error and whether it affected the declared result.

32. This is particularly relevant to the Lubansa Polling Centre allegation. The 1st Respondent avers that the actual count attributable to the Petitioner was 207 votes, that the counting occurred in the physical presence of the respective agents and that the discrepancy if any was a clerical misspelling which did not alter the votes actually counted. The Petitioner's burden is therefore not satisfied by proving merely that the two entries differ; he must establish that the error translated into an incorrect count or otherwise affected the election result.

33. The same reasoning applies to the Petitioner's reliance upon Forms GEN 20a, GEN 20b, ECZ 19 and GEN 24, alleged missing signatures, alterations and questions surrounding custody or verification of electoral materials. These matters substantially concern the administration of the election by officers of the 2nd Respondent. They require proof of the alleged non-compliance and, importantly, proof that the non-compliance affected the result. The Court cannot move from the existence of an incomplete entry or procedural irregularity directly to nullification without satisfying the statutory test.

J. SECTION 97(3)

34. The Petitioner submits that **Section 97(3)** is unavailable to the 1st Respondent, particularly in relation to the alleged giving of money, because the Petitioner's case is that the 1st Respondent was personally present. **Section 97(3)** becomes relevant only after the Court has made the antecedent finding that a corrupt or illegal practice was actually committed by or with the knowledge, consent or approval of an agent of the candidate.

35. In **Chisala v Katotobwe and Another**, the Court considered **Section 97(3)** together with **Section 97(2)** and did not treat subsection (3) as an independent route to nullification divorced from the requirements of subsection (2). In the present case, therefore, the first inquiry remains whether the Petitioner has proved the alleged payment or corrupt practice at all. The mere presence of the 1st Respondent at his own polling station cannot be used both as proof of bribery and as a reason for avoiding the need to prove bribery.

K. THE PETITIONER'S "CUMULATIVE" CASE

36. The Petitioner's final submission is that the grounds should be considered cumulatively rather than competitively. There can be no objection to the Court evaluating the totality of **proved evidence**, but cumulative consideration cannot cure an evidential failure in the individual allegations. An allegation of bribery which has not been proved does not become proved because it is combined with a disputed allegation of violence; similarly, several procedural imperfections which have not been shown to affect the result do not become result-affecting merely because they are considered together.

37. The statutory requirements remain applicable notwithstanding the Petitioner's cumulative presentation. Where section 97(2)(a) is relied upon, the prohibited conduct, statutory attribution and required effect upon the majority must be established. Where section 97(2)(b) is relied upon, the non-compliance and its effect upon the election result must be established, subject to section 97(4). It is only after those matters have been proved that their collective effect can properly arise for consideration.

L. CONCLUSION AND RELIEF

38. It is respectfully submitted that the Petitioner's case does not satisfy the statutory threshold necessary to disturb the election of the 1st Respondent. The allegations of bribery, violence, intimidation and misconduct are disputed as to occurrence, attribution and electoral effect; the conduct of ordinary supporters cannot automatically be imputed to the 1st Respondent; the evidence must establish widespread conduct capable of affecting the majority of voters; the allegation that the Petitioner's representatives were excluded is specifically contradicted by the evidence relating to their presence at Kamenza Secondary School; and the complaints concerning electoral forms and administrative acts of the 2nd Respondent cannot invalidate the election absent proof of the statutory requirement that the result was affected.

39. The 1st Respondent accordingly maintains that the result announced by the 2nd Respondent was a true reflection of the votes cast by the electorate of Chililabombwe Constituency and that he was duly and

validly elected. The allegations relied upon by the Petitioner, whether taken separately or together, do not establish a lawful basis for nullifying that election to the fairly high degree of convincing clarity required by law.

40. We accordingly pray that the Petition be dismissed with costs; that the declaration of the 1st Respondent as duly elected Member of Parliament for Chililabombwe Constituency be upheld; and that this Honourable Court grant such further or other relief as it may deem appropriate.

WE BEG TO SUBMIT.

Dated at Lusaka this _____ day of _____ 2026.

Settled by: _____

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LUSAKA
ADVOCATES FOR THE 1st RESPONDENT

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/007**

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)

IN THE MATTER OF: **THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**

AND

IN THE MATTER OF: **THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

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BETWEEN:

HIGH COURT OF ZAMBIA
11 SEP 2026
PRINCIPAL REGISTRY 4
P.O. BOX 50067, LUSAKA

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
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PRINCIPAL REGISTRY 4
P.O. BOX 50067, LUSAKA.

PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

SKELETON ARGUMENTS IN REPLY TO 1ST RESPONDENT'S SKELETON ARGUMENTS IN OPPOSITION

May it please the Honourable Court.

These Skeleton Arguments are filed pursuant to rule 10(7)(b) of the High Court (Election Petition) Rules 2026 and answer only those submissions in the 1st Respondent's Skeleton Arguments of 7 September 2026 which call for an answer.

A. INTRODUCTION

1. The 1st Respondent filed skeleton arguments raising the following points:
   (a) Presence is not bribery;
   (b) Membership is not agency;
   (c) The majority of the voters voted in his favour;
   (d) The count was properly witnessed; and
   (e) The tallying centre was open to the Petitioner.
2. We shall address the said points seriatim below as follows:

B. 1ST RESPONDENT'S PRESENCE AT THE POLLING STATION

3. At paragraphs 13 to 15 the 1st Respondent submits that presence at one's own polling station and greeting those present is not bribery. The Petitioner agrees; that is not his case.[1]

4. The Petitioner's case is that as the 1st Respondent passed along the queue at Ishuko Tavern Polling Station, a person moving immediately behind him and in his company gave money to voters to induce them to vote for him. His presence is the setting, not the substance. His account is that he stood in the queue; the Petitioner's evidence, including the 1st Respondent's own published recording of that day, will be that he passed along it.

5. Nor is it an answer that the conduct was recorded. In *Mulope v Shakafuswa* [2022] ZMCC 38 [69] the Constitutional Court held that a trial judge errs in rejecting polling-day misconduct as 'inconceivable' because a broadcaster's camera was present.

C. MEMBERSHIP IS NOT AGENCY

6. The 1st Respondent relies on *Mulope v Shakafuswa and Another* [2021] ZMHC 60 to submit that membership of or sympathy for a party does not make a person the candidate's agent. The principle however bears no application as the 1st Respondent admitted Vincent Lenge was his agent.

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[1] See paragraph 13 of the Skeleton Arguments in Support of Election Petition dated 28 August 2026

7. Further, the 1st Respondent has pleaded a joint campaign: adoption by two parties, an alliance, and campaigns conducted together. That is his own account of the common measure within which the election was fought, and evidence both of his knowledge and consent or approval of the acts of those who campaigned for him within it, and of who was 'an agent of the candidate' for section 97(3).

D. MAJORITY VOTED IN 1ST RESPONDENTS FAVOUR

8. The 1st Respondent cites *Mubika Mubika v Njeulu* SCZ Appeal No 114 of 2007 for the proposition that misconduct must be shown to have been 'so widespread as to have prevented the majority of the electorate from electing the candidate of their choice'.
9. It is submitted that the petition's evidence will demonstrate at trial that the conduct in question meets the required threshold based on the overall evidence.

F. CONSTITUENCY TALLYING

10. The 1st Respondent submits that the absence of a signature on Form GEN 20b is not proof of exclusion.
11. The prevention relied on is not physical exclusion alone. The Petitioner's evidence will be that the person he appointed, Chola Silomba, who was intimidated by unauthorised persons representing the 1st Respondent who were inside the tallying centre without official identification, and was thereby prevented from freely participating in the tallying, and that none

of the four persons the 1st Respondent names was present throughout. To intimidate a candidate's representative so that he cannot freely participate is to prevent him from exercising a right conferred by the Act within section 83(2), which is not in terms confined to physical exclusion. Presence and attestation are in any event distinct, and the 1st Respondent exhibits no document – no Form GEN 20b, no accreditation record, no attendance register – in support of his account of either.

H. CONCLUSION

12. The 1st Respondent has admitted the agency of Mr Lenge, a joint campaign with a second party which adopted him, and his presence among the voters at Ishuko Tavern on polling day; he has accepted that the margin need not be bridged arithmetically; he has left untraversed the allegations concerning the obstruction of voters by his agents; and he has not pleaded that he took any means to prevent corrupt or illegal practices. On the matters he does raise the Petitioner relies on the Skeleton Arguments already filed. The issues are narrower than his Skeleton Arguments suggest, and they are issues of fact for trial. The Petitioner will invite the Court to grant the relief prayed, with costs.

WE BEG TO SUBMIT

DATED at Lusaka this _____ day of September 2026.

Per:

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LUSAKA

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LUSAKA

Co-Advocates for The Petitioner

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/007**

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

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BETWEEN:

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 11 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067, LUSAKA.

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
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AND

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ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

SKELETON ARGUMENTS IN REPLY TO 2ND RESPONDENT'S SKELETON ARGUMENTS IN OPPOSITION

May it please the Honourable Court.

These Skeleton Arguments are filed pursuant to rule 10(7)(b) of the High Court (Election Petition) Rules 2026 and answer only those submissions in the 2nd Respondent's Skeleton Arguments of 8 September 2026 which call for an answer.

A. INTRODUCTION

1. The 2nd Respondent filed skeleton arguments raising the following points:

   (a) there is no cause of against the 2nd Respondent;

   (b) the allegations of electoral malpractice are within the Petitioner's perculiar knowledge;

   (c) Section 97(4) of the Act vindicates the 2nd Respondent's officers;

   (d) Section 36(2) of the Act does not invalidate an election by reason of absence of a candidate's agent; and

   (e) Section 69 and 70 of the Act requires a person to indicate inaccuracies during vote counting.

2. We shall address the said points seriatim below as follows:

B. THE 2ND RESPONDENT IS A PROPER PARTY

3. An election petition is not an action in persona against the 2nd Respondent. The relief sought under section 99(a) of the Electoral Process Act No. 35 of 2016 is a declaration that the election was void. The 2nd Respondent conducted the said election, and a declaration avoiding it operates upon the conduct of the 2nd Respondent and binds it.
4. The submission that the Petition "discloses no cause of action whatsoever against the 2nd Respondent" is inconsistent with the 2nd Respondent's own reliance upon section 97(4), which applies only where there is "an act or omission by an election officer in breach of that officer's official duty". A respondent who invokes that saving thereby accepts that the conduct of its officers is in issue.
5. Further, an objection that a pleading discloses no cause of action is properly taken by application, and no such application has been made.

C. "PECULIAR KNOWLEDGE" IS NOT A TRAVERSE

6. Paragraphs 4 to 8 of the Answer meet paragraphs 6 to 39 of the Petition by asserting that the matters pleaded are within the peculiar knowledge of the Petitioner.
7. Paragraphs 24 to 39 of the Petition concern the 2nd Respondent's own officers, its own prescribed forms and its own totalling centre. Those are

matters within the knowledge of the 2nd Respondent, as its exhibits "EN1" and "EN2" demonstrate; they are not within the peculiar knowledge of the Petitioner.

8. A party must accordingly deal specifically with each allegation of fact he does not admit, a non-admission being open only where the matter is genuinely outside his knowledge. The said paragraphs do not traverse the allegations concerning the 2nd Respondent's own records and officers.

D. SECTION 97(4) CANNOT VINDICATE CORRUPT PRACTICES

9. Section 97(4) is confined by its own opening words to "any act or omission by an election officer in breach of that officer's official duty".

10. The ground pleaded under section 97(2)(a) is that a corrupt practice, illegal practice or other misconduct was committed in connection with the said election by a candidate, or with the knowledge and consent or approval of a candidate or of that candidate's election or polling agent. That is not an act or omission of an election officer, and section 97(4) is no answer to it.

11. A respondent relying upon the saving must bring himself within both of its limbs, and the 2nd Respondent cannot establish the first limb upon the face of its own evidence.

E. SECTION 36(2) ADDRESSES ABSENCE, NOT PREVENTION

12. The 2nd Respondent relies upon section 36(2), which provides that the absence of an election or polling agent from a gazetted or prescribed place shall not invalidate the proceedings.

13. Section 36(2) is a saving as to the validity of the proceedings. It does not provide that no offence is committed by the person who prevents an agent from attending, it does not bear upon section 97(2)(a), and an agent prevented by threats or intimidation is not in any event "absent" within the ordinary meaning of that provision.

14. The Petitioner's case is not that the totalling proceedings were invalid for want of his representative, but that the prevention of his representative from exercising the right conferred by section 36(1), the very right which the 2nd Respondent identifies at paragraph 9(b) of its Answer, was conduct falling within section 83(2) of the said Act, and therefore within section 97(2)(a).

15. *Mulope v Shakafuswa* [2022] ZMCC 38 at [95]–[98] is distinguishable. The finding there was that the signing of a declaration form by one candidate's agent alone was a minor flaw which did not affect the result, and it was made under section 97(2)(b). The Petitioner's case is not put as an administrative flaw under section 97(2)(b) but as a collective of actions that together prevented the Petitioner's agents from freely participating.

F. SECTIONS 69 AND 70 DO NOT ANSWER THIS CASE

16. Section 69 provides for an objection to an irregularity in the sorting of ballot papers, made to a presiding officer before the count commences; section 70, for an objection to an inaccuracy in the counting or the announcement of a result, made to a presiding officer before the result is announced.

17. Neither section has any application to the matters pleaded at paragraphs 24 to 39 of the Petition, which concern the totalling of the votes conducted by the Returning Officer, and not the sorting or counting of ballot papers at a polling station by a presiding officer.

18. The submission is, further, circular: an agent who is prevented from being present at the count cannot lodge an objection at the time of the count.

19. Finally, section 70(7) requires a presiding officer to keep a written record, in the prescribed form, of each objection and of each decision, and section 71(4)(a) requires that record to be sealed and delivered to the Returning Officer. Those records are in the exclusive custody of the 2nd Respondent, which asserts that no objection was made but has produced no such record for any of the fifty-seven polling stations.

F. ANCILLIARY MATTERS

20. The 2nd Respondent meets paragraphs 6 to 23 of the Petition by asserting that the matters pleaded were never brought to the attention of its officers through the Conflict Management Committee. Five complaints were made to the Zambia Police Service upon polling day itself, before the count concluded and before the declaration of the result, to four different officers, one of them a Chief Inspector, and across three townships.

21. Additionally, the 2nd Respondent identifies no provision of the Electoral Process Act No. 35 of 2016, or of any statutory instrument made thereunder, which makes a report to a Conflict Management Committee a condition of any ground under section 97(2).

22. Further, the Answer pleads, as positive averments of fact, that the duties imposed by sections 68(1)(d) and 71(2) "were duly performed at every polling station in Chililabombwe Constituency".

23. Those averments are met by the Forms GEN 20a which the 2nd Respondent has itself exhibited as "EN1", the particulars whereof are deposed to in the Affidavit in Reply. In summary: two of the said forms do not reconcile; one is dated three days, and another four days, after the declaration of the result; one bears the year 2020; four bear no attestation whatever; upon two of them the votes recorded for the Petitioner in words are sixty fewer than the votes recorded in figures; upon not fewer than thirteen the entries required to be made in words are omitted altogether; and the political party of the 1st Respondent is recorded upon one form as "NRPUP" and upon another as "IND".

24. Section 68(1)(d) requires the result of each count to be announced and published "in both figures and words". Where the words and the figures upon the prescribed form differ, or where the words are omitted, that requirement has not been satisfied.

25. It is not submitted that these matters, of themselves, avoid the said election. They are advanced for two purposes only: to meet the 2nd Respondent's positive averment of due performance, and to displace the foundation of its reliance upon section 97(4), the first limb of which requires this Honourable Court to be satisfied that the election was so conducted as to be substantially in accordance with the said Act.

H. CONCLUSION

26. It is respectfully submitted that the 2nd Respondent's Answer raises no bar to the trial of the Petition; that section 97(4) does not touch the ground pleaded under section 97(2)(a); that sections 36(2), 69 and 70 do not answer the case pleaded; that the exhibits filed by the 2nd Respondent contradict its own averment of due performance; and that the Petition should accordingly proceed to trial and the relief sought therein be granted, with costs.

WE BEG TO SUBMIT

DATED at Lusaka this _____ day of September 2026.

Per:

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Co-Advocates for The Petitioner

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/007**

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



IN THE MATTER OF: **THE PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR THE CHILILABOMBWE CONSTITUENCY HELD ON 13TH AUGUST, 2026**

AND

IN THE MATTER OF: **THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **ARTICLE 45, 54 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 81, 83, 88, 89, 99 AND 100 OF THE ELECTORAL PROCESS NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **THE HIGH COURT (ELECTION PETITION) RULES, 2026, STATUTORY INSTRUMENT NO. 31 OF 2026 OF THE LAWS OF ZAMBIA**

BETWEEN:



PAUL CHANDA CHONGO KABUSWE **PETITIONER**

AND

NSOFWA KABWE LUPELE **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

SKELETON ARGUMENTS IN SUPPORT OF ELECTION PETITION

May it please the Honourable Court.

These skeleton arguments are respectfully made on behalf of the Petitioner in support of the the Election Petition.

A. INTRODUCTION

1. The Petitioner seeks a declaration under section 99(a) of the Electoral Process Act No. 35 of 2016 that the election of the 1st Respondent as Member of Parliament for Chililabombwe Constituency at the poll held on 13th August, 2026 was void.

B. THE ISSUES

2. Whether or not the 1st Respondent was validly elected.

C. THE STANDARD OF PROOF

3. It is trite that an election petition must be proved to a standard higher than a mere balance of probabilities, the issues raised being required to be established to a fairly high degree of *"convincing clarity"*:

Akashambatwa Mbikusita Lewanika and Others v Frederick Jacob Titus Chiluba (1998) ZR 49 (SC), applied to the said Act by the Constitutional Court in *Bowman Chilosha Lusambo v Bernard Kanengo and Others* [2024] ZMCC 1. The Petitioner accepts that standard.

4. It is submitted that, while the legal burden rests throughout upon the Petitioner, the evidential burden may shift in the course of the trial. In *Raila Amolo Odinga and Another v Independent Electoral and Boundaries Commission and Others* [2017] eKLR (SC Kenya) it was held, at [133], that *"once the Court is satisfied that the petitioner has adduced sufficient evidence to warrant impugning an election, if not controverted, then the evidentiary burden shifts to the respondent ... to adduce evidence rebutting that assertion"*. That decision is of persuasive authority only.

5. It is submitted that this accords with the scheme of the Electoral Process No. 35 of 2016 of the Laws of Zambia, section 97(3) whereof expressly casts upon the candidate the burden of proving the matters there set out, and that it is of particular importance here, the documents capable of establishing attribution — the First Respondent's nomination paper and his notice of polling agents — being in the possession of the Respondents.

6. It is anticipated that the Respondents will contend that the allegations, constituting offences under sections 81 and 83 of the said Act, must be proved beyond reasonable doubt. It is submitted that their criminal character does not elevate the standard: *Mabenga v Wina and Others* (SCZ

Judgment No 15 of 2003), where an election was avoided upon proof *"beyond the balance of probability"* of allegations recognised to be *"of a criminal nature"*; *Anderson Kambela Mazoka and Others v Levy Patrick Mwanawasa and Others* (2005) ZR 138 (SC); and section 107 of the said Act, which compels a witness to answer questions concerning election offences and confers a certificate of indemnity against prosecution in return. The Petitioner will develop the point in reply.

D. CORRUPT PRACTICE/ OTHER MISCONDUCT

7. Section 97(2)(a) of the said Act provides that the election of a candidate shall be void where it is proved that a corrupt practice, illegal practice or other misconduct was committed in connection with the election (i) by a candidate, or (ii) with the knowledge and consent or approval of a candidate or of that candidate's election agent or polling agent, and that the majority of voters in the constituency were or may have been prevented from electing the candidate whom they preferred.

8. Section 2 confines *"corrupt practice"* to conduct declared to be such by section 81, and section 81(1)(a) prohibits the giving of money to a voter, corruptly, to induce that voter to vote. It is submitted that the conduct pleaded under *"Particulars (A)"* of the Petition falls squarely within section 81(1)(a), and is therefore a corrupt practice within section 97(2)(a).

9. Proof of a single corrupt practice suffices: in *Mabenga* it was held that *"satisfactory proof of any one corrupt or illegal or misconduct in an election petition is sufficient to nullify any election."*

Violence and undue influence: section 83

10. Section 83(1)(a) prohibits the making use of, or the threatening to make use of, any force, violence or restraint upon any other person; section 83(1)(c) prohibits the doing of anything to the disadvantage of any person in order to induce or compel that person to vote or not to vote, or to support or not to support a particular candidate; and section 83(5) makes a contravention of subsections (1) to (4) an offence.

11. It is submitted that such a contravention is *"other misconduct"* within section 97(2)(a), *"corrupt practice"* being confined by section 2 to conduct under section 81; and that the assaults and the attack upon the motor vehicles pleaded under *"Particulars (B)"* fall within section 83(1)(a), which reaches threats as well as force, and, the purpose being proved, within section 83(1)(c) also.

Attribution to the First Respondent

12. Section 97(2)(a)(i) reaches misconduct committed by a candidate; section 97(2)(a)(ii) misconduct committed with the knowledge and consent or approval of a candidate, of his election agent, or of a polling agent. An election agent is the person named in the candidate's nomination paper; a polling agent one appointed for a polling station and notified in writing to the returning officer under regulation 56(2) of the Electoral Process (General) Regulations.

13. It is submitted that the misconduct alluded to in the petition and the affidavit evidence was committed in the immediate presence of the 1st

Respondent and with his knowledge and consent or approval, so that section 97(2)(a)(ii) is engaged without any question of agency.

14. Agency may be inferred from the position and conduct of the persons concerned: in *Mabenga* a finding of agency was upheld where those alleged to have acted were party officials and were, *"in fact on the appellant's own evidence ... his agents."*

15. In **Stephen Masumba V Elliot Kamondo Selected Judgment No.53 of 2017** it was stated inter alia that:

> *"We are also alive to the fact that Regulation 15 (1) (c) of the Code of Conduct which is a Schedule to the 2016 Electoral Process Act prohibits the making of false or defamatory allegations against a person or his political party as it states that: " A person shall not make false, defamatory allegations concerning any person or political party in connection with an election.""*

Section 97(3) is unavailable to the 1st Respondent

16. Section 97(3) provides that where a corrupt or illegal practice has been committed by an agent of the candidate, the Court shall not declare the election void if the candidate proves (a) that it was not committed by him personally or by his election agent, or with their knowledge and consent or approval; (b) that he and his election agent took all reasonable means to prevent it; and (c) that the election was in all other respects free from such practice. Two submissions are made upon it.

(a) Section 97(3) is confined to *"a corrupt practice or illegal practice"* and does not extend to *"other misconduct"*. The conduct pleaded under section 83 therefore falls outside it altogether.

(b) Section 97(3) is confined to a practice committed by an agent. Where the practice is the candidate's own, or is committed with his knowledge and consent or approval, limb (a) cannot be satisfied. It is submitted that proof that the First Respondent was personally present, and passed along the line of voters, when money was given to them is fatal to the defence; that the burden under section 97(3) lies upon him; and that the particulars relied upon appear in the Petition under *"Matters going to section 97(3)"*.

Causation "were or may have been prevented"

17. It is submitted that the causation limb in section 97(2)(a) is materially less demanding than that in section 97(2)(b): paragraph (a) asks whether the majority of voters were or may have been prevented from electing the candidate whom they preferred, paragraph (b) whether the non-compliance affected the result. The Petitioner does not undertake to demonstrate arithmetically that the margin of 1,934 votes would have been reversed; the words *"or may have been"* do not admit of that construction.

18. The limb is nonetheless a real one, and the Petitioner will establish the reach of the conduct pleaded and not merely its occurrence. In *Lewanika* treating was established but the petition failed because it had not been

shown that the majority of voters were prevented from electing the candidate of their choice; and in *Lusambo* section 97(2)(a) was described as requiring proof that the victorious candidate or his agent engaged in proscribed conduct, *"thereby preventing the majority of voters from electing their preferred candidate."*

The origin of the statutory words

19. The words *"were or may have been prevented from electing the candidate ... whom they preferred"* are not novel; they derive from the common law as stated in *Woodward v Sarsons* (1875) LR 10 CP 733, where the Court of Common Pleas held that an election is to be declared void where the tribunal is satisfied *"that there was no real electing by the constituency at all"*, and that it should be so satisfied if it were proved to its satisfaction that the constituency *"had not in fact had a fair and free opportunity of electing the candidate which the majority might prefer"* — certainly so where a majority were prevented from voting effectively according to their own preference *"by general corruption or general intimidation"*; the headnote recording that an election is not void where there is *"no reasonable ground to believe that a majority of the electors may have been prevented from voting in favour of the candidate they preferred"*.

20. It is submitted that section 97(2)(a) codifies that principle; that the enquiry it directs is whether the constituency had a fair and free opportunity of electing the candidate it preferred — an enquiry into the freedom of the election, not the arithmetic of the result; and that the Court

is accordingly not confined, upon this Ground, to asking whether the margin of 1,934 votes would have been overturned.

21. The Petitioner acknowledges that *Woodward* speaks of general corruption or intimidation, and does not contend that isolated acts suffice. Generality is pleaded at paragraphs 14 to 16 of the Petition, and rests not only upon the instances there particularised but upon the pattern of the poll itself, the First Respondent having outrun his own party's ward candidate by between one hundred and one hundred and seventy-five votes at every station for which both returns are held.

E. THE EXCLUSION OF THE PETITIONER'S AGENT

The rights conferred upon a candidate and his agents

22. It is submitted that the said Act and the Regulations confer upon a candidate and his agents specific and identifiable rights between the close of the poll and the declaration of the result, and that those rights are not formalities. Regulation 53(1) of the Electoral Process (General) Regulations requires the returning officer to appoint, and to notify the candidate in writing of, the time and place of the verification of the ballot paper accounts; regulation 53(2) requires it to be conducted *"in the presence of the assistant returning officer ... and candidates and their election agents, monitors or observers present"*; and regulation 53(3) requires the returning officer to prepare and deliver to the Commission a report on the verification in Form GEN 24, and to *"permit the candidates, monitors, observers and election agents present ... to make a copy of the report"*.

23. It is submitted that each of the foregoing is a right conferred by the said Act within the meaning of section 83(2), the Regulations being subsidiary legislation made under the Act, and that preventing a person from exercising any of them contravenes section 83(2) and is an offence under section 83(5).

The breach

24. The Petitioner's case is that his agent was prevented from attending, or excluded from, the constituency totalling venue; that no report on Form GEN 24 has been produced; and that no agent or representative of the Petitioner appears among the seven witnesses who attested the declaration on Form GEN 20b.

25. It is submitted that the last of those matters is not neutral and calls for explanation. The Petitioner fielded a functioning agent network throughout the Constituency, his polling agents having attested the result at not fewer than thirty of the fifty-seven polling stations. That a party so represented at the stations should be wholly absent from the constituency declaration is an anomaly; and it is submitted that, upon the principle in *Odinga* at [133], the evidential burden of explaining it passes to the Respondents, who alone hold the tallying-centre access and accreditation records.

The principles engaged

26. Section 3 of the said Act provides that the principles applied in the electoral system and process shall ensure, *inter alia*, *"a transparent and*

credible electoral process" (paragraph (c)); "*access to polling stations for representatives of political parties, accredited local or international election monitors, observers and the media*" (paragraph (g)); and "*a transparent, accurate and reliable vote counting procedure*" (paragraph (l)). It is submitted that the exclusion of a candidate's agent from the verification and totalling is the negation of each, the purpose of his presence being to render the count capable of being observed and, if necessary, challenged at the time.

27. It is submitted that this Ground may succeed upon either limb of section 97(2): as other misconduct under paragraph (a), if the exclusion was procured by or with the knowledge and consent or approval of the First Respondent or his agents; alternatively as non-compliance under paragraph (b), if it was the act or omission of election officers.

F. SECTION 97(2)(b), AND SECTION 97(4)

The principles laid down

28. Section 97(2)(b) requires non-compliance with the provisions of the said Act relating to the conduct of elections, that the election was "*not conducted in accordance with the principles laid down in such provision*", and that the non-compliance affected the result. It is submitted that section 3 supplies the benchmark: paragraphs (c) and (l) set out above, with paragraph (m), the proper management of invalid ballot papers, and paragraph (o), the impartial protection of polling stations.

The particulars of non-compliance

29. The entry *"Date and Time Totalling Commenced"* is blank upon the Form ECZ 19. Regulation 50 requires a record of the proceedings at the totalling of votes; it is submitted that a record which does not record when the proceeding began is incomplete upon its face, and that the omission is material because the counting of votes was suspended nationwide on 14 August 2026.

30. Section 67(3) permits the suspension of counting only with the approval of the Commission, and imposes upon every presiding officer during any suspension an affirmative duty to ensure the safekeeping of all voting materials until the counting has been completed. It is submitted that the return of station forms bearing dates after the declaration is inconsistent with the discharge of that duty.

31. No report on Form GEN 24 has been produced, regulation 53(3) providing that the returning officer shall prepare and deliver such a report. It is submitted that the obligation is mandatory, that the report is the only document capable of testing the ballot papers found in the boxes against those issued, and that its absence is not a mere irregularity of form.

32. Statutory returns and the declaration were attested by persons purporting to act for a political party which fielded no candidate in the Constituency, and which had there neither an election agent named in a nomination paper nor a polling agent notified under regulation 56(2). Regulations 55(4) and 56(3) provide that a person not appointed in accordance with

the Regulations shall not exercise the rights of an election agent or of a polling agent.

33. Certain station returns bear alterations to the recorded figures which were not initialled, and the figures so altered are ambiguous upon the face of the returns.

Section 97(4) does not answer these matters

34. Section 97(4) provides that an election shall not be declared void by reason of an act or omission of an election officer in breach of official duty if the election was so conducted as to be substantially in accordance with the said Act and the act or omission did not affect the result.

35. It is submitted, first, that section 97(4) is framed conjunctively and saves an election only where both limbs are made out — that the election was substantially in accordance with the said Act, and that the act or omission did not affect the result — the burden lying upon the Respondents; and, secondly, that it reaches only *"any act or omission by an election officer in breach of that officer's official duty"*, and so does not touch the attestation of statutory returns by third parties having no entitlement to attest, that being the act of no election officer.

Causation

36. The Petitioner does not contend that the discrepancies upon the station returns, which put some 103 votes in issue, are of themselves capable of displacing a margin of 1,934 votes, and does not invite the Court to approach this Ground upon that footing. Nor is *Odinga* relied upon in

support of it, section 83 of the Elections Act of Kenya being framed disjunctively whereas section 97(2)(b) is framed conjunctively and requires the result to have been affected.

G. THE GROUNDS TAKEN TOGETHER

37. The Grounds are advanced independently, and the failure of any one does not touch the others. They are nonetheless not to be read in isolation. The Petitioner's case is of a single course of conduct: misconduct directed at securing the return of the 1st Respondent; the exclusion from the verification and totalling of the one person whose function it was to observe and object; and a record which cannot now be verified against the ballot paper accounts, no report under regulation 53(3) having been produced. It is submitted that the Grounds are cumulative, not competing.

H. RELIEF

38. We humbly submit and pray that the Petitioner's petitioner succeeds.

DATED at Lusaka this _____ day of August 2026.

Per:

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LUSAKA
Co-Advocates for The Petitioner

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/_____**

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

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