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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
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2026/HP/EP/010

IN THE MATTER OF:	**ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016**
IN THE MATTER OF:	**SECTION 97 (2) OF THE ELECTRAL PROCESS ACT NO. 35 2016.**
IN THE MATTER OF:	**SECTIONS 98 (C), 99 (A), 100 (2) (A), 106 (1) (B) 108 (4) OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**
IN THE MATTER OF:	**RULE 9 (1) (2) (3) OF THE HIGH COURT ELECTION PETITION RULES, 2026**
IN THE MATTER OF:	**THE PARLIAMENTARY ELECTION FOR MWANDI CONSTITUENCY OF WESTERN PROVINCE IN THE REPUBLIC OF ZAMBIA.**

BETWEEN

SIBESO KAKOMA SEFULO	**PETITIONER**
AND	
IRIS KAINGU	**1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**2ND RESPONDENT**

PARLIAMENTARY ELECTION PETITION
Pursuant to Article 73 (1) of the Constitution of Zambia as Read together with Rule 9 of the High Court (Election Petition) Rules, 2026

THE PETITION of SIBESO KAKOMA SEFULO (hereinafter referred to as the **"Petitioner"**), whose address for service is House No. 59 NAPSA Complex, along Leopards Hill Road, Lusaka District in the Lusaka Province of the Republic of Zambia **SHOWETH** that:-

1. Your Petitioner is: -
    a. A person claiming to have been a candidate for the election of Member of Parliament for Mwandi Constituency to which this petition relates.

2. Your Petitioner states that the election for Member of Parliament; was held on the 13th day of August 2026 where **SIBESO KAKOMA SEFULO** and **IRIS KAINGU** were candidates and the Returning Officer returned **IRIS KAINGU** as being duly elected.

3. **GROUNDS RELIED ON :-**

Your Petitioner shall rely on the following grounds:-

a. **The election was characterized by bribery, corruption and undue influence of voters by election agents of the 1st Respondent with her full knowledge, consent or approval.**

b. **The 2nd Respondent failed to comply with the provisions of the Act, relating to the conduct of elections, as the Presiding Officers failed to supervise the proper counting and announcing of the election results in accordance with the laid down procedures.**

c. **The election in most Polling Stations was conducted in breach of the principles of secrecy and against a person's right to vote, in that the Presiding Officers cast votes on behalf of elderly voters contrary to the wishes of those voters.**

4. **RELIEFS BEING SOUGHT BY THE PETITIONER**:-

Your Petitioner prays for the following reliefs:-

a. **A declaration that the election of the 1st Respondent was void.**

b. **A declaration nullifying the election of the 1st Respondent as Member of Parliament for Mwandi Constituency.**

c. **An order that fresh elections be held.**

d. **In the alternative, that the court orders for a recount of the votes.**

e. **Costs of this Petition.**

f. **Any other reliefs the court may deem fit.**

Dated this _____ **dated**_____2026

_____

PETITIONER

Drawn by:_____

MAK PARTNERS LEGAL PRACTITIONERS
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Off Leopards Hill Road
P. O.Box 320109
Makpartner2002@gmail.com
ADVOCATES FOR THE PETITIONER

TO:

1ST RESPONDENT AND HER ADVOCATES
Iris Kaingu
LUSAKA

TO:
2ND RESPONDENT
Electoral Commission of Zambia
Election House
Haile Selassie Avenue-Longacres
P.O Box 50274
LUSAKA

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

2026/HP/EP/010

IN THE MATTER OF:	**ARTICLE 73(1) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016**
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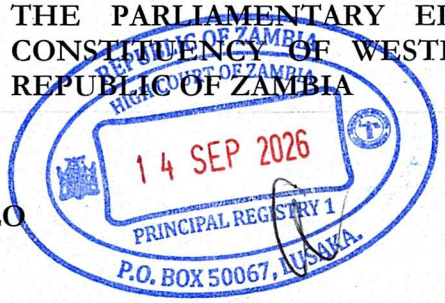

BETWEEN:

SIBESO KAKOMA SEFULO	**PETITIONER**
AND	
IRIS KAINGU	**1st RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**2nd RESPONDENT**

ANSWER TO PETITION

(Pursuant to Rule 10(1) of the High Court (Election Petition) Rules, 2026 Statutory Instrument 31 of 2026)

THE 1ST RESPONDENT RESPONDS TO THE PETITION AS FOLLOWS:

[1.0] The 1st Respondent avers that the contents of paragraph 1 of the Petition are within the Petitioner's peculiar knowledge.

[2.0] The 1st Respondent admits the contents of paragraph 2 to the extent that she was, on 15 August 2026, duly elected Member of Parliament for Mwandi Constituency, having

obtained a majority of **6,595 votes**, while the Petitioner was declared to have received **6,110 votes**.

[3.0] The 1st Respondent firmly denies the contents of paragraph 3(a) of the Petition and avers that neither she nor any of her agents engaged in any form of electoral malpractice such as acts of bribery, corruption, or undue influence against the voters. The Petitioner shall be put to strict proof of these allegations.

[4.0] In relation to the contents of paragraph 3(b), the 1st Respondent avers that the allegations therein fall within the peculiar knowledge of the Petitioner. She will, however, aver that, to the best of her knowledge and information, the 2nd Respondent provided all the relevant parties, including agents for the Petitioner with Gen 20 Forms at the various polling stations. The 1st Respondent reiterates that she was duly elected and subsequently declared the validly elected Parliamentary representative for Mwandi Constituency.

[5.0] In response to the contents of paragraph 3(c), the 1st Respondent refutes the allegations therein and maintains that, to the best of her knowledge and from information gathered from her polling agents at several polling stations, the election was conducted in a transparent and orderly manner, and in substantial compliance with the applicable law and prescribed procedures, resulting in her electoral victory over the Petitioner.

[6.0] The 1st Respondent denies that the Petitioner is entitled to any of the reliefs claimed in the Petition, including a declaration that her election as Member of Parliament for Mwandi Constituency is void, she having obtained a majority of the votes cast across the 40 polling stations.

[7.0] The 1st Respondent denies the relief seeking a declaration that her election as Member of Parliament for Mwandi Constituency was void, and shall put the Petitioner to strict proof thereof.

[8.0] The 1st Respondent denies the relief seeking an order that fresh elections be held or, in the alternative, that a recount of votes be conducted, on the basis that she was validly elected as Member of Parliament for Mwandi Constituency, and as such, there is no basis for a recount nor grounds for nullifying the election.

[9.0] The 1st Respondent further denies the Petitioner's claim for an order for costs.

[10.0] Save as expressly admitted, the 1st Respondent denies each and every allegation in the Petition as if the same were set forth and traversed seriatim.

Dated at Lusaka this 14th day of SEPTEMBER 2026

Signed by: _____

IRIS KAINGU

Filed by: _____

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Lusaka
Advocates for the 1st Respondent

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REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
14 SEP 2026
PRINCIPAL REGISTRY 3
P.O. BOX 50067, LUSAKA.

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/010**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF:	**ARTICLE 73(1) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016**
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BETWEEN:

SIBESO KAKOMA SEFULO **PETITIONER**

AND

IRIS KAINGU **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

ANSWER TO THE PETITION ON BEHALF OF THE 2ND RESPONDENT

Pursuant to Article 73(1) of the Constitution of Zambia as read together with the High Court (Election Petition) Rules, 2026

THE ANSWER of the 2nd Respondent, the **ELECTORAL COMMISSION OF ZAMBIA**, whose address for service is Election House, Haile Selassie Avenue-Longacres, P O. Box 50274, Lusaka, care of its Advocates on record, **STATES** as follows:-

1. Save as is hereinafter expressly admitted, the 2nd Respondent denies each and every allegation of fact and law contained in the Petition as though the same were set out herein in full and traversed seriatim, and puts the Petitioner to strict proof thereof.

2. As to paragraph 1 of the Petition, the 2nd Respondent does not dispute that the Petitioner was a candidate for the election of Member of Parliament for Mwandi Constituency to which this Petition relates.

3. As to paragraph 2 of the Petition, it is admitted that the election for Member of Parliament for Mwandi Constituency was held on 13th August, 2026, that the Petitioner, Sibeso Kakoma Sefulo, and the 1st Respondent, Iris Kaingu, were candidates, and that the Returning Officer returned the 1st Respondent as duly elected. It is averred that the said return was lawfully and properly made, following a lawful count, tally and verification of the results from all forty (40) polling stations in Mwandi Constituency, in the presence of the candidates and/or their duly accredited polling and counting agents.

4. As to paragraph 3(a) of the Petition, it is denied that the election was characterised by bribery, corruption or undue influence of voters by election agents of the 1st Respondent, and it is denied that any such conduct occurred with the 1st Respondent's knowledge, consent or approval. The 2nd Respondent has no knowledge of, and did not participate in, connive at or acquiesce in, any bribery, corruption or undue influence, whether by agents of the 1st Respondent or otherwise, and no report, complaint or incident of this nature was made to, or recorded by, any Presiding Officer at any polling station in Mwandi Constituency on polling day. The 2nd Respondent puts the Petitioner to strict proof of this ground, as against the 1st Respondent.

5. As to paragraph 3(b) of the Petition, it is denied that the 2nd Respondent failed to comply with the provisions of the Electoral Process Act No. 35 of 2016 relating to the conduct of elections, and it is denied that the Presiding Officers, who are officers of the 2nd Respondent,

failed to supervise the proper counting and announcing of the election results in accordance with the laid down procedures. The 2nd Respondent avers that the election was conducted, and the results counted, tallied, verified and announced, in full compliance with the Electoral Process Act No. 35 of 2016 and the Electoral (General) Regulations, and that any minor discrepancies between vote totals recorded for different elective offices at the same polling station are properly and reasonably explained by voter abstention and spoilt ballots, and are not evidence of non-compliance or a failure to supervise.

6. As to paragraph 3(c) of the Petition, it is denied that the election, at the Polling Stations referred to or at any Polling Station, was conducted in breach of the principles of secrecy or against any person's right to vote, and it is denied that Presiding Officers cast votes on behalf of elderly voters contrary to their wishes. The 2nd Respondent avers that any assistance rendered to elderly, illiterate, blind or otherwise incapacitated voters was rendered lawfully, at the request of and with the consent of the voters concerned, in accordance with the Electoral Process Act No. 35 of 2016 and the Electoral (General) Regulations.

7. In the premises, and for the reasons more fully set out in the 2nd Respondent's Affidavit in Opposition filed herein, the 2nd Respondent denies that the Petitioner is entitled to any of the reliefs claimed in paragraph 4 of the Petition, or to any relief at all, and in particular:-

   a. denies that the election of the 1st Respondent was void;

   b. denies that the election of the 1st Respondent as Member of Parliament for Mwandi Constituency ought to be nullified;

   c. denies that there is any basis for an order that fresh elections be held for Mwandi Constituency;

   d. denies that there is any basis for an order for a general recount of the votes cast in Mwandi Constituency;

e. denies that the Petitioner is entitled to the costs of this Petition, and avers that the costs of the 2nd Respondent should be borne by the Petitioner.

8. WHEREFORE the 2nd Respondent prays that this Honourable Court dismisses the Petition in its entirety with costs to the 1st and 2nd Respondents.

Dated this ____ day of _____ 2026

_____

2ND RESPONDENT

Drawn by:

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LUSAKA
ADVOCATES FOR THE 2ND RESPONDENT

TO:

THE PETITIONER AND HER ADVOCATES
Mak Partners Legal Practitioners
Plot No. 59 Kalambo Way, NHA Complex
Off Leopards Hill Road
P.O. Box 320109
LUSAKA

AND TO:

THE 1ST RESPONDENT AND HER ADVOCATES
Iris Kaingu
LUSAKA

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

2026/HP/EP/010

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IN THE MATTER OF: THE PARLIAMENTARY ELECTION FOR MWANDI CONSTITUENCY OF WESTERN PROVINCE IN THE REPUBLIC OF ZAMBIA

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
14 SEP 2026

BETWEEN:

SIBESO KAKOMA SEFULO — **PETITIONER**

AND

IRIS KAINGU — **1st RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA — **2nd RESPONDENT**

SKELETON ARGUMENTS

(Pursuant to Rule 10(2)(b) of the High Court (Election Petition) Rules, 2026 Statutory Instrument 31 of 2026)

MAY IT PLEASE THIS HONOURABLE COURT, these are the Skeleton Arguments in Support of the Answer to the Election Petition and Affidavit filed on behalf of the 1st Respondent.

[1.0] INTRODUCTION

[1.1] This matter originates from the general election held on 13th August, 2026 for the Member of Parliament seat for Mwandi Constituency, in which the 1st Respondent was duly declared the winning candidate in the fore stated election. The Petitioner since petitioned this Honorable Court challenging *inter alia* the declaration of the 1st Respondent as Member of Parliament for

Mwandi Constituency. The 1st Respondent furthers the following Skeleton Arguments in Support of Answer to the Election Petition and Affidavit and shall demonstrate that the Election Petition lacks sufficient foundation, merit and ought to be dismissed.

[2.0] WHETHER OR NOT THE ELECTION OF THE 1ST REPSONDENT SHOULD BE NULLIFIED, IN ACCORDANCE WITH THE LEGAL REQUIREMENTS THEREIN:

[2.1] **MY LORD/LADY,** the basis for nullifying an election for Member of Parliament where corrupt practice, illegal practice or other misconduct is alleged in an Election Petition is governed by the provisions of the ***Electoral Process Act*** under ***Section 97(2)***[1] , and provides the following guidance:

> ***"(2) The election of a candidate as Member of Parliament, mayor, council chairperson or councillor shall be void if, on the trial of an election petition, if 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 of and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in the constituency, district or ward were or may have been prevented from electing the candidate in that constituency, district or ward whom they preferred."***

Further ***Section 97(4) of the Electoral Process Act***[2] provides that:

> ***"(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."***

[2.2] **MY LORD/LADY,** to properly outline the meaning of the fore stated provisions, reference is made to the Constitutional Court case of ***Musumba v Kamondo***[3] where it was stated that:

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[1] Act No. 35 of 2016.
[2] Ibid.
[3] (2017) 3 Z.R. 130.

"The requirement in the current law for nullifying an election of a Member of Parliamentis that a petitioner must not only prove that the respondent has committed a corrupt or illegal act or other misconduct or that the illegal act or misconduct complained of was committed by the respondent's election agent or polling agent or with the respondent's knowledge, consent or approval, but that he/she must also prove that as a consequence of the corrupt or illegal act or other misconduct committed, the majority of voters in the constituency were or may have been prevented from electing a candidate whom they preferred."

In further reference and explanation, the case of ***Nkandu Luo v Doreen Sefuke Mwamba***[4] went on to hold that:

"Section 97(2) of the (Electoral Process) Act is central to the judicial resolution of electoral disputes...In order to successfully have an election annulled, 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 agent, 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, 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."

[2.3] **MY LORD/MY LADY,** applying the foregoing principles to the present case, the Petitioner's allegations are primarily grounded on the alleged conduct of the 1st Respondent and officials of the 2nd Respondent such as the Returning Officer and other electoral officials in relation to the tallying, verification and announcement of results, in the facilitation of the electoral process and declaration of results therein. However, the Petitioner has not produced substantial evidence supporting his allegations, demonstrating that the 1st Respondent personally committed any corrupt practice, illegal practice or other misconduct, or that any such conduct was undertaken with his knowledge, consent or approval. It is therefore submitted that the Petition herein is not supported by sufficient, cogent and credible evidence capable of establishing reasonable ground upon which the election may be lawfully nullified. Thus, the

[4] Selected Judgment No. 51 of 2018.

Petition fails to satisfy either limb of the considerations provided for in the above cited law and statute.

[2.4] In further submission, **MY LORD/LADY,** it is not in contention that the 1st Respondent was a candidate in the 13th August, 2026 Parliamentary Election for Mpika North Constituency, just like the Petitioner herein and not an election officer or official of any capacity. She neither counted the votes, verified the GEN20 Forms, controlled the tallying centre nor declared herself the winner of the elections. The declaration of the 1st Respondent as duly elected Member of Parliament for Mwandi Constituency was made by the Returning Officer acting in official capacity upon completion of the electoral process. Therefore, the 1st Respondent played no role in the electoral process to any extent and the accusations rendered by the Petitioner herein do not have sufficient evidence to show the involvement of the 1st Respondent herein and the Petition falls short of the criteria recognized in the fore cited law and ought to be dismissed as it fails to satisfy the requirements that warrant the nullification of an election.

[2.5] **MY LORD/LADY,** through the announcement of the election results shown in the official electoral documentation, including the Declaration of Results Form marked **"IK1"**, the relevant GEN 20 Forms marked individually **"IK5(I-XXIII)"**, and the accreditation forms of his agents and observers marked **"IK3"**, the 1st Respondent obtained 4,436 votes and the Petitioner obtained 4,166 votes, having a majority vote of 270 votes obtained by the 1st Respondent. In order for the Petitioner to prove his case, she must raise evidence that will satisfy the statutory conditions that warrant nullification of results and allegations of irregularity without any connection to the 1st Respondent and without proof of their effect on the electorate, cannot by themselves satisfy the threshold imposed by ***Section 97(2) of the Electoral Process Act.***[5] Therefore, it is submitted that the Petition fails to satisfy that limb of the considerations that warrant the nullification of election results, and it ought to be dismissed for lack of validity.

[2.6] **MY LORD/LADY,** to further demonstrate the insufficiency of the Petition herein it is imperative to refer to ***Section 97(4) of the Electoral Process Act***[6] which guides that an election is not to be lightly disturbed merely because an election officer may have committed

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[5] Supra note 1.
[6] No. 35 of 2016.

an act or omission in the discharge of official duties. The primary consideration in relation to the fore stated provision is whether the election was substantially conducted in accordance with the law and whether the alleged act or omission affected the result.

[2.6.1] The 1st Respondent maintains that the Parliamentary election held in Mwandi Constituency was conducted through transparent, orderly and prescribed electoral process which declared her duly elected candidate by the Returning Officer, in total compliance with the law. Therefore, it is submitted that the Petitioner has not demonstrated, on the facts pleaded, that any alleged irregularities are attributed to the 1st Respondent or that it prevented the majority of voters from electing the candidate of the choice.

[2.6.2] **MY LORD/LADY,** on that basis, the 1st Respondent respectfully submits that the statutory threshold for nullifying her election has not been established or demonstrated by the Petitioner and that the Petition seeking to have election nullified ought to be dismissed for lack of merit. Therefore, having that the election of the 1st Respondent as duly elected Member of Parliament of Mwandi Constituency was conducted and concluded on merit, the Petition fails and the election and its attendant results ought not to be disturbed unless the Petitioner proves the grounds upon which the law permits a valid result to be overturned.

[3.0] STANDARD OF PROOF IN NULLIFICATION OF AN ELECTION

[3.1] **MY LORD/LADY,** it is a settled principle that the applicable standard of proof in an election petition is higher than that required in an ordinary civil action but lower than the standard beyond reasonable doubt required in criminal matters. Furthermore, the evidence adduced in support of the allegations made must prove issues raised to a fairly high degree of convincing clarity. This position of the law was restated by the constitutional Court in the case of ***Mutapwe v Shomeno***[7] where we held that:

> ***"The petitioner in an election, just as in any other civil matter, bears the burden to prove the electoral offence complained of. However, the standard of proof in an election petition is higher than that required in an ordinary civil action. The evidence adduced in support of the allegations made in an election petition must prove the issues raised to a fairly high degree of convincing clarity."*** (emphasis ours)

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[7] Appeal No. 19 of 2017.

From the above guidance, it is submitted that the burden of proof for election related matter rests upon the Petitioner to prove that the electoral offence complained of, and mere allegation, suspicion or assertions of illegality do not suffice to discharge this burden. Therefore, evidence adduced in support of a Petition, as that *in casu* must be of a high degree of convincing clarity, higher than the regular standard of proof in civil proceedings but lower the proof beyond reasonable doubt observed in criminal proceedings.

[3.2] Therefore, the 1st Respondent submits that the Petition has failed to discharge the burden of proof, as the allegations contained in the Petition remain largely assertions concerning the conduct of Returning Officer and electoral officials and various polling stations, in the absence of cogent evidence demonstrating that the 1st Respondent personally committed, authorized, consented to or had knowledge of any corrupt practice, illegal practice or other misconduct. Neither has the Petitioner demonstrated that any alleged irregularity was sufficiently material nor widespread as to prevent the majority of the voters in Mwandi Constituency from electing the candidate of their choice. Therefore, in the absence of such proof, the threshold for disturbing the election duly declared by the Returning Officer has not been met, thus, the Petition fails to establish any reasonable validity to have the election of the 1st Respondent nullified herein and ought to be dismissed for lack of merit.

[4.0] CONCLUSION:

[4.1] **MY LORD/MY LADY**, in conclusion, the 1st Respondent respectfully submits that the Petitioner has not placed before this Honourable Court cogent and convincing evidence required to unsettle an election duly conducted and declared. The Petition rests upon allegations largely concerning the conduct of electoral officials, without sufficient evidence connecting the 1st Respondent to any valid unlawful act or demonstrating that any alleged irregularity affected the will of the majority of the electorate. Therefore 1st Respondent humbly prays that this Honourable Court upholds the declaration of **IRIS KAINGU** as the duly elected Member of Parliament for Mwandi Constituency and dismiss the Petition with costs.

Dated at Lusaka this _____day of _____ 2026

Filed by: _____

Messrs. Malisa and Partners Legal Practitioners
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Off Mosi-oa-Tunya Road
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Lusaka
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Advocates for the 1st Respondent

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
14 SEP
PRINCIPAL REGISTRY'S
P.O. BOX 50067, LUSAKA

IN THE HIGH COURT FOR ZAMBIA
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IN THE MATTER OF: **THE PARLIAMENTARY ELECTION FOR MWANDI CONSTITUENCY OF WESTERN PROVINCE IN THE REPUBLIC OF ZAMBIA**

BETWEEN:

SIBESO KAKOMA SEFULO **PETITIONER**

AND

IRIS KAINGU **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

SKELETON ARGUMENTS IN SUPPORT OF THE 2ND RESPONDENT'S OPPOSITION TO THE PARLIAMENTARY ELECTION PETITION

MAY IT PLEASE THIS HONOURABLE COURT, these are the 2nd Respondent's Skeleton Arguments in opposition to the Parliamentary Election Petition filed herein regarding the results announced on 15th August, 2026 for Mwandi Constituency.

1.0. BACKGROUND

1.1 The Petitioner contested the Mwandi Constituency parliamentary election held during the General Election of 13th August, 2026, on the ticket of the United Party for National Development (UPND). On 15th August, 2026, the 2nd Respondent, acting through its duly appointed Returning Officer for Mwandi Constituency, declared the 1st Respondent duly elected with 6,595 votes, the Petitioner having polled 6,110 votes in second place. That declaration was arrived at after a lawful count, tally and verification of the Gen 20 forms from all forty (40) polling stations in the Constituency, conducted in the presence of the candidates and/or their duly accredited polling and counting agents.

1.2 The Petitioner now challenges that result on three grounds, namely: (i) bribery and corruption by the 1st Respondent's agents at ten (10) named polling stations; (ii) non-compliance with the Electoral Process Act by the 2nd Respondent through an alleged failure by Presiding Officers to properly supervise the counting and announcing of results; and (iii) breach of the secrecy of the ballot in the assistance rendered to elderly voters at six named polling stations.

1.3 The 2nd Respondent has filed an Affidavit in Opposition, sworn by Mr Nowa Nowa, an Election Returning Officer in its employ who was assigned to and involved in the administration of the electoral process for Mwandi Constituency, in which each of these allegations is traversed and denied, save as expressly admitted therein.

1.4 It is the 2nd Respondent's case that the Petition, as against the 2nd Respondent, discloses no basis upon which the Court can be satisfied, to the standard required in election petitions, that the election was void, and that the Petition ought accordingly to be dismissed with costs to the 2nd Respondent.

2.0. THE LAW: BURDEN AND STANDARD OF PROOF

2.1 The Petitioner has premised her case on *Section 97(2)(a) of the Electoral Process Act No. 35 of 2016*, which the Petitioner's own Skeleton Arguments reproduce and which the 2nd Respondent respectfully adopts, as providing that the election of a Member of Parliament shall be void only if it is *proved to the satisfaction of the High Court* that a corrupt practice, illegal practice or other misconduct was committed by a candidate, or with the knowledge, consent or approval of a candidate or of that candidate's election or polling agent,

2.2 and, additionally, that the majority of voters in the constituency were or may have been prevented from electing the candidate whom they preferred.

2.3 The Constitutional Court's guidance in *Mutotwe Kafwaya v Chasaya Katongo & Two Others – 2021/CCZ/A0020*, cited by the Petitioner, confirms that both limbs the commission of the corrupt or illegal practice or misconduct personally or with the knowledge, consent or approval of the candidate or agent, and the widespread nature of that practice or misconduct in the constituency, ward or district must be proved to the required standard before an election can be annulled.

2.4 Likewise, in *Nkandu Luo and the Electoral Commission of Zambia v Doreen Sefula Mwamba and the Attorney General – Selected Judgment No. 51 of 2018*, it was held that the Petitioner carries the further task, beyond proving the alleged malpractice or misconduct, of adducing cogent evidence that it was so widespread that it swayed, or may have swayed, the majority of the electorate from electing the candidate of their choice.

2.5 It is well established that the standard applicable to allegations of electoral malpractice, being quasi-criminal in character, requires clear and unequivocal proof, as recognised in *Alphonso G. Chungu and Others v Anthoney Kasandwe and Another –*

2021/HN/EP/004, where the Court held that clear and unequivocal proof is required before a case of bribery will be held to have been established.

2.6 It is submitted that this threshold, which the Petitioner herself invokes, is not met on the pleadings and affidavit evidence as they presently stand, for the reasons that follow.

3.0. THE ALLEGATIONS OF BRIBERY AND CORRUPTION DO NOT IMPLICATE THE 2ND RESPONDENT AND ARE NOT PROVED TO BE WIDESPREAD

3.1 The 2nd Respondent's Affidavit in Opposition denies any knowledge of, or participation, connivance or acquiescence in, the alleged payments to voters attributed to Mr Michael Kaingu and Mr Dexter Itwi, and avers that the Presiding Officers and their assistants deployed by the 2nd Respondent at each of the polling stations named maintained order and secured the polling environment throughout voting hours, and that no report, complaint or incident of bribery or vote-buying was made to, or recorded by, any Presiding Officer at any of those stations on polling day.

3.2 It is submitted that, in any event, the conduct complained of at paragraphs 8 to 12 of the Petitioner's Affidavit, even if proved (which is denied), concerns the personal conduct of the 1st Respondent and/or persons associated with her, for which the 2nd Respondent bears no responsibility. The Petitioner is put to strict proof of these allegations as against the 1st Respondent.

3.3 Further, and in accordance with the second limb of the test in *Kafwaya* and *Nkandu Luo* above, the Petitioner bears the burden of proving that the alleged practice was so widespread as to have swayed, or possibly swayed, the majority of the electorate. The allegations, even taken at their highest, are confined to ten (10) of the forty (40) polling stations in the Constituency. It is denied that the matters complained of were

"widespread" or occurred in the majority of the 40 polling stations, and the Petitioner is put to strict proof of this bare assertion.

3.4 It is further submitted that the aggregate number of registered voters at the polling stations named (stated by the Petitioner to total 7,055) is not, without more, proof or evidence at all that the outcome of the election was affected. The number of registered voters at a polling station is not proof of the number of votes actually influenced by any bribery, and the Petitioner has adduced no evidence linking any specific vote cast to any alleged payment.

4.0. THE 2ND RESPONDENT DISCHARGED ITS DUTY UNDER SECTION 38 OF THE ACT TO SUPERVISE THE COUNTING AND ANNOUNCING OF RESULTS

4.1 Section 38(1) and (3) of the Electoral Process Act, cited in the Petitioner's own Skeleton Arguments, imposes on a Presiding Officer the duty to coordinate and supervise voting and, in respect of counting, to coordinate and supervise the counting of votes and announcement of results so as to ensure that the election is free and fair. It is submitted that this duty was discharged.

4.2 The Affidavit in Opposition avers that the counting and tallying of votes at every polling station in Mwandi Constituency, including at Mabumbu, Mwandi 1 to 4, Simungoma and Lusinina, was conducted in the presence of, and the resulting Gen 20 forms were countersigned without recorded objection by, the polling and counting agents of the Petitioner, the 1st Respondent and other candidates present. The Petitioner cannot now be heard to impeach results to which her own agents raised no contemporaneous objection.

4.3 As to the correction at Mabumbu Polling Station pleaded at paragraph 16 of the Petitioner's Affidavit, it is admitted that the Petitioner's tally was corrected from 304 to 349 votes upon a request for a recount. It is averred that this correction, made promptly and transparently in the presence of the candidates' agents, demonstrates the proper functioning, and not the failure, of the 2nd Respondent's counting and verification procedures, there being an effective internal mechanism through which the recording error was identified and rectified before the final result was declared.

4.4 As to the numerical differences pleaded at paragraphs 17 to 20 of the Petitioner's Affidavit between the totals recorded on the Presidential, Parliamentary and Council Chairperson/Councillor Gen 20 forms at Mabumbu, Simungoma, Mwandi 1 and Lusinina Polling Stations, it is admitted that such minor differences exist, but it is denied that they are evidence of any failure to properly count the votes or to conduct the election. Each voter at the General Election was issued with separate ballot papers for the Presidential, Parliamentary, Council Chairperson and Councillor elections, and it is a common and lawful occurrence for a voter to cast a valid vote in one or more of those elections while abstaining from voting in, or spoiling the ballot paper for, another. Such differences are ordinarily and reasonably explained by voter abstention and spoilt ballots, and are not, without more, indicative of malpractice, fraud or a failure to properly count.

5.0. THERE WAS NO BREACH OF THE SECRECY OF THE BALLOT

5.1 Section 61(1) to (3) of the Electoral Process Act, also cited by the Petitioner, expressly permits a Presiding Officer or other election officer to assist a voter who is unable to vote without assistance including by reason of physical disability, illiteracy or old age at that voter's request, and requires such assistance to be rendered in the presence of an

accredited observer or monitor, or two election agents of different candidates, where available.

5.2 The Affidavit in Opposition avers that any assistance rendered to elderly voters at Mwandi School 1 to 4, Lwazamnba School and Mushukula School was rendered lawfully, at the request of, and with the consent of, the voters concerned, in accordance with the Act and the Electoral (General) Regulations, and it is denied that any voter's vote was placed for a candidate other than that voter's choice.

5.3 It is further observed that the Petitioner's own averment, at paragraph 24 of her Affidavit, that she "shall provide proof of this at trial" is an admission that no such proof presently exists. The 2nd Respondent puts the Petitioner to strict proof of this allegation.

6.0. THE ELECTION WAS CONDUCTED IN SUBSTANTIAL COMPLIANCE WITH THE ACT AND OUGHT NOT TO BE NULLIFIED

6.1 It is submitted that, for the reasons set out above, the Petitioner has not met, and cannot meet, either limb of the threshold under Section 97(2)(a) of the Act as against the 2nd Respondent: no corrupt practice, illegal practice or misconduct by or attributable to the 2nd Respondent or its officers has been proved, and no widespread malpractice affecting the majority of voters in Mwandi Constituency has been shown.

6.2 The 2nd Respondent avers that the election for Mwandi Constituency was conducted freely, fairly and transparently, and in substantial compliance with the Electoral Process Act No. 35 of 2016, and that the result declared on 15th August, 2026 truly and accurately reflects the wishes of the voters of Mwandi Constituency.

7.0. CONCLUSION

7.1 For the foregoing reasons, it is submitted that the Petitioner has failed to lay a foundation, on the pleadings and affidavit evidence, capable of satisfying this Honourable Court to the required standard that the election of the 1st Respondent was void, or that the 2nd Respondent failed in its statutory duties.

7.2 The 2nd Respondent accordingly prays that this Honourable Court dismisses the Petition in its entirety, with costs to the 2nd Respondent.

We are obliged.

Dated this _____ day of September, 2026.

Drawn and Filed by:
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Kabelenga Road
Lusaka
ADVOCATES FOR THE 2ND RESPONDENT

TO: THE REGISTRAR
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AND TO: Mak Partners Legal Practitioners
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P.O. Box 320109, Lusaka
Advocates for the Petitioner

AND TO: Iris Kaingu
1st Respondent, Lusaka

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
14 SEP 2026
PRINCIPAL REGISTRY 3
P.O. BOX 50067, LUSAKA.

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/010**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF:	**ARTICLE 73(1) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016**
IN THE MATTER OF:	**SECTION 97(2) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**
IN THE MATTER OF:	**SECTIONS 98(C), 99(A), 100 (2) (A), 106 (1) (B) AND 108 (4) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**
IN THE MATTER OF:	**RULE 9(1)(2)(3) OF THE HIGH COURT ELECTION PETITION RULES, 2026**
IN THE MATTER OF:	**THE PARLIAMENTARY ELECTION FOR MWANDI CONSTITUENCY OF WESTERN PROVINCE IN THE REPUBLIC OF ZAMBIA**

BETWEEN:

SIBESO KAKOMA SEFULO	**PETITIONER**
AND	
IRIS KAINGU	**1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**2ND RESPONDENT**

AFFIDAVIT IN SUPPORT OF ANSWER ON BEHALF OF THE 2ND RESPONDENT

I, **NOWA NOWA**, of Mwandi Royal Village, in Mwandi in the Western Province of the Republic of Zambia, **DO HEREBY MAKE OATH AND SAY** as follows;

1. That I am an Election Returning Officer in the employ of the 2nd Respondent, the Electoral Commission of Zambia, and was assigned to and involved in the administration of the electoral process for Mwandi Constituency during the General Elections held on 13th August, 2026, and I am duly authorised by the 2nd Respondent and competent to swear to the contents of this my Affidavit in Opposition from facts within my personal knowledge, from the official records of the 2nd Respondent in my custody or to which I have access, and from information supplied to me by other officers and agents of the 2nd Respondent, which I verily believe to be true.

2. That I have had sight of and read the Petition filed herein together with the Affidavit Verifying Facts sworn by the Petitioner, Sibeso Kakoma Sefulo, on 28th August, 2026 ("the Petitioner's Affidavit").

3. That I depose to this Affidavit in Opposition on behalf of the 2nd Respondent, being duly authorised so to do.

4. That save as is hereinafter expressly admitted, the 2nd Respondent denies each and every allegation of fact and law contained in the Petition and in the Petitioner's Affidavit as though the same were set out herein in full and traversed seriatim, and puts the Petitioner to strict proof thereof.

5. That as to paragraphs 1 to 5 of the Petitioner's Affidavit, the 2nd Respondent has no personal knowledge of the Petitioner's residential address or nationality and cannot admit the same, but does not dispute that the Petitioner was a duly adopted and nominated candidate for the Mwandi Constituency parliamentary seat on the ticket of the United Party for National Development (UPND).

6. That as to paragraph 6, it is admitted that the General Election of 13th August, 2026 was administered by the 2nd Respondent, and that the Petitioner and the 1st Respondent were the two leading candidates for the Mwandi Constituency seat.

7. That as to paragraph 7, it is admitted that on 15th August, 2026 the 2nd Respondent, acting through its duly appointed Returning Officer for Mwandi Constituency, declared and announced the 1st Respondent duly elected with 6,595 votes, the Petitioner having polled 6,110 votes in second place, that declaration having been arrived at after a lawful count, tally and verification of the Gen 20 forms from all forty (40) polling stations in the Constituency, conducted in the presence of the candidates and/or their duly accredited polling and counting agents.

8. That as to paragraphs 8, 9, 10, 11 and 12 of the Petitioner's Affidavit, the 2nd Respondent denies that the election was marred by widespread illegalities, corruption or misconduct, and specifically denies any knowledge of, or participation, connivance or acquiescence in, the payment of ZMW20.00, ZMW50.00 or any other sum to voters by Mr. Michael Kaingu, Mr. Dexter Itwi or any other person, whether described as an agent of the 1st Respondent or otherwise, at Kakulwani Primary School, Mabumbu School, Alibuzwi Primary School, Aibelilwe Community School, Mwandi School (Polling Stations 1 to 4), Limpumpu School, Loanja School, Mwanamatuku Community School, or any other polling station.

9. That the Presiding Officers and their assistants deployed by the 2nd Respondent at each of the polling stations named in paragraph 9 of the Petitioner's Affidavit maintained order and secured the polling environment throughout voting hours on 13th August, 2026, in accordance with the Electoral Process Act No. 35 of 2016 and the Electoral (General) Regulations, and no report, complaint or incident of bribery or vote-buying was made to, or recorded by, any Presiding Officer at any of the said polling stations on polling day.

10. That in any event, the allegations at paragraphs 8 to 12 of the Petitioner's Affidavit, if true (which is denied), concern the personal conduct of the 1st Respondent and/or persons associated with her, for

which the 2nd Respondent bears no responsibility, and the Petitioner is put to strict proof of the same as against the 1st Respondent.

11. That as to paragraph 13, it is denied that the aggregate number of registered voters at the eleven polling stations there listed (stated to total 7,055) is evidence, or any evidence at all, that the outcome of the election was affected. The number of registered voters at a polling station is not, without more, proof of the number of votes actually influenced by any bribery, and the Petitioner has adduced no evidence linking any specific vote cast to any alleged payment.

12. That as to paragraphs 14 and 15, it is denied that there was any non-compliance with the provisions of the Electoral Process Act on the part of the 2nd Respondent, and it is denied that the Presiding Officers, who are agents of the 2nd Respondent, failed to supervise the proper counting and announcing of results in accordance with the law. The counting and tallying of votes at every polling station in Mwandi Constituency, including at Mabumbu, Mwandi 1 to 4, Simungoma and Lusinina, was conducted in the presence of, and the resulting Gen 20 forms were countersigned without recorded objection by, the polling and counting agents of the Petitioner, the 1st Respondent and other candidates present.

13. That as to paragraph 16, it is admitted that upon a request for a recount at Mabumbu Polling Station, the Petitioner's tally was corrected from 304 to 349 votes. It is averred that this correction, made promptly and transparently upon request and in the presence of the candidates' agents, demonstrates the proper functioning, and not the failure, of the 2nd Respondent's counting and verification procedures, there being an effective internal mechanism through which any recording error could be, and was, identified and rectified before the final result was declared.

14. That as to paragraphs 17, 18, 19 and 20, it is admitted that there exist minor numerical differences between the total votes recorded on the Gen 20 forms for the Presidential, Parliamentary and Council

Chairperson/Councillor elections at Mabumbu, Simungoma, Mwandi 1 and Lusinina Polling Stations respectively, but it is denied that these differences are evidence of any failure to properly count the votes or to conduct the election.

15. That it is averred that at the General Elections held on 13th August, 2026 each voter was issued with separate ballot papers for the Presidential, Parliamentary, Council Chairperson and Councillor elections, and it is a common and lawful occurrence for a voter to cast a valid vote in one or more of those elections while abstaining from voting in, or spoiling the ballot paper for, another. Such differences in the number of votes recorded at the same polling station for different offices are ordinarily and reasonably explained by voter abstention and rejected or spoilt ballots, and are not, without more, indicative of malpractice, fraud, or a failure to properly count.

16. That the Gen 20 forms exhibited by the Petitioner and marked "SKS.4" to "SKS.12" were each compiled and signed by the respective Presiding Officers and countersigned by the polling and counting agents present, including the Petitioner's own polling agents, without any recorded objection or protest at the time such forms were completed, and the Petitioner cannot now be heard to impeach results to which her own agents raised no contemporaneous objection.

17. That as to paragraph 21, it is denied that the matters complained of, even if true (which is denied), were "widespread" or occurred in the majority of the 40 polling stations in Mwandi Constituency, and the Petitioner is put to strict proof of this bare assertion.

18. That as to paragraphs 22, 23 and 24, it is denied that the Presiding Officers breached the secrecy of the ballot or the right of any voter to vote for a candidate of their choice. It is averred that where a voter who is elderly, illiterate, blind, or otherwise unable to vote without assistance requests assistance, a Presiding Officer is permitted by law to render such assistance, or to permit a person of the voter's choice to

do so, in accordance with the Electoral Process Act No. 35 of 2016 and the Electoral (General) Regulations, and that any assistance rendered at Mwandi School 1 to 4, Lwazamnba School and Mushukula School was rendered lawfully, at the request of, and with the consent of, the voters concerned.

19. That it is denied that any voter's vote was placed for a candidate not of that voter's choice. The Petitioner's averment that she "shall provide proof of this at trial" is an admission that no such proof presently exists, and the 2nd Respondent puts the Petitioner to strict proof of this allegation.

20. That as to paragraph 25, it is denied that any misconduct on the part of the 2nd Respondent's officers affected the outcome of the results, and it is denied that the number of registered voters at Mwandi School 1 to 4, Lwazamnba School and Mushukula School (stated to total 4,373) is proof, or any evidence at all, that votes were affected to the Petitioner's detriment.

21. That as to paragraphs 26, 27 and 28, it is denied that the 1st Respondent was not duly elected, and it is denied that the election for Mwandi Constituency was void or ought to be nullified by this Honourable Court. The 2nd Respondent avers that the election was conducted freely, fairly and transparently, and in substantial compliance with the Electoral Process Act No. 35 of 2016, and that the result declared on 15th August, 2026 truly and accurately reflects the wishes of the voters of Mwandi Constituency.

22. That in the premises, the 2nd Respondent denies that the Petitioner is entitled to any of the reliefs sought in the Petition, and prays that the Petition be dismissed in its entirety with costs to the 1st and 2nd Respondents.

23. That I depose to this Affidavit in Opposition on behalf of the 2nd Respondent, verily believing the contents hereof to be true to the best of my knowledge, information and belief.

SWORN by the said]
[NOWA NOWA]
At Lusaka this 10 day]
of Sept 2026]

DEPONENT

BEFORE ME:

COMMISSIONER FOR OATHS

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

DRAWN AND FILED BY:

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