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

2026/HP/EP/.....002

IN THE MATTER OF:	**AN ELECTION PETITION RELATING TO PARLIAMENTARY ELECTION FOR CONSTITUENCY IN NKANA DISTRICT OF KITWE IN THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA**
AND IN THE MATTER OF:	**ARTICLES 45, 48, 9, 54, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO.2 OF 2016**
AND IN THE MATTER OF:	**SECTIONS 29, 55, 81, 82, 83, 86, 87, 89, 96, 97, 98, 99, 100, 106, 107 AND 108 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016 OF THE LAWS OF ZAMBIA**
AND IN THE MATTER OF:	**RULE 9(1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY NO.31 OF 2026**

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

BETWEEN:

FRANCIS MUKUKA — **PETITIONER**

AND

ALEXANDER CHITEME — **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA — **2ND RESPONDENT**

PETITION

The Petition of one **FRANCIS MUKUKA** a Zambia national resident at Plot 430, Kitwe West, in the Kitwe District of the Copperbelt Province of the Republic of Zambia **SHOWETH** that:

1. Your Petitioner is the person who was the candidate in the Nkana Constituency Parliamentary election held on the 13th August, 2026 having been adopted by the United Party for National Development **"UPND"**. The petitioner claims to have had a right to be elected in the position of Member of Parliament for the aforesaid constituency at the aforesaid 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 grievances regarding the manner in which the aforesaid elections were conducted.

3. Your petitioner states that in the election referred to in paragraph 1 above, the following persons were candidates;
   I. Alexander Chiteme –NRPUP
   II. Mukuka Francis - UPND
   III. Muchindu T. Elis – Independent
   IV. Chewe David - Independent

   and the Returning Officer Beatrice Muyila declared the 1st Respondent as having been duly elected Member of Parliament for Nkana Constituency.

4. The election was held on the 13th of August 2026 and the Returning Officer declared the following results on 16th August 2026:
   I. Alexander Chiteme –NRPUP: 19,344
   II. Mukuka Francis – UPND: 9,359
   III. Muchindu T. Elis – Independent: 2,040
   IV. Chewe David – Independent: 502

5. Your Petitioner will aver that the said election was conducted by the 2nd Respondent, the Electoral Commission of Zambia (ECZ).

6. Your Petitioner will further state that contrary to the declaration by the Returning Officer that the 1st Respondent was duly elected, the 1st Respondent was not duly elected for the reasons hereunder:

PARTICULARS OF ELECTORAL MALPRACTICE, ILLEGAL PRACTICES, UNDUE INFLUENCE AND ACTS OF VIOLENCE, BRIBERY, AND INTIMADATION CONTRARY THE CONSTITUTION AND TO THE ELECTORAL PROCESS ACT AND REGULATIONS.

I. INTIMIDATION AND THREATS TO THE PETITIONER'S POLLING AGENTS

1. The Respondent, by himself, his agents, representatives, supporters and persons acting under his direction, authority or control, deployed a number of individuals to all 86 polling stations within the Constituency for the purpose of intimidating, threatening, harassing and otherwise interfering with the Petitioner's independent observers as well as the duly appointed polling agents.

2. The aforementioned individuals confronted and intimidated the Petitioner's independent observers as well as the duly polling agents during the voting and counting processes and created an atmosphere in which the agents were unable to perform their lawful functions freely and effectively.
3. In particular, the said individuals threatened the Petitioner's polling agents and caused them to fear for their personal safety, thereby discouraging them from challenging irregularities, demanding verification of ballot papers and results, and maintaining an effective watch over the counting process.
4. The intimidation and threats were calculated to remove or diminish the Petitioner's lawful representation at polling stations at critical stages of the electoral process, particularly during voting, reconciliation and counting.
5. By reason of the foregoing conduct, the Petitioner's agents were prevented, restricted and substantially impeded from safeguarding the Petitioner's electoral interests and from ensuring that the votes cast in his favor were properly accounted for.

II. REMOVAL AND INTIMIDATION OF THE PETITIONER'S ELECTION OBSERVERS

1. The Respondent further deployed individuals to polling stations with instructions and a common purpose to intimidate, chase away, obstruct and otherwise prevent the Petitioner's election observers from remaining at polling stations during voting.
2. The said conduct resulted in the Petitioner's observers being removed from, excluded from and prevented from effectively observing the electoral process at the affected polling stations.
3. The absence of the Petitioner's observers was particularly prejudicial because it deprived the Petitioner of independent persons who had been positioned to monitor compliance with the electoral process, report irregularities and protect the integrity of the Petitioner's votes.
4. The Respondent's agents and or supporters thereby obtained an improper advantage by ensuring that persons representing the Petitioner's interests were not present to observe and record events occurring at the polling stations.

III. OVERPOWERING OF SECURITY AND UNLAWFUL INTERFERENCE WITH THE POLLING STATIONS AND ELECTION MATERIALS

1. The Respondent deployed and or caused to be deployed individuals who, at various polling stations, acted in such numbers and in such a manner as to overpower, overwhelm and render ineffective the police

and other security personnel assigned to maintain order and protect the electoral process.

2. The said individuals effectively took control of the affected polling stations and the immediate areas in which ballot papers, ballot boxes, result forms and other election materials were being handled.
3. As a consequence, the Petitioner's polling agents and observers were unable to maintain an effective presence at the relevant locations or to observe and protect the Petitioner's votes and election materials.
4. The Respondent's agents and supporters thereby created circumstances in which election materials could be interfered with, moved, accessed, altered, substituted, concealed and otherwise dealt with without effective scrutiny by persons representing the Petitioner.
5. The Respondent's conduct and the conduct of the persons deployed by him materially compromised the transparency and integrity of the electoral process at the affected polling stations.

IV. INTERFERENCE WITH ELECTRICITY AT POLLING STATIONS

1. The Respondent, through his agents, supporters and persons acting on his behalf, caused, procured and facilitated interference with the electricity supply at one or more polling stations.
2. The interruption and manipulation of the electricity supply occurred in circumstances that enabled the persons deployed by the Respondent to take advantage of the resulting darkness, disruption and confusion to interfere with ballot papers and/or other election materials without effective observation by the Petitioner's representatives.
3. The timing and circumstances of the interference with the electricity supply were suspicious and were calculated and intended to create an opportunity for unlawful interference with the ballot papers and the electoral process.
4. During the period of the electricity interruption and disruption, the Petitioner's representatives were deprived of the ability to properly observe and account for the handling, custody and movement of ballot papers and related election materials.

V. FAILURE TO PROTECT BALLOT PAPERS AFTER COUNTING AND IRREGULAR TRANSPORTATION OF ELECTION MATERIALS

1. Following the counting of votes, the ballot papers and other election materials were not kept, secured and transported under circumstances that ensured their integrity and protection from interference.
2. Instead, and contrary to the need for secure custody and transparent handling of election materials, the ballot papers were transported without adequate protection and in circumstances in which they were

exposed to interference by persons who were not authorized to handle them.

3. The insecure transportation and handling of the ballot papers occurred after the Petitioner's agents and observers had already been intimidated, removed and prevented from effectively observing the process.
4. The cumulative effect of the intimidation, removal of observers, overpowering of security personnel, interference with electricity and insecure handling and transportation of ballot papers was to deprive the Petitioner of a meaningful opportunity to safeguard and verify the votes cast in his favour.
5. The 1st Respondent, on the day of vote counting, deployed individuals at named polling stations around Nkana Constituency to obstruct vote counting and intimidate polling agents
6. The 1st Respondent, on the day of vote counting, deployed individuals to intimidate and chase the Petitioners Election observers so as to make sure none of the Petitioners observes be present during the counting.

(VI) **PARTICULARS OF BRIBERY, VOILENCE AND INTIMIDATION**

1. The Petitioner shall aver that during the period preceding and on the date of the election, the 1st Respondent, whether personally and/or through his agents, campaigners, supporters and other persons acting on his behalf and/or with his knowledge, authority and consent, engaged in acts of bribery, violence, intimidation and undue influence calculated to procure votes in his favour and to interfere with the free exercise of the franchise by voters .In particular, the Petitioner shall aver that the 1st Respondent, through his agents, supporters and persons acting at his behest, caused and/or financed acts of violence and intimidation against persons perceived to be opposed to or not supporting his candidature, with the intention of frightening, coercing and/or intimidating voters and thereby influencing the manner in which they exercised their right to vote.
2. The Petitioner shall further aver that the 1st Respondent procured, encouraged, facilitated and/or financed persons to cause violence and intimidation during the election period and that such conduct was intended to create an atmosphere of fear and insecurity among voters and supporters of opposing candidates, thereby undermining the free and fair conduct of the election.
3. The Petitioner shall further aver that on polling day, the 1st Respondent was personally observed at and/or in the vicinity of a polling station distributing

and/or causing to be distributed the sum of K100.00 to voters and/or prospective voters, with the intention of inducing such persons to vote for him.

4. The Petitioner shall aver that the payment of K100.00 to voters was not a lawful election expense but constituted a corrupt inducement intended to influence voters in favour of the 1st Respondent and to procure votes for his candidature.
5. The Petitioner shall further aver that the conduct complained of was carried out either personally by the 1st Respondent or through his agents, servants, campaigners and/or supporters, and the 1st Respondent is accordingly responsible for the acts complained of.
6. The aforesaid conduct constitutes bribery contrary to section 81(1) of the Electoral Process Act No. 35 of 2016, which prohibits a person from directly or indirectly giving, lending, procuring, offering or promising money to a voter or another person for the purpose of inducing a voter to vote or refrain from voting, or for the purpose of procuring the return of a particular candidate.
7. The Petitioner shall further aver that the acts of violence, threats and intimidation complained of constitute undue influence contrary to section 83(1) of the Electoral Process Act, which prohibits the direct or indirect use, or threatened use, of force, violence or restraint, as well as conduct intended to compel or induce a person to vote or support a particular candidate.
8. The Petitioner shall further aver that the aforesaid conduct was contrary to the Electoral Code of Conduct, which prohibits a person from causing violence or engaging in conduct which leads or is likely to lead to violence or intimidation during an election campaign or election.
9. The Petitioner shall contend that the bribery, violence, intimidation and undue influence complained of were not isolated or accidental acts but formed part of a course of conduct intended to unlawfully influence voters and undermine the integrity, credibility and fairness of the election.
10. The Petitioner shall accordingly contend that the election was not conducted in accordance with the principles of a free and fair election and that the said corrupt and illegal practices materially affected the conduct and outcome of the election.
11. The Petitioner shall rely upon the evidence of the persons who personally witnessed the 1st Respondent distributing the said K100.00 to voters, together with the evidence of persons who witnessed and/or experienced the acts of violence, intimidation and threats perpetrated by persons acting for or on behalf of the 1st Respondent.
12. The Petitioner shall further rely upon such documentary, photographic, video, electronic, testimonial and other evidence as may be produced at the hearing of this Petition in support of the foregoing allegations.

Therefore, the Petitioner contends that the 1st Respondent was not validly elected.

7. Your Petitioner contends that the results announced by the 2nd Respondent's agents on the 16th August, 2026 under paragraph 4 herein, were not a true reflection of whom the electorate wanted as Member of Parliament for Nkana Constituency.

8. Your Petitioner will further aver that the said Presiding Officers, with knowledge and consent or approval of the 1st Respondent and his agents, systematically, deliberately and fraudulently refused, neglected and omitted to perform their role to conduct free and fair elections to the detriment of your Petitioner.

9. Your Petitioner states that the 1st Respondent by himself and by his agents, clandestinely involved themselves in corrupt and illegal practices and/or other misconducts committed in relation to the Nkana Constituency Parliamentary Elections. The 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.

10. Your Petitioner states that as a consequence of the aforesaid illegal practices committed by the 1st Respondent and his agents, the majority of the voters in the affected areas and polling stations were prevented from electing a candidate in the constituency of their preference.

BY REASON OF THE FOREGOING, YOUR PETITIONER PRAYS FOR:

1. A declaration that the election of the 1st Respondent as Member of Parliament for Nkana Constituency is null and void;

2. A Declaration that the illegal practices committed by the 1st Respondent or their agents affected the election results and that same should be nullified;

3. An order for a re-election for Parliamentary candidate for Nkana Constituency;

4. An Order that costs be borne by the Respondents;

5. Any other relief that this Honourable Court may deem fit.

AND YOUR PETITIONER will forever PRAY.

Dated at Lusaka this..... day of ..... 2026.

PETITIONER
FRANCIS MUKUKA

This Petition was taken out by **MESSRS. HARA AND COMPANY LEGAL PRACTITIONERS**
Whose address for service is Mega Complex, Plot No.32, Unit 9, Independence Avenue, P. O Box 70773, Kitwe. Whose Email address is; info@haraandcompany.com, cell; +260 972892781. Solicitors for the Petitioner, whose Physical Address is Plot 430, Kitwe West, Kitwe of the Copperbelt province, Zambia.

To: 1ST RESPONDENT
ALEXANDER CHITEME
Riverside phase 4
KITWE.

2ND RESPONDENT
The Chairperson
ELECTORAL COMMISSION OF ZAMBIA
Elections House
Haile Selassie Road
Long Acres
LUSAKA.

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/002**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: AN ELECTION PETITION RELATING TO PARLIAMENTARY ELECTION FOR NKANA CONSTITUENCY IN NKANA DISTRICT OF KITWE IN THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA

AND

IN THE MATTER OF: ARTICLES 45, 48, 9, 54, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO. 2 OF 2016

AND

IN THE MATTER OF: SECTIONS 29, 55, 81, 82, 83, 86, 87, 89, 96, 97, 98, 100, 106, 107 AND 108 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: RULE 9(1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 34 OF 2026

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

BETWEEN:

FRANCIS MUKUKA **PETITIONER**

AND

ALEXANDER CHITEME **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

2ND RESPONDENT'S ANSWER

The 2nd Respondent's Answer to the Petition herein shows that:

1. The 2nd Respondent is a statutory body established under Article 229 of the Constitution (Amendment) Act No. 2 of 2016 to among other functions; conduct Presidential, Parliamentary and Local Government elections.

2. The contents of paragraphs 1 to 2 are within the peculiar knowledge of the Petitioner.

3. The 2nd Respondent admits the contents of paragraphs 3 to 5 of the Petition.

4. The 2nd Respondent denies paragraph 6 of the Petition and shall aver at trial that the 1st Respondent was duly elected, having obtained the highest number of valid votes cast following the counting, tallying, and declaration of results for the election in Nkana Constituency.

5. The contents of paragraph 6(I) of the Petition is within the peculiar knowledge of the Petitioner. The 2nd Respondent shall aver at trial that no reports of alleged threats or intimidation were received from presiding officers or security personnel deployed across the 86 polling stations in Nkana Constituency.

6. Further, the 2nd Respondent shall aver that the Returning Officer and her assistants conducted routinely monitored visits across the polling stations and neither observed the alleged incidents nor received any formal or informal reports that the Petitioner's agents were being, or had been, intimidated.

7. The contents of paragraph 6(II) of the Petition are within the peculiar knowledge of the Petitioner. The 2nd Respondent shall aver that no reports of polling agents being removed were made by presiding officers, and that law and order was maintained across all polling stations by Presiding Officers working alongside deployed police officers.

8. Further, the 2nd Respondent shall aver at trial that the Returning Officer and her assistants inspected the polling stations, observed polling agents present, and received no reports regarding the removal or intimidation of any agents. All candidates' agents were present during the counting process and duly signed the Gen 20a forms.

9. The contents of paragraph 6(III) of the Petition are denied and the Petitioner shall be put to strict proof at trial. The 2nd Respondent shall aver that the presiding officers and the assigned police officers remained in charge throughout the conduct of elections.

10. The 2nd Respondent denies the contents of paragraph 6(iv) of the Petition and shall put the Petitioner to strict proof at trial. The 2nd Respondent shall aver at trial that grid power provided by ZESCO remained continuous across all connected stations and that alternative lighting equipment (solar lamps) was distributed where required. The 2nd Respondent further avers that no polling station suffered a total power loss, nor was any report lodged indicating that power deficits compromised the voting or counting processes.

11. The 2nd Respondent denies the contents of paragraph 6(v) of the Petition and the Petitioner shall be put to strict proof. The 2nd Respondent repeats the contents of paragraphs 6 to 10 above.

12. Further, the 2nd Respondent shall aver at trial that all election materials were collected from polling stations using its vehicles, escorted by Presiding Officers and police officers and delivered to the totalling centre where adequate security personnel were deployed. All ballot boxes were duly sealed at the respective polling stations in the presence of candidate agents and observers.

13. The contents of paragraphs 6(vi) of the Petition are within the peculiar knowledge of the Petitioner and the 2nd Respondent shall put the Petitioner to strict proof at trial.

14. The contents of paragraph 7 of the Petition are denied and the Petitioner shall be put to strict proof at trial.

15. The contents of paragraph 8 to 10 of the Petition are within the peculiar knowledge of the Petitioner and the Petitioner shall be put to strict proof at trial.

16. The return and declaration of the 1st Respondent as the duly elected Member of Parliament for Nkana Constituency was conducted in full compliance with the law and marked the lawful culmination of the electoral process

17. The 2nd Respondent avers that the Petitioner is not entitled to any of the reliefs sought in paragraph 10 (1) to (5) of the Petition.

18. Save as herein expressly admitted, the 2nd Respondent denies each and every allegation contained in the Petition as if the same was herein set forth and traversed seriatim.

Dated at Lusaka this day of 2026.

2nd Respondent

Legal Counsel
Electoral Commission of Zambia
Elections House,
Haile Selassie Avenue
P.O. Box 50274
LUSAKA
Email: elections@elections.org.zm
ADVOCATES FOR THE 2ND RESPONDENT

Sepo Legal Practitioners
Plot F/32a/995, Mean wood Kwamwena,
P. O. Box 34777
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CO-ADVOCATES FOR THE THE 2ND RESPONDENT

To: Messrs. Hara and Company
Plot No. 32, Unit 9
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ADVOCATES FOR THE PETITIONER

To: **The 1st Respondent**
Alexander Chiteme
Riverside Phase 4
Kitwe

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LUSAKA
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CO-ADVOCATES FOR THE THE 2ND RESPONDENT

IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP/002

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)

IN THE MATTER OF:	AN ELECTION PETITION RELATING TO PARLIAMENTARY ELECTION FOR CONSTITUENCY IN NKANA DISTRICT OF KITWE IN THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA
AND IN THE MATTER OF:	ARTICLES 45, 48, 9, 54, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO.2 OF 2016.
AND IN THE MATTER OF:	SECTIONS 29,55,81,82,83,86,87,89,96,97,98,99, 100,106,107 AND 108 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA
AND IN THE MATTER OF:	RULE 9 (1) OF THE HIGH COURT OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO.31 OF 2026

BETWEEN:

FRANSIS MUKUKA PETITIONER

AND

ALEXANDER CHITEME 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA 2ND RESPONDENT

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 03 SEP 2026 PRINCIPAL REGISTRY 4 P.O. BOX 50067, LUSAKA.

1ST RESPONDENT'S ANSWER

The 1st Respondent Alexander Chiteme of No. 21 Mulundu Place Riverside Kitwe of the Copperbelt Province of the Republic of Zambia responds to the Petition of **FRANCIS MUKUKA** as Follows:

1. Paragraph 1 and 2 of the Petition are in the peculiar knowledge of the Petitioner.
2. The 1st Respondent does not dispute paragraphs 3, 4 and 5 of the Petition.
3. The 1st Respondent disputes the contents of paragraph 6, will state that he was duly elected and will respond to each allegation raised as follows:

RESPONSE TO PARTICULARS OF ELECTORAL MALPRACTICE, ILLEGAL PRACTICES, UNDUE INFLUENCE AND ACTS OF VIOLENCE, BRIBERY, AND INTIMIDATION CONTRARY TO THE CONSTITUTION AND TO THE ELECTORAL PROCESS ACT AND REGULATIONS.

I. INTIMIDATION AND THREATS TO THE PETITIONER'S POLLING AGENTS

1. The 1st Respondent states that he never deployed any individuals by himself or directed any agents or his representatives within the constituency to any of the 86 polling stations for the purpose of intimidating, threatening, harassing and otherwise interfering with the Petitioner's independent observers. The 1st Respondent will state that neither the Petitioner nor his agents filed any complaint regarding the intimidation or harassment to the 2nd Respondent or the Zambia Police. The 1st Respondent will further state that the Petitioner has not named any individual that was purportedly sent by the 1st Respondent to harass or intimidate his independent observers. Further no documentary evidence of intimidation has been produced by the Petitioner to prove his allegation has been produced.

2. The 1st Respondent repeats paragraph 1 above and will state that no individuals have been named other than the 1st Respondent who was on bed rest for over a week and on the date of election and the days after. The 1st Respondent will put the Petitioner to strict proof at trial and will require the Petitioner to name the individuals and produce complaints lodged by the Petitioner's independent observers to the Electoral Commission of Zambia or the Zambia Police.

3. The 1st Respondent states that paragraph 3 is false and misleading as the polling stations had the presence of Zambia Police, Zambia Army and

Electoral Commission of Zambia staff and there was no occasion of any of the events that are being alleged to have occurred by the Petitioner. The 1st Respondent will aver that it was in fact the Petitioner's supporters who threatened violence against the 1st Respondent and his foot soldiers who were mainly women. The foot soldiers from various wards will at trial testify to this fact.

4. The 1st Respondent denies the contents of paragraph 4 and will state that it was the Petitioner who was intimidating polling staff as he was supported by the ruling party and had access to restricted areas where the ballot papers were kept. It was the Petitioner and his supports that were intimidating and threatening violence on the 1st Respondent instead. In fact the officials from the 2nd Respondent at the totalling centre can testify to this fact.

5. The 1st Respondent denies paragraph 5 and will state that there was no intimidation that occurred on the Petitioner or his independent observers as the Petitioner was accorded every right a candidate deserves and his interests were protected accordingly.

II REMOVAL AND INTIMIDATION OF THE PETITIONER'S ELECTION OBSERVERS

1. The 1st Respondent denies the contents of paragraph 1 and will put the Petitioner to strict proof at trial as the Petitioner has not adduced any evidence of the individuals that were purportedly sent by the 1st Respondent to intimidate or chase away his polling agents. The 1st Respondent will aver that he did not deploy any individuals to intimidate, chase away, obstruct or otherwise prevent the Petitioner's observers from remaining at polling stations during voting.

2. The 1st Respondent disputes the contents of paragraph 2 and will state that the Petitioner's observers had the right to be present at all polling stations. Furthermore the Petitioner has not named the polling stations from which his observers were chased away from or intimidated.

3. The 1st Respondent will maintain that he did not deploy any individuals to harass the Petitioner's observers as the polling stations were surrounded by Zambia Police, Zambia Army and the 2nd Respondent. He will further aver that the Petitioner's observers had the right to file a complaint with the 2nd

Respondent or Zambia Police for any electoral malpractice but no complaint has been filed up to date by the Petitioner or his observers.

4. The 1st Respondent will state that the Petitioner has not named any individual who was intimidated or harassed by the 1st Respondent and will state that the Petitioner had supporters and observers in all the polling stations as he was supported by the ruling party.

III. OVERPOWERING OF SECURITY AND UNLAWFUL INTERFERENCE WITH THE POLLING STATIONS AND ELECTION MATERIALS

1. The 1st Respondent denies the allegation in paragraph 1 and will state that he never deployed or caused to be deployed individuals at various polling stations who overpowered and overwhelmed other security personnel. The 1st Respondent will aver that there were Army Officers and Police Officers surrounding the polling stations as such it was humanly impossible for anyone to overpower the security forces without being arrested.

2. The 1st Respondent denies the allegation in paragraph 2 and will state that no supporter of his took control of any polling station. The polling stations were manned by the police and Zambia Army at all material time. The Petitioner will be put to strict proof at trial.

3. Paragraph 3 is in dispute and the 1st Respondent will state that neither the Petitioner nor his observers filed any complaint with the Police or the 2nd Respondent. That further, no documentary evidence has been produced by the Petitioner to assert the said allegation.

4. The 1st Respondent will aver that the Petitioner was not materially compromised and the election was held with integrity and transparency that is required by the electoral process.

IV. INTERFERENCE WITH ELECTRICITY AT POLLING STATIONS

1. The 1st Respondent denies the fact that he or his agents interfered with electricity at one or more polling stations. The 1st Respondent will put the Petitioner to strict proof at trial to name the said polling stations that had electricity interfered with.

2. The 1st Respondent denies the allegation and will state that the Petitioner should have inquired from ZESCO as to the cause of the power outage. The 1st

Respondent will aver that he was not aware that electricity had been disrupted at any polling station but will state that the 2nd Respondent always has back-up generators in instances where power is lost at a polling station.

3. The 1st Respondent will state that there was no unlawful interference with the ballot papers as the police and Zambia Army were at all material times present on the scene and no complain was lodged by the Petitioner for unlawful interference.

4. The 1st Respondent denies that there was power disruption and will put the Petitioner to strict proof as there is no documentary evidence from the Petitioner to prove the power disruption by the 1st Respondent.

V FAILURE TO PROTECT BALLOT PAPERS AFTER COUNTING AND IRREGULAR TRANSPORTATION OF ELECTION MATERIALS

1. The 1st Respondent will not comment to the contents of paragraph 1 and 2 as it is within the peculiar knowledge of the Petitioner and 2nd Respondent.

2. The 1st Respondent denies the contents of paragraph 3 and will put the Petitioner to strict proof at trial.

3. The 1st Respondent will state that the Petitioner and his observers were present at all material times and if they were dissatisfied with any occurrence at the polling stations a complaint would have been lodged with the 2nd Respondent. That furthermore, the Petitioner has not specifically named the individuals who intimidated, harassed or chased way his observers and polling agents.

4. The 1st Respondent denies the contents of paragraph 5 and will put the Petitioner to strict proof at trial and will demand the Petitioner to name the polling stations and the individuals deployed to intimidate and harass the process of vote counting.

VI. PARTCULARS OF BRIBERY, VIOLENCE AND INTIMIDATION

1. The 1st Respondent denies the contents of paragraph 1 and will state that weeks before the election he collapsed whilst attending a church service at United Church of Zambia Mindolo and was admitted at Wusakile Mine Hospital where he was in Intensive Care Unit for three days. The 1st Respondent will aver that on the day of elections, he was the first one to

cast his vote at Parklands Secondary School around 07:00 hours in the morning after which he went back home as he was still recovering. He will aver at trial that he never interacted with anyone at any of the 86 streams for the constituency. The Petitioner will be put to strict proof at trial to name and show proof of the violence by the 1st Respondent's agents or himself as he was not near the polling stations. The Petitioner will further be expected at trial to name the agents that the 1st Respondent used to cause acts of violence and the proof of the same at trial.

2. The 1st Respondent denies the contents of paragraph 2 and will state that he never procured, encouraged, facilitated and/or facilitated persons to cause violence and intimidation during the election period. The Petitioner will be put to strict at trial to show documentary evidence of the purported violence that was caused by the 1st Respondent and/or his agents. Further the Petitioner did not lodge any complaint to the police for violence and to the 2nd Respondent for election malpractice. The 1st Respondent will aver at trial that the election was free and fair, and the best candidate was declared winner.

3. The 1st Respondent denies paragraph 3 and will state that he was at home as he was on bedrest and will put the Petitioner to strict proof at trial as the 1st Respondent was not in the vicinity of polling stations and was not distributing any money to voters as he did not have any money even for campaign posters. The Petitioner will be put to strict proof at trial to show how the 1st Respondent procured the said money that he was distributing by way of bank transfer or cash withdrawal from the bank.

4. The 1st Respondent denies paragraph 4 and will state that he only incurred lawful election expenses which included regalia and food stuffs on his foot soldiers of which the majority were women. He denies paying any K100 to any voter to induce them to vote for him and as such he will put the Petitioner to strict proof at trial.

5. The 1st Respondent denies paragraph 5 and will state that he did not distribute any money to voters to induce them to vote him. That further

the Petitioner did not lodge any complaint to the police or the Anti-Corruption Commission for corrupt practices against the 1st Respondent so that the said allegation could be investigated and determined by the Court of competent jurisdiction.

6. The 1st Respondent in response to paragraph 6 will state that he never engaged in corrupt practices as alleged by the Petitioner and will put the Petitioner at trial to produce documentary evidence of the said corrupt practices by the 1st Respondent. The 1st Respondent will aver that he only incurred lawful election expenses.

7. The 1st Respondent will in response to paragraph 7 state that he never engaged in acts of violence, threats or intimidation as complained of by the Petitioner and will put the Petitioner to strict proof at trial to name the agents of the 1st Respondent. The 1st Respondent will further aver that it was the Petitioner and his agents who were intimidating the 1st Respondent and threatened him which conduct is contrary to Section 83 (1) of the Electoral Process Act No. 35 of 2016.

8. The 1st Respondent denies paragraph 8 and will state that the conduct complained of by the Petitioner is incorrect and the Petitioner will put to strict proof at trial.

9. The 1st Respondent denies paragraph 9 and will state that there was no bribery, violence, intimidation and undue influence during the elections and period leading after and the Petitioner will be put to strict proof at trial to provide complaints that were lodged at the police for violence and to the 2nd Respondent for undue influence and intimidation.

10. The 1st Respondent denies paragraph 10 and will state the election was conducted in a free and fair manner and all the principles of fairness were followed as the Zambia Police and Zambia Army were present at all polling stations to ensure that there were not acts of violence or intimidation.

11. The 1st Respondent will in response to paragraph 11 and state that the Petitioner will be put to strict proof to produce and name individuals who received the said sums of money.

12. The 1st Respondent will put the Petitioner to strict proof at trial as to the evidence that will support his assertions.

The 1st Respondent states that he was validly elected to the office of Member of Parliament for Nkana Constituency.

4. The 1st Respondent will in response to paragraph 7 state that the results that were announced by the 2nd Respondent are a true reflection of the election that was held on 13th August 2026 and he was the candidate that was elected by the people of Nkana Constituency.

5. The 1st Respondent will aver that all the presiding officers performed their duties diligently and in accordance with the law during the elections. The 1st Respondent states that he never interfered with the election and will put the Petitioner to strict proof to name the agents that were used by the 1st Respondent to the detriment of the Petitioner.

6. The 1st Respondent disputes the contents of paragraph 9 and will state that he never engaged in corrupt and illegal practices and no misconducts were committed on his part either by himself or his foot soldiers. He will aver at trial that the election was held in free and fair manner as provided for in the Republic Constitution and the Electoral Process Act. The 1st Respondent will further state that no complaint was filed by the Petitioner to the Zambia Police or the 2nd Respondent regarding the conduct of the 1st Respondent as such bringing this Petition before this Honourable Court as an afterthought.

7. The 1st Respondent will aver that the voter turnout in the constituency was more than 60% of the registered voters and the majority of which elected the 1st Respondent as their preferred candidate. Therefore, the assertion that the alleged practices by the 1st Respondent prevented the voters from electing their preferred candidate is false and misleading.

8. The 1st Respondent prays that all the reliefs sought by the Petitioner be dismissed and costs be borne by the Petitioner.

Dated at Lusaka this _____day of _____2026

1st Respondent
ALEXANDER CHITEME

This Answer was prepared by:
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Kitwe

To: **The 2nd Respondent**

The Electoral Commission of Zambia

Election House

Haile Selassie Avenue

Longacres

Lusaka

IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP/002

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)

IN THE MATTER OF:	AN ELECTION PETITION RELATING TO PARLIAMENTARY ELECTION FOR CONSTITUENCY IN NKANA DISTRICT OF KITWE IN THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA
AND IN THE MATTER OF:	ARTICLES 45, 48, 9, 54, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO.2 OF 2016.
AND IN THE MATTER OF:	SECTIONS 29,55,81,82,83,86,87,89,96,97,98,99, 100,106,107 AND 108 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA
AND IN THE MATTER OF:	RULE 9 (1) OF THE HIGH COURT OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO.31 OF 2026

BETWEEN:



FRANSIS MUKUKA PETITIONER

AND

ALEXANDER CHITEME 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA 2ND RESPONDENT

1ST RESPONDENT'S SKELETON ARGUMENTS

IF IT MAY PLEASE THIS HONOURABLE COURT, these are the 1st Respondent's Skeleton Arguments filed in support of the Affidavit in opposition. The 1st

Respondent shall rely on the Affidavit deposed by one **Alexander Chiteme** and submissions as outlined hereunder.

The 1st Respondent shall rely on the following list of authorities:

1. Legislation :

1.1. Constitution Amendment Act no. 2 of 2016.

1.2. Electoral Process Act no. 35 of 2016.

1.3. Electoral (Code of Conduct) Regulations, SI NO. 31 OF 2026.

2. Case law

1.4. 2.1. Brelsford James Gondwe V Catherine Namugala Appeal No. 175 Of 2012 SCZ

1.5. Nkandu Luo & Another V Doreen Sefuke Mwamba

1.6. Giles Chomba Yamba Yamba V Kapembwa Simbao & Others Judgment no. 6 of 2018,

1.7. Lewanika V Chiluba (1988) ZR 79

1.8. Chrispin Siingwa V Stanley Kakubo , Appeal no. 7 of 2017.

3. Others

3.1. Halsbury's Laws of England, 5th Edition.

My Lord/Lady, the 1st Respondent will aver in his arguments before this Honourable Court that the allegations that the Petitioner has brought before this Honourable Court should be dismissed as the matter before this Court does not satisfy the legal

basis for bringing a petition. The 1st Respondent will respond to the issues raised in the Skeleton Arguments in Support of Affidavit verifying facts as follows:

1. **Burden and Standard of Proof in election Petitions**

My Lord/ Lady, the case of **Brelsford James Gondwe V Catherine Namugala Appeal No. 175 Of 2012 SCZ** wherein the Supreme Court held as follows in relation to the standard of proof in lection petitions

> *"The burden of establishing any one of the grounds lies on the person making the allegation and in election petitions, it is the Petitioner in keeping with the well settled principle of law in civil matters that he who alleges must prove. The grounds must be established to the required standard in election petitions namely a fairly high degree of convincing clarity."*

Further my Lord/Lady, in the case of **Nkandu Luo & Another V Doreen Sefuke Mwamba** , *the Constitutional Court* put the provisions of *Section 97(2)(a) in its proper perspective when it held as follows:*

"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 such malpractice was committed with the knowledge and

consent or approval of the candidate or his or her election or polling agent."

The Constitutional Court held further that:

"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 electorates from electing the candidate of their choice."

2. **Illegal Practices committed by the 1st Respondent**

My Lord/Lady, the case of **Giles Chomba Yamba Yamba V Kapembwa Simbao & Others Judgment no. 6 of 2018,** where the Constitutional Court held as follows in relation to the annulment of an election based on corrupt or illegal practices:

"We have already stated above that an election can be annulled on the strength of one incident of corrupt or illegal practice or misconduct provided that, under Section 97(2)(a), such is attributable to the candidate or his duly appointed agent with their knowledge and consent or approval and the majority of the electorates were or may have been prevented from electing a candidate they preferred; or if it is an allegation pursuant to Section 97(2)(b) on non-compliance, cogent evidence must be proffered to show that the results were affected. That is the new threshold."

MY Lord/Lady, it is the 1st Respondent's submission that the Petitioner's grievances is against acts of violence, intimidation and or harassment committed by "persons

purporting to represent and/or support the 1st Respondent" which falls far short of the applicable standard of proof required in election petitions of proof to a fairly high degree of convincing clarity on the basis of the decisions in the **Lewanika V Chiluba (1988) ZR 79** and that of **Brelsford James Gondwe V Catherine Namugala (Appeal no. 175 of 2021)**

We thus submit that the election of the 1st Respondent could not be annulled based on allegations against unknown persons who in any event are not in any way connected to the 1st Respondent or his officially appointed agents.

My Lord/Lady, we further refer this Honourable Court to the cases of **Giles Chomba Yamba V Kapembwa Simbao & Others** and that of **Nkandu Luo V Doreen Sefuke Mwamba, selected Judgment no. 51 of 2018,** which cases emphasize the need to prove the misconduct or malpractice committed either by the candidate or their appointed election or polling agents or for acts committed by other people with their knowledge, consent or approval. The above cases also illustrate the fact that not everyone in one's political party is one's election agent as election agents have to be specifically appointed.

MY Lord/Lady, we contend on the authority of **Chrispin Siingwa V Stanley Kakubo , Appeal no. 7 of 2017,** that none of the Petitioner's evidence named the 1st Respondent or his election agents at any of the polling stations as perpetrators of any of the allegations contained in the petition. Similarly, we submit before this Honourable Court that there was no evidence showing that the 1st Respondent or his

election agents were aware of the violent act, harassment or intimidation of other agents complained of as required by the provisions of Sections 83 and 97(2) of the Electoral Process Act.

We draw the attention of this Honourable Court to the learned authors of **Halsbury's Laws of England, 5th Edition volume 38A where they opine at paragraph 667** as follows:

> *"No election is to be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the appropriate election rules if it appears to the tribunal having cognizance of the question that the election was so conducted substantially in accordance with the law as to elections, and that the act or omission did not affect its results. The function of the Court in exercising this jurisdiction is not assisted, by consideration of the standard of proof but, having regard to the consequences of declaring an election void, there must be a preponderance of evidence supporting any conclusion that the result was affected."*

My Lord/Lady, we draw the attention of this Honourable Court to **Article 229 of the Constitution of Zambia (Amendment), Act no. 2 of 2016,** which provides as follows:

"(1) There is established the Electoral Commission of Zambia which shall have offices in provinces and progressively in districts.

(2) The Electoral Commission shall:-

a) implement the electoral process;

b) conduct elections and referenda;

c) register voters;

d) settle minor electoral disputes as prescribed;

e) regulate the conduct of voters and candidates;

f) Accredit observes and election agents as

Prescribed;

g) delimit electoral boundaries; and

h) perform such other functions as prescribed..."

My Lord/Lady, it is our argument and submission that the monitoring and supervising of all individuals during the election process is the duty of the 2nd respondent. Also, including the 2nd Respondent, other supervising authorities were present through out the election process. Therefore, the Petitioner's allegations that there was violence, harassment and or intimidation from the 1st Respondent are false as there would have been disciplinary actions taken by the ECZ, Zambia Police or the Zambia Army.

my Lord/Lady, the Provisions of **Regulation 12 of the Electoral (Code of Conduct) Regulations 2016** which provides the procedure where misconduct or malpractice has been noticed as follows:

"1. The following persons may lodge a complaint to the Commission in relation to

an election:

a) a voter or candidate in a constituency where a breach of this code has been committed or

b) from a political party participating in an election

2. Complaints arising during election campaigns and elections may be made to an election officer or to a conflict management committee at the place where the conduct

complained against occurred.

3. The Commission may refer and report any violation of the Code to the Zambia Police Service, Anti-Corruption Commission or any other appropriate law enforcement agency for investigation and prosecution where appropriate."

My Lord/Lady, the Petitioner has exhibited in his Affidavit verifying facts, letters that were addressed to ECZ complaining of the violence, harassment and or intimidation of his representatives. From the said letters, we bring this Honourable Court's attention to the fact that the said letter do not expressly mention the 1st Respondent or any of his duly appointed agents. Further, the said letters do not have acknowledgment stamps on them from ECZ. It is therefore, our argument that the said letters, were never filed with the ECZ.

In light of the foregoing, the 1st Respondent humbly prays that this Honourable Court dismisses this Petition with costs because the Petitioner has not proved their case beyond the balance of probabilities.

We are obliged.

Dated at Lusaka this_____day of_____2026.

These arguments were drawn by:_____

Messrs KBF & Partners,

Plot no. 30, Bwijifumu Road,

P O Box 34444, Rhodespark,

LUSAKA.

Email: info@kbf.legal

ADOVCATES FOR THE 1ST RESPONDENT

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/002**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: AN ELECTION PETITION RELATING TO PARLIAMENTARY ELECTION FOR NKANA CONSTITUENCY IN NKANA DISTRICT OF KITWE IN THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA

AND

IN THE MATTER OF: ARTICLES 45, 48, 9, 54, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO. 2 OF 2016

AND

IN THE MATTER OF: SECTIONS 29, 55, 81, 82, 83, 86, 87, 89, 96, 97, 98, 100, 106, 107 AND 108 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: RULE 9(1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026

BETWEEN:

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

FRANCIS MUKUKA **PETITIONER**

AND

ALEXANDER CHITEME **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

2ND RESPONDENT'S LIST OF AUTHORITIES AND SKELETON ARGUMENTS

1.0 **LIST OF AUTHORITIES**

1.1 **Cases**

1. Abuid Kawangu v. Elijah Muchima (2017) Appeal No. 8;

2. Changano Kakoma Charles v. Kundoti Mulonda Appeal No. 5 of 2017;
3. Nkandu Luo v. Doreen Sefuke Mwamba and Attorney General (2018) Selected Judgement No. 51; and
4. Steven Masumba v. Elliot Kamondo (2017) ZLR 130.

1.2 **Statutes**

1. The Constitution of Zambia (Amendment) Act No. 2 of 2016; and
2. Electoral Process Act No. 35 of 2016.

2.0 **ARGUMENTS**

2.1 If it may please this Honourable Court, these are the skeleton arguments tendered on behalf of the 2nd Respondent.

2.2 **MY LORD/LADY,** the brief facts of this matter are that the Petitioner commenced this matter on 27th August, 2026 by way of Petition and Affidavit Verifying Facts seeking the following reliefs:

1. A declaration that the election of the 1st Respondent as Member of Parliament for Nkana Contituency is null and void;
2. A declaration that the illegal practice committed by the 1st Respondent or their agents affected the election results and that same should be nullified;
3. An order for a re – election for Parliamentary candidate for Nkana Constituency;

4. An order that costs be borne by the Respondents; and
5. Any other relief that this Honourable Court may deem fit.

2.3 The Petitioner alleges that his agents and election observers were intimidated, threatened and removed from polling stations and that there was overpowering of security and unlawful interference with polling stations and election materials. The Petitioner further alleges that there was interference with electricity at polling stations, failure to protect ballot papers, bribery, violence and irregular transportation of election materials.

2.4 **MY LORD/LADY**, the Petitioner has brought a Petition challenging the validity of the election of the 1st Respondent as Member of Parliament for Nkana Constituency after the 2nd Respondent declared the 1st Respondent as the duly elected candidate for Nkana Constituency. Article 229 of the Constitution of Zambia establishes the 2nd Respondent and mandates the 2nd Respondent to implement the electoral process and conduct elections and referenda, among others functions.

2.5 It is trite that generally, the onus of proving any civil matter, which is applicable to this Petition, lies on the Petitioner. In **Changano Kakoma Charles v. Kundoti Mulonda Appeal No. 5 of 2017**, the Court stated as follows:

> *"In election petitions, the burden of proof lies on a petitioner and where the trial court finds evidence unconvincing or where his*

evidence does not prove the allegation to the required high standard, it matters not the evidence proffered by the other party, the case will fail."

3.0 In addition, the Constitutional Court in the **Abuid Kawangu v. Elijah Muchima (2017) Appeal No. 8** observed that:

"We agree with the Respondent's submissions that the burden lay on the Appellant as Petitioner in the court below to prove the allegations made in his petition against the Respondent. This is because the one alleging ... carries the burden of proving all the allegations. He must prove the allegations to the required standard with cogent evidence otherwise no judgement will be entered in his favour."

3.1 It can, therefore, be clearly seen that the Petitioner has not presented any cogent evidence to prove the allegations stated in his Petition and Affidavit Verifying Facts so as to warrant this Honourable Court to enter judgment in the Petitioner's favour.

3.2 **MY LORD/LADY**, Section 97 (2) of the Electoral Process Act No. 35 of 2016 states that:

"The election of a candidate as a Member of Parliament ...shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court... 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."

3.3 **MY LORD/LADY**, the above provision provides for nullification of a Parliamentary Election Petition only where it is proved to the satisfaction of the Court that the conduct alleged prevented the majority from voting for their preferred candidate or where there has been non-compliance with the provisions of the Electoral Process Act relating to

the conduct of elections and the non – compliance affects the result of the election.

3.4 Despite the Petitioner alleging that his agents and election observers were intimidated, threatened and removed from polling stations and that there was overpowering of security, failure to protect the vote and unlawful interference with polling stations and election materials, among others, the Petitioner has failed to prove the said allegations against the 2nd Respondent and that the alleged conduct affected the result of the election which saw the 1st Respondent being duly elected as Member of Parliament for Nkana Parliamentary Constituency.

3.5 **My LORD/ LADY**, the standard and burden of proof in an election petition lies on the Petitioner and is higher than the ordinary balance of probability but lower than the standard beyond reasonable doubt. The Constitutional Court in **Nkandu Luo v. Doreen Sefuke Mwamba and Attorney General (2018) Selected Judgement No. 51,** specifically addressed its mind to the requirements of Section 97(2) and stated as follows:

> "As earlier stated, we have, in unequal terms, stated our position on the above provisions. 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." (underlined for emphasis).

4.0 The Constitutional Court in the aforesaid case went further and pointed out that there was an additional limb that was required to be satisfied under Section 97 and the Court accordingly emphasized the following: "In addition to proving the electoral malpractice or misconduct alleged, the petitioner has the further task of adducing cogent evidence that the electoral malpractice was so widespread that it swayed or may have swayed the majority of the electorate from electing the candidate of their choice." (underlined for emphasis)

4.1 In **Steven Masumba v. Elliot Kamondo (2017) ZLR 130**, the Constitutional Court held that the requirement for nullifying an election of a Member of Parliament in terms of Section 97(2) of the Electoral Process Act was not only proof that the respondent, or his election or polling agent, with his knowledge and consent, committed a corrupt or illegal act, but also proof that the corrupt or illegal act or misconduct prevented the majority of voters in the constituency from voting for their preferred candidate."

4.2 Therefore, the Petitioner has failed to discharge the standard of proof bestowed upon him.

4.3 We therefore pray that this Honourable Court dismisses this petition for lack of merit with costs to the 2nd Respondent.

We are obliged.

Dated the .....day of 2026

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CO-ADVOCATES FOR THE THE 2ND RESPONDENT

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
[Civil Jurisdiction]

2026/HP/EP/002

IN THE MATTER OF	AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR THE CONSTITUENCY IN NKANA DISTRICT OF KITWE IN THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA
AND IN THE MATTER OF:	ARTICLES 45, 48, 9, 54, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO. 2 OF 2016.
AND IN THE MATTER OF:	SECTIONS 29, 55, 81, 82, 83, 86, 87, 89, 96, 97, 98, 99, 100, 106, 107 AND 108 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA.
AND IN THE MATTER OF:	RULE 9[1] OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026.

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

BETWEEN:	
FRANCIS MUKUKA	PETITIONER
AND	
ALEXANDER CHITEME	1ST RESPONDENT
ELECTORAL COMMISISON OF ZAMBIA	2ND RESPONDENT

AFFIDAVIT IN OPPOSITION TO AFFIDAVIT VERIFYING FACTS OF THE PETITION

I, **ALEXANDER CHITEME,** a Zambian National of 21 Muiundu Place, Riverside, Kitwe on the Copperbelt Province of the Republic of Zambia, do HEREBY make OATH and SAY as follows:-

1.That my particulars are as above.

2. That I am the 1st Respondent in this Petition, therefore I am competent to swear this Affidavit from facts within my personal knowledge and belief.

3. That I am a parliamentary candidate for the Nkana Constituency Elections that took place in the Kitwe District on the Copperbelt Province in the Republic of Zambia on the 13th of August, 2026, and I was adopted and sponsored by my party, the National Reconciliation Party for Unity and Prosperity [NRPUP].

4. That further to the above, I was subsequently nominated to contest for the Nkana Constituency Parliamentary Elections and was announced the winner of the said elections. There is now produced and shown to me marked collectively as **"AC 1"** true copies of my Adoption and Sponsorship Certificate and final results by the Electoral Commission of Zambia.

5. That I have read the Affidavit verifying facts of the Petition and wish to respond as follows:-

6. That the contents of paragraphs 1 - 4 of the Affidavit verifying facts are not in dispute.

7. That the contents of paragraph 5 of the Affidavit verifying facts are not disputed and in the peculiar knowledge of the Petitioner.

8. That the contents of paragraph 6 of the Affidavit verifying facts are not in dispute.

9. That in response to paragraph 7 of the Affidavit verifying facts, I will state that I deny the contents of paragraph 7 of the Affidavit verifying facts and will state that I have been advised by my Advocates and verily believe the same to be true that the contents of Paragraph 7 of the Affidavit verifying facts contain hearsay evidence, and should thus be expunged from the Affidavit.
10. That the contents of paragraph 8 of the Affidavit verifying facts are disputed as there was no report of any violence made to the Police station or the Electoral Commission of Zambia.
11. That the contents of paragraphs 9 and 10 of the Affidavit verifying facts are disputed, and I will repeat my statement in paragraph 10 above and add that the Zambia Police and Zambia Army were present at all polling stations at all times, there was no report of violence made against myself or my agents at any point during the elections up until the announcements of the results.
12. That the contents of paragraph 11 of the Affidavit verifying facts are disputed and I repeat my statement in paragraph 11 above.
13. That the contents of paragraph 12 of the Affidavit verifying facts are disputed as they are false, I will further state that no complaints or reports of intimidation or violence by my agents or myself were reported or lodged with the Electoral Commission of Zambia nor with the Zambia Police.
14. That the contents of paragraph 13 of the Affidavit verifying facts are disputed as the Petitioner has not shown proof of these statements.
15. That the contents of paragraph 14 of the Affidavit verifying facts are disputed and I will repeat my statement in paragraph 11 above. I will further add that no complaints were filed against myself or any

persons associated with myself at the Electoral Commission of Zambia or Zambia Police.

16. That the contents of paragraph 15 of the Affidavit verifying facts are disputed and I will state that all elections were conducted fairly in the presence of the Electoral Commission of Zambia, The Zambia Police and the Zambia Army. That none of my agents or supporters were arrested, summoned by the 2nd Respondent or the police to answer any of the allegations.
17. That the contents of paragraph 16 of the Affidavit verifying facts are disputed and will add that I was sick and on bed rest prior and during the elections. That at no point did my agents nor supporters go to any of polling stations to intimidate or harass anyone. There is now shown and marked **"AC 2"** a true copy of my sick note from Usakile Mine Hospital.
18. Further to the above, I will state that no reports of violence or harassment and intimidation were made against myself or my agents to the Electoral Commission of Zambia, the Zambia Police or the Zambia Army, representatives of which, were present at all polling stations at all times during the entire election process.
19. That the contents of paragraph 17 of the Affidavit verifying facts are disputed, and I will repeat my earlier statements that no persons associated with myself were arrested by the Police nor were any complaints filed against them.
20. That the contents of paragraphs 18, 19 and 20 of the Affidavit verifying facts are disputed as they false and meant to mislead, I further state that all polling stations were properly supervised and guarded by Law Enforcement and the Electoral Commission of Zambia at all times.
21. That further to the above, I will add that I was not present at any of the polling stations nor were any of my agents or persons associated with

myself reported for violence, intimidation or harassment to any of the local authorities.

22. That the contents of paragraphs 21 and 22 of the Affidavit verifying facts are disputed and I will state that I am not associated with ZESCO and thus, do not know how my agents or myself would interfere with electricity.

23. That the contents of paragraphs 23 to 25 of the Affidavit verifying facts are disputed and I will state that the Electoral Commission of Zambia had back-up Electricity for such occurrences. I will further add that representatives from ECZ, Zambia Police and Zambia Army were all present at the affected polling stations therefore, the Petitioners allegations are false.

24. That the contents of paragraphs 26 and 27 of the Affidavit verifying facts are disputed, and I am advised by my Advocates, which advise I verily believe to be true that the contents of paragraph 26 are hearsay and therefore should be expunged from the Affidavit.

25. That the contents of paragraph 28 of the Affidavit verifying facts are disputed as it is false and there is no evidence to support this.

26. That the contents of paragraph 29 of the Affidavit verifying facts are disputed in that I am advised by my Advocates, which advise I verily believe to be true that the contents of paragraph 29 are hearsay and therefore should be expunged from the Affidavit. Also that it was not my duty to transfer ballot boxes.

27. That the contents of paragraph 30 of the Affidavit verifying facts are disputed in that I am advised by my Advocates, which advise I verily believe to be true that the contents of paragraph 30 are hearsay and therefore should be expunged from the Affidavit.

28. That the contents of paragraph 31 of the Affidavit verifying facts are disputed and I will state that neither my agents nor myself interfered

with the whole election process as I was on bed rest at my personal residence and no complaints or reports of persons associated with myself were filed with the Zambia Police or the Electoral Commission of Zambia, representatives of which were present at all material times during the entire election process.

29. That the contents of paragraph 32 of the Affidavit verifying facts are disputed and I will repeat my statement in paragraph 28 above.
30. That the contents of paragraphs 33 to 36 of the Affidavit verifying facts are disputed in that I am advised by my Advocates, which advise I verily believe to be true that the contents of the said paragraphs are hearsay and therefore should be expunged from the Affidavit.
31. That the contents of paragraph 37 of the Affidavit verifying facts are disputed as they are false and personal conclusions which I am advised by my Advocates, whose advise I verily believe to be true, should be expunged from the Affidavit.
32. That the contents of paragraph 38 of the Affidavit verifying facts are disputed and the Petitioner will be put to strict proof at trial.
33. That the contents of paragraphs 39, 40 and 41 of the Affidavit verifying facts are disputed and I will repeat my statement in paragraph 28 above.
34. That the contents of paragraph 42 of the Affidavit verifying facts are disputed and I will state that there is no evidence to support the Petitioner's claims as neither myself nor my agents participated in any violent or intimidation activities. I will further repeat that representatives from Zambia Police and Zambia Army were present at all polling stations at all material times, therefore, any acts of violence would have been handled by them.
35. That the contents of paragraph 43 of the Affidavit verifying facts are not disputed.

36. That the contents of paragraphs 44 to 47 of the Affidavit verifying facts are disputed and the Petitioner will be put to strict proof at trial.

37. That the contents of paragraph 48 of the Affidavit verifying facts are disputed as the exhibited letter does not specifically mention any violence or intimidation caused by myself or my agents. Further, the exhibited letter has no acknowledgment stamp or signature from Electoral Commission of Zambia, it is therefore disputed that such letter was ever lodged or filed with the Electoral Commission of Zambia.

38. That the contents of paragraphs 49 to 52 of the Affidavit verifying facts are disputed and I will state that neither myself nor my agents interfered with any part of the election process as I was at my personal residence resting and no specific complaints were filed against any of my agents with any of the supervising authorities. I will further repeat that representatives from Electoral Commission of Zambia, Zambia Police and Zambia Army were present at all polling stations and observed the entire election process.

39. That the contents of paragraph 53 of the Affidavit verifying facts are disputed as the same contain hearsay evidence which I am advised by my Advocates, whose advise I verily believe to be true, should be expunged from the Affidavit.

40. Further to the above, the documents exhibited by the petitioner do not establish the allegations made by the Petitioner and the Petitioner will be put to strict proof of the authenticity, provenance and contents thereof. Additionally, I deny that the said documents demonstrate that the election results were altered.

41. The contents of paragraph 54 of the Affidavit verifying facts are disputed as they contain hearsay evidence and the Petitioner will be put to strict proof at trial, and I will state that at no point did I go to

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

2026/HP/EP/002

IN THE MATTER OF: **AN ELECTION PETITION RELATING TO PARLIAMENTARY ELECTION FOR NKANA CONSTITUENCY IN NKANA DISTRICT OF KITWE IN THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA**

AND

IN THE MATTER OF: **ARTICLES 45, 48, 49, 54, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO. 2 OF 2016**

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

AND

IN THE MATTER OF: **SECTIONS 29, 55, 81, 82, 83, 86, 87, 89, 96, 97, 98, 100, 106,107 AND 108 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**

AND

IN THE MATTER OF: **RULE 9(1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026**

BETWEEN:

FRANCIS MUKUKA **PETITIONER**

AND

ALEXANDER CHITEME **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

2ND RESPONDENT'S AFFIDIVIT IN OPPOSITION

I, BEATRICE MUYILA of Kitwe in the Copperbelt Province of the Republic of Zambia **DO HEREBY MAKE OATH** and **SAY** as follows:

1. That my full name and address are as stated above.

2. That I am a Zambian National.

3. That I was employed by the 2nd Respondent as the returning officer for Nkana Constituency and depose to facts and information herein which I possess by virtue of the aforesaid position.

4. That I have read what purports to be the Affidavit Verifying Facts in the Petition of one **FRANCIS MUKUKA** and wish to respond as hereunder.

5. That I am advised by the 2nd Respondent's advocates and I verily believe that in the performance of its functions, the 2nd Respondent is guided by the relevant electoral laws which, amongst others, include the Constitution of Zambia (Amendment) Act, Electoral Process Act and Regulations promulgated thereunder.

6. That the contents of paragraph 1 to 3 of the Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner.

7. That the contents of paragraph 4 of the Affidavit Verifying Facts are admitted.

8. That the contents of paragraph 5 of the Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner.

9. That the contents of paragraph 6 of the Affidavit Verifying Facts are admitted.

10. That the contents of paragraph 7 to 10 of the Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner.

11. That the contents of paragraph 11 to 25 of the Affidavit Verifying Facts are denied. No reports of alleged threats or intimidation were received from presiding officers or security personnel deployed across the 86 polling stations in Nkana Constituency. My assistants and I visited the polling stations to monitor the proceedings but did not receive any information that the agents for Mr. Mukuka had been intimidated or threatened and all election observers were present.

12. That there were no reports of the removal of election agents from any polling station in Nkana Constituency. The polling stations were manned by Presiding Officers who were accompanied by police officers to ensure that there was law and order. At no time did I receive any information that any election agents had been removed or intimidated. All election agents representing the candidates were present at the time of counting and were able to sign the GEN 20 (Announcement of Results Form).

13. That I did not receive any reports from the Presiding Officers or police officers of anyone interfering with election materials at any time. The polling stations were monitored by election observers and polling agents representing various interest groups. At no time were the polling stations taken over by anyone. The Presiding Officers and the assigned police officers remained in charge .throughout the process.

14. That all polling stations that were connected to ZESCO remained powered throughout the exercise. Places that had no electricity were supplied with solar lamps. Areas that lacked adequate lighting were provided with additional lamps. In some cases, lamps were collected from polling stations that had sufficient lighting and redistributed to stations where they were needed. There was no extreme situation that could have resulted in a total blackout. No reports were received of any polling station being completely dark or of the lack of electricity affecting the electoral process.

15. That the contents of paragraph 26 to 28 of the Affidavit verifying Facts are within the peculiar knowledge of the Petitioner.

16. That contrary to the contents of paragraph 29 to 32 of the Affidavit verifying facts, all election materials were collected from the polling stations using ECZ vehicles, accompanied by the Presiding Officer and the police officer, and transported to the totaling centre. At the totaling centre, there were sufficient security personnel to safeguard the election materials. That the ballot boxes were also sealed in the presence of the election agents and observers at the respective polling stations.

17. That there were two Presiding Officers who had mistakenly placed GEN 20 forms in the ballot boxes. These ballot boxes were not opened immediately. All the stakeholders were first addressed and informed of what had happened and their permission was sought to allow the Presiding Officers to open the boxes in their presence so that the GEN 20 forms could be retrieved. Permission was granted, and the two ballot boxes were opened in the presence of all stakeholders. The ballot boxes were subsequently sealed in their presence

18. That the contents of paragraph 33 to 38 of the Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner.

19. That the contents of paragraph 39, 40, 41, 42, 44 to 59 of the Affidavit Verifying Facts are denied. I repeat the contents of paragraphs 11, 12, 13, 14, 16 and 17 above.

20. That the contents of paragraph 43 of the Affidavit Verifying Facts are admitted, the 1st Respondent was declared winner for the Nkana Parliamentary Constituency in accordance with the prescribed electoral laws and procedures.

21. That the contents of paragraph 44 to 60 of the Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner. I repeat the contents of paragraphs 11, 12, 13, 14, 16 and 17 above.

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

Sworn by the Said)
Beatrice Muyila)
At Lusaka This 7 Day of Sept 2026)

B Muyila
Deponent

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

Before Me: _____
Commissioner for Oaths

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/.....002**

AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA

(Civil Jurisdiction)

IN THE MATTER OF: **AN ELECTION PETITION RELATING TO PARLIAMENTARY ELECTION FOR CONSTITUENCY IN NKANA DISTRICT OF KITWE IN THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA**

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

AND IN THE MATTER OF: **ARTICLES 45, 48, 9, 54, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO.2 OF 2016**

AND IN THE MATTER OF: **SECTIONS 29, 55, 81, 82, 83, 86, 87, 89, 96, 97, 98, 99, 100, 106, 107 AND 108 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016 OF THE LAWS OF ZAMBIA**

AND IN THE MATTER OF: **RULE 9(1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026 , STATUTORY NO.31 OF 2026**

BETWEEN:
FRANCIS MUKUKA **PETITIONER**
AND
ALEXANDER CHITEME **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AFFIDAVIT VERIFYING FACTS VERIFYING FACTS OF THE PETITION

I, FRANCIS MUKUKA a Zambian national of Plot 430 Kitwe West KITWE in the Kitwe Province of the Republic of Zambia **DO HEREBY MAKE OATH** and **SAY** as follows:-

1. THAT my full names and residential address are as stated above.

2. THAT I am a holder of National Registration Card Number 323833/16/1 There is now produced and shown to me marked **"FM 1"** is a true copy of the NRC confirming my nationality.

3. THAT I am the Petitioner in these proceedings and as such competent to swear to this my affidavit from facts within my personal knowledge and belief and those

availed to me by reason of my position which facts I verily belief to be true and correct.

4. That in addition to the above , I am a parliamentary candidate for the Nkana Constituency Parliamentary Elections and that took place in Nkana Constituency in Kitwe District of the Copperbelt Province of the Republic of Zambia on the 13th day of August 2026, as such I am competent and duly authorised to swear to the content of this Affidavit. Verifying my Petition.

5. THAT the facts incumbent on this my petition are that on the 18th May 2026, I was duly adopted and sponsored by my Party, the United Party for National Development **(UPND)** and subsequently nominated to contest the aforesaid Nkana Constituency Parliamentary Elections that were held on 13th August 2026, as Member of Parliament for Nkana Parliamentary Constituency. There is now produced and shown to me marked **"FM 2"** is a true copy of my Adoption and Sponsorship Certificate.

6. THAT besides myself, there were other candidates contesting in the Nkana Constituency Parliamentary Elections namely:

   (i) Alexander Chiteme –NRPUP
   (ii) Mukuka Francis - UPND
   (iii) Muchindu T. Elis – Independent
   (iv) Chewe David - Independent

7. THAT on the 13th August 2026 shortly after the election concluded and the voting and counting process was ongoing, I received a voice note from one **Helen Chibuye** informing me of serious confusion, disturbances and violence at certain polling stations within the Constituency, including conduct by persons who were interfering with the orderly conduct of the electoral process under the instruction of the 1st Respondent.

8. THAT immediately upon receiving the said voice note and becoming aware of the seriousness of the situation, I proceeded to the Police Station in an effort to seek assistance and protection for my polling agents, election observers and other persons affected by the violence and disturbances at the polling stations.

9. THAT upon reporting the matter and requesting Police intervention, I was informed by the Police that they did not have sufficient manpower to assist in resolving the violence and disturbances at the affected polling stations.

10. THAT the inability of the Police to provide sufficient assistance left my polling agents and election observers exposed to intimidation, threats, violence and interference and created an environment in which persons associated with the Respondent were able to operate without effective restraint.

11. THAT as a result of the violence and intimidating of my polling agents and observers, it became impracticable for them to remain at various police stations in Nkana Constituency due to the orchestrated attacks and threats on them and they left their respective agents leaving my votes unaccounted for and unverified in the circumstances.

12. THAT I verily believe that the said irregularities were connected to a coordinated effort by the 1ST Respondent, his agents, supporters and persons acting on his behalf to interfere with the electoral process and prevent my representatives from effectively protecting the votes cast in my favour.

13. THAT after the announcement of the parliamentary election results, I became fully aware of the extent of the serious irregularities and unlawful conduct which materially affected the voting, counting, custody and handling of ballot papers and the overall integrity of the election.

14. THAT I am reliably informed by my polling agents and election observers, and verily believe the same to be true, that persons deployed by and associated with the 1st Respondent attended at various polling stations and intimidated, threatened, harassed and obstructed my polling agents during voting and counting.

15. THAT the said persons created an atmosphere of fear and intimidation which made it difficult and, in some instances, impossible for my polling agents to effectively challenge irregularities, observe the handling of ballot papers and ensure that the votes cast in my favour were properly accounted for.

16. THAT I am further informed by my election observers and polling agents that persons deployed by and associated with the 1st Respondent chased away, intimidated and otherwise prevented my election observers from remaining at certain polling stations during voting.

17. THAT as a result, persons representing my interests were excluded from or substantially prevented from observing critical stages of the electoral process,

thereby giving persons associated with the 1st Respondent an opportunity to act without effective scrutiny from my representatives.

18. THAT furthermore, at certain polling stations, the number and conduct of persons deployed by and associated with the 1st Respondent was such that they overpowered, overwhelmed and rendered ineffective the police and other security personnel assigned to maintain order and protect the electoral process.

19. THAT the said persons effectively took over and controlled the affected polling stations and the areas in which ballot papers, ballot boxes, result forms and other election materials were being handled.

20. THAT because my polling agents and observers had been intimidated, chased away and prevented from effectively observing the proceedings, the persons deployed by and associated with the Respondent were able to interfere with the electoral process without effective observation by persons representing me.

21. THAT I am further informed that there was interference with the electricity supply at one or more polling stations during critical stages of the electoral process.

22. THAT I am informed by persons who were present at the affected polling stations that the electricity was interrupted and interfered with in circumstances which created darkness, confusion and an opportunity for persons associated with the 1st Respondent to interfere with ballot papers and other election materials.

23. THAT I verily believe that the presence of my agents and observers during the counting process was particularly important because they were required to observe the opening and counting of ballots, verify the figures recorded and, where appropriate, raise objections to any irregularities occurring during the counting process.

24. THAT after the close of polling, the votes at the relevant polling station were due to be counted in the presence of the authorised representatives of the candidates.

25. THAT I verily believe that the timing and circumstances of the electricity disruption were not accidental but were intended and utilised to facilitate interference with the ballot papers and prevent my representatives from properly observing what was taking place.

26. THAT I was informed by one **Carol Kashala** that persons were paid money to create disruption at the polling stations and to facilitate and engineer interference with ballot papers and other election materials.

27. THAT the information conveyed to me was that the payments were made for the purpose of creating disorder, removing or neutralising effective scrutiny by my representatives and creating an opportunity for ballot papers to be interfered with.

28. THAT I depose to the foregoing on the basis of information received by me and shall, at trial, identify the source of the information and rely upon the evidence of persons having direct knowledge of the payments, their recipients and the purpose for which the payments were made.

29. THAT following the counting of the votes, I was informed that the ballot papers and other election materials were not adequately secured and protected before and during transportation.

30. THAT I am informed by my polling agents and other persons with knowledge of the events that ballot papers were transported in circumstances in which they were insufficiently protected from access, interference, alteration, substitution, concealment and other unlawful handling.

31. THAT the insecure handling and transportation of the ballot papers was particularly concerning because my representatives had already been intimidated, removed and prevented from effectively observing the process.

32. THAT I verily believe that the cumulative effect of the conduct complained of was to deprive me and my representatives of a meaningful opportunity to safeguard, monitor and verify the votes cast in my favour.

33. THAT I am informed by one **Mr Mudenda Gramar** and **Mr John Chiwele**, and verily believe the same to be true, that during the counting of the ballots at polling station at Kitwe main, they encountered the Campaign Manager and Councillor under mukuba ward of the 1st Respondent namely Rodger Beziki at the side of the area where the ballots were being counted.

34. THAT upon noticing the Campaign Manager in that area, Mudenda Gramar and John Chiwele immediately approached him and demanded that he come out of the area where the counting of the ballots was taking place. The Campaign Manager thereafter came out of the said area and, in the presence of Mudenda Gramar and John Chiwele, apologised for being there.

35. THAT the Campaign Manager stated that he had been paid money to be there and to carry out the activities in question, thereby admitting that his presence and conduct at the ballot-counting area was pursuant to a payment made to him. He further offered Mudenda Gramar and John Chiwele money, in circumstances which caused them to understand that the payment was connected to the activities taking place at the ballot-counting area.

36. THAT I am informed by Mudenda Gramar and John Chiwele that the said incident occurred during the critical period when the ballots were being counted and that the presence of the Campaign Manager in the counting area was not authorised.

37. THAT I verily believe that the foregoing incident confirms the information received by me that persons were being paid to create confusion and disruption at the polling stations and to facilitate and engineer interference with the ballot papers and the counting process.

38. THAT I shall rely upon the evidence of Mudenda Gramar and John Chiwele, who have direct personal knowledge of the said incident, including the identity of the Campaign Manager, the circumstances in which he was found at the counting area, his apology, his statement that he had been paid, and his subsequent offer of money to them.

39. THAT I further verily believe that the said incident forms part of the wider pattern of conduct complained of in this Petition, namely the deployment of persons to interfere with the voting and counting process, intimidate the Petitioner's representatives, create confusion and prevent the Petitioner's representatives from effectively observing and protecting the Petitioner's votes.

40. THAT I further verily believe that the conduct complained of materially compromised the integrity, transparency and credibility of the electoral process and affected the manner in which the votes were ultimately recorded and reflected in the declared result.

41. THAT I rely upon the evidence of my polling agents, election observers and other witnesses who were present at the affected polling stations and who will provide evidence concerning the intimidation, threats, removal of observers, interference with security, electricity disruption, handling of ballot papers and transportation of election materials.

42. THAT I shall also rely upon polling-station records, polling-agent reports, result forms, security records, communications, photographs, video recordings and such other documentary and electronic evidence as may be available and relevant to the matters complained of.

43. THAT after closure of the Nkana Parliamentary Elections, and on finalisation of the vote counting, the Returning Officer one Beatrice Muyila announced and declared the polling results for Parliamentary candidate for the Nkana Parliamentary and declared ALEXANDER CHITEME as the elected member of parliament. There is now produced and shown to me marked **"FM 3"** the said declaration by the returning officer.

44. THAT upon the results been declared, I immediately sought to ascertain and verify the figures by requesting the relevant polling staff and electoral officials to furnish me with copies of the official results and statements of the poll.

45. THAT notwithstanding my request, I was denied access to and was not furnished with copies of the relevant electoral documents, including the documents necessary for me and my representatives to verify the figures that had been declared.

46. THAT the refusal and failure to provide the relevant electoral documents heightened my concerns regarding the accuracy and integrity of the results declared, particularly in light of the circumstances that had attended the counting process.

47. THAT I thereafter took steps to bring the matters complained of to the attention of the Electoral Commission of Zambia, including the disruption at the polling station, the switching off of the lights, the removal of my observers, the alleged intimidation and interference and the difficulties encountered in obtaining the relevant electoral documents.

48. THAT I requested the Electoral Commission of Zambia to urgently investigate the circumstances surrounding the conduct of the election and the counting process and to take such steps as were necessary to safeguard the integrity of the electoral process. There is now produced and shown to me marked **"FM 4"** a true copy of the correspondence and/or letters addressed by me to the Electoral Commission of Zambia concerning the matters complained of herein.

49. THAT I further verily believe that the matters complained of were not isolated or inconsequential events but formed part of a series of circumstances occurring before, during and after the election which materially interfered with my ability to participate in the election on an equal footing and to have my representatives observe and verify the electoral process.

50. THAT in particular, the intimidation and interference complained of before and during polling, coupled with the disruption of the counting process, the switching off of the lights and the removal of my observers, had the effect of depriving me of meaningful oversight through my duly appointed representatives at a critical stage of the election.

51. THAT I verily believe that the circumstances under which the votes were counted and subsequently declared raise serious questions concerning whether all votes cast were properly accounted for, accurately counted and correctly reflected in the results declared by the Returning Officer.

52. THAT I further verily believe that the conduct complained of was capable of affecting the integrity of the election and the result thereof, particularly because it occurred at or around the time when the votes were being counted and verified.

53. THAT I was informed by one Carol Kashala who was present and had knowledge of the proceedings during the counting of votes, that there were numerous discrepancies in the GEN 20 documents relating to the election results. In particular, the figures recorded for the number of voters who voted, the totals of votes recorded, and the number of registered voters were not tallying and were inconsistent with one another. There is now produced and shown to me marked **"FM5"** true copies of the said GEN 20 documents.

54. THAT I was further informed by one John Chiwele, who was present at the polling station when the the 1st Respondent came and started giving out ZMW100.00 (One Hundred Kwacha) to persons who had come to vote at the said polling station.

55. THAT I am advised by my advocates, which advice I verily believe to be true, that an election is required to be conducted in accordance with the law and in a manner that permits the electorate's will to be freely expressed and properly ascertained.

56. THAT I am further advised by my advocates, which advice I verily believe to be true, that acts of violence, intimidation, unlawful interference, disruption or other conduct which materially affects the conduct of polling, counting or verification of votes may constitute matters relevant to the validity of an election and the result thereof.

57. THAT as a consequence of the aforesaid corrupt, illegal acts, electoral malpractices committed by the 1st Respondent, the tribal remarks issued by the 1st Respondent and his Election Agents and Campaign team, the majority of the voters in the affected areas and/or many polling stations were prevented from electing a candidate (me) of their choice, whom they preferred in their Nkana Constituency.

58. THAT I verily believe that the said election of one ALEXANDER CHITEME as a Member of Parliament for Nkana Constituency was null and void, by reason of such corrupt and illegal practices engaged into by the 1" Respondent which I have itemised in the preceding paragraphs.

59. THAT further the said corrupt, violent acts and illegal practices were so perpetrated in contravention of the provisions of the Electoral Process Act no 85 of 2016 and the Electoral Code of Conduct 2016.

60. THAT I depose to the facts within verily believing the same to b e true and correct to the best of my knowledge and belief.

SWORN by the said)
FRANCIS MUKUKA)
At Lusaka this 27th Day of Aug 2026)

.....
DEPONENT

BEFORE ME: .....

COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
27 AUG 2026
SENIOR ASSISTANT REGISTRAR
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/.....

IN THE MATTER OF:	**AN ELECTION PETITION RELATING TO PARLIAMENTARY ELECTION FOR CONSTITUENCY IN NKANA DISTRICT OF KITWE IN THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA**
AND IN THE MATTER OF:	**ARTICLES 45, 48, 9, 54, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO.2 OF 2016**
AND IN THE MATTER OF:	**SECTIONS 29, 55, 81, 82, 83, 86, 87, 89, 96, 97, 98, 99, 100, 106, 107 AND 108 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016 OF THE LAWS OF ZAMBIA**
AND IN THE MATTER OF:	**RULE 9(1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026 , STATUTORY NO.31 OF 2026**

BETWEEN:

FRANCIS MUKUKA — **PETITIONER**

AND

ALEXANDER CHITEME — **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA — **2ND RESPONDENT**

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

CERTIFICATE OF EXHIBIT

These are the exhibits referred to in the affidavit of **FRANCIS MUKUKA** Produced and marked **"FM1-FM 5"**

Dated the 27th day of Aug 2026

BEFORE ME: .....
COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
27 AUG 2026
SENIOR ASSISTANT REGISTRAR
COMMISSIONER FOR OATHS
P. O. BOX 50067, LUSAKA