

**IN THE REPUBLIC OF KENYA**  
**IN THE SUPREME COURT OF KENYA AT NAIROBI**  
**PETITION NO. .... OF 2017**

**BETWEEN**

RAILA AMOLO ODINGA.....1<sup>ST</sup> PETITIONER

STEPHEN KALONZO MUSYOKA.....2<sup>ND</sup> PETITIONER

**AND**

INDEPENDENT ELECTORAL AND BOUNDARIES

COMMISSION..... 1<sup>ST</sup> RESPONDENT

THE CHAIRPERSON OF THE INDEPENDENT ELECTORAL AND  
BOUNDARIES COMMISSION..... 2<sup>ND</sup> RESPONDENT

H.E. UHURU MUIGAI KENYATTA.....3<sup>RD</sup> RESPONDENT

**AFFIDAVIT IN SUPPORT OF PETITION DATED 18<sup>TH</sup> AUGUST, 2017**

I, **DR. NYANGASI ODUWO** of Post Office Box Number 7411-00100 Nairobi and resident of the Nairobi County within the Republic of Kenya do make oath and state as follows:

1. **THAT** I am a Kenyan Citizen and a medical doctor by Profession. I have a Post-Graduate Diploma in Research Methods, a Masters in Project Management and Planning and a Second Masters in Economic Policy and Analysis.
2. **THAT** I am currently the economic advisor to the current Governor of Mombasa County Government.
3. **THAT** I am duly conversant with the subject matter of this Petition and therefore competent to swear this Affidavit in support of the Petition herein and I hereby wish to state as follows;

4. **THAT** on the 8<sup>th</sup> of August 2017, the 1<sup>st</sup> Respondent presided over the General Elections in Kenya.
5. **THAT** I am aware that according to the law and the guidelines issued by the Respondent Commission, voting was to end at 5.00 pm upon which the polling stations were to be prepared for counting and tallying of votes.
6. **THAT** I am aware that the law required the results of the polling stations to be tallied in respect of each candidate; to be recorded on Form 34A, which was to be scanned and together the record of results transmitted electronically to the Constituency Returning Officer and the National Tallying Centre, in order to secure that the results declared at every level are accountable, verifiable and credible.
7. **THAT** I am aware that on the said 8<sup>th</sup> August, 2017 at around 5.07 pm, barely 10 minutes after the closure of the polling stations, the Commission started streaming in results of the presidential vote in the media! This was done without any indication being made on whether the results were provisional or still subject to verification as required by law.
8. **THAT** I also remember that from the very start of the results broadcast to the end, a constant percentage difference of about 11% was maintained between the Petitioner and the 3<sup>rd</sup> Respondent herein. This is despite the fact that the results were coming in a random manner.
9. **THAT** in the middle of the results broadcast, the Petitioner addressed the media and raised concerns with the 1<sup>st</sup> Respondent challenging the decision by the 1<sup>st</sup> Respondent to publish results and have them broadcast as results of the Presidential vote in the absence of prior verification at the Constituency level and by the 1<sup>st</sup> Respondent through the prescribed Form 34As.
10. **THAT** I recall the 2<sup>nd</sup> Respondent addressed the media and indicated that the 1<sup>st</sup> Respondent was yet to receive all the statutory Forms 34As in respect of the

Presidential results it was streaming through the 1<sup>st</sup> Respondent's online web Portal. In his address, the Chairperson said the results which were being broadcast were provisional and that their broadcast would be stopped awaiting their verification with the relevant statutory forms as required by law. That despite this public statement, the results continued to be streamed with no indication that they were provisional or subject to verification.

11. **THAT** I am aware that in many polling stations within the Central Kenya region and the Rift Valley region, legitimate agents of the Petitioner were chased away from the stations and replaced by imposters who were caused to create fictitious names and sign blank Form 34As. Thereafter, the Presiding Officers were caused to fill in such fictitious results as they desired in favour of the 3<sup>rd</sup> Respondent, and clearly filled by one person on the particulars of all 7 agents!

**NOW ATTACHED AND MARKED "DNO – 1" IS A COPY OF A BLANK FORM 34A FOR RUAI GIRLS SECONDARY SCHOOL POLLING IN KASARANI CONSTITUENCY**

12. **THAT** I was tasked by the Petitioner herein to examine 5,000 Form 34As supplied by Presiding Officers to his various agents across the country, and to compare the same with the Form 34Bs supplied by the 1<sup>st</sup> Respondent and the Form's 34As posted on the 1<sup>st</sup> Respondent's website. I embarked on this task and made startling and grave findings as captured in the succeeding paragraphs.
13. **THAT** Form 34A submitted by the Petitioner's agent in respect of Igembe South, URA Tea Buying Centre Polling Station number 2 of 2, it is indicated the Petitioner had 66 votes, yet in Form 34B in respect of the same polling station it is indicated he has 56 votes! Furthermore the total tally recorded in Form 34A is 399 votes and in Form 34B is 389 votes.

14. **THAT** in Form 34A submitted by the Petitioner's agent in respect of Amwamba Primary School Polling Station in Igembe South, Meru County, the total tally for Odinga Raila was 323, while in Form 34B in respect of the same polling station indicated 325 votes.
15. **THAT** in Form 34A submitted by the Petitioner's agent in respect of Tonye Primary Polling Station, North Kamagambo indicate that Odinga Raila had 561 while Form 34B he had 2 votes only!
16. **THAT** while Form 34A submitted by the Petitioner's agent in respect of Memba Primary School Polling Station Number 1, West Asembo Ward Odinga Raila got 437, Form 34B showed he got only 17 votes!
17. **THAT** a scrutiny of Form 34B on the Commission's portal in respect of Karachuonyo Constituency confirms that not the whole Form 34B was uploaded as only 2 pages of the instrument was uploaded; leaving out a page covering specific results in respect of 70 Polling Stations covering a whole 2 wards.
18. **THAT** in Kilome Constituency, Makueni County, the original IEBC Form 34B does not match Form 34B uploaded in the Commission's portal. **The total valid votes in the original Form 34B is 38,269 while the downloaded Form 34B has 33,757 and therefore creating a variance of 4,512 votes!**
19. **THAT** in Igembe South, Meru County, the summation of total votes in Forms 34As comes to 41,834; and yet according to Form 34B in the Commission's portal, the total votes for Kenyatta Uhuru is 43, 209 against (-1,375).

20. **THAT** Form 34A submitted by the Petitioner's agent in respect of Mungoye Primary School Polling Station Number 1, West Bunyore, Emuhaya Constituency, Vihiga County has a variation of -10 votes against entry made on Form 34B.
21. **THAT** Form 34A in respect of St. John's Primary School Polling Station, Makongeni Ward, Makadara Constituency, Nairobi County, the total number of valid votes casts is 468 against entry on Form 34B which is stated to be 467.
22. **THAT** Form 34A submitted by the Petitioner's agent in respect of Morrison Primary School Polling Station Number 6 of 9, indicates the total number of valid votes cast to be 571, whereas Form 34B indicates Kenyatta Uhuru has a total of 453 while Odinga Raila has 121 votes making the total valid votes cast to 577.
23. **THAT** Form 34A in respect of Rabai Road Primary School Polling Station Number 1 of 4, Harambee Ward, Makadara Constituency, **Nairobi County indicates that the total number of valid votes cast is 482 with Kenyatta Uhuru is 133; as against Form 34B in the Commission's portal which indicates that Kenyatta Uhuru has 587 votes and the total valid votes cast are 1,873!** Meaning the votes cast surpass the total number of registered voters in the Polling Station.
24. **THAT** Form 34A submitted by the Petitioner's agent in respect of Kaloleni Primary School Polling Station Number 8 of 10, Makongeni Ward, Makadara Constituency, Nairobi County, indicates that the total number of rejected votes to be 4 while Form 34B in the portal does not indicate any rejected votes.
25. **THAT** Form 34A received from our agent on Jobenpha Community School Polling Station Number 17 of 21, Kware Ward, Embakasi South Constituency, Nairobi County indicates that Kenyatta Uhuru has 147 votes and Odinga Raila has 342 votes as against Form 34B which indicates that Kenyatta Uhuru has 149 votes and Odinga

Raila has 340 votes. In essence while the votes of Odinga Raila are reduced by 2 votes, the votes attributed to Kenyatta Uhuru are increased by 2 votes.

26. **THAT** Form 34A submitted by the Petitioner's agent in respect of Kewi- South C Polling Station Number 3 of 8, South C Ward, Langata Constituency, Nairobi County indicate that Kenyatta Uhuru had 202 votes while Form 34B in the Commission's portal shows he had 213 votes, thereby increasing Kenyatta Uhuru's votes in this single polling station by 11 votes.
27. **THAT** Form 34A submitted by the Petitioner's agent in respect of Nyandiwa Primary School Polling station Number 2 of 2, Bogetenya Ward, South Mugirango Constituency, Kisii County, the total number of votes recorded is 287; against 276 votes uploaded in Form 34B in the Commission's portal.
28. **THAT** Form 34A submitted by the Petitioner's agent in respect of Omgogwa Primary School Polling Station Number 1 of 1, Bogetenya Ward, South Mugirango Constituency, Kisii County, shows the total number of rejected ballot papers are 4; while Form 34B recorded 0 number of rejected ballot papers.
29. **THAT** Form 34A submitted by the Petitioner's agent in respect of Manywand 'A' Primary School Polling Station Number 2 of 2, Boikanya Ward, South Mugirango Constituency, Kisii County, records the total number of votes as 303 while in Form 34B indicates 300.
30. **THAT** Form 34A submitted by the Petitioner's agent in respect of Kiru Primary School Polling Station Number 1 of 2, Bokimonye Ward, Bomachoge, Borabu Kisii County indicate the total votes is 338 as against Form 34B which had 339 votes.

31. **THAT** Form 34A submitted by our agent on Nyanturago Tea Buying Centre Polling Station Number 2 of 2, Beno Ward, Nyaribare Chache, Kisii County indicated 0 rejected votes; while Form 34B had 4 rejected votes.
32. **THAT** in Form 34A submitted by the Petitioner's agent in respect of Kiogoro Tea Buying Centre Polling Station Number 2 of 3, Kiogoro Ward, Nyaribari Chache-Kisii County, the rejected votes recorded are 0; as against and the IEBC Form 34B showing 1 rejected votes. Further Forms 34As have a total of 516 votes compared to Form 34B showing 561 votes, thereby having an increased variation of 45 votes.
33. **THAT** Form 34A submitted by the Petitioner's agent in respect of Keoke Primary School Polling Station Number 1 of 2, Bironyo Ward, Nyaribari Chache, Kisii County, the rejected votes are 4 and on IEBC Form 34B the rejected votes is 0.
34. **THAT** Form 34A submitted by our agent is on Irondi Primary School Polling Station Number 1 of 1, Birongo Ward, Nyaribari Chache, Kisii County, the rejected votes are 3 while Form 34B of the IEBC has 0 rejected votes recorded. Furthermore there is a discrepancy as the total number of votes in Form 34A is 410 and on Form 34B is 413.
35. **THAT** Form 34A submitted by our agent on Amabiria Primary Polling Station Number 1 of 1, Keumbu Ward, Nyaribari Chache Constituency, Kisii County indicated the total votes at 273 against 377 votes in Form 34B in the uploaded Commission's portal. Furthermore, Kenyatta Uhuru's votes on Form 34A is 138 and Form 34B is 238, **thus creating a 100 extra votes in his favour in a single polling station!**

36. **THAT** Form 34A submitted by our agent on Sosera Primary School Polling Station Number 1 of 2, Nyamasibi Ward, Nyaribari Masaba Constituency, Kisii County, the total number of recorded votes is 386 while on Form 34B of the IEBC is 383.
37. **THAT** Form 34A submitted by our agent in respect of Ibacho Tea Buying Centre Polling Station Number 2 of 2, in Kiamokama Ward, Nyaribari Masaba Constituency, Kisii County, has a total of 273 recorded votes while Form 34B indicates 272 votes.
38. **THAT** Form 34A submitted by our agent in respect of Ekemuga Primary School Polling Station Number 1 of 1, Ichuni Ward, Nyaribari Masaba Constituency, Kisii County has a total of 343 votes while IEBC Form 34B has 340 votes.
39. **THAT** Form 34A submitted by our agent on Kiamokama Township Primary School Polling Station Number 1 of 2, Gesusu Ward, Nyaribari Masaba, Kisii County, has 261 votes against 260 votes in Form 34B in the Commission's portal.
40. **THAT** Form 34A submitted by our agent Kiomiti Primary School Polling Station Number 2 of 2, Gesusu Ward, Nyaribari Masaba Constituency, and Kisii County has a total recorded votes at 356 and compared to the Form 34B uploaded in the Commission's portal.
41. **THAT** Form 34A submitted by our agent in respect of Riasongoro Tea Buying Centre Polling Station Number 1 of 1, Kiamokama Ward, Nyaribari Masaba Constituency, Kisii County has a total recorded number of votes at 211 as against the number posted on Form 34B in the Commission's portal.



42. **THAT** Form 34A submitted by our agent in respect of Getare Tea Buying Centre Polling Station Number 1o 2, Ichuni Ward, Nyari Bari Masaba, Kisii County has recorded votes but it is absent on the IEBC Form 34B.
43. **THAT** Form 34A submitted by the Petitioner's agent in respect of Suguta Primary School Polling Station Number 1 of 1 , Baasi Central Ward, Bobas Constituency, Kisii County has 506 votes as against Form 34B in the Commission's portal.
44. **THAT** Form 34A submitted by the Petitioner's agent in respect of Bokinibanto Primary Schoool Polling Station Number 1 of 1, Masige East Ward, Boasi Constituency, Kisii County shows the recorded votes is 491 as compare to IEBC Form 34B which has 483.
45. **THAT** Form 34A submitted by our agent in respect of Rusinga Primary Polling Station Number 1 of 2, Bobasi Constituency had 141 while Form 34B had 149 votes.
46. **THAT** Form 34A submitted by our agent on Nyabieyo Primary School Polling Station Number 1 of 1, Bomariba Ward, Bonchari Constituency, Kisii County, recorded Odinga Raila has 228 votes as compared to Form 34B where he has 0 votes, creating variance of -228 votes to his disadvantage!
47. **THAT** Form 34A submitted by our agent on Nyamiobo S.D.A. Primary School Polling Station Number 1 of 1 Majoye Ward, Bomache Chache Constituency, Kisii County, recorded a total votes as 407 against Form 34B which recorded 405.
48. **THAT** Form 34A submitted by our agent on Musunji primary School Polling Station Number 2 of 2, Shiru Ward , Hamisi Constituency, Vihiga County, recorded Oginga Raila has 357 and while Form 34B shows 356.

49. **THAT** Form 34A submitted by our agent in respect of Nyalendaa Community Hall Policing Station Number 5 of 6, Kisumu County, the total is 488 while 34B has 486 votes.
50. **THAT** Form 34A submitted by our agent on Wandiege Primary School polling stations has a total number of vote at 504 against 503 votes in Form 34B.
51. **THAT** Form 34A submitted by our agent in respect of Angira Primary School Polling Station Number 2 of 2, Kajuu Ward, KISUMU East Constituency, Kisumu County and the total number of votes records 319 against the uploaded record of form 34B.
52. **THAT** the discrepancies between the results declared at the constituency tallying centers as per Form 34As which ought to be the final results *vis a vis* the results posted by IEBC are evident in the following sampled polling station:
53. **THAT** in Nyanchenge Primary polling station number 1 of 2 in Bobasi Constituency in Kisii County Form 34A by our agent Mose John Segoro shows that Uhuru Kenyatta had 180 votes while Raila Odinga had 137 votes but in the results posted by IEBC Uhuru Kenyatta had 191 votes while Raila Odinga had 122 votes indicating that 11 votes were added to Uhuru Kenyatta and 15 votes were deducted from Raila Odinga.
54. **THAT** in Rusinga Primary polling station number 1 of 2 within Bobasi Constituency in Kisii County form 34A by our agent George Obwaya shows that Uhuru Kenyatta had 141 votes but in the results posted by IEBC Uhuru Kenyatta had 149 votes indicating that 8 votes were added to Uhuru Kenyatta.
55. **THAT** in Amabiria Primary polling station number 1 of 1 within Nyaribari Chache Constituency in Kisii County form 34A by our agent Brinton Mogaka shows that

Uhuru Kenyatta had 138 votes but in the results posted by IEBC Uhuru Kenyatta had 238 votes indicating that 100 votes were added to Uhuru Kenyatta.

56. **THAT** in Nyabieyo Primary polling station number 1 of 1 within Nyaribacche Chache Constituency in Kisii County form 34A by our agent Yuvinalis Babu shows that Raila Odinga had 228 votes but in the results posted by IEBC Raila Odinga had 0 votes indicating that 228 votes were deducted from Raila Odinga.
57. **THAT** in Maturu Primary polling station 2 of 2 within Lugari Constituency in Kakamega County form 34A shows that Raila Odinga had 425 votes but in the results posted by IEBC Raila Odinga had 424 votes indicating that in 1 vote was deducted from Raila Odinga.
58. **THAT** in Cheptoroi polling station 2 of 3 within Njoro Constituency in Nakuru County form 34A by our agent Nicholas Okwoje shows that Raila Odinga had 26 votes but in the results posted by IEBC Raila Odinga had 0 votes indicating that in 26 votes were deducted from Raila Odinga.
59. **THAT** in Kapkures Health polling station number 7 of 7 Constituency in Nakuru County form 34A by our agent Wyckliffe Nyamari shows that Raila Odinga had 148 votes but in the results posted by IEBC Raila Odinga had 146 votes indicating that 2 votes were deducted from Raila Odinga while 1 vote was deducted from Uhuru Kenyatta.
60. **THAT** in Kaptembwo Primary polling station number 4 of 8 within Nakuru Town West Constituency in Nakuru County form 34A by our agent shows that Raila Odinga had 339 votes but in the results posted by IEBC Raila Odinga had 110 votes indicating that 229 votes were deducted from Raila Odinga and 288 votes added to Uhuru Kenyatta.
61. **THAT** in Ilmotioo Primary polling station number 1 of 1 in Kajiado Central Constituency in Kajiado County form 34A by our agent Kalure Ole Some shows

that Uhuru Kenyatta had 224 votes but in the results posted by IEBC he had 234 votes indicating that Uhuru Kenyatta was added 10 votes.

62. **THAT** in Ura Tea polling station number 2 of 2 within Igembe South Constituency in Meru County form 34A by our agent shows that Raila Odinga had 66 votes but in the results posted by IEBC Raila Odinga had 56 votes indicating that 10 votes were deducted from Raila Odinga.
63. **THAT** in Kiyanka Primary polling station number 2 of 2 within Igembe South Constituency in Meru County form 34A by our agent shows that Raila Odinga had 45 votes but in the results posted by IEBC Raila Odinga had 0 votes indicating that 45 votes were deducted from Raila Odinga.
64. **THAT** in Kiegoi Primary polling station number 2 of 2 within Igembe South Constituency in Meru County form 34A by our agent shows that Uhuru Kenyatta had 431 votes but in the results posted by IEBC he had 439 votes indicating that 9 votes were added to Uhuru Kenyatta.
65. **THAT** in Nkiriana polling station number 1 of 2 within Igembe North Constituency in Meru County form 34A by our agent Judy Kathambi shows that Raila Odinga had 35 votes while Uhuru Kenyatta had 254 votes but in the results posted by IEBC Raila Odinga had 34 votes while Uhuru Kenyatta had 275 votes indicating that 1 vote was deducted from Raila Odinga while 21 votes added to Uhuru Kenyatta.
66. **THAT** in Dandora III City Council Hall polling station number 9 of 9 within Embakasi North Constituency in Nairobi County form 34A by our agent shows that Raila Odinga had 214 votes but in the results posted by IEBC Raila Odinga had 212 votes indicating that 2 votes were deducted from Raila Odinga.

**ANNEXED HERETO AND MARKED “DNO - 2” IS A BUNDLE OF ANNEXTURES CONFIRMING THE FOREGOING.**

67. **THAT** in the meantime, the Commission had uploaded some Form 34As on its portal. I was instructed by the Petitioner to scrutinize the various Form 34s that had been uploaded on the Commission’s portal. We got 32,000 Form 34As; out of which I examined a total of 25,000 forms. Upon scrutinizing the Forms 34As aforesaid, I found grave anomalies in 14,078 Forms thus: -

- a) Form 34As not bearing the Commission’s official stamp;
- b) Forms 34As not signed by the Presiding Officer and Deputy Presiding Officers;
- c) Results which did not tally mathematically;
- d) Forms 34As bearing no names or signature of the party agents, and without reasons therefor from the Presiding Officer;
- e) Presiding Officer signing for more than one polling station;
- f) Forms 34As signed by ungazetted Presiding Officers;
- g) Forms 34As from ungazetted Polling Stations;
- h) Unclear/illegible Forms, etc.

68. **THAT**, in ISIOLO NORTH CONSTITUENCY, ISIOLO COUNTY, Form 34As and 34B were inconsistent to the extent that the 3<sup>rd</sup> Respondent’s votes were increased by 5,422. Further, 34B lacked details as to the date and time when the same was handed over, contrary to law.

69. **THAT** in LOIMA CONSTITUENCY, TURKANA COUNTY, there were discrepancies in the figures in the votes as the 3<sup>rd</sup> Respondent’s votes were inflated by 7,934. The purported Form 34B does not have the final tally and does not contain the signature of the Returning Officer contrary to law. Further there was no

handing over note in the Form 34B and no indication of the date and time of submission of the Forms 34As and 34B.

70. **THAT** in FUNYULA CONSTITUENCY, BUSIA COUNTY, specifically in NYAKWARA PRIMARY SCHOOL, the total votes cast were 339 while votes apportioned to candidates are only 13.
71. **THAT** in FUNYULA CONSTITUENCY, BUSIA COUNTY, in BUSIJO PRIMARY school, the total votes cast plus the votes rejected exceed the total number of registered voters; and, the purported Form 34B lacked requisite handing over notes.
72. **THAT** in RABAI CONSTITUENCY, KILIFI COUNTY, the purported Form 34B lack handing over notes. The number of form 34As submitted at the time of handing over is not indicated. The 1<sup>st</sup> Respondent's portal reports different results for the Petitioner and the 2<sup>nd</sup> Respondent, while the purported Form 34B gives different results, inflated by 83 votes in favour of the 3<sup>rd</sup> Respondent.
73. **THAT** in MAARA CONSTITUENCY, THARAKA NITHI, no agent signed the purported statutory Forms. Further the Returning Officer Mr. HAMISI ALFANI TSUMO did not sign the Forms. Instead a stranger by the name OBADIAH KARIUKI GACOKI purported to sign the purported statutory Forms. Further, the forms lack requisite handing over notes. Most importantly, the results in the portal are different from those in the Form 34B as results in the portal have been inflated by 7 in favour of the 3<sup>rd</sup> Respondent.
74. **THAT** in KIPIPIRI CONSTITUENCY, NYANDARUA COUNTY, the votes in the Commission's portal are different from those in the purported form 34As; as rejected votes were inflated from 92 to 1087. Further, the purported Form 34As lack requisite handing over notes as required by law to evidence actual handing over and taking over between authorised officers of the Commission.

75. **THAT** in NDARAGWA CONSTITUENCY, NYANDARUA COUNTY, the purported Form 34As lack handing over notes. The purported Form 34B was not handed over in the prescribed manner. Result for the 2<sup>nd</sup> Respondent in Form 34 is 45,197 and the same inflated by 153 votes in the portal. Furthermore, the portal indicates a total rejected votes of 1,031 while the purported Form 34B indicate rejected votes as 477.
76. **THAT** in OL-JOROK CONSTITUENCY, NYANDARUA COUNTY, rejected votes are 121 while those in the portal are 1,233. While the Petitioner's votes are 515 in the purported statutory Form, in the Commission's Portal they were reduced by 2 votes. The purported statutory Forms also lack requisite handing over notes.
77. **THAT** in TARBAJ CONSTITUENCY, WAJIR COUNTY, the Commission's portal indicates a total of 475 rejected votes while form 34B indicates a mere 31 rejected votes. Further, whilst handing over notes were issued by the Returning Officer, the number of Form 34As is not indicated; and, the purported form 34B lack evidence of hand over.
78. **THAT** in URIRI CONSTITUENCY, HOMABAY COUNTY, whilst the purported Form 34B does not have the final tally of the Candidates, the Commission's portal indicates 1078 rejected votes while the purported Form 34B indicates 125 rejected votes. Further there are no handing over notes and no indication of date and time for handing over and taking over of the Forms.
79. **THAT** in BARINGO CENTRAL CONSTITUENCY, BARINGO COUNTY, whilst the portal indicates 860 rejected votes, the purported Form 34B indicates 114 rejected votes. Further there is not handing over note and no indication of date and time for the purported handing over and taking over of the statutory Forms.

80. **THAT** in KATHIANI Constituency, MACHAKOS COUNTY, the purported Forms 34As and 34B lack handing over notes; and, bear no indication of date and time for handing over of the forms contrary to law.
81. **THAT** in CHEPALUNGU CONSTITUENCY, BOMET COUNTY, there is no handing over note; the purported Form 34B not handed over in prescribed manner; no indication of date and time for forms submitted; the number of from 34As submitted at the time of handing over is not indicated.
82. **THAT** in MWALA CONSTITUENCY MACHAKOS COUNTY, whilst the Commission's portal indicated rejected votes were 2,565, the purported Form 34B indicated 415 rejected votes. Further whilst in the portal the Petitioners votes are 56,266, in the purported Form 34B they are 56,245. In addition, there are no handing over notes; Form 34B not handed over in prescribed manner as there are no indication of date and time for the purported handing over process.
83. **THAT** in BURETI CONSTITUENCY, KERICHO COUNTY, the tally in the portal indicates 65, 284 votes for the 3<sup>rd</sup> Respondent and 3106 for the Petitioner. However, the purported Form 34B indicates the 3<sup>rd</sup> Respondent had 56,259 and the Petitioner 3106. There are no handing over notes; the purported Form 34B not handed over in the prescribed manner; the number of Form 34As was not indicated;
84. **THAT** in MARAKWET CONSTITUENCY, ELGEYO/MARAKWET COUNTY, there is not handing over note; the purported form 34B not handed over in prescribed manner; no indication of date and time for forms submitted; and, the 3<sup>rd</sup> Respondent's votes were inflated by 93.
85. **THAT** in SIGOWET / SOIN CONSTITUENCY, KERICHO COUNTY, there is no handing over note; the purported Form 34B not handed over in prescribed manner; no indication of date and time for forms submitted; the purported Forms



34As are not stamped and are invalid. Further, the results of the 3<sup>rd</sup> Respondent have been inflated by 100 votes.

86. **THAT** in CHANGAMWE CONSTITUENCY, MOMBASA COUNTY, there is no handing over note; the purported Form 34B not handed over in prescribed manner; no indication of date and time for forms submitted. Most importantly, the purported Forms 34As are not stamped and are thus unauthentic and invalid.
87. **THAT** in WAJIR NORTH CONSTITUENCY, WAJIR COUNTY, the 3<sup>rd</sup> Respondents votes have been inflated by 282 in the portal; Form 34B indicates 202 rejected votes while the portal indicates a whole 1,821 rejected votes. Further, there are no handing over notes for the purported forms; and, Form 34B give no indication of date and time it was submitted. Most importantly, the purported Form 34As are not stamped and are invalid.
88. **THAT** in DAGORETTI SOUTH CONSTITUENCY, NAIROBI COUNTY there is no handing over note; the purported Form 34B bear no indication of date and time of handover. Further the purported form 34As in areas such as MUKARARA and WAITTHAKA polling stations are unstamped rendering the affected forms invalid.
89. **THAT** in MWATATE CONSITUENCY, TAITA TAVETA COUNTY, the purported statutory forms bear no hand over notes; the purported Form 34B bear no indication of date and time when the purported Forms were handed over/ taken over by the authorised officers.
90. **THAT** In VOI CONSTITUENCY, TAITA TEVETA COUNTY, the Commission's portal indicates 1567 rejected vote while the purported Form 34B indicates 260 rejected votes. Further, the Petitioner's votes have been reduced by 106 votes. In addition, there are no handing over notes and the purported Form 34B bear no indication of date and time of hand over/take over.

91. **THAT** in LAMU EAST CONSTITUENCY, LAMU COUNTY, the purported statutory Forms 34As and 34B lack handing over notes; and, the purported Form 34B lack indication of date and time the same was submitted.
92. **THAT** in MAVOKO CONSTITUENCY, MACHAKOS COUNTY in JETVIEW polling station, the purported Form 34A indicates that the Petitioner got 323 votes while the Respective Form 34B indicates that the Petitioner got 303 votes. In MULOLONGO polling station, the purported Form 34A indicates the 3<sup>RD</sup> Respondent got 95 votes while the purported Form 34B indicates the 3<sup>RD</sup> Respondent got 100 votes. On the other hand form 34A indicates that the Petitioner got 365 votes while the purported Form 34B indicates 340 votes. Further, the purported Forms lack handing over notes; the purported Form 34B bear no indication of date and time of and over/take over; most Form 34As were unstamped and are invalid. Lastly; no Form 34A was submitted in respect of GITHUNGURI Polling station.
93. **THAT** in MALINDI CONSTITUENCY, KILIFI COUNTY, the purported statutory forms lack handing over notes and are thus invalid; the purported Form 34B not handed over in prescribed manner; no indication of date and time the purported forms were submitted; the purported Form 34As are unstamped and therefore invalid.
94. **THAT** in YATTA CONSTITUENCY, MACHAKO COUNTY, the purported statutory Forms lack handing over note and are invalid; Form 34B not handed over in prescribed manner; no indication of date and time for forms submitted.
95. **THAT** in ELDAS CONSTITUENCY, WAJIR COUNTY, the purported statutory forms lack requisite handing over notes and are therefore invalid; Form 34B not handed over in prescribed manner; no indication of date and time for forms

submitted. The stamped used is not the official IEBC Returning Officer's stamp; and, the Returning Officer has not indicated his/her name on the purported Form.

96. **THAT** in EMBAKASI CENTRAL CONSTITUENCY, NAIROBI COUNTY, the columns of valid votes and valid votes tally do not match in the following polling stations: KAYOLE NORTH, IMARA PRIMARY, BONDENI PRIMARY, THWABU PRIMARY and MWANGAZA PRIMARY. MWANGAZA PRIMARY polling station shows a tally of valid votes as 13, yet the distribution is as follows – Aukot-0, Dida-4, Jirongo-1, Mwaura-0, Nyagah-5, Raila- 229, and rejected- 5. This totals to 481! The Forms do not have IEBC stamp and handing over notes and are thus invalid. Form 34B not handed over in prescribed manner; no indication of date and time for forms submitted and suffer a fatal defect.
97. **THAT** in GEM CONSTITUENCY, SIAYA COUNTY, the final tally on Form 354B indicates valid votes as 65,128 against the actual count of votes at 65,052; with the consequence that a whole 461 votes are not accounted for.
98. **THAT** in KURESOI CONSTITUENCY, NAKURU COUNTY there is not handing over note; form 34B not handed over in prescribed manner; no indication of date and time for forms submitted; no agent has signed Form 34B; all matters rendering the results purportedly purveyed by the purported Forms invalid.
99. **THAT** in LIKONI CONSTITUENCY, MOMBASA COUNTY, there is not handing over note; Form 34B not handed over in prescribed manner; no indication of date and time for forms submitted; Form 34As not stamped and thus invalid.
100. **THAT** in SIGOR CONSTITUENCY, WEST POKOT COUNTY, there is not handing over note; form 34B not handed over in prescribed manner; no indication of date and time for forms submitted; Form 34Bs signed by unknown person whose name is not stated.

101. **THAT** in STAREHE CONSTITUENCY, NAIROBI COUNTY, the purported Forms have no handing over notes and are invalid; the purported Form 34B bear no indication of date and time it was submitted. Further while Form 34A of PARKROAD PRIMARY SCHOOL indicates that there is 1 rejected vote, the same is not captured in the purported Form 34B. Most importantly; the stamp used in Form 34B does not match the IEBC Returning Officer's stamp; and the purported Form 34B does not state reasons for failure absence of signature by party and candidates agents.
102. **THAT** in TURBO CONSTITUENCY, UASIN GISHU COUNTY there is no handing over note; Form 34B not handed over in prescribed manner; no indication of date and time for forms submitted. Most importantly, in KAPKOROS PRIMARY SCHOOL POLLING STATION, form 34A indicates 436 votes while the tally of the candidates votes show that 200 have not been allocated; In KAPSAOS PRIMARY SCHOOL, the valid votes in form 34B shows more votes than the actual tally of the candidates; TOWNSHIP PRIMARY POLLING STATION, the stated total valid votes is 367 but the summation of votes allocated to all candidates is 467; in KIPKEINO PRIMARY SCHOOL the stated valid votes in form 34B is 563 but the tally of the vote totals to 425; thus, 138 votes are not accounted for; only the 3<sup>rd</sup> Respondent's Party agents signed the form 34B; form 34B is signed by a different person and not the gazetted Returning Officer for that constituency; the total tally of valid votes is 81,383 while in form 34B the figure is inflated to 81,638.
103. **THAT** in NDHIWA CONSTITUENCY, HOMABAY COUNTY the purported statutory forms lack requisite handing over notes and are thus invalid; form 34B not handed over in prescribed manner; no indication of date and time for forms submitted; unstamped form 34As.

104. **THAT** in TURKANA CENTRAL CONSTITUENCY, TURKANA COUNTY, the purported statutory forms lack handing over notes and are thus invalid; form 34B not handed over in prescribed manner; no indication of date and time for forms submitted. Most importantly, while the portal indicates 1,393 rejected votes; the Petitioners votes in the portal are reduced by 7 votes.
105. **THAT** in KIENI CONSTITUENCY, NYERI COUNTY, the purported statutory forms lack handing over notes and are thus invalid.
106. **THAT** in KIPKELION WEST CONSTITUENCY, KERICHO COUNTY. In KIPKELION PRIMARY polling station, form 34A indicates the petitioner obtained 64 votes while form 34B indicates 61 votes; in BAR SIELE primary school, form 34A shows that the 3<sup>rd</sup> Respondent obtained 268 vote while Form 34B indicates 269; no handing over or taking over notes were posted for the forms. Most importantly, the 34As in respect of KIPSIGEI PRIMARY SCHOOL, SIMOTWET PRY SCHOOL, KAULA NURSERY SCHOOL, KIMOLOGIT PRY SCHOOL, LELECHWET PRIMARY SCHOOL, SIRET PRY. SCHOOL, KAPKESE PRY SCHOOL, KAPLELIT PRY SCHOOL, MURGUT PRY. SCHOOL, CHILCHILA PRY SCHOOL, BARARGET COOPERATIVE, TUNNEL PRY. SCHOOL, BOROR NURSERY SCHOOL, KOISAGAT PRY SCHOOL, SMOLEL PRY SCHOOL, MAGIRE PRY SCHOOL, CHEBORUS NURSERY SCHOOL are all unstamped and therefore invalid.
107. **THAT** in EMURUA DIKIR CONSTITUENCY, NAROK COUNTY, no evidence of handing over and taking over of forms. Further, while form 34B indicates the 3<sup>rd</sup> Respondent got 22,213 votes, the commission's portal indicates the 3<sup>rd</sup> Respondent got 21,910 votes!
108. **THAT** in BAHATI CONSTITUENCY, NAKURU COUNTY, in DUNDORI PRIMARY School, Form 34B indicates the 3<sup>rd</sup> Respondent obtained 359 votes while

form 34A indicates 354 votes; in DUNDORI YOUTH POLYTECHNIC form 34B indicates that the 3<sup>rd</sup> Respondent got 482 votes while Form 34A indicates 483 votes; there is not handing over note; an additional column has been added to form 34B; the form 34B is not dated and does not have a final tally.

109. **THAT** in KAJIADO CENTRAL CONSTITUENCY, KAJIADO COUNTY, the purported statutory forms lack requisite handing over notes and are thus invalid.
110. **THAT** in NDIA CONSTITUENCY, KIRINYAGA COUNTY the purported statutory forms lack requisite handing over notes; in KIANGAI PRY SCHOOL, form 34A indicates 3<sup>rd</sup> Respondent got 461 votes while form 34B indicates 467. Furthermore, the purported form 34B is unstamped.
111. **THAT** in OTHAYA CONSTITUENCY, NYERI COUNTY, the purported statutory forms lack requisite handing over notes; Form 34B indicates that the 3<sup>rd</sup> Respondent obtained 51,186 votes while the portal indicates 51,184; and, Form 34B indicate rejected vote as 72 while the portal indicates 124.
112. **THAT** in NAIVASHA CONSTITUENCY, NAKURU COUNTY, in MUNUNGA PRY SCHOOL, the total number of rejected votes equals valid votes; In BISHOP NDINGI SEC SCHOOL, UNITY FARM NURSERY, MANERA PRY SCHOOL, LAKEVIEW PRY SCHOOL, KIHOTO TRADING CENTRE, NGEYA PRY SCHOOL, SHERMOI PRY SCHOOL and SHER SOCIAL HALL, the number of valid votes is not indicated; in REV. JEREMIAH PRY SCHOOL's 3 polling stations have the same number of valid voted cast, which is 517 and approximately the same number of votes apportioned to the 3<sup>rd</sup> Respondent being 505, 508 and 510, respectively; and no evidence of hand over of the purported statutory forms to the Commission.
113. **THAT** in WAJIR SOUTH CONSTITUENCY, in WAJIR COUNTY, the purported Form 34B lack bar code. Further in SERIF DISPENSARY POLLING

STATIONS, the total valid votes in the purported Form 34B is 113 and yet those allocated to MICHAEL WAINAINA is 141; JIRONGO 4, RAILA 1 all totalling to 146! In essence the number of votes allocated to candidates is more than the number of votes indicated as having been actually cast! Furthermore, the total votes received by all candidates is 31, 288 but the total number of votes cast is 31,252; and, the purported Form 34B was signed by the 2<sup>nd</sup> Respondent's agent only.

114. **THAT** for instance in MANDERA EAST CONSTITUENCY (IEBC/NTC/120), the IEBC stamp used on the form 34B is rectangular, thus different from the circular stamp used on other forms; that only two agents signed the forms from the Petitioner and the 2<sup>nd</sup> respondent; there are only two signatures of the Returning Officer and only one of the two pages was signed; the RO that signed the Form did not indicate his/her name or date. The total valid votes on form 34B is 26, 602 while the final valid votes add up to 26, 847.
115. **THAT** in LAMU WEST CONSTITUENCY (IEBC/NTC/073), not all pages and or sheets were signed.
116. **THAT** in BELGUT CONSTITUENCY (IEBC/NTC/168) there was not hand over note.
117. **THAT** in TURKANA SOUTH CONSTITUENCY (IEBC/NTC/138), there is discrepancy in the number of valid votes - the total number of valid votes cast is 25,779 but when the number of votes for all candidates were summed up, it totalled to 22,590; some pages of the Forms have neither a stamp nor a signature; the hand over section has not been stamped.
118. **THAT** in TRANS NZOIA CONSTITUENCY (IEBC/NTC/117), query on the table format includes columns on 'rejected,' objected to' and 'disputed'. These kinds of observations have not been made elsewhere; the form has been signed only by two ODM agents. Jubilee agents and/or any other party agents for that matter

singed the form; there is no table of aggregated result as observed in other form 34Bs.

119. **THAT** in MALAVA CONSTITUENCY (IEBC/NTC/160), the following form 34As were not stamped – BULUPI PRY SCHOOL, IMBIAKALO PRY SCHOOL, MUKHONE PRY SCHOOL, CHIMORONI PRY SCHOOL, ISANJIRO PRY SCHOOL, MACHEMO PRY SCHOOL, LWANDA KABRAS PRY SCHOOL, SHIANDA PRY SCHOOL and IKOLI PRY SCHOOL; handing over section was not signed; and not all sheets/pages of form 34B were stamped.
120. **THAT** in BOMET CENTRAL CONSTITUENCY (IEBC/NTC/014), records of form 34As shows excessive use white-out and corrected figures; in BOMET PRY SCHOOL, Form 34A shows 1 rejected vote, however form 34B does not indicate any rejected vote; and in KABUSARE PRY SCHOOL, form 34A indicates 440 votes for the 2<sup>nd</sup> Respondent while 14 votes for the Petitioner. However, form 34B indicates 490 Votes for the 2<sup>nd</sup> respondent while 19 votes for the Petitioner; and Data from 63 polling stations are still missing.
121. **THAT** in KITUI SOUTH CONSTITUENCY (IEBC /NTC/213), not all the pages have been stamped with the official RO stamp; the number of forms 34As submitted have not been indicated; the RO signed the form but did not indicate his name; and no Agent of the Petitioner signed the same, and no reason was given for the same.
122. **THAT** in ELDAS CONSTITUENCY (IEBC/NTC/120), the stamp used is not the official IEBC RO stamp; the RO has not indicated his name but has purportedly signed the same.
123. **THAT** in KURESOI NORTH CONSTITUENCY (IEBC/NTC/120) no agent signed the purported Form 34B; the purported Form 34B shows no indication of receipt/submission of Form 34As; and, has no aggregate.



124. **THAT** in GARSEN CONSTITUENCY (IEBC/NTC/089) in WARDEI PRY SCHOOL the stated total number of valid votes on the purported Form 34B is 160 while the actual vote tally is 169; total row shows 34,423 votes while the computer total is 34,203. Thus an excess of 220 votes; the total valid votes are 34,373.
125. **THAT** in WAJIR SOUTH CONSTITUENCY (IEBC NTC /080) the purported Returning Officer's stamp on the statutory forms shows the words 'returning officer' without the initial "IEBC."; the purported Form 34B has no bar code. Further, the total valid votes are 113, however, the total summation is 146; the total number of valid votes do not add up as the total number received by candidates is 31,288, while the total number of valid votes is indicated to be 31,252. Further, it is indicated that only the agent of the 3<sup>rd</sup> Respondent has signed the form and no reason has been given for failure by other agents to sign the form.
126. **THAT** in TURBO CONSTITUENCY (IEBC NTC/190) KAPKOROSS PRY SCHOOL indicates the total valid votes cast as 436, while the tally of the votes allocated to each candidate indicates that 200 votes have not been allocated according to form 34B, yet the purported Form 34A indicates that the Petitioner received 279 votes.
127. **THAT** in TURBO CONSTITUENCY (IEBC NTC/190) KAPSAOS PRY SCHOOL total votes cast is 407 while a tally of the candidates votes indicates that 2 votes have not been allocated; in TOWNSHIP PRY SCHOOL indicates the valid votes cast is 367 while a tally of the candidates votes indicates an excess of 100 votes; KIPKEINO PRY SCHOOL indicates valid votes cast is 563 while the tally reveals a total of 425, hence 138 votes are not accounted for.
128. **THAT** in LIKONI CONSTITUENCY (IEBC/NTC/208), the purported Form 34A of MIRIMA PRY SCHOOL does not bear any official stamp; unstamped Form 34A transferred to Form 34B; USHINDI BAPTIST PRY SCHOOL result does not

have an official stamp; data of unstamped Form 34A transferred to the purported Form 34 B. *Annexed herewith is a copy of the aforesaid Forms.*

129. **THAT** in EMBAKASI CENTRAL (IEBC/NTC/176) the purported Form 34B has a column for number of valid votes and valid voted tally; the two columns do not match in the following instances:
- A. KAYOLE NORTH – 18
  - B. IMARA PRY – 18
  - C. BONDENI PRY – 1
  - D. THWATU – 19
  - E. MWANGAZA- 11; Erroneous votes tally was observed in MWANGAZA while the total tallied votes is 481 valid votes; the purported Form 34As in the following polling stations have no stamp: KOMAROCK PRY POLLING STATIONS 4, 5, 6, 7, 9, 17, 22 AND 24; KAYOLE NORTH POLLING STATION 3. Further, not all the pages of the purported statutory form are stamped.
130. **THAT** in GEM constituency, no agent signed forms 34B; Stamp on the purported Form 34B is inconsistent with the Returning Officer's official stamp; final tally is inconsistent with the stated constituency tally of 65,128 valid votes, thus, 461 votes are not accounted for.
131. **THAT** in MAKADARA CONSTITTUENCY (IEBC/NTC/186) there was no proper identification of the Petitioner's agent that the form; not all sheets/pages are stamped with the official IEBC Returning Officers stamp.
132. **THAT** in DAGORETTI NORTH CONSTITTUENCY, no agents signed the purported form 34B; the second page is not stamped; the slated total valid votes is indicated as 104,789 while a summation indicates 105,840 thus a whole 1,055 votes are not accounted for!

133. **THAT** in SIGOR CONSTITUENCY (IEBC/NTC/044) while it is purported that Returning Officer has signed the purported statutory form, the name of the said Returning Officer is not indicated.
134. **THAT** in STAREHE CONSTITUENCY (IEBC/NTC/195) the purported Form 34A of Park Road Pry School indicates 1 rejected vote, while the purported Form 34B does not reflect the same; not all the pages are signed; the stamp used does not match the IEBC Returning Officer's stamp. Further only the Petitioners agents appended her signature.

**ANNEXED HERETO AND MARKED "DNO - 3" IS A BUNDLE OF ANNEXTURES CONFIRMING THE FOREGOING.**

135. THAT I am aware that on the 5<sup>th</sup> August 2017 the Chief Executive of the 1<sup>st</sup> Respondent issued a directive invalidating any ballot paper that was not stamped and directing that the same will be marked as rejected. Logically, and as by law provided, any result contained in a prescribed form 34A which does not bear a stamp of the Presiding Officer must therefore be treated as equally invalid. Thus the total of 11,481 form 34As which bear no stamp as shown herein must be invalidated (constituting 26% of polling stations).

**ANNEXED HERETO AND MARKED "DNO - 4" ARE COPIES OF THE RELEVANT CORRESPONDENCE HEREON.**

136. **THAT** in the following polling stations, the Forms 34As as uploaded in the Commission's portal, are not clear/illegible: Chaani primary school; Miritini World Bank; Jomvuu Kuu primary school 2; Taratibu Social Hall 3; Miririni primary school 4; Aldinnah nursery 5; Jomvuu nursery 6; Swaleh Khalid Social Hall 7; Nuru CBR 001 8; Nuru Community based Rehabilitation 8; Abu-Ubaida primary 9; Miritim

primary school 10; Miritim primary school 11; Railways Station hall 12; Mwamlai primary school 13; Ministry of Water Tanks 14; Mikindani Social Hall 15; Owino Uhuru nursery 16; Kiembeni Baptist primary 21; Mtopanga primary 22; Concordia primary 23; St Joseph Herman primary 25; Kiranzoini primary, Mwamanga; Jogoo; Football Ground; Mbuwani primary; Emgwen primary; Kamkunji Market; Chemalal primary school; Chepkemel primary school; Maraba primary school; Maraba primary school; Union primary school, Railways Dispensary; St Andrews primary school; Railways Dispensary; Radar Station; Lelboinet primary school; Tarus primary school; and Kiptarusu primary.

137. **THAT** in Kiptendon primary school, the purported Form 34As have not been signed by the Petitioner's agent and the Returning Officer has not indicated the reason for the failure.
138. **THAT** in the following polling stations: Kipkongen primary 48; Bemja primary; Chepsioch 57; Kabusagawat 87; Timbilil primary school 13; Kitum nursery; Cheptabach primary; Siwo Health Centre Taboinyat primary 60; Tartar nursery 62; President 63; Chepngetuni primary 65; Keben primary; Koilot primary school; Kepkechui primary school; Kapsabet Boys primary school; AIC Kosira estate; AIC Baraton; Nandi primary school; Kamurguywo primary; Chenare primary; Kaptildil primary; Kamonjil primary; Kapkimbimbir; Segut primary; Chepterit primary; and Belekenya 001 the purported Forms 34As have been filed by the same person as evidenced in the handwriting.
139. **THAT** in Tikiyo primary school, the name of the Deputy Presiding Officer is not given to aid verification.
140. **THAT** the purported Form 34A in Kilingile primary has not been signed by the Presiding Officer.

141. **THAT** in Kitaingo primary, the Presiding Officer or the Deputy Presiding Officer has not signed the purported Form 34A.
142. **THAT** in Njoguini primary school 6 Form 34As are unclear and unreadable.
143. **THAT** in Shimo La Tewa, the purported Form 34As as uploaded in the portal have been severally repeated.
144. **THAT** in Wareng High School, Kapseret constituency, Ngesia Ward, Kiambaa primary school the Forms have been crossed and do not indicate the candidates' results.
145. **THAT** in Chebirir primary school only one agent signed the purported Form 34A and no reason is given as to why the others did not sign. Further, in Chepsioch primary no NASA agent signed the Form 34A and no reason is given as to that.
146. **THAT** in the following polling stations, the purported Forms 34As are illegible and the photos are incomplete: Lakole North Centre; Waso girls; Matho Dam; Kanjara Centre Dandu primary school; Huruma primary school.
147. **THAT** in Bargugue Dam and Mathah Boqay, the purported Form 34A is not signed by any agent.
148. **THAT** in Habaswein Boys primary school only one party agent signed the purported Form 34A and no reasons are given as to why the other agents did not sign.
149. **THAT** in Kisina primary school the Stream has been changed from 1 of 2 to 2 of 2 using a pen.
150. **THAT** in Nunguni primary the purported Form 34A was signed by one person and it is similar to the one for Nunguni primary school in Kitui East.
151. **THAT** in Maluma primary the purported Form 34A is similar to one similarly indicated in Kalivu primary school.

152. **THAT** in Mitalani primary the handwriting in the purported Form 34A has been altered; in Makueni primary school the handwriting and signatures on the purported Form 34A evidently appear made up. Further, while in Uiini nursery the handwriting and signatures by agents appear made up; in Bingwa primary school and Kilawa primary school only one agent signed the Form 34A.
153. **THAT** in Kanziko Cotton Stores the Form is unclear and illegible; in Tetu primary school; Mugumo primary school; Kivumbuni primary school; Kisayani primary school; Kunguluni primary the tallying is incorrect.
154. **THAT** while the statutory form in respect of Ykivuti primary school is unclear; in Kalima Koi primary no code and stream is indicated in the uploaded picture. In Molemuni primary school the Form does not indicate the total results and is incomplete; in Ta Farmers and Kitoroch 135, the purported Form 34As are not clear.
155. **THAT** in Mikimbi Full Gospel Grounds; Full Gospel Church Ground Njukikiri; Teachers Advisory Centre Hall; Nembure polytechnic; ACK Muchonoke Church Grounds; Faithful Church of Christ Makumbiri; Kwa Douglas Bus Stage; Full Gospel Churches Grounds Ndunduri; Full Gospel Churches Grounds-Gitururu; Ngurueri Coffee factory; Nguire primary school; Muchangor primary school; Kavutiri primary school; Gatura Tea Buyng Centre; Gichera primary school; Kangondi primary school; Kanduri primary school; Ugweri primary school; Kithunguthia primary school; Gikuuri primary school; Ndamunge Tea Buying Centre; Kirimiri Coffee Factory; Thingingi primary school; Magara Tea school; Mugaari Tea Buyng Centre; Kanyaueri Tea Buying Centre; Kiameceru Tea Buying Centre; Kiandongó Tea Buying Centre; Kathari primary school; Kathageri Youth Polytechnic; Muhanda primary school; Ramula primary school; Burlwolo primary school; Nyangunda primary school; Tambach prison; Kapsabet prison; Eldama

Ravine prison; Nanyuki prison; Nanyuk prison; Vihiga prison; Kanoth primary school Kiritiri primary school; Kauraciri market; Kanduku primary school; Marimari primary school; Ndithini primary school; Raciina primary school; Kariari primary school, **the purported Forms 34As have been filed with the same handwriting.**

156. **THAT** in Taveta prison; Moyale prison; Embu Women prison; Kitui Women Prison; Kitui Prison; Machakos Main prison; Machakos prison; Makueni prison; Nyeri Medium prison; Mwea prison; Kerugoya prison; Muranga prison; Muranga Women prison; Maranjau prison; Kiambu prison; Wapenguria prison; Kitale medium; Kitale women prison; Kitale main prison; Eldoret prison; Tambach prison; Kapsabet prison; Kabarnet prison; Eldama Ravine prison; Rumuruti prison; Naivasha medium; Nakuru women prison; Kericho main; Sotik prison; Bomet prison; Shikusa Farm prison; Busia women prison; Busia prison; Kisumu women prison; Kibos main prison; Kibos medium; Homa Bay prison; Kehancha prison; Kisii women prison; Nairobi Remand; Kilgoris prison there were no agents.
157. **THAT** in Kinyaga primary school; Nyambori primary school; SDA Mariari primary school; Kwa-Andu-Ambogo primary school; Mwundu primary school; Siakago Hall; Itiira primary school; Ndutori primary school; Gangara primary school; Gatakari primary school; Kathigagaceru primary school; Karauri primary school **the purported Forms 34As have been filed with the same handwriting.**
158. **THAT** in Uruku prison the number of registered voters is not indicated.
159. **THAT** in Gatinja primary school the Form 34A is signed by only the 3<sup>rd</sup> Respondent's agent and no reason is given as to why no other agents did not sign; in Runyenjes Municipal Hall the Form 34A is not clear; in Nduuri primary school the total number of registered voters and total numbers of votes cast is not indicated and the polling station is not legible.

160. **THAT** in Kathugu primary, the purported Form 34A indicates the party agent to be the Petitioner herein while the 3<sup>rd</sup> Respondent is shown as the candidate!
161. **THAT** in Kithangari Tea Buying Centre the Presiding Officer and the Deputy Presiding Officer have the same handwriting!
162. **THAT** in Kithagutari primary school the same handwriting has been used in filing and signing the Form and the Form 34A is a photocopy.
163. **THAT** the Form 34A for Ciangera primary school is not clear/legible.
164. **THAT** in the Form 34As for Kiathambu primary school; Kamwaa primary school and Gwakaithi primary school have not been stamped.
165. **THAT** in Gwakathi primary school the tally results have been cut off and the agent signed off as a NASA agent.
166. **THAT** the Presiding Officer in Qvaaine also signed for Gwakathi primary school Form 34A.
167. **THAT** in St Peters primary school and Itururi primary school the Form 34As are not stamped.
168. **THAT** in Mugwanjogu primary school and Mbaci primary school the handwriting in the two Forms is similar; the Form 34A for Kamarindo primary school is illegible.
169. **THAT** in Muruaki secondary school; Kahuru primary school; Matundura primary school; Muthoni primary school; Munyaka primary school; Kaimba primary nursery school; Kanyungi primary school Vijiweni Grounds; Likoni Muslim primary school; Consolata nursery school; Mirima primary school Ngurubani primary school; Kamuchege primary school; Karuangi primary school; Defathas; Karoti girls; Ciagini **the same handwriting has been used for all the Form 34As.**
170. **THAT** in Likoni primary school the Form 34a does not indicate the name of the Presiding Officer.



171. **THAT** in Thome primary school; Gakuo primary school; Kutus primary school; Karoti girls; Murinouko; Musinduko; Ichangi; Tongoye; Karuangi primary school; Kamuchege primary school; Murubara Social Hall; Wanguru County Council; Ngurubani primary; Wanguru secondary school; Samburu primary school; Mwambani primary school; Chituoni nursery; Matumbi primary school; Mivirivirini primary school; Mlola nursery; Vikolani primary school; Kipni the Form 34As are not stamped.
172. **THAT** in Mwambani primary school and Chituoni nursery the Deputy Presiding Officer did not sign the Form 34As; while in Mugamba Ciura primary school an evidently fake IEBC stamp was used.
173. **THAT** in Kafuduni primary school both the Deputy Presiding Officer and the Presiding Officer did not sign the purported Form 34A; while in Mazerus primary, the Deputy Presiding Officer did not sign the statutory form.
174. **THAT** in Tarasaa secondary the Form 34A has been filed using the same handwriting and signatures; in Ngao Social Hall the Deputy Presiding Officer did not sign the purported Form 34A.
175. **THAT** in Onwadei primary and Tana Salt nursery the same handwriting has been used but there are no signatures in the FormS 34A.
176. **THAT** in Imani primary; Mswakini primary; Maua primary the same handwriting has been used to fill the statutory forms.
177. **THAT** while in Walkon, the Deputy Presiding Officer did not sign; in Maua primary the Form is not signed at all.
178. **THAT** in Konkon the same handwriting has been used but no signatures have been appended; in Gatuto primary; in Kirinyaga Tech the Deputy PO did not sign and the Form is not stamped.

179. **THAT** in Kaitheri primary, Kaitheri youth polytechnic, Kiabarikire primary, Kianderi primary, Karitha, Kirugoya coffee factory, Kirigo primary, Valley road primary, Gakararu; Amani gardens; Kiamuruga primary; Karaini primary; Holly Rosery primary; Karuri primary the Form 34As are not stamped.
180. **THAT** in Iego primary the same handwriting has been used to write and sign for agents.
181. **THAT** in Mukarara primary and Kiawambogo primary the Forms have been filed using the same handwriting.
182. **THAT** in Laciathuriu primary the Form has been signed by three Jubilee candidates and no reason is given as to why the other candidates did not sign.
183. **THAT** in Kisorngot primary the signatures are similar for all the agents.
184. **THAT** in Pangani girls secondary there is no number of total votes cast or registered voters indicated in the Form 34A.
185. **THAT** in Kuni primary the code is unclear/illegible.
186. **THAT** in Empaash primary the Form has been signed by the same person and no record of the registered voters is recorded.
187. **THAT** in Pimbiniet primary there is no agent's signature in the posted Form 34A.
188. **THAT** in Ololchurra Centre the information in the uploaded Form has been cut out.
189. **THAT** in Nkosuash nursery there is no entry for all the Presidential candidates in the uploaded Form 34A.
190. **THAT** in Teldet primary school the Form is illegible.
191. **THAT** in Kiplegut primary school the number of valid votes is not specified as well as the rejected votes.
192. **THAT** in Kimulot primary the agents' signatures are similar.
193. **THAT** in Murguiwet primary the agents' signatures are similar.

194. **THAT** in Mugenyi primary two jubilee agents signed the Form and it is not indicated why other agents did not sign.
195. **THAT** in Kapkilaibei primary only independent candidates'agents signed the Form and no reason is given as to why the other agents did not sign.
196. **THAT** in Kapkweni primary school the agents have similar handwritings.
197. **THAT** in Masset the Form 34A has been altered using whiteout.
198. **THAT** in Meru primary school all agents signed using one handwriting and no results are given.
199. **THAT** in Mosque Road Hall; Nteere park all agents have a similar handwriting.
200. **THAT** in Makutano Market there are discrepancies in the figures.
201. **THAT** in Miriga, the Form 34A is neither signed nor stamped.
202. **THAT** the Form 34A in Njukinjiru is illegible.
203. **THAT** the Form in Kathurini Coffee is only signed by the 3<sup>rd</sup> Respondent's agents.
204. **THAT** in KESES (Post Code 64) it was observed that the picture form was incomplete, KILELGUT primary school valid votes and rejected votes were not specified. In Tinderet constituency the following polling station has illegible forms – TINDERET, KALYET PRY SCHOOL; in NORTH IMENTI CONSITUENCY, GAKORORONE MARKET, form 34A was illegible, and in MIRIGA MIERU Polling station, form 34A was neither stamped not signed.
205. **THAT** still NORTH IMENTI, MAKUTANO MARKET polling station there was a discrepancy in the figures on form 34A.
206. **THAT** in Kokoin constituency, polling stations number KIMULOT PRY. SCHOOL, MURGIWET PRY SCHOOL, bore the same Agents signature and handwriting. The same was observed in NORTH IMENTI CONSITUENCY – NTEERE PARK, MOSQUE ROAD HALL, and MERU PRY.

207. **THAT** in BOMET CENTRAL CONSITUENCY in MASSTE PRY Polling station form 34A was erased using white out.
208. **THAT** in GILGIL CONSITUENCY, in ST PATRICK PRY, form 34A had no signature of agents; in OLE SULTAN PRY, MURICUCURIA ECD PRY and NDIBAI PRY, ST BARNABAS TRADING form 34As were signed by jubilee agents only, in MUNANDA PRY , GITARE PRY and NYONDIA there was discrepancy in the addition of figures, MUNANDA PRY and KAHUHO PRY, KAMATHAT PRY, ECHACHARIA, LOLDIA PRY polling station, the form 34As was illegible; in NDOGO PRY and IOTHERERO PRY KIUNGURIA PRY form 34A was filled by what seems to be similar handwriting and as such appear to have been filled in by the same person; in NUTHU polling station no summation was made, in KOMOTHAT PRY the DPO did not sign the form.
209. **THAT** IN NAIVASHA CONSITUENCY, in MILIMANI PRY was only signed by Jubilee agents. In BISHOP NDINGI PRY, there was discrepancy in the addition, in UNITY FARM, HURUMA NURSERY, MAIELLA POLYTECHNIC the forms are illegible.
210. **THAT** the Form 34As availed in the IEBC portal for Gakoromone market, Gil Gil Township; Munanda primary, Kahuhu secondary are unreadable; the Form 34As for Ole Sultan primary and Mariricua ECD have only been signed by Jubilee candidates while no reasons have been given as to why other agents did not sign; the Form 34A for St. Patricks primary school does not bear any agents' signature; the Form 34A for Munanda primary contains wrong arithmetic; the Forms for Kamathatha; Echararia; Kiungururia; Nuthu; Loldia; Unity Farm nursery; Huruma nursery; Maiella polytechnic, Chekeliek nursery are all blurred and illegible.

211. **THAT** the Form 3A for Cheplelacbei primary school are altered; in Kamathatha primary school, Kiungururia primary school; St Barnabas trading; Loldia primary all agents have similar handwritings; in Rev. Jeremiah primary school the Form 34A indicates three streams with similar valid votes; in Bishop Ndingi there are numerical inconsistencies; in Muruguyuwo primary the Form indicates the total number of valid votes cast do not tally with the number of valid votes obtained by the candidates.
212. **THAT** in Kwangolya primary school and Athiriver primary school the Form 34As do not indicate the total number of valid votes cast and neither is there a stamp nor a signature by the Presiding Officer in Maguti primary school the Form has not been signed by agents but the names have been indicated; in N. Chebelyon primary the total number of votes cast has not been indicated; in Milimani primary the Form uploaded does not indicate the polling station code; the Form for St. Andrews does not contain the name of the Presiding Officer; the Form 34As in Bureti county, Kolongei, Cheronget primary, and Kaptoboiti have been signed by the same person; the Forms uploaded for St Andrews primary school, Mobwo primary school, Tegat primary school, Chematich TBC, Kaptote TBC are illegible; the Form for Kaptote TBC was never signed by the Presiding Officer; in Barnei primary, Nyabang TBC, Kamaso Milimani primary, Kiptome primary, Kapsisiywo, Seregut primary school, Cambela primary school the Form 34As have been signed by the same handwriting.
213. **THAT** the Forms for Kapsabet primary, Kiptome primary, Kaonao primary, Karama primary, Mumani mobile, Rurine primary school, Ciothiral, Samolel primary, Cheborus nursery, Chepkurbet primary, Kaboswa primary, Ketitui primary, Torit primary, Kiboybei primary, Kiprwes primary, Tepkutwet primary, Langas primary, Langas Racecourse as uploaded in the portal are illegible.

214. **THAT** the Forms 34A for Ciothiral does not bear the name of the Presiding Officer, it is not stamped and neither does it contain the names of any agents and/or the reasons as to why no agent did not append their signature; in Sirimon the Form does not indicate the number of the valid votes; in Chepkurbet primary the Deputy Presiding Officer did not append his/her signature; in Kiriswe primary, Kapkorosi Health Centre, Kirimose primary, Aregeriot primary, Muramet primary, Sinendoik primary, Komirmir primary, Kimaech primary, Kipsigirio TBC, Kabomo TBC, Kigonor TBC, Kianja primary, Okok primary, Burkna primary the Forms have been signed by one person using the same handwriting.
215. **THAT** the Forms 34A in Kirimose primary school, Sotit primary school, Taboino primary school, Kugerwet primary school, Kisande primary school, Sitemok primary school, Got Nyabondo primary school, Kianja primary school, Okok primary school, Mamboleo market, Burkna, Wathorega market, Chiga primary school, Obino primary school, Orongo primary school, Nyaimbo primary school, Wandiege primary school, Koyange primary school, Manyatta B primary school, St. Marys Sosiot Primary, Tuktuk primary, Tumaini Primary, Michwa nursery, Njenga Karume Secondary School, Kamotong Primary, Kabiyet Township Primary Polling Stations do not bear the name of the Presiding Officer, the Forms were not stamped and neither does it contain the names of any agents and/or the reasons as to why agents did not append their signature. Forms did not indicate the number of valid votes and no date on total votes cast.
216. **THAT** form 34As from the following forms were not signed by the Presiding Officer or Deputy Presiding Officer Kalingile Market, Kitaingo Pry, Makunga Health Center, Kttc (Nairobi), Tikitio, Manguti Pry In Homabay, Ciothiral, Barmeï Pry School, Chepkurbet Pry, Koyango Market (Kisumu), Makunga Health Centre,

River Bank Pry, Miriga Mieru, Kilingile Market, Ndatabwa Pry, And Kitaingo Pry, Likuyani, Ainamoi, Komothai Pry School, Kapkatet.

217. **THAT** form 34As from the following polling stations were signed by the same Presiding Officers Or Deputy Presiding Officer – Kaptidil, Chepterit, Manyatta B, Konyange Pry, Konyango Market, Nyaore Pry, Westlands Pry, Kihumbuni Pry, Kapsabet Boys, Aic Kosira Estate, Timbilil Pry, Barnei Pry, Kiriswe Pry, Kapkorosi Health Centre, Kimari Pry School, Kiptenden Pry School, Kirimose Pry, Aregeriot, Muramet, Sinedoik, Komirmir, Kipsigirio, Kabomo, Taarut, Kigonor, Kianja Pry, Okok Pry, Rae Kajulu, Mamboleo Market, Burkna, Kapmaso Milimani Pry, Kapchebet, Kiptome, Kapsirio, Songich Pry, Riakaunge Nursery, Kiumbe Primary, Mwerera Primary, Kimoro Pry, Kelewa Pry, Kego Tea Banda, Kieni Tea Banda, Chogoria Complex, Girira TBC, Chogtua Complex, Chogoria Girls Borading, Kimuchia Primary.
218. **THAT** in the following polling stations, the Presiding Officer signed in more than one polling station – in NYAORE PRY, ISAAC M. OMARI was the pressing officer but he signed form 34A for RUORA PRY; in CHEPTTERWO DISPENSARY, the gazette Deputy Presiding Officer is Derrick Ngetich. However, the same Derrick Ngetich signed as a Presiding Officer in KAMINJEIWA PRY; in JEREMIAH KIMUTAI who is a presiding officer of another stationed signed as the Presiding Officer of KIPTULE polling station; in JUDY DOREEN CHELAGAT is the gazetted Presiding Officer of SEBETET however, she also signed as a Presiding Officer in CHEPKOIN; VINCENT is the gazette Presiding Officer of CHEPTENYE PRY, however he also signed as a Presiding Officers in another Polling station.

219. **THAT** in the following polling station the results do not tally mathematically – N. Chebelyon Pry; Murunga; Kapkagoron Pry; Chepsumei; Kapkatoi; Madaraka School; Rise And Shine; Birongo Pri; Ibeno Sec School; Matieko Dok Pry; Muramati Pry; Westlands Pry; Hospital Hill; North Highridge Pry; Karura Forest Pry; Cheleta Pry; Mji Wa Huruma Pry; Kttc ; Hospital Hill High; Kianjagi Pry; Seretut Pry; Bishop Ndingi School; Nyakinyua Pry; Rev Jeremiah; Chekeliek Nursery; Cheplelakbei Pry; Muruguyu Woo Pry; Kwangoly Pry; Athi River; Sirimon; Kithithi Pry; Kombe Pry.
220. **THAT** in the following polling stations Form 34As on the face of it appeared to have been entirely filled in by the Presiding Officer: Koiwalelach; Chemamul Primary, Kapsisiwo T.B.C, Nyabanei T.B.C, Kapmaso Milimani Primary, Kapchebet Primary, Kiptome Primary, Chepkoin Primary, Cheymen T.B.C, Kiptule T.B.C, Barnei Primaryschool, Telolet T.B.C, Sosiot Social Hall, Cheribo Primary, Kaptoboiti Primary, Machorwa Primary, Chepkoin Primary, Cheptenye Primary, Keben Primary, Cherongey Primary, Kolongei Primary School, Chematic T.B.C, Itoik Primary, Sebetet, Sugutek T.B.C., Masubeti Primary, Cheplanget Primary, Centre Pilis T.B.C, Chepterwo Dispensary, Chebagal T.B.C, Kapsirwo Primary, Songich Primary, Kipsinende Primary, Kapsemwo, Kiluka Primary, Marimati Ma Youth Polytechnic, Marimati Girls, Kongasis Gatunga, Kaiga Kamwe, Kathithini, Nthaara Primary, Gikuu Kia Ndia, Marimanti, Gacigongoni Primary, Iruruma Primary, Riakaugi Nursery, Kiumbe Primary, Mwerera Primary, Kimoro Tea T.B.C, Kalewa Primary, Kego Tea Banda, Kianjagi Primary, Kieni Tea Banda, Chogoria Complex, Girira T.B.C, Chogtua Complex, Chogoria Girls B., Kimuchia Primary, Majira T.B.C, Kairuni Prmary, Polepole Market Grounds, Kairuni Coffee Factory, Kiraro Primary, Kiamaogo Primary, Mbironi, Ngaita, Katiethetu, Nguruki Primary,



Katharen, Kirumi Primary, Kamni Primary, Ukuruni Primary, Murunga, Karumbi Primary, Ncuui Primary, Kanjoo Primary School, Nkanga Primary School, Mwembe Tayari P.H.D., Sarma Centre, Kaboi Primary School, Kisiorori Primary School, Mugundoi Primary School, Tendwet Primary School, Mosombor Primary, Kipchawat Primary, Kamarich, Ibanja, Kapkitony, Chepkongony, Teldet, Kamarini, Enegu Primary, Kitapko, Kapkolei Dispensary, Kimulwo Primary, Kimwugi Primary, Mogobich, Kipkorim, Tereno Primary, Chemundu, Samoo Primary, Mgoon, Kapkechui, Singilet Primary, Kapnganio, Kapkagaron Primary, Chesumei, Kapkato, Nyanguru Primary, Esamba Primary, Kemfri, Nyansira Primary, Nyakebako, Roma Dok Primary, Nyakome Primary, Matieko D.O.K Primary, Mariiba Dok Primary, Nyaore Primary, Ititi Primary, St. Mary's Boys, Nyonsia D.O.K Primary, Lentile Farm, Muramati Primary, Igonga Primary, Bhora Primary, Westlands Primary, Hospital Hill, Highridge, Kipkongen Primary, Bemja Primary, Chepsioch Primary, Kaptinor Primary, Kabusagawat, Kiptaruso Primary, Timbilil Primary, Kitum Nursery, Ngame Nursery, Simbiprimary, Cheptabach Primary, Siwi Health Centre, Taboinyat Primary, Tartar Nursery, Tikityo Primary, Chepngetuni Primary, Keben Primary, Koilot Primary, Kepkechui Primary, Kapsabet Boys Primary, Aic Kosira Estate, Aic Baraton, Nandi Primary, Kamurguywo Primary, Chenare Primary, Kaptildil, Kamonjil Primary, Kapkimbibir, Segut Primary, Chepterit Primary, Belekenya, Ndaptabwa Primary, Kalingile Market, Kitaingo Primary, Kiranzoini Primary, Nunguni Primary, Yolomuni Primary, Mikimbi Full Gospel Grounds, Full Gospel Church Ground Njukikiri, Teachers Advisory Centre Hall, Nembure Polytechnic, Ack Muchonoke Church Grounds, Faithful Church Of Christ-Makumbiri, Kwa Douglas Bus Stage, Full Gospel Churches Grounds- Ndunduri, Full Gospel Churches Grounds- Gituturu, Ngurueri Coffee Factory, Nguire

Primary, Muchagori Primary, Kavutiri Primary, Kithangari Tea Buying Centre, Gic Polling Stations.

221. **THAT** I am advised by the Advocates for the Petitioner herein and I verily believe the same to be true that the defects and irregularities outlined hereinabove render the purported statutory forms invalid, null and void; and, entirely incapable of being relied upon to verify the results the basis upon which the Commission declared the 3<sup>rd</sup> Respondent as having been elected the President of Kenya.
222. **THAT** I am advised by the Advocates for the Petitioner herein and I verily believe the same to be true that the defects and irregularities outlined hereinabove render the purported statutory forms invalid, null and void; and, entirely incapable of being relied upon to verify the results the basis upon which the Commission declared the 3<sup>rd</sup> Respondent as having been elected the President of Kenya.
223. **THAT** I am advised by the Advocates for the Petitioner herein and I verily believe the same to be true that the defects and irregularities outlined hereinabove render the purported statutory forms invalid, null and void; and, entirely incapable of being relied upon to verify the results the basis upon which the Commission declared the 3<sup>rd</sup> Respondent as having been elected the President of Kenya.
224. **THAT** I am advised by the Advocates for the Petitioner herein and I verily believe the same to be true that the purported declaration by the 2<sup>nd</sup> Respondent of the 3<sup>rd</sup> Respondent as the winner of the Presidential vote, without any or any due verification, and/or on the basis of the invalid documents hereinabove is irregular, unprocedural, unlawful, unconstitutional, null and void; and invalidates the purported results.

**ANNEXED HERETO AND MARKED “DNO - 4” IS A BUNDLE OF ANNEXTURES CONFIRMING THE FOREGOING.**

225. **THAT** in respect of statutory forms signed by persons other than gazetted County Returning Officers, Constituency Returning Officers and Returning Officer for citizens residing outside the country, I now annex hereto and mark “**DNO - 4 GAZETTE NOTICE NO. 4410 DATED 5<sup>TH</sup> MAY 2017** confirming the returning officers in respect of the subject electoral units.

226. **THAT** I also came across Forms 34As which I could not relate to any of the existing gazetted polling stations/Tallying Centres.

**ANNEXED HERETO AND MARKED “DNO - 5” IS A TRUE COPY OF GAZETTE NOTICE NO. 6393 OF 30<sup>TH</sup> JUNE 2017 IN RESPECT OF GAZZETTED TALLYING CENTRES.**

227. **THAT** I have analysed the turn out in the presidential results *vis a vis* the gubernatorial results and the Parliamentary results *vis a vis* the registered voters and the votes cast. My analysis discloses that the total votes cast for the President is 15,588,038 while for the Governors is 15,098,646 demonstrating that of 482,202 voted for the President and not for the Governor. Further, the same examination discloses that 15,008,818 people voted for MPs only demonstrating that 567,517 voted only for the President and not MPs. The foregoing disclosure is a factual and legal impossibility and shows that the presidential votes were inflated by these number of votes.

**ANNEXED AND MARKED “DNO – 6” IS A COPY OF THE ANALYSIS.**

228. **THAT** I have further noticed that while the final presidential results were announced on 11<sup>th</sup> August 2017 with the 2<sup>nd</sup> Respondent declaring the 3<sup>rd</sup> Respondent winner by a final tally of 8,203,290 votes. I have examined the 1<sup>st</sup> Respondent's portal as at the date of swearing this affidavit and I have noted with great concern that the portal continues to reflect additional votes which now stand at 8,222,967 votes.
229. **THAT** I am aware that the 1<sup>st</sup> Respondent has, several days after announcing the final results, recalled all its Returning and Presiding Officers to fill and adjust the relevant accountable forms so as to ensure the documentation tallies with the final results declared on the 11<sup>th</sup> August 2017. This is a clear demonstration that the results as declared were neither verified nor supported by relevant documents and are therefore a nullity.
230. **THAT** further, a fundamental hallmark of free and fair elections is the right of a potential voter to make an independent and objective choice of leaders without undue influence, bribery, inducement or manipulative interference of any kind.
231. **THAT** the 3<sup>rd</sup> Respondents and the Deputy President being contestants in the presidential elections are guilty of corruptly influencing voters in the lead up to the 8<sup>th</sup> August 2017 general elections without punishment and/or as much as a warning from the 1<sup>st</sup> Respondent. Particulars of instances of undue influence, inducement, bribery and intimidation are as follows:
232. **THAT** on 2<sup>nd</sup> August 2017 while campaigning in the County of Makueni, the 2<sup>nd</sup> Respondent while addressing residents of Makueni during campaign rallies openly threatened chiefs he complained were not actively campaigning for him with sacking upon his re-election!

233. **THAT** despite clear and express provisions of section 16 of the Public Officer Ethics Act that require them to be apolitical, the cabinet secretaries actively and openly abused their offices and state resources to actively solicit for votes and or further the political interests of the 3<sup>rd</sup> Respondent with his open complicity and connivance. In some cases, the said cabinet secretaries openly declared and sought support for the 3<sup>rd</sup> Respondent, sometimes accompanied by threats and intimidation.
234. **THAT** under the guise of launching official state projects and paying reparations to victims of the 2007 post-election violence in various parts of the country the 3<sup>rd</sup> Respondents used the same platforms to canvass for votes for personal political gain in the said electoral areas contrary to the Election offences Act.
235. **THAT** the 3<sup>rd</sup> Respondent brazenly violated section 14 of the Elections Act by actively causing to be published and advertised in the print and electronic media and in banners and billboards articles disguised as the government's achievements for his campaigns.
236. **THAT** in a country like Kenya 44% of the population lives below poverty lines and 38.5 per cent of the adult population is illiterate, it is certain a substantial number of voters were influenced by improper considerations and/or representations by the 3<sup>rd</sup> Respondent through use of public resources.
237. **THAT** I am advised by the Advocates for the Petitioners on record, which advise we believe is true that the aforesaid were blatant violations of clear provisions of electoral laws to the disadvantage of the other presidential candidates. Furthermore, to the extent that the 1<sup>st</sup> Respondent turned a blind eye to the said violations while punishing other candidates for violation of the same laws, the 1<sup>st</sup> Respondent acted discriminatorily, partially, unlawfully and/or unfairly to the advantage of the 3<sup>rd</sup> Respondent.

238. **THAT** I swear this Affidavit in support of the Petition and humbly seek this Honourable Court's intervention allow this Petition and secure our democracy.

239. **THAT** what is deponed to herein is true to the best of my knowledge save for facts and deposition to which sources I have disclosed.

**SWORN** at **NAIROBI** )

By the said ) .....

**DR. NYANGASI ODUWO** ) **DEPONENT**

This day **18<sup>TH</sup>** Day of **AUGUST** 2017 )

BEFORE ME )

COMMISSIONER FOR OATHS )

**DRAWN & FILED BY:**

Murumba & Awele Advocates

Mirage Plaza, Mezzanine 1 – Unit 7, Westlands, Chiromo Road

P.O Box 22255-00505

**NAIROBI**