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Kioko Kilukumi
Dr. Samuel Njiru

Your Ref: T.B.A

Our Ref: **KK/RM/cr/017/2017**

Date: 22/09/2017

The Ethics & Anti-Corruption Commission
Integrity Centre,
Milimani/Valley Road Junction
P.O. Box 61130 - 00200,
Nairobi
Email: eacc@integrity.go.ke



Dear Sirs,

RE: REGISTRAR OF THE SUPREME COURT

We act for Mr. Rashid Mohammed, a citizen concerned with the due administration of justice, who has instructed us to lodge a formal complaint for investigations touching on the integrity of State officer(s) and possible criminal conduct.

The complaint arises from the judgment delivered by the Supreme Court on Wednesday, 20th September, 2017 in Presidential Election Petition No. 1 of 2017 *Raila Odinga & Ano. -vs- I.E.B.C. & 2 Others.*

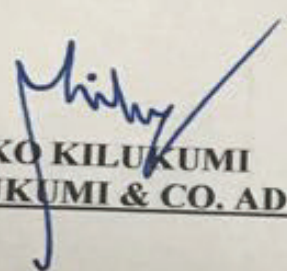
Our client takes the view that:-

- (a) The majority judgment relied heavily on the report by its Registrar Esther Nyaiyaki;
- (b) The dissenting judgment by the Hon. Lady Justice Njoki Ndung'u set out in *extenso* her examination of all the Forms 34Bs from the 290 Constituencies and the additional one for the diaspora. Her judgment goes on to state that in addition to these Forms 34Bs, she also verified the disputed Forms 34As. She states in her Judgment in which she sets out a chart in respect of the said Forms that she found all the said Forms in order regarding serial numbers, stamps and signatures;
- (c) The Report by the Registrar of the Supreme Court is the opposite of the findings by the Hon. Lady Justice Njoki Ndung'u regarding these Forms. The two contrasting viewpoints cannot be factually correct;
- (d) The Forms 34Bs and 34As examined by the Hon. Lady Justice Njoki Ndung'u were the certified copies deposited in Court by the IEBC within 48 hours of the filing of the Petition challenging the Presidential elections;
- (e) The inevitable conclusion is that the Report by the Registrar of the Supreme Court was "doctored" or that someone "doctored" the Forms on which she based her Report;

kk.RashidMohamed

- (f) From the foregoing, there is *prima facie* evidence of commission of the serious offence of subversion of the cause of justice, amongst other criminal offences;
- (g) Given the great public interest in the Presidential elections, the Petition which challenged the same and the judgment, it is critical that urgent, thorough investigations be undertaken and that any persons or persons found to have committed offences in this sensitive and grave matter of the Presidential elections in which the Kenyan people were exercising their sovereign authority be speedily brought to book;
- (h) The Registrar of the Supreme Court is a State Officer and it is on this basis that this letter is addressed to the Commission. We take the liberty to copy this letter to other criminal investigative agencies.

Yours faithfully,


KIOKO KILUKUMI
KILUKUMI & CO. ADVOCATES

Cc:

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