

# NIGERIA INDIGENOUS SHIPOWNERS' ASSOCIATION

## REPORT BY THE ELECTORAL PETITION PANEL ON THE NISA GENERAL ELECTIONS OF OCTOBER 24, 2014.

### 1.0. INTRODUCTION:

The **General Election** towards filling all constitutionally provided positions into the **National Executive Committee** of the Nigeria Indigenous Shipowners' Association (**NISA**) was held on **Friday, October 24, 2014** at the Rockview Hotel, Apapa, Lagos. This of course came to be after more than a year of serious and painstaking preparations on the part of the **NISA** Secretariat and on the part and behest of Candidates/Contestants themselves.

The journey to Rockview 2014 started effectively with the **General Meeting of NISA on September 17<sup>th</sup>, 2013** held at Rockview Hotel, Apapa, Lagos. Thereat, the matter of succession and consequently the Election and its processes was robustly debated and all agreeing to an Election and the need to prepare adequately for it. Since then, the **General Meetings of December 10, 2013 and September 9<sup>th</sup>, 2014** respectively dealt extensively with the matter of the **Elections**. The issues will be discussed further in the **Report**.

### 1.1. Background to the Panel:

On Thursday, October 23, 2014, NISA organized a **Manifesto Presentation Day** for the Contestants to the various advertised positions; Friday, October 24<sup>th</sup> 2014 came the **Elections** into the various offices/positions. The result of the elections came out thus:

i.	President	-	-	-	Capt. Niyi Labinjo
ii.	1 <sup>st</sup> . VP	-	-	-	Mrs. Magaret Orakwusi
iii.	2 <sup>nd</sup> VP	-	-	-	Aminu Umar
iv.	General Secretary	-	-	-	Mr. Tunji Brown
v.	Asst. Gen. Sec.	-	-	-	Mr. Ashinwo St. Peters
vi.	Publicity Secretary	-	-	-	Engr. Ilori Emmanuel
vii.	Welfare Secretary	-	-	-	Mr. Gbolahan Adu
viii.	Financial	-	-	-	Mr. Lanisa Bamidele
ix.	Treasurer	-	-	-	Mr. Peter Olorunfemi
x.	Lagos Coordinator	-	-	-	Mr. Emeka Ndu
xi.	Warri Coordinator	-	-	-	Prince Charles Amadi
xii.	Port Harcourt Coordinator	-	-	-	Dr. Emi Membere-Otaji
xiii.	Calabar Coordinator	-	-	-	Mr. Eno J. Williams

However, as things have turned out, not everyone is satisfied with the outcome of the Election. So, in accordance with the stipulations of the **Constitution and the Election Guidelines**, all grievances having to do with the Elections must be submitted to the **Election Committee** on or before 1200 hrs on Thursday, October 28, 2014. It is contingent on this basis that the **NISA ELECTORAL PETITION PANEL** was set up.

### 2.0. Inauguration of the NISA Electoral Petition Panel (NEPP):

The **Panel** was inaugurated by the President of **NISA**, Chief (Dr.) Isaac Jolapomo on Friday, October 31, 2014 at the Head Office of Rangk Limited, Victoria Island, Lagos.

The **NEPP** was set up as part of **NISA** Constitutional provision to cater for any dissatisfaction by any participant, contestant or/and interested party with any stage of the electoral process.

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In his speech, the President thanked the Members of the Panel for their acceptance to serve. He went on to state that the Panel was set up in accordance with the **NISA** Constitution and the **NISA** Electoral Guidelines in order to give room for any aggrieved party to ventilate their grievances on the one hand, while correcting any anomaly on the other. He thus enthused that at the end of the exercise all frayed nerves should be cooled and all hands will return on deck to reposition **NISA** to continue to occupy a prime position in the Maritime industry in Nigeria.

In his response on behalf of the other Members of the Panel, the Chairman pledged that the Panel will do its best to adjudicate on the matters brought before it with the best of abilities, clarity of thought, and open/fair-mindedness.

The **NISA** President's Speech is attached as **Appendix I**.

## 2.1. Membership of the NISA Electoral Panel (NEPP)

The Members of the Panel as constituted comprised:

- |      |  |   |                 |
|------|--|---|-----------------|
| i.   | Rear Admiral G. N. Kanu ( <b>Rangk Ltd</b> ) | - | <b>Chairman</b> |
| ii.  | Chief Gbola Akinola (IPP of <b>MAAN</b> )    | - | Member          |
| iii. | Mr. Rex Elem ( <b>NIMASA</b> )               | - | Member          |

They were all issued with their respective Letters of Appointment. (**Appendix IIa, IIb, IIc**). Mr. Vincent Abulu (Rangk Ltd) was adopted for Secretarial and Secretariat services.

## 2.2. Terms Of Reference:

The **TOR** given to the Panel was to look at the merit and demerit of the petition submitted by **our** aggrieved members, and make recommendations. By studied assessment, this (looking at petitions) encapsulated and even elaborated to clear and simple :

- i. To determine if any fraud or fraudulent or untoward activity took place before, during and after election;
- ii. To determine the kinds of anomalies observed in the entire voting/election process, and recommend solutions;
- iii. To determine the veracity of the claims by the Contestants with a view to observing if any Candidate or Contestant was favored or disfavored by the President;
- iv. To determine if the entire **Election** or any part thereof should be cancelled or redone.

## 3.0. PETITIONS RECEIVED AND PETITIONERS

### 3.1. The following persons submitted petitions:

- a. Mr. Temisan Omatseye - Presidential Candidate
- b. Engr. Greg Ogbeifun - Presidential Candidate
- c. Capt. Niyi Labinjo - Presidential Candidate
- d. Capt. Frankline Akinpelumi - Candidate for Lagos Coordinator/Gen. Sec.

### 3.2. Points of Petitions:

#### 3.2.1. **Greg Ogbeifun:** He claimed in his petition (**APPENDIX X**) that:

- i. The **ASSECO** failed in its responsibility to organize a free and fair Election.

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- ii. The **Capt. Niyi Labinjo** did not pay his 10% of indebtedness, and so was not eligible to contest.
  - iii. Not all voters had cleared (10%) their indebtedness, and so not all those that voted were eligible.
- 3.2.2. **Mr. Temisan Omatseye (APPENDIX XI)** claimed that:
- i. However, the crux of the matter is that the **ASSECO** failed in its responsibility to organize a free and fair Election.
  - ii. The **Capt. Niyi Labinjo** did not pay his 10% of indebtedness, and so was not eligible to contest.
  - iii. Not all voters had cleared their indebtedness, and so not all those that voted were eligible to do so.
- 3.2.3. **Capt. Niyi Labinjo (APPENDIX XII)** countered that:
- i. While appreciating the Panel, he said he got the notice the day before the meeting.
  - ii. He pointed out that there was no AGM on the 9<sup>th</sup> of Oct. 2014.
  - iii. There the **AGM** of 9/9/13 – Hereat, the Election transition committee agreed on the waivers, but no amount fixed. Because the overall objective was to have an all-inclusive and all-embracing election, where no one would be disenfranchised.
  - iv. There was also the **AGM** of 10/12/13. The amount to be paid by participants was fixed at 10% of indebtedness. 10% was for Candidates, while the Voters were free of encumbrances.
  - v. **AGM** of 3/9/14 – the last AGM before election.
  - vi. Temisan's Company, Polmaz Ltd joined NISA in July, 2014.
  - vii. Greg Ogbeifun was reported to have joined the Association in 2009, resigned in 2011 and was readmitted on 04/03/13.
  - viii. **Constitution** stated that a person must be in the Association for a minimum of 2 years to be eligible for any position.
  - ix. On the issue of his outstanding dues and indebtedness, he (Capt. Labinjo) stated that the NISA President, **Chief Jalopomo** used his discretionary powers to grant him a waiver to pay only N200,000 on 5/6/14 on his self-recognition as the Secretary; this is based on his contributions, financial and others, to the development of the Association since inception. He said it a discretionary decision by the president of the Association. He said that he has over the years spent over N20m as a person.
  - x. Note: The Panel stressed the need for receipts for the all expenses so claimed/reported.
  - xi. On the 20/10/14, due to pressure from **ASSECO**, he paid another N1m under protest.
  - xii. Further to Art.4 of the Constitution on the ownership of a ship, he said he owns MT Ocean Challenger (over 3000 Grt) which is presently based in Warri.
  - xiii. Presented Ship Registry Certificate of his ship.
  - xiv. He also said that the Provision of 500grt has been reduced to 150grt and this was done **to accommodate people like Greg Ogbeifun**, who owns a tug boat under 500 grt.

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xv. He added that Art. 4.1.a Provided **Ship Managers** to be members of the Association. He said his Company manages MV Adeline Jumbo (over 497 grt.) and MV Mellandros which is under arrest.

xvi. On 3/2/14 – Global Shipping Activities Bureau (GSAB) was introduced to **NISA** to replace **Aldawood** (originally registered with NISA) since Aldawood's shares were transferred to **GSAB**.

3.2.4. **Capt. Franklin Akinpelumi (APPENDIX XIII):** He claimed that though he initially expressed interest to vie for the position of General Secretary, he later changed his mind to go for the Lagos Zonal Coordinator (**LZC**) Position, which he informed the **ASSECO** and the **NISA** President about immediately, and well before nominations closed. However, the **ASSECO** did not officially respond to him about his ineligibility for the LZC position until the day of Manifesto presentation, i.e. **Thursday, Oct. 23, 2013**. He therefore sees this development as **deliberate disenfranchisement** of his quest and himself. He thus prayed that the election to the said position be declared null and void, and thus vacant. He asks for re-election.

### 3.3. Prayers Sought by Petitioners

- i. **Engr. Greg Ogbeifun:** Cancellation of the Elections. Another Elections should held.
- i. **Mr. Temisan Omatseye:** His prayers were more or less the same as that of Engr. Greg Ogbeifun.
- ii. **Capt. Niyi Labinjo:** His, and the entire results of the Election to be upheld.
- iii. **Capt. Franklin Akinpelumi:** Cancellation of the Elections to the position of Lagos Coordinator. Another Election to the position to be held.

### 4.0. PROCEDURE AND PROCESSES

#### 4.1. Appearance at the Panel

In order to get the entire process underway, the **Panel** decided to hear first-hand, directly from the Petitioners themselves. To this end, each of the **Petitioners** was invited one after the other, to give oral summary of their petition. This was also to avail them the opportunity of providing additional information or/and clarifying the information provided in the petitions or rather justifying their claims/positions.

##### 4.1.2. Physical Appearance:

The following appeared physically:

- i. Mr. Temisan Omatseye - Presidential Candidate
- ii. Capt. Niyi Labinjo - Presidential Candidate
- iii. Capt. Frankline Akinpelumi - Candidate for Lagos Coordinator/Gen. Sec.

##### 4.1.3. Non-Physical Appearance/Interaction:

The Panel was able to discuss via telephone and email exchanges with the underlisted with a view of having further insight into the Pre, during and post Election processes:

- i. Mrs. Magaret Orakwusi, 1<sup>st</sup> VP. She Chaired the Constitution Review Committee and the Electoral Guidelines. She also contested and was returned un-opposed to the position of 1<sup>st</sup> Vice President.



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- ii. Chief Jolapomo, NISA President. Aside telephone discussions, he also answered a questionnaire sent to him by the panel. Attached to the Report as Appendix III.
- iv. Mr. Joe Emeribe; he served on the Electoral Committee.
- v. Capt. Niyi Adeyemo: he Chaired the Electoral Committee
- vi. Engr. Greg Ogbeifun, though present at the opening of the Inauguration, he was not around for verbal discussion with the Panel. He however sent in scanned copies of letters indicating he is still a member of NISA, which is contrary to the impression that he had resigned members at a time. He corrected that he only resigned his membership of the Executive Council.

## **4.2. Documents Examined by the Panel:**

### **4.2.1. Statutory Documents Directly Relevant to the Elections:**

- i. NISA Constitution - Appendix IX
- ii. NISA Electoral Guidelines - Appendix VIII
- ii. NISA Members' Database - Appendix XVII
- iii. NISA Election Voters' Authorization Letters – Appendix XVI
- iv. Minutes of General Meeting of Sept. 17, 2013 – Appendix IV
- v. Minutes of General Meeting of Dec. 10, 2013 - Appendix V
- vi. Minutes of General Meeting of Sept. 9, 2014 – Appendix VI
- vii. NISA President's NEPP Inauguration Speech – Appendix I.

### **4.2.2. Petition by Engr. Greg Ogbeifun**

- i. Petition Letter/notice (Appendix X)
- ii. Letters of Information/Correction as to purported resignation – Appendix VIIa-c

### **4.2.3. Petition by Temisan Omatseye**

- i. Petition Letter/Notice (Appendix XI)
- ii. List of Contestants
- iii. NISA Constitution
- iv. Minutes of General Meeting of Dec. 10, 2013

### **4.2.4. Petition by Capt. Niyi Labinjo**

- i. Petition Letter/Notice - Appendix XIIa
- ii. ADSL Ltd Board Resolution - Appendix XIIb
- iii. ISAN Official Receipt No. 000515 for N200,000.00 (09/06/2014)
- iv. GSAB Letter to NISA for N1,000,000.00
- v. First Bank Cheque No. 59332647 to NISA for N1,000,000.00 (20/10/14)
- vi. Letter replacing Aldawood with GSAB of 03/03/2014
- vii. GSAB Certificate by CAC
- viii. NISA Election Guidelines
- ix. Email from NISA to Temisan Omatseye
- x. Minutes of General meeting of Dec. 10, 2013
- xi. Certificate of Nigerian Registry (Ship Particulars) for MT Ocean Challenger
- xii. NIMASA Certificate of Nigerian Registry for MT Adeline Jumbo
- xiii. Emeka Ndu's resignation email to NISA
- xiv. Emeka Ndu's Letter of resignation NISA

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## 4.2.5. Oceanic Energy Limited

- i. Petition Letter/Notice - Appendix XIII
- ii. Letter of Intention to Contest as a Coordinator (Lagos Zone) – 22/10/14
- iii. Email to NISA: Intention to Contest as a Coordinator (Lagos Zone) 23/9/14

## 5.0 INVESTIGATION AND DETERMINATION OF POINTS OF PETITION

### CONSIDERATIONS: PANEL'S VIEWS

After painstakingly analyzing the presentations and documents presented by the Petitioners viz-a-viz the provisions of the **NISA Constitution** and the **NISA Electoral Guidelines** as well as opinions/views shared by other important participants in the Election process, the following positions/points were arrived at:

- i. The **NISA Constitution** is robust enough, very unambiguous and exhaustive in its Provisions for the Elections; it covered extensively all foreseeable grounds. However, in the light of the current developments, it would need to be reworked; it could and would also possibly need constant and continuous reworking.
- ii. The **Electoral Guidelines**, as a document, is also seen as practical enough for the purpose of this Election. The **Panel** noted that aside from being presented for discussion at the Meeting of contestants with the **ASSECO** on October 9, 2014, the **Electoral Guidelines** was also published in **Ship and Ports** and mailed to all concerned thereafter. All Contestants and their respective Representatives present at the Meeting signed the document which stipulated inter alia, that while **ONLY Contestants** were required to pay 10% of their indebtedness; voters needed only mandate letters from their respective offices/employers. In essence, Voters were exempted from the 10% rule.
- iii. The Panel also noted with satisfaction that the Election and issues pertaining to it were discussed severally and rather exhaustively and openly at all **General Meetings**. So, there was indeed ample and various opportunities for all members to address all contentious issues and remove any gray area or grey matter.
- iv. The Panel also noted that the various and varying, mostly having overwhelming support by all Members, decisions at the three (3) General Meetings preceding the Election sort of had over-riding effects on the provisions of the **Constitution** and over-arching effect to have an all-inclusive election and by extension into an all-embracing Association. To this extent, constitutional provisions were not strictly abided with; most if not all were waived in favor of all candidates.
- v. Particularly on the issue of **NISA's** President's directive that Capt. Niyi Labinjo to pay only N200, 000.00, the Panel believes this was done in good faith, for good order and in recognition and appreciation for his contributions to NISA since inception, just as he extended same encouragement/accommodation to Tunji Brown, Ayorinde Adedoyin and Mrs. Magaret Orakwusi. Only Mrs. Orakwusi declined. The same gesture was extended to Mr. Temisan Omatseye.
- vi. We also took interest in Capt. Labinjo's claim that he paid One Million Naira under protest due to pressure by the **ASSECO** that he fulfills his financial obligation. The President confirms that the cheque is still at the **NISA Secretariat**, but for what purpose this serves is not known to us. The President also claims he is not aware if the payment was made under duress.

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However, what is clear is that until and unless the cheque is or was returned to the Owner or it bounces from the bank, the Panel considers Capt. Labinjo to have paid the total sum of One Million Naira, Two Hundred Thousand Naira. The only issue that may arise therefrom is if the said amount amounts up to his 10% indebtedness was paid and at some whatever due date, which really, is the bone of contention. However, the Secretariat did not claim it is not up to; otherwise the **ASSECO** would not have cleared him.

- vii. We took into cognizance this issue of waiver by the President. Whilst one may ask if his decision was supported by other **Exco Members** or even accords with AGMs, we also believe he had, must have and would have, taken such similar and executive actions on behalf of NISA in the past and he was not questioned. Such must have been taken as act of good faith. So, it would not be acting out of order if this is so considered and construed, especially as the gesture was extended to the other aforementioned 3 Exco Members. What is good for goose should be good for the gander; so it is said.
- viii. In respect of the veracity, integrity and qualification of Voters, we examined the accreditation letters used by the **Voters**. We did not notice any abnormality with any and each of them. We also know that by the **Constitutional** Provisions and from what we saw of the bundle of letters, the possibility of double voting by any one or any company was impossible. Every Voter was mandated by his/her employer. So, to that extent, we are confident that every vote should count and counted.
- ix. On the matter of Membership tenure as a precondition to vote or contest, we observed that the General Meetings gave a sweeping waiver to all contestants and everyone in the Association. Such waiver was also given and done to even very new Members, all in a bid to have an enlarged Association and to encourage all who are so moved to take up responsibilities in the Association. One must therefore acknowledge this act to have opened the door for even Temisan Omatseye to be able to contest. He joined the NISA in July 2014 and entered for Presidency. This we make bold to say that the timing of this act had raised and still raises more than enough eyebrows.
- x. It should also be noted that the allegation that Engr. Greg Ogbeifun resigned his Membership of the Association is fallacious, and we want to opine that this misconception is most likely out of error. By his letters contained in Appendix VIIa, VIIb and VIIc, he resigned from ONLY the Executive Council and by extension the Trustees; neither he nor Starz ever resigned his membership of the Association. In any case, he regained his Council Seat in 2013 vide his letter of **Appendix VIIc**.
- xi. On the issue of Capt. Franklin Akinpelumi, much as this case is rather twisted, we were however saved the trouble of agonizingly deliberating over what to do by the resignation of the declared winner, Mr. Emeka Ndu. Whilst we appreciate Mr. Ndu's position and forthrightness in this matter, we also must let the **ASSECO** know that they must be held liable for whatever confusion that ensued over this matter so much so the Petitioner was disenfranchised. However, the stepping aside of Mr. Emeka Ndu, even though not encouraged, but has **never the less** provided a solution in itself; position made vacant. We therefore recommend that Mr. Akinpelumi steps in to serve in an ACTING CAPACITY till such a time the **NISA Exco** deems it necessary to make the position substantive or until the next Election.

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xii. On a general note, a critical guiding principle which the Panel rested upon was the legal principle that in elections, the onus is on the petitioner to provide incontrovertible proof of intent to commit fraud and the actual commit of the fraud itself. However, from our in-depth analyses of the issues and documents before us, sometimes even having to be engaged in forensic investigations within our very limited scope, we did not, and still have not found any intention to commit any fraud, commit of fraud, or even favoritism. So, the Panel would want to use this forum to admonish member to henceforth be very discerning and careful in our dealing with Members' sensibilities. Otherwise, we all run the risk of calling to question the integrity of our members, and indeed us all, who volunteer to take up responsibilities that would add value to this Association. It is in the light of this, that Panel would hereby, hereat and hereupon thank very profusely the Members of the Election Committee – Capt. Niyi Adeyemo (Chairman), Mr. Joe Ugo-Emeribe, Mrs. Tosan Edodo-Emore and the **NIMASA DG** as ably represented by his team of high caliber personnels.

## 6.0. CONCLUSIONS:

We believe only God is perfect; even this maxim, albeit absolutely true, does not seem apply to everyone, in the sense that, otherwise why would people indulge in acts that change their original and natural state of being. So, all systems and all processes cannot, mostly are not, and will not be perfect. In that regard, we cannot but expect some margin of error in this Election process. We must point out that from our observations and within the best of our collective and individual judgments, the Election was carried with minimal margins of error, and so the **ASSECO** and the respective Members of **ASSECO** headed by Capt. Niyi Adeyemo must be commended for a good job done.

***As it is, we believe the election reflects the wishes of the NISA Membership; vox populi vox Dei. So, in essence, the results of the Election should stand as declared by the Returning Officer – NIMASA.***

Distinguished Ladies and Gentlemen, thank you for patience, and your listening and your open-minded equanimity.

We here, presented The **Report**.

Thank you, All.

REPORT FINDINGS DULY  
PRESENTED THIS  
6<sup>TH</sup> DAY OF NOVEMBER 2014



REAR ADMIRAL G. N. KANU  
CHAIRMAN



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