

CHARGE SHEET

PRIVATE PROSECUTION CASE NO.....
 DATE TO
 COURT.....
 COURT FILE
 NO.....

Christian Names or Name in Full SAMUEL MUTUA KIVUITU (First Accused, for co-accused, see details over leaf)	Surname or Father's Name N/A	Identity Cert No N/A	Sex MALE	Age N/A	Address (Include District & Location where applicable)
CHARGE	COUNT ONE: ABUSE OF OFFICE CONTRARY TO SECTION 101 THE PENAL CODE.				
PARTICULARS OF OFFENCE	<p> SAMUEL MUTUA KIVUITU, KIHARA MUTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, <u>ALFREDD-N.</u> NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, JAMES, MWENDA THIRIBI, RACHAEL W. KILETA: On 29th December 2007 at Kenyatta International Conference Center in Nairobi, while employed in public office discharging your official duty as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya, you knowingly and without lawful cause jointly and /or singularly directed the management of the Election Tallying process in abuse of the authority conferred on your office by announcing presidential results which you knew or ought to have known were not verified as required by Election Regulations in that forms 16A and forms 16 were unavailable and /or party agents' signatures were missing for Nithi, Kitui West, Kitui South, Mwala, Kinangop, Ol Kalou, Mukurweini, Gichugu, Lari, Mathioya, Eldoret East, Mosop, Aldai, Baringo East, Baringo Central, Laikipia West, Naivasha, Nakuru, Kuresoi, Kajiado North and Kajiado South “For more counts see overleaf” </p>				
If Accused Arrested	Date of Arrest	Without or with Warrant	Date Apprehension Report to Court	Bond /Bail and Amount	Is application made for summons to issue
NO	N/A	N/A			YES

	<p>NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, JAMES, MWENDA THIRIBI, RACHAEL W. KILETA : On 29th December 2007 at Kenyatta International Conference Center in Nairobi, as persons employed in public service as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya, you knowingly and without lawful cause and while you were not under any particular danger jointly and /or singularly neglected to perform duties which you are bound to perform by law and announced presidential Election results for Juja, Maragua, Mombasa, Ol Kalou, Kieni, Mathira, Kajiado North, Nithi, Imenti South, Imenti North, Kipipiri, Tetu, Limuru, Eldoret East, Aldai, Baringo Central, Gwassi, Kisumu Rural, Nyatike, Nyakach and Kinangop which you knew or ought to have known were inaccurate and / or unverified, thereby directly leading to a chain of events which you might have foreseen had you chosen to act correctly, thus causing the breakdown of maintenance of law and order in the country.</p>
CHARGE	<p>COUNT FOUR: MAKING AND PUBLISHING FALSE INFORMATION BY A PERSON EMPLOYED IN PUBLIC SERVICE CONTRARY TO SECTION 129 OF THE PENAL CODE.</p>
PARTICULARS OF OFFENCE	<p>SAMUEL MUTUA KIVUITU: On 30th December 2007 at State House, Nairobi as Chairman of the Electoral Commission of Kenya, you knowingly and without lawful cause delivered to President Mwai Kibaki whom you knew to be a public official, a certificate namely Form 18 declaring him the winner of the 2007 Presidential Election, which you knew or ought to have known was false and / or inaccurate intending thereby to cause or knowing that it to be likely that the person to whom you gave the certificate would do or omit to do anything if the true state of facts respecting that information were known to him.</p>
CHARGE	<p>COUNT FIVE: WILFUL DIOBEDIENCE OF STATUTORY DUTY CONTRARY TO SECTION 130 OF THE PENAL CODE AS READ WITH SECTIONS 10, 16 & 19 OF THE PUBLIC OFFICER ETHICS ACT OF 2003, THE ELECTION OFFENCES ACT & THE NATIONAL ASSEMBLY & PRESIDENTIAL ELECTIONS ACT CAP, 7 LAWS OF KENYA</p>
PARTICULARS OF OFFENCE	<p>SAMUEL KIVUITU, KIHARA MUTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO</p>

	<p>OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, JAMES, MWENDA THIRIBI, RACHAEL W. KILETA: On 29th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and willfully jointly and /or singularly breached the statutory duty bestowed upon you as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya by announcing presidential Election Results which you knew or ought to have known were not verified and /or were not supported by the requisite documentation as required by Electoral Laws for Juja, Maragua, Mombasa, Ol Kalou, Kieni, Mathira, Kajiado North, Nithi, Imenti South, Imenti North, Kipipiri, Tetu, Limuru, Eldoret East, Aldai, Baringo Central, Gwasssi, Kisumu Rural, Nyatike, Nyakach and Kinangop and Mathira constituencies</p>
CHARGE	<p>COUNT SIX:MAKING OF FALSE DOCUMENTS CONTRARY TO SECTIONS 345, 346 & 347 OF THE PENAL CODE</p>
PARTICULARS OF OFFENCE	<p>SAMUEL MUTUA KIVUITU, KIHARA MUTTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, JAMES, MWENDA THIRIBI, RACHAEL W. KILETA : On 29th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and willfully jointly and /or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya made false documents namely forms 16 and 16 A for Kipipiri, Juja, Dagoretti, Kieni and Maragua constituencies purporting them to be in fact what they were not and /or altered documents without authority.</p>
CHARGE	<p>COUNT SEVEN:MAKING OF FALSE DOCUMENTS CONTRARY TO SECTIONS 345, 346 & 347 OF THE PENAL CODE</p>
PARTICULARS OF OFFENCE	<p>SAMUEL MUTUA KIVUITU, KIHARA MUTTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, JAMES, MWENDA THIRIBI, RACHAEL W. KILETA : On 29th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and</p>

	willfully jointly and /or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya made false documents in relation to Kipipiri constituency by unlawfully changing the figure initially announced for Mwai Kibaki from 36,094 votes to 37, 315 votes.
CHARGE	COUNT EIGHT:MAKING OF FALSE DOCUMENTS CONTRARY TO SECTIONS 345, 346 & 347 OF THE PENAL CODE
PARTICLUARS OF OFFENCE	SAMUEL MUTUA KIVUITU, KIHARA MUTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, JAMES, MWENDA THIRIBI, RACHAEL W. KILETA On 29 th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and willfully jointly and /or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya made false documents in relation to Juja constituency by altering the figure announced by the Returning Officer from 50,000 votes for Mwai Kibaki to 100,000 votes
CHARGE	COUNT NINE:MAKING OF FALSE DOCUMENTS CONTRARY TO SECTIONS 345, 346 & 347 OF THE PENAL CODE
PARTICLUARS OF OFFENCE	SAMUEL MUTUA KIVUITU, KIHARA MUTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, JAMES, MWENDA THIRIBI, RACHAEL W. KILETA On 29 th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and willfully jointly and /or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya made false documents in relation to Dagoretti constituency by altering the Returning Officer's figure for Mwai Kibaki from 53,727 votes to 38,968 votes.
CHARGE	COUNT TEN:MAKING OF FALSE DOCUMENTS CONTRARY TO SECTIONS 345, 346 & 347 OF THE PENAL CODE
PARTICLUARS OF OFFENCE	SAMUEL MUTUA KIVUITU, KIHARA MUTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP

	<p>NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA <u>—JAMES—</u> MWENDA THIRIBI, RACHAEL W. KILETA On 29th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and willfully jointly and /or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya made false documents in relation to Ganze constituency by unlawfully reducing the tally for Raila Odinga the ODM presidential candidate by 4,808 votes.</p>
CHARGE	<p>COUNT ELEVEN:MAKING OF FALSE DOCUMENTS CONTRARY TO SECTIONS 345, 346 & 347 OF THE PENAL CODE</p>
PARTICLUARS OF OFFENCE	<p>SAMUEL MUTUA KIVUITU, KIHARA MUTTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA <u>—JAMES—</u> MWENDA THIRIBI, RACHAEL W. KILETA On 29th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and willfully jointly and /or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya made false documents in relation to Mathira constituency by reducing the President Mwai Kibaki's tally by 3,900.</p>
CHARGE	<p>COUNT TWELVE:MAKING OF FALSE DOCUMENTS CONTRARY TO SECTIONS 345, 346 & 347 OF THE PENAL CODE</p>
PARTICLUARS OF OFFENCE	<p>SAMUEL MUTUA KIVUITU, KIHARA MUTTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA <u>—JAMES—</u> MWENDA THIRIBI, RACHAEL W. KILETA On 29th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and willfully jointly and /or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya made false documents in relation to Nithi constituency by twice altering the tally for President Kibaki from 66,390 to 78,000 and then to 95,000.</p>

CHARGE	COUNT THIRTEEN:MAKING OF FALSE DOCUMENTS CONTRARY TO SECTIONS 345, 346 & 347 OF THE PENAL CODE
PARTICLUARS OF OFFENCE	SAMUEL MUTUA KIVUITU, KIHARA MUTTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, —JAMES, MWENDA THIRIBI, RACHAEL W. KILETA On 29 th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and willfully jointly and /or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya made false documents in relation to Mathira constituency by unlawfully inflating votes in favor of Mwai Kibaki from the officially announced tally of 77,442 to 80,024 votes in his favour and in such manner that the alterations altered the effect of the documents and /or introduced into documents without authority matters which if they had been authorized would have altered the documents
CHARGE	COUNT FOURTEEN:MAKING OF FALSE DOCUMENTS CONTRARY TO SECTIONS 345, 346 & 347 OF THE PENAL CODE
PARTICLUARS OF OFFENCE	SAMUEL MUTUA KIVUITU, KIHARA MUTTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, —JAMES, MWENDA THIRIBI, RACHAEL W. KILETA On 29 th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and willfully jointly and /or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya made false documents in relation to Maragua constituency by altering the voter turnout from the recorded 115% to 85% instead of canceling the results as required by law thereby introducing into documents without authority matters which if they had been authorized would have altered the documents.
CHARGE	COUNT FIFTEEN:MAKING OF FALSE DOCUMENTS CONTRARY TO SECTIONS 345, 346 & 347 OF THE PENAL CODE
PARTICLUARS OF OFFENCE	SAMUEL MUTUA KIVUITU, KIHARA MUTTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP

	<p>NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, —JAMES, — MWENDA THIRIBI, RACHAEL W. KILETA On 29th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and willfully jointly and /or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya made false documents in relation to Molo constituency, you unlawfully changed President Kibaki’s announced tally from the 50,145 votes called in at the completion of counting to 75,261 votes in his favour and in such manner that the alterations altered the effect of the document.</p>
CHARGE	<p>COUNT SIXTEEN: UTTERING FALSE DOCUMENTS CONTRARY TO SECTION 353 OF THE PENAL CODE</p>
PARTICULARS OF OFFENCE	<p>SAMUEL MUTUA KIVUITU, KIHARA MUTTU, JEREMIAH MATAGOROMATAGARO, JACK TUMWA, ANNE WAMBAA, MUTURI KIGANO, ALFREDD.N. NDAMBIRI, SAMUEL ARAP NGENY, ANNE MWIKALI MUASYA, LUCIANO RIUNGA RAIJI, JOSEPH HAMISI DENA, FELISTA NAETU OLE CHURIE, ENG. SAMUEL N. MAUGO, MILDRED APIYO OWUOR, JOSEPH KIPRUTO SITONIK, PAMELA M. TUITUI, SHEM S. BALONGO, ABDI M. IBRAHIM, DANIEL M. WAMBURA, RAYMOND NJENGA, —JAMES, — MWENDA THIRIBI, RACHAEL W. KILETA : On 29th December 2007 at Kenyatta International Conference Center in Nairobi you knowingly and fraudulently jointly and / or singularly as Chairman, Vice Chairman and Commissioners of the Electoral Commission of Kenya uttered false documents namely forms 16 and 16A for Kieni, Ol Kalou, Makadara, Imenti South, Igembe South, Kaloleni, Likoni, Ganze, Malindi, Mathira, Imenti South, Imenti North, Juja, Maragua, Nithi, Nyatike, Kisumu Rural, Kajiado North, Molo and Nakuru Town purporting them state facts and /or representing particulars that were not true in relation to the presidential Election results of the 2007 General Elections.</p>

NAMES OF PROPOSED CO-ACCUSED PERSONS.

2. Kihara Muttu
3. Jeremiah Matagaro
4. Jack Tumwa
5. Anne Wambaa
6. Muturi Kigano
7. AlfredD.N. Ndambiri

8. Samuel Arap Ng'eny
9. Anne Mwikali Muasya
10. Luciano Riunga Raiji
11. Joseph Hamisi Dena
12. Felista Naetu Ole Churie
13. Eng. Samuel N. Mugo
14. Mildred Apiyo Owuor
15. Joseph Kipruto Sitonik
16. Pamela M. Tutui
17. Shem S. Balongo
18. Abdi M. Ibrahim
19. Daniel M. Wambura
20. Raymond Njenga James
21. Mwenda Thiribi
22. Rachael W. Kileta