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THE CHAIRMAN  
PUBLIC SERVICES COMMISSION  
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31<sup>st</sup> August 2022

**THE PETITION OF MARTIN ALAMISI BURNS KAISER AMIDU (MARTIN A. B. K. AMIDU) ON THE APPOINTMENT OF PERMANENT STAFF INTO THE OFFICE OF THE SPECIAL PROSECUTOR (OSP) WITHOUT THE INVOLVEMENT AND APPROVAL OF THE GOVERNING BOARD AND THE PUBLIC SERVICES COMMISSION – ARTICLE 195 AND SECTION 21 OF ACT 959**

I, Martin Alamisi Burns Kaiser Amidu, Your Humble Petitioner, do hereby petition you, the Public Services Commission on the recruitment and appointment of permanent staff into the Office of the Special Prosecutor on the grounds stated in this petition as follows:

1. Your Humble Petitioner says that I am the founding Special Prosecutor of the Office of the Special Prosecutor and the matters I state in this petition are within my knowledge, information, and belief.
2. The first term of the governing council of the Office of Special Prosecutor ended in August 2021 and a new governing council was sworn into office on 21<sup>st</sup> June 2022 and held its first meeting to elect a new Chairperson on 1<sup>st</sup> July 2022.
3. In the interim, the Special Prosecutor who was appointed on 5<sup>th</sup> August 2021 and assumed the substantive Office on 9<sup>th</sup> August 2021 and took over from my immediate successor by operation of law, in the absence of the governing council and without any public advertisement inviting applications from the public, purported to have recruited, appointed, promoted, and assigned arbitrary ranks to persons of his choice in flagrant breach of the mandatory provisions of Article 195 of the 1992 Constitution and Section 21 of the Office of the Special Prosecutor Act, 2017 (Act 959).
4. The foregoing ultra vires actions of the Special Prosecutor came to my notice and attention before and after the Special Prosecutor published a report entitled: "Report of Investigation into Alleged Commission of Corruption and Corruption-Related Offences involving Labianca Group of Companies and the Customs Division of the Ghana Revenue Authority" dated 3 August 2022 (hereinafter referred to as the "OSP Labianca Report") (A copy of the OSP Labianca Report dated 3 August 2022 and published by the Special Prosecutor in Ghana (while he was abroad) on the worldwide web is accessible

on all the news portals in Ghana, particularly on many of the online portals such Ghana Web, Joy Online and others).

5. As a result of the publication of the Labianca Report, I, a constitutional activist, popularly called over a decade “Citizen Vigilante” read the Labianca Report and decided to write a critique and analysis of the Labianca Report and arrived at the considered view that the Labianca Report was persecutorial and unconstitutional in nature, and constituted a trial in the court of public opinion instead of a court of law as mandated by the Sections 3 and Regulations 5, 6, and 7 of Act 959. (A copy of my critique and analysis referred to herein can be found on my website martinamiduspeaks.com or on many of the online portals such as Ghana Web, Joy Online and others: I quote from it extensively hereunder to make this petition).
6. During my research on the content analysis of the Labianca Report, I discovered that appointments and arbitrary ranking of public officers had been made into the OSP before and after the governing council of the OSP was sworn into Office and held its first meeting aforementioned without compliance with Article 195 of the 1992 Constitution and Section 21 of the OSP Act 959.
7. I reflected on some of these unconstitutional and ultra vires recruitments and appointments without any advertisement and involvement of the governing council and your Commission at pages 9 to 15 of the “Labianca Report Published by the Special Prosecutor is Hollow, Without Mandate and Unconstitutional”).
8. Your Petitioner’s critique and analysis contained details of some of the enticed voluntary retirements, and resignations of officers already serving in the public service and their immediate recruitments, appointments, arbitrary and discriminatory placement on higher ranks which they could not have dreamt of in the next ten years in the public services they were enticed to abandon.
9. I also discovered that the witnesses to the OSP Labianca Investigation who had unlawfully been turned into suspects were invited for the investigation of the Labianca case and were interviewed by Superintendent of Police Mr. Emmanuel Amadu Basintale, who was stationed in Sekondi/Takoradi as a police court prosecutor, with the only authorized officer, the D/Chief Inspector, Mr. Cephas Kukuia of the OSP, who was described to me by one of the lawyers of the witnesses as a tall man (See “Five persons to testify in Takoradi Mayor’s traffic offence case on May 5”, reported by citifmonline.com on 22 March 2022, confirming Mr. Basintale was still a police prosecutor on that day, a day after 21 March 2022 when the Labianca payment directive was issued).
10. I found out further that: “Mr. Emmanuel Amadu Basintale and the Special Prosecutor have a history of client/lawyer relationship and personal friendship when the former was the Deputy Superintendent of Police (DSP) and the Officer-in-Charge of the East Legon

Police Station (See “Court Orders IGP To Stop Hounding Basintale Over Alleged Gold Scam” published on Modern Ghana, 1 November 2017; Basintale, Others Sue Police Service Over GHc1.3 gold scam” published on citifmonline.com, 27 June 2017; and “Apologize And Reinstate My Clients – Lawyer To Police Service” published on peacefmonline.com, 15 June 2017).”

11. I discovered also during my research that “Mr. Basintale could not, because of his personal relationship with the Special Prosecutor have been serving as an authorized prosecutions officer of the Ghana Police Service in the Western Region and at the same time as an authorized investigation officer in the OSP under Act 959 investigating cases at the OSP” when the Police Administration had not assigned him to duties at the OSP. (See “Five Persons to Testify in Takoradi in Mayor’s traffic offence case on May 5”, citifmonline.com, 22 March 2022).”
12. I concluded that the participation of Mr. Basintale as the Head of Investigations in the OSP at the time of the interviews when he was not an authorized officer of the OSP renders any investigation, report, and recommendations from the investigation panel to the Special Prosecutor null, void and without effect whatsoever.
13. I stated that: “More seriously and in abuse of office, I discovered that after his unauthorized engagement in the OSP as Head of Investigations, Superintendent Basintale subsequently voluntarily retired from the Ghana Police Service and was immediately appointed by his former lawyer and friend now the Special Prosecutor to the ultimate rank of Director of Investigations which is equivalent to the rank of a Commissioner of Police in the Ghana Police Service from which he had just resigned (sic). So, Mr. Basintale takes his retirement benefits from the Ghana Police Service and becomes overnight equivalent to a Commissioner of Police in emoluments and conditions of service at the OSP and will finally retire at the OSP as a Commissioner of Police with all the attendant benefits of such a second retirement....”: he was from my information appointed in May 2022 to the OSP.
14. I took the view that the OSP Board and your Commission would not have approved this appointment under Article 195 of the Constitution and Section 21 of Act 959.
15. I also read online an interview granted by the Commissioner for the Customs Division in Kumasi, responding to the content of the OSP Labianca Report in which he said, inter alia, that the Special Prosecutor had requested the secondment of one of the brilliant officers of the GRA, one Akrugu (sic) whom my investigations established as Mr. Albert Akurugu, to the OSP and he declined the request because the GRA could not afford to lose the officer: he opined that he was being persecuted by the Special Prosecutor for the refusal to second Mr. Akurugu to the OSP with the intent of embarrassing and disgracing him with that hollow report (See Ghana Web of 11<sup>th</sup> August 2022: “‘Small boy’ Special

Prosecutor attempting to destroy me – Customs Boss” .

16. I concluded from the facts surrounding the refusal to second Mr. Albert Akurugu to the OSP, Mr. Akurugu's resignation and/or retirement from the GRA, and his immediate appointment to the OSP in or about April 2021 (according to my intelligence) that: "One can, therefore, reasonably infer that when the Special Prosecutor and his friend Mr. Akurugu could not persuade the witness, now accused Customs Commissioner, to second Mr. Akurugu to the OSP, the OSP persuaded Mr. Akurugu to resign from the GRA and be appointed to a position in the OSP. Mr. Akurugu resigned from the GRA and as arranged, was immediately appointed by the OSP to the rank of a Director in the OSP without going through the statutory appointments processes mandated under Article 195 of the 1992 Constitution and Sections 6(1) and 21(2) of Act 959. The rank of Director in the OSP is the equivalent to the rank of a Commissioner of Police in the Ghana Police Service. Indeed, the rank of Director in the OSP is also equivalent to the rank of a Commissioner of the Customs Division of the GRA."
17. I further commented on the fact that: "... the OSP appears to have been turned into a family and friends' enterprise by the appointments of other persons with no public service experience straight from the private sector to the rank of Director without any interview by the Board and the Public Services Commission as required by law...."
18. "A case in point", I stated, "is Mr. Samuel Appiah Darko who was an associate at Cromwell Gray, a private law firm founded by the Special Prosecutor as founding Manager from which Mr. Darko and him privately practiced law until his appointment as Special Prosecutor has, this year been recruited into the OSP without compliance with Article 195 of the 1992 Constitution and Sections 6(1) and 21(2) of Act 959 and appointed straight to the ultimate rank of a Director, the equivalence of a Commissioner of Police in emoluments and conditions of service".
19. "Mr. Darko," I pointed out, "describes himself as a senior journalist, a lecturer at the University of Professional Studies (UPSA) and a lawyer by profession. He was enrolled on the Roll of lawyers in Ghana in 2017. As a senior journalist and a lawyer of less than five years standing on the Roll of Lawyers, he will never have been appointed into any of the law enforcement agencies to the ultimate rank of Director with the emoluments equivalent to those enjoyed by Commissioners of Police or Directors in the other Security and Intelligence Services. He would not have been appointed to such position if he had also been recruited into the Legal Service of the Ministry of Justice. The Board of the OSP and the Public Services Commission would not have allowed the appointment and rank had the OSP Act been complied with by the Special Prosecutor. By appointing Mr. Darko, a former associate from Cromwell Gray LLP which the Special Prosecutor had founded and with whom he had worked with in private practice until his own appointment as the Special Prosecutor, without compliance with Act 959, the Special

Prosecutor puts himself in a very serious conflict of interest situation and violated the 1992 Constitution.”

20. I called the reader’s attention to the fact that: “There are other forced resignations from the public service of seconded public officers to the OSP and immediate appointments to discriminatory higher ranks; and other direct arbitrary appointments of friends and associates to better higher ranks from the private sector into the OSP without compliance with the appointment (sic) procedure under Act 959 and L.I. 2374.”
21. I stated that: “There was no advertisement to the public for these recruitments. The short-listed applicants from the blind advertisement published in two national dailies which were compiled pending interviews by an Appointments Committee of Board for appointment to each of the vacant positions in the OSP and which are still available in the OSP appear to have been ignored by the Special Prosecutor in favour of arbitrary recruitments into the OSP. By the foregoing, the integrity of the recruitment process and the ranking system and procedures have been abused contrary to the mandate of the OSP under Act 959 and the 1992 Constitution”.
22. Your Petitioner wishes to emphasize that the Special Prosecutor and the OSP procured the voluntary retirement and/ or resignation of serving officers within the Public Services who were immediately appointed as public officers in the OSP with astronomical increases in ranks they could not have held in the public services they had just resigned from. These officers whose voluntary retirement and/ or resignations were procured by the OSP are naturally going to take their retirement/resignation benefits from the public services from which they had immediately departed; earn undeserved upper emoluments in the structure of the public services; and further retirement benefits upon their eventual retirement from the OSP.
23. Your Petitioner further wishes to reiterate that new appointments directly from the private sector have also been made without reference to the governing board and the Public Services Commission and the appointees given arbitrary ranks not commensurate with their qualifications and experiences. These private sector hires work from outside the OSP. There is no doubt that these poaching of officers from other public services and the private sector will result in serious cost to the public purse. They are also inconsistent with Article 195 of the Constitution and Section 21 of the OSP Act, (Act 959).
24. Your Petitioner contends, as contended in my critique and analysis, that: “.... By the foregoing, the integrity of the recruitment process and the ranking system and procedures have been abused contrary to the mandate of the OSP under Act 959 and the 1992 Constitution”.
25. Your Petitioner takes the strongest considered view after more than two decades of service to the Republic of Ghana holding senior appointments as a public officer that it is,

therefore, unlawful for any public service, including the OSP, to entice public officers to retire or resign their public service appointments to be immediately appointed to the OSP with unjustifiable higher ranks. The OSP as an anti-corruption agency has a prime responsibility to show transparency and integrity in the recruitment, appointment and ranking of officers under Article 195 and Section 21 of Act 959.

26. Your petitioner has had notice of the spurious arguments being made in the media by journalist and lawyers turned host or guest on news programmes questioning my constitutional right as a citizen of Ghana to defend the 1992 Constitution by my critique and analysis of the OSP Labianca Report by virtue of the fact of my previous status as the founding Special Prosecutor, and trying to mob lynch me in the court of public opinion with the illegal and unreasonable contention that in the absence of the governing council, the Special Prosecutor was within his rights to act contrary to the 1992 Constitution and Act 959 as matter of necessity.
27. Consequently, Your Petitioner states hereunder how the OSP was operationalized in the beginning without acting unlawfully before the appointment of the current Special Prosecutor.
28. I remember one of the Deputy Chiefs of Staff at the Presidency visited me in the office in April 2018 and advised me to bring in some friends and lawyers I have known to help me: my reply to him was that I did not want to be accused of not engaging staff on merit. I had narrated my personal experience as a victim during the selection process of my year group at the University of Ghana in 1974 for the second year LL.B (Hons) law programme at my swearing-in ceremony at the Presidency on 23<sup>rd</sup> February 2018 to show how abuse of power and discriminatory conduct is unacceptable and I have since fought against corruption and abuse of power, sought justice for injured citizens – See my acceptance speech which was widely carried by the electronic and print media.
29. In any case at the time, the Deputy Chief of Staff offered me the advice, knew I was taking steps to have a core of staff seconded from other public services pursuant to Section 21 of Act 959 to assist me to operationalize the office. Apart from the private secretary whom I knew and had worked with at the Attorney-General's Department, and who was seconded to the OSP by the Head of Civil Service, I never requested for persons whom I knew personally to be seconded to the office. A senior records officer, whom I did not know previously, was also seconded to the OSP through the Head of Civil Service. Indeed, I turned down two persons nominated for me as private secretary and accountant by the presidency from the Ministry of Finance based on security and intelligence grounds.
30. Your Petitioner allowed the Controller and Accountant-General, Mr. Eugene Ofosuhene, at the time to nominate and second a Chief Accountant on merit to the OSP. The Chief Accountant was later replaced by another person nominated and seconded to the OSP by

the current Accountant-General, Mr. Kwasi Kwaning-Bosompem. I had never met either of them until they reported for duty. I consulted serving and retired senior police officers who recommended three detectives who were seconded to the OSP with the assistance of the President. I never knew any of those police detectives previously. The first three police detectives then recommended two other police detectives who were also seconded with the assistance of the Presidency. A police driver was later also seconded from the Jubilee House. A senior steward/caretaker, and a Special Assistant to the Special Prosecutor, the latter nominated by me, were seconded to the OSP from the Presidency.

31. I had known several senior public servants, but I chose to approach your Commission to suggest a proper and fit person of the rank of a Chief Director to be the Secretary to the Board before the Board's inauguration. This was how a retiring Chief Director had his contract renewed for one year and seconded to the OSP in 2018 through the instrumentality of your Commission.
32. As you are aware when the first Secretary to the Board ended the one-year secondment contract, a retired Director in the Civil Service, with profound experience in security and intelligence was approved for appointment by the President upon my recommendation on a year's contract. I had never known him until the day he met my Deputy and I for a short interview in the office.
33. With the approval of the President, a former contract appointee at the National Security Secretariat was appointed on contract for one year and renewed until the officer was compelled to resign his contract appointment a day after the Special Prosecutor reported for office on grounds of oppression by the Special Prosecutor. This contract officer had the appointment of Principal Staff Officer with the notional rank of Acting Director of Operations as recommended by me and approved in the Presidency's letter of approval for contract appointment on condition that he would be considered for permanent appointment and rank befitting his status when recruitments and appointments of permanent staff commenced.
34. I made it clear to the seconded staff that recruitment of permanent staff was to be done after advertisement of the vacancies in the national dailies but public officers on secondment who excelled and wished to continue working with the OSP would be engaged only by transfer to the OSP under Section 21(3) of Act 959.
35. Without budget officers, I sought assistance from the Minister of Finance and other security services officers to prepare the first budget of the OSP for the 2019 budget year in which a projected number of recruitments of two hundred and fifty (250) permanent staff was stated and a compensation budget approved by parliament for the OSP. The two contract appointees who were not on secondment had to wait for the availability of the approved compensation component of the budget through clearance from the Ministry of Finance before they were paid any remuneration. That compensation budget was not

ready for disbursement until in June or July 2020.

36. Indeed, with the approval of the Board, and clearance from the Ministry of Finance, the OSP placed a blind advertisement for applications to all the two hundred and forty-eight (248) budgetary approved vacant positions in the OSP. The applicants were short listed, and a report submitted by an independent group of retired security and intelligence operatives. The Board was informed of the progress of the on-going recruitment process and was waiting to set up an Appointments Committee for further steps to be taken for recruitment interviews to take place. That list is still available in the OSP. The current Board had the liberty to direct new adverts to be made if it thought there was a further need. That is why the law requires the involvement of the Board in the appointment process so that it will ensure that appointments and ranks are determined on merit, not arbitrarily, capriciously, and discriminatorily.
37. As the OSP had no budget for the 2018 budget year and so no provision could have been made for compensation of staff; secondment of staff under Section 21(3) Act 959 was, therefore, the best constitutional option when the public was impatient and expecting the OSP to show that it had start performing its functions under Section 3 of Act 959. Section 21(4) thereof, also provided for the engagement of the services of relevant professional experts on contract.
38. Your Petitioner submits from the foregoing that the contention that the Special Prosecutor, who is expected to show exemplary conduct of integrity and fidelity to the Constitution and the law in the fight against corruption, has licence to act ultra vires the Constitution and Act 959 on grounds of necessity is a spurious, lame, and unmeritorious argument.
39. Your Humble Petitioner petitions the Public Services Commission and draws the attention of the Commission to the foregoing to enable the Commission to exercise the constitutional oversight entrusted to the Commission over the recent appointments and rankings into the OSP as part of the Public Services under Articles 195 and 196 of the 1992 Constitution and pursuant to regulations provided for under Article 197 thereof. This will then render unnecessary any further recourse to Article 218 (2) of the 1992 Constitution. The OSP, like Caesar's wife must be above suspicion.
40. Your Petitioner accordingly prays that:
  - (i). The Public Services Commission exercises it supervisory, regulatory, and consultative functions as prescribed by law in the supervision and regulation of, the entrance, and promotion examinations, recruitment, and appointment into or promotion within the OSP as an integral part of the Public Services of Ghana.



(ii). The Public Services Commission exercises its supervisory, regulatory, and consultative functions under the 1992 Constitution by investigating the unlawful recruitments and appointments, arbitrary and discriminatory rankings stated hereinbefore in your petitioner's petition to ensure that the public purse is not unduly burdened with unlawful compensation and other expenses charged upon it by the ultra vires conduct of the Special Prosecutor.

41. And Your Humble Petitioner will always and forever pray that the Public Services Commission over which you preside as the Chairman plays its independent constitutional role under Article 198 of the Constitution in the exercise of the supervisory and regulatory functions to save the public purse and Ghana from such unconstitutional conduct.

DATED AT ACCRA, THIS 31<sup>ST</sup> DAY OF AUGUST 2022

  
MARTIN A. B. K. AMIDU

- CC: 1. The Chairperson  
Office of the Special Prosecutor  
C/o Ghana Integrity Initiative  
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2. The Inspector-General of Police  
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Head Office  
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3. The Commissioner-General  
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