

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
INSOLVENCY CAUSE NO. OF 2025

IN THE MATTER OF: THE INSOLVENCY ACT, NO. 18 OF 2015

AND

**IN THE MATTER OF: AN APPLICATION FOR INSOLVENCY ORDERS AGAINST
KEROCHE BREWERIES LIMITED UNDER SECTION 425 OF THE INSOLVENCY
ACT**

AND

IN THE MATTER OF: INSOLVENCY REGULATIONS, 2016

AND

**IN THE MATTER OF: SATISFACTION OF A MONEY DECREE AGAINST
KEROCHE BREWERIES LIMITED ARISING FROM NAKURU ELRC CAUSE NO.
35 OF 2019: SAM KRUS SHOLLEI VS KEROCHE BREWERIES LIMITED**

BETWEEN

SAM KRUS SHOLLEI.....PETITIONER

AND

KEROCHE BREWERIES LIMITED..... RESPONDENT

CHAMBER SUMMONS

LET ALL PARTIES CONCERNED attend the Honourable Judge in chambers on the
day of 2025 at 9.00 o'clock in the forenoon or soon thereafter on the
hearing of an application by Counsel for the Respondent for Orders: -

1. **THAT** this Application be and is hereby certified as urgent and ex-parte in the first instance.
2. **THAT** this Honourable Court be pleased to hear and grant the orders sought in this Chamber Summons during the current Court vacation pursuant to relevant provisions of the High Court (Organization and Administration) Act No. 27 of 2015, and Gazette Notice No. 9459 of 2025.
3. **THAT** pending the hearing and determination of this Application inter-partes, there be a temporary injunction restraining the Petitioner, his agents, or any person acting under his instructions from further advertising or publicizing the Liquidation Petition or any related notices in the Kenya Gazette, newspapers, or any media.
4. **THAT** pending the hearing and determination of this Application, there be a stay of the liquidation proceedings in the Petitioner's Liquidation Petition dated 23rd May 2025 and any execution thereof.
5. **THAT** the costs of this application be in the cause.

DATED at **NAIROBI** this9THday of**SEPTEMBER**.....2025



WARUIRU, KARUKU & MWANGALE
ADVOCATES FOR THE RESPONDENT/APPLICANT

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BETWEEN

SAM KRUS SHOLLEI.....PETITIONER

AND

KEROCHE BREWERIES LIMITED..... RESPONDENT

SUPPORTING AFFIDAVIT

I, KARUKU WACHIRA an Advocate of the High Court of Kenya, having the conduct of this matter for and on behalf of the Applicant do hereby make oath and state as follows: -

1. THAT I am an Advocate of the High Court of Kenya with conduct of this matter on behalf of the Respondent/Applicant, Keroche Breweries Limited, and I am duly authorized to swear this Affidavit based on facts within my knowledge derived from records and instructions, whereof I believe the same to be true.
2. **THAT** the Court is currently on vacation pursuant to the High Court (Organization and Administration) Act, No. 27 of 2015, and Gazette Notice No. 9459 of 2025, and the Applicant's said application is extremely urgent.
3. THAT the Respondent/Applicant is a major employer in Kenya's brewing sector, with over 500 direct employees and thousands in its supply chain, contributing billions in taxes and exports, making any insolvency threat a potential economic disaster warranting urgent judicial intervention.
4. THAT on 23rd May 2025, the Petitioner filed a Liquidation Petition premised on an alleged unsatisfied decree from Nakuru ELRC Cause No. 35 of 2019, claiming KShs. 75,000,000, but the accompanying Statutory Demand dated 30th June 2025 is fundamentally illegal and invalid.
5. THAT the Statutory Demand was signed by the Deputy Registrar of the High Court at Nakuru, not by the Petitioner or his authorized agent, directly contravening Section 384(1)(a) of the Insolvency Act, 2015, which requires signing by the creditor or authorized

person.

6. THAT a statutory demand must be dated and be signed by the creditor himself or by a person authorized to make the demand on the creditor's behalf.
7. THAT the illegality of the Statutory Demand invalidates the entire Petition, as liquidation proceedings cannot be founded on a defective document, and proceeding otherwise would perpetuate an abuse of court process.
8. THAT due to this illegality, the advertisement of the Petition notice on 21st August 2025 in the Kenya Gazette is wrongful and unauthorized, as it stems from an invalid foundation, causing undue prejudice to the Applicant.
9. THAT the advertisement, based on an illegal Statutory Demand, exacerbates reputational harm by falsely signaling insolvency, which is not right and must be halted to prevent further catastrophe.
10. THAT the Applicant denies insolvency, asserting solvency with ongoing operations, and the debt is disputed via a pending appeal proceedings in COACAPPL No. E020 of 2023, raising arguable grounds against the ELRC judgment.
11. THAT the Petition ignores the active appellate process, using insolvency coercively, as condemned in Courts as being "coercive debt recovery."
12. THAT the Petitioner's recent withdrawal of a contempt application dated 30th March 2024 in the same underlying matter (Nakuru ELRC Cause No. 35 of 2019), filed on 4th August 2025 without pursuing it to conclusion and with no orders as to costs, demonstrates a clear pattern of malicious and abusive litigation tactics aimed at harassing the Applicant, further evidencing that the insolvency Petition is not brought in good faith but as a tool for undue pressure and coercion.
13. THAT Regulation 77B of the Insolvency (Amendment) Regulations, 2018, does not mandate pre-hearing advertisement, and its omission protects companies from premature harm, making this publicity abusive.
14. THAT the advertisement causes irreparable commercial damage, including loss of supplier confidence, credit facilities, and market share, potentially leading to operational shutdown for this large entity.
15. THAT the advertisement by the Petitioner amplifies the risk of national economic ripple effects.
16. THAT the court should grant an injunction against such publicity to stop further dissemination.
17. THAT allowing advertisement on an illegal basis violates Article 159(2)(d) of the

Constitution, prioritizing technicalities over substantive justice, and urgent orders are needed to restore fairness.

18. THAT the Petitioner's history of filing and then withdrawing applications, as seen in the contempt proceedings, underscores the bad faith behind the current Petition and advertisement, amounting to an abuse of court process that threatens the Applicant's operations and justifies immediate intervention to prevent escalation of harm.
19. THAT the Applicant's public interest role means harm could affect stakeholders' economies and livelihoods.
20. THAT reputational damages are imminent; media coverage of the advertisement has already sparked stakeholder panic, necessitating compensation and a public apology to mitigate particularly as the Applicant, being a leading indigenous brewery with massive annual revenues, a 15% market share in the alcoholic beverages sector, and contributions of significant annual taxes, faces severe losses in brand value, investor confidence, and long-term business prospects estimated at Kenya Shillings Ten Billion (Kshs. 10,000,000,000) due to the malicious and baseless insolvency claims.
21. THAT the Applicant's critical economic contributions, including sourcing raw materials from over 10,000 local farmers and generating foreign exchange through exports, amplify the reputational harm caused by the Petitioner's actions, as the false insolvency narrative risks widespread economic disruption, including job losses and reduced government revenue, justifying urgent judicial intervention to prevent further dissemination and to award substantial damages of Kenya Shillings Ten billion to address the severe and far-reaching consequences of this malicious publication.
22. THAT the balance of convenience tilts heavily toward the Applicant, as the Petitioner faces no irreparable loss from a stay, while the Applicant risks total collapse without intervention.
23. THAT this matter is certifiably urgent, as each hour of ongoing advertisement deepens the catastrophe, invoking the court's discretion under Section 427 to grant ex-parte relief immediately.
24. THAT this matter qualifies for certification as urgent under Article 159(2)(d) of the Constitution, emphasizing substantive justice, and should be heard ex-parte in the first instance to prevent further harm.
25. THAT what is deponed to hereinabove is true to the best of my knowledge, information, and belief.

DATED at **NAIROBI** this9TH .day of**SEPTEMBER**.....2025



WARUIRU, KARUKU & MWANGALE

ADVOCATES FOR THE RESPONDENT/APPLICANT

SWORN at **NAIROBI** by the said)

KARUKU WACHIRA ,)

DEPONENT

This 9th day of **SEPTEMBER 2025**)

BEFORE ME:)

)



COMMISSIONER FOR OATHS

DRAWN & FILED BY:

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REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
INSOLVENCY CAUSE NO. E003 OF 2025
IN THE MATTER OF: THE INSOLVENCY ACT, NO. 18 OF 2015
AND
IN THE MATTER OF: AN APPLICATION FOR INSOLVENCY ORDERS AGAINST
KEROCHE BREWERIES LIMITED UNDER SECTION 425 OF THE INSOLVENCY
ACT
AND
IN THE MATTER OF: INSOLVENCY REGULATIONS, 2016
AND
IN THE MATTER OF: SATISFACTION OF A MONEY DECREE AGAINST
KEROCHE BREWERIES LIMITED ARISING FROM NAKURU ELRC CAUSE NO.
35 OF 2019: SAM KRUS SHOLLEI VS KEROCHE BREWERIES LIMITED
BETWEEN
SAM KRUS SHOLLEI.....PETITIONER
AND
KEROCHE BREWERIES LIMITED..... RESPONDENT

CERTIFICATE OF URGENCY

I, **KARUKU WACHIRA**, an Advocate of the High Court of Kenya practicing under the firm of **Waruiru Karuku & Mwangale Advocates**, Viking House, 1st Floor, Waiyaki Way of P.O Box Number 48325-00100 Nairobi, do hereby certify this Application as extremely urgent and deserving to be heard ex-parte in the first instance for the following reasons:-

1. **THAT** I am an Advocate of the High Court of Kenya with conduct of this matter on behalf of the Respondent/Applicant, Keroche Breweries Limited, and I am duly authorized to swear this Certificate of Urgency.
2. **THAT** the Respondent/Applicant is a major employer in Kenya's brewing sector, with over 500 direct employees and thousands in its supply chain, contributing billions in taxes and exports, making any insolvency threat a potential economic disaster warranting urgent judicial intervention.
3. **THAT** on **23rd May 2025**, the Petitioner filed a Liquidation Petition premised on an alleged unsatisfied decree from *Nakuru ELRC Cause No. 35 of 2019*, claiming **KShs. 75,000,000**, but the accompanying Statutory Demand dated **30th June 2025** is fundamentally illegal and invalid.
4. **THAT** the Statutory Demand was signed by the Deputy Registrar of the High Court at Nakuru, not by the Petitioner or his authorized agent, directly contravening Section 384(1)(a) of the Insolvency Act, 2015, which requires signing by the creditor or authorized person.
5. **THAT** a statutory demand must be dated and be signed by the creditor himself or by a person authorized to make the demand on the creditor's behalf.

6. **THAT** the illegality of the Statutory Demand invalidates the entire Petition, as liquidation proceedings cannot be founded on a defective document, and proceeding otherwise would perpetuate an abuse of court process.
7. **THAT** due to this illegality, the advertisement of the Petition notice on **21st August 2025** in the Kenya Gazette is wrongful and unauthorized, as it stems from an invalid foundation, causing undue prejudice to the Applicant.
8. **THAT** the advertisement, based on an illegal Statutory Demand, exacerbates reputational harm by falsely signaling insolvency, which is not right and must be halted to prevent further catastrophe.
9. **THAT** the Applicant denies insolvency, asserting solvency with ongoing operations, and the debt is disputed via a pending appeal proceedings in *COACAPPL No. E020 of 2023*, raising arguable grounds against the ELRC judgment.
10. **THAT** the Petition ignores the active appellate process, using insolvency coercively, as condemned in Courts as being "coercive debt recovery."
11. **THAT** the Petitioner's recent withdrawal of a contempt application dated 30th March 2024 in the same underlying matter (Nakuru ELRC Cause No. 35 of 2019), filed on 4th August 2025 without pursuing it to conclusion and with no orders as to costs, demonstrates a clear pattern of malicious and abusive litigation tactics aimed at harassing the Applicant, further evidencing that the insolvency Petition is not brought in good faith but as a tool for undue pressure and coercion.
12. **THAT** Regulation 77B of the Insolvency (Amendment) Regulations, 2018, does not mandate pre-hearing advertisement, and its omission protects companies from premature harm, making this publicity abusive.
13. **THAT** the advertisement causes irreparable commercial damage, including loss of supplier confidence, credit facilities, and market share, potentially leading to operational shutdown for this large entity.
14. **THAT** the advertisement by the Petitioner amplifies the risk of national economic ripple effects.
15. **THAT** the court should grant an injunction against such publicity to stop further dissemination.
16. **THAT** allowing advertisement on an illegal basis violates Article 159(2)(d) of the Constitution, prioritizing technicalities over substantive justice, and urgent orders are needed to restore fairness.

17. **THAT** the Petitioner's history of filing and then withdrawing applications, as seen in the contempt proceedings, underscores the bad faith behind the current Petition and advertisement, amounting to an abuse of court process that threatens the Applicant's operations and justifies immediate intervention to prevent escalation of harm.
18. **THAT** the Applicant's public interest role means harm could affect stakeholders' economies and livelihoods.
19. **THAT** reputational damages are imminent; media coverage of the advertisement has already sparked stakeholder panic, necessitating compensation and a public apology to mitigate particularly as the Applicant, being a leading indigenous brewery with massive annual revenues, a 15% market share in the alcoholic beverages sector, and contributions of significant annual taxes, faces severe losses in brand value, investor confidence, and long-term business prospects estimated at **Kenya Shillings Ten Billion (Kshs. 10,000,000,000)** due to the malicious and baseless insolvency claims.
20. **THAT** the Applicant's critical economic contributions, including sourcing raw materials from over 10,000 local farmers and generating foreign exchange through exports, amplify the reputational harm caused by the Petitioner's actions, as the false insolvency narrative risks widespread economic disruption, including job losses and reduced government revenue, justifying urgent judicial intervention to prevent further dissemination and to award substantial damages of Kenya Shillings Ten billion to address the severe and far-reaching consequences of this malicious publication.
21. **THAT** the balance of convenience tilts heavily toward the Applicant, as the Petitioner faces no irreparable loss from a stay, while the Applicant risks total collapse without intervention.
22. **THAT** this matter is certifiably urgent, as each hour of ongoing advertisement deepens the catastrophe, invoking the court's discretion under Section 427 to grant ex-parte relief immediately.
23. **THAT** this matter qualifies for certification as urgent under Article 159(2)(d) of the Constitution, emphasizing substantive justice, and should be heard ex-parte in the first instance to prevent further harm.
24. **THAT** I verily believe this application should be certified urgent and heard on a priority basis to avert irreversible damage to the Applicant and the public interest.

DATED at **NAIROBI** this27THday of**AUGUST**.....2025



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REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
INSOLVENCY CAUSE NO. OF 202

IN THE MATTER OF: THE INSOLVENCY ACT, NO. 18 OF 2015
AND

IN THE MATTER OF: AN APPLICATION FOR INSOLVENCY ORDERS AGAINST
KEROCHE BREWERIES LIMITED UNDER SECTION 425 OF THE INSOLVENCY
ACT

AND
IN THE MATTER OF: INSOLVENCY REGULATIONS, 2016
AND

IN THE MATTER OF: SATISFACTION OF A MONEY DECREE AGAINST
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35 OF 2019: SAM KRUS SHOLLEI VS KEROCHE BREWERIES LIMITED

BETWEEN

SAM KRUS SHOLLEI.....PETITIONER

AND

KEROCHE BREWERIES LIMITED..... RESPONDENT

NOTICE OF MOTION

(Under Sections 384, 423, 424, 425, 427 of the Insolvency Act, 2015; Regulations 15(6), 16, 77B
of the Insolvency Regulations; Article 159 of the Constitution; and all enabling provisions of
law)

TAKE NOTICE that this Honourable Court will be moved on the day of 2025 at 9 o'clock
in the forenoon or so soon thereafter as counsel for the Respondent/Applicant can be heard for
orders **THAT**:

1. This application be certified as urgent and be heard ex-parte in the first instance.
2. There be a temporary injunction restraining the Petitioner, his agents, or any person acting under his instructions from further advertising or publicizing the Liquidation Petition or any related notices in the Kenya Gazette, newspapers, or any media pending the hearing and determination of this application inter-partes.
3. There be a temporary injunction restraining the Petitioner, his agents, or any person acting under his instructions from further advertising or publicizing the Liquidation Petition or any related notices in the Kenya Gazette, newspapers, or any media pending the hearing and determination of this application.
4. There be a permanent injunction restraining the defendants and each of them by themselves, their servants, agents, employees or otherwise howsoever from further printing, publishing or distributing or causing to be written, published and distributed any of the liquidation petition or any related notices material or such material as would be

scandalous or cause reputational damage to the Applicant/Respondent in any form or manner whatsoever;

5. The Liquidation Petition dated **23rd May 2025** be struck out with costs for being premised on an illegal and invalid Statutory Demand.
6. A declaration be issued that the Statutory Demand dated 30th June 2025, the Liquidation Petition dated 23rd May 2025, and the advertisement notice dated 21st August 2025 are invalid, null, and void ab initio due to the illegal and defective nature of the Statutory Demand.
7. The Petitioner be ordered to issue a public apology to the Applicant in the same manner and prominence as the notice was published, retracting the insolvency allegations.
8. The Petitioner be ordered to pay reputational damages in the sum of **Kenya Shillings Ten Billion Kenya Shillings (KShs. 10,000,000,000)** for the reputational harm caused by the premature and abusive advertisement.
9. The Petitioner be ordered to pay general damages on the footing of exemplary and aggravated damages for the malicious conduct and harm caused by the premature and abusive advertisement.
10. Damages in lieu of apology;
11. Costs of this application be provided for.
12. Interest on (8), (9), (10) and (11) above at such rates and for such period as this Court may deem appropriate.

WHICH APPLICATION is premised on the grounds **THAT:**

- a) The Statutory Demand dated **30th June 2025** is illegal, signed by the Deputy Registrar, not the Petitioner or authorized agent, violating Section 384(1)(a) of the Insolvency Act.
- b) The statutory demand must be dated and be signed by the creditor himself or by a person authorized to make the demand on the creditor's behalf making registrar signing invalid.
- c) The illegality of the Statutory Demand renders the Petition null, as proceedings cannot rely on a defective document, warranting striking out under Section 425.
- d) Due to the illegal Statutory Demand, the advertisement on **21st August 2025** is wrongful and not right, as it propagates a false insolvency narrative from an invalid base.

- e) The advertisement, stemming from an illegal demand, causes irreparable reputational harm, signaling insolvency prematurely and unjustly to stakeholders.
- f) Regulation 77B omits pre-hearing advertisement to prevent prejudice, making this publicity abusive and necessitating an injunction under Section 427.
- g) The debt is disputed via pending appeal proceedings (*COACAPPL No. E020 of 2023*), rendering the Petition coercive.
- h) The Advertisement by the Petitioner on a disputed debt abuses process, exacerbating malice.
- i) The Petitioner's withdrawal of his contempt application dated 30th March 2024 on 4th August 2025 in the underlying ELRC Cause No. 35 of 2019, without any substantive hearing or costs orders, reveals a deliberate pattern of initiating meritless proceedings only to abandon them, indicating malice, harassment, and an abuse of court process that extends to this insolvency Petition as yet another coercive mechanism to extract undue advantage.
- j) The Applicant's economic role of generating taxes and jobs means advertisement risks national harm, strengthening the case for urgent restraint.
- k) Reputational damages are warranted for quantifiable losses from the illegal-based advertisement, under tort principles for malicious publication, particularly given the Applicant's status as one of Kenya's leading indigenous breweries with annual revenues exceeding KShs. 20 billion, operations spanning multiple production facilities, and a market share of over 15% in the alcoholic beverages sector, where the false insolvency signal has led to immediate stock value depreciation and long-term brand erosion estimated at KShs. 10 billion in lost goodwill and future earnings.
- l) The Applicant's pivotal role in the Kenyan economy, including its contributions to agricultural value chains by sourcing from over 10,000 local farmers, generating foreign exchange through exports to East Africa and beyond amplifies the damages from the malicious advertisement, as it threatens widespread job losses, supply chain disruptions, and reduced government revenue, justifying KShs. 10 billion in reputational damages to compensate for these cascading economic impacts and to serve as a deterrent against such reckless abuse of process.

- m) The Petitioner's evident malice in pursuing insolvency as a weaponized tactic despite knowing the debt's disputed nature, leading to quantifiable harms such as increased borrowing costs due to perceived risk, loss of key partnerships with international suppliers, and psychological distress to employees and stakeholders, all of which compound the reputational injury and warrant substantial exemplary damages under established principles of defamation and malicious falsehood in commercial contexts.
- n) The aforementioned withdrawal further supports the claim for punitive damages, as it evidences the Petitioner's bad faith and intentional misuse of judicial processes to cause distress and financial pressure on the Applicant, contrary to the principles of fair litigation and warranting exemplary sanctions to deter such conduct.
- o) A public apology is essential to correct the wrongful narrative, issued in the same media to restore confidence.
- p) The Petition ignores appellate proceedings, violating fair process, and advertisement amplifies this injustice.
- q) This pattern of abusive filings, including the withdrawn contempt application, undermines the integrity of the court and justifies striking out the Petition to prevent further exploitation of insolvency laws for personal vendettas, aligning with judicial precedents condemning such tactics as oppressive and inequitable.
- r) Balance of convenience favors the Applicant; Petitioner can pursue debt post-appeal, but Applicant faces immediate catastrophe.
- s) Public interest demands protection of viable enterprises like the Applicant, per Article 43 on economic rights.
- t) Urgency is critical as any ongoing advertisement daily erodes the Applicant's viability, invoking constitutional justice.
- u) It is in the interest of justice that the above orders sought be granted.

AND WHICH APPLICATION is grounded on the annexed Affidavit of **EDWARD MWANGI MUIGAI**, the Applicant's director, and on such other or further grounds as may be adduced at the hearing hereof.

DATED at **NAIROBI** this27thday of**AUGUST**.....2025



WARUIRU, KARUKU & MWANGALE
ADVOCATES FOR THE RESPONDENT/APPLICANT

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REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
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IN THE MATTER OF: THE INSOLVENCY ACT, NO. 18 OF 2015

AND

**IN THE MATTER OF: AN APPLICATION FOR INSOLVENCY ORDERS AGAINST
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**IN THE MATTER OF: SATISFACTION OF A MONEY DECREE AGAINST
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BETWEEN

SAM KRUS SHOLLEI.....PETITIONER

AND

KEROCHE BREWERIES LIMITED..... RESPONDENT

SUPPORTING AFFIDAVIT

I, **EDWARD MWANGI MUIGAI**, a male adult of sound mind, Kenyan citizen, residing and working for gain in Naivasha within the Republic of Kenya, and whose postal address is P.O. Box 6-20117, Naivasha, **DO HEREBY MAKE OATH** and solemnly state as follows:

1. **THAT** I am the Chief Executive Officer of the Respondent Company herein, duly authorized by the Board of Directors to swear this affidavit from personal knowledge and records.
2. **THAT** the Petitioner filed a Liquidation Petition dated **23rd May 2025** against the Applicant, seeking orders for liquidation under Sections 424 and 425 of the Insolvency Act, 2015, premised on an alleged unsatisfied monetary decree from Nakuru ELRC Cause No. 35 of 2019, quantified at KShs. 75,000,000 inclusive of interest.
3. **THAT** the said Petition is accompanied by a Statutory Demand dated 30th June 2025, which purports to demand payment of the aforesaid sum within 21 days, but this Demand is fundamentally illegal and invalid, rendering the entire Petition defective and liable to be struck out.
4. **THAT** the Statutory Demand was not signed by the Petitioner himself or by a person authorized to act on his behalf, such as his advocate, but instead bears the signature and stamp of the Deputy Registrar of the High Court at Nakuru, which contravenes the strict requirements of Section 384(1)(a) of the Insolvency Act, 2015.
5. **THAT** Section 384(1)(a) explicitly provides that a company is unable to pay its debts if a creditor to whom it is indebted serves a written demand requiring payment, and the

Demand must be issued by the creditor or an authorized agent, not by a court official like the Deputy Registrar.

6. **THAT** court's have emphasized the competency of a Statutory Demand, which should be dated and be signed by the creditor himself or by a person authorized to make the demand on the creditor's behalf.
7. **THAT** in this case the same was not adhered to, as the Deputy Registrar is neither the creditor nor an authorized agent, making it wholly invalid and vitiating the foundation of the Petition under Section 425.
8. **THAT** the illegality of the Statutory Demand invalidates the entire Petition, as liquidation proceedings cannot be sustained on a document that fails to meet the statutory prerequisites for competency, and allowing it to proceed would constitute a gross abuse of the court process.
9. **THAT** the advertisement of the Petition notice on 21st August 2025 in the Kenya Gazette is wrongful and premature, as it flows directly from this illegal Statutory Demand, and under Regulation 77B of the Insolvency (Amendment) Regulations, 2018, no such pre-hearing publicity is mandated or justified.
10. **THAT** the said advertisement, based on an invalid Demand, has caused and continues to cause catastrophic reputational and commercial damage to the Applicant, a large-scale brewer with extensive operations, leading to potential loss of investor confidence, supplier relationships, and market stability.
11. **THAT** the Applicant is solvent and actively operating, employing over 500 staff and contributing significantly to the economy through taxes, exports, and support to local agriculture, but the advertisement signals insolvency falsely, risking irreversible harm to our business viability and the livelihoods dependent on it.
12. **THAT** the debt underlying the Petition is genuinely disputed, as evidenced by our ongoing appellate efforts; we filed a Notice of Appeal on 5th October 2022 against the ELRC judgment, and an application dated 24th July 2025 is pending in the Court of Appeal (COACAPPL No. E020 of 2023), raising substantial grounds that could overturn the decree.
13. **THAT** the Petition and its advertisement ignore this appellate process, amounting to an abuse intended to coerce payment rather than address true insolvency, and urgent injunctive relief is needed to halt further publication and mitigate the damage already inflicted.
14. **THAT** furthermore, the Petitioner has engaged in a pattern of malicious conduct by filing

a contempt application dated 30th March 2024 in the underlying ELRC Cause No. 35 of 2019, only to withdraw it on 4th August 2025 without any hearing or costs orders, which clearly indicates an intent to harass and pressure the Applicant through repeated, unsubstantiated legal actions, reinforcing that the insolvency Petition is similarly motivated by malice rather than genuine insolvency concerns.

15. **THAT** the advertisement has led to immediate adverse effects, including inquiries from suppliers questioning our solvency, potential credit line restrictions from financial institutions, and negative media coverage that amplifies the false narrative of impending collapse.
16. **THAT** as a company integral to Kenya's manufacturing sector, the ongoing publicity threatens not only our operations but also broader economic stability, including impacts on farmers supplying raw materials and distributors reliant on our products.
17. **THAT** reputational damages are warranted due to the malicious nature of the advertisement on an illegal basis, with quantifiable losses in brand value, projected revenue declines, and costs associated with crisis management, justifying compensation in the sum of KShs. 10,000,000,000 (Ten Billion Kenya Shillings), reflecting the Applicant's status as a key economic player with over 500 direct employees, thousands in its supply chain, annual tax contributions, and exports generating vital foreign exchange, where the false insolvency claims have triggered widespread market panic, long-term contract losses, and diminished investor trust that could take years to rebuild.
18. **THAT** the Kenya Shillings Ten billion in reputational damages is further supported by the Petitioner's pattern of bad faith litigation, which has not only eroded the Applicant's goodwill but also imposed additional burdens such as heightened insurance premiums, employee retention challenges amid uncertainty, and diversion of management resources from core operations to damage control, all compounding the economic ripple effects on Kenya's brewing and agricultural sectors. products.
19. **THAT** this withdrawal of the contempt application, occurring shortly before the advertisement of the Petition, exemplifies the Petitioner's strategy of weaponizing court processes for coercive purposes, causing unnecessary legal expenses, operational disruptions, and reputational harm to the Applicant, thereby justifying claims for both compensatory and punitive damages to address the deliberate abuse.
20. **THAT** damages are warranted due to the malicious nature of the advertisement on an illegal basis, with quantifiable losses in brand value, projected revenue declines, and costs associated with crisis management, justifying compensation in the sum sought.

21. **THAT** a public apology is essential to correct the wrongful narrative and restore stakeholder trust, and it should be issued in the same manner and prominence as the original notice to effectively counteract the harm caused.
22. **THAT** without the orders sought, the Applicant faces existential threats, including possible forced shutdowns, mass layoffs, and loss of market position, all precipitated by this defective process.
23. **THAT** the Petitioner's abusive pattern, as evidenced by the withdrawn contempt application, violates principles of equity and good faith in litigation, and allowing the Petition to proceed would reward such conduct, contrary to Article 159(2)(d) of the Constitution which promotes substantive justice over procedural manipulation.
24. **THAT** annexed hereto and marked "**EMM-1**" to "**EMM-3**" are true copies of the Statutory Demand, the advertisement notice and Court of Appeal Orders.
25. **THAT** what is deposed herein is true to the best of my knowledge, save for information from advocates which I believe to be true.

DATED at **NAIROBI** this27THday of**AUGUST**.....2025



WARUIRU, KARUKU & MWANGALE
ADVOCATES FOR THE RESPONDENT/APPLICANT

SWORN at **NAIROBI** by the said)

EDWARD MWANGI MUIGAI)



DEPONENT

This 27TH day of **AUGUST** 2025)
BEFORE ME:)



COMMISSIONER FOR OATHS

DRAWN & FILED BY:

Waruiru Karuku & Mwangale Advocates,
Viking House, 1st Floor,
Off Waiyaki Way,
P.O.Box 48325-00100,
NAIROBI.

Email: info@wkmadvocates.com

TO BE SERVED UPON:

Achach & Associates Advocates LLP,
Chelezo Apartments, 3rd Floor, Block A3C,
Kindaruma Road,
P.O.Box 51340-01000.

NAIROBI.

Email: info@achachllp.co.ke

Tel: 0704 242 726

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
INSOLVENCY CAUSE NO 1003 OF 2025

IN THE MATTER OF: **THE INSOLVENCY ACT CAP 53 LAWS OF KENYA**
AND

IN THE MATTER OF: AN APPLICATION FOR INSOLVENCY ORDERS AGAINST KEROCHE
BREWRIES LIMITED UNDER SECTION 425 OF THE INSOLVENCY ACT, CAP 53 LAWS
OF KENYA
AND

IN THE MATTER OF: INSOLVENCY (AMENDMENT) REGULATIONS, 2018

AND

IN THE MATTER OF: SATISFACTION OF A MONEY DECREE AGAINST KEROCHE
BREWRIES LIMITED ARISING FROM NAKURU ELRC CAUSE NO. 35 OF 2019: SAM
KRUS SHOLLEI VS KEROCHE BREWERIES LIMITED

BETWEEN

SAM KRUS SHOLLEI..... PETITIONER

AND

KEROCHE BREWERIES LIMITED..... RESPONDENT

STATUTORY DEMAND NOTICE


To KEROCHE BREWERIES LIMITED, of P.O BOX 6 – 20117, NAIVASHA, NAKURU, KENYA

TAKE NOTICE that within twenty one (21) days after service of this notice on yourselves, excluding the day of such service, the company must pay to ACHACH & ASSOCIATES ADVOCATES LLP of P.O BOX 51340 – 00100, NAIROBI, their agent duly authorized (a) the sum of Kshs . 75,000,000 claimed by the Petitioner as being the amount due to him, or the company must secure or compound for the said sum to his satisfaction or the satisfaction of his/ or his said agent, or to the satisfaction of the Court; or the company must satisfy the Court that the company has a counter-claim, set-off or cross-demand against the Petitioner which equals or exceeds the sum claimed by the Petitioner and which the company could not set up in the action or other proceedings in which the Judgment or Order was obtained.

This is the Exhibit marked "EMM-1".
Reflected to in the Annexed Affidavit Declaration
of: Edrick Mwangi Muriu
Sworn / Declared before me this 23
day of August 2025 at Nairobi
In the Republic of Kenya
.....
Commissioner For Oaths

FURTHER TAKE NOTICE THAT failure to pay the afore-stated amount shall result in the Petitioner filing for a liquidation order against yourselves.

DATED this 30th day of June 2025


DEPUTY REGISTRAR
HIGH COURT OF KENYA AT NAKURU

DRAWN AND FILED BY:

ACHACH & ASSOCIATES ADVOCATES LLP,
CHELEZO APARTMENTS, 3RD FLOOR,
KINDARUMA ROAD,
P.O BOX 51340-00100

NAIROBI

info@achachllp.co.ke

0704242726

TO BE SERVED UPON

KEROCHE BREWERIES,
OFF NAIROBI - NAKURU HIGHWAY,
P.O BOX 6 - 20117,
NAIVASHA - NAKURU, KENYA.

IN THE HIGH COURT OF KENYA
THE INSOLVENCY CAUSE NO. HCCOMMIN/E003/2025
IN THE MATTER OF KEROCHE BREWERIES LIMITED PETITION IN
LIQUIDATION

NOTICE is given that a Petition for the liquidation of the above-mentioned company by the High Court was on the **23rd May 2025** presented to the said Court by Sam Kruschev Shollei and the said Petition is directed to be heard before the High Court sitting at Nakuru. Any Creditor or Contributory of the said company desirous to support or oppose the making of an order on the said Petition may appear at the time of hearing in person or by his/her Advocate for that purpose and a copy of the Petition will be furnished by the undersigned to any Creditor or Contributory of the said company requiring such a copy on payment of the regulated charge for the same

Dated this.....21stAugust.....2025.

DRAWN AND FILED BY:

ACHACH & ASSOCIATES ADVOCATES LLP,
CHELEZO APARTMENTS, 3RD FLOOR, BLOCK A3C
KINDARUMA ROAD,
P.O BOX 51340-00100,
NAIROBI.

TEL: 0704242726

EMAIL: info@achachllp.co.ke

This is the Exhibit marked "EXHIBIT-2".
Referenced to in the Accepted Affidavit Declaration
of: Edward Mwangi Muli
Sworn / Declared before me this 21st
day of August 2025 at Nakuru
in the Republic of Kenya

Commissioner For Oaths



REPUBLIC OF KENYA

IN THE COURT OF APPEAL OF KENYA AT NAKURU COUNTY

COURT NAME: NAKURU LAW COURT

CASE NUMBER: COACAPPL/E020/2023

CITATION: KEROCHE BREWERIES LIMITED VS SAM KRUS SHOLLEI

DIRECTIONS

I wish to inform you that your application dated 24th July, 2025 was placed before the duty Judge, Application to be listed for hearing in accordance with the court's diary.

In regards to the application, kindly comply with the following directions:

1. The applicant(s) to serve the respondent(s) with the application within 3 days from the date of these directions and file a return of service.
2. The respondent(s) to file and serve a reply to the application within 3 days of service above and file a return of service to that effect.
3. The applicant(s) to file and serve a response to the reply (if necessary) and written submissions within 3 days of service above and file a return of service.
4. The respondent(s) to file and serve written submissions within 3 days of service above and file a return of service.
5. The submissions be a maximum of 3 pages; line spacing 1.5; font size 12; font- times new roman.
6. Parties to file and serve the List of Authorities and Case Digest separately alongside submissions.
7. Once parties have uploaded the documents on the e-portal, parties to download the documents and send to the court's email courttofappealnakuru@gmail.com.

The application shall be listed for case management to confirm compliance with these directions.

SIGNED BY: HON. JUSTICE J. M. MATIVO



THE JUDICIARY OF KENYA
NAKURU COURT OF APPEAL
COURT OF APPEAL

This is the Exhibit marked "ENM-3".
Referred to in the Affirmed Declaration
of Edward Mwangi Mutiga
Sworn/ Declared before me this 23rd
day of August 20 25 at Nakuru
in the Republic of Kenya

Commissioner For Oaths

