

**IN THE SUPREME COURT OF SAMOA**  
**HELD AT MULINUU**

**IN THE MATTER:** of the Electoral Act 2019

**A N D:**

**IN THE MATTER:** Concerning the Territorial  
Constituency of Safata 1.

**BETWEEN:** **LEAANA RONNIE**  
**MULITALO POSINI,** a  
candidate for the  
Constituency of Safata 1

*Petitioner*

**A N D:** **SEVE TE'I FUIMAONO,**  
a candidate for election  
Constituency of Safata 1.

*Respondent*

Coram: Senior Justice Vui Clarence Nelson  
Justice Leiataualesā Daryl Clarke  
Counsel: M Lemisio and S Ainuu for the Petitioner  
T Toailoa for the Respondent  
Hearing: 14, 15, 16, 17, 20, 21 and 22 October 2025  
Submissions: 24 October 2025  
Judgment: 27 November 2025

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**JUDGMENT OF THE COURT**

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## Introduction

1. Seats in Parliament must be earned through policy, leadership and ideas that uplift Constituencies and the nation – not secured through secret vote buying in the dark of night or by the inducements of bribery and treating. Such tactics are not a plan for the voter’s future, only a shortcut for a candidate’s ambition. Corruption erodes public trust, weakens institutions, and hollows out the foundations of democratic governance. When parliamentary seats are secured through corrupt practices, the legitimacy of Parliament and Parliamentarians is compromised, and the laws that they produce risk becoming tools of self-interest rather than instruments for peace, stability and good governance. Those who enter Parliament by dishonest means have no rightful place in a chamber meant to serve the people. As stated by United States President Theodore Roosevelt: *“No man who is corrupt, no man who condones corruption in others, can possibly do his duty by the community.”*

2. We as a society cannot succumb to the spurious but tempting proposal that because everyone is doing it, we should condone it. The warning of the noted philosopher and theologian St. Augustine rings as true today as in ancient times:

*“Right is right even if no one is doing it. Wrong is wrong even if everyone is doing it.”*

3. The evidence before the Court reveals a troubling pattern: candidates have offered payments, and voters accept and regard it as part of Samoa’s electoral process – a present that they can expect every time there is an election. This conduct, described in witness testimony, reflects a transactional approach to elections that undermines democratic integrity. In his evidence, the witness Mati Time Iole said:<sup>1</sup>

“Nelson J: Aua pei o le mea lena lea e tele I le tatou atunuu I faiga palota. O le a le mea na le teena ai le tupe?

Wit: Lau afioga o faatosina ia e seasea ona faia soso’o I ni tausaga. E ta’i 5 tausaga a’o le oo atu foi la o le faatosina le.

Nelson J: Oi o lona uiga a ta’i 5 tausaga e le afaina a?

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<sup>1</sup> NOE at p.27

Wit: O le oo atu o faatosina ia lau afioga o se mea e seasea ona tupu I totonu o le tatou atunuu. Ia a ua maua foi lea avanoa e maua ai sia seleni e fesoasoani, ia talia ma le agaga faafetai.”

4. In his evidence, when the money given by the petitioner that he considered to be a bribe for his vote was distributed by the village, the witness Faaloia Time Taunoa said:<sup>2</sup>

“Clarke J: A faapea la o lea ete malamalama o le faatosina le tupe lea e avatu, sa e tago la toe faafoi le \$20 pe leai?

Wit: Ona ua alu le faipule a lea faatoa tufa ii le matou tai \$20 e pei o le tulaga lena.

Clarke J: Ae sa tatau ona e fai atu i le tou nuu taatia ia lena \$20 o le faatosina?

Wit: E le mafai ona ou fai atu i toeaia ona o la ua tufa mai ua maua ai foi le suka o le afiafi i lena \$20.”

5. The transcript is replete with witness testimony to this effect, and excuses made for the taking of what voters accepted were electoral bribes from candidates. These proceedings underscore the need for the continued strengthening of electoral laws and institutions to identify and root out vote buying and corruption in elections. Education, public awareness and enforcement must be central tools of Government and the Office of the Electoral Commissioner – not only to deter corrupt practices by candidates and voters, but to ensure that electoral choices are made based on merit, and not for monetary, financial or other type of gain.

## Background

6. At the national general election for the Legislative Assembly of Samoa held on Friday, 29 August 2025, the Petitioner and the Respondent contested the seat for the Electoral Constituency of Safata 1. The Constituency comprises the villages and geographical areas of: Salamumu; Lotofagā; Saanapu; and Sataoa.
7. The official declaration by the Electoral Commissioner of the result of the poll for the Electoral Constituency of Safata 1 records the following votes:<sup>3</sup>

SEVE Tei Fuimaono

949 votes

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<sup>2</sup> NOE at pp 114 – 115.

<sup>3</sup> Exhibit P12.

8. The Petitioner has filed this election petition pursuant to Part 14 of the Electoral Act 2019 (“the Act”), challenging the declaration of the Respondent as the successful candidate. It is not in dispute that the Petitioner is eligible to present an election petition under section 108 of the Act.

### **The Petition and Counter-Petition**

9. The Petitioner called ten witnesses in support of his Petition and seventeen in response to the Respondent’s counter petition. He alleges that the Respondent is guilty of six instances of bribery, constituting corrupt practices under the Act. These alleged acts occurred at Saanapu on various dates leading up to the 2025 general election:

- (i) **Tuesday 26 August 2025** - gave \$250 to Tausaga Fono<sup>4</sup>
- (ii) **Saturday, 23 August 2025** - gave \$300.00 to Leaana Lauitoa Vaai Tupua<sup>5</sup>
- (iii) **Thursday, 21 August 2025** - gave \$500.00 to Faalolo Satele, who then gave \$100.00 each to her sons Vaiala Tailo and Harima Asia<sup>6</sup>
- (iv) **Thursday, 28 August 2025** - gave \$100.00 to Tolu Paulo<sup>7</sup>
- (v) **Thursday, 28 August 2025** - gave \$100.00 to Veli Lalogafau<sup>8</sup>
- (vi) **Saturday, 23 August 2025** - gave \$500.00 to Mati Time Iole who then gave \$100.00 to his daughter Arieta Okesene<sup>9</sup>

10. The Petitioner asserts that these constitute the corrupt practices of bribery in breach of sections 94, 96 and 97 of the Act. The Petitioner seeks the following relief:

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<sup>4</sup> Paragraph 5(a), Petitioner’s Petition dated 19<sup>th</sup> September 2025.

<sup>5</sup> Paragraph 5(b), Petitioner’s Petition dated 19<sup>th</sup> September 2025.

<sup>6</sup> Paragraph 5(c), Petitioner’s Petition dated 19<sup>th</sup> September 2025.

<sup>7</sup> Paragraph 5(d), Petitioner’s Petition dated 19<sup>th</sup> September 2025.

<sup>8</sup> Paragraph 5(e), Petitioner’s Petition dated 19<sup>th</sup> September 2025.

<sup>9</sup>

- that the Respondent be declared and reported as having committed corrupt practices;
- that the Respondent's election be voided and she be disqualified from contesting in any ensuing election; and
- that he be declared and reported as duly elected for the Electoral Constituency of Safata 1.

11. The Respondent opposes the petition and brings a counter petition against the Petitioner alleging thirty instances of corrupt practices. The Respondent called twenty witnesses in response to the petition and in support of the counter petition. The following table summarises the dates, location, and nature of the alleged corrupt practices in the counter-petition:

<b>Date</b>	<b>Location</b>	<b>Allegation Type</b>	<b>Circumstances</b>	<b>Counter Petition Allegations</b>
13 June 2025	Lotofagā Village meeting	Bribery	Ava ceremony and presentation of \$5,000.00.	1 - 5
14 July 2025	Sataoa Village meeting	Bribery	Ava ceremony and presentation of \$5,000.00.	6 – 13
1 – 31 July 2025	Saanapu, Fale a le Fono Favaae (1).	Bribery	Petitioner gave \$1,500.00 for distribution to voters: Ramona Sao Matofo, Teofilo Falefia, and Faaita Iese each received \$50.00.	14 – 16
1 – 31 July 2025	Saanapu, Fale a le Fono Favaae (2).	Bribery	Petitioner gave \$1,500.00 for distribution to voters: Ramona Sao Matofo, Teofilo Falefia, and Faaita Iese each received \$50.00.	17 – 19
27 July 2025	Safata 1, fale a le Fono Faavae	Bribery	Petitioner or agents / committee gave \$1,500.00 for distribution: Tunumafono Sanerivi and Tulolo	20 - 21

			Sinapao Apelu each received \$40.00.	
On or about 28 July 2025	Safata 1, fale a le Fono Faavae	Bribery	Petitioner or agents gave \$20 to Laupama Afemata	22
1 – 29 August 2025	Safata 1, fale a le Fono Faavae	Bribery	Petitioner gave \$1,500 for distribution: Ramona Matofo, Teofilo Falefia, and Faaita Iese each received \$50	23 - 25
9 August 2025	Togitogina	Bribery	Petitioner gave \$50 to Mafutaga Ierome Sulu	26
14 August 2025	Saanapu	Bribery	Petitioner gave \$4,000 to Lotofagā Safata: funds distributed to voters, including \$30 to Matagitausulu Tuisamoa	27
14 August 2025	Saanapu	Treating	Petitioner’s agents distributed food to Matagitausulu Tuisamoa.	28
18 August 2025	Saanapu	Bribery	Petitioner gave \$200 to Monika Fesilafai	29
28 August 2025	Saanapu	Bribery	Petitioner’s wife (as agent) gave \$100 to Misi Vaiomanu.	30

12. The Respondent seeks that:

- (a) the Petitioner’s petition be dismissed;
- (b) a declaration be made that the Petitioner is guilty of bribery and treating, being corrupt practices contrary to sections 94, 96 and 97 of the Act;

(c) the Petitioner be disqualified from contesting any ensuing by-election.

## Law

13. Section 94 of the Act creates the offence of ‘corrupt practice’ and provides that a person who commits treating or bribery is guilty of “corrupt practice”. Section 96 creates the offence of bribery and defines those acts which amount to the offence of bribery. Section 97 of the Act similarly creates the offence of treating and defines those acts which amount to the offence of treating. We do not propose to recite those sections in our judgment.

14. Where a person is guilty of a corrupt practice, section 116 of the Act provides:

“The election of a candidate proven at the trial of an election petition to have been guilty of a corrupt practice at the election is void.”

15. As stated in *Tafili v Peto* [2021] WSSC 30 (25 June 2021), *Petaia v Pa'u* [2006] WSSC 1 (4 December 2006):

“To be guilty of the corrupt practices of bribery and treating the petitioner must prove that the respondent intended to induce the voters to vote other than in accordance with their conscience: Gagaifomauga No. 2 Territorial Constituency (1960-1969) WSLR 169 at 177; or gave with the intention of influencing the election, either generally, as by acquiring popularity, or with the intention of influencing a particular voter to vote or refrain from voting: Hereford case (1869) 20 LT 405; if in any case looking at all the circumstances, the reasonable and probable effect ... would be to influence the result of the election or to influence the votes of the individual voters, it might well be inferred that it was the intention of the persons treating that this effect should follow: In the Wairau Election Petition (1912) 2 NZLR 321; re Election Petition Anoama'a East Territorial Constituency: Faamatuainu Talamailei v Savea Sione (unreported Misc 6007; (28/7/1982)). Not only must the subjective intent of the respondent be corrupt but the methods employed must also be corrupt.”

16. In Rogers on Elections (20th ed) at page 270 cited with approval in *Lufilufi v Hunt* [2011] WSSC 49 (26 April 2011), *Vui v Ah Chong* [2006] WSSC 52 and *Tafili v Peto* on the question of a person’s intent:

"The intention of a person charged with bribery must be gathered from his acts. Mellor J in *Launceston* (1874) 2 O'M & H 133 said: I cannot go into any intention of the respondent, I must be governed by what he said and what he did, and by the inferences I ought to draw therefrom. And this was followed in *Kingston-upon-Hull* (1911) 6 O'M & H 389, per Buchnill J: You cannot allow a man to say, I did not intend to do that which amounted to bribery, if when you look at all the things which he did there is only one conclusion to draw and that is that he has done that which he said he did not intend to do."

17. When considering the question of intent, we bear in mind what the Court in *Posala v Sua* said that:

"An intention can never be proved as a fact; it can only be inferred from facts proven beyond a reasonable doubt."

18. In *Vui v Ah Chong*, Chief Justice Sapolu added to this point that:

"I accept that in order to ascertain a person's intention one has to look at what he said and what he did in the circumstances of what took place. It is not physically possible to look into a person's mind to see what he was thinking at the time when he gave out money or valuable consideration to an elector or voter. So one looks at what he said and what he did and infer from that as a fact what his intention was at the time of the giving. Sometimes the impression given by what a person said may be inconsistent with what he did. It will be for the court to decide which of the two conveys the person's true intention."

19. Historically, as the learned authors in *Rogers on Elections* (20<sup>th</sup> Edition) identified, where there are mixed motives, one of charity or kindness and the other popularity or corruption; the question was which is the governing or dominant motive.<sup>10</sup> It can be taken as settled law in Samoa that, as the Court said in *Ah Him v Amosa* [2001] WSSC 16:

"It would be sufficient for the purpose of establishing the intent required for bribery and treating in terms of the Act, if one of the motives which accompanied the presentation of money or food was to induce electors to vote for the respondent: see the judgment of Donne CJ in the High Court of Cook Islands in *Re Mitiaro Election Petition* [1979] 1 NZLR S1. at s.12"<sup>11</sup>

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<sup>10</sup> See: *Avauli v Atiifale* [2021] WSSC 39 (16 August 2021) at [8]; *Posala v Su'a* [2006] WSSC 29 (16 August 2006) at [30]

<sup>11</sup> See also: *Avauli v Atiifale*, above n.7; *Vui v Ah Chong* [2006] WSSC 52 (26 September 2006); and *Director of Public Prosecutions v Luft & Anor* [1976] 2 All ER 569.

20. The burden of proving each of the allegations lies on the Petitioner who brings the allegations, and the required standard of proof is beyond reasonable doubt: In *re Election Petition Safata Territorial Constituency, Pule Lameko v Muliagatele Vena* [1970-1979]; applied and followed in subsequent decisions of this court, most recently in *Fiaui v Samau* (Unreported) dated 21 November 2025 and *Meredith v Asafo* (Unreported) dated 21 November 2025.

### **The Petition: Discussion, Analysis and Findings**

21. Notably, the Respondent called no evidence to rebut the Petitioner's allegations in paragraphs 5(a), 5(b), and 5(c) of the Petition, nor did she challenge the testimony of the Petitioner's witnesses, who gave direct and specific evidence implicating her in the payment of money in connection with the upcoming general election. Her failure to give evidence in response - particularly in circumstances where she was personally implicated - undermined her case and left the Petitioner's account uncontradicted. Instead, the Respondent merely put the Petitioner's witnesses to proof, acknowledging that the money was paid but denying that they constituted acts of bribery.
22. Respondent's counsel attempted to justify her client's failure to testify on the basis that she had a Constitutional right to silence guaranteed by article 9(5) of the Constitution. Article 9(5) provides:
- “9. Right to a fair trial -**  
(5) No person accused of any offence shall be compelled to be a witness against himself or herself.”
23. There are several problems with this viewpoint. Firstly, while it does not expressly say so, article 9(5) is normally applicable in the context of a criminal prosecution. Electoral offences however are not the subject of the “normal” criminal law but are governed specifically by Part 13 (‘Corrupt and illegal practice’) and 14 (‘Election Petitions’) of the Electoral Act 2019. They are subject to specific time limits for commencement of prosecution pursuant to section 105 of the Electoral Act and in the context of an election petition filed under Part 14, they carry other specific consequences - see section 116 above.

24. While we acknowledge that allegations of committing a ‘corrupt practice’ can be regarded as being “accused of an offence” – and we do not so authoritatively decide as this is unnecessary for present purposes and because this important Constitutional issue was not fully argued before us - the significant point to be made is that the “right to silence” guaranteed by article 9(5) is a right not to be compelled by anyone to testify against oneself. There remains, as in all litigation, “the choice of silence” which is something completely different. That is the path the Respondent chose freely without compulsion or restraint, and no one especially not the Court required or prevented her from testifying. All choices have consequences.
25. The protection of parties and witnesses from self-incrimination in election petition proceedings is already catered for in the Electoral Act itself – see section 127 discussed below.
26. In reaching this conclusion, we have considered Respondent Counsels argument relying on *Posala v Su’a* [2006] WSSC 29. Counsel referred to article 10 of the Constitution (‘Rights concerning criminal law’). With respect, we do not see how article 10 applies. Counsel also seems to misconstrue that judgment in a number of key respects:
- (i) That judgment addressed the electoral laws and schema as they were under the now repealed Electoral Act 1963;
  - (ii) There is no similar definition to “offence” referred to in that judgment in the *Electoral Act 2019*; and
  - (iii) That case and the discussion at paragraph 39 to which Respondent counsel has drawn our attention was concerned with corrupt and illegal practices in terms of the burden and standard of proof that applied. It was not concerned with article 9(5), and certainly not article 10.
27. For completeness, we address section 50 of the Evidence Act 2015 and the privilege against self-incrimination, which states:
- “50. Privilege against self-incrimination-**(1) This section applies if: (a) a person is (apart from this section) required to provide specific information - (i) in the course of a proceeding; or (ii) by a person exercising a statutory power or

duty; or (iii) by a police officer or other person holding a public office in the course of an investigation into a criminal offence or possible criminal offence; and (b) the information would, if so provided, be likely to incriminate the person under Samoan law for an offence punishable by a fine or imprisonment.

(2) The person: (a) has a privilege in respect of the information and cannot be required to provide it; and (b) cannot be prosecuted or penalised for refusing or failing to provide the information, whether or not the person claimed the privilege when the person refused or failed to provide the information.

(3) Subsection (2) has effect: (a) unless an enactment removes the privilege against self-incrimination either expressly or by implication; or (b) the person waives privilege against self-incrimination either expressly or by implication....”

28. Section 127(1) and (2) of the Electoral Act however is often overlooked but are very important provisions that state:

“(1) Subject to subsection (2), a person called as a *witness* on the trial of an election petition shall not be excused from answering a question relating to an offence at or connected with the election on the ground that the answer may incriminate or tend to incriminate himself or herself, or on the ground of privilege.

(2) During the trial:

(a) an answer by a person to a question put by or before the Court is *not admissible* in evidence against him or her in any proceeding, civil or criminal, except in the case of a criminal proceeding for perjury in respect of the evidence; (b) a witness who answers truly all questions which he or she is required by the Court to answer is entitled to receive a certificate of indemnity stating that he or she has so answered.” (emphasis added)

29. In other words, subsection 127(2) expressly provides protection in that answers by a witness given in an electoral petition “to a question put by or before the Court is *not admissible* in evidence against him or her in any proceeding, civil or criminal, except in the case of a criminal proceeding for perjury in respect of the evidence.” Provided that the witness answers the questions truthfully, the witness is entitled to receive a certificate of indemnity from prosecution stating that he or she has so answered. Apart from again demonstrating how the law treats electoral offences as different from “normal” criminal offending, this provides an invaluable protection for those testifying in election petitions.

30. Although “witness” is not defined in the Act, it is defined in section 2 of the Evidence Act 2015 as “a person who gives evidence and is able to be cross-

examined in a proceeding.” Without determining this question as it was not the subject of submissions, nor directly raised - it seems to us that a “witness” includes parties to an electoral petition, and they too should be able to avail themselves of the protections under section 127 of the Act.

31. There is no merit in counsel’s argument, especially when unsupported by authorities.
32. We now turn to the allegations.

***Petition allegation 5(a): \$250 payment to Tausaga Fono***

33. Tausaga Fono is registered voter # 865 on the electoral roll for Safata 1. He has no relationship to either the Petitioner or the Respondent, other than having worked for the Respondent for one day. He gave unchallenged evidence that at around 10.00pm on Tuesday, 26 August, the night before polling opened for elderly voters, he was woken by his children and told a car was at the front. He went and saw Alo Fa’aolatia, a fellow villager and acquaintance and was told to put a top on and accompany him to see the Respondent, who Tausaga knew from his prior employment.
34. When they arrived at the Respondent’s home, the Respondent was sitting under the fa’apaologa of her home. After exchanging greetings, the Respondent allegedly stated:<sup>12</sup>

“‘e tuatuaana ia te a’u le palota. Na ou vaai atu ua tago Seve I lana ato ma aumai I fafo le tupe ma tuu mai loa ia te a’u ma faapea mai, vaai e tuatuaana le palota. Na ou fai iai e aua le popole. Oute fia taua o le taimi muamua lea fa’atoa aumai ai e Seve Te’i se tupe ia te a’u. Oute le’i fai ai foi ia Seve mo se tupe...”

35. Tausaga counted the money upon returning home. It amounted to \$250.
36. The Respondent alleges that Tausaga came to her home to “su’e tupe” (seek money) and places weight on Tausaga’s concession under cross-examination that

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<sup>12</sup> Exhibit P11, paragraph 8.

the Respondent gave the money to him out of “alofa” (love). There is no evidence to support this claim. The parties are not related, they have no connection and we reject his opinion.

37. We have no reason to conclude anything other than the \$250 payment was a bribe, given directly by the Respondent to Tausaga with the intention of influencing his vote. The evidence shows that Alo initiated the visit, waking Tausaga and escorting him to the Respondent’s home. The meeting was not requested or sought by Tausaga. In this respect, Alo can be regarded as a de-facto agent for Respondent. At the Respondent’s residence, the money was handed over with explicit reference to the upcoming election, including the statements “e tuatua ia te a’u le palota” and “vaai e tuatua le palota.” These words were not challenged under cross-examination. As Tausaga stated, “o le taimi muamua lea fa’atoa aumai ai e Seve Te’i se tupe ia te a’u.” The timing and context of the payment, just days before the general election on 29 August 2025, reinforce its electoral purpose – and was no coincidence.
38. We are satisfied on the evidence presented to us that the allegation is proven beyond a reasonable doubt.

***Petition allegation 5(b): \$300 payment to Leaana Lauitoa Vaai Tupua***

39. Leaana Lauitoa Vaai Tupua, voter #397 on the electoral roll for Safata 1, gave uncontested evidence regarding events on the evening of Saturday, 23 August 2025. While at home with his wife,<sup>13</sup> the Respondent arrived and greeted them. Leaana Lauitoa testified:<sup>14</sup>

“...Na fa’apea mai lea o Seve ua ou silafia le matou so’otaga ma fa’ailoa mai ai loa o lona o’o atu i le matou fale ona o le palota. Na ia talosaga mai ai loa I le ma lagolagosua mo ia i le palota.”

40. Leaana Lauitoa stated that this was the first time the Respondent had visited his home. He made known to the Respondent that he understood she came due to the

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<sup>13</sup> Exhibit P1, paragraph [5].

<sup>14</sup> Exhibit P1 paragraph [6].

election but the Petitioner is his “uso” and he intended to support him. Leana Lauitua further testified:

“E le’i atoa se sefulu minute na iai Seve I le fale ae faafetai mai loa ma faapea mai o le a aumai lana fa’atuatua ia maua ma tu mai loa I luga ma savali mai ia te a’u ma ma feiloa’i ma tago ai loa tu’u le tupe I la’u taga ma savali atu ai loa ma feiloa’i ma lo’u to’alua ma ou lagona o fai iai “Vila, alu pea Leana i o a’o tatou lava o i.” ma aga’i ai loa i fafo i le mea o lo’o tu mai ai le ta’avale sa alu atu ai.”

41. The Respondent had placed \$300 in Leana Lauitua’s pocket.
42. The Respondent called no evidence. She therefore does not dispute giving the \$300 to Leana Lauitua, but the argument is that the payment did not amount to bribery. The Respondent’s visit was motivated by their “so’otaga” (relationship), that it is naturally appropriate she seeks support from family and that giving money to relatives is a common and generous practice on the part of the Respondent and in Samoa generally.
43. We are satisfied beyond a reasonable doubt that the \$300 given by the Respondent to Leana Lauitua was a bribe intended to induce Leana Lauitua to vote for her. The unchallenged evidence is that the Respondent made clear her visit was election related: “...ma fa’ailoa mai ai loa o lona o’o atu I le matou fale ona o le palota. Na ia talosaga mai ai loa i le ma lagolagosua mo ia I le palota.” This was her first visit to their home, occurring just days before the general election. Although the Respondent had said to Leana Lauitua’s wife “alu pea Leana i o a’o tatou lava o i”, the money was given to Leana Lauitua and she had sought his support. The payment was not made because of any “so’otaga” or because the Respondent is a “tagata loto alofa, o se tagata foai”, but given the circumstances, with the intent to secure his vote. In the classic exposition of Buchnill J in *Kingston-upon-Hull*: “You cannot allow a man to say, I did not intend to do that which amounted to bribery, if when you look at all the things which he did there is only one conclusion to draw and that is that he has done that which he said he did not intend to do.”
44. We are satisfied that the allegation is proven beyond a reasonable doubt.

*Allegation 5(c): \$500 payment to Faalolo Satele*

45. Faalolo Satele, voter # 895 on the Safata 1 electoral roll gave uncontested evidence regarding events on the night of Thursday, 21 August 2025. Her son Vaiala Tailo (voter # 1015) and Harima Asia (voter # 463) were also present. At approximately 9:00pm, while drinking tea at her table, a silver van arrived outside her home. She was informed that the vehicle was there for her. Upon approaching the van, she saw the Respondent seated at the rear left side. Faalolo knows the Respondent well, as both are members of the Mafutaga a Tina of their EFKS Church.

46. The Respondent asked how many of her family were voting in the election. Faalolo replied 7. Faalolo's evidence was that:<sup>15</sup>

“10. O le taimi lea na tago ai loa Seve tu'u mai ia te a'u se tupe ma fa'apea mai e aumai e fa'atau ai se matou meaaai ma tautuana le faiga palota...12. OUTE fia tãua o se taimi muamua lea ua tu'uina mai ai e Seve la te a'u se tupe talu lava ona ma masani.”

47. Faalolo stated that she had known the Respondent since approximately 1986. Upon counting the money given to her, she found it amounted to \$500.00. She then distributed \$100 each to her children who were present, including Vaiala<sup>16</sup> and Harima.<sup>17</sup>

48. The Respondent again contends that the payment was made out of “alofa” (love) and reflects her generous nature. While that may be characteristic of the Respondent, the uncontested evidence is that this was the first occasion she had given money to Faalolo in the nearly four decades of knowing each other. Hardly the actions of a loving and generous relative. Further, the payment occurred just days before the election and was explicitly linked to both the upcoming vote and the number of family members eligible to vote.

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<sup>15</sup> Exhibit P3, paragraph [10].

<sup>16</sup> Exhibit P4.

<sup>17</sup> Exhibit P7.

49. We are satisfied beyond reasonable doubt that this payment constituted a bribe and a corrupt practice in the lead-up to the election. This allegation is accordingly also proven beyond reasonable doubt.

***Allegation 5(d) and 5(e): \$100.00 payment each to Tolu Paulo and Veli Lalogafau***

50. Tolu Paulo, voter # 665, and Veli Lalogafau, voter # 879 are registered on the Safata 1 electoral roll. Tolu serves as the *Aoao* for the Assembly of God Church in Matautu, Safata. Veli is employed by the Airport Authority Fire Service. They are friends and neighbours.
51. The evidence is largely uncontested. On the evening of Thursday 28 August 2025, after 8.00pm, Tolu, Veli and Taelega Toma (also known as Tomaalealii Naumati) at the instigation of Taelega went to the Respondent's home. Upon arrival, it appeared the Respondent and her family had just finished their meal. They were seated at a table inside the Respondent's home.
52. According to the Petitioner's evidence, Veli and Tolu sat beside the Respondent with Taelega seated opposite. During the conversation, the Respondent told Veli that they were family. Veli explained that Tolu is the *Aoao* for the Ekalesia Assembly of God. The Respondent replied that she had the support of the entire church, then went to her room. Upon returning, she gave \$100 to both Veli and Tolu and said "tautuana le palota."
53. Through counsel, the Respondent again denies giving the money as a bribe to Tolu or Veli, asserting that she is a loving and generous person. This is again the '*habitual generosity*' defence that was also raised in respect of the other allegations. Of this, the court in *Kasimani v Seuala* [2011] WSSC 87 said:

"...for a candidate to practice "charity" when an election is near, he runs the risk of being found guilty of bribery."<sup>18</sup>.

54. In his evidence, Taelega Toma stated that he did not see the Respondent give money to either Tolu or Veli, nor did they mention receiving money upon leaving

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<sup>18</sup> At paragraph [88].

her home. However, we are satisfied beyond reasonable doubt that the Respondent gave \$100 each to Tolu and Veli as a bribe intended to influence their vote the following day.

55. First, it is undisputed that Tolu and Veli were taken to the Respondent's home by Taelega Toma on the night before the election. Second, the visit was initiated by Taelega, not by Tolu or Veli. In Taelega's affidavit exhibit R1, Taelega texted Veli on 23 August 2025 at 21:30 stating, "*Kaukuaga Sau ka lagolago Seve kei bro.*" On 28 August, Veli replied at 17:43:

Veli: "Uso kua Paloka ga kaeao lava Tau e alu i laga koeaiga aea"  
Taelega: "Ok bro Sau gei ka o loomakua."

It was Taelega that told Veli to come and for them to visit the Respondent, the "loomakua".

56. Third, both Veli and Tolu were firm under cross-examination that they received \$100 from the Respondent. Taelega himself stated:<sup>19</sup>

"Sa matou o loa ma Veli ma lana uo sa la oatu e igoa ia Tolu Paulo, ma ave faafeiloai ia Seve I le fale a Seve. O Tolu Paulo oute le masani iai, o se tama na o atu ma Veli. Sa feiloai iai Seve ma fai latou tala ae ou talanoa I isi tagata lea sa iai I le fale o Seve I lea po."

57. Under cross-examination, Taelega acknowledged that he didn't know if the Respondent gave Veli and Tolu the money and conceded it was possible it happened but he did not see. We accept the evidence of Veli and Tolu.
58. Finally, the meeting occurred the night before the election at the Respondent's home. The visit was election-related and initiated by Taelega, whom we can readily infer acted on the Respondent's behalf. Considering all the circumstances, we are satisfied the money was not given out of alofa or generosity, but to secure electoral support.

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<sup>19</sup> Exhibit R1 paragraph 8.

59. Counsel for the Respondent focused on Veli and Tolu's motives. However, the relevant legal test concerns the intent of the giver, not the recipients. We have made our findings on that point. Nonetheless, it is clear that Veli and Tolu went to the Respondent intending to receive money for the election. Veli readily admitted telling Tolu to get ready, saying "*e mate o sue se ma tupe*" (for us to go and look for money for us). Sadly, a mindset that the court sees too often from our people. They obviously found in the Respondent a willing payer.
60. Both allegation 5(d) and 5(e) are proven beyond a reasonable doubt.

***Allegation 5(f): \$500 payment to Mati Time Iole***

61. Mati Time Iole, voter #408, and his daughter Arieta Okesene, voter #655, are registered on the Safata 1 electoral roll. The Petitioner alleges that on Saturday, 23 August 2025, at approximately 7:00pm, the Respondent - accompanied by Taelega Toma and a male named Siaso - visited Mati Time's home in Saanapu. The Respondent and Siaso entered the house and spoke with Mati Time, who informed the Respondent that he was the Petitioner's *failautusi* (campaign secretary). The Respondent allegedly replied:

"o la e nate silafia ae tatau lava ona maua ni ana palota mai le matou aiga."

62. As the Respondent and Taelega were leaving Mati Time's home, the Respondent allegedly placed money in Mati Time's pocket. Under cross-examination, Mati Time explained that this occurred while he and the Respondent were still speaking, and after Taelega had already exited the house. After the Respondent left, Mati Time gave \$100 of the money to his daughter, Arieta Okesene.
63. We find this allegation proven beyond a reasonable doubt. It is undisputed that the Respondent visited Mati Time's home on Saturday, 23<sup>rd</sup> August 2025, accompanied by Taelega and Siaso. The evidence of Mati Time and Arieta Okesene remained firm under cross-examination. We accept Mati Time's account that the Respondent placed money in his pocket after Taelega had exited the house. Taelega himself acknowledged under cross-examination that he did not witness the act and could not deny that it occurred.

64. Arieta's testimony corroborates her father's account. She stated that after the Respondent left, Mati Time called her and gave her \$100, explaining that it came from money given by the Respondent. We are satisfied that the Respondent gave \$500 to Mati Time, and that \$100 of that amount was subsequently given to Arieta.
65. We are further satisfied that the payment to Mati Time constituted a bribe intended to influence his vote. The Respondent's statement "*ae tatau lava ona maua ni ana palota mai le matou aiga*" - was unchallenged under cross-examination, and no contrary evidence was presented. The timing of the payment, made the weekend before the election, further supports its corrupt electoral purpose.

### **The Counter-Petition: Discussion, Analysis and Findings**

#### ***Allegations 1 – 13: Lotofagā and Sataoa Village Meetings***

66. We now turn to the counter-petition and the problematic village meetings held at Lotofagā on 13 June 2025 (counter-allegations 1–5) and Sataoa on 14 July 2025 (counter-allegations 6–13). It is not disputed that the Petitioner attended both meetings and distributed \$5,000 at each.
67. At Lotofagā, the funds were distributed to attendees including the following voters in the Constituency:
- Vaelua Tafau - \$100
  - Leifi Otto Leituala Oto - \$20
  - Laau Meli Segifili - \$20
  - Matagitausulu Tuisamoa - \$15
  - Faaloioa Time Taunoa - \$20
68. At Sataoa, the funds were distributed to attendees including the following, all also voters in the Constituency:
- Isaia Samuelu - \$20

- Mafutaga Ierome Sulu - \$20
- Tamalemai Apelu Tautala - \$20
- Tunumafono Siitu Sanerivi - \$20
- Vaine'a Ropi Sauiluma - \$100
- Muagututia Nifo - \$25
- Tulolo Sinapao Sauiluma Opelu - \$40

69. Siaunofu Finau (allegation 12) did not give evidence. We are accordingly not satisfied that Siaunofu received \$20.

70. The Respondent's case primarily focused on the sequence of the events at both village meetings. Regarding Lotofagā, the Respondent contends that the Petitioner first delivered a speech of thanks, followed by the presentation of \$5,000.00, after which Lotofagā reciprocated with a *failaulau* and *faaoso*.

71. Leifi Otto,<sup>20</sup> Laau Mili Tai,<sup>21</sup> Matagitausulu Tuisamoa<sup>22</sup> and Faaloia Time Taunua for the Respondent state that during the course of the feiloaiga with the Petitioner, he expressly referred to the upcoming election. In his evidence, Leifi Otto said:<sup>23</sup>

“... sa faia ai le saunoaga a le Leaana e uiga i le palota ma lona faamoemoe e lagolagoina lona taumafai ma faapea mai e tautuana le ekisi ma le tatou faiga palota... O le faasi'usiuga lena ma le saunoaga mulimuli lena a le afioga ia Leaana. Fai mai e faamoemoe atu i le tatou faiga palota, tautuana le tatou ekisi, o le saunoaga mulimuli lena a le afioga i le faipule.”

72. Vaelua Tafau for Respondent said to similar effect:<sup>24</sup>

“O le saunoaga mulimuli a le faipule ua mae'a lana Faafetai, na faapea mai ai ia manatua le tatou palota.”

73. Not surprisingly, the accounts given on behalf of the Petitioner differs. They state that following the *taumafutaga*, Lotofagā first presented the *failaulau* and *faaoso*,

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<sup>20</sup> Exhibit R3

<sup>21</sup> Exhibit R4

<sup>22</sup> Exhibit R5

<sup>23</sup> NOE, p.86

<sup>24</sup> NOE at p. 69

and only thereafter did he offer the \$5,000.00 as reciprocal *faaloalo*. Witnesses for the Petitioner denied that the Petitioner made any request to support him in the upcoming election.<sup>25</sup>

74. At Sataoa, the Respondent asserts that after the *ava* ceremony, the Petitioner gave a speech of thanks and presented a \$5,000.00 *meaalofa*, which was then followed by Sataoa's reciprocation through a *faalologa* and *faaoso*.

75. In their evidence, Isaia Samuelu,<sup>26</sup> Tamalemai Apelu Tautala,<sup>27</sup> Tunumafono Sanerivi,<sup>28</sup> Vaine'a Ropi Sauiluma<sup>29</sup> and Muagututia Nifo<sup>30</sup> state that during the course of the Petitioner's feiloaiga with Sataoa, he referred to the upcoming election and/or that "tautuana le palota". In his evidence, Isaia Samuelu stated:<sup>31</sup>

"...tele saunoaga a le faipule na momoli mai aua foi fuafuaga a le la itu o le faigamalo ua fuafua mo le lumanai pe a toe tulai mai. Saunoa foi le faipule a toe tulai mai o le a faataunuu uma mea ia ua uma ona folafolaina e le la itu i le matou itumalo e manuia ai."

76. Tunumafono's evidence as a senior ranking matai of the village was that:<sup>32</sup>

"...Ina ua tapā le finagalo o le faipule e tusa ai ma le feiloaiga ia na faaali manino ai a le tulaga o le afio atu e faaoo le faafetai, o tua ane o le na faafetai ua talosaga lona toe tamo'e ile isi paeaiga oloo loloma nei ia ma faapea atu le afioaga le faipule o le tulaga i anavatau ma mea uma ua faailoa tatalo atu ile paia o le afioaga, ia palota ma le atamai...ae o le tatalo ia tautuana le palota Sataoa, tautuana le palota mo le isi paeaiga fou, ia ona saunoa loa lea o le faipule e na o se seleni faatauvaa e tuuina atu ile paia o le afioaga e talimasineia le matou feiloaiga ae pau na o le tatalo ia tautuana le palota."

77. The Petitioner on the other hand maintains that immediately after the *ava*, Sataoa first presented the *failaulau* and the *faaoso*, and only then did he deliver a brief

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<sup>25</sup> See for example: Lau Pepese Sigamalu Maiava, NOE at p.230; Pitoamoa Vaasatia Poi Faoa, NOE at p. 246.

<sup>26</sup> Exhibit R7,

<sup>27</sup> Exhibit R9

<sup>28</sup> Exhibit R10

<sup>29</sup> Exhibit R11

<sup>30</sup> Exhibit R12

<sup>31</sup> NOE at p. 121

<sup>32</sup> NOE at p.148

speech and present the \$5,000. Witnesses for the Petitioner rejected the assertion that the Petitioner referred to the upcoming election during the feiloaiga.<sup>33</sup>

78. Taken together, the evidence from both Lotofagā and Sataoa raises a singular issue for the court: whether the \$5,000 paid by the Petitioner at each meeting constituted a bribe for votes in the upcoming election or was a genuine “tali le faaaloalo e tusa ai ma tu ma aga faa-Samoa?”. In assessing the very conflicting evidence in this regard, we take note of the following:

- (a) The meetings at Lotofagā and Sataoa were initiated by the Petitioner. The unchallenged evidence on his behalf confirms that he convened the Komiti o le Fonofaavae approximately two weeks prior to the Lotofagā meeting<sup>34</sup> seeking guidance on whether to visit the villages of his Constituency which he considered to be necessary<sup>35</sup>. The Komiti comprising representatives from Sataoa, Lotofagā, Salamumu, and Saanapu agreed and endorsed the visit, and the Petitioner then contacted Laupepese Sigamalu Maiava, Lotofagā’s village secretary, stating his intention “e fai se faafetai i le nu’u.”<sup>36</sup> The Sataoa meeting was similarly convened at his instigation.
- (b) Although there were starkly competing narratives for the sequence of events at the meetings, it is beyond dispute that:
  - (i) they took place in the shadow of a looming General Election. For Lotofagā some two months pre-election and for Sataoa, about 6 weeks pre-election;
  - (ii) everyone in the country, including the Petitioner knew what was coming;
  - (iii) the evidence was consistent. The meetings were well attended by people of the village, they were large gatherings.

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<sup>33</sup> See: Tamalemai Fipe Letoi, exhibit P29 at paragraph [18]; Tamalemai Alafua Anitipa Afemata Salati. Exhibit P32 at paragraph 18; Lemi Fialogo, exhibit P34 at paragraph [17].

<sup>34</sup> Exhibit P28, paragraph [6]; exhibit P29, paragraph [6].

<sup>35</sup> See: exhibits P28 and P29

<sup>36</sup> Exhibit P15, paragraph [6]

- (c) We find it implausible and not believable that in these circumstances, the Petitioner made no reference whatsoever to the upcoming election. In this respect we prefer the evidence of the Respondents witnesses that when the money was given, he spoke about the elections and the promises of his political party.
- (d) There is no dispute the money was presented and that there were customary presentations. The dispute is the timing and sequence of the events and of course their purpose.
79. The main reason for the Petitioner's "feiloaiga" with Lotofagā and Sataoa may have been to thank them for their support during his tenure as their Member of Parliament. But there is equally no doubting that his candidacy in the coming election was not capable of being concealed, was probably being actively discussed and would have certainly been in the mind of all those attending the meetings, especially the Petitioner.
80. The issue of mixed motives was carefully and fully considered and settled by the court in *Vui v Ah Chong* [2006] WSSC 52. Because of the importance of the issue to our decision in this matter, we reproduce in full the relevant passages:

"On the issue of motive, the authorities do not appear to be entirely consistent. In *Rogers on Elections* 20th ed, the learned author says at p.270:

"Where there are two motives, e.g. one kindness or charity and the other corruption, the question is which was the governing motive: see *Salisbury* (1883) 4 O'M & H 28; *St George* (1896) 5 O'M & H at 95; *King's v Lynn* (1911) 6 O'M & H at 182; *Kingston-upon-Hull* (1911) *ibid* 378; and *East Nottingham* (1911) 6 O'M & H at 302"

In *Ah Him v Amosa* [2001] WSSC 16, the Court there said;

"It would be sufficient for the purpose of establishing the intent required for bribery and treating in terms of the Act, if one of the motives which accompanied the presentation of money or food was to induce electors to vote for the respondent: see the judgment of Donne CJ in the High Court of Cook Islands in *Re Mitiaro Election Petition* [1979] 1 NZLR S1. at s.12"

In another decision of the High Court of the Cook Islands in *Pokoati v Tetava* [1978] CKHC 2, Donne CJ said:

"Furthermore, it may be that the 'governing motive' approach in Rogers puts the matter too favourably to the first respondent since there are recent decisions of high authority holding, in comparable fields of electoral law, that it is sufficient in cases of mixed motives if one of the purposes of the scheme was the designated illegal purpose: for example, *DPP v Luft* [1976] 2 All ER 569 (HL) and the note thereon in 39 Modern Law Review 730, 731-732. In *DPP v Luft*, a criminal case under the Representation of the People Act 1949 involving allegedly illegal campaign expenditure, the House of Lords held that in assessing the liability of the person incurring the disputed expenditure it was sufficient if one of the reasons which played a part in inducing the person to incur the expenditure was his desire to promote or procure the election of a candidate. Earlier cases involving a 'dominant intention' test were rejected."

In *DPP v Luft* [1979] 2 All ER 569, Lord Diplock said at p.574:

"To speak of a dominant intention suggests that a desire to achieve one particular purpose can alone be causative of human actions, whereas so many human actions are prompted by a desire to kill two birds with one stone. For my part, I prefer to omit the adjective 'dominant'."

On the issue of charity or gift, I refer to *Re Election Petition Aleipata (Itupa i Lalo) Territorial Constituency, Tafua Kalolo v Letiu Tamatoa* [1970-1979] WSLR 247 where Nicholson CJ said at p.249

"I refer to *Parker's Powers Duties and Liabilities of an Election Agent and Returning Officer and Parliamentary Elections in England and Wales*, 6th edn, at page 288. Now, it is obvious that in England and Wales there would be no parallel situation with that pertaining to elections in Western Samoa when the question of compliance with the fa'a-Samoa arises. But the learned author comments in relation to the question of charitable gifts made by a sitting member as follows:-

**'The imminence of the election may have a considerable effect upon the decision whether or not a particular act of charity amounts to bribery. Thus it was said that a charitable design may be unobjectionable so long as no election is in prospect yet, if circumstances alter and an election becomes imminent the candidate if he then goes on with that design will do so at the risk of being found guilty of bribery'**" (our emphasis)

Earlier at page 286, the author observed,

'it is obvious that what are called charitable gifts may be nothing more than a specious and subtle form of bribery, a pretext adopted to veil the corrupt purpose of gaining or securing the votes of the recipients. And if

this is found to be the object of the donor it matters not under what pretext, in what form, to what person or through whose hands the gift may be bestowed or whether it has proved successful in gaining the desired object or 'not.'"

In *Halsbury's Laws of England* 4th ed, vol 15, para 774, it is there stated in relation to charitable gifts:

"The distribution of charitable gifts to voters had always been allowed. On the other hand what are called charitable gifts may be merely a specious and subtle form of bribery...The imminence of an election is an important factor to be taken into consideration in deciding whether a particular act of charity amounts to bribery."

81. This has been followed in many subsequent decisions most recently in *Auvii v Atiifale* [2021] WSSC 39 where it was succinctly stated:

"The question of mixed motives is considered in *Rogers on Elections* where one motive is charity or kindness and the other popularity or corruption; the question is which is the governing or dominant motive. The issue was put to the rest by Lord Diplock in *D.P.P v Luft* [1979] 2 AllER 569, 574:

"To speak of a dominant intention suggests that a desire to achieve one particular purpose can alone be causative of human actions, whereas so many human actions are prompted by **a desire to kill two birds with one stone**. For my part I prefer to omit the adjective 'dominant'."

On the authority of *D.P.P v Luft*, it appears so long as **one of the purposes** of the relevant act was to promote the election of the candidate, that is sufficient to prove the intention required for corrupt practice in terms of the Electoral Act. The dominant intention test is therefore rejected as was done by this Court in *Ah Him v Amosa* and by Donne CJ in *Re Mitiaro Election Petition*." (again, the emphasis is ours)

82. Finally, there is the issue of timing. The meeting with Lotofagā and Sataoa took place after Parliament had been dissolved<sup>37</sup> and in the shadow of an upcoming general election on 29 August. Although it is urged for the Petitioner that the timing of the feiloaiga was due to the early dissolution of Parliament, the conduct of the feiloaiga was not requested or required by either village. Notable also was the evidence that the Petitioner did not perform a similar feiloaiga prior to the 2021 election.<sup>38</sup>

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<sup>37</sup> Exhibit P13

<sup>38</sup> Muagututi Nifo, NOE at p.154.

83. The opportunity for Members of Parliament to thank their constituencies and voters for their support is in fact catered for in the Electoral Act section 101 which provides:

**“101. Conduct of O’o and Momoli:**

Despite this Act, the presentation of the traditional O’o and Momoli by a Candidate or Member or a Candidate’s or Member’s representative respectively to a village or a Constituency is not considered as treating, bribery or an illegal or corrupt activity if it is presented within 3 years after the date of the declaration of results for a general election.”

84. The imposition of a three (3) year post-election time frame is Parliament’s solution to avoid the kind of problem encountered here, particularly where Parliament is unexpectedly dissolved resulting in early elections. There is no evidence before us that the Petitioner availed himself of this protection. The consequences of this he must now unfortunately bear.
85. Taking all factors into consideration, we find allegations 1 –11 and 13 have been proven beyond a reasonable doubt. Allegation 12 is dismissed.
86. In reaching the conclusions we have, we acknowledge the deep cultural significance of the “ava o le feiloaiga, failaulau, faaoso” and the “faaalalo” that accompanies these traditional protocols in Samoan village life. These practices are rooted in reciprocity, respect, and communal ties. However, when candidates for public office invoke custom and tradition as a justification for the payment of money to voters - particularly in the backdrop of electoral campaigns and a pending election - they must do so with great circumspection and care and realise the great and real risk they are taking. Parliament and parliamentary elections are not traditional Samoan institutions. They are foreign constructs, introduced through colonial administration and shaped by the Westminster system of representative democracy. That system, originating in 13th-century England and evolving through centuries of constitutional development, is premised on the principle of free and fair elections, free from any type of undue influence or inducement.

87. Accordingly, the use of customary language or ceremonial framing cannot shield electoral payments from scrutiny. Candidates who cloak monetary gifts in the language of *faaloalo* or *mealofo*, while simultaneously seeking electoral support, run the risk of being found guilty of ‘corrupt practices’. The integrity of Samoa’s democratic institutions depends on maintaining a clear boundary between cultural practices and electoral inducement. Where that boundary overlaps – which it inevitably does in the shadow of a looming election - the Court must consider all the circumstances in order to properly assess the purposes and effect of the payment, not merely its ceremonial trappings.

***Allegations 14 – 16, 17 – 19 and 23 – 25: Bribery of Ramona Matofo, Teofilo Falefia, and Faaita Iese - \$50.00 each.***

88. These allegations centre on three occasions between July and August 2025 where it is alleged that the Petitioner directly gave on each occasion \$1,500 to be distributed to a gathering of voters, which included Ramona Matofo, Teofilo Leituala Falefia and Faaita Iese.

89. There is no dispute that:

- the three meetings were the Petitioner’s committee meetings with his committee members
- \$1,500 was given by the Petitioner at each meeting to be distributed to those committee members present
- the purposes of the meetings were for the petitioner to make his policies known to the committee; for the committee members to make those known to others; and for the committee members to identify voters from within their families<sup>39</sup>
- Ramona Matofo, Teofilo Falefia and Faaita Iese were committee members for the Petitioner, attended those meetings and received \$50 at each of the three meetings.

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<sup>39</sup> NOE, p. 176.

90. In their testimonies, Ramona, Teofilo and Faaita all confirmed that as committee members, they did no work but nevertheless kept the money. For this reason, they are of the view the payment of \$50 was a bribe.
91. We see no merit in these allegations. These were meetings of the Petitioner's election committee. Ramona, Teofilo and Faaita were designated committee members and attended as committee members. They were given the \$50 as pasese, as committee members – an amount that is not excessive or inappropriate.
92. As committee members, there were specific expectations of Ramona, Teofilo and Faaita to perform. They failed to carry out those expectations because they chose not to. This is no reflection on the Petitioner, but on themselves. Further, as members of the Petitioner's committee, it seems absurd to need to bribe your own committee. The only reasonable inference is that they already supported the Petitioner and as such, it was unnecessary to bribe them.
93. We are not satisfied beyond a reasonable doubt that there was a corrupt intent on the part of the Petitioner. These allegations have not been proven and are accordingly dismissed.

*Allegations 20 – 22: Bribery: Tunumafono Sanerivi, Tulolo Apelu and Laupama Afemata*

94. The allegations plead two meetings held at the fale a le Fono Faavae for Safata 1 on the 27<sup>th</sup> July (allegations 20 and 21) and 28<sup>th</sup> July 2025 (allegation 22). The Respondent's pleadings are confusing. However, having heard the evidence and from counsel, we understand that all three allegations in fact relate to the same meeting, held on the 27<sup>th</sup> July at Saanapu.<sup>40</sup>
95. It is not disputed that:
- (a) the Petitioner gave \$1,500 at the meeting;

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<sup>40</sup> Evidence of Fotupule Samuela Lemafa Tuigamala, NOE at pp. 301 – 302.

(b) Tunumafono Sanerivi and Tulolo Apelu received \$40 each and Laupama Afemata received \$20;

(c) Laupama Afemata is a committee member for the Petitioner, however, Tunumafono and Tulolo are not.

96. We accept that the meeting was a meeting of the Petitioner's committee members.<sup>41</sup> For the same reasons we have stated in terms of Ramona, Teofilo and Faaaita, there is no substance to the allegation 22. Laupama Afemata was a committee member for the Petitioner.

97. Tulolo and Tunumafono however were not committee members but attended the meeting and were given \$40 each. We are not satisfied beyond a reasonable doubt that the payment of \$40 to each of them was a bribe to influence their vote. Tulolo and Tunumafono took it upon themselves to attend the Petitioner's meeting with his committee. They were neither invited nor had any business to attend. Like all present, they received "pasese". We view the giving of the money to Tulolo and Tunumafono to have likely been made on the mistaken belief that they were committee members, and not for any other reason. This raises a reasonable doubt.

98. Accordingly, allegations 20 – 22 are dismissed.

***Allegation 26: Bribery at Togitogina - Mafutaga Ierome Sulu***

99. On the 9<sup>th</sup> August 2025, the undisputed evidence is that the Petitioner gave \$50 to Mafutaga Ierome Sulu, voter # 1853 on the electoral roll for Safata # 1. In his evidence, Mafutaga said that he had been at Tamalemai's having a haircut. The Petitioner called Tamalemai and after the phone call, the Petitioner arrived. He, Tamalemai and another male named Alofa'avesi then accompanied the Petitioner to Togitogiga. At Togitogiga, Mafutaga alleges that the Petitioner gave him \$50 and \$100 to Tamalemai and Alofa'avesi.

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<sup>41</sup> See for example: affidavit of Tamalemai Fipe Letoi Pea Pule Samuelu, exhibit P28;

100. In Mafutaga's affidavit, the Petitioner had said as he gave the money that "e faamoemoe atu ia outou oute toe tu mai ai i le palota."<sup>42</sup> This evidence was unchallenged under cross-examination, nor is there any evidence to contradict Mafutaga's evidence on this point – as the Petitioner chose not to give evidence. While there may be a family connection between the Petitioner and Mafutaga and the petitioner gives money to him from time to time, on this occasion, he expressly gave the money in the context of his re-election. We are satisfied that the \$50 paid to Mafutaga was therefore for the purpose of influencing his vote at the general election just a few weeks later.
101. We are accordingly satisfied that allegation 26 has been proven beyond a reasonable doubt.

***Allegations 27 and 28: Bribery and Treating – Matigitausulu Tuisamoa***

102. These allegation centre around the evidence of Matigitausulu Tuisamoa, a woman from Lotofagā. On the evening of the 13<sup>th</sup> August, their village had been informed that a meeting would take place the following morning with the Petitioner at the fale o le Fono Faavae, Saanapu.<sup>43</sup> The next morning, she accompanied her uncle to the meeting. The meeting was attended by a number of people from Lotofagā. When the Petitioner arrived, he spoke about the general elections, voting and asked for their continued support. Food was then distributed and after the meal, he handed \$4,000 to the village of which Matigitausulu received \$30.00.
103. The Respondent has failed to satisfy us that this meeting took place. In their evidence for the Petitioner, Lotofagā matai Lau Pepese,<sup>44</sup> Pitoamoa Vaasatia Pio Fioa,<sup>45</sup> Sautia Faataga Tuua Mona,<sup>46</sup> Pitoamoa Enele Liva Mauga Andrew<sup>47</sup> and others all said no such meeting took place. This evidence raises for us a reasonable doubt as to the allegations raised.

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<sup>42</sup> Exhibit R8 paragraph [3]. See also evidence of Mafutaga Jerome Sulu from NOE at p.126 where this evidence was unchallenged.

<sup>43</sup> Exhibit R8

<sup>44</sup> Exhibit P16

<sup>45</sup> Exhibit P18

<sup>46</sup> Exhibit P21

<sup>47</sup> Exhibit P23.

104. Accordingly, allegations 27 and 28 are dismissed.

***Allegation 29: Bribery of Monika Fesilafai***

105. Monika Fesilafai alleges that on the evening of 18<sup>th</sup> August 2025 at around 6.00pm, the Petitioner came alone to her home at Saanapu in his Toyota Hilux. They spoke in her garage, he spoke about the elections, her vote and he gave her \$200. Under cross-examination, Monika accepted the windows of the Hilux were tinted.

106. We are not satisfied that the Respondent has established this allegation beyond reasonable doubt. First, Monika's sister Temukisa Mautu was at her home that evening in her garage and saw the Petitioner arrive and speak with Monika in Monika's garage. She described her view as clear and the Petitioner and Monika only a short distance away, as some half metre. While we do not accept the half metre description, we accept she was close to the discussion between Monika and the Petitioner and her view was unobstructed. She did not see any money handed over by the Petitioner to Monika.

107. We also accept Faivaaiga Iosefa Vole Kosena and Gasolo Gasolo's evidence that they were in the Petitioner's Hilux when the conversation between the Petitioner and Monika took place. As the windows were tinted, this may explain why they were not seen by Monika. In their evidence, neither also saw any money handed over, and in our view, this when considered together with Temukisa's evidence, raises a reasonable doubt.

108. Accordingly, allegation 29 is also dismissed.

***Allegation 30: Bribery of Tafili Misi Vaiomanu***

109. Misi Vaiomanu is registered voter # 803 on the electoral roll for Safata 1. Misi alleges that on the 28<sup>th</sup> August 2025 between 5.00pm and 6.00pm, the Petitioner's wife Rosie Posini came to their home at Saanapu. She told Misi that "ua oo atu ia a'u ina ia tautuana ma au le palota, ia auvatu la'u lagolago mo le matai o le matou

aiga, ona o le suafa Leanna o le suafa o le matou aiga.”<sup>48</sup> Misi told Rosie to leave it with him. As she left, she gave him \$100 and said she has to go see other families.<sup>49</sup>

110. Rosie Posini did not give evidence, despite being present on many days of the hearing. The Petitioner however called two witnesses Gasolo Gasolo and Misiluki Tematau, who work at the Petitioner’s petrol station at Saanapu. The Petitioner’s case is fundamentally one of alibi, that Rosie Posini was not at Misi’s home as she at that time was in Apia with Misiluki. Both Gasolo and Misiluki say that at around 4.00pm, Rosie had come to the petrol station, picked up Misiluki, and they went to Apia for shopping. They did not return until sometime after 6.30pm.
111. We found both Gasolo and Misiluki to be deeply unreliable as witnesses, and their evidence questionable. They both work for the Petitioner. Although they claimed that there was an “api” that they sign for work and that this is kept at the service station, no excerpt from the “api” was attached to their affidavit nor did they bring it to Court with them. Had there existed such evidence, we have little doubt that they would have attached it to their affidavits.
112. In contrast, we prefer and accept the evidence of Tafili Misi Vaiomanu as credible and reliable. His account was consistent, persuasive and clear. We are satisfied that Rosie Posini did attend Tafili’s home, was the Petitioner’s agent and that she gave him \$100 in the circumstances described.
113. Accordingly, allegation 30 is proven beyond a reasonable doubt.

### **Conclusion**

114. For the reasons stated, we have found all allegations against the Respondent proven beyond a reasonable doubt. We have also found allegations 1–11, 13, 26 and 30 against the Petitioner in the Counter-petition proven beyond a reasonable doubt.

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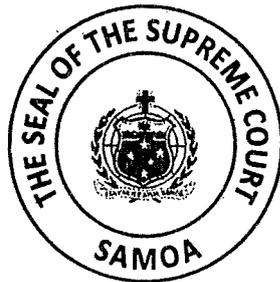
<sup>48</sup> Exhibit R20, paragraph [3].

<sup>49</sup> See discussion of agency in: *Kasimani v Seuala* [2011] WSSC 87.

115. The order of the court is accordingly as follows:

- (i) we find the Respondent guilty of corrupt practices outlined herein;
- (ii) we declare the election of the Respondent void pursuant to section 116 of the Electoral Act 2019;
- (iii) we find the Petitioner guilty of the corrupt practices outlined herein;
- (iv) each party to pay their own costs; and
- (v) security for costs paid by both parties is forfeited to the court as court costs.

116. The court will report its findings on these and other matters it considers relevant to the Honourable Speaker accordingly.



  
SENIOR JUSTICE NELSON

  
JUSTICE CLARKE