



World Bank Administrative Tribunal

2015

Decision No. 504

**CO (Nos. 1&2),
Applicant**

v.

**International Bank for Reconstruction and Development,
Respondent**

**World Bank Administrative Tribunal
Office of the Executive Secretary**

**CO (Nos. 1&2),
Applicant**

v.

**International Bank for Reconstruction and Development,
Respondent**

1. This judgment is rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Mónica Pinto (Vice-President), Ahmed El-Kosheri, Andrew Burgess, Abdul G. Koroma, Mahnoush H. Arsanjani, and Marielle Cohen-Branche.

2. The Applications were received on 26 December 2013 and 15 September 2014. By an order dated 17 November 2014, the Tribunal decided to consolidate the two Applications. The Applicant was represented by Marie Chopra of James & Hoffman, P.C. The Bank was represented by David R. Rivero, Chief Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 18 May 2015.

3. The Applicant challenges: (i) the Bank's decision not to shortlist her for Lead Disaster Risk Management Specialist, Level GH, in the Latin America and Caribbean Region (LAC), Vacancy No. 130160; (ii) her non-selection to the Lead Disaster Risk Management Specialist position, Level GH, in the Africa Region (AFR), Vacancy No. 123059; and (iii) her non-selection to the Senior Disaster Risk Management Specialist position, Level GG, in Europe and Central Asia Region (ECA), Vacancy No. 122383.

FACTUAL BACKGROUND

4. The Applicant joined the Bank as a Consultant in 1995. In January 1996, she became a Long Term Consultant in the Transport, Water & Urban Development Department, Urban Development Division. In 2000, the Applicant accepted an Open-Ended appointment. She served as a Program Officer in the Hazard Risk Management Team and pioneered the Disaster

Risk Management (DRM) field in the Bank in a two-person team. Also in 2000, she was promoted to Senior Program Officer and later served for two years as Acting Manager.

5. From 2007 until 2009, and as part of a Staff Exchange assignment, the Applicant left the Bank and accepted a position as Head of Secretariat for the Pro Vention Consortium at the International Federation of Red Cross and Red Crescent Societies in Geneva.

6. In 2006, the Bank created the Global Facility for Disaster Reduction and Recovery (GFDRR). GFDRR, which at the time fell under the Urban Anchor, provided technical assistance to countries, including DRM in development projects before and after a disaster. It also funded projects in the regional operational departments (the Regions). GFDRR managed the Bank's DRM practice while the Regions remained in charge of operations with GFDRR providing technical support to these operational teams.

7. In 2009, the Applicant, who had a re-entry guarantee, returned to the Bank as a Senior Disaster Risk Management Specialist in GFDRR. In February 2010, she moved to the Social Development Department (SDV) as a Senior Social Development Specialist, Level GG.

8. The Applicant's performance was always rated highly. In her Overall Performance Evaluations (OPEs) for 2011, 2012 and 2013 she received a number of "Outstanding/Best Practice" and "Superior" ratings also in relation to "operational cross support" and "operational technical support." Her OPEs show that she contributed significantly to the DRM field and provided operational cross-support to different regions. She was also the Task Team Leader (TTL) of analytical works that drove the Bank's dialogue with country clients in order to get them to invest in DRM.

9. The DRM field was under the purview of the Urban Sector Board (the "Sector Board"). The Sector Board comprised the Director of the Urban Development Department (chair of the Sector Board) and the managers from, among others, the Regions, the Urban Anchor, and GFDRR. The Urban Sector Board had an overall responsibility for Urban Development in Bank operations, including DRM. Its core responsibilities included the development of the

sector's strategy, overseeing the quality of operational work, as well as human resources (HR) and staffing in this field. Therefore, when, in 2012 and 2013, the Bank decided to recruit additional DRM staff in the Regions, the Sector Board was involved in the recruitment strategy and processes for these positions.

10. Between October 2012 and January 2013, the Applicant applied for the following three positions that were advertised for staff with DRM experience:

(i) Job Vacancy No. 122383 for a Senior Disaster Risk Management Specialist, Level GG in ECA, with a closing date of 24 October 2012;

(ii) Job Vacancy No. 123059 for a Lead Disaster Risk Management Specialist, Level GH, in AFR, with a closing date of 13 January 2013; and

(iii) Job Vacancy No. 130160 for a Lead Disaster Risk Management Specialist, Level GH, in LAC, with a closing date of 5 February 2013.

Senior Disaster Risk Management Specialist position, Level GG (ECA), Vacancy No. 122383

11. *Shortlisting Process.* Having served as Senior Disaster Risk Management Specialist between August 2009 and February 2010 the Applicant applied for this position on 24 October 2012. Together with three other staff members, she was shortlisted for the position.

12. The Shortlisting Committee (SLC) consisted of Mr. G (the Chair of the SLC, representative of the Sector Board, Manager of GFDRR and of the DRM Practice Group, and the only GH level member of the Committee), Ms. KR (Senior Disaster Risk Management Specialist and representative from the hiring unit), Mr. HN (Senior Disaster Risk Management Specialist) and Ms. JA (the HR representative).

13. On 29 October 2012, the HR representative sent to the SLC the evaluation matrices for two positions. Mr. G responded the next day attaching his assessment of the various candidates. For the ECA position he recommended that two candidates be interviewed: (a) the Applicant and (b) Mr. DW. He also recommended that two additional candidates be interviewed.

14. On 15 November 2012, another member of the SLC, Ms. KR wrote to the HR representative:

The unit is searching for someone who has solid technical knowledge and experience on DRM. This person does not need to be very experienced in Bank operations, though it would be ideal if the candidate already had both technical and operational skills. If we are choosing among people who have more of one than the other, we should give a higher weight to technical skills. The ability to coordinate the regional DRM program vis-à-vis the GFDRR would be a plus but is not critical.

15. The HR representative then transmitted this e-mail to the other members of the SLC, recommending that four candidates be shortlisted for each position to increase the hiring managers' options. The Applicant had the highest rating of 4.0.

16. Thereafter the SLC held two meetings on 1 and 20 November 2012 and recommended in its draft report that two female candidates, the Applicant and Ms. F be shortlisted. The draft report also included the following remark:

The SLC is recommending that after the interview if the identified pool of candidates is not strong for selection to the Sr. DRM Specialist position that the hiring manager use the managed rotation process to discuss rotation with the current manager and the following staff who are strong candidates for this position: (1) [Mr. JT] who will soon be up for rotation; (2) [Mr. AG] who has been in [the Latin America and Caribbean Region (LCR)] all his career but is currently 4 years as Staff.

17. On 21 November 2012, the HR representative circulated the minutes of the meetings and the draft SLC report to the SLC members for their approval. Mr. G responded on 23 November 2012 as follows, suggesting that another candidate, Mr. DW, be added to the shortlist:

[DW] is currently the regional coordinator for the Africa program, which is by far the largest GFDRR portfolio. It would be absurd to have a short-list with only two candidates with limited Bank experience and keep [DW] out of the list when this is one of the main criteria of the selecting manager.

18. The other members of the SLC agreed. On 25 November 2012, the HR representative sent the SLC report to the hiring manager for the position in Europe and Central Asia Region, Urban and Water Unit (ECSUW), Ms. SG, Sector Manager, ECSUW, asking her for her approval. The candidates recommended for the shortlist were: the Applicant, Ms. F and Mr. DW. The report included the above-mentioned recommendation of selecting another candidate from a managed rotation process if the identified pool of candidates was not strong for selection to that position.

19. On 3 December 2012, the hiring manager, Ms. SG responded with a request to augment the shortlist in view of the SLC's recommendation for a managed transfer (also referred to as strategic reassignment or managed rotation) after the interview process. She stated:

I noted the SLC's suggestion of a back-up plan in the event that none of the candidates proved to be strong enough during the interview process. For me, this flagged the need to build/strengthen the shortlist. Accordingly, based on advice received, I have requested one additional candidate to apply for this position. I would like to propose that once the additional application is received, we interview of [(sic)] all four candidates. I hope this is acceptable.

20. The members of the SLC approved the candidate. The SLC report recommended four candidates for interview including the candidate that the hiring manager had added to the list. Eleven candidates were not recommended.

21. The SLC recommended the Applicant for the shortlist with the following comments:

Knows the Bank. Strong on knowledge products. Knowledge of DRM/background in DRM with focus on SDV side.

22. *Interview Process.* The Applicant was interviewed on 16 January 2013. The interview panel, which consisted of one man and three women, included the hiring manager, Ms. S (who was Chair of panel), the Sector Manager, SASDC, and two Senior Urban Specialists, ECSUW. It issued its recommendations the following day and stated as follows regarding the Applicant:

She started working on DRM almost 20 years ago and is one of its pioneers within the Bank. She has worked on the entire range of DRM problematics spanning from response and recovery, risk management, linkages with the climate change agenda on mitigation and adaptation to climate variability. [The Applicant] has more than 12 years' experience with the Bank both within the Urban Anchor and the GFDRR, and also supporting operations as a team member. She has not worked in an operational department or led teams as a TTL.

Panel recommendation: [The Applicant] is clearly the top candidate among those interviewed, both in terms of DRM and Bank experience. However, the Panel felt that [the Applicant] may be better suited outside of operations within an anchor group. She did not come across as sufficiently motivated for the position. The Panel felt that other potential candidates should be explored (outside of this short-list) before making a final decision.

23. *Managed Transfer.* Thereafter, the hiring manager, Ms. SG, took the earlier advice of the SLC and decided to fill the position through a managed transfer. Ms. SG, in consultation with HR and Mr. G approached Mr. JT who had been identified by the SLC as a possible strong candidate for the ECA position but had not applied for it. On 31 January 2013, Ms. SG requested permission from the Sector Director, to recruit Mr. JT (who at the time was a Senior DRM Specialist in LAC) in the position of Senior DRM Specialist/Regional DRM coordinator in ECSUW. She explained, among other things, that because none of the interviewed candidates was strong enough,

after consultation with [Mr. G] and [Mr. C], I approached [Mr. JT] to explore the option of a managed rotation. [Mr. JT] has been in LAC for about 8 years and is very interested in moving to ECA. He comes highly recommended – he has a proven track record of developing and delivering DRM operations in LAC and his profile fits very well with our needs.

24. Thereafter, the Sector Director gave his permission and by mid-February 2013, Mr. JT accepted Ms. SG's offer to join ECSUW. Mr. JT's transfer was agreed by the managers, cleared by the Sector Directors, and supported by the Network Director, ZA, and the GFDRR manager, Mr. G. On 13 May 2013, the Urban Sector Board cleared Mr. JT for a managed transfer to ECSUW with an effective date of 1 July 2013.

25. In the meantime, on 25 March 2013, Ms. SG informed the Applicant that although the interview panel “was impressed with your resume and your experience in DRM [we] have determined that another candidate’s qualifications meet the needs of the position more closely.”

26. The Applicant had, however, noticed that the position had been listed as “cancelled” on JobWorld on the Bank’s intranet. On 26 March 2013, the Applicant asked Ms. SG for clarification. Ms. SG replied that indeed none of the interviewed candidates had been selected and “we are going to fill the position through a managed transfer.” Immediately thereafter, HR notified the Applicant that “[a]t this stage, management has decided to cancel this vacancy.”

Lead Disaster Risk Management Specialist position, Level GH (AFR), Vacancy No. 123059

27. *Shortlisting Process:* In December 2012, AFR advertised a Level GH Lead DRM Specialist position, Vacancy No. 123059, the holder of which would serve as the Regional DRM Coordinator. The Applicant applied for the position on 12 January 2013.

28. The SLC for this position comprised the hiring manager, Mr. K (Sector Manager, of Water Resources and Disaster Risk Management, Environment and Natural Resource Management, Sustainable Development Department, Africa Region, (AFTN2)), the Sector Manager, South Asia Region, Urban Water and Sanitation Unit (SASDU) who was the Chair and Sector Board Representative, three Bank staff members from different units and the HR representative who had also served in the SLC for the ECA position. Of the eight candidates that applied for this vacancy four were shortlisted. The Applicant was one of them. The SLC gave the Applicant a strong recommendation, but, like the interview panel in ECA, asserted that she had not been a TTL. The SLC report stated:

Good DRM experience in terms of operations and policy level. Risk management over 15 years. One of the pioneers of DRM in the Bank. Has very good insight of the subject. Knows the Bank. Has not been a TTL herself. Has operational experience. Has covered all the areas of DRM – strong on linkages of Climate Change agenda, mitigation. Can lead the

agenda. Top notch professional. Done quite a lot other than DRM such as social, trust fund activities – community led activities. Need to probe on leadership ability, operation and strategic side in the interview.

29. Another shortlisted candidate was Mr. HN who was one of the members of the SLC for the ECA position to which the Applicant had applied. On 29 January 2013, the HR representative sent to the hiring manager, Mr. K, the shortlist for approval. Mr. K approved the shortlist the next day and immediately thereafter, the HR representative sent the shortlist to Mr. G who also approved the list.

30. *Interview Process.* The Applicant was interviewed for the position in early February 2013. The interview panel was chaired by the hiring manager, Mr. K, and consisted of the following members: Mr. G, Manager, GFDRR; four staff members from different units of the Bank, including the hiring unit (AFTN2), and a Senior HR Business Partner, HR, Operational Teams (HRSR).

31. On 7 February 2013, a DRM Specialist from AFTN2 sent the interview panel recommendations to the members of the interview panel, asking them to review them. She pointed out that while the Applicant had been ranked second and Ms. S third they had all agreed that the Applicant and the third candidate were “equal number 2s” based on different strengths and weaknesses stated. There were no further comments on the rankings: the interview panel’s recommendations were sent to the hiring manager on 8 February 2013 with Mr. HN ranked first, the Applicant second, Ms. S third and another candidate fourth.

32. The interview panel stated regarding the Applicant:

Has a thorough understanding of DRM – is one of the pioneers of DRM agenda in the Bank, has a strategic vision for DRM, is very good in developing partnerships and working across sectors, good team building skills, however she lacks operational experience (was TTL of few activities) and has not worked in two regions of the Bank.

33. The interview panel’s recommendations were that:

All the candidates were above par. However, the panel found that only one candidate, [Mr. HN], demonstrated a strategic vision for Africa Disaster Risk Management (DRM) team and necessary operational skills to meet all the requirements for the current position. The panel recommends that [Mr. HN] be offered the position.

34. A conditional offer was made to Mr. HN on 11 February 2013. Mr. HN had also applied, along with the Applicant, for a similar position in the LAC Region where he worked. A few days later, Mr. HN received an offer from the LAC Region. On 17 February 2013, he declined the offer for the AFR position. Mr. K then spoke to Mr. G regarding the next steps.

35. Even though the Applicant had been ranked second for the AFR position, she was not offered the job. According to the Bank, Mr. K considered re-advertising the position because he did not believe that the other candidates in the shortlist were strong enough for the AFR position. However, he decided that this process would be too lengthy in light of the urgency to fill the position, and, in any case, was likely to attract the same pool of candidates.

36. *Managed Transfer.* Subsequently, the Network Director, Ms. ZA, following discussions with Mr. G, Mr. K (the hiring manager) and the Senior Regional Advisor in the Africa Region, identified Mr. P, Lead Disaster Risk Management Specialist, GFDRR, for the AFTN2 Lead DRM Specialist position. On 1 March 2013, Ms. ZA sought and received the endorsement of the Urban Sector Board principals for a managed transfer of [Mr. P] from GFDRR to AFTN2. In an e-mail to the Sector Board principals dated 2 March 2013 thanking them for their endorsement Ms. ZA stated:

All of you indicated and [Mr. G] and I agree [Mr. P] would actually be a better fit for what needs to be done in the Africa region on DRM given his strong operational experience. Thanks also for your support managing the recent crisis. We learnt a great deal from this which should help us understand better how to manage collectively future succession of our top talents.

37. On 4 March 2013, Mr. G informed the staff of GFDRR Secretariat that Mr. P had agreed to assume the position of the GFDRR Regional Coordinator for the Africa Region.

38. Even though Mr. P had already accepted the new assignment by 4 March 2013, JobWorld on the Bank's intranet continued to list the status of the Lead DRM Specialist position in Africa as "Short List."

39. On 14 March 2013, Mr. K notified the Applicant that "[w]e have completed the interview and hiring process, and I regret to inform you that you were not selected." In response, that same day the Applicant expressed her disappointment and asked for a meeting to receive feedback on her interview. It was not until the following day that HR informed her that "management has decided to cancel this vacancy." She wrote again to Mr. K to request clarification about the cancellation of the position and of the process and reiterated her request for additional feedback on her interview during a meeting. Mr. K did not respond to the Applicant.

40. Mr. P started his new assignment on 15 April 2013.

Lead Disaster Risk Management Specialist position, Level GH (LAC), Vacancy No. 130160

41. On 30 January 2013, the Applicant also applied for the Lead Disaster Risk Management Specialist position, Level GH, Job No. 130160. This vacancy was similar to the one in the Africa Region. On 11 February 2013, the Applicant received a system-generated message that she had not been shortlisted for the position.

42. In early April 2013, the Applicant states that she learned from a colleague in LAC that the whole process had been "rushed through" with the intent of ensuring that Mr. HN obtain the position. Only two candidates had been shortlisted: Mr. HN who had been originally offered the AFR position (and rejected the offer) and Mr. P who was awarded the AFR position through a managed transfer. The Applicant states that it was only after she heard the foregoing that she became aware of the extraordinary pattern of filling the DRM

positions with favored individuals who had been “pre-selected at least in the minds of some of those who participated in the process” and decided to challenge the decisions of her non-shortlisting and non-selection.

43. *Request for Peer Review.* On 12 July 2013, the Applicant filed a Request for Review with Peer Review Services (PRS) regarding all three DRM vacancies and requested a peer review of a pattern of procedural violations, gender-based discrimination, and a lack of fairness and impartiality in hiring processes for the aforementioned positions in AFR, ECA and LAC.

44. In an e-mail dated 29 July 2013, the PRS Executive Secretary informed the Applicant that PRS did not have jurisdiction to review her claim pertaining to the Bank’s decision not to shortlist her for Vacancy No. 130160 in the LAC Region because it was filed in an untimely manner, i.e. more than 120 days after the Applicant had received notice of the management’s decision not to shortlist her on 11 February 2013. However, the PRS Executive Secretary stated that the PRS Chair had decided that PRS had jurisdiction to examine her claims pertaining to the non-selection decisions for the AFR and ECA Regions.

45. These two claims were referred to mediation, but without success. The PRS Panel then divided the case into separate proceedings, one to deal with the ECA vacancy and one with the AFR vacancy. The Panel recommended that the Applicant’s requests for relief be denied with regard to both non-selection decisions. The respective Vice Presidents for ECA and AFR accepted the recommendations of the PRS Panel.

46. *Tribunal proceedings.* On 26 December 2013, the Applicant filed her first Application with the Tribunal challenging the Bank’s decision not to shortlist her for the vacancy in the LAC region. On 28 January 2014, the Bank filed a preliminary objection to the admissibility of the Application. On 12 May 2014, the President of the Tribunal granted the Applicant’s request for a stay of proceedings in her first Application until the outcome of the PRS process on the other two challenged decisions was communicated to the Tribunal. On 15 September 2014, the Applicant filed her second Application with the Tribunal

contesting her non-selection to the AFR and ECA positions. By letter dated 17 November 2014, the President granted the Applicant's request for consolidation of the two Applications. In accordance with the Tribunal's order, the parties thereafter filed pleadings (i) on the jurisdiction with regard to the first Application and the decision not to shortlist the Applicant to the LAC position and (ii) on the merits with regard to the second Application and the contested decisions of the Applicant's non-selection to the AFR and ECA positions.

47. The Applicant requests the Tribunal to order: (i) her immediate *in situ* promotion to Level GH, or an immediate transfer to a vacant Level GH position in the DRM field; (ii) the difference in salary between the Applicant's GG level salary and the mid-point of a Level GH salary for the period of March 2013 to the date on which she is promoted to GH Level; (iii) such additional amount as the Tribunal deems just, but not less than 2 years' salary for the unfair treatment the Applicant has suffered, for the damage to her professional reputation and career prospects caused by her non-promotion, and for the pain and suffering caused by the Bank's abuse of process; and (iv) attorney's fees and costs in the amount of \$ 22,690.34.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Bank's Preliminary Objection

48. The Bank has raised a Preliminary Objection pursuant to Rule 8(1) and (2) of the Rules of the Tribunal requesting that the Tribunal dismiss the Applicant's claim regarding her non-shortlisting to the LAC position as inadmissible under Article II(2)(i) of the Statute of the Tribunal because the Applicant has failed to exhaust internal remedies with regard to the decision not to shortlist her for the position in the LAC Region. The Bank also states that the facts underlying the Applicant's Tribunal claim regarding the failure to shortlist her are not related with the claims of her non-selection to the AFR and ECA positions.

The Applicant's Response to the Preliminary Objection

49. The Applicant claims that the ties between the claims relating to the decision not to shortlist her for the LAC position and the claims not to select her to the AFR and ECA positions are overwhelmingly obvious. Under these circumstances, she states, the time limits for her Request for Review to PRS could not have started to run until April 2013 and therefore her challenge of the non-shortlisting to the LAC position had been raised in a timely manner before PRS.

The Applicant's Main Contentions on the Merits

50. The Applicant contends, among other things, that: (i) the non-selection decisions to the AFR and ECA positions did not have an observable and reasonable basis; (ii) the selection processes regarding both positions were not objective, transparent, fair or according to the legal framework; they violated Staff Principles 2.1 and 9.1 as well as the standards established by the Tribunal for candidate selection; and (iii) the non-selection decisions for the two vacancies were an abuse of discretion because they were discriminatory and improperly motivated.

The Bank's Main Contentions on the Merits

51. The Bank responds, *inter alia*, that: (i) the non-selection decisions for the ECA and AFR positions had an observable and reasonable basis; (ii) the selection processes for these positions were fair and transparent and in accordance with the applicable rules and HR and Sector Board Recruitment Guidelines; (iii) the Applicant was treated fairly and in an appropriate manner; and (iv) the non-selection decisions were not discriminatory or improperly motivated.

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

Preliminary Objection

52. The claim of the Applicant to which the Bank has raised a preliminary objection relates to the decision of the Bank not to shortlist her for the position in LAC. The Bank's objection is that the Applicant has not exhausted internal remedies in a timely manner with regard to this claim and that consequently it is inadmissible.

53. Article II(2) of the Tribunal's Statute sets out the requirements for admissibility of applications. It states in pertinent part:

No ... application shall be admissible, except under exceptional circumstances as decided by the Tribunal, unless:

(i) the applicant has exhausted all other remedies available within the Bank Group, except if the applicant and the respondent institution have agreed to submit the application directly to the Tribunal.

54. In its jurisprudence, the Tribunal has stressed the importance of the statutory requirement of exhaustion of internal remedies before an application is filed.

55. The Tribunal first held in *Klaus Berg*, Decision No. 51 [1987], para. 30, in relation to the Appeals Committee, which has now been replaced by PRS:

This statutory exhaustion requirement is of the utmost importance. It ensures that the management of the Bank shall be afforded an opportunity to redress any alleged violation by its own action, short of possibly protracted and expensive litigation before this Tribunal. In addition, the pursuit of internal remedies, in particular the findings and recommendations of the Appeals Committee, greatly assists the Tribunal in promptly and fairly disposing of the cases before it. The Appeals Committee permits a full and expeditious development of the parties' positions, including the testimony of witnesses, and often results in the announcement of recommendations that are satisfactory to both the Bank and to the aggrieved staff member.

56. The Tribunal has consistently affirmed this principle in its jurisprudence. Furthermore, the Tribunal has in numerous decisions also regarded a staff member's failure

to observe time limits for submitting an internal complaint or appeal as non-compliance with the statutory requirement of exhaustion of internal remedies. (*de Jong*, Decision No. 89 [1990], para. 33.)

57. Staff Rule 9.03 (Peer Review Services), Section 7, sets the time limitations for submitting a timely request for review to PRS. It prescribes:

7.01 A staff member who wishes to request peer review must submit a Request for Review with the Peer Review Secretariat within 120 calendar days of receiving notice of the disputed employment matter.

7.02 A staff member receives “notice” of a disputed employment matter when he or she receives written notice or ought reasonably to have been aware that the disputed employment matter occurred.

58. The record shows that the Applicant received written notice of the disputed employment matter (i.e. the decision not to shortlist her for the LAC position) on 11 February 2013. She had therefore, according to Staff Rule 9.03, paragraph 7.01, 120 days after the date of receipt of such notice, i.e. up to and including 11 June 2013, to file a timely request for review of the decision before PRS. The Applicant, however, filed her request for review with PRS on 12 July 2013, a little over a month after the 120-day time limit for filing a request for review had expired and therefore it would appear that PRS properly refused to review her claim because it had not been filed in a timely manner.

59. However, the Applicant claims that, while she received notice of the decision not to shortlist her on 11 February 2013, it was only in March and April 2013 that she heard that the LAC selection process “had been hijacked by those who were dedicated to ensuring that Mr. G’s ‘old boys’ had the best career opportunities.” Moreover, she asserts that it was only in April 2013 after she underwent the highly irregular selection process for the AFR and ECA positions that she became aware that the LAC selection process had followed the same pattern and was equally questionable. In this respect, the Applicant makes the related claim that the ties between the three cases are overwhelmingly obvious because (i) all three positions were DRM positions for which the Applicant was exceptionally qualified; (ii) in all three cases, the selected candidates were “members of Mr. G’s clique”; and (iii) Mr. G

actively worked to dissuade the Applicant from even applying for GH level positions, such as those in AFR and LAC.

60. The question then is: was the date on which the Applicant had notice or ought reasonably to have known of the disputed employment matter triggering the time limit for the pursuit of internal remedies, (i.e. the *dies a quo*), (i) 11 February 2013, the date of the notification of the decision not to shortlist her to the LAC position, or (ii) sometime in March or April 2013?

61. It should be noted that, while the Tribunal consolidated the two Applications, it did not join the question of the preliminary objection regarding the LAC position with the merits of the two non-selection decisions in the Applicant's second Application.

62. First, the Tribunal notes that the Applicant has not proven, in any event, that the ties between her three cases are as strong as she claims they are. As the Bank points out, the three positions were in three different Regions (AFR, ECA and LAC) which operated independently of each other; were advertised by three different hiring managers, in three different units; and were funded by three separate budgets. The links that the Applicant claims tie the three decisions because (i) all three selected candidates to the positions allegedly belonged in Mr. G's "clique" and (ii) he actively tried to dissuade her from applying to level GH positions both in AFR and LAC have not been proven. And while the Applicant may indeed have been deemed exceptionally qualified for DRM positions, as she states, this did not automatically entitle her to be shortlisted for the DRM position in LAC. Furthermore, even if the Applicant had been aware of circumstances that, in her view, showed irregularities in the AFR and ECA processes, this does not necessarily mean that such irregularities automatically existed in relation to the LAC process simply because this last process involved DRM positions and the same candidates had applied to them. Notably, Mr. G was not involved in the LAC process at all.

63. Second, and most important, the Applicant has not provided evidence that the circumstances which she claims put her on notice of the disputed employment matter existed.

Rather she has referred only to speculations of her colleagues. For example, the Applicant states, while the LAC position was not advertised with a notice of a pre-identified “preferred candidate” there is sufficient evidence to believe that the process was strongly skewed towards the candidate selected.

64. In its decision in *Al-Muthaffar*, Decision No. 502 [2014], para. 39, the Tribunal noted that the lack of evidence of the circumstances the applicant in that case claimed to have discovered in relation to the challenged decision could not support the applicant’s claim that discovery of such circumstances constituted the *dies a quo* for the notice of the disputed employment matter.

65. More important, the Tribunal found in *Al-Muthaffar*, para. 40, citing *Amaral*, Decision No. 250 [2001], that invocation of circumstances surrounding an administrative decision and of the reasons for it do not change the fact that what is actually challenged is the administrative decision. It then held in *Al-Muthaffar*, para. 40, that in challenging a decision

what is a timely manner is delimited by the time limit stipulated in the Staff Rules for the pursuit of internal remedies which, in this case, was triggered at the time at which the Bank’s decision ... was first notified to the Applicant. That is the *dies a quo* and it is not changed by assertion of a subsequent discovery of circumstances or allegedly false reasons given for the Bank’s decision.

66. The Tribunal further recalls that in *Kehyaian (No. 3)*, Decision No. 204 [1998], para. 23, it found that an applicant “cannot ... toll the time limit by requesting an administrative review of alleged ‘administrative decisions’ which do not constitute separate administrative decisions but which are simply re-confirmations of the original administrative decision.” (See also *Vick*, Decision No. 295 [2003], para. 31; *Peprah*, Decision No. 275 [2002], para. 36; *Malik*, Decision No. 333 [2005], para. 32; *Al- Muthaffar*, para. 36.)

67. Therefore, the assertion of the Applicant of a subsequent discovery of circumstances surrounding the Bank's decision not to shortlist her for the LAC position is of no avail in determining the *dies a quo*.

68. For all of the foregoing reasons, the Tribunal finds that the Applicant did not exhaust internal remedies in a timely manner with regard to her claim not to shortlist her for the LAC position. In addition, the Applicant has not presented any exceptional circumstances which would justify relief from or suspension of the requirement of exhaustion of internal remedies in Article II(2) of the Statute of the Tribunal nor is there evidence that the Bank entered into any agreement with the Applicant to allow her to submit her claim challenging this decision directly to the Tribunal pursuant to this provision. Consequently, the Tribunal finds that the Applicant's claim against the decision of the Bank not to shortlist her to the LAC position is inadmissible.

Merits

69. Regarding its scope of review of the Bank's decisions to select or not select a candidate to a particular position, the Tribunal made clear in *Riddell*, Decision No. 255 [2001], para. 23, that:

With regard to decisions to select staff members for positions, the Tribunal has held:

[A] decision by the Bank to select a staff member for a particular position rests within the Bank's discretion, and may be overturned by the Tribunal only when it concludes that this discretion has been abused. ...

(*Jassal*, Decision No. 100 [1991], para. 30.) It is clear from the above jurisprudence, that no staff member has a right to be selected to a particular position or to be included in a list of candidates for a position. The decision to select an applicant for a particular position, or to include him or her in a list of candidates, is discretionary and the Tribunal will not overturn such a decision unless it finds that it is tainted by bias or abuse of discretion.

Furthermore in *Jassal*, para. 37, the Tribunal held:

It is not for the Tribunal, in assessing the validity of the selection or non-selection of a staff member, to undertake its own examination of that staff member's record, or a criterion-by-criterion assessment of his or her qualifications. That is for the Bank to do in the first instance, subject to review by the Tribunal only for abuse of discretion. But the Tribunal is charged with determining whether the Bank's decision was the product of bias, prejudice, arbitrariness, manifest unreasonableness, or unfair or improper procedure. Thus, if the Bank's conclusion regarding the Applicant's qualifications for selection ... altogether lacks support in factual evidence or reasonable inference, that conclusion must be found to be an abuse of discretion.

70. Additionally, the Tribunal has addressed the need to observe the principles of objectivity, transparency, rigor, diversity and fairness in the selection process (both shortlisting and interviewing) in a number of judgments. (*See e.g. Jassal*, Decision No. 100 [1991]; *Perea*, Decision No. 326 [2004]; *BK*, Decision No. 444 [2010]; *BK (No. 2)*, Decision No. 452 [2011].)

71. Regarding the applicable principles in the shortlisting process, the Tribunal noted in *BK*, Decision No. 444 [2010], at paras. 46 and 56:

Principle 4.1 of the Bank's Principles of Staff Employment states that the purpose of the Bank's "recruitment policy shall be to seek to attract staff members of the highest caliber appropriate to job requirements." In this regard, the Tribunal notes that the Bank's Shortlisting Guidelines state that the shortlisting process should be guided by principles such as "objectivity," "transparency," "rigor," and "diversity." The Guidelines also state that the objective is to:

Create a short-list of candidates considered to be the best qualified to put forward for interviews. Shortlisting is screening a long list of candidates against the selection criteria for the job. The short list of candidates should also represent the diversity and fungibility requirements of the sector...

...These objectives in recruitment are realized if the Bank makes its shortlisting process uniform with clear guidelines and when the composition of a shortlisting committee is diverse. Furthermore, staff members' confidence in the shortlisting process will be enhanced by the Bank's proper and contemporaneous documentation of the deliberations of the SLC in as much detail as practicable. Contemporaneous and detailed documentation of

SLC deliberations is also a guarantee of a transparent, sound and fair recruitment process.

72. The Tribunal ruled in *BK (No. 2)*, Decision No. 452 [2011], paras. 41 and 42, that the same criteria and principles identified in the shortlisting process were also applicable in the interview process.

73. The Applicant has claimed that the decisions not to select her to the ECA and AFR positions were not based on a reasonable and observable basis but were the product of improper motivation and discrimination and resulted in her unfair treatment. She also claims that the recruitment process that was followed in relation to these positions did not observe the principles of objectivity, fairness, and transparency or applicable Staff Rules and guidelines.

Senior Disaster Risk Management Specialist position, Level GG (ECA), Vacancy No. 122383 (“ECA position”)

74. The Tribunal notes that the ECA vacancy was at the Applicant’s level, namely GG Level. The record shows that the Applicant had been at that level since 2000 and at the time that she applied for this position she had already been at that level for at least 12 years. The Applicant was then shortlisted with other candidates and interviewed. Subsequently, as a result of the interviews, she was ranked as the top candidate for the position.

75. Notably, the interview report recognized the Applicant’s significant experience in DRM for almost 20 years and the fact that she had been a pioneer in that field, as well as the fact that the Applicant had more than 12 years’ experience with the Bank both within the Urban Anchor and GFDRR but also noted her more limited relevant operational experience. When making its recommendation, the panel noted:

The Applicant is clearly the top candidate among those interviewed, both in terms of DRM and Bank experience. However, the Panel felt that the Applicant may be better suited outside of operations within an anchor group. She did not come across as sufficiently motivated for the position. The Panel

felt that other potential candidates should be explored (outside of this short-list) before making a final decision.

76. In the end, and notwithstanding the fact that the Applicant had been ranked the top candidate, she was not selected by the hiring manager on the basis of her lack of relevant operational experience.

77. An examination of the record shows that even though the Applicant had been shortlisted and recommended for an interview and had also received the highest ranking in this respect, a comment had been added to the recommendations of the SLC according to which:

The SLC is recommending that after the interview if the identified pool of candidates is not strong for selection to the Sr. DRM Specialist position that the hiring manager use the managed rotation process to discuss rotation with the current manager and the following staff who are strong candidates for this position: (1) [Mr. JT] who will soon be up for rotation; (2) [Mr. AG] who has been in LCR all his career but is currently 4 years as Staff.

78. Thereafter the SLC report was sent to the hiring manager, Ms. SG. According to her, this comment “flagged the need to build/strengthen the shortlist.” It was for that reason that she requested that another candidate apply for the position and that this candidate be interviewed along with the proposed candidates. In addition, notwithstanding the Applicant’s and the other candidates’ qualifications, after the interviews, the interview panel expressed the wish that other candidates outside the ones on the shortlist be explored, a conclusion that was the exact suggestion that the SLC made in its report. The hiring manager decided to follow the recommendation in the SLC report and fill the position through a managed transfer.

79. As a result of the particular comment inserted in the SLC report, the selection process was not completed but was changed from a selection process to a managed transfer. While the Tribunal does not question the decision to fill a position either through advertising and selection process or managed transfer, transparency is required regarding the outcome or conclusion of one process before another process is commenced to fill the same position.

The lack of transparency through the failure to publicize in a timely manner the completion of a process and the results achieved is not consistent with Staff Principle 2.1 and may result in unfair treatment of staff, a matter to which the Tribunal will return.

Lead Disaster Risk Management Specialist position, Level GH (AFR), Vacancy No. 123059 (“AFR position”)

80. Unlike the position in ECA, the position in AFR was at the GH level which was higher than the level of the Applicant’s and would have been a promotion for her if she had been selected. According to the Applicant, she met all the selection criteria that were presented in the job description. The hiring manager, Mr. K, was also involved in the shortlisting process. The record shows that of the eight candidates that applied for that vacancy four were shortlisted, including the Applicant. The SLC gave a favorable assessment of the Applicant’s qualifications.

81. In its interview report, the interview panel recognized that the Applicant was one of the pioneers of the DRM in the Bank, had a thorough understanding of it and also a strategic vision for it. The panel further recognized that the Applicant was very good in developing partnerships and working across sectors. The panel noted, however, that the Applicant lacked operational experience; although she was a TTL of few activities, she had not worked in two regions at the Bank. The panel concluded that all the candidates “were above par” but it was only one candidate, Mr. HN, who had demonstrated both (i) a strategic vision for the Africa Disaster Risk Management Team and (ii) the necessary operational skills to meet all the requirements for the position. The contemporaneous communications of the deliberations of the interview panel for that position show that the Applicant had been rated second behind Mr. HN.

82. Subsequently, as the record shows, the position was offered to Mr. HN who initially accepted it only to reject it soon thereafter when he accepted a position at equivalent level in the LAC Region where he worked. When Mr. HN rejected the position, it was not offered to the second best candidate on the list, who in this case was the Applicant, or to anyone else

on the list. Instead, the hiring manager, Mr. K, discussed the next steps with Mr. G and filled the position through a managed transfer.

83. Before PRS, the hiring manager, Mr. K, testified that the Applicant “did not meet the minimum threshold required for this position” due to her lack of operational experience.

84. As in the ECA position, discussed above, the Tribunal notes that the manner in which the selection process was abandoned by the hiring manager and filled through managed transfer, raises questions as to the transparency and fairness of the process.

85. The Tribunal takes special note of the testimony of the Network Director, Ms. ZA, before PRS. She stated that another reason for regularly shortlisting women for interviews of GH level positions even if they were not qualified was to give them exposure and the benefit of receiving feedback. The Tribunal recognizes the effort of the Network Director to give opportunities to women staff to be hired and advance in their careers in the Urban Sector, which apparently had been dominated by male staff members before she arrived. However, the Tribunal finds merit in the Applicant’s argument that if women were shortlisted for positions for which they were not qualified, simply to give them feedback and exposure, if that indeed were the policy of the Bank, this would be demeaning and in the end unfair to the Applicant and the other female candidates. According to the Recruitment Guidelines, the candidates who are shortlisted, whether men or women, are expected to meet the minimum qualifications. It would be unfair and indeed condescending to women if male candidates were to be shortlisted on the basis of their qualifications but some if not all the female candidates were shortlisted, even if not qualified, simply to gain exposure and receive feedback. There would be no justification for such disparate treatment if it indeed exists. Certainly, in an organization as diverse as the World Bank, there must be another modality for providing women staff with feedback and exposure. The one which was said to have been used raised the applicants’ hopes, by representing that they were qualified, all the time without the intention of accepting them. This not only causes disappointment but undermines the self-confidence of the applicants subjected to the procedure. If the idea was to give the women experience, it was misconceived. In addition, it would be an obvious

violation of the principles of objectivity, transparency, rigor, fairness and diversity which must govern every phase of the selection process.

Managed transfer with regard to the positions in ECA and AFR

86. As seen, both the positions in ECA and AFR were eventually filled through a managed transfer. With regard to the position in ECA, following the recommendation in the shortlisting report, Ms. SG approached Mr. JT who had been identified as one of the two possible strong candidates for the ECA position. Mr. JT was at the time a Senior DRM Specialist in LAC and therefore his appointment was done through a strategic reassignment/managed transfer.

87. The same process was followed regarding the filling of the AFR position after the top candidate rejected the offer and the hiring manager, Mr. K, decided that the Applicant and the other candidates did not have the qualifications required to fill the position. Mr. K discussed the next steps with Mr. G and they approached the Network Director, Ms. ZA. Following discussions, they identified Mr. P, Lead Disaster Risk Management Specialist, GFDRR, for the AFR position. Mr. P worked at GFDRR under Mr. G and had not applied for the position in AFR although he had applied for an equivalent position in LAC. His appointment to the AFR position of an equivalent level and title was to be done also through strategic reassignment.

88. The Applicant states, however, that the Bank's Recruitment Guidelines make it clear that managed transfers are initiated at the beginning of the process, before vacancies are posted. The Bank states that although the Sector Board's Guidelines suggest that, prior to advertising a position, management should first consider whether particular staff members may be eligible for managed rotation, this does not mean that this is the only time at which managed rotation may be considered or undertaken. The Bank also states that, similarly, a selection process may be paused or abandoned at any time during the process.

89. The Staff Rule that governs reassignment in the Bank is Staff Rule 5.01 (Reassignment) which prescribes at paragraph 2.01 that “A staff member may be reassigned at any time at the initiative of the Bank Group.”

90. Furthermore, under paragraph 2.02 of this Staff Rule:

Staff members in positions at grades GF-GH whose professional disciplines are utilized in more than one department may be subject to planned periodic reassignment.

91. Also according to paragraph 2.04 of the same Staff Rule:

A staff member may be reassigned within a vice-presidential unit at any time by a senior manager to meet the work program needs of the vice-presidential unit.

92. Furthermore paragraph 3.03 of that Staff Rule prescribes:

When a non-managerial position at levels GH and below becomes vacant, it shall be announced in myJobWorld unless it is filled by a staff member being reassigned under any of the provisions of Section 2 of this Rule or the Manager, Recruitment Unit, or a Designated Official, decide the position should be filled externally.

93. The Bank’s Recruitment Guidelines as well as the Sector Board Recruitment Process Guidelines also discuss reassignment and clustered recruitment. The latter document states that:

Before posting vacancies hiring managers review talent review data and decide if staff eligible for rotation can be a good fit for vacancies. If yes, requests managed rotation to position(s) through [Sector Board] clearance.

94. Then the Sector Board Recruitment Process Guidelines state that:

[Sector Board] agrees on managed rotation into positions (only lateral rotation- not promotions).

95. The Bank's Recruitment Guidelines describe the different types of recruitment which include Strategic Reassignment and Clustered Recruitment as follows:

Strategic Reassignment - Sector board assesses individual talent in the context of ongoing and emerging business/work programs and rotate staff accordingly. Strategic reassignment aligns skills with business needs and enhances learning and career opportunities for staff.

Clustered Recruitment – Cluster recruitment means “bundling” recruitments in clusters of advertisements, with one shortlisting committee for each cluster with considerable Sector Board involvement both in the shortlisting and the interviewing process.

96. The Guidelines recommend that a “Cluster Recruitment Approach” is applied to 70% of jobs and that the following steps are followed:

Job openings [are] reviewed by Sector Boards (e.g. Dec, March, Sept)

[Sector Boards] agree if/ on managed transfers into these jobs (e.g. 7+ staff)

Remaining jobs posted for two weeks (internal and/ or external) in Jan, April and Oct.

97. According to the Bank's legal framework, therefore, which includes both Staff Rule 5.01 and the Bank's Recruitment Guidelines as well as the Sector Board Recruitment Process Guidelines, a strategic reassignment (or managed transfer or rotation) is normally considered first and, then, if eligible staff are not reassigned to vacant positions, these positions are advertised to be filled through a selection process which is also provided for in the Bank's Recruitment Guidelines.

98. Strategic reassignment was not considered initially either for the ECA or the AFR position with regard to the persons that ended up occupying them. Indeed the Bank acknowledges that when the positions initially became vacant no particularly suitable candidates appeared to be available or interested in a managed rotation at the time. Neither Mr. JT was up for rotation or interested in leaving his post in LAC nor had Mr. P expressed an interest in being transferred to AFR. It is clear that, based on the record, the process of clustered recruitment was followed and the positions were advertised first. As the record

shows, even though this process produced successful viable candidates, the positions were filled through managed transfer.

99. The Bank states that the hiring managers were acting fully within their discretion to abandon the selection processes and resort to the managed transfer rotation considering the business needs of their Regions and the urgency of finding candidates for the positions.

100. The Tribunal agrees with the Bank that hiring managers may abandon the selection processes and resort to the managed transfer rotation, but only in a transparent manner and only after each process is completed. In the case of ECA, in the midst of the selection process, the manager was encouraged by the SLC to switch to managed rotation (with the list of two potential candidates), while there was no information on the JobWorld that the advertised position was cancelled. In addition, the hiring manager informed the Applicant – months after the decision to adopt a managed transfer had been made – that “another candidate’s qualifications meet the needs of the position more closely.” This statement was inaccurate because the Applicant was the top candidate and no candidate had been selected. Then the Applicant was informed by HR that the position had been cancelled even though it was actually being filled through a managed transfer. In the case of AFR, the actual managed rotation was done following the selection process, but before the JobWorld indicated that the position was cancelled.

101. In more recent judgments, (*Sisler*, Decision No. 491 [2014], and *McIntosh*, Decision No. 488 [2014]) the Tribunal criticized the lack of transparency of procedures in the relationship between the Bank and its staff. In *Sisler*, para. 87, the Tribunal found:

The Bank is required, by virtue of Staff Principle 2.1, to follow proper process in its relations with staff members and such a process includes transparency.

102. The Tribunal finds that, in the current case, abandoning the selection process in the ECA and AFR positions, without publicizing the completion of one process and whether or not it had led to a successful result, and switching to managed transfer compromised the principle of transparency in the recruitment process. This also resulted in unfair treatment

of the Applicant who had dedicated time and effort in preparing for that process, was recommended as the best and the second best candidate respectively in both vacancies on account of her qualifications and her extensive expertise in the DRM field to be later bypassed by staff members who had not applied for consideration to the advertised positions. The Tribunal will award compensation for the lack of transparency in the process and the resulting unfair treatment of the Applicant.

Discrimination

103. The Applicant has also made the claim that the selection processes for the two vacancies were an abuse of discretion because they were discriminatory and improperly motivated.

104. Regarding specifically the claims of discrimination, the Tribunal held in *de Raet*, Decision No. 85 [1989], para. 57, that

it is not the obligation of the Bank to demonstrate that there has been no discrimination or abuse of power – not, that is, until an Applicant has made out a *prima facie* case or has pointed to facts that suggest that the Bank is in some relevant way at fault. Then, of course, the burden shifts to the Bank to disprove the facts or to explain its conduct in some legally acceptable manner. (See also *Bertrand*, Decision No. 81 [1989]).

105. Furthermore, in *AI*, Decision No. 402 [2010], para. 42, the Tribunal held:

The first question then is whether the Applicant has established a *prima facie* case of racial discrimination. There is no magic test; the proof needed to establish a *prima facie* case will vary from case to case, depending on the facts and circumstances of each case. But as indicated by the Tribunal in *Bertrand*, the Applicant must at least provide “detailed allegations and factual support” for his claim of racial discrimination. Applicants make *prima facie* cases of racial discrimination if they adduce evidence from which the Tribunal can reasonably infer such discrimination.

106. The Tribunal will therefore examine whether the Applicant at least provided “detailed allegations and factual support” for her claim of gender discrimination. The

Applicant claims that evidence of Mr. G's bias and discrimination against her was that Mr. G had discouraged her from applying both for the AFR vacancy and for a similar one in LAC stating that he told her on several occasions that the GH positions might be too demanding for her private and family life. A review of the record shows, however, that what Mr. G admitted before PRS was that he "may have said it is going to be a very intense job" and that the AFR job would have "a fast-growing portfolio." He also stated that he might have said it was an "impossible job for someone to take" and that he may have told the Applicant that she would not get the job, although he based that on her lack of operational experience. However, these statements do not support the Applicant's claim that Mr. G was improperly motivated against her or that he treated her in a discriminatory manner.

107. To further support a claim of discrimination, the Applicant also states that Mr. G was favoring his old colleagues from LAC who belonged to an "old boys' club" run by him. She points in this respect to testimony of witnesses before PRS which indicated that Mr. G, when in LAC, had been known for working only with men and "ran his little group as an old boys' club." At the same time, however, the Tribunal notes that there was testimony before PRS which showed that Mr. G had changed since his old days in LAC and that also the male dominated Urban Sector had changed through the efforts of the Network Director, Ms. ZA, and that a great number of the Urban Sector Board members are now women.

108. The Applicant also states that over and over again, the same names come up with these ECA and AFR and even LAC vacancies. All of the selected candidates: Mr. HN, Mr. P, and Mr. JT, are male. And all of the selected candidates were closely linked to Mr. G. The Applicant claims that she was discriminated against because she – unlike Messrs. HN, P, and JT – was not favored and pre-selected for hiring opportunities.

109. The Tribunal notes that it has not been shown that these individuals were appointed to these positions on account of their gender; on the contrary, even though the two individuals that were appointed to the ECA and AFR positions happened to be male, the record shows that they were objectively qualified to occupy the positions. Therefore the record does not show that their gender was a factor given undue weight resulting in

discriminatory treatment to the Applicant, nor that her gender was a factor that was given negative weight which resulted in such discriminatory treatment. (*Bertrand*, Decision No. 81 [1989], para. 18.) The Tribunal additionally notes that with regard to the selection processes regarding both positions, the compositions of the committees were balanced in term of gender and diversity as were the shortlists of the candidates.

110. Based on the record before it, the Tribunal is unable to sustain the Applicant's claim that her non-selection was based on discriminatory grounds or was otherwise improperly motivated.

DECISION

- (1) The Bank shall pay the Applicant compensation in the amount of four months' salary net of taxes.
- (2) The Bank shall pay the Applicant's attorney's fees in the amount of \$22,690.34.
- (3) All other pleas are dismissed.

/S/ Stephen M. Schwebel

Stephen M. Schwebel

President

/S/ Zakir Hafez

Zakir Hafez

Acting Executive Secretary

At Washington, D.C., 29 May 2015