Decision No. 349

J,
Applicant

v.

International Finance Corporation,
Respondent

1. The application in this case was received on 15 November 2005. This judgment is rendered in plenary session, with the participation of Jan Paulsson, President, Robert A. Gorman, Francisco Orrego Vicuña, Sarah Christie and Florentino P. Feliciano, Judges. The Applicant has been granted anonymity for cause shown.

2. The Applicant challenges two decisions of the Claims Administrator dated 20 August 2001 and 26 September 2003, respectively, regarding an alleged illness suffered by the Applicant, and a related Workers' Compensation Administrative Review Panel (Review Panel) decision dated 12 May 2005 (the hyperpigmentation claim). The Applicant also raises a claim for a separate illness (the dysentery claim).

3. The Applicant was a Short-Term Consultant for the International Finance Corporation (IFC) between 18 June and 18 August 1988. Her assignment was to photograph IFC projects in Zambia, Zimbabwe and Madagascar. During her assignment in those countries, the Applicant also worked for other entities unrelated to the IFC or the World Bank Group, and took personal time.

4. In connection with her African assignment, the Applicant took the usual recommended vaccinations and an anti-malarial drug, doxycycline. On 9 August 1988, while in Madagascar, the Applicant noticed that her face was flushed, which she believed at the time was caused by sunshine. This is the background of her hyperpigmentation claim.

5. Upon her return to the United States, after her employment with the IFC had ended, the Applicant was diagnosed with dysentery. She sought benefits from the Claims Administrator on the basis that her illness was caught while on work-related travel. The claim was held to be compensable and the Applicant received payments for treatment and temporary disability. An additional claim, filed in 1994, for alleged recurring dysentery symptoms and related temporary disability was also accepted. This is the background of the separate dysentery claim.

6. In the years following her IFC assignment, the Applicant continued to work as a photojournalist, but, she alleges, was no longer able to do so because of her chronic dysentery. She then took a desk job for a newspaper until August 1991. That employment ended because of a head injury caused by a car accident. The US Federal Social Security Administration, by a judgment dated 6 September 1994, found the Applicant disabled as from 15 July 1991, primarily because of the head injury, but also due to chronic dysentery and other physical ailments. The Applicant continues to receive payments from the US Federal Social Security Administration.

7. For ten years after 1991, the Applicant did not hold any permanent positions but worked on a variety of projects, traveled in Africa, Asia and Europe, and completed a BA in Philosophy and an MA in journalism, the first at Vassar College (1999) and the second at Columbia University (2000). The Applicant says that she declined the offer of a university post in Utah because of the continuing effects of her head injury.

8. The Applicant asserts that between 1989 and 1991 her skin condition gradually deteriorated. She believed

the condition was due to the drugs taken during her IFC assignment and first surfaced when her face was flushed back in 1988. Starting in 1991, the Applicant was examined and treated by several dermatologists. She followed their prescribed treatments.

9. The Applicant filed a claim in 1994 with the Bank Group's Claims Administrator concerning her skin condition. The Claims Administrator agreed to pay for the treatment she received and the visits she made to three specialists. The Claims Administrator continued to absorb the costs of her treatments until 15 August 2001. Two reviews of the Applicant's condition were conducted at the request of the Claims Administrator, the first in 1995 and the second in 2001. The latter review led to the decision of the Claims Administrator, on 20 August 2001, to deny the Applicant's claim for ongoing medical treatment and other benefits.

10. The Applicant expressed her intention to appeal this decision and, on 10 November 2001, she filed a request for administrative review before the Review Panel. The matter was treated by the Claims Administrator as a request for reconsideration. Additional medical assessments were conducted, resulting in the Claims Administrator's second determination on 26 September 2003, again denying the continuation of benefits. The Applicant also appealed this decision to the Review Panel, which on 12 May 2005 affirmed the Claims Administrator's decision.

11. The Applicant has brought her two separate claims (the hyperpigmentation claim and the dysentery claim) before this Tribunal. The Applicant requests that the Tribunal make a jurisdictional finding as to whether the dysentery claim belongs to this case. The Applicant also asks the Tribunal to determine how the dysentery claim should be examined. The Respondent concurs that the two claims are separate, but asserts that the dysentery claim was settled years ago. The Applicant maintains that she has no recollection to that effect.

12. A payment of $11,544 was made to the Applicant in 1995 in connection with the dysentery claim, and a waiver agreement was drafted with the apparent intention that this be a settlement. The record does not show whether this agreement was actually signed. In any event, the fact that the Applicant did not complain about the cessation of payments with respect to the dysentery claim after 1995 does not lend support to her alleged understanding that the settlement was only partial. She did not take the matter to the Review Panel. The fact that she raised the issue in the context of the hyperpigmentation claim does not mean that it was properly appealed.

13. Any issue concerning the cessation of payment on the dysentery claim in 1995 should have been appealed under Staff Rule 6.11 within 90 days of receipt of the pertinent decision; no appeal was filed in 1995. Accordingly, the Tribunal finds that, as all available remedies were not exhausted, the application in this respect is inadmissible under Article II(2) of the Tribunal's Statute.

14. The hyperpigmentation claim falls under Staff Rule 6.11, para. 12.04, which provides that a claimant who wishes to pursue a claim beyond the Review Panel may file an appeal with the Tribunal. The Tribunal's jurisdiction under that rule is broader than under the Tribunal's general statutory provisions. This is properly an appellate jurisdiction, which was described in *Chhabra (No. 2)*, Decision No. 193 [1998], para. 7, as follows:

> The task of this Tribunal is limited to reviewing the decision of the Review Panel, by reference to the evidence before that body, with a view to determining whether the conclusion reached by the Review Panel could be reasonably sustained on the basis of that evidence and also whether the Review Panel has acted in accordance with the relevant legal rules and procedural requirements.

The Tribunal also held, in *Hayati (No. 2),* that it "must thus consider whether the Panel's decision in this matter was in all pertinent respects reasonably warranted by the evidence and was in conformity with the relevant staff rules" (Decision No. 311 [2004], para. 6).

15. Accordingly, the Tribunal must determine whether the Review Panel's decision is "reasonably" sustained in the light of the evidence in the case. The medical evidence on which the decisions of both the Claims Administrator and the Review Panel are based is extensive, involving the opinion of seven specialists and expert institutions.

16. The Applicant first consulted Dr. Richard L. Miller, a dermatologist, in 1992. He prescribed a cream treatment for the Applicant's skin problems. As the problems persisted, the Applicant was referred by Dr. Miller to Dr. David N. Silvers, Director of the Department of Dermatology at Columbia University. He concluded in a letter to the Claims Administrator dated 2 December 1994 that the Applicant had a "form of post inflammatory pigmentation which can be induced by doxycycline acting as a photosensitizer." Additional cream treatment was prescribed for the Applicant, and she was also referred to a third specialist, Dr. Bruce E. Katz, an expert in the use of chemical peels for the treatment of problems such as the Applicant's. In the course of her treatment by Dr. Katz, the Applicant asserted that she had been using minocycline for acne treatment intermittently. She also asserted that she had not used minocycline before 1995.

17. In connection with its first evaluation of the hyperpigmentation claim, the Claims Administrator requested Dr. Peter G. Bernard to conduct an independent assessment of the medical aspects of the claim records. Dr. Bernard reported on 10 April 1995 that hyperpigmentation may indeed be induced by doxycycline acting as a photosensitizer and opined that the cream treatment could improve the skin condition but that treatment such as chemical peels might be called for, following additional examinations. Dr. Bernard did not examine the patient personally, although he expressed in his report interest in so doing.

18. The Claims Administrator continued to pay for the treatment originally prescribed by Dr. Katz, and in March 2001 asked Elite Medical Legal Services to conduct a second review of the Applicant's records. To this end, an independent medical evaluation was requested from Dr. Milton Reisch. After examining the Applicant, Dr. Reisch concluded in his report dated 19 June 2001 that there was no doubt that the Applicant "could have had darkening of skin following ingestion of doxycycline as Malaria prophylaxis especially being exposed to tropical sun" but also concluded that "[t]his condition would have resolved 5 years later."

19. Dr. Reisch noted that minocycline could have been the causative agent, and ordered a biopsy to verify this hypothesis. The biopsy was conducted by Dr. Bryan G. Forley on 21 June 2001. In an undated report, he concluded, as a plausible explanation, that the hyperpigmentation appeared to be related to the use of doxycycline, although he also noted that the intermittent use of minocycline had complicated the efficacy of the Applicant's treatment and might at least in part have had a causal relationship to the illness affecting the Applicant.

20. Following these evaluations, the medical opinions were sharply divided. On the one hand, Dr. Reisch concluded in his final evaluation letter of 8 August 2001 that, based on the biopsy results, the "pathology report confirms my impression that the hyperpigmentation is the result of continued use of minocycline and not related to doxycycline." On the other hand, Dr. Katz wrote on 9 October 2001 that during the course of the Applicant's treatment her pigmentation had not changed, explaining further that her skin condition was not of the coloration seen with minocycline-induced hyperpigmentation.

21. On the basis of the independent reports and examinations, the Claims Administrator issued its first contested decision dated 20 August 2001, denying the claim for ongoing medical treatment on the ground of the Applicant's failure to demonstrate that there was a causal relationship between her condition and her IFC employment, as required by the Staff Rules. The Applicant's lost wage-benefits claim was also denied because it fell outside the 12-month filing limitation.

22. The Applicant on 10 November 2001 requested an administrative review of this decision before the Review Panel. She reiterated her claims for continued medical treatment and compensation for lost wages, and added a claim for compensation for pain and suffering, professional and financial damage to her career, as well as compensation for vocational rehabilitation.

23. A new medical assessment of the Applicant's claim was requested by the Claims Administrator from Dr. A. Bernard Ackerman. In a report dated 11 November 2002, he noted the divergent medical opinions referred to above and concluded that "[w]hether doxycycline was responsible, in any way, for the 'mottled pigmentation' of her face is a matter of supposition …. The idea that 'doxycycline between 1985 and 1989' was responsible for

'scarring of face' is improbable in the extreme." Dr. Ackerman went on to state that "everything presented by the claimant is supposition, speculation, or confabulation …. None of her claims, on the basis of the evidence presented to me, are meritorious." Dr. Ackerman also stated that the Applicant was attempting a "stick-up" and continuing to "up the ante" in regard to compensation.

24. Dr. Ackerman examined the Applicant on 14 April 2003, and concluded in a report dated 23 June 2003 that:

> For practical purposes, the skin of her face is normal. That being so, her having taken doxycycline years ago has had no effect on the status of her skin today. Even had there been hyperpigmentation secondary to having taken doxycycline in 1988, it would have been only a matter of weeks before the pigmentation began to wane and eventually disappear. There is no possibility of the pigmentation having worsened over the course of years in absence of no [sic] further exposure to doxycycline.

25. On the basis of this new evaluation, the Claims Administrator issued its second contested decision on 26 September 2003. The Claims Administrator concluded that had there been an injury, it would have become evident in 1992 at the time of the Applicant's first treatment for hyperpigmentation. Her claim, nine years later, in 2001, therefore would be time-barred. The Claims Administrator also concluded that there was no evidence that the Applicant had ingested doxycycline during her IFC assignment, or that the skin condition had been caused by this drug, and it noted that although all physicians intervening in the case had reported that theoretically doxycycline could cause hyperpigmentation under heavy sun exposure, only Dr. Katz had concluded that this was actually the case, while Drs. Reisch and Ackerman had concluded the contrary.

26. The Claims Administrator also concluded that the cause of the Applicant's condition was her use of minocycline, and that there was no evidence that she could not work outdoors or that this would have caused any professional harm. Nor did the Claims Administrator consider that vocational rehabilitation had any connection in this case with the Applicant's objective of securing gainful employment in journalism, and it thus also denied her claims for expenditures in cosmetics, and for compensation for pain and suffering and other professional or financial damages.

27. The Review Panel concluded on appeal that the causal relationship between the Applicant's condition and her IFC employment had not been proven, that the Applicant's claim was in any event time-barred in spite of the compensation received for seven years of treatment, and that she had no entitlement to vocational rehabilitation as the required criteria had not been met. On 12 May 2005, the Review Panel affirmed the decision of the Claims Administrator.

Considerations

28. The first principal legal issue involved in this claim is whether the Applicant's condition arises "out of and in the course of employment," an essential element required by Staff Rule 6.11 for a claim to be compensable. The medical evidence does not appear conclusive in this respect, and is to some extent contradictory.

29. The Claims Administrator is referred by Staff Rule 6.11, para. 2.01, to the law of the District of Columbia in determining whether an illness arises out of and in the course of employment, and that provision also states that in case of discrepancy with the Staff Rules the latter will prevail. This provision rules out the application of New York law as argued by the Applicant. In any event, the finding of the District of Columbia Court – that what governs that determination "is whether the injury is 'reasonably related to or incidental to' the employment" (*Khan v. Parson*, 428 F.3d 1079, 1087 (D.C. 2005)) – is entirely consistent with the meaning of the Staff Rules.

30. The Applicant has not established with any certainty or precision that her skin condition arose from the IFC assignment in 1988, or even that doxycycline was the cause of that condition. The evidence submitted to this effect is circumstantial and does not point to facts that would establish a clear connection with her employment, as would have been the case, for example, if the Bank Group had prescribed a prophylaxis at the time of her travel.

31. The Applicant may have taken doxycycline and other anti-malarial drugs on the occasion of her travel to Africa on assignment for the IFC in 1988, but these were not prescribed by the Bank Group services; nor was the Bank Group her only employer at the time of her travel. Moreover, although most medical professionals were of the opinion that doxycycline could cause skin hyperpigmentation in certain circumstances, it was not established that this was necessarily so in this case, nor was it the unique possible cause of such condition. Only Dr. Katz asserts that the hyperpigmentation was caused by that particular drug. Most compellingly, it has not been established that such condition can last longer than a period of months, let alone years.

32. The record also established that starting in 1995 the Applicant intermittently took minocycline, a drug which can also cause hyperpigmentation in certain circumstances. While in some medical examinations and opinions, traces of this drug were believed to be present in the Applicant's skin condition, and were believed also to have likely contributed to it, Dr. Katz disputed this finding. The Tribunal notes that the record is not conclusive on the matter.

33. The Applicant has been extremely critical of the qualifications of the independent medical examiners appointed by the Claims Administrator, and contends that their opinions were given too much weight over her own doctor's opinion. The Tribunal is not persuaded by her arguments, which are often mixed with derogatory remarks. Nor does the Tribunal accept that medical examiners should have been selected from the list of Board Approved Independent Medical Examiners of the State of New York.

34. On the other hand, the Tribunal notes that Dr. Ackerman's report goes beyond the medical issues submitted to him. He speculates about the legal merits of the claim and the Applicant's bona fides and intentions to obtain undue compensation. This is not for the medical examiner to evaluate, but rather for the Claims Administrator, the Review Panel and ultimately this Tribunal. The fact remains that Dr. Ackerman's medical conclusion in 2003 was that he found no evidence of an altered pigmentation, that the Applicant's skin was normal, and that her ingestion of doxycycline years earlier would have had no influence beyond a few weeks.

35. The opinion of personal physicians may be valuable, but in case of doubt or uncertainty those of independent medical examiners may reasonably be assigned more weight in view of the fact that under Staff Rule 6.11, paras. 3.02 and 3.03, it is the Claims Administrator's function, in deciding whether a claim is compensable or continues to be compensable, to select a medical examiner to help make its assessment. (*Shenouda (No. 2)*, Decision No. 218 [2000], para. 23, *Courtney (No. 4)*, Decision No. 202 [1998], para. 20.)

36. At this point a distinction between the claim for treatment and that for other benefits, such as lost wages, becomes important. The Applicant's claim in 1994 concerned only the treatment of her skin condition. It was this precise benefit that the Bank Group compensated until 2001. That claim did not involve the issue of lost wages or other benefits, which the Applicant did not raise before 2001.

37. Indeed, in a letter by the Applicant addressed to the Bank Group on 16 July 2001, the Applicant complains about the handling of the claim by the Claims Administrator, and particularly about being told at one point that she could make a claim for lost wages only to be informed later that her wage claim was subject to a one-year limitation period. In this context, the Applicant states: "[Lost wages] was not something that had occurred to me, as I had only been interested in being treated for this condition."

38. As the claim for treatment of the Applicant's condition was satisfied until 2001, the issue narrows down to whether the claim made in 2001 for lost wages and other benefits is time-barred.

39. The limitation period pertinent to this case is found in Staff Rule 6.11, para. 3.01, which provides that claims must be filed not more than one year after the injury, illness or death giving rise to the claim, with the important exception that the period will not begin to run until the "claimant has become aware or should have become aware of a possible relationship between the injury, illness or death and the staff member's employment."

40. The Tribunal discussed the meaning of this provision in *Hayati,* Decision No. 228 [2000], para. 19,

concluding that

> there must be some certainty required in the determination of whether any injury is sustained before a claim should be made, particularly when the injury is of a cumulative nature and it cannot be ascertained exactly when it occurred. Furthermore, whether the ailment is subject to cure by modest treatment measures or is permanent in nature is material. There is a need for certainty in order to settle the legal position between the Bank and its employees and to ensure stability in such situations. All these factors are relevant in determining the appropriate date for lodging a complaint.

41. The Applicant believes that her skin condition was "a slowly creeping medical condition" which proved intractable and gradually became an injury at the "point that it resisted modest means of treatment." This, in the Applicant's view, became evident only on 4 March 1994, on the occasion of her last visit to Dr. Silvers. As her claim for treatment was made in 1994, the Applicant asserts that it included the claim for lost wages and other benefits as from the time when she became aware of the illness.

42. The Respondent disagrees. It relies upon the finding of both the Claims Administrator and the Review Panel that the skin condition became a reportable claim no later than 27 August 1992, when she first began treatment with Dr. Miller, and in any event, no later than 26 March 1993, when she was referred to Dr. Silvers for acid peels.

43. The medical record does not support the Applicant's contention. First, unlike the carpal tunnel syndrome addressed by the Tribunal in *Hayati*, the condition in this case instead of gradually worsening was progressively improving, to the point that cream treatment had begun to regenerate the skin, and ultimately, following use of acid peels, the Applicant's skin was considered normal by an independent medical examiner. It follows that the illness was not of a permanent nature and responded to treatment over time.

44. The Tribunal concludes that the decision made by the Claims Administrator and confirmed by the Review Panel to end the payment of benefits is reasonably sustained and that the Review Panel acted in accordance with the relevant rules. The claim for lost wages and other benefits is accordingly time-barred, and could in any event not be raised nine years later without seriously altering the stability of the Bank Group's legal relationship with the staff members, particularly in a situation where the claimed illness has faded away.

45. As for the Applicant's estoppel argument in connection with her claim for lost wages and the Bank Group's decision to consider it time-barred, she reasons that in agreeing to pay her claim until 2001 the Bank Group recognized that this was a compensable condition and hence her claim meets the requirements of the Staff Rules. The Respondent has explained that "compensation for her skin condition was based on the initial misunderstanding that it was related to her prior compensable claim for dysentery." While the Tribunal notes that it is possible that at the outset both conditions were handled simultaneously or even misunderstood by the Claims Administrator, the fact remains that compensation for treatment was provided until 2001.

46. The Respondent has relied on two cases decided by the District of Columbia courts to oppose the argument of estoppel. The first is *Howard University v. Good Food Services, Inc.*, 608 Atlantic 2d 116 (D.C. App. 1992), where the Court held that a claim of promissory estoppel required three questions to be answered in the affirmative: "First, was there a promise? Second, should the promisor have expected the promisee to rely on the promise? [Third,] did the promisee so rely to his [or her] detriment?" The second is *Ace Van & Storage Co. v. Liberty Mutual Insurance Co.*, 119 U.S. App. D.C. 6, 336 F.2d 925 (D.C. Cir. 1964), where the Court held that the "basis for the doctrine of waiver or estoppel is reliance upon the conduct in not meeting the deadline. … Such conduct may, when coupled with conduct occurring before the deadline, be evidence of a waiver, but here there was no such conduct before the time period had run."

47. The Respondent asserts that none of those elements is satisfied by the Applicant's claim in that no promise was made on which she could have relied, and even if she had relied on any such promise, it was not to her detriment. Moreover, in the Respondent's view, the claim was long time-barred when the Applicant allegedly discussed and was given information by the Claims Administrator about the question of lost wages, a conduct which, even if established, would have had no detrimental effect in inducing the Applicant's failure to meet the

required deadline.

48. The Tribunal is satisfied that the meaning of the doctrine of estoppel has been rightly laid out in those decisions and correctly applied by the Review Panel. No argument or evidence has been presented to the effect that the Applicant was nine years late in presenting her claim because she relied on a promise or conduct of the Respondent. Nor could she have relied on any form of legitimate expectation, as the policy of the Respondent was clear about the operation of time limits for such claims. As the Court in *Ace Van* held: "In addition, we are dealing with an unambiguous contract provision of a familiar kind which has the salutary purpose of expediting settlements to the benefit of all concerned" (*Ace Van & Storage Co. v. Liberty Mutual Insurance Co.*, *op. cit.*).

49. The compensation paid to the Applicant until 2001 concerned only medical treatment, and not lost wages and other benefits. Until that time, she had made no claim for such benefits. It follows that even if the claim of estoppel had any merit, it would cover only the medical claims and could not be extended by association to wage claims not made. And since medical treatment was covered until 2001, there was in any event no detriment to the Applicant on this count.

50. The question remains as to whether the decision to reimburse medical treatment until 2001 implied recognition on the part of the Bank Group that the claim arose out of and in the course of employment. Except for the alleged confusion with the claim for dysentery, there does not appear to be any other connection with employment in that, as concluded above, the cause of the illness has not been convincingly related to the Applicant's IFC assignment. But even if this connection had been established it would have no consequences for this claim. This is so, first, because the medical treatment was indeed covered and hence there could be no detriment to the Applicant in this respect, and second, because the statute of limitations applies in any event and its operation will not be altered by a late claim. The estoppel argument is accordingly rejected.

51. Together with her claim for lost wages, the Applicant has also made a claim for a lost career, vocational rehabilitation and "whatever else is defined in the rules." This claim entails two different questions. First, the Applicant attaches the loss of a "life of considerable promise" to her condition of dysentery, a subsequent car accident in 1991 and her skin condition.

52. Yet, there is no evidence in the record that the Applicant became disabled or unable to work, except for short periods while recovering from dysentery and undergoing certain medical procedures. These have been compensated by the Bank Group in the context of the settlement agreement related to the dysentery claim discussed above. Moreover, there is ample evidence in the record that the Applicant undertook numerous assignments and travel. The Applicant has also undertaken academic programs of intellectual intensity, such as those at Vassar College and Columbia University noted above, which do not sustain her claim of having been disabled by injuries somehow connected to dysentery or otherwise. Accordingly, the claim for loss of career and related aspects was properly denied by the Review Panel.

53. The claim for vocational rehabilitation is time-barred for the same reasons as the claim for lost wages. Even if this were not so, the claim does not meet any of the requirements laid down under Staff Rule 6.11, para. 6.01. There is no evidence that the Applicant was unable to resume her previous job; to the contrary, she continued to work in journalism, perhaps not as a photojournalist, but still in the field of journalism. Moreover, the Applicant never requested, as required by the Staff Rules, that the Claims Administrator make a determination as to her need for vocational rehabilitation. As the Review Panel concluded, a claimant cannot unilaterally undertake a course of vocational rehabilitation and later claim for the expenses. The Review Panel's decision to deny this other claim is accordingly also upheld.

54. The Tribunal finds not only that the Review Panel's conclusions are reasonably sustained by the evidence, and that the Panel acted in accordance with the relevant rules, but also that the pertinent procedural requirements were respected. Reasonableness and lawfulness in this case are beyond doubt. The procedures followed by the Claims Administrator, on the other hand, are not. Indeed, the Respondent with commendable candor "admits that Applicant's claim could have been handled differently."

55. The Tribunal is troubled by a variety of procedural anomalies. The first is the confusion of the Claims Administrator with respect to two separate claims made by the Applicant, one concerning dysentery and the other concerning treatment for her skin condition. Its failure to clarify the different nature of such claims and their extent impeded a precise understanding of the Claims Administrator's position and this vagueness appears to have prolonged the Applicant's misunderstanding and caused her disruptive uncertainty. Moreover, the Applicant's allegations about lost documents and photographs have not been refuted. Finally, the confused discussions between the Claims Administrator and the Applicant about lost wages, that apparently took place in 2001, fall short of diligence and transparency in the handling of claims.

56. The Tribunal is also concerned about the procedure followed by the Claims Administrator in connection with the role of the independent medical examiner. As observed, one medical examiner in 1995 reported that he would have liked to see the Applicant personally, but his request was not pursued by the Claims Administrator. Another made references in his report that went beyond his medical functions and speculated as to the motives of the Applicant in an inappropriate and disrespectful manner. The Claims Administrator should have objected to this as falling outside the medical assessment required from the examiner.

57. Although these disquieting features of the case do not affect the validity of the independent medical examiners' medical conclusions, they raise a question about the strict observance of appropriate procedures by the Claims Administrator. The fact that the Bank Group outsources the administration of certain of its programs does not relieve it from responsibility and liability if a program is improperly administered.

58. The Applicant's claims on the merits were properly rejected by the Review Panel. However, it is evident that the mishandling of the claims by the Claims Administrator has caused unnecessary difficulties, uncertainties, and anxiety for the Applicant. The Tribunal accordingly concludes that the Applicant should be compensated.

Decision

For the reasons stated above, the Tribunal hereby orders that:

(i) the Bank Group pay compensation to the Applicant, including costs, in the amount of $15,000 net of taxes; and

(ii) all other claims be dismissed.

/S/ Jan Paulsson
Jan Paulsson
President

/S/ Nassib G. Ziadé
Nassib G. Ziadé
Executive Secretary

At Washington, DC, 26 May 2006