

Summary of CR v. IBRD, Decision No. 511 [2015]

The Applicant challenged the decision of the Vice President, Human Resources (HRVP), that the Applicant had committed misconduct under Staff Rules 3.00, paragraphs 6.01(b) and (c), and Staff Rule 3.01, paragraph 4.02. He also challenged the proportionality of the disciplinary measures imposed.

It was common ground between the parties that the Applicant had had a sexual relationship with a subordinate for at least five months, and had successfully pushed for the subordinate's contract to be extended, both during and after their sexual relationship.

Before EBC, the subordinate had claimed that the Applicant had subjected her to sexual harassment, had demanded sex to continue to renew her assignment, and then, when she refused to continue their sexual relationship, had retaliated against her by failing to renew her contract. EBC rejected these claims as unsubstantiated, concluding that the sexual relationship had been consensual, but found that it had created a *de facto* conflict of interest, which the Applicant had failed to resolve in a prompt manner as required by Staff Rule 3.01, paragraph 4.02. The HRVP agreed with the findings of EBC, concluded that the Applicant was guilty of misconduct, and imposed the following sanctions: ineligibility for any future employment with the World Bank Group (the Applicant having retired before the EBC investigation had concluded); restricted access to WBG premises; and a misconduct letter to remain on the Applicant's personnel file indefinitely.

Before the Tribunal, the Applicant argued that no conflict of interest had in fact arisen or, in the alternative, that he had promptly resolved any conflict and had not acted against the interests of the Bank. He further submitted that the sanctions imposed were disproportionate. The Bank contended that the conflict of interest was clear, that the Applicant had taken no steps to resolve it, and that the sanctions imposed were proportionate in the circumstances of the case.

The Tribunal observed that Staff Rule 3.01, paragraph 4.02 imposes a strict standard: a sexual relationship between a supervisor and a subordinate will automatically be characterized as a conflict of interest. This Rule aims to preclude conflicts of interest, both actual and apparent. The Rule also imposes on the supervisor the responsibility to promptly resolve the conflict. There are a number of possible steps that can be taken to this end, and what is required in any particular

case will depend on the circumstances. In this case, the Applicant had not taken any steps to promptly resolve the conflict of interest. This constituted misconduct.

On the proportionality of the sanctions imposed, the Tribunal recalled that the Applicant had pushed for the extension of the subordinate's contract, over the objections of his colleagues. The Tribunal emphasized that Managers, such as the Applicant, are in a position of special trust and must therefore be even more vigilant as to actual and apparent conflicts of interest. Considering also his continuing failure to appreciate that his conduct resulted in a conflict of interest, the Tribunal concluded that the disciplinary measures imposed on the Applicant were not significantly disproportionate. Also, contrary to the Applicant's contentions, the requirements of due process had been observed. All pleas were dismissed.