



World Bank Administrative Tribunal

2021

Decision No. 656

**ER (No. 3),
Applicant**

v.

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

(Merits)

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

**ER (No. 3),
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 Andrew Burgess (President), Mahnoush H. Arsanjani (Vice-President), Marielle Cohen-Branche (Vice-President), Janice Bellace, Seward Cooper, Lynne Charbonneau, and Ann Power-Forde.
2. The Application was received on 8 June 2020. The Applicant represented himself. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Affairs), Legal Vice Presidency. The Applicant's request for anonymity was granted on 30 October 2020.
3. The Applicant is challenging the 17 December 2019 decision of the Workers' Compensation Administrative Review Panel (ARP) denying his claim for workers' compensation.

FACTUAL BACKGROUND

4. The Applicant joined the Bank in February 2004. The Applicant currently serves as a Resource Management Analyst, Grade Level GE, in the Budget, Performance Review and Strategic Plan (BPS), Corporate Planning & Reporting Unit.
5. In 2014, the Applicant found what he deemed to be an unauthorized budget increase of \$80 million allocated to the Information Technology Solutions Vice Presidential Unit (ITS or ITSVP) for Fiscal Year 2015 (FY15) to FY17. The Applicant reported his finding to the Ethics and Business Conduct Department (EBC), which advised him to consult the Internal Audit Department (IAD).

6. In 2015, the Applicant brought his concerns to the President of the World Bank Group, EBC, and other senior staff regarding what he characterized in his Application as “possible willful misrepresentation of ITSVP related budgets found in FY16 Budget document related to [...] FY16 to FY18.”

7. On 7 July 2015, the Bank’s Chief Counsel (Corporate Administration), Legal Vice Presidency, emailed the Applicant “in response to [the Applicant’s] various telephone calls and email messages regarding the concerns [the Applicant had] raised about the ITSVP Capital Budget and related matters.” In the email, the Chief Counsel stated:

I would like to assure you that the Bank takes matters such as the ones you raised very seriously. We appreciate and share your desire for an ethical environment within the World Bank. I would like to thank you for raising these concerns.

Your concerns were the subject of a careful review by Bank Management as well as impartial reviews by EBC and by the Bank’s Internal Audit Department, including for evidence of any possible staff member misconduct or unethical behavior. As you have been made aware on various occasions, none of these reviews has uncovered any evidence of misconduct or unethical behavior. The appropriate avenues for consideration of these issues have been fully pursued.

The reviews did help, though, to identify issues related to governance of the ITS capital budget, and these have led to specific recommendations to improve the practice and transparency of ITS capital budget. The Bank will follow up to implement these and continue with internal process improvement as part of the ongoing fiduciary role of management.

Please be assured your management will continue to engage with you to address any remaining concerns.

8. On 7 July 2016, the Applicant had a meeting with his line management – including the Vice President of BPS (BPS Vice President), a Director of BPS (BPS Director), and the Applicant’s Manager – to discuss an allegation by the Applicant of a budget anomaly of over \$20 million in FY17 for ITSVP. As stated in an 8 July 2016 email from the Applicant’s Manager to the Applicant, BPS management told the Applicant during the meeting:

You reiterated concerns that you have brought up before. You alleged that for the last several years, the ITS budget had not gone through adequate approval by the SMT [Senior Management Team], and that this year the process was the worst since

you've followed it; that there are at least \$20 million of savings that can be easily demonstrated and possibly returned by ITS management; that ITS is the only unit that can present numbers and projections and not be subject to adequate review; that unnamed [...] staff shared your view and had been passing you information; and that IAD failed to do its job when asked to look at these issues.

We discussed the fact that numerous staff [...] had complained strongly about their perceptions of your harassing and/or threatening them to obtain information you felt you were entitled to, or to pursue matters that you did not find satisfactory. You acknowledged that you had threatened some of them, but that this was the only way you could obtain this information after repeated requests following your understanding of what was agreed and authorized by [the BPS Vice President]. It was clearly indicated to you that threatening behavior and allegations were unacceptable and needed to stop immediately.

[...]

You were reminded that you have no authority to act as an auditor of ITS. You were reminded that following your allegations, BPS management had mobilized EBC and IAD to look into them, and had found no cause for further inquiry or escalation.

According to the 8 July 2016 email, BPS management also told the Applicant during the meeting:

- You are to focus on the BPSSP [Budget, Performance Review, and Strategic Plan, Budget Performance & Strategic Planning] work program[.]
- BPS management will no longer consider your allegations[.]
- While there has been and will [be] no retaliation for raising concerns in a professional manner, threatening behavior cannot be tolerated. You must desist immediately from harassing or threatening colleagues[.]
- Finally, your health is a concern, as is the general well-being and happiness of your family; a suggestion is made for you to avail yourself of the Bank's counseling and health services[.]

9. During the 7 July 2016 meeting, the Applicant discussed problems with his eyesight, including issues of vision loss, with those present. This specific portion of the discussion was not recorded in the meeting minutes at the time. It was subsequently acknowledged in a 6 November 2017 email from the BPS Director to the Applicant that "you indeed raised your eye condition in the meeting with [the BPS Vice President] and [your Manager] which I attended on July 7th, 2016."

10. According to the Applicant, in a follow-up conversation with the BPS Vice President in July 2016, the Applicant and the BPS Vice President discussed the return of the alleged unauthorized budget increase, “false documentations” in the meeting minutes of the July 2016 meeting, and possible adverse effects on the Applicant’s employment. According to the Applicant, the BPS Vice President “strongly recommended” that the Applicant seek guidance from the Bank’s stress counseling unit.

11. On 23 September 2016, the Applicant went to the Health and Safety Development Directorate (HSDDR) for alleged work-related stress problems. He obtained counseling with the Personal/Work Stress Counseling Unit of the HSDDR (Counseling Unit).

12. The Applicant met with a Counseling Unit counselor periodically from 23 September 2016 to 23 February 2018.

13. The counseling notes of the first meeting between the Applicant and the Counseling Unit counselor on 23 September 2016 include the following:

Individual Intakes:

Presenting Circumstances: [...] [The Applicant] has worked at the WB [World Bank] for the last 12 years. He was referred by his manager, because he seemed “stressed”. He reports that he has been struggling with frustration and mistrust of his unit. He described suffering from this work stress due to the knowledge of the mismanagement of funds (reportedly millions of dollars), and his failed attempts to have these concerns corrected. He reportedly has made contact with many people, including the president of the WB to have these concerns investigated. He stated that at one point they brought in outside auditors to investigate, but that it appeared their findings were also ignored. [His] conclusion is that many people would lose their jobs if this information came to light, and that is why it is not being addressed.

[...]

Current Circumstances: [The Applicant] described his conflict about this situation and how difficult it is to stay on working at the WB when he has not felt that his concerns have been addressed. He has gone to the staff association, and he reports that he is not sure whether he is ready to follow the formal procedure for making a complaint.

Risk Assessment: Low

Comments: [The Applicant] appeared to be anxious, witnessed by some fidgety behavior. He spoke fast and sought my approval by repeatedly asking “don’t you agree?”. He has been having difficulty sleeping and been distracted by thoughts about all of this information that he knows. He also seems hyper focused on his knowledge of the solution, and angered that his advice will not be taken. It is unknown whether these thoughts and this situation are based in reality or not.

Comments: The writer will meet with the client to further discuss interest in seeing an outside therapist. At this point he was not interested.

Disposition and Recommendations: Follow Up Counseling Unit

14. The Applicant had meetings with this Counseling Unit counselor in October 2016, November 2016, December 2016, February 2017, and March 2017.

15. According to the Applicant, he did not seek any other medical treatment for his “work-related stress” from September 2016 to July 2017.

16. On 25 July 2017, the Applicant met with a different Counseling Unit counselor, to whom he was assigned after meeting with the Head of the Counseling Unit. The counseling notes of this 25 July 2017 meeting with the new counselor include the following:

Individual Intakes:

Presenting Circumstances:

[The Applicant] was assigned to me after having met briefly [...] Head of the Counseling Unit, and having asked to meet another counselor than [the counselor] [the Applicant] had consulted before.

[...] Consulting for work stress-related issues.

[...]

Current Circumstances:

[The Applicant] reported being concerned about millions of dollars having been reported wrongly to the board since 2015, which is against his principles and values.

[...]

Discussed internal resources [the Applicant] has consulted for support and advice, including EBC and Ombudsman. [The Applicant] reported having been referred by EBC to the Internal Audit. He has not consulted Staff Association and doesn't consider to do so for the time being. [...] [The Applicant] reported that "*so many people are playing games, that I can not trust the Bank*" [emphasis in original], and mentioned HR [Human Resources] as an example.

Discussed benefits to improve [the Applicant's] stress management toolbox. [The Applicant] was recommended to consult external psychiatrist and psychologist for weekly personal therapy, but refused. Encouraged follow-up appointment with my colleague [...] he has been seeing since January 2016; [the Applicant] accepted. Invited [the Applicant] to my group relaxation training the same day, and [the Applicant] was already planning to attend.

[The Applicant] reported that stress could have contributed to personal health issues, including diabetes and eye problems. [The Applicant] reported having spoken with [a colleague] from the HSD Occupational Health Services regarding vision issues and the short term disability program.

Risk Assessment: Low

Comments: Denied suicidal ideations.

Comments: Denied sleeping issues. Appetite ok. Denied alcohol consumption. Denied drug use. Problems of concentration.

Disposition and Recommendations: Follow Up Counseling Unit

17. Later in the day on 25 July 2017, the Applicant requested that the new counselor refer him to a psychiatrist. The Applicant was also advised in an email from the new counselor that a psychiatrist rather than psychologist can prescribe medication if needed.

18. The Applicant has met periodically with a psychiatrist at T Psychiatry (Psychiatrist) since August 2017.

19. The Applicant continued to have counseling sessions with the HSDDR in August 2017, September 2017, November 2017, December 2017, and February 2018. The Counseling Unit notes of 25 August 2017 state, "[The Applicant] has seen a psychiatrist twice in the last month, and was evaluated to have 'no current mental health diagnosis', but some anxiety and depressive symptoms

related to the work issues.” The Counseling Unit notes of 28 September 2017 state, “[The Applicant] continues to be evaluated to have ‘stress due to this work situation’ but no formal diagnosis.”

20. On 20 July 2018, the Applicant filed a claim with the Bank for workers’ compensation seeking reimbursement of \$1,500.00 for medical expenses paid to his Psychiatrist from August 2017 to March 2018.

21. On 29 August 2018, the Bank’s Claims Administrator, Broadspire Services, Inc., denied the claim for workers’ compensation. As stated in the Claims Administrator’s letter to the Applicant:

A thorough review and investigation of this claim for Workers’ Compensation benefits has been completed. We regret to inform you that we are unable to approve your claim as it does not fall within the Workers’ Compensation guidelines. Based upon our review, we found that your illness/injury did not arise as a direct result of your employment.

Our investigation included a review of the following information:

Your recorded statement
Information from [T] Psychiatry

22. On 11 October 2018, the Applicant requested that the Claims Administrator reconsider his claim.

23. On 9 April 2019, the Claims Administrator informed the Applicant as follows:

Having completed our reconsideration of your claim for Worker[s’] Compensation benefits under the Program, we have determined you are not eligible for Worker[s’] Compensation benefits.

Accordingly, your claim for Worker[s’] Compensation benefits has been denied due to the following reason[s]:

- Your medical records indicate you are alleging stress due to work. Stress is not a covered injury or occupational disease under worker[s’] compensation.

- You failed to file your claim within 12 months of the injury or diagnosis of an occupational disease as required under Staff Rule 6.11 section 3.02. Based on your records, you first sought treatment for this condition on September 23, 2016 but did not report your claim until July 23, 2018.

24. On 24 July 2019, the Applicant filed an appeal of the Claims Administrator's decision with the ARP. The Applicant contended that his initial claim was timely filed, and that stress is a covered injury or illness for purposes of workers' compensation.

25. On 17 December 2019, the ARP affirmed the denial by the Claims Administrator. The ARP stated:

It is clear from the evidentiary record that the Claimant was aware not only of the nature of his psychological condition, but also his belief that this illness (work-related stress) was related to his employment as early as September of 2016. In his written statement, submitted in support of his appeal, the Claimant states that he sought treatment with the Health and Safety Directorate for work-related stress problems in September of 2016 [...] and continued under their care. Although the Claimant did not seek treatment from an external psychiatrist until July or August of 2017, it is clear from the Claimant's own statements that he was aware of his alleged work-related illness and made the cognizant choice to seek treatment for his condition in September of 2016. Based upon the evidence in the record, the Claimant suffered from stress, which the Claimant believed to be work-related, prior to the referral to and his treatment with a psychiatrist in 2017.

Taking the latest date (the latest date is more favorable to the Claimant) of September 30, 2016, the Claimant should have filed his claim for workers' compensation benefits by September 30, 2017, within 12 months after the date he became aware or should have become aware of the relationship between his illness and his employment with the World Bank Group. Because the Claimant did not file his claim until July 25, 2018, his claim was not timely filed in accordance with the Staff Rules and is, therefore, barred.

Accordingly, this panel will not address the remaining issues raised by the Claimant.

CONCLUSION

Upon consideration of the record in its entirety and the arguments raised by the parties, and for the reasons stated above, we affirm the denial by the Claims Administrator.

26. On 8 June 2020, the Applicant filed this Application with the Tribunal seeking review of the ARP's decision. This is the Applicant's third application with the Tribunal.

27. In his first application, the Applicant challenged the EBC decision to close its investigation into the budgeting allegations raised by the Applicant, and the Applicant also sought classification as a whistleblower pursuant to Staff Rule 8.02. In *ER (Preliminary Objection)*, Decision No. 586 [2018], the Tribunal dismissed the application on jurisdictional grounds and found that “[g]eneral accounting standards and budget practices do not form part of the Applicant's employment contract with the Bank.”

28. In his second application with the Tribunal, *ER (No. 2) (Preliminary Objection)*, Decision No. 606 [2019], the Applicant appeared to make several claims regarding allegations of ITS budget anomalies and allegations of unfair treatment in his reporting of ITS misconduct, as well as a claim that the Bank violated the International Financial Institutions Act (IFI Act). In that application, the Applicant contended “that he suffered harm by having a panic attack, which he had while going to IAD, EBC, or other Bank personnel, and that he could not sleep properly during this time,” and “that he had to receive stress counseling because he was ignored when he pointed out an over-allocation of \$20 million in the ITS FY17 budget process.” *Id.*, para. 26. The Applicant further contended that “he had to see a psychiatrist due to stress stemming from the ITS budget issue.” *Id.* The Tribunal dismissed the application, finding that “the Applicant has not demonstrated that he suffered any adverse employment consequences as a result of EBC closing its investigation into the Applicant's allegations of budget anomalies,” and further noting that “[a] general claim regarding a breach of the International Financial Institutions Act by the Bank is outside the competence of this Tribunal.” *Id.*, paras. 33, 36.

29. In this present Application, the Applicant asks the Tribunal to (i) order that his “claim related to stress is covered by [the] DC Workman Compensation Act,” (ii) order the Bank to reimburse him for all Psychiatrist payments beginning on 2 August 2017, and (iii) order the Bank to reimburse him for any future psychiatric treatment. The Applicant notes in his pleadings that he has continued to consult with his Psychiatrist even after the rejection of his claims, and also states that he is “happy to accept any compensation that the Tribunal may award for failure of [the Bank]

and Claims Administrator to follow due process in processing [his] workman compensation claim.” With respect to legal fees and costs, the Applicant states that he “prefer[s] leave than monetary compensation” for his efforts, and seeks 20 days of additional leave. Further, the Applicant seeks \$13,000.00 as “costs incurred by EFFs [extended family and friends].”

30. On 15 July 2020, the Bank filed preliminary objections challenging the Applicant’s claims as inadmissible on jurisdictional grounds. The Bank contended that the ARP was correct in dismissing the Applicant’s claim on the basis of untimeliness.

31. On 16 November 2020, the Tribunal issued its judgment in *ER (No. 3) (Preliminary Objection)*, Decision No. 635 [2020], dismissing the Bank’s preliminary objections and holding that the relevant Staff Rule – 6.11 – had been improperly applied in that the Claims Administrator should not have denied the Applicant’s claim on the basis of untimeliness and that the ARP should not have upheld the Claims Administrator’s decision. The Tribunal instructed the parties to file pleadings on the merits.

32. On 24 May 2021, the present case was listed in accordance with paragraph 1 of Rule 14 of the Tribunal’s Rules, and, pursuant to paragraph 2 of Rule 14 of the Tribunal’s Rules, the parties were notified that the case was on the Tribunal’s agenda for decision at its next session beginning on 31 May 2021.

33. On 1 June 2021, the Applicant requested an adjournment from the Tribunal pursuant to paragraph 3 of Rule 14 of the Tribunal’s Rules for the purposes of pursuing settlement discussions with the Bank. On 3 June 2021, the Bank concurred with the Applicant’s request.

34. The Tribunal adjourned the case in accordance with paragraph 3 of Rule 14 of the Tribunal’s Rules and pending the outcome of settlement negotiations by the parties, and informed the parties accordingly on 1 July 2021.

35. On 26 August 2021, the Bank notified the Tribunal that the parties were unable to reach a settlement.

36. On 15 September 2021, the Applicant notified the Tribunal that he intended to proceed with his Application.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Applicant's Contentions

The Applicant has a psychological injury entitling him to workers' compensation

37. The Applicant contends that stress is a covered illness under workers' compensation and claims that he has suffered a psychological injury "as a direct result of aggravated working conditions." The Applicant asserts that the Bank's Claims Administrator has been incompetent with respect to the handling of his claim, and he contends that the Claims Administrator continually changed the workers' compensation requirements over the course of the two years of his filing. The Applicant submits that the Claims Administrator does not understand the relevant case law, lost his medical records, and failed to provide a comprehensive review of his case. He also asserts that the Tribunal should "highlight in its [judgment], failure of [the] IBRD [International Bank for Reconstruction and Development] to comply with various provisions of International Financial Institutions Act (IFI Act) resulting in aggravated Psychological injury."

38. The Applicant submits that, pursuant to *Ramey v. D.C. Dep't of Emp't Serv.*, 997 A.2d 694 (D.C. 2010), there are two criteria he must meet for purposes of a psychological injury under the District of Columbia Workers' Compensation Act. According to the Applicant, these criteria are that the "[c]laim must be supported by competent medical evidence" and that "[w]orkplace conditions or events that cause or aggravate psychological injury must be supported by credible evidence." The Applicant avers that he has supported his claim with medical evidence, underscoring that he has provided notes from the Bank's HSDDR Counseling Unit counselors, records from his Psychiatrist, as well as a summary statement from his Psychiatrist, and submits that his primary discussions with these professionals concerned his work-related stress.

39. The statement from the Applicant's Psychiatrist is dated 30 January 2021 and states as follows:

Re: [The Applicant] [...]

To Whom It May Concern:

This note is to state that [the Applicant] started seeing, per him, at the request or instruction of his employer.

He is being treated for stress, having anxiety, but not on any medications at this time. He is trying to use his coping skills to manage.

Visits with me, periodically, have been helpful, per the patient, as a way to expunge his inner tensions. Our visits allow him to feel more calm, and offer a bit more clarity for the patient.

As his symptoms exacerbate, he is quick to schedule appointments. He may require these periodical visits for the foreseeable future, depending on his stress level.

40. The Applicant contends that he was directed by his line management to seek guidance from the HSDDR for work-related stress problems in September 2016. He submits that, from September 2016 to June 2017, the HSDDR Counseling Unit counselor stated that he was suffering from work-related anxiety and did not require any treatment.

41. The Applicant alleges that, when he met with a different HSDDR counselor on 25 July 2017, that counselor told him that he might be suffering from “delusion” and recommended that he seek an external psychiatric consultation. In the Applicant’s view, this is when his work-related stress injury was diagnosed by a competent medical professional. The Applicant asserts that a patient-physician relationship existed between him and the HSDDR counselors, and that he was not only examined but also diagnosed with a work-related stress injury.

42. In particular, the Applicant claims that, in July 2017, the new Counseling Unit counselor “concluded that [he] should immediately seek outside help by consulting a Psychologist and Psychiatrist (on a weekly basis)” and that the new counselor “mentioned that [he] may be suffering from [a] condition called [delusion].” The Applicant further references the following statement he made to the new counselor during the July 2017 visit: “so many people are playing games, that I can not trust the Bank.” In this respect, the Applicant claims that he had a phone call with the new Counseling Unit counselor on 28 July 2017 in which the new Counseling Unit counselor discussed

two possible scenarios regarding this statement, and the Applicant claims that “[i]n both the scenarios I am experiencing two different types of [delusion].”

43. The Applicant submits that his Psychiatrist concluded that he does not require weekly visits as had been recommended by the new Counseling Unit counselor and that his Psychiatrist has provided input on how to cope with his work-related stress. The Applicant also submits that his Psychiatrist concluded he did not need medication, but would prescribe medication if the Applicant’s stress level increased to the point of impacting the Applicant due to aggravated work conditions. The Applicant claims that “[w]ork-related stress had a huge impact on [his] day-to-day family life,” and that his Psychiatrist recommended he “find ways so that immediate family members are not affected by [his] work-related stress.” The Applicant also submits that his Psychiatrist educated him regarding symptoms he should look out for which require intervention, as well as situations that the Applicant might “witness that can result in elevated work-related stress.” According to the Applicant, “[g]uidance given by [the] psychiatrist helped me to avoid developing [a] serious work-related psychological condition.”

Workplace events caused or aggravated the Applicant’s psychological injury

44. With respect to causation, the Applicant claims that there are over twenty workplace events that have resulted in aggravated work-related stress, and he specifies nine workplace events that allegedly caused or aggravated his psychological injury. To the Applicant, “[m]ost of them result from blatant violation[s] by [the] IBRD of various provisions of International Financial Institutions Act (IFI Act)” and have “caused permanent psychological injury.”

45. Specifically, the Applicant alleges the following:

- “Audit Interference by ITS [M]anagement”: The Applicant submits that he raised concerns regarding what he viewed as the concealment of a surplus budget in his department, and that, according to the BPS Vice President, the internal auditors decided not to change the findings of the draft report at the request of ITS management. He contends that this interference from ITS management with the independent working of internal auditors has caused him stress.

- “FY16 IT Depreciation”: The Applicant claims that he “raised with the President that there is willful misrepresentation of IT depreciation numbers stated in FY16 Budget document.” He contends that the allegedly flawed internal audit would have caused accounting errors in FY16, and that he recommended strategies to the BPS Vice President to avoid these errors. The Applicant further claims that the BPS Vice President “stated that he no longer trusts Internal Auditors or ITS management and requested [the Applicant] to find solutions to fix the [i]nternal audit errors.”
- “Refusal of Internal Auditors to Look at [H]igher [B]udgets in Budget [S]ystem”: The Applicant claims that the “Internal Auditors refused to look at the evidence that showed higher IT depreciation budgets were loaded in institutional system [...] over and above what was approved by the Board in FY15 [b]udget document.”
- “Internal Auditors [C]omplaining to [L]ine [M]anager”: According to the Applicant, the BPS Vice President asked him to work on strengthening the governance process of the ITS Capital Budget, and this request was made a part of his FY16 work program. He submits that, according to his Manager, the internal auditors “strongly objected to [the Applicant] pursuing [*sic*] matters that [he] did not find satisfactory.” The Applicant submits that, while his Manager stated that the Applicant was “acting as if [he was the auditor for ITS,” he was in fact authorized by the BPS Vice President “to help [the BPS Vice President] fix the accounting errors caused by flawed Internal Audit practice.” To the Applicant, the disconnect between the BPS Vice President wanting him to fix the alleged audit errors and his Manager not wanting him to do so caused the Applicant to “conclude that so many managers are playing games and I do not trust anyone in Bank.”
- “Refusal of [M]anager to [U]pdate [E]mail to HR [R]egarding my [E]ye [C]ondition”: The Applicant contends that he discussed his eye condition in a 7 July 2016 meeting with his line management but that his manager refused to document the discussion in the meeting minutes. The Applicant asserts that he “had to put in more than ten hours of effort to rectify one false statement made by manager regarding my eye condition.” He further claims that

his extended family and friends have advised him that his experience of line managers protecting each other at the Bank amounts to a toxic work environment.

- “EBC’s [F]ailure to Voice Record [M]eeting”: The Applicant claims that, at the insistence of the legal department, EBC investigators did not record a meeting he had with EBC on 1 June 2015. He claims that the Bank’s legal department was interfering with the independence of EBC. The Applicant further contends that EBC failed to investigate his claim that his computer was being monitored and, further, that ITS management terminated the employment of the manager who informed the Applicant that his computer was being monitored. The Applicant contends that this manager asked the Applicant why he had shared his name with the EBC investigators and told the Applicant that the Applicant was responsible for the termination of his employment. From the Applicant’s perspective, these claims clearly show “that [the] IBRD does not have a proper functionally independent investigations office (EBC) as required in Sec 1505(8) of IFI Act” and that the Tribunal should conclude that he has elevated work-related stress.
- “False [D]ocumentation by [M]anager with [A]im to [T]erminate my [E]mployment”: The Applicant contends that in the 7 July 2016 meeting he raised a concern that his Manager unilaterally removed him from a teamwork program and did not assign him any work for over three months. The Applicant also asserts that his performance review stated that he “worked for less than 25% of the time.” Further, the Applicant claims that his Manager falsely documented allegations of threatening and harassing behavior by him, and asserts that he “never threatened someone.” He further contends that the BPS Vice President instructed HR not to file the false documentation by his Manager in the Applicant’s HR records but that his Manager has insisted that it is indeed a part of his official HR records. The Applicant contends that, if true, this would cause him permanent damage with respect to future employment. According to the Applicant, he has confirmed that the “false documentation” is not a part of his HR records, but his experience “clearly shows that [the] IBRD does not have proper and effective procedures for receipt, retention and treatment of complaints as required by Sec 1504(7) of [the] IFI Act.”

- “Return of [U]nauthorized IT [C]apital [B]udget to be [P]resented as [S]avings to the [B]oard”: The Applicant contends that he uncovered an “unauthorized budget increase” of \$26 million given to ITS during the FY15 budget planning process and that this “unauthorized budget increase” was incorrectly termed as “savings” when the budget was ultimately reduced to correct for the increase. The Applicant avers, “As EBC and Internal Auditors favor ITS management getting unauthorized IT capital budget increase and suffering from lot of stress I had to agree to the offer that return of unauthorized IT capital budget increase to be termed as savings [...]” The Applicant also claims that his Psychiatrist asked if he may have Stockholm Syndrome, to which he responded that law enforcement in the Bank has Stockholm Syndrome given they fully support ITS management in willful misrepresentation. The Applicant further states, “I also shared the fact that sometimes it is easy to work with criminals directly rather than working with law enforcement. I am more afraid (phobia) of law enforcement (EBC, HR, Legal unit, Internal Auditors) in [the] IBRD.”
- “Ignorance of Law Vs Ignoring the Law”: The Applicant contends that the Bank’s legal department refuses to address the Bank’s violations of the IFI Act and that this constitutes “ignoring the law.”

46. The Applicant contends that, should the Auditor General review his claims of audit interference by ITS management and disclose such to the Board, “members of [the] Audit Committee of IBRD Board are likely to conclude this is not a normal work-related stress that a staff should go through.” Further, the Applicant asserts that the long-term effects of workplace actions can sometimes have a permanent impact, or the impact of the injuries may be felt at a later date, and that psychological injuries have a long-lasting impact. He submits that he has tried to use his coping skills in order to reduce his work-related stress, and states that he consults his Psychiatrist any time he has elevated work-related stress. He maintains that the following have caused long-lasting, irreparable damage to his stress level:

Seeing EBC consistently lying to me, Internal Auditors not following US GAAP [Generally Accepted Accounting Principles], line managers making false documentation copying HR with the aim to terminate my employment, line

manager's failure to document my disability (eye condition), management's continued failure to provide safe space so that I can demonstrate savings, constant lying by lawyers (liars) representing the IBRD in the Tribunal, disclosure of my name to wider audience by ITS management, ITS managers, ITS staff and ITS contractors reaching out enquiring why I am looking at their budget.

47. Finally, the Applicant claims that the Bank is violating safeguard provisions of the IFI Act, and that his extended family and friends are determined to ensure that the Bank makes changes to its internal workings so that no other staff member will be subjected to the toxic work environment. He asserts that he is seeking protection under Section 806 of the Sarbanes-Oxley Act from any future adverse actions, and that he may share the details of the alleged IFI Act violations with U.S. officials.

The Bank's Responses

The Applicant has not established that he has suffered an injury or illness

48. In the Bank's view, its Workers' Compensation Program is "designed to compensate staff members for injuries that occur at the workplace or illnesses contracted at work specifically relating to their jobs." The Bank contends that, under its Workers' Compensation Program, work-related stress, in and of itself, is not a compensable injury or occupational disease. The Bank submits that the Applicant has neither established that he has suffered from an injury or illness, nor established a causal link between any alleged illness and his employment. To the Bank, the Applicant has not provided "medical evidence which proves that he suffers from any psychological injury or harm due to a work condition or event."

49. The Bank contends that a determination that there is a psychological injury is "[t]he starting point for any analysis of whether a psychological injury is work related, and could have derived from work-related stress." The Bank asserts that the legal test in this respect is established by D.C. case law, and it claims that the Applicant misconstrues D.C. case law and equates "stress" with "psychological injury." The Bank submits that, as the Claims Administrator pointed out, *Ramey* [2010] is the relevant precedent and sets the following standard:

[A]n injured worker alleging a mental-mental claim invokes the statutory presumption of compensability by showing a psychological injury and actual workplace conditions or events which could have caused or aggravated the psychological injury. The injured worker's showing must be supported by competent medical evidence.

The Bank maintains that the Claims Administrator, both on initial review and on request for reconsideration, followed this requirement with respect to demonstrating a psychological injury and in concluding that stress is not a compensable injury. Further, the Bank asserts that, beyond proving a psychological injury, the Applicant must also establish that there is a causal connection with workplace conditions or events in order to receive the presumption of compensability under *Ramey* [2010].

50. The Bank asserts that the Applicant is asking the Tribunal to “stand in the shoes of the Claims Administrator and the ARP” and make a determination on a compensable injury by reviewing the medical evidence. The Bank contends that “[i]t appears before the Tribunal not to evaluate and second guess the medical judgment of the entities engaged in claims review, but to evaluate whether there has been manifest error with respect to this case that escaped the three prior layers of review.” The Bank submits that there has been no such error and cites *Chhabra (No. 2)*, Decision No. 193 [1998], para. 7:

The task of this Tribunal is limited to reviewing the decision of the Review Panel [ARP], 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.

51. Further, the Bank explains that “[t]he HSD counsellors are all licensed psychologists with the competence to make assessments and refer staff to external psychiatrists for medical diagnosis and treatment, including medical prescriptions if needed and offer longer term care. In this regard, the [Bank] agrees that the relationship with the HSD Counsellor is a doctor-patient relationship.” The Bank maintains that the role of the Counseling Unit is limited to counseling and referral, and does not include diagnosis. The Bank contends that the HSDDR did not diagnose the Applicant with any psychological injury or mental illness, and submits that the Applicant's claim that he was diagnosed with “delusion” on 25 July 2017 by an HSDDR Counseling Unit counselor is false.

The Applicant has not established a causal link between his alleged injury or illness and his employment with the Bank

52. In the Bank's view, the Applicant "fails to establish a causal link with any psychological injury or illness which was the result of a workplace condition or event, for the simple reason that he suffered no such injury." The Bank submits that the Psychiatrist's notes further demonstrate that the Applicant has not established any actual psychological injury, and the Bank avers that the Applicant was never diagnosed with any psychological injury or disease from the time he started seeing his Psychiatrist in August 2017.

53. With reference to the 30 January 2021 letter from the Applicant's Psychiatrist, the Bank asserts that this letter demonstrates that the Applicant suffers from stress but fails to support the Applicant's contention that his stress is a psychological injury or disease and, further, that it does not offer a medical diagnosis. Additionally, the Bank asserts that the "Applicant has not stated any actual workplace condition that may have caused such an injury," and contends that the Psychiatrist's letter also does not state that the Applicant's stress is due to a workplace condition or event.

54. The Bank "categorically rejects" the Applicant's characterization of various decisions which he describes as "work events" and which he claims caused his stress, and it asserts that "[t]here is nothing actionable [...] in the maintenance by the [Bank] of an appropriate decision-making and review framework that would link the Applicant's alleged psychological injury to workplace events." According to the Bank, the Applicant's allegations related to the ITS budget and the IFI Act are *res judicata*.

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

55. The Applicant is challenging the ARP decision affirming the decision of the Claims Administrator to deny his claim for workers' compensation.

56. Under Staff Rule 6.11, paragraph 1.01, the Bank's Workers' Compensation Program "sets forth a workers' compensation program which provides Staff Members with compensation and other benefits in the event of illness, injury or death arising out of and in the course of employment with the Bank Group [...]." According to Staff Rule 6.11, paragraph 4.01:

If a Staff Member's injury, illness or death is believed by a claimant to arise out of and in the course of employment, a claim for applicable workers' compensation benefits may be filed with the Claims Administrator by the Staff Member, a surviving spouse or Domestic Partner, a Child, or an appointed guardian. A claim must be filed with the Claims Administrator within the timeline provided in the Procedure, "Workers' Compensation Program – Claims Procedure."

Paragraph 3.02 of the "Workers' Compensation Program – Claims Procedure" provides, "Claims must be submitted to the Bank Group's Claims Administrator within 12 months after the illness is diagnosed or the injury or death occurs, or if later, 12 months after the date when the claimant became aware, or by the exercise of reasonable diligence should have become aware, of the relationship between the Staff Member's employment and his/her illness, injury or death."

57. Pursuant to Staff Rule 6.11, paragraph 2.01(b), the Bank's Workers' Compensation Program is administered by the Claims Administrator, a third-party administrator contracted by the World Bank Group for the purpose of administering workers' compensation claims for the Bank in accordance with the Procedure, "Workers' Compensation Program – Claims Procedure." Under Staff Rule 6.11, paragraph 3.01:

The Claims Administrator will determine whether an injury, illness or death arises out of and in the course of employment and otherwise administer the workers' compensation program in accordance with the provisions of the D.C. Act specified in this Rule, except that where the provisions of this Rule differ from the provisions of the D.C. Act specified, the provisions of this Rule will govern. Provisions of the D.C. Act not specified in this Rule will not apply.

In the instant case, the Claims Administrator found that the Applicant's illness/injury did not arise as a direct result of his employment, and it informed the Applicant accordingly:

A thorough review and investigation of this claim for Workers' Compensation benefits has been completed. We regret to inform you that we are unable to approve your claim as it does not fall within the Workers' Compensation guidelines. Based

upon our review, we found that your illness/injury did not arise as a direct result of your employment.

Our investigation included a review of the following information:

Your recorded statement

Information from [T] Psychiatry

58. On reconsideration, the Claims Administrator denied the Applicant's claim on the following two bases:

- Your medical records indicate you are alleging stress due to work. Stress is not a covered injury or occupational disease under worker[s'] compensation.
- You failed to file your claim within 12 months of the injury or diagnosis of an occupational disease as required under Staff Rule 6.11 section 3.02. Based on your records, you first sought treatment for this condition on September 23, 2016 but did not report your claim until July 23, 2018.

59. Finally, the ARP dismissed the Applicant's claim on the basis of untimeliness.

60. Under Staff Rule 6.11, paragraph 13.02, the Tribunal serves as a forum of appeal for ARP decisions:

If a claimant, after receiving the final decision of the Administrative Review Panel, who wishes to pursue his/her complaint further, the claimant may then file an appeal with the World Bank Administrative Tribunal in accordance with the provisions of Staff Rule 9.05, "The World Bank Administrative Tribunal."

Accordingly, the Applicant has appealed to the Tribunal.

61. In *ER (No. 3) (Preliminary Objection)* [2020], the Tribunal held that Staff Rule 6.11 had been improperly applied in that the Claims Administrator should not have denied the Applicant's claim on the basis of untimeliness and the ARP should not have upheld the Claims Administrator's decision. The central issue of contention now before the Tribunal is whether the Applicant has made a compensable claim under the Bank's Workers' Compensation Program.

62. Pursuant to *Chhabra (No. 2)* [1998], para. 7, the Tribunal reviews decisions of the ARP “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.” *See also FM (Merits)*, Decision No. 643 [2020], para. 133. The Tribunal will therefore assess whether the denial of the Applicant’s workers’ compensation claim can be reasonably sustained in light of the evidence in this case.

63. In the Claims Administrator’s position statement, submitted to the ARP in response to the Applicant’s appeal of the denial of his workers’ compensation claim, the Claims Administrator stated:

[The Applicant’s] claim was denied under workers[’] compensation as (1) the claim was not reported within 12 months of knowledge of a work[-]related injury or illness and (2) because there was insufficient medical evidence to support that his stress is related to his work at the Bank.

Also in its position statement, the Claims Administrator referred to a decision from the D.C. Court of Appeals – *Ramey* [2010] – as the relevant precedent, rather than *McCamey v. D.C. Dep’t of Emp’t Serv.*, 947 A.2d 1191 (D.C. 2008), which the Applicant had cited in his appeal to the ARP. Similarly, in the pleadings of the parties before the Tribunal, *Ramey* [2010] is invoked and the “presumption of compensability” discussed. Specifically, pursuant to *Ramey* [2010]:

[A]n injured worker alleging a mental-mental claim invokes the statutory presumption of compensability by showing a psychological injury and actual workplace conditions or events which could have caused or aggravated the psychological injury. The injured worker’s showing must be supported by competent medical evidence.

64. In respect of *Ramey* [2010], the Applicant submits that there are two criteria he must meet for purposes of a psychological injury – that the “[c]laim must be supported by competent medical evidence” and that “[w]orkplace conditions or events that cause or aggravate psychological injury must be supported by credible evidence.” The Applicant claims that he has suffered a psychological injury “as a direct result of aggravated working conditions.” He contends that he has supported his claim with medical evidence in that he has provided notes from the Bank’s

HSDDR Counseling Unit, records from his Psychiatrist, as well as a summary statement from his Psychiatrist. He submits that his primary discussions with these professionals concerned his work-related stress. The Applicant appears to assert the “presumption of compensability,” which would then require the Bank to bear the burden of proving that the Applicant’s alleged psychological injury was not caused or aggravated by workplace conditions or events.

65. The Bank contends that the Applicant has not established that he has suffered from an injury or illness, nor has he established a causal link between any alleged illness and his employment. For the Bank, the Applicant has not provided “medical evidence which proves that he suffers from any psychological injury or harm due to a work condition or event.” The Bank asserts that, beyond proving a psychological injury, the Applicant must also establish that there is a causal connection with workplace conditions or events in order to receive the “presumption of compensability” under *Ramey* [2010].

66. As indicated above, pursuant to Staff Rule 6.11, paragraph 3.01, certain provisions of the D.C. Act are incorporated into the Staff Rule. However, as the Tribunal noted in *BI (No. 2)*, Decision No. 445 [2010], para. 25, the Staff Rules are “silent on issues such as the burden of proof to be borne by the parties in advancing claims under the program,” and the D.C. “presumption of compensability” standard “has not been specifically incorporated in the Staff Rules.” Further, in *Hasselback*, Decision No. 364 [2007], para. 50, the Tribunal stated that it “has no warrant – even if it were so disposed – for disregarding the final sentence [...] from Staff Rule 6.11, para. 2.01,” that is, “Provisions of the D.C. Act not specified in this Rule will not apply.” Therefore, the Tribunal has previously declined to incorporate aspects of D.C. law on workers’ compensation into its jurisprudence. Given that the “presumption of compensability” is not expressly mentioned in Staff Rule 6.11, the Tribunal is legally bound to evaluate this case on the basis of the facts and the application of Staff Rule 6.11, as well as the Tribunal’s own jurisprudence.

67. Pursuant to the Tribunal’s jurisprudence, in filing claims for workers’ compensation, applicants bear the burden of proving the compensability of their claim(s) by a “preponderance of the evidence.” *FS (Preliminary Objection)*, Decision No. 640 [2020], para. 65; *DT*, Decision No. 541 [2016], para. 35; *BI (No. 2)* [2010], para. 25. Further, in *Lansky (No. 1 and No. 2)*, Decision

No. 425 [2009], the applicant contended that “the burden of proving the merits of claims relating to illnesses with a psychiatric or psychological component should be borne by the Bank rather than by an applicant.” *Id.*, para. 37. The Tribunal found this assertion unconvincing, noting, “The general rule is that the party which asserts a claim must bear the burden of proving, at least *prima facie*, the truth and substantive merit of such claim.” *Id.*

68. In evaluating whether the Applicant has met his burden of proof, the Tribunal will consider the counseling notes from the HSDDR Counseling Unit, the Psychiatrist’s notes, and the letter from the Applicant’s Psychiatrist.

69. The Applicant contends that an HSDDR counselor diagnosed him with “delusion” on 25 July 2017. This alleged diagnosis is not supported by the record, and the Tribunal previously found that no diagnosis was ever offered by the HSDDR. *See ER (No. 3) (Preliminary Objection) [2020]*, para. 50. Further, the Tribunal notes the Bank’s position, supported by the statement of an HSDDR Senior Psychologist, that the HSDDR does not offer medical diagnoses.

70. The Tribunal will therefore carefully consider the medical evidence from the Applicant’s Psychiatrist. The record includes notes from the Applicant’s periodic visits with his Psychiatrist, dated 2 August 2017 to 20 August 2019, as well as a letter from the Applicant’s Psychiatrist dated 30 January 2021.

71. Scrutiny of the Psychiatrist’s notes provided by the Applicant does not reveal a clear medical diagnosis of an illness or injury. This is further supported by the HSDDR Counseling Unit notes which, on 25 August 2017, state, “[The Applicant] has seen a psychiatrist twice in the last month, and was evaluated to have ‘no current mental health diagnosis’, but some anxiety and depressive symptoms related to the work issues,” and, on 28 September 2017, state, “[The Applicant] continues to be evaluated to have ‘stress due to this work situation’ but no formal diagnosis.”

72. There is, however, one entry in the Psychiatrist's notes which the Tribunal finds may suggest a diagnosis. The notes of the Applicant's Psychiatrist dated 20 August 2019 state, in pertinent part:

Plan: [...] male, stress @ work. Pt claims this stress is 2° work-related incident. Denies pre-existing anxiety. So, he likely has an unspecified anxiety d/o 2° work-related situation if his history is accurately given. No meds for now, as he is not having panic attacks. But, he is anxious and we will give meds if he starts having panic attacks.

The Tribunal considers that the language "he likely has an unspecified anxiety d/o 2° work-related situation if his history is accurately given" may constitute a medical diagnosis of an illness or injury for purposes of a workers' compensation claim. It is difficult, however, to find liability on the basis of such a speculative statement. Crucially, the Tribunal also observes that, in his more recent statement dated 30 January 2021, the Applicant's Psychiatrist does not reiterate or confirm the statement made in his 20 August 2019 notes. This omission is compelling.

73. The letter of 30 January 2021 states:

Re: [The Applicant] [...]

To Whom It May Concern:

This note is to state that [the Applicant] started seeing, per him, at the request or instruction of his employer.

He is being treated for stress, having anxiety, but not on any medications at this time. He is trying to use his coping skills to manage.

Visits with me, periodically, have been helpful, per the patient, as a way to expunge his inner tensions. Our visits allow him to feel more calm, and offer a bit more clarity for the patient.

As his symptoms exacerbate, he is quick to schedule appointments. He may require these periodical visits for the foreseeable future, depending on his stress level.

74. The Tribunal observes that the 30 January 2021 letter does not offer a medical diagnosis of a work-related psychological illness or injury. There is a lack of "certainty or precision" with

respect to the nature of the Applicant's illness, if any, and its cause. *See, e.g., J*, Decision No. 349 [2006], para. 30. Importantly in this regard, while the Applicant's Psychiatrist states that the Applicant "is being treated for stress, having anxiety," the sole mention of the Applicant's employment is in relation to the Applicant seeing the Psychiatrist "per [the Applicant], at the request or instruction of his employer." The result is that the letter in no way conveys any connection between the stress the Applicant is reportedly experiencing and being treated for and his employment with the Bank, even assuming the stress the Applicant experienced was a compensable illness or injury under the workers' compensation program.

75. In this regard, the Applicant submits in his pleadings, "[The] Psychiatrist concluded that I may not need medication for time being but if my stress level increases that impacts me (e.g. sleep deprivation) due to aggravated work conditions then he may put me in [*sic*] medication." According to the 30 January 2021 letter, the Applicant "is being treated for stress, having anxiety, but not on any medications at this time." The Tribunal finds it notable that the need for treatment and the possibility of prescribing medication are not framed as relating to the Applicant's work.

76. The Tribunal also notes that the 30 January 2021 letter refers to the visits with the Psychiatrist being helpful "as a way to expunge [the Applicant's] inner tensions" and that it states, "As his symptoms exacerbate, he is quick to schedule appointments." Again here, it would seem fitting for the Applicant's Psychiatrist to relate the Applicant's "inner tensions" and the exacerbation of his symptoms with some causal factor pertaining to the Applicant's work with the Bank if that were indeed the Psychiatrist's diagnosis. Such is not evident in the letter. Thus, to the extent that there was an evolving analysis of the Applicant's presentation in the 20 August 2019 Psychiatrist notes, the Tribunal observes that, in his 30 January 2021 letter, the Applicant's Psychiatrist does not ultimately attribute the Applicant's stress and anxiety to the Applicant's work.

77. In fact, on the basis of the letter, it is possible that the Applicant's stress may be attributable to some other extrinsic causal factor. *See, e.g., Courtney (No. 4)*, Decision No. 202 [1998], paras. 12, 16. Indeed, the Tribunal observes that the HSDDR Counseling Unit notes of 17 November 2016 and 25 August 2017, as well as the Psychiatrist notes of 20 October 2018, reference the Applicant's family life. Contrary to the Bank's contention, workers' compensation is not limited

to compensating staff members for workplace injuries or illnesses “specifically relating to their jobs”; however, arising “out of and in the course of employment” is an “essential element” under Staff Rule 6.11 for compensability, and applicants bear the burden of proof in respect of this legal issue. *FM (Merits)* [2020], para. 137, citing *J* [2006], para. 28.

78. Further, in analyzing the record and evaluating whether the Applicant has met his burden of proof, the Tribunal draws upon its previous jurisprudence, as the Tribunal has considered cases in which applicants have claimed workers’ compensation for illnesses allegedly caused by work-related stress. For instance, in *BI (No. 2)* [2010], the applicant claimed she had been bullied by her managers and subjected to a hostile work environment which caused her to suffer from stress which in turn caused her to have a physical illness, “unstable angina.” *Id.*, paras. 6, 18, 26. It is worth recalling that, in *BI (No. 2)* [2010], the Tribunal was not persuaded to take into account a “corrected note” from the applicant’s psychiatrist which came “almost three full years after he had examined the [a]pplicant, and appear[ed] designed to meet the [a]pplicant’s central problem in making a successful claim for compensation.” *Id.*, para. 16. This “corrected note” referred to “symptoms of depression and anxiety exaggerated by work related stress leading [the applicant] to go to the emergency room on two occasions with panic episodes and chest pain.” *Id.* While declining to take it into account, the Tribunal noted that “[t]he psychiatrist’s ‘corrected note’ implies if not a causal relationship then at least a contributory relationship between the illness of the [a]pplicant and her ‘work related stress.’” *Id.* Ultimately, in *BI (No. 2)* [2010] the Tribunal concluded that the applicant’s workers’ compensation claim was not well-founded.

79. In the instant case, the Tribunal observes that the HSDDR Counseling Unit notes and the Psychiatrist notes repeatedly reference that the Applicant is stressed and anxious, and recapitulate the Applicant’s contentions that he has uncovered what he perceives as financial anomalies at the Bank. However, for purposes of Staff Rule 6.11, there must be medical evidence demonstrating an illness or injury of the Applicant which arises “out of and in the course of employment” with the Bank, and this is not present in the record. Further, the Tribunal observes that the medical evidence in the record does not offer any indication that the Applicant’s health might be improved through some adjustment to his work, and the Tribunal finds this bolsters the conclusion that the Applicant has not met his burden of proof with respect to showing a work-related illness.

80. The Applicant has proffered his own medical conclusion that he has a psychological injury caused by his work, but the medical record provided in support of the Applicant's position does not prove such by a preponderance of the evidence. It does not offer a clear diagnosis of any illness or injury, and it does not establish the necessary causal connection with the Applicant's employment with the Bank. Further, with respect to the nine workplace events specified by the Applicant to have allegedly caused or aggravated his psychological injury, as the Applicant himself states, "[m]ost of them result from blatant violation by [the] IBRD of various provisions of [the] International Financial Institutions Act (IFI Act)." In *ER (No. 2) (Preliminary Objection)* [2019], para. 36, the Tribunal stated, "[T]he Applicant alleges that the Bank has violated the International Financial Institutions Act, and he desires that this Tribunal rule on that issue. A general claim regarding a breach of the International Financial Institutions Act by the Bank is outside the competence of this Tribunal." The Tribunal reiterates this position.

81. On the record before the Tribunal, the Applicant has failed to prove the substantive merit of his claim. The Tribunal takes note of the Applicant's contention that the Claims Administrator failed to provide a comprehensive review of his case. In particular, the Applicant claims that the Claims Administrator changed the workers' compensation requirements over the course of his claim and lost his medical records.

82. In its position statement, the Claims Administrator stated:

A review of the counseling notes show that no specific diagnosis of work-related stress is offered at any time by the counselors attending to [the Applicant]. Though there are indications he sought additional outside treatment for this issue there are no records available for review. Therefore, [the Applicant's] claim for workers['] compensation would fail based on a lack of competent medical evidence. Though [the Applicant] strongly believes his stress is related to his employment with the Bank there is no independent evidence to support his claim.

For his part, the Applicant maintains that the Psychiatrist notes were provided to the Claims Administrator, and this does not appear to be specifically refuted by the Bank.

83. While the Tribunal does not find irregularities that amount to procedural violations on the part of the Claims Administrator with respect to its handling of the Applicant's claim, the Tribunal

notes the Applicant's allegations that his medical records were not reviewed by the Claims Administrator and considers that the Claims Administrator could have made further inquiries in this regard. As the Tribunal has previously emphasized, the role of the Claims Administrator is not a passive one. *See FS (Preliminary Objection)* [2020], para. 65. Rather, "[t]he Claims Administrator bears the responsibility of making the necessary 'investigations'" through "affirmative means" to assist it in arriving at determinations regarding compensability. *BI (No. 2)* [2010], para. 30; *see also Lansky (No. 1 and No. 2)* [2009], para. 44. In these respects, the Bank may wish to explore the extent to which this responsibility is perhaps heightened in claims involving psychological illness or injury. It may also wish to consider ways to further support staff members experiencing stress, anxiety, or depression.

84. On review of the evidence in the record and interpretation of Staff Rule 6.11, the Tribunal upholds the decision of the Claims Administrator that the Applicant's workers' compensation claim should be dismissed because the Applicant has not shown an illness or injury arising out of and in the course of his employment with the Bank.

DECISION

The Application is dismissed.

/S/ Andrew Burgess

Andrew Burgess

President

/S/ Zakir Hafez

Zakir Hafez

Executive Secretary

At Washington, D.C.,* 8 November 2021

* In view of the public health emergency occasioned by the COVID-19 pandemic and in the interest of the prompt and efficient administration of justice, the Tribunal conducted its deliberations in these proceedings remotely, by way of audio-video conferencing coordinated by the Office of the Executive Secretary.