



World Bank Administrative Tribunal

2019

Decision No. 601

**EZ,
Applicant**

v.

**International Finance Corporation,
Respondent**

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

**EZ,
Applicant**

v.

**International Finance Corporation,
Respondent**

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

2. The Application was received on 25 June 2018. The Applicant was represented by Nat N. Polito of The Law Offices of Nat N. Polito, P.C. The International Finance Corporation (IFC) was represented by Ingo Burghardt, Chief Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 9 April 2019.

3. The Applicant challenges (i) the decision of the Chief of Staff, Office of the President that she committed misconduct by engaging in a physical altercation with a contractor; and (ii) the imposition of disciplinary sanctions in the form of demotion from grade level GC to GB with a change in title, and ineligibility for promotion for a period of three years.

FACTUAL BACKGROUND

4. The Applicant started working at the IFC in August 2012 as a Team Assistant (Level GB). In 2015, the Applicant was promoted to Program Assistant (Level GC). At the time the incident in question occurred, the Applicant was on track for a promotion to Level GD.

5. On 20 July 2017, the Applicant organized a Brown Bag Lunch (BBL) which was led by a prominent speaker. Over one hundred and fifty people registered to attend the BBL.

6. As the unit's Program Assistant, the Applicant was responsible for the logistical arrangements for her unit's meetings. This entailed making arrangements for services such as

food and catering, and videoconferencing. The Applicant made arrangements for food and beverages with Restaurant Associates, the IFC's exclusive contractor for food and catering services.

7. The BBL took place in a room in the IFC building from 1:00 p.m. to 2:00 p.m. Of relevance, this room is designed as a main conference room, where meetings are held, with an adjoining annex room and a control room. During the BBL, food and beverages were placed in the annex room, while a technician sat in the control room to monitor the BBL. The Applicant was present at the BBL as the staff member responsible for the BBL's logistical arrangements. She was also responsible for assisting the attendees to better hear the speaker. During the BBL, the main conference room reached full capacity and other attendees stood in the annex room where they could hear the speaker but could not see him.

8. Before the BBL ended, staff working for Restaurant Associates entered the annex room in an attempt to remove used plates and utensils. At first, a male Restaurant Associates manager entered the room to remove the plates and utensils. The Applicant asked him if he could return later and he obliged.

9. Between 1:30 p.m. and 1:45 p.m., Ms. X, a Restaurant Associates staff member, entered the annex room to remove plates and utensils. The facts of the ensuing incident are in dispute.

10. According to the Applicant, she politely asked Ms. X to leave to avoid disrupting the BBL because of the noise from clearing plates and utensils. The Applicant asserts that Ms. X appeared to open the door to leave but began speaking loudly in Spanish from the doorway to another Restaurant Associates staff member. The Applicant claims that, when she tried to close the door, Ms. X responded "defensively and dramatically saying, 'yeah, but no touch me, no touch me. I call my manager.'" The Applicant maintains that she did not touch or make contact with Ms. X while reaching to close the door. According to the Applicant, there was a witness, an IFC Consultant, who corroborates her version of the incident.

11. According to the IFC, the Applicant grabbed Ms. X's arm and pushed her out of the annex room. The IFC asserts that, during the incident, Ms. X told the Applicant three times not to touch her. The IFC states that another Restaurant Associates staff member, Ms. AB, saw the Applicant put her hands on Ms. X's right shoulder or arm. The IFC further states that Ms. X immediately reported the incident to the Restaurant Associates office.

12. At approximately 1:55 p.m., a Restaurant Associates Events Planner spoke with Ms. X. The Events Planner asked Ms. X if she felt able to continue with work, and she stated that she could. The Events Planner later informed investigators of the Office of Ethics and Business Conduct (EBC) that he noticed that Ms. X had been crying.

13. The Events Planner then spoke with the Applicant who denied that she touched Ms. X. The Applicant proceeded to complain to the Events Planner about the catering service at the BBL.

14. At 2:47 p.m., the Events Planner sent the Applicant an email. The Events Planner informed the Applicant that he was following up on the complaint that she touched Ms. X as well as the Applicant's counter complaints about the service she received. The Applicant was informed: "As you can imagine, any report of unwanted physical contact to one of our staff, requires us to investigate it immediately [and] try to find out all the facts. While we are not assigning any fault or blame, we do take such complaints with the seriousness they deserve."

15. At 2:56 p.m., the Applicant responded to the Events Planner stating that she was preparing an email response. The Applicant added:

I am annoyed to have held a successful large event which went really well, only to be bogged down by this incident caused by rude behavior on the part of your staff. I have better use of my time, but let me know [*sic*] respond quickly.

I am disgusted by the lack of customer service I experienced this afternoon and even the fact that you spent more time on an unjustified unsubstantiated claim is appalling. I think you need to remember who the customer is and train your staff to act professionally and not disrupt the meetings they are meant to serve.

16. In the meantime, roughly an hour after the incident occurred, Ms. X's supervisor took a photograph of Ms. X's right arm which showed some discoloration.

17. On the same day, the Applicant sent the Events Planner and several others an email message stating her complaints about the catering service received during the BBL. The Applicant also itemized her version of the incident.

18. On 21 July 2017, Ms. X sought medical treatment as she stated she could not lift her arm the next day. Ms. X was cleared by the doctor to return to work the following day with the instruction that she should not lift items weighing more than five pounds.

19. On the same day, the Division Manager of the General Services Department's Support Services reported the incident to EBC. In his email to EBC, the Division Manager attached a summary report of the alleged incident drafted by the Events Planner and a photograph of Ms. X's right arm reportedly taken by Ms. X's supervisor on the same day as the incident.

EBC Investigation

20. On 26 July 2017, EBC contacted Ms. X to schedule an intake interview. Ms. X accepted the invitation.

21. On 27 July 2017, Ms. X emailed EBC stating that she was unwell and therefore unable to attend the interview.

22. On 2 August 2017, EBC followed up with a telephone call to Ms. X. During the telephone conversation, Ms. X stated that she did not want to discuss the incident as it triggered symptoms of depression and that she was seeking medical treatment. She informed the EBC investigators that she was satisfied with the account that she had given to the Events Planner, with whom she spoke shortly after the incident.

23. On 7 August 2017, EBC conducted an interview with the Restaurant Associates Events Planner.
24. On 11 August 2017, EBC conducted an interview with Ms. AB, the Restaurant Associates staff member who stated she witnessed the Applicant touch Ms. X's arm.
25. On 16 August 2017, the Applicant received an email from two EBC investigators informing her that EBC "recently completed a preliminary inquiry into allegations that [she] physically assaulted a Restaurant Associates contractor [Ms. X] at an IFC event on 20 July 2017." The Applicant's interview with EBC was scheduled for the following day.
26. On 17 August 2017, the Applicant received a Notice of Alleged Misconduct from EBC. An interview was conducted the same day with the EBC investigators.
27. On 22 August 2017, the Applicant sent EBC a list of the BBL participants and requested that EBC interview an Associate Investment Officer who was part of the BBL organization team and who may know which participants were in the annex room during the BBL.
28. On 28 August 2017, EBC conducted an interview with the Associate Investment Officer.
29. On 5 September 2017, EBC sent the Applicant a copy of the Applicant's interview transcript. The Applicant requested that additional witnesses be contacted.
30. On the same day, the Applicant exchanged several email messages with the EBC investigators. She subsequently contacted an EBC Senior Investigator and requested that the case be assigned to new investigators. The Applicant's request was denied.
31. On 7 September 2017, EBC contacted additional individuals the Applicant had identified as potential witnesses.

32. On 8 September 2017, Ms. X contacted EBC and stated that she would like to speak about the incident.

33. On 11 September 2017, EBC conducted an interview with Ms. X with her husband in attendance as an observer. The interview was held with the assistance of a Spanish interpreter. Ms. X provided EBC with a copy of a medical report dated 23 August 2017 diagnosing her with post-traumatic stress disorder and prescribing her antianxiety, anti-insomnia, and antidepressant medication.

34. On 15 September 2017, the Applicant listened to an audio recording of her own interview at EBC's office. She subsequently sent her comments on the transcript of the interview.

35. On 26 September 2017, EBC received an email from the IFC Consultant who stated that he was present in the room with the Applicant on the day of the incident and had been approached by her. The IFC Consultant stated that he did not witness any "arguing or fighting during the presentation," and added that "I for sure did not see anyone hitting somebody else."

36. On 27 September 2017, EBC conducted an interview with the IFC Consultant.

37. On 30 October 2017, EBC provided the Applicant with a draft copy of the investigation report for her review and comment.

38. On 30 November 2017, following the receipt of an extension of time to submit her comments, the Applicant provided EBC with her comments on the draft report.

39. On 18 December 2017, EBC provided the Applicant with a revised draft final report for her review and comment. The Applicant provided her comments on the report and its exhibits.

40. On 25 January 2018, EBC submitted its Final Report of Findings to the Human Resources Vice President (HRVP). EBC reached the following conclusion:

Based on EBC's review, EBC concludes there is sufficient evidence to support that there was an altercation between [Ms. X] and [the Applicant] at the BBL, which caused [Ms. X] distress and prompted her to report the incident to her management. It is undisputed that during the altercation, [Ms. X] told [the Applicant] not to touch her. It is further undisputed that a photograph of [Ms. X's] arm taken shortly after the incident shows a red mark, and that [Ms. X] subsequently sought medical treatment. EBC refers this case to the Vice-President of Human Resources (HRDVP) for determination of whether the alleged conduct amounted to misconduct under the Staff Rules, and for a decision on ensuing disciplinary measures as may be appropriate.

41. On 11 April 2018, the Applicant received a letter from the Chief of Staff in the Office of the President. The Applicant was notified that, following consultation with the head of her unit, and based on EBC's Final Report, there was sufficient evidence to support a finding that she engaged in misconduct, as defined under Staff Rule 3.00:

- i. Paragraph 6.01 (b): Failure to observe[...] generally applicable norms of prudent professional conduct;
- ii. Paragraph 6.01 (c): Acts or omissions in conflict with the general obligations of staff members set forth in Principle 3 of the Principles of Staff Employment including the requirements that staff avoid situations and activities that might reflect adversely on the Organizations (Principle 3.1) and conduct themselves at all times in a manner befitting their status as employees of an international organization (Principle 3.1(c); and
- iii. Paragraph 6.01(e): [H]arassment; contributing to a hostile work environment.

42. The Chief of Staff stated:

By way of mitigating factors, I note that in your written response to the Final Report, you assert that you did not touch the contractor, but that you were reaching for the door to close it. You also mention, in your response, that you do not believe the contractor is being truthful and that her allegation is untrue. I note that you deny grabbing and/or pushing the contractor, and that other participants, whom you asked EBC to interview, did not remember witnessing any incident, as alleged. I also note your statement that you only asked the contractor to politely leave the room where the event was held.

However, I further note that a witness to the altercation saw you place your hands on the contractor's arm. This witness also stated that the contractor informed her that you hurt her arm during the altercation and that she started crying afterwards. I note that the contractor immediately reported the incident and her supervisor became involved. Therefore, I find your continued denials strain credulity.

43. The Chief of Staff imposed the following sanctions on the Applicant:

1. a written apology and present it in person to the contractor;
2. attend a training on Unconscious Bias;
3. notify me of the enrollment after 30 days upon receipt of this letter;
4. demotion from grade level GC to GB with a change in your title to Team Assistant; and
5. ineligibility for promotion for a period of three (3) years.

44. The Chief of Staff further stated: “You also have the option to resign should you so wish. If you do not comply with the abovementioned sanctions within 30 days’ receipt of this letter, your employment will be terminated.”

45. On 19 April 2018, the Applicant submitted proof to Human Resources of having successfully completed an online course entitled Understanding Unconscious Bias.

46. On 25 June 2018, the Applicant submitted this Application challenging the sanction decision to demote her from Grade Level GC to GB with a change of title and the prohibition of promotion for three years. She also challenges the finding of misconduct. She seeks the rescission of “all decisions affecting her employment by the Bank/IFC *i.e.*, prohibition on promotion and retention of letter in her personnel file.” She further seeks damages in the amount of one year’s compensation for lost career opportunity, reputational damage, lost work opportunities, and “physical/mental/emotional stress.” She requests legal fees and costs in the amount of \$24,691.96.

47. On 19 November 2018, the Tribunal received a letter from the Applicant’s Manager through the Applicant’s counsel. In his letter the Applicant’s Manager sought to inform the Tribunal of his involvement and understanding of the case. The Applicant’s Manager stated that he received a call in April 2018 “from the EBC’s HR office informing [him] that there was an EBC investigation alleging misconduct against [the Applicant].” According to the Applicant’s Manager, when “[he] asked for details about the investigation, [he] was told that ‘[he] could look over someone’s screen,’ but [he] was advised not to discuss the matter with [the Applicant.]” The Applicant’s Manager further stated that he received a second call from “EBC’s HR office”

informing him of the sanctions imposed on the Applicant. According to the Applicant's Manager, "there was no discussion as to the reasons for the punishment." He avers that he was never given the details of the case and was told that he could not obtain any further information. The Applicant's Manager asserts that "[he] was not consulted, had no details of the case and was specifically asked not to discuss with [the Applicant]." The Applicant's Manager subsequently provided an assessment of the Applicant's character stating:

My experience with [the Applicant] is that she is a very polite, friendly and hardworking member of our team who treats everyone with respect. Her polite demeanor and good working attitude are also reflected in her performance evaluations.

48. On 10 December 2018, the IFC submitted a declaration by a Senior Human Resources Specialist. The Senior Human Resources Specialist stated that she has firsthand knowledge of the matters of this case and that she spoke with the Applicant's Manager during the second April 2018 call he received from Human Resources. According to the Senior Human Resources Specialist, they discussed the allegations against the Applicant at length and the Applicant's Manager expressed surprise. She states that the Applicant's Manager also enquired whether due process had been followed and stated that if the proposed sanctions were implemented the Applicant might go into "ballistic mode." The Senior Human Resources Specialist stated that she "took his statement to mean that he feared that [the Applicant] would react angrily to any sanction, and perhaps behave inappropriately."

49. On 19 December 2018, the Tribunal received another letter from the Applicant's Manager through the Applicant's counsel providing "further information and clarification in response to the Declaration of [the Senior Human Resources Specialist] dated December 10, 2018." The Applicant's Manager contested the Senior Human Resources Specialist's statement that they discussed the allegations against the Applicant at length. He stated:

For example, I was not made aware [that] the incident occurred during an event my team organized, where I was present. In fact, I was given no detail with regards to the context and came away with the impression the parties involved were in sole isolation in a conference room. I certainly did not understand that the alleged incident occurred in a room full of people during a World Bank event. Had I understood these important details, it would have allowed me, in the

absence of any other information being provided to me, to ask more pointed questions during the telephone conversations. While I was told about the incident with very minimal detail, I was not “consulted” or asked to participate in the investigation. If I were consulted as represented, I would expect to be provided full details of the incident, which did not occur.

50. The Applicant’s Manager further expressed surprise at the way the Senior Human Resources Specialist construed his comments about the Applicant going into “ballistic mode” upon learning of the proposed sanctions. He stated:

Anticipating a human emotional response of this nature is not particular to [the Applicant], who incidentally never went “ballistic,” but is more so a reflection of an anticipated response of any person vested in their jobs. In fact, what I did mention in detail, during the same teleconference is the fact that [the Applicant] was being considered for a promotion, reflecting the strong work she had been doing, and I would think that aspect is worthwhile of more highlight, rather than painting someone’s character incorrectly based on a normal anticipated response.

SUMMARY OF THE MAIN CONTENTIONS OF THE PARTIES

The Applicant’s Main Contention No. 1

The investigation was flawed, it lacked due process, and the IFC failed to discharge its burden of proof

51. The Applicant asserts that the IFC has failed to establish the existence of the facts alleged. Noting that the Tribunal’s jurisprudence instructs that “there must be substantial evidence to support the finding of facts which amount to misconduct,” (*see CB*, Decision No. 476 [2013], para. 31), the Applicant submits the following assessments of the evidence. First, it is the Applicant’s contention that the interaction claimed by Ms. X would not have resulted in the type of injury she sustained. The Applicant asserts that the discoloration on Ms. X’s arm could easily have occurred from Ms. X holding her own arm between the time of her interaction with the Applicant and when the photograph of her arm was taken. The Applicant further asserts that the facts do not tend to support Ms. X’s account either physically and logically since the Applicant “is smaller and it is unlikely that she would be able to do the type of damage alleged,

especially without anyone noticing.” The Applicant also submits that the discoloration on Ms. X’s arm could not have resulted in injury requiring medical attention.

52. The Applicant presents into evidence notes of Ms. X’s visit to the urgent care facilities which reflect Ms. X’s account as an “arm injury.” The notes state: “Rt. Arm injury. Customer grabbed pt’s Rt arm and threw her to the side.” In addition, the Return to Work Status Form, which cleared Ms. X to return to work the following day, noted Ms. X’s description of how the injury occurred: “A person took her by the arm and threw her to the force at the job side [*sic*].” To the Applicant, there are discrepancies in Ms. X’s testimony and those of other witnesses, notably Ms. AB, who stated that she saw the Applicant grab Ms. X’s shoulder.

53. The Applicant also asserts that the record contains motivations for the allegations. These alleged motivations include Ms. X’s statement to EBC that she wanted “justice in this” and that “[a]ll of the staff were at work was there, present. They told me that things could not stay the way they were.” The Applicant states that “[b]y ‘justice’ [Ms. X] discusses that as waiters, sometimes guests treat them in a ‘bad manner.’” The Applicant claims that Ms. X may have been motivated by the perception that the Applicant sought to intimidate her; the Applicant denied that she did such a thing.

54. The Applicant maintains that the record contains several factual inaccuracies which were not addressed by the EBC investigators. For example, Ms. X informed EBC’s investigators that she was holding dishes at the time of the alleged incident. Yet, when Ms. X alleged that the Applicant “threw” her, there was no mention of this action affecting the dishes Ms. X was holding. Furthermore, the Applicant states that Ms. X recalled “yelling at the Applicant not to touch her”; however, Ms. X’s witness, Ms. AB, who was “supposedly right in front of Ms. [X],” did not recall Ms. X saying those words. The Applicant further asserts that there is also a question of when, in the chronology of events, Ms. X took off her jacket and the photograph of her arm was taken. The Applicant states that, while Ms. AB claims she saw the Applicant grab Ms. X’s shoulder, the discoloration on Ms. X’s arm allegedly as a result of the alleged unwanted physical contact was not on Ms. X’s shoulder.

55. According to the Applicant, EBC did not conduct a full and fair investigation into all the potential eyewitnesses to the alleged incident. The Applicant asserts that EBC failed to immediately interview others who may have corroborated her account, noting that she sent EBC a full list of all the BBL attendees. The Applicant further adds that she provided the investigators with the name of a witness, the IFC Consultant, who was in the room with her on the day the alleged incident occurred. She states that EBC did not contact this witness, and it was only when the IFC Consultant contacted EBC himself two weeks after EBC had his name that an interview was conducted. To the Applicant, EBC failed to explain why it afforded more weight to Ms. X's witness and coworker of nine years, Ms. AB, than to the IFC Consultant, with whom the Applicant had no prior relationship. The Applicant further denies that she influenced the IFC Consultant's testimony, stating that she approached him to testify after EBC failed to reach out to him and she had repeatedly sought EBC's permission before contacting him. According to the Applicant, the IFC Consultant had "nothing to lose or gain" as he did not know the parties to the matter.

56. The Applicant also alleges that EBC gave significant weight to the involvement of the Events Planner, even though the Events Planner was not present during the incident and had no personal knowledge of what transpired other than the hearsay information he received from Ms. X and Ms. AB.

57. The Applicant submits that the IFC has failed to discharge its burden of proof at a standard "higher than a mere balance of probabilities." She avers that the material facts of this case are in dispute and there are witnesses on both sides who provide conflicting stories and inconsistent statements. To the Applicant, the EBC Report relied on unproven facts which the Chief of Staff accepted in his unfair sanctions imposed on the Applicant.

58. Finally, the Applicant contests the IFC's assertion that her guilt is evident from the email messages she sent to the Events Planner complaining about the service she received or the fact that she did not immediately inform her supervisor about the allegations against her. The Applicant states that her "email correspondence is not probative of whether an assault occurred."

The IFC's Response*The facts supporting a finding of misconduct were established*

59. The IFC maintains that the evidentiary standard to establish that the Applicant grabbed Ms. X's arm and pushed her out of the annex room was met. The IFC notes that the Applicant does not deny that Ms. X told her, thrice, not to touch her. The IFC further relies on Ms. AB's testimony, which it asserts corroborates the fact that the Applicant touched Ms. X's arm. Finally, the IFC asserts that the "mark on Ms. [X]'s arm proves that there was unwanted physical contact from [the] Applicant." The IFC contests the Applicant's claims that Ms. X was motivated to escalate the matter. According to the IFC, Ms. X, as a contractor, had no standing to be a complainant in an EBC case; rather it was the Division Manager who learned of the "manhandling" of a contractor by an IFC staff member who reported the matter to EBC. The IFC asserts that there is no evidence that the Division Manager was improperly motivated to report the matter to EBC.

60. The IFC further asserts that were the Applicant innocent she would have immediately reported the incident to her manager, like Ms. X did. In addition, the IFC states that EBC fairly reviewed the evidence including the email messages the Applicant sent to the Events Planner complaining about the service she received. These emails which the IFC claims were "uncomfortable" to read revealed, to the IFC, the Applicant's "contempt for the food servers." To the IFC, "[t]he combination of [the] Applicant's anger about the 'disruption' to her meeting plus her own perceived food servers' 'lack of professionalism' and respect from previous interactions support the conclusion that she did forcefully press Ms. [X]'s arm." According to the IFC, the "Applicant's state of mind was consistent with the assault." To the IFC, there was sufficient evidence of a physical altercation between the Applicant and Ms. X which caused Ms. X distress for which she sought medical treatment. The IFC maintains that, at a minimum, the Applicant did not observe norms of professional conduct in performing her duties at the BBL event.

61. Finally, the IFC defends the weight EBC afforded to the testimonies of Ms. X, Ms. AB, and the Events Planner over that of the IFC Consultant, the witness who testified that he did not

see a physical altercation between the Applicant and Ms. X. The IFC asserts that the Applicant violated the confidentiality of the EBC investigation and influenced the IFC Consultant's testimony before he could be interviewed.

The Applicant's Main Contention No. 2

The sanctions imposed were disproportionate

62. The Applicant asserts that, based on the lack of evidence that the alleged assault occurred or that she had a pattern of such alleged conduct, the sanctions imposed, notably the demotion and prohibition of promotion, were disproportionate. The Applicant submits that the Chief of Staff failed to take into consideration all the relevant factors as required by Staff Rule 3.00, paragraph 10.09 namely, "the seriousness of the matter, any extenuating circumstances, the situation of the staff member [...] and the frequency of the conduct for which disciplinary measures may be imposed." She contends that EBC and the Chief of Staff failed to consider her situation as required by Staff Rule 3.00, paragraph 10.09. The Applicant notes that she has no history of misconduct, no prior disciplinary proceedings, as acknowledged by EBC, and no evidence of past negative performance reviews. To the Applicant, these mitigating factors should have been considered in the determination of sanctions. In addition, the Applicant asserts that the Chief of Staff failed to consider the interests of the World Bank Group. She states that she never acted against the Bank Group's interest and, on the contrary, worked "tireless[ly]" to ensure that IFC meetings went off without a hitch."

63. The Applicant further maintains that there was no reasonable correlation between the sanctions and the alleged offense since the alleged incident did not involve performance-related matters. The Applicant asserts that, "without evidence of poor job performance or a pattern of threatening and harassing conduct, a one-time incident such as this should not result in the onerous sanctions levied here."

64. The Applicant also challenges the IFC's narrative that her Manager was consulted and argues that the sanctions will have a cumulative effect on her career, which is prohibited by the Tribunal.

The IFC's Response

The sanctions imposed were reasonable and proportionate to the Applicant's conduct

65. According to the IFC, the sanctions imposed on the Applicant were justified “in part because Applicant’s misconduct towards the employee of a contractor exposed Respondent to legal risk.” The IFC notes that Ms. X has brought a labor case against her employer, Restaurant Associates, and, as the contracting party with Restaurant Associates, the IFC has a duty and an obligation to provide a safe working environment for its own staff as well as contractors while performing their work or contractor services on its premises.

66. The IFC maintains that unwanted physical contact is a serious misconduct where termination could have been a sanction. To the IFC, the sanctions selected for the Applicant were justified. The IFC also maintains that the Applicant’s Manager was adequately consulted.

THE TRIBUNAL’S ANALYSIS AND CONCLUSIONS

67. The Tribunal’s scope of review in disciplinary cases extends to an examination of (i) the existence of the facts; (ii) whether they legally amount to misconduct; (iii) whether the sanction imposed is provided for in the law of the Bank Group; (iv) whether the sanction is not significantly disproportionate to the offense; and (v) whether the requirements of due process were observed. *See CH*, Decision No. 489 [2014], para. 22; *CG*, Decision No. 487 [2014], para. 38; *CF*, Decision No. 486 [2014], para. 39; *CB*, para. 31; *AB*, Decision No. 381 [2008], para. 53; *Koudogbo*, Decision No. 246 [2001], para. 18; *Mustafa*, Decision No. 207 [1999], para. 17; *Carew*, Decision No. 142 [1995], para. 32.

68. Given that the main contentions of the parties concern the existence of the facts supporting the finding of misconduct, the proportionality of the sanctions imposed, and allegations of due process violations and procedural irregularities, the Tribunal will restrict its review to these matters.

Whether the established facts constitute misconduct

69. The Tribunal has held that the burden of proof in misconduct cases lies with the Organization and has stipulated on multiple occasions that the standard of evidence “in disciplinary decisions leading [...] to misconduct and disciplinary sanctions must be higher than a mere balance of probabilities.” *Dambita*, Decision No. 243 [2001], para. 21. Stated differently, there must be substantial evidence to support the finding of facts which amount to misconduct. *See, e.g., P*, Decision No. 366 [2007], paras. 33–34; *Arefeen*, Decision No. 244 [2001], para. 42.

70. The Tribunal has also stated that its role is to “ensure that a disciplinary measure falls within the legal powers of the Bank.” *M*, Decision No. 369 [2007], para. 54. This, however,

does not mean that the Tribunal is an investigative agency. The Tribunal simply takes the record as it finds it and evaluates the fact-finding methodology, the probative weight of legitimately obtained evidence, and the inherent rationale of the findings in the light of that evidence. *Id.*

71. In his Decision Letter, the Chief of Staff informed the Applicant:

After a careful and thorough review of the Final Report, I have determined that there is sufficient evidence to support a finding that you have engaged in misconduct, as defined under Staff Rule 3.00:

- i. Paragraph 6.01(b): Failure to observe[...] generally applicable norms of prudent professional conduct;
- ii. Paragraph 6.01(c): Acts or omissions in conflict with the general obligations of staff members set forth in Principle 3 of the Principles of Staff Employment including the requirements that staff avoid situations and activities that might reflect adversely on the Organizations (Principle 3.1) and conduct themselves at all times in a manner befitting their status as employees of an international organization (Principle 3.1 (c); and
- iii. Paragraph 6.01(e): [H]arassment; contributing to a hostile work environment.

72. In light of the seriousness of the Chief of Staff’s conclusion that there was sufficient evidence to support a finding that the Applicant committed misconduct following the allegation that she “physically assaulted a Restaurant Associates contractor,” the Tribunal recalls that the

fact of such grave misconduct cannot be established by conjecture or mere speculation. *See M*, para. 60.

73. Having carefully evaluated the fact-finding methodology, the probative weight of the evidence on the record, and the rationale of the findings in the light of that evidence, the Tribunal is unconvinced that the evidentiary standard to establish the facts has been met. In particular, the Tribunal finds that the existence of unwanted physical contact caused by the Applicant to Ms. X has not been established. The Tribunal observes that, besides the divergent testimonies of the Applicant and Ms. X, the IFC relies primarily on the eyewitness testimony of Ms. AB who stated that she saw the Applicant touch Ms. X's shoulder. The IFC disregards the eyewitness testimony of the IFC Consultant who stated that he was present, saw the exchange between the Applicant and Ms. X, but that the Applicant did not touch Ms. X.

74. The Tribunal finds some other anomalies in the fact-finding process.

75. There is a significant discrepancy in the accounts provided by Ms. AB and Ms. X that was not addressed by EBC. Ms. AB stated that she saw the Applicant grab Ms. X's shoulder:

[EBC Investigator 1]: Can you explain in detail how she put her arm--where did she put her hand?

[Ms. AB]: I saw her put it here.

[EBC Investigator 1]: On the shoulder?

[Ms. AB]: Uh-huh.

[EBC Investigator 1]: So, on her shoulder.

[...]

[EBC Investigator 1]: Okay. So, the lady put her hand on [Ms. X's] shoulder.

[Ms. AB]: Mm-hmm.

76. However, the EBC investigators did not establish how Ms. AB would have seen the alleged assault given that, by her own account, she was in front of Ms. X and they were exiting the room with Ms. X behind her:

[Ms. AB]: --that doorway was open because it was in lunchtime. So, we went from that doorway and she [the Applicant] come from the meeting and she say, "No, you cannot come here right now." I say, "Okay." And we went out. So, I'm the first to go in the front out the door. [Ms. X] follow me.

[EBC Investigator 1]: Okay.

[Ms. AB]: And the lady [the Applicant] come behind her. When I saw her, you know, she grab from here [gestures to arm] and she said, "Just get out, get out." I say, "Okay."

77. The follow-up question from this testimony is how Ms. AB could have seen the Applicant grab Ms. X's arm or shoulder when Ms. AB was exiting the room ahead of Ms. X. In fact, this question was put to Ms. AB, but her answer was unclear, and the investigators did not probe further:

[EBC Investigator 2]: And how do you see that happening since you were in front? How do you see the lady in the back grabbing [Ms. X]?

[Ms. AB]: Yeah, I saw because we're coming together and, you know, by the door, and I saw her follow us. It's like follow us to get out. So, it's like, "Get out," you know, like that. [Ms. X] was the--next to her and I'm in the front. So, I'm the first to go out the doorway, [Ms. X] was follow me, and the lady was the third person in the back and in [Ms. X's] back.

[EBC Investigator 1]: Okay. Okay, I don't have any questions. Do you?

[EBC Investigator 2]: No.

78. If Ms. AB demonstrated her ability to see the alleged physical contact despite her position, this was not captured in the interview transcript nor in EBC's report as an explanation of its reliance on Ms. AB's testimony.

79. Ms. AB's statement on her exact position and what part of Ms. X's body was "grabbed" is further complicated by the testimony of Ms. X herself. According to Ms. X, the Applicant grabbed her arm. In addition, Ms. X testified that Ms. AB was behind her:

[Ms. X]: So, when I opened the right door, she sort of slid over because she was close by and she just stood right in front of me and came at me.

[EBC Investigator 1]: Okay. And [Ms. AB] was in front of you?

[Ms. X]: No, I was here--
[Discussion between Interpreter and [Ms. X]]

[Ms. X]: [Through interpretation] We were very close, but she was sort of behind me, like--like I am to her now.

[EBC Investigator 1]: Okay.
[Discussion between Interpreter and [Ms. X]]

[Ms. X]: [In English] They were not together.
[Through interpretation] I was perhaps a step ahead of her.

80. By the time the investigators spoke with Ms. X, they had already interviewed Ms. AB whose account of her position and ability to see the alleged physical contact was different from Ms. X's. However, EBC did not seek to clarify this discrepancy but terminated this line of questioning.

81. The Chief of Staff based his decision that the Applicant committed misconduct solely on EBC's investigative report and exhibits. There is nothing on the record that clarifies how Ms. AB, the sole eyewitness relied upon, was able to see the alleged assault. This weakens the reliability of her testimony on this material fact.

82. The IFC Consultant was a witness who was standing in the annex room close to the entrance of the room. He stated that he could see the interaction between the Applicant and Ms. X; however, EBC disregarded his testimony on the grounds that the Applicant "approached [the IFC Consultant] regarding EBC's investigation, despite having been made aware by EBC that she was not authorized to speak to any staff member about any aspect of EBC's investigation as is standard in EBC reviews."

83. To the IFC, the Applicant's conduct in approaching the IFC Consultant amounted to "witness tampering." The IFC states that the "Applicant violated the confidentiality of the EBC proceeding, and ignored EBC's specific instructions, to influence the testimony of [the IFC Consultant] before he could be interviewed." According to the IFC, the IFC Consultant's testimony was tainted by the Applicant.

84. The Tribunal does not find any evidence on the record to substantiate the statement that the Applicant sought to influence the IFC Consultant's testimony or that she committed witness tampering which is the act of attempting to alter or prevent the testimony of a witness. The mere fact that the Applicant approached the IFC Consultant is insufficient to claim that she attempted to influence his testimony.

85. The record shows that, on 22 August 2017, the Applicant submitted the IFC Consultant's name to the EBC investigators as part of a list of one hundred and fifty-three BBL attendees. The Applicant noted that those whose names were highlighted either had reserved seats or were in the main conference room, indicating that those whose names were not highlighted would have been in the annex room and might have been witnesses to the alleged incident. The IFC Consultant's name was not highlighted. The Applicant expressed frustration that none of the individuals who were in the annex room with her had been interviewed.

86. As per EBC's rules, names of EBC witnesses are not shared with the subject during an investigation. So the Applicant was not informed, nor could she have known that there was any intention to interview the IFC Consultant. In fact, neither EBC in its report nor the IFC in the proceedings before the Tribunal indicated that there was any intention to interview the IFC Consultant. There is nothing in the record to show that the Applicant had that information or that she could have known of any intention to interview the IFC Consultant when she approached him to request that he contact EBC. Accordingly, IFC's assertion that the Applicant contacted the IFC Consultant "to influence [his] testimony before he could be interviewed" is not substantiated by the records.

87. The record further shows that, on 5 September 2017, the Applicant reiterated her request for EBC to interview the individuals on the list. The Applicant also asked for EBC's permission for her to speak to her colleague, the Associate Investment Officer, who was in contact with those who had been in the annex room. The Applicant was told that the Associate Investment Officer was an EBC witness and that the Applicant should not speak with her. The Applicant was nevertheless told on more than one occasion that if she was aware of any specific individual that EBC should interview she should submit that person's name.

88. On 11 September 2017, the Applicant sent EBC a message specifically requesting EBC interview the IFC Consultant stating: "He was standing with me and he recognized me as the meeting facilitator at the [BBL], and I specifically remembered him being there. I just happened to run into him on the 5th floor. Request that he is interviewed." There is no evidence that EBC did not believe the Applicant's account of how she identified the IFC Consultant as a potential witness. The record does not contain evidence that the EBC investigators reached out to the IFC Consultant or responded to the Applicant.

89. On 26 September 2017, the IFC Consultant contacted the EBC investigators and informed them that the Applicant had approached him "regarding the false accusation on her by someone else." The IFC Consultant stated that he was in the same room with the Applicant and as far as he knew "there [was] no one arguing or fighting during the presentation, and I for sure did not see anyone hitting someone else." He then asked if the EBC investigators needed him to testify to what he had seen. The EBC investigators finally interviewed the IFC Consultant on 27 September 2017.

90. It is important to note that there was no relationship between the Applicant and the IFC Consultant. The IFC Consultant stated that he did not know the Applicant and she was probably going around trying to recognize the BBL attendees. Neither EBC nor the IFC has proffered any information to suggest how the Applicant would have influenced or altered the IFC Consultant's testimony, or what he would have stood to gain or lose by providing a false testimony. The only evidence before the Tribunal is that the Applicant approached the IFC Consultant in fulfillment

of the specific request from the EBC investigators that she should let them know if she knew of any individual they should interview.

91. The Tribunal observes that the IFC Consultant's statement is generally consistent with those of the Applicant, Ms. X, and Ms. AB with the exception of the alleged physical contact and Ms. AB's presence. Thus, even if the EBC investigators were to disregard the IFC Consultant's testimony there were several reasons to also disregard Ms. AB's testimony, thus eliminating both eyewitnesses.

Other Evidence Relied Upon

92. The Tribunal will now review the additional evidence relied upon by EBC and the Chief of Staff to establish the facts underlying the misconduct decision. The IFC has placed significant weight on a photograph which was taken by Ms. X's supervisor about an hour after the alleged incident. Ms. X's supervisor did not witness the incident but was initially informed by the Events Planner, a hearsay witness, of the alleged assault. Ms. X's supervisor later spoke with Ms. X and took the photograph of her right arm. It is noteworthy that Ms. X's supervisor, the photographer, was not interviewed by EBC.

93. The photograph which was entered into evidence purports to show some discoloration on Ms. X's right arm on a section of her arm between her shoulder and elbow. While the photograph itself is not very clear, some redness on her arm is apparent. According to the IFC, "the mark on [Ms. X's] arm proves that there was unwanted physical contact from Applicant."

94. The Tribunal observes that the existence of the discoloration on Ms. X's arm in the photograph is not probative evidence that the Applicant caused the said discoloration. Without more, the photograph, a piece of circumstantial evidence, is inadequate to find that the Applicant "physically assaulted" Ms. X as alleged. The record shows that EBC investigators did not pose relevant questions to eliminate other possible causes of the discoloration in light of the fact that approximately an hour had elapsed between the alleged incident and the taking of the

photograph. Furthermore, the EBC investigators did not ask relevant questions about the creation and custody of the digital photograph to ensure that it had not been edited.

95. In addition, during her testimony, Ms. X informed EBC that her colleagues took pictures. The investigators did not clarify whether the photograph taken by Ms. X's supervisor was the sole visual record of the discoloration on Ms. X's arm, nor did they obtain any other photographs to corroborate the physical evidence relied upon.

96. The Tribunal also notes that the fact that Ms. X visited the urgent care facilities and received treatment is not evidence, circumstantial or direct, that the Applicant touched Ms. X. The medical records are evidence of Ms. X's injury. Without more, they are not probative evidence of who caused the redness to Ms. X's arm.

97. Notwithstanding that the Tribunal finds no substantial evidence to prove the misconduct alleged, the Tribunal observes that the record shows that Ms. X was distressed following her brief encounter with the Applicant. Both the Applicant and Ms. X state that Ms. X told the Applicant not to touch her, although they provide different reasons for Ms. X's statements. The IFC alone bears the responsibility of providing substantial evidence of misconduct meeting the evidentiary standard established in this Tribunal's jurisprudence. The Tribunal is unpersuaded that the IFC has discharged its burden to the requisite standard. Both the Applicant and Ms. X present different accounts of the incident leaving the case to rest solely on Ms. AB's eyewitness testimony, which is problematic, and a photograph which does not establish the cause of the discoloration on Ms. X's arm.

98. Considering the above, the Tribunal finds there is no substantial and reliable evidence to support a finding that the Applicant committed misconduct pursuant to the allegation that she "physically assaulted a Restaurant Associates contractor, by pushing her, and/or grabbing her arm and pushing her, out of a room on World Bank Group (WBG) premises where she was clearing catering items for an event." Given the gravity of the misconduct decision and the significant impact the sanctions imposed have on the Applicant's career, the Tribunal holds that a finding of misconduct cannot be made lightly on conflicting evidence which does not meet the

evidentiary standard. As a result, the finding that the Applicant engaged in misconduct as defined under Staff Rule 3.00, paragraphs 6.01 (b), (c), and (e) cannot stand.

99. Having found that the IFC did not meet the evidentiary standard to establish the facts upon which the misconduct finding was made, the Tribunal does not need to assess the proportionality of the sanctions imposed. The Tribunal notes that, in response to the Chief of Staff's letter, the Applicant completed the Unconscious Bias training.

The existence of procedural irregularities and whether the requirements of due process were observed

100. The Applicant asserts that the investigation lacked due process. According to the Applicant, EBC did not conduct a full and fair investigation into all the potential eyewitnesses to the alleged incident. She also contends that her Manager was not properly consulted in the imposition of sanctions contrary to Staff Rule 3.00, paragraph 10.11.

101. In *Kwakwa*, Decision No. 300 [2003], para. 29, the Tribunal held that

the due process requirements for framing investigations of misconduct in the context of the World Bank Group's relations with its staff members are specific and may be summarized as follows: affected staff members must be [apprised] of the charges being investigated with reasonable clarity; they must be given a reasonably full account of the allegations and evidence brought against them; and they must be given a reasonable opportunity to respond and explain.

102. The Tribunal has also held that an investigation into a disciplinary matter is administrative and not adjudicatory in nature (*see, e.g., Arefeen*, para. 45, and *Rendall-Speranza*, Decision No. 197 [1998], para. 57) and has reiterated that "compliance with all technicalities of a judicial process is not necessary, if it is conducted fairly and impartially." *CB*, para. 43.

103. In *King*, Decision No. 131 [1993], para. 53, the Tribunal summarized the essential elements of due process as being "the precise formulation of an accusation, the communication of the precise accusation to the Applicant, the giving to the Applicant of an opportunity to rebut

in detail the specifics of the charge and the opportunity to invoke all pertinent factors[.]” The record shows that the Applicant was informed, with precision, of the exact nature of the allegations against her and she was provided with an opportunity to rebut the specific charges. In addition, the Applicant was given the opportunity to propose the names of witnesses for EBC to contact. Strictly speaking the procedural steps enumerated in *King*, para. 53, as the basic requirements of due process, have been followed in this case.

104. However, the Tribunal finds significant procedural irregularities in the conduct of the investigation which impinge upon the Applicant’s due process rights. The investigation could have benefitted from more care in the questioning of witnesses, particularly those who were critical to the investigation. EBC as a neutral fact-finder must be careful to interview witnesses in a manner that addresses any significant investigative gaps and avoids suggestive or leading questions. The Tribunal observes that, during the interview with Ms. AB, the EBC investigators enquired about the Applicant’s behavior when asking Ms. AB and Ms. X to leave the annex room. The EBC investigators asked suggestive questions which resulted in Ms. AB using an investigator’s own form of expression to describe the Applicant’s behavior:

[EBC Investigator 2]: And then, when she referred to you guys and when she tried to tell you not to come, how was her tone? How did she address you?

[Ms. AB]: No, she was, like, screaming a little bit, not very loud, but she say, “No, no, no, you cannot come because the meeting already started and I need you to get out,” like that, and “I need you to get out.” I said, “Okay.” And we left. So, I am the first to go to the door, [Ms. X] is following me and the lady was the third one.

[EBC Investigator 1]: Did she sound angry?

[Ms. AB]: No, you know, she was, like, normal. She said, “No, you cannot come to the meeting because, you know, the meeting already started. You can’t go inside.” I said, “Okay.”

[EBC Investigator 2]: So, from what you’re describing, it sounds like she was arguing [with] you or just giving you instructions or ...

[Ms. AB]: No, she just normal--she said, “Get out, get out. We don’t want no noise, da, da, da, da,” and okay, but that’s the first time. I see her in other

meetings and first time--happy in the--no, other times, look like she was in charge of the group.

[...]

[EBC Investigator 2]: So, she follow you to make sure you were going out or--

[Ms. AB]: Yeah, yeah, she say, "Get out, get out, get out," you know, like that.

[EBC Investigator 2]: *Oh, like rushing you?*

[Ms. AB]: *Yeah, they're rushing us to the door.*

[EBC Investigator 1]: Okay.

[Ms. AB]: And we have the [unclear] the door and we left. I'm the first to go out the door, [Ms. X] was the second, and the lady said, "Get out, get out," like that. I said, "Okay," and we went out the office.

[EBC Investigator 1]: Okay.

[EBC Investigator 2]: I understand now.

[EBC Investigator 1]: Yeah.

[EBC Investigator 2]: Before, I wasn't clear why she kept repeating herself if you guys were already on your way out, but now I understand what you're explaining.

[Ms. AB]: Mm-hmm. Looked like the meeting already started and they don't want nobody inside--

[EBC Investigator 1]: Nobody inside.

[Ms. AB]: *--or make noise or any--this woman was rushing us to--but we don't get too inside to the door because, you know, they already--the meeting has started.*

(Emphasis added.)

105. The record also shows that it was only at the Applicant's behest that EBC conducted interviews with witnesses other than those employed by Restaurant Associates (*i.e.*, Ms. X's colleagues). For instance, it was the Applicant who sent EBC a list of registered BBL attendees to help them identify potential witnesses. On 22 August 2017, the Applicant sent EBC an email requesting that the investigators interview the Associate Investment Officer, who was part of the

BBL organization team, and who may have known which attendees were in the annex room. Following receipt of this message, the EBC investigators conducted an interview with the Associate Investment Officer on 28 August 2017. Then, on 5 September 2017, the Applicant sent EBC a list of five names requesting that they be interviewed. Following receipt of this message, the EBC investigators interviewed three of these five individuals. Subsequently, as noted above, the Applicant sent email messages about the IFC Consultant, and an interview was scheduled with him only after the IFC Consultant contacted EBC and offered to be interviewed.

106. As a neutral fact-finding body, EBC is responsible for conducting a thorough investigation of both sides of the case. There is no evidence that the investigators were proactive in seeking out additional witnesses who could provide a comprehensive account of what occurred on that day, and this responsibility ostensibly fell on the Applicant. However, the subject of an investigation should not be required to spearhead the investigation of potentially exonerating information. Since the case rested primarily on Ms. X's testimony and the testimony of her coworker Ms. AB, more could have been done to identify other potential eyewitnesses unconnected to Ms. X and Restaurant Associates without prompting from the Applicant. Such an effort could have strengthened the evidence on the record.

107. Finally, with respect to procedural irregularity in the imposition of the sanctions, the Applicant asserts that the Chief of Staff failed to consult her Manager as required by the Staff Rules. Staff Rule 3.00, paragraph 10.11 provides:

The World Bank Group Human Resources Vice President, will decide, *after consultation with the Staff Member's Manager* and based on EBC's findings, whether conduct warranting the imposition of disciplinary measures on a Staff Member occurred and what [...] disciplinary measures should be imposed. (Emphasis added.)

108. As was held in *CK*, Decision No. 498 [2014], para. 98, Staff Rule 3.00, paragraph 10.11, does not define "consult" or what constitutes "consultation." Nevertheless, the decision to impose disciplinary measures is made "after consultation with the Staff Member's Manager and based on EBC's findings." Thus, "prior consultation with the staff member's manager is a requirement and not a formality." *Id.* The Tribunal in *CK* further held:

[T]he purpose of “consultation,” in the context of Staff Rule 3.00, paragraph 10.11, is to genuinely ascertain the views of the relevant manager of the staff member in question, including, but not limited to, the impact of the disciplinary measure on the business of the Bank, and to take them into account. “Consultation,” however, does not mean to secure consent of or to negotiate with the staff member’s manager.

109. The record shows that the Applicant’s Manager was contacted by Human Resources twice. He was first contacted to inform him of the misconduct allegations against the Applicant and again after the disciplinary sanction decision had been made. Notwithstanding the different views of the Applicant’s Manager and the Senior Human Resources Specialist about their conversation, both parties confirm that the second call the Applicant’s Manager received was to inform him of the disciplinary measures to be imposed on the Applicant. Though the IFC labels this conversation a consultation, there is no evidence that the Applicant’s Manager’s views were sought on the appropriateness of the sanctions or the impact on the work of his unit. The fact that the Applicant’s Manager has twice written to state that he was provided minimal information about the allegations against the Applicant suggests that he was not provided with enough information about the matter to express views or clarifications.

110. As the Tribunal held in *CK*, para. 99, “the purpose of consultation is not limited to seeking the manager’s views on the impact of the disciplinary measure on the business of the Bank. It is to provide yet a further opportunity for the HRVP to ascertain the views of the staff member’s manager who might be in a position to express views or clarifications that would be helpful to the HRVP in reaching a fully informed decision on disciplinary measures.”

111. It is thereby considered that the IFC failed to comply with Staff Rule 3.00, paragraph 10.11. The Tribunal has previously recognized that the “failure of the Bank to adhere to its own rules represents an irregularity which, when affecting the rights of a staff member, may merit compensation as one form of a remedy.” *CK*, para. 101.

Concluding Remarks

112. The importance of swiftly addressing allegations of misconduct, particularly grave acts such as the alleged physical assault, cannot be overstated. The IFC is urged to continue to take the requisite action to properly respond to such allegations while bearing in mind the interests and rights of all parties concerned. The Tribunal's judgment in the present case reflects the finding that an objective investigation was not conducted; rather, the impression of a rush to judgment is evident in the handling of the investigation. This is illustrated, for instance, by the failure to take proactive steps to interview additional witnesses and the disproportionate weight attached to the photograph and the testimony of Ms. AB despite the discrepancies in her statement. It is imperative that due diligence is conducted at all times, most especially in the context of an allegation as serious as physical assault. An investigation into such a significant claim must be evenhanded and impartial. Furthermore, a finding that misconduct has occurred must be made by the decision maker after a thorough review that the evidence submitted by EBC meets the requisite standard. Anything less is a failure to comply with due process obligations and the duty to treat staff fairly at all times as required by Principle 2.1 of the Principles of Staff Employment.

DECISION

- (1) The disciplinary sanctions of demotion from grade level GC to GB with a change of title and the ineligibility for promotion for a period of three (3) years are hereby rescinded. The Applicant must be restored to her prior position and receive any remuneration and benefits she would have received had these sanctions not been imposed;
- (2) The IFC shall remove from the Applicant's personnel file all records relating to the allegations of misconduct, including the EBC Final Report and the decision of the Chief of Staff, and shall substitute them with a copy of this judgment;
- (3) The IFC shall pay the Applicant compensation in the amount of one year's net salary based on the salary she held prior to the disciplinary sanctions; and
- (4) The IFC shall pay the Applicant's legal fees and costs in the amount of \$24,691.96.

/S/ Mónica Pinto

Mónica Pinto

President

/S/Zakir Hafez

Zakir Hafez

Executive Secretary

At Washington, D.C., 26 April 2019