



**World Bank Administrative Tribunal**

**2022**

**Decision No. 667**

**GN,  
Applicant**

**v.**

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

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

**GN,  
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 Mahnoush H. Arsanjani (President), Marielle Cohen-Branche (Vice-President), Janice Bellace (Vice-President), Andrew Burgess, Seward Cooper, Lynne Charbonneau, and Ann Power-Forde.

2. The Application was received on 26 July 2021. The Applicant was represented by Peter C. Hansen, J. Michael King, and Francis E. Waliczek of the Law Offices of Peter C. Hansen, LLC. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Affairs), Legal Vice Presidency. The Applicant's request for anonymity was granted on 6 May 2022.

3. The Applicant contends that the findings of the Integrity Vice Presidency (INT) are unfounded and do not support the decision that his conduct amounts to misconduct. The Applicant further contends that the sanctions imposed are significantly disproportionate.

**FACTUAL BACKGROUND**

*The Applicant's employment history*

4. The Applicant joined the International Finance Corporation (IFC) in 2003 as an Information Officer. In 2006, he was promoted to the position of Senior Information Officer, Grade Level GG. In 2013, the Applicant joined the Bank's Information Technology Solutions (ITS) department and worked in his capacity as Senior Information Officer for various units in the Bank's headquarters.

5. As part of his responsibilities, the Applicant had a procurement role in the Bank Group's ITS staff augmentation program wherein he determined the skills needed to deliver on information technology (IT) projects and filled these positions with staff, also referred to as resources, of vendor IT companies. The Applicant's duties in this program included creating job descriptions containing position requirements and at times chairing interview panels.

6. A key integrity risk of the ITS staff augmentation program is the use of more than one layer of subcontractors, often referred to as multi-layer subcontracting, and this practice is prohibited by the Bank Group. In 2016, Corporate Procurement (SPACP) confirmed that this practice was an issue with the three largest ITS resource vendors and that, despite requirements for vendors to submit, on a quarterly basis, a report listing all subcontractors under a given contract, several vendors knowingly put forward resources employed by second-layer subcontractors which were not disclosed as such to ITS.

*The Applicant's personal background*

7. The Applicant states that he is "heavily involved as a community leader in the enormous, socially active Indian-American community in the Washington, DC area."

8. In 2006, the Applicant became friends with Mr. K through the "deeply interwoven and highly active social life of the Indian-American community," and they were neighbors from 2010 to 2018. Mr. K and his wife founded PVK Corporation (PVK), an IT outsourcing and staff augmentation firm. PVK was a subcontractor for the Bank Group's ITS team.

9. On 23 August 2012, Mr. K's wife and the Applicant's wife became shareholders in a company called Rangoli Fashions, LLC (Rangoli Fashions) that closed on 30 November 2015. The Applicant's wife had an ownership interest in the company. The Applicant provided a start-up loan for the company, filed formation documents for the company on behalf of his wife, had check-writing power for the company, and included the company's income on his joint tax return with his wife.

10. The Applicant and Mr. K were also members, volunteers, and leaders of the “Non-Resident India Vasavi Association,” a non-profit organization having 5,000 active members. In 2015, the Applicant and Mr. K got into an argument over the Applicant’s disapproval of how Mr. K had been running the non-profit organization. In 2016, the Applicant was elected to an Executive Committee Member position of the non-profit organization.

*INT investigation*

11. On 28 April 2016, INT received an anonymous report made by Mr. K, who later retracted his request for anonymity. The anonymous report alleged that the Applicant had been using his position to collect payments from IT subcontractors in exchange for resource contracts. There are no transcripts from INT’s first few interviews with Mr. K, as he was “initially reluctant” to be recorded; however, the record includes INT’s summaries of the initial interviews based on “simultaneous notes” taken during the course of the interviews.

12. Mr. K alleged that since 2011 he had been making kickback payments to the Applicant in exchange for the Applicant’s influence in hiring PVK subcontractors as Bank resources. In support of this allegation, Mr. K provided copies of four checks from PVK, three made out to Rangoli Fashions totaling \$25,000.00, and one made out to EQU, Inc. (EQUE) in an amount of \$30,000.00, companies over which Mr. K alleged the Applicant or the Applicant’s friend had control. Mr. K provided two names of PVK staff who were hired by the Bank as resources, for which he alleged PVK paid kickbacks to the Applicant.

13. In their interview notes, INT investigators summarized Mr. K’s description of “how the scheme generally worked” as follows:

[T]he prime vendor charges the Bank Group (for example) US \$90 per hour/per individual hired. The charge for the same individual from the sub-contractor to the prime vendor is US \$60 per hour/per individual. The sub-contractor then pays US \$10 per hour/per individual to [the Applicant], US \$40 per hour to the employee, and keeps US \$10, an amount which also has to cover social security and FICA [Federal Insurance Contributions Act tax] for the employee. In essence, [Mr. K] explained, [the Applicant] made more money per hour per individual than PVK, since he didn’t have to pay social security and FICA. [...]

[Mr. K] also stated that [the Applicant] had the authority to increase the rates per employee based on different categories. For example, instead of a Category Tester I, [the Applicant] would categorize the employee under Tester II with a higher rate.

14. INT proceeded with a preliminary inquiry. After interviewing several persons and conducting research through open-source databases, INT determined there was sufficient evidence to warrant an investigation.

15. On 30 October 2018, INT provided the Applicant with a Notice of Alleged Misconduct. The allegations in the Notice of Alleged Misconduct were as follows:

- a. In late 2012, an IT subcontractor from which [the Applicant] hired at least two resources under the ITS staff augmentation program made three payments totaling USD 25,000 to a business registered and controlled by [the Applicant] at the time; and
- b. Also in late 2012, the same IT subcontractor made a payment to [the Applicant] totaling USD 30,000 through a firm with which [the Applicant] had alleged personal and/or professional connections.

16. On 9 November 2018, the Applicant was placed on paid administrative leave.

17. On 25 July 2019, INT issued a Supplemental Notice of Alleged Misconduct and again interviewed the Applicant. The allegations in the Supplemental Notice were as follows:

- a. In May 2012, [the Applicant] received USD 750 from a resource he hired through PVK Corporation, under the [ITS] staff augmentation program. Neither [the Applicant] nor the resource, who is now a Bank staff member, were able to explain the purpose of this payment; and
- b. [The Applicant] hired at least two resources from Jass & Associates, Inc. [Jass & Associates], an IT subcontractor owned by [the Applicant's] close friend, [Mr. P], with whom [the Applicant has] extensive personal financial dealings, including the admitted borrowing and lending of large amounts of money, as reflected in a recent loan to [the Applicant] from [Mr. P] of USD 250,000.

18. During its preliminary inquiry and investigation, INT

- (i) reviewed the complaint and engaged in a months-long endeavor to obtain further actionable information from the anonymous complainant;
- (ii) interviewed the anonymous complainant by phone and later in person;
- (iii) conducted interviews with nine witnesses, three of whom were interviewed twice;
- (iv) conferred multiple times with SPACP and ITSSV [ITS Sourcing and Vendor Management unit] to obtain relevant information on the ITS staff augmentation program and the procedures for the hiring of resources;
- (v) obtained and reviewed [the Applicant's] HR [Human Resources] file;
- (vi) obtained and reviewed [the Applicant's] email-, hard drive- and telephone records;
- (vii) researched relevant WBG [World Bank Group] databases, including SAP [Systems, Applications, and Products], to obtain and review information relating to IT vendors, subcontractors and resources;
- (viii) conducted open-source research on relevant IT vendors, subcontractors, and resources;
- (ix) obtained and reviewed corporate records of relevant subcontractors and resources, as well as business and real estate entities associated with [the Applicant];
- (x) conducted a forensic review of [the Applicant's] business- and financial records; and
- (xi) conducted a digital forensic review of [the Applicant's] WBG-issued mobile device.

19. On 22 July 2020, INT presented the Applicant with its Draft Report, and, on 14 September 2020, the Applicant provided his comments on the Draft Report.

20. At the conclusion of its investigation, INT made six findings as described below.

INT Finding No. 1: PVK paid kickbacks to the Applicant totaling \$25,000.00 through Rangoli Fashions

21. INT confirmed through WBG records that PVK was a first-layer ITS subcontractor at the Bank. It further found a communication identifying PVK as a subcontractor to another subcontractor of the Bank's main vendor. The communication was a warning to the subcontractor that "[s]ubcontracting [...] is restricted to only one layer below Contractor."

22. Mr. K provided INT with copies of the checks from PVK to Rangoli Fashions totaling \$25,000.00.

23. INT confirmed through Bank records and communications that the two resources identified by Mr. K, Ms. M and Ms. D, were hired through PVK to work at the Bank Group. INT further confirmed through Bank records that the two resources worked at the Bank Group in 2011, around the time period the checks from PVK to Rangoli Fashions were written, and that they were "hired as ITS resources by [the Applicant]" as the named hiring manager for both the positions. The Applicant himself also confirmed that Ms. M and Ms. D were two Bank Group resources hired through PVK, which the Applicant knew was owned by his neighbor and "close friend."

24. The Applicant confirmed that his wife had an ownership interest in Rangoli Fashions and that he had check-writing authority and included the income from Rangoli Fashions on his tax returns.

25. Company records indicate that Rangoli Fashions was a women's clothing store registered under the Applicant's home address. Tax filing records from 2012 to 2015 list the company as a source of income on the Applicant's joint federal returns, and further show that his wife owned a 25% stake in the company. During an interview with the Applicant, the Applicant stated, "My wife was the beneficial owner of the company, and if you say, that okay [...] because of that, I am the beneficiary of that one, I can't deny that, because she's my wife, yeah."

26. INT found that Rangoli Fashions' payroll, tax information, and an audit appointment notice were stored on the Applicant's hard drive. When asked by INT why the Applicant was given check-writing authority for Rangoli Fashions, the Applicant explained, "My wife, okay, she cannot go to the bank, okay. [...] [S]o, my wife said, 'Okay, I cannot go to all these things [...] I cannot really manage these things. You know, on behalf of me you have the authority.' That's what the reason was." The Applicant did not explain how writing checks entails a trip to the bank.

27. When asked by INT for the corporate records of Rangoli Fashions, the Applicant stated that his wife no longer had the information and that she could not provide it without the consent of all partners.

28. According to the Applicant, the \$25,000.00 payment from PVK to Rangoli Fashions was an equity contribution. In support of this explanation, the Applicant provided INT with an email, dated 18 June 2013, from Mr. K to a husband of one of the other partners of Rangoli Fashions, transmitting the image of a check for \$5,000.00. The Applicant informed INT that the husband purportedly told the Applicant that Mr. K sent his check in response to an "email chain of equity contributions," but the Applicant did not provide that email chain. INT did not find that the email provided any clarifying information about the purpose of the payment and noted that \$5,000.00 represents only part of the total \$25,000.00 payment.

29. During its preliminary inquiry, INT interviewed a former staff member who worked under the Applicant and who is the husband of one of the resources Mr. K alleged was hired through PVK to work at the Bank Group in exchange for a kickback payment to the Applicant. A few days after the interview, INT discovered that this former staff member had sent a screenshot, dated 30 September 2018, to the Applicant's Bank-issued phone. The screenshot depicted his written responses to INT's follow-up inquiries. When INT showed the Applicant the screenshot during his interview and asked him why his former staff member would send it to him, the Applicant first asked whether he had responded to the message, then said he did not know and could not recall reading it, stating, "I'm trying to recall, did I ask him? Did I read this one? Did I see this message? I get so many messages." He then conceded, "He shouldn't send me this thing at all, right?" INT noted that the fact that the former staff would share the message from INT with the Applicant,



notwithstanding INT's strict instructions to maintain confidentiality, as well as the Applicant's alleged ignorance of the message, cast doubt on the credibility of both.

30. INT found in its Final Report:

Evidence indicates that in late 2012, PVK, a WBG ITS subcontractor from whom [the Applicant] hired two resources, [Ms. M] and [Ms. D], under the ITS staff augmentation program, made payments totaling USD 25,000 to Rangoli Fashions, LLC, a business in which [the Applicant's] wife held an ownership interest, and for which [the Applicant] held check-writing authority. Evidence indicates that these payments represented kickbacks to [the Applicant] in exchange for the hiring of PVK's employees as ITS resources.

INT Finding No. 2: PVK paid \$30,000.00 to EQU, a company with which the Applicant had personal and professional connections

31. In its Final Report, INT found:

In late 2012, on the same day PVK issued one of the checks to Rangoli Fashions, PVK issued a check for USD 30,000 to EQU, Inc., a company with which evidence indicates [the Applicant] had a personal and professional connection. [The Applicant's] inconsistent and shifting accounts regarding both his knowledge of and involvement with EQU, including an insufficiently explained 2013 email chain from [the Applicant] to his friend, [Mr. P], forwarding him a copy of the check, call into question [the Applicant's] credibility regarding his version of events.

INT Finding No. 3: The Applicant received additional PVK-related payments

32. In its Final Report, INT found:

Evidence shows that in 2012, [the Applicant] failed to disclose to the WBG that he accepted USD 25,000 from [Mr. K], as a contribution towards a joint Facebook IPO [initial public offering] investment, and USD 750 from [Ms. M], described by her as possibly a carpool payment. The USD 750 was later clarified by [the Applicant] as a payment for her mother in India, which [the Applicant] was asked to wire on [Ms. M's] behalf. Taking [the Applicant's] explanations of the nature of these payments at face value, there is no evidence that [the Applicant] disclosed to management or EBC [Ethics and Business Conduct Department] or sought the

latter's guidance on accepting these payments from an IT subcontractor and a resource.

33. The Applicant acknowledged that he received these payments from Mr. K and Ms. M.

INT Finding No. 4: Hirings benefitting the Applicant's friends and acquaintances

**A. Mr. P**

34. Jass & Associates was an IT firm that subcontracted resources to main vendors to the Bank Group. From 2006 to 2014, this firm was owned by Mr. P, someone the Applicant described during his interview with INT investigators as a "close friend," and he elaborated as follows:

[Mr. P] is a good friend of mine. His dad is a good friend of my dad, okay. His grandfather is a good friend of my grandfather. We go historically long, okay, and he is a – he is a big shot, like, into big business investments and those things. Okay, he wants money, I give him, I don't ask questions. [...] Whatever, like, you know, he wants to do [...] he wants \$100,000, if it is sitting in my cash at one – okay, in my savings, I transfer it, I don't ask questions, okay.

35. During his interview with INT investigators, on the topic of whether Mr. P benefitted financially from their friendship, the Applicant stated:

All I can say is, right, I asked for the help, he provided the resources. Whether he got the benefit of that or not, that I have no idea. [...] I don't know whether his company – all I know that – okay, he helped me in the resources, which – right, okay – which I'm not denying on that one, okay. But I wanted help, I go out and I ask for the help, okay?

36. During an interview with INT investigators, the Applicant identified by name two Bank Group resources under his management hired through Jass & Associates. In explaining these hires, the Applicant stated that, in or around 2007 or 2008, his unit "had quite a challenge in getting resources," so his manager told him, "[W]e need to go outside and bring whatever it is." The Applicant explained that he thereafter shared in his social circles that there were opportunities at the Bank Group and obtained a resource from Jass & Associates in that manner.

37. INT confirmed through Bank Group records that both resources identified by the Applicant worked as Bank Group resources during the period of 1 July 2007 through 30 June 2008 under the Applicant's direct management.

38. After his interview with INT, the Applicant was given the opportunity to provide a written response wherein he retracted his previous statement, stating instead:

I have no idea who the "two resources" mentioned are. In my interview with INT on Oct 31<sup>st</sup>, 2018, I mentioned that [the two resources the Applicant named during the interview] might have been hired by IFC through Jass & Associates. I would like to correct myself on this as both these individuals were hired in 2003 or earlier, while Jass & Associates was founded only in 2006. As far as I can remember, given that it is more than 16 years and I don't have access to my emails and WBG systems, I can only say that they both joined IFC as contractors before I joined the World Bank as Staff. Other than this I don't recall any relationship between Jass & Associates and WBG.

39. INT did not find this later statement, which contradicted the Applicant's previous statement, to be credible. It further did not find dispositive the fact that the two resources had been hired initially as subcontractors in 2003, especially considering that they were hired through a firm that was still owned by Mr. P and was later acquired by Jass & Associates, and because resources frequently move between IT subcontractors.

40. In his written response, the Applicant further amended his interview, stating that he had alerted management that the two resources came from Mr. P's firm. The Applicant supplied no documentation for this new assertion.

41. INT contacted the Applicant's Manager for the period during which the two resources worked under the Applicant, and the Manager did not recall any discussion about a potential conflict of interest raised by the Applicant in relation to the hiring of specific ITS resources. INT further contacted EBC, which had no record of any such conflict being raised to its attention.

42. INT found that the Applicant had a duty to disclose his relationship with the owner of Jass & Associates to the Bank Group and recuse himself from the selection process of any resources from Jass & Associates to mitigate the conflict of interest.

### **B. Mr. U**

43. The Applicant, during an interview with INT investigators, described Mr. U as his “college mate.” He also indicated that Mr. U had attended the Applicant’s recent housewarming party.

44. According to Bank Group purchase order records, the Applicant was listed as the “IFC Project Manager” to Mr. U who was hired as an ITS resource from 1 July 2012 through 30 June 2013.

45. Mr. U also owned an IT firm, Mavin Technologies, Inc. (Mavin Technologies). When asked by INT investigators whether Mr. U had ever brought any resources to the WBG through the main vendors, the Applicant said three times, “I don’t recall them straight to my mind, okay.” After some prompting, he conceded:

Okay, yeah, he did approach, okay. He [...] said he started his business, there are opportunities, okay. He knows all the vendors, right. He’s been one of the – you know, working for them. So, he knows the vendors, he reaches them, okay, and if there’s anything, we do work with them, okay.

46. The Applicant further admitted to INT that Mr. U approached him to seek opportunities for Mavin Technologies resources to be hired as Bank Group resources. The Applicant recalled the conversation to the INT investigators as follows:

[Mr. U] said, “Okay, [the Applicant], what are your opportunities for them?” Okay, we said these are the various opportunities. You can work with any of the vendors, you can know these vendors, right. So, he worked with the vendors, okay. And then, resumes came in. We had a panel for these things – typical process, okay, we hired them, okay.

47. Mavin Technologies was found to be a second-layer (and therefore disallowed) ITS subcontractor in 2014–15 for four resources, all of whom reported to the Applicant.

48. In his written response following the INT interview, the Applicant denied that Mr. U had approached him about hiring Mavin Technologies resources. INT found that the Applicant's initial, detailed explanations appeared more credible than his later "blanket denials" of having anything to do with assisting Mr. U.

### **C. Megha Soft Technologies, Inc.**

49. Mr. K alleged that Megha Soft Technologies, Inc. (Megha Soft Technologies) was used as a vehicle through which the Applicant hired several resources and received kickbacks.

50. Bank Group records confirmed that Megha Soft Technologies was a first-layer subcontractor to a main vendor from July to September 2013. The Applicant confirmed to INT investigators that his friend was a lead in Megha Soft Technologies.

51. While INT found insufficient evidence to show that the Applicant hired specific resources through Megha Soft Technologies or received kickbacks in exchange for such, INT found that the Applicant's admitted personal connections to multiple Bank Group subcontractors, including Megha Soft Technologies, "matche[d] an existing pattern and practice and further confirm[ed] elements of [Mr. K's] testimony to INT."

#### INT Finding No. 5: The Applicant's improper communications related to the hiring of ITS resources

52. INT investigators asked a Senior IT Officer in the Risk Management & Compliance unit to provide a summary of the ITS staff augmentation program process. In her response, the Senior IT Officer stated:

All communications are contractually required to take place between Tier 1 [main] vendor and the Bank. Bank staff members never have a valid business reason to speak directly with Tier 2 vendors [also known as subcontractors], or any of their resources, about IT resource needs. [...] ITS staff are advised to never direct resources to seek employment with a specific vendor or to direct any vendor to hire

specific resources. This is a co-employment risk on the resource side, and on the vendor side, can be viewed as the Bank interfering with vendor hiring practices.

53. During an interview with INT investigators, the Applicant stated that in “some cases” he had been in contact with subcontractors when the right people could otherwise not be identified. He thereafter explained that he had a “huge social circle” from his volunteering at a temple and his membership with a nonprofit.

54. INT found several text message exchanges between the Applicant and Mr. P wherein Mr. P appeared to be closely involved in the Bank Group’s hiring process and appeared to rely on the Applicant’s position to promote candidates. In the exchanges Mr. P provided the Applicant with a list of names, asked for feedback on certain candidates and interviews, asked about resource start dates, and noted his sending of a message through Gmail, indicating, in INT’s view, that at least some of the discussions took place via personal email.

55. The Applicant did not explain why Mr. P emailed him on his personal email and not his WBG email or why the Applicant did not copy the sourcing team on the types of questions reflected in the text exchanges. When asked about it by INT investigators, the Applicant stated simply, “Good question, good question.”

56. Other texts from Mr. P stated, “Recruiting team should be able to help” and “Let’s hire 2 more.” The Applicant maintained that these messages were not related to Bank Group hirings.

57. INT found some text messages to be cryptic, such as, “U send back amount, v will send immediately Let’s talk tomorrow, Donot [sic] cut anything We completed quarter by now.” The Applicant explained that these were exchanges wherein he was assisting his friend with investments stating, “[W]e have several relationships under business side of it [...] So I am helping him manage his businesses better.” In the Final Report, INT noted that, even taking the Applicant’s explanation at face value, the texts would show that the Applicant had a side business relationship with a former and prospective ITS subcontractor.

58. In a text message exchange between Mr. K and the Applicant, Mr. K asked if there were any Business Analyst positions available, and the Applicant responded, "If they have [Identify and Access Management] exp I can try." The two discussed specific IT tool background requirements, after which Mr. K inquired, "Rate?" and the Applicant responded, "Rate 50 to 55." During his interview with INT investigators, the Applicant recalled this exchange, stating, "He asked me for any BA [Business Analyst] position [...] I'm not saying it's for the Bank and I'm not saying it's for me. I can refer to other friends, okay?" The Applicant further explained that Mr. K sought guidance generally on market rates for such a position, as opposed to Bank Group rates specifically.

59. In text message exchanges with a Bank Group main vendor contact, the main vendor contact asked the Applicant to "keep" an opening for "us." Another message from the main vendor contact stated, "Guru sourcing is saying you have opening need closure or feed me at ur home." Other text messages between the two refer to arranging lunches and discussions of candidates, including one of the candidates from Mavin Technologies. Further text messages pertained to the Applicant attending the wedding of the main vendor contact's daughter. To INT, overall, these messages indicate that the Applicant had a personal relationship with a vendor, which created a conflict of interest contrary to fair procurement practices, which the Applicant "in no way attempted to mitigate."

60. Several other text messages from other vendors, subcontractors, and resources were cited in the Final Report, such as a message to the Applicant which read, "[S]ir, just need help pushing resume...it [is] very close relative resume. here the more details. GBCS (Global Business Consulting Services) submitted resume to client World Bank [...]. Please call me or u can answer here." To which the Applicant responded, "Will call you."

61. When asked by INT investigators why vendors and resources were contacting him directly as opposed to going through the sourcing unit, the Applicant explained that it was because he was a hiring manager and noted that, while the sourcing unit "establishes [...] the list of the vendors," the vendors would then come and talk to the hiring managers directly.

62. Overall, INT found that

[the Applicant] engaged in multiple violations of the WBG administrative rules and procedures by routinely bypassing the process for hiring IT resources put in place by the Corporate Procurement (SPACP) and ITS Sourcing and Vendor Management (ITSSV) units. This included extensive communications with his close friend, [Mr. P], and multiple ITS main vendors, subcontractors and resources outside official WBG channels. [...]

[The Applicant's] actions obscured the line separating his and his associates' interests from those of the WBG. Further, some of [the Applicant's] communications with [Mr. P] reveal attempts to steer hiring decisions in favor of candidates proposed by [Mr. P], something which also appeared to occur to some extent with other ITS main vendors and subcontractors.

INT Finding No. 6: Failure to disclose business interests and mitigate conflicts of interest

63. INT found that the Applicant failed to disclose his businesses, real estate investments, and unexplained wealth to mitigate conflicts of interest or the appearance thereof, in contravention of the Staff Rules.

64. In support of its finding, INT referenced the Applicant's admission of multiple IT companies registered to his home address and cited his lack of candor in responding to questions about these companies. For example, the Applicant denied owning or recalling Megha Soft Technologies, which happened to share the same name as his friend's company, until confronted with its registered address, which happened to be his home, at which point he conceded that the company was his wife's.

65. INT further cited the multiple real estate investments the Applicant had in partnership with colleagues and friends, including Mr. P, a Bank Group subcontractor. The Applicant stated that Mr. P loaned him \$150,000.00 in relation to one of these investments. INT further found that the Applicant held these real estate investments in common with Mr. P and his wife during the time the Applicant and Mr. P were communicating about the hiring of specific resources.



66. INT inquired with EBC about whether any of these conflicts of interest were raised with EBC, but there was no record of the Applicant disclosing his business interests or real estate investments or seeking guidance thereon until after his interview with INT when the Applicant sought EBC's guidance on "investments, hiring, and favoring."

67. INT's forensic review of the Applicant's financial statements demonstrated wealth that could not be explained by his or his wife's stated incomes, nor was any explanation provided. This included loans and gifts the Applicant gave worth \$367,862.00 between 2013 and 2016, the investment of \$170,000.00 in a company in 2016, and the purchase of a \$1.3 million home in Virginia in 2018. INT further found that the K-1 statements for various businesses the Applicant provided to INT did not reflect any large income, and in some cases even reflected negative income. In its Final Report, INT included its evaluation of the Applicant's explanation for his unexplained wealth as follows:

In addition to rental - and interest income he earned on the loans (neither of which were found on his tax returns), [the Applicant] maintained that he was able to finance these transactions through refinancing his Herndon home several times, an implausible explanation given the value of his Herndon home and the vast sums of money he was able to loan out that far exceeded that value. However, while [the Applicant] had multiple opportunities to clarify the sources of his unexplained income, he ultimately did not provide to INT statements for multiple bank accounts nor any supporting documentation that would satisfactorily explain large unknown deposits into his accounts.

68. On 10 November 2020, INT submitted its Final Report to the Human Resources Vice President (HRDVP) for decision. In the Final Report, INT summarized its overall findings as follows:

Evidence indicates [the Applicant] abused his position for personal gain, misused World Bank Group (WBG) funds, engaged in multiple conflicts of interest, and failed to observe WBG procurement policies in connection with the hiring of resources under the ITS staff augmentation program.

Evidence shows [the Applicant] facilitated the hiring of resources for ITS through ITS subcontractors with whom he had a personal relationship, extensive personal financial dealings, or both. Evidence indicates that in certain instances, [the Applicant] collected payments for himself through companies owned or controlled by him in exchange for hiring the resources for ITS. In order to achieve this, [the

Applicant] engaged in multiple violations of the WBG administrative rules and procedures by routinely bypassing the process for hiring ITS resources put in place by the Corporate Procurement (SPACP) and ITS Sourcing and Vendor Management (ITSSV) units.

Due to [the Applicant's] integral role in identifying ITS needs and resources to fulfill these needs, his actions represent a significant institutional risk.

INT did not find [the Applicant's] explanations for the payments he received from PVK credible. In particular, [the Applicant] provided conflicting theories in support of his claims, failed to provide key supporting documentation, and lacked candor over two interviews.

[...]

In summary, the evidence shows that over at least nine years, [the Applicant] engaged in repeated conflicts of interest and a pattern and practice of hiring resources through ITS subcontractors under the ITS staff augmentation program with whom he had extensive personal, business and financial dealings, thereby benefiting his friends and resulting in [the Applicant's] personal enrichment.

*The HRDVP's decision*

69. On 12 January 2021, the HRDVP issued a decision letter, which stated:

I have determined that the established facts constitute misconduct under Staff Rule, 8.01, namely:

- a. Paragraph 1.01(a) – Fraud, corruption, coercion, collusion, or offering, receiving or soliciting bribes, kickbacks or other (e.g., in kind) personal benefits involving WBG financed/supported operations or corporate procurement;
- b. Paragraph 2.01(a) – Failure to observe Principles of Staff Employment, Staff Rules, and other duties of employment;
- c. Paragraph 2.01(c) – Acts or omissions in conflict with the general obligations of staff members set forth in Principle 3, “General Obligations of Staff Members,” of the Principles of Staff Employment and Staff Rules 3.01 through 3.06, “General Obligations of Staff Members.” Specifically:
  - i. Principles of Staff Employment, paragraph 3.1 – Staff members have a special responsibility to avoid situations and activities that might reflect

adversely on the Organizations, compromise their operations, or lead to real or apparent conflicts of interest;

- ii. Staff Rule 3.01, paragraph 10.11(a) – Staff involved in any procurement activity on behalf of the Bank Group...shall not, during the conduct of any Bank Group procurement of goods, works or services, solicit or accept any money, gratuity, or other thing of value from any officer, employee, representative, agent or consultant of a competing vendor;
  - iii. Staff Rule 3.01, paragraph 10.11(c) – Staff involved in any procurement activity on behalf of the Bank Group...shall not solicit or accept, directly or indirectly, any favor...from any vendor contributing to a Bank Group activity which the Staff Member is personally and substantially involved in; and
  - iv. Staff Rule 3.03, paragraph 3.02 – Each staff member shall disclose any financial interest or business relationship of his/her own or of an immediate family member that might reasonably be considered to reflect unfavorably on or cause embarrassment to the Bank Group, or be in real, potential or apparent conflict with the staff member's Bank Group duties.
- d. Paragraph 2.01(d) – Misuse of Bank Group funds or other public funds for personal gain of oneself or another in connection with Bank activities or employment, or abuse of position in the Bank for personal gain of oneself or another.

70. In so finding, the HRDVP determined that INT's Finding No. 2 was not established definitively.

71. In coming to her determinations, the HRDVP further wrote:

In its Final Report, INT found evidence that your conduct was in direct violation of the provisions set forth above. In particular, INT established that for over at least nine years, you had conflicts of interest through a pattern and practice of hiring resources through ITS subcontractors under the ITS staff augmentation program with whom you had extensive personal, business, and financial dealings, thereby benefiting not only your friends but also resulting in your own personal enrichment. However, with regard to the allegation that in late 2012 the IT subcontractor made a payment to you totaling US\$30,000 through a firm with which you had alleged personal and or professional connections, INT could not establish definitively whether you had benefitted from the payment. Otherwise, I find all other allegations to be substantiated. I agree with the findings in the Final Report and conclude that you have committed misconduct.

Considering your statements and the documents provided by you, I do not find your explanations credible, nor do I find them exculpatory. Moreover, they do not alter INT's findings. In your statements and responses to INT, your comments largely either mischaracterize INT's findings or focus on irrelevant or minor details not material to INT's findings. With regard to the allegation that in late 2012 an IT subcontractor from which you hired at least two resources under the ITS staff augmentation program made three payments totaling US\$25,000 to a business registered and controlled by you at the time, I note you deny ownership of the company. However, you admit that your wife was the "beneficial owner of the company." In addition, the record shows that you filed the company's formation documents, provided the start-up money for the company, the company was listed to your former home address, you had check-writing authority, and that this was a company of which you were a beneficiary through your wife, and therefore was included in your tax returns which were jointly filed with your wife. Most important, you do not deny that you had separate business and financial relationships with resources and ITS subcontractors which you failed to disclose to the WBG. At any rate, you had conflicts of interest that you failed to disclose.

I note as an aggravating factor that you were not always candid in your responses to INT until confronted with irrefutable evidence. Throughout your responses, you wrongly claim that "INT is coming to its conclusion just based only on one person[']s... allegations." However, your assertion is incorrect and betrayed by the facts. As the Final Report shows, INT's findings are based on a thorough examination and verification of documents, correspondence, financial, public, and electronic records obtained by INT and provided by you. They are also based on the interview of multiple witnesses and, on two separate occasions, yourself. In addition, although you provided voluminous financial records, you did not provide material relevant to INT's review.

In sum, your conduct, resulting in personal gains for both yourself and your friends is unacceptable and incompatible with your status as a WBG staff member. Your conduct also reflected adversely on the organization, compromised its operations, and led to conflicts of interest.

72. The HRDVP decided the following sanctions would apply to the Applicant: (i) termination of the Applicant's employment with the Bank, (ii) ineligibility for future employment with the Bank Group, (iii) an access restriction to Bank Group premises, and (iv) written censure in the form of the HRDVP's letter to remain in the Applicant's personnel record.

*The present Application and remedies sought*

73. On 26 July 2021, the Applicant filed this Application with the Tribunal.

74. The Applicant seeks the following relief:
- a. Rescission of the disciplinary decision, removal of its record from his file, and replacement of that record by the Judgment;
  - b. Reinstatement to his own or a like position;
  - c. Compensation for all lost salary, raises, leave, pension, and other benefits lost as a result of his termination;
  - d. Moral and intangible damages in the amount of three (3) years' salary;
  - e. Reimbursement of all of his attorneys' fees and costs [in an amount of \$54,317.44]; and
  - f. All other relief that the Tribunal deems just and appropriate.

#### SUMMARY OF THE CONTENTIONS OF THE PARTIES

##### *The Applicant's Contention No. 1*

*INT's findings are unfounded and do not support the misconduct decision*

75. The Applicant contends that the evidence supplied by INT does not support the HRDVP's misconduct decision because "[g]uilt is more than a general sense of suspicion." In the Applicant's view, the Bank used a "business decision" standard in determining his guilt and wrongfully placed upon him a "duty to prove his lack of guilt by 'disproving' unsubstantiated allegations." To the Applicant, INT had no credible evidence of guilt in this case – only "innuendo and bad-faith accusations."

76. To support his contention, the Applicant first maintains that Mr. K is an unreliable accuser, because he and Mr. K had a falling out and because Mr. K's testimony was self-contradicting. To the Applicant, Mr. K's accusations lack corroboration. In this respect, the Applicant points out that, despite the "wide-ranging, highly detailed" accusations made by Mr. K, Mr. K was only able to provide INT "with a few checks directed to a third-party."

77. With respect to the four checks provided by Mr. K, the Applicant maintains that these were equity contributions from PVK to Rangoli Fashions and that the email he provided to INT supports this explanation.

78. The Applicant further maintains that he should not have to answer for payments made to Rangoli Fashions because it is a legitimate company founded by five people, none of whom are the Applicant. The Applicant further maintains that INT was unable to show that the Applicant wrote checks from Rangoli Fashions to either himself or his family. To the Applicant, in order to support its finding, INT should have requested PVK's accounts and/or Mr. K's personal accounts, which might have shown the full extent of PVK's dealings with Rangoli Fashions, and any payments for the allegedly corrupt work arrangements.

79. To the Applicant, Mr. K should further be found not credible because, according to Mr. K's description of the scheme, namely that the Applicant received 11.1% of the resources' contract payments, Mr. K would have owed him \$61,578.10 in kickbacks based on the earnings made by Ms. M from 2011 to 2015 and \$21,035.81 in kickbacks based on the earning made by Ms. D during the period of 2012 to 2013. In the Applicant's view, PVK's accounts should have easily been able to show these "massive" payments. The Applicant points out that, instead, Mr. K was able to provide only four checks in amounts which deviate from the "readily calculated 'kickback' amounts allegedly owed under the system that [Mr. K] himself alleged to INT."

80. The Applicant maintains that the record is not reliable because Mr. K's interviews were not transcribed verbatim by INT. Furthermore, in the Applicant's view, INT was silent in its Final Report about Mr. K's lack of credibility, which "tacitly encourage[d] the decision-maker to likewise take [Mr. K's allegations] at face value."

81. The Applicant further claims that he is wrongfully being held responsible for the Bank's institutional lapses, noting that INT itself admits that resources were known to move frequently between IT subcontractors and that the Bank "could not produce any reliable historical hiring chart" of IT resource hires. In the Applicant's view, "[t]here is no reason whatever to assume that any private player in this system [...] played strictly according to the rules, or that they were ever

[...] held to account by the Bank's procurement offices, which could never bring themselves even to keep detailed records as to who hired whom, and when."

82. The Applicant contends that it was a "material omission" that, despite having "total access to the Bank's actual contracting records, invoice files, and financial accounts," INT failed to "turn up any financial records linking payments for 'resources' to [PVK]."

83. The Applicant contends that it was prejudicial of INT to fault him because he was "the mere recipient of a text" from a former staff member after the former staff member was interviewed by INT, even though the Applicant did not respond to it. The Applicant contends it was further unfair to fault him for not recalling this text ten months after the fact, and even though he agreed that the text was inappropriate.

84. The Applicant disputes INT's finding that he failed to disclose or seek guidance on accepting payments amounting to \$25,000.00 from Mr. K and Ms. M, explaining that he was not paid by either but merely received funds in temporary trust to be used for an IPO. Moreover, the Applicant maintains that the funds were returned "after the endeavor fizzled." To the Applicant, INT should not have characterized the payment as a common investment venture with PVK-affiliated individuals, because it was "simply a simultaneous set of individual investments" from which the Applicant did not stand to profit. In the Applicant's view, he had no obligation or burden in these circumstances, other than to return any unused funds, which he fulfilled.

85. While the Applicant acknowledges Ms. M's \$750.00 deposit to him, INT's finding that the "transaction between an ITS resource and a program manager on whom the former's continued employment relied created an appearance of impropriety" is, in the Applicant's view, "pure nonsense." The Applicant maintains that the \$750.00 deposit that he forwarded to Ms. M's mother was a "small personal favor" to Ms. M and did not create the appearance of impropriety.

86. The Applicant maintains that he could not have hired resources himself, because several Bank officials are involved in the ITS hiring process. Moreover, the Applicant contends that ITS "was lax with contractors and subcontractors," and indulged in multi-layer subcontracting. In the

Applicant's view, based on these lax practices, and the fact that his former manager, who retired in 2008, "authorized him many years ago to 'go outside and bring whatever [...] is' needed into ITS," his hiring practices were appropriate. The Applicant further points out that INT even acknowledged in its Final Report that the Applicant's "management gave him wide discretion in hiring decisions." To the Applicant, if INT cannot identify a boundary of the Applicant's "wide discretion," let alone a transgression of a boundary set by management, he should not be found to have committed misconduct. In the Applicant's opinion, he was authorized to suggest his friends and acquaintances for ITS positions, and to suggest only total strangers as ITS resources "would be idiotic."

87. According to the Applicant, he did not need to recuse himself from the selection process of, or otherwise disclose his close personal connection to, Ms. M and Ms. D because they were first hired in 2003, "most likely before [the Applicant] himself joined the Bank." The Applicant also points out that his friend, Mr. P, did not purchase the company through which these two resources were later hired until after 2003.

88. The Applicant maintains that he did not feel beholden to Mr. P and that INT failed to show that the Applicant felt obliged to him based on outside business connections. To the Applicant, Mr. K's testimony that "only some subcontractors who paid kickbacks to [the Applicant] were able to obtain jobs" demonstrates that, if the Applicant "could allegedly not be induced to hire 'resources' from a friend and neighbor who allegedly stuffed his pockets with large 'kickbacks,' this would logically establish that [the Applicant] felt unfettered and unconflicted by either friendship or money, and thus not beholden in any way to [Mr. P]." To the Applicant, INT failed to resolve the "illogic of its mutually conflicting theories" in this respect.

89. The Applicant contends that, "[u]nless the Bank wants to punish every Bank employee who recommends, or even hires, their 'college friends' and other acquaintances," INT has no proper basis to pursue the Applicant in this discriminatory regard. According to the Applicant, he did not have unilateral hiring power, and making general referrals is a common practice worldwide.



90. The Applicant also cites the following testimony from a Senior IT Officer provided during an interview with INT investigators, which the Applicant contends is exonerating:

Well, there are levels of levels of Indians in the Bank that are the ones that are, you know, sort of in cahoots and they all work – and he was sort of on the outside. They – when he came in, they were trying to push him out. I know of people like that, and sometimes it's because they are, you know, different. They don't play by the same rules or because maybe they are different status, I don't know, but I know he was one of those that he had a hard time. But he has done well in the Bank. He knows how to survive and he plays the game. I don't know if it is legal but he plays the politics really well in the Indian community.

91. In the Applicant's view, the Senior IT Officer's testimony shows that ITS is under the control of the "Indian mafia." The Applicant maintains that the "Indian mafia," including Mr. K, turned bitter toward him when he "wouldn't play the game and hand out contracts." To the Applicant, INT aims to shield the corrupted ITS by condemning the Applicant; however, in his view, the charges against him are not a solution to a symptom but rather an active misdirection. The Applicant further contends:

INT wants to condemn [the Applicant] for not replicating a full-scale tender-and-bid process, or for not having an "immaculate reception" of candidates – all of whom would be total strangers – year after year. Had ITS done its job, [the Applicant] would not have been put into a position to do it for them as best he could. Put another way, INT's theory of guilt amounts to nothing other than entrapment.

92. The Applicant contends that there was no failure to disclose business interests because INT does not show any ownership by the Applicant in any Bank vendor or competitor or any attempt to steer Bank funds to any private venture undertaken by the Applicant. Rather, the Applicant maintains, INT's findings point only to inactive commercial ventures, mostly undertaken by his wife, and to "investments" undertaken with Mr. P who at that time, according to the Applicant, had no connection with the Bank. In the Applicant's view, INT has not shown how his taking part in joint real estate investments and ventures was supposed to "sway" him, especially considering that his equity investments do not depend on the goodwill of his co-investors.

93. The Applicant avers that he should not be faulted for having "an unduly high income" that he allegedly could not credibly explain. In this respect, the Applicant faults INT for not considering

the possibility that he may have inherited money. He also points out that he had a “penchant for investing, [...] was an active loaner of money, and a passive investor in real estate and other anodyne ventures.” In the Applicant’s view, he should not have borne the burden of having to explain income outside of the Bank without INT first establishing credible evidence that he ever took a kickback or threw a contract for personal gain.

94. The Applicant objects to the structure of the Final Report, noting that, under the “findings and analysis” section of the report, INT had included the allegations. To the Applicant, placing the allegations in the “findings and analysis” section implies the allegations are proven facts.

### ***The Bank’s Response***

*The HRDVP properly determined that the Applicant engaged in misconduct, and the requirements of due process were observed*

95. The Bank maintains that the HRDVP properly determined that the Applicant engaged in misconduct based on the undisputed facts, corroborating evidence, reliable hiring records, established payments made, conflicts of interests discovered, incriminating text messages, and undisclosed investment and loan activities conducted by the Applicant.

96. The Bank states that the following key findings are undisputed by the parties, and, in the Bank’s view, these key findings support the HRDVP’s proper determination that the Applicant had engaged in misconduct:

- (1) that [the] Applicant was involved in the hiring of individuals from PVK Corporation,
- (2) that payments were made by PVK Corporation to Rangoli Fashions LLC,
- (3) that [the] Applicant had the authority to write checks on behalf of Rangoli Fashions LLC and documents relating to the firm were found on his Bank computer,
- (4) that [the] Applicant and Mr. [K] were investment partners while Mr. [K’s] firm provided services to the Bank for which [the] Applicant was responsible,

- (5) that [the] Applicant exchanged text messages with Mr. [K] in which rates for Business Analyst positions were discussed, and
- (6) that [the] Applicant and Mr. [P] had financial ties while they were exchanging text messages about the hiring of resources.

97. The Bank refutes the Applicant's contention that Mr. K's statements were taken at face value, by pointing out that INT obtained corroborating evidence. First, the Bank explains that INT obtained copies of checks which supported Mr. K's statements that he made kickback payments. Next, the Bank points out that INT was able to independently confirm (i) Mr. K's involvement with PVK, (ii) that two of the individuals named by Mr. K had been hired to perform services for the Bank, (iii) that the Applicant had been involved in the procurement of these two resources, and (iv) that the Applicant had ties to, and was involved in, the operation of Rangoli Fashions. To the Bank, the independent verification of these facts demonstrates that Mr. K's accusations were not simply taken as truths as the Applicant alleges.

98. The Bank contends that INT properly determined that the email provided by the Applicant did not offer a credible explanation for the \$25,000.00 payment made by PVK to Rangoli Fashions. In support of its contention, the Bank explains that the email sent by the husband of one of the Rangoli Fashions owners discusses a \$5,000.00 payment relating to equity deposits and that the Applicant offers no evidence with respect to the other \$20,000.00 of the total \$25,000.00 payment made. The Bank further points out that the Applicant failed to provide statements or accounting records, which he appeared to have access to since some of them were found on his Bank computer, to support his assertion that the full \$25,000.00 payment was an equity contribution. Thus, in the Bank's view, the statements made by Mr. K, "which were made against his own interest, are significantly more credible than [the] Applicant's statement—unsupported by credible evidence—that the payments constituted 'equity contributions.'" To the Bank, INT reasonably concluded that the Applicant did not adequately explain the payment made by PVK to Rangoli Fashions.

99. In the Bank's view, the Applicant's contention that the amounts of payments made by PVK do not exactly correspond to 11.1% of the fees invoiced by the Bank and therefore cannot substantiate the allegations of misconduct, is mistaken. The Bank refers in this respect to Mr. K's

interview summary in which the 11.1% referred to is used as an “example” in describing the general terms of how the Applicant’s scheme worked. The Bank maintains that the Applicant’s argument in this respect is misguided and cannot be given any weight.

100. The Bank maintains that the record establishes that the Applicant also had a conflict of interest by failing to recuse himself from the hiring and management of those individuals who were hired through the firm of his self-described close friend, Mr. P, with whom he had extensive financial ties. The Bank notes that the Applicant stated that he had “financial and investment dealings” with Mr. P and that he participated in the procurement of two resources from Mr. P’s firm to work for the Bank. To the Bank, these concessions from the Applicant demonstrate that the Applicant had an interest in Mr. P’s finances, or at least an appearance of such interest, and should have therefore recused himself from the procurement process as well as any management of those resources based on the conflict of interest. The Bank further rejects the Applicant’s reasoning that no conflict of interest could exist in these circumstances because the two resources had previously been hired by the Bank, because, as the Bank points out, resources are not hired on a permanent basis and their being hired for a project in a given unit in 2003 bears no relevance to their later hiring.

101. The Bank contends that the record establishes that the Applicant had improper communications with firm representatives who were providing services to the Bank.

102. In this respect, the Bank refers to the text message communications in the record wherein Mr. K asked the Applicant for any Business Analyst positions, the Applicant replied he “[could] try” to assist if they have the right experience, and the two further discussed the proposed rates of the positions.

103. The Bank also refers to communications in the record in which the Applicant received several messages from another firm representative relating to the procurement of resources outside of the normal procurement process. By way of example, the Bank points out that the firm representative asked the Applicant to “please keep [one opening] for us” and further asked whether seven years of experience was acceptable despite the Bank’s competitive process for hiring

resources. In the Bank's view, the Applicant should have rebuffed these inquiries as inappropriate but did not. To the Bank, the further exchanges between the two regarding the Applicant's RSVP status to the firm representative's daughter's wedding demonstrates that the Applicant had more than a professional relationship with a representative of a Bank Group subcontractor.

104. The Bank contends that the Applicant's conduct regarding his communications with firm representatives is inconsistent with the special responsibility of staff members to avoid situations and activities that might reflect adversely on the organizations, compromise their operations, or lead to real or apparent conflicts of interest, and wholly inconsistent with the even stricter rules that apply in connection with procurement activities for an organization tasked with managing public funds such as the Bank.

105. The Bank further maintains that the record establishes an additional conflict of interest the Applicant failed to disclose, namely his business activity with Mr. P. In response to the Applicant's claim that INT failed to show how "passive co-investments, which were through individual shares, were supposed to sway [the Applicant]," the Bank points out that INT did not find that the Applicant was "swayed" and need not show such. Rather, the Bank maintains, INT found that the Applicant engaged in business activities with a close friend who also provided services to the Bank and was communicating with his friend about the hiring of resources around the time of the investment and loan activities. In the Bank's view, the record clearly established business activity between the Applicant and Mr. P which, in accordance with Staff Rules, should have been disclosed.

106. The Bank contends that the Applicant was afforded the due process required under the Staff Rules and the Tribunal's jurisprudence.

107. According to the Bank, the due process requirements of the Bank Group can be summarized as follows: "[A]ffected 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." The Bank states that the Applicant (i) was informed of the charges through the Notice

of Alleged Misconduct and again at different points in the investigation, (ii) had an opportunity to review the charges and evidence against him, and (iii) was given the opportunity to explain his conduct, including by providing his comments on the Draft Report prepared by INT.

108. In the Bank's view, INT did not have a predetermined result in mind. By way of example, the Bank points out that INT accepted the explanations provided by the Applicant for the IPO payments received from Mr. K and Ms. M. While the payment by Mr. K was inappropriate because Mr. K's firm was providing services to the Bank, INT did not conclude that these payments were kickbacks or for any other "pre-determined" purpose.

109. In sum, the Bank maintains that INT properly applied the due process requirements of the Bank and that its evaluation that the Applicant's explanations of certain events were not credible is not a violation of due process.

### ***The Applicant's Contention No. 2***

*The disciplinary sanctions are disproportionate to the offense*

110. To the Applicant, the sanction of termination "is the equivalent of capital punishment for staff employment" and, in this case, is disproportionate to the "blizzard of accusations that do not stand up to any serious scrutiny."

### ***The Bank's Response***

*The disciplinary measures imposed were proportionate*

111. The Bank contends that the disciplinary measures imposed were proportionate to the misconduct found.

112. In the Bank's view, termination was appropriate and even mandatory in accordance with Staff Rule 8.01, paragraph 3.01, because it was determined that the Applicant engaged in the misuse of Bank Group funds for his personal gain and/or that of another in connection with Bank

Group activities or employment or engaged in the abuse of his position in the Bank Group for his personal gain and/or that of his friend.

113. To the Bank, the Applicant's conduct was particularly serious because it related to the procurement of goods and services by the Bank. The Bank maintains that the Applicant did not ensure impartial and equitable treatment of bidders as is required in the Bank's Corporate Procurement Policy and Procedures Manual.

114. The Bank maintains that the Applicant not only failed to adhere to the Bank's fundamental procurement principles when he received kickbacks but also failed to adhere to the rules when he was involved in the procurement processes for resources from certain firms while at the same time having business activities or joint investment activities with the owners of the same firms. The Bank contends that the Applicant also failed to adhere to the procurement rules when he had improper communications with representatives of firms providing services to the Bank, including by discussing rates via text messages.

115. The Bank further contends that the sanctions were proportionate considering that the Applicant's conduct was "not a single minor transgression, but multiple material violations of the Bank's procurement rules" over the course of several years.

## THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

### SCOPE OF THE TRIBUNAL'S REVIEW IN DISCIPLINARY CASES

116. The scope of the Tribunal's review in disciplinary cases is well-established. In *Koudogbo*, Decision No. 246 [2001], para. 18, the Tribunal stated that

its scope of review in disciplinary cases is not limited to determining whether there has been an abuse of discretion. When the Tribunal reviews disciplinary cases, it "examines (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, (iv) whether the sanction is not significantly disproportionate to the offence,

and (v) whether the requirements of due process were observed.” (*Carew*, Decision No. 142 [1995], para. 32.)

*See also, e.g., FA*, Decision No. 612 [2019], para. 138; *EZ*, Decision No. 601 [2019], para. 67; *CH*, Decision No. 489 [2014], para. 22.

117. The Tribunal has held that the burden of proof in misconduct cases lies with the respondent organization. It has also stipulated on several occasions that “there must be substantial evidence to support the finding of facts which amount to misconduct.” *FQ*, Decision No. 638 [2020], para. 88. *See also FG*, Decision No. 623 [2020], para. 67; *EZ* [2019], para. 69. In other words, 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.

118. 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.*

119. The present case will be reviewed in light of these standards.

#### EXISTENCE OF THE FACTS AND WHETHER THOSE FACTS LEGALLY AMOUNT TO MISCONDUCT

120. Following INT’s investigation, the HRDVP determined that the Applicant’s conduct legally constituted misconduct under Staff Rule 8.01, specifically:

- a. Paragraph 1.01(a) – Fraud, corruption, coercion, collusion, or offering, receiving or soliciting bribes, kickbacks or other (e.g., in kind) personal benefits involving WBG financed/supported operations or corporate procurement;
- b. Paragraph 2.01(a) – Failure to observe Principles of Staff Employment, Staff Rules, and other duties of employment;
- c. Paragraph 2.01(c) – Acts or omissions in conflict with the general obligations of staff members set forth in Principle 3, “General Obligations of Staff



Members,” of the Principles of Staff Employment and Staff Rules 3.01 through 3.06, “General Obligations of Staff Members.” Specifically:

- i. Principles of Staff Employment, paragraph 3.1 – Staff members have a special responsibility to avoid situations and activities that might reflect adversely on the Organizations, compromise their operations, or lead to real or apparent conflicts of interest;
  - ii. Staff Rule 3.01, paragraph 10.11(a) – Staff involved in any procurement activity on behalf of the Bank Group...shall not, during the conduct of any Bank Group procurement of goods, works or services, solicit or accept any money, gratuity, or other thing of value from any officer, employee, representative, agent or consultant of a competing vendor;
  - iii. Staff Rule 3.01, paragraph 10.11(c) – Staff involved in any procurement activity on behalf of the Bank Group...shall not solicit or accept, directly or indirectly, any favor...from any vendor contributing to a Bank Group activity which the Staff Member is personally and substantially involved in; and
  - iv. Staff Rule 3.03, paragraph 3.02 – Each staff member shall disclose any financial interest or business relationship of his/her own or of an immediate family member that might reasonably be considered to reflect unfavorably on or cause embarrassment to the Bank Group, or be in real, potential or apparent conflict with the staff member’s Bank Group duties.
- d. Paragraph 2.01(d) – Misuse of Bank Group funds or other public funds for personal gain of oneself or another in connection with Bank activities or employment, or abuse of position in the Bank for personal gain of oneself or another.

121. Based on the investigative record and the HRDVP’s decision letter, the Tribunal considers that there are three general categories of misconduct in this case: (i) real or apparent conflicts of interest and the duty to disclose, (ii) general obligations of staff members, and (iii) abuse of position or misuse of Bank funds for the personal gain of oneself or another.

122. The Tribunal will now review the evidence to determine whether it rises to the standard of substantiality necessary to determine that the Applicant’s actions legally constitute misconduct.

*Real or apparent conflicts of interest and the duty to disclose*

123. In considering the Staff Rules, procedures, guidelines, and the evidence provided in the Final Report, the HRDVP found that the Applicant's (i) communications with vendors, subcontractors, and resources and (ii) financial, personal, and business relationships led to real or apparent conflicts of interest in violation of the Staff Rules, Procurement Manual, and ITS Staff Guidelines for Managing Contractor Relationships that the Applicant failed to disclose. The Tribunal will review the existence of the facts and whether those facts support a finding of misconduct.

Communications with vendors, subcontractors, and resources

124. The Bank's Corporate Procurement Policy and Procedures Manual (8<sup>th</sup> ed., February 2009) (Procurement Manual) provides insight into the Bank's overall aim in its procurement processes along with the standards of conduct expected in carrying out procurement procedures as they relate to impartiality and transparency. Its stated objectives include ensuring the achievement of the "impartial and equitable treatment of vendors" or as stated more fully:

The goal of the Bank Group's procurement process is to ensure that best total value is achieved in the procurement of goods and services while at the same time supporting the Bank Group's operations and mission. Ensuring the achievement of best total value and the impartial and equitable treatment of bidders requires following four guiding principles that underlie the Bank Group's procurement process. These four principles are (1) fairness, (2) transparency, (3) competition, and (4) value.

125. Annex A – "Standards of Conduct" of the Procurement Manual further provides:

The Bank Group's procurement activities must be conducted in a manner above reproach, with complete impartiality and with no preferential treatment. Transactions relating to the commitment of the Bank Group's funds require the highest degree of public trust and an impeccable standard of conduct. [...] The Bank Group's procurement process must allow vendors to compete for the Bank Group's business on a fair, equal, and transparent basis. [...] During the pre-solicitation phase, staff must not allow vendor(s) access to information – whether technical, financial, or of any other nature – concerning a particular acquisition before such information is available to the business community at large.

126. Annex A further admonishes staff to “strictly avoid any real or apparent conflict of interest in the Bank Group’s vendor relationships” including financial interests personally or through a close relative. It goes on to make clear that staff have a duty to disclose any real or apparent conflict of interest and disqualify themselves from any involvement in the selection process or management of vendor contracts.

127. The 9<sup>th</sup> and 10<sup>th</sup> editions of the Procurement Manual, published in 2012 and 2017 respectively, contain substantially identical statements and standards as above, and these fundamental procurement principles have not been modified during the Applicant’s career with the Bank.

128. The ITS Staff Guidelines for Managing Contractor Relationships provide, in the section entitled “Managing Vendor Relationships,” the following:

Staff must carefully consider potential reputational harm to the Bank Group especially while actively engaging in a competitive procurement process (e.g. [...] Selecting a Staff Augmentation contractor). Staff involved in any procurement activity on behalf of the Bank Group have a particular responsibility to be and be seen to be impartial and free from any improper influences in reaching their decisions. Such staff may not, during the conduct of any Bank Group procurement of goods, works or services, solicit or accept any money, gratuity, or other thing of value from any officer, employee, representative, agent or consultant of a competing vendor.

129. The testimony of the Senior IT Officer in the Risk Management & Compliance unit provides further insight into the ITS staff augmentation program and how ITS staff are advised to conduct themselves during the process. According to the Senior IT Officer in the Risk Management & Compliance unit,

[a]ll communications are contractually required to take place between Tier 1 [main] vendor and the Bank. Bank staff members never have a valid business reason to speak directly with Tier 2 vendors [also known as subcontractors], or any of their resources, about IT resource needs. [...] ITS staff are advised to never direct resources to seek employment with a specific vendor or to direct any vendor to hire specific resources. This is a co-employment risk on the resource side, and on the vendor side, can be viewed as the Bank interfering with vendor hiring practices.

130. The Tribunal notes that the standards of conduct outlined in the Bank's Procurement Manual make clear that procurement activities must be "conducted in a manner above reproach, with complete impartiality and with no preferential treatment, requir[ing] the highest degree of public trust and an impeccable standard of conduct." The Tribunal further observes that the Procurement Manual specifically states that the procurement process must allow contract competition to be conducted "on a fair, equal and transparent basis."

131. The Tribunal notes that the testimony of the Senior IT Officer in the Risk Management & Compliance Unit provides further clarity on the ITS procurement process, namely that "Bank staff members never have a valid business reason to speak directly with Tier 2 vendors [also known as subcontractors], or any of their resources, about IT resource needs," because "it can be viewed as the Bank interfering with vendor hiring practices." She further stated that ITS staff are specifically advised on this matter.

132. In light of the above-mentioned procurement standards of conduct, and the context of the standards of conduct in practice provided by the ITS Risk Management & Compliance representative, the Tribunal will review the Applicant's conduct with respect to his communications with vendors, subcontractors, and resources and whether his conduct amounts to misconduct.

133. The Tribunal observes the numerous text message exchanges INT presented in the Final Report between the Applicant and various Bank Group vendors, subcontractors, and resources discussing the hiring process and potential position openings. In particular, the Tribunal views the texts in which the Applicant was requested to push the resume of a relative, provide feedback on candidates, provide information on rates, and hold a position open for a vendor as demonstrating preferential treatment, access to non-public knowledge, and a lack of transparency in the procurement process unfair to others participating in the competitive selection for resource contracts.

134. The Tribunal notes that, when asked by INT investigators why vendors, subcontractors, and resources were contacting him directly as opposed to going through the sourcing unit, the Applicant explained it was because he was a hiring manager and noted that, while the sourcing unit “establishes [...] the list of the vendors,” the vendors would then come and talk to the hiring managers directly.

135. The Tribunal views this explanation as unpersuasive and unacceptable as it is in contravention of the Procurement Manual, the ITS Staff Guidelines for Managing Contractor Relationships, and the testimony describing the ITS staff augmentation program process provided by the Senior IT Officer in the Risk Management & Compliance unit. The Tribunal considers that, notwithstanding the Applicant’s contentions, his communications went beyond professional networking norms.

136. The Tribunal finds that the Applicant’s pattern of conducting prohibited communication with potential and current vendors, subcontractors, and resources, outside of the official WBG channels of communication, is in violation of the Procurement Manual and in contravention of the Bank Group’s stated procurement principles of fairness, transparency, and competition.

#### Financial, personal, and business relationships

137. The Tribunal will now review the finding that the Applicant had other financial, personal, and business interests that presented real or apparent conflicts of interest.

138. The Tribunal recalls that the Applicant was found to have committed misconduct under Staff Rule 3.03, paragraph 2.02, in place at the relevant time, addressing real or apparent conflicts of interest, which provides:

Staff Members and their immediate family members shall not:

[...]

- (b) Enter into any financial transaction or business relationship with an entity (or its directors, key executives or affiliates) known to be an actual or

prospective recipient of Bank Group financing, investment or guarantee with respect to which the staff member or the staff member's department participated substantially.

139. Staff Rule 3.01, paragraph 10.11, additionally specifies:

Staff involved in any procurement activity on behalf of the Bank Group have a particular responsibility to be and be seen to be impartial and free from any improper influences in reaching their decisions. Such Staff:

- a. shall not, during the conduct of any Bank Group procurement of goods, works or services, solicit or accept any money, gratuity, or other thing of value from any officer, employee, representative, agent or consultant of a competing vendor;

[...]

- c. shall not solicit or accept, directly or indirectly, any favor including any promise of future employment (for the Staff Member or the Staff Member's Close Relatives) from any vendor contributing to a Bank Group activity which the Staff Member is personally and substantially involved in.

140. The Applicant contends that the Bank has not proven he received anything of value from any representative or competing vendor for any Bank Group activity in which he was substantially involved. In the Applicant's view, in forming her misconduct decision, the HRDVP relied solely on the word of Mr. K, who, the Applicant contends, was not a credible witness because he and Mr. K had a falling out.

141. The Tribunal has reviewed the evidence in the investigative record with respect to the HRDVP's finding that the Applicant accepted funds from PVK in connection with Bank procurement hirings that the Applicant oversaw. The Tribunal notes that the following are undisputed findings.

142. First, the Applicant was the hiring manager for, and was involved in the hiring of, two resources from PVK. Second, the Applicant was aware that PVK was owned by his neighbor and, at the relevant time, "close friend." Third, PVK, an IT corporation, made payments amounting to \$25,000.00 to Rangoli Fashions, a fashion company. Fourth, the Applicant had check-writing

authority for Rangoli Fashions, and the record demonstrates that the Applicant kept tax records for Rangoli Fashions on his computer. Fifth, the Applicant's wife was a beneficial owner of Rangoli Fashions. Sixth, the Applicant and Mr. K were investment partners while Mr. K's IT firm, PVK, provided services to the Bank for which the Applicant was responsible. And, finally, the Applicant exchanged text messages with Mr. K in which rates for Business Analyst positions were discussed.

143. The Applicant, in his procurement role, was prohibited from accepting anything of value from a representative of an IT firm competing for Bank Group contracts. Copies of checks from PVK to Rangoli Fashions provide convincing evidence beyond mere allegations that payments were made to and received by an entity in which the Applicant's immediate family member had direct financial and business interest. The copies of the checks from PVK to Rangoli Fashions demonstrate that a corporation competitively participating in the ITS staff augmentation program made payments to a company of which the Applicant's wife was a beneficial owner. Furthermore, the Applicant's wife's ownership of Rangoli Fashions was confirmed by INT through public records and by the Applicant's own admission.

144. The Tribunal also notes that INT confirmed through Bank Group Human Resources records that the Applicant was the hiring manager of the two resources for whom Mr. K alleged his IT firm made kickback payments to the Applicant.

145. The Tribunal further observes the text message exchanges in the investigative record between the Applicant and Bank Group vendors, subcontractors, and resources, including texts between the Applicant and Mr. K. The Tribunal finds that these messages reasonably support INT's conclusion that the Applicant was "willing[] to entertain unethical requests clearly contrary to fair procurement practices" and had the requisite influence in the procurement process of resources by determining requirements and chairing or participating in interview panels to entertain such requests.

146. In view of the foregoing, and of the record as a whole, the Tribunal agrees with the HRDVP that Mr. K's allegations were not the sole basis for the misconduct decision. Rather, the misconduct

decision was supported by interviews with multiple witnesses; financial, public, and electronic records; and correspondence obtained by INT.

147. In addition to the payments received from PVK, the Tribunal notes that the Applicant also admitted to having received money in the amount of \$150,000.00. He further admitted to INT that he and Mr. P jointly owned investment properties together and routinely loaned and borrowed large sums of money to and from one another.

148. Noting that Staff Rule 3.03, paragraph 2.02, prohibits staff members from “[e]nter[ing] into any financial transaction or business relationship with an entity (or its directors, key executives or affiliates) known to be an actual or prospective recipient of Bank Group financing [...] with respect to which the staff member or the staff member’s department participated substantially,” and also noting that Mr. P was the owner of an IT firm competing for Bank resource contracts for which the Applicant was the hiring manager, the Applicant’s receipt of payments from, and real estate investments with, Mr. P directly support the finding that his conduct amounts to a conflict of interest.

149. As the Tribunal stated in *FQ* [2020], para. 106, a WBG staff member “ought not to engage in personal, financial, or business activities” in connection with Bank projects and is “obliged to prioritize the WBG’s interests above his own personal gain and to protect the integrity and reputation of the WBG.” In that case, the Tribunal upheld a misconduct decision under Staff Rule 8.01, paragraph 1.01(c), because it found that the applicant performed consultancy services for organizations that were involved in a Bank project, even though the applicant restricted himself to working only on components of the project that were not financed by the Bank. The Tribunal in that case “underscore[d] that, having regard to the mission and objectives of the Organization, all staff members play a vital role in ensuring that conflicts of interest and the appearance of such conflicts form no part of the Organization’s culture.” *Id.*

150. In line with the Staff Rules and Tribunal precedent, the Applicant had a duty to avoid conflicts of interest and even the appearance of conflicts of interest. In contrast with that duty, and to summarize the Applicant’s conduct in the present case, the Applicant admits to close, and even



lifelong, friendships with WBG subcontractors, and the record demonstrates that he was the hiring manager of resources brought through these friends' IT firms. He further admits to accepting sizeable loans from a WBG subcontractor and to co-investing in real estate ventures and IPOs with subcontractors. The Applicant also acknowledges his wife's ownership interest in a business that received funds from a WBG subcontractor, PVK, and that he listed the income from this business on his joint tax return.

151. For the reasons set forth above, the Tribunal upholds the HRDVP's finding of misconduct in violation of the Bank's conflicts of interest rules under Staff Rules 3.03 and 3.01.

Duty to disclose real or apparent conflicts of interest

152. Having found that the Applicant engaged in prohibited financial and business transactions and conflicts of interest or the appearance of conflicts of interest, the Tribunal will now assess the HRDVP's finding that the Applicant failed to disclose such financial and business transactions and conflicts of interest.

153. The Tribunal has previously stated that staff members have "an obligation not to engage in real or apparent conflicts of interest under Principle 3.1 and to disclose any relationship which could be a real, potential, or apparent conflict of interest under Staff Rule 3.03, paragraph 3.02." *FO*, Decision No. 634 [2020], para. 49.

154. Staff Rule 3.03, paragraph 3.02, on disclosure and resolution of real or apparent conflicts of interest, in place at the relevant time, provides:

Each staff member shall disclose any financial interest or business relationship of his/her own or of an immediate family member that, in addition to the prohibited transactions set out in the preceding paragraphs in Staff Rule 3.03, might reasonably be considered to reflect unfavorably on or cause embarrassment to the Bank Group, or be in real, potential or apparent conflict with the staff member's Bank Group duties, and shall abstain from exercising any related responsibility, except as otherwise instructed by her/his senior manager with the concurrence of EBC. Disclosure shall be made promptly and in writing to the staff member's senior manager and the Financial Disclosure Program Manager. Instructions to the staff

member by the senior manager and the Financial Disclosure Program Manager, to proceed with, modify or abstain from the exercise of responsibility, shall be in writing and copies shall be provided to the Financial Disclosure Program Manager.

155. In *FO* [2020], the Tribunal emphasized that, to satisfy Staff Rule 3.03, paragraph 3.02, “disclosure of a relationship which could be a real, potential, or apparent conflict of interest must be made in writing to the appropriate persons, including the [a]pplicant’s supervisor.” *Id.*, para. 51.

156. In *AJ*, Decision No. 389 [2009], para. 63, the Tribunal also remarked on the disclosure requirement, stating:

The duty to disclose is a separate requirement, applicable to all staff members. Once a staff member has any financial interests [or business relationships] that might reasonably create actual or apparent conflicts of interest, he or she is obligated to reveal that interest to his or her manager. That disclosure has to be made promptly. A staff member is also simultaneously obligated to “abstain from exercising any related responsibility” until he or she is cleared to do so by his or her manager. Compliance with these obligations allows the relevant manager to make an informed decision as to whether an actual or apparent conflict exists, and whether to allow the staff member in question to continue exercising responsibility in the areas of conflict, or how best to handle a possible conflict of interest.

157. In considering a staff member’s duty to disclose real or apparent conflicts of interest, the Tribunal also considers whether the staff member had a significant role in the Bank-financed procurement process such that the staff member should recuse himself or herself or seek advice on the real or apparent conflict of interest.

158. For example, in *FO* [2020], after determining that the applicant was associated with a company competing in a Bank procurement process, the Tribunal reviewed the applicant’s job description to assess whether she had a significant role in the procurement process for the award of the contract. *Id.*, para. 55. In noting that her responsibility was to work closely with the procurement team, provide support to the evaluation of proposals, create the terms of reference for consultancy assignments under the contract, and edit the pay and grading of contracts, the Tribunal concluded that the applicant had a significant role in the procurement process and that “the

circumstances were such that the [a]pplicant should have recused herself, or at a minimum sought advice on recusal, from the procurement process.” *Id.*

159. In the present case, the Applicant stated that his “primary responsibilities [...] included the identification of ITS needs and the acquisition of resources to fulfill those needs through the ITS Staff Augmentation Program.” According to the Final Report, the Applicant was a hiring manager for resources through the ITS staff augmentation program; he created the terms of reference for positions, determined the need for positions as well as the grade and therefore salary range for such positions, and even participated as an interview panelist tasked with the selection of resources.

160. The Applicant’s responsibilities are thus similar to the applicant’s responsibilities in *FO* [2020], and here the Tribunal likewise considers that the Applicant’s role in the procurement process is significant to a degree such that he should have recused himself from the procurement process, or at a minimum sought guidance from management and/or EBC through disclosing his real or potential conflicts of interest.

161. The Tribunal notes that INT made inquiries with the Applicant’s management and with EBC and confirmed that the Applicant did not disclose or seek guidance on any of his business and financial relationships with IT firm owners competing for Bank resource contracts until after he was aware of INT’s investigation. There is also nothing in the record to suggest that the Applicant disclosed his communications with certain competing vendors, subcontractors, and resources pertaining to position openings and rates.

162. The Tribunal further observes that there is nothing in the record to suggest that the Applicant recused himself, due to any real or apparent conflict of interest, from the selection process of any resource hired from his friends’ firms. In fact, the record demonstrates that the Applicant was directly involved in the hiring process as the hiring manager.

163. Here, because the Applicant’s management was unaware of the Applicant’s ongoing financial relationships with Mr. K and Mr. P, or other personal or business relationships with

vendors, subcontractors, and/or resources, the manager was unable to take effective steps to protect the Bank from the appearance of impropriety in the procurement process and to prevent the Applicant from engaging in a real or apparent conflict of interest.

164. The Tribunal considers that, had the Applicant had the Bank's interests solely in view, it would have been apparent to him, as an experienced hiring manager tasked with procurement responsibilities for the ITS staff augmentation program, that he was required, in accordance with the Staff Rules and Procurement Manual, to disclose to the Bank his personal and/or financial relationships with owners of IT firms competing for Bank resource contracts.

165. The Tribunal upholds the HRDVP's finding that the Applicant's conduct amounts to a failure to disclose real or apparent conflicts of interest under Staff Rule 3.03, paragraph 3.02, in effect at the relevant time.

*General obligations of World Bank Group staff members*

166. Principle 3.1 of the Principles of Staff Employment states:

The sensitive and confidential nature of much of their work requires of staff a high degree of integrity and concern for the interests of the Organizations. Moreover, as employees of international organizations, staff members have a special responsibility to avoid situations and activities that might reflect adversely on the Organizations, compromise their operations, or lead to real or apparent conflicts of interest. Therefore, staff members shall:

[...]

- c. conduct themselves at all times in a manner befitting their status as employees of an international organization. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the Organizations. They shall avoid any action and, in particular, any public pronouncement or personal gainful activity that would adversely or unfavorably reflect on their status or on the integrity, independence and impartiality that are required by that status.

167. In explaining the scope of obligations under Principle 3, the Tribunal observed in *AJ* [2009], para. 46, that

Principle 3 of the Principles of Staff Employment requires staff members to serve the Bank with a high degree of integrity and loyalty. Every staff member has a special obligation to avoid situations and activities that might (i) reflect adversely on the Bank; (ii) compromise operations of the Bank; and (iii) lead to real or apparent conflicts of interest. The obligation is broad; its objectives are prohibitive as well as preventive. [...] Principle 3 obligates staff members to “discharge their duties solely with the interest and objectives of the [Bank] in view.” This singleness of purpose should not be compromised by other considerations, such as a staff member’s personal interest in a business relationship of the Bank. This is why the scope of Principle 3 is very broad. It prohibits not only conduct that is clearly wrongful but also conduct that leads to a possible appearance of impropriety.

168. The Tribunal considers that each of the findings examined in this judgment amounts to a breach of Principle 3 of the Principles of Staff Employment. Corresponding Staff Rules require staff members to observe the Principles of Staff Employment. Each of the acts of misconduct considered here entails a lack of integrity, a lack of concern for the interests of the Bank, and situations that may reflect adversely on the Bank. Each compromises the Bank’s operations and leads to real or apparent conflicts of interest. Each involves a failure to observe generally applicable norms of prudent professional conduct.

169. In summary, the WBG demands a high degree of integrity and the obligations of its staff in this respect are laid out in its rules and procedures. The Tribunal finds that the Applicant’s conduct is inconsistent with the general obligations of professional conduct.

*Abuse of position or misuse of Bank funds for personal gain of oneself or another*

170. The Tribunal will next consider the HRDVP’s finding that the Applicant abused his position by receiving kickback payments and misused Bank funds in the selection of ITS resources.

171. The Tribunal recalls that, as referred to in the HRDVP’s letter, the Applicant was found to have committed misconduct under Staff Rule 8.01, paragraphs 1.01(a) and 2.01(d), which states as follows:

Paragraph 1.01(a) – Fraud, corruption, coercion, collusion, or offering, receiving or soliciting bribes, kickbacks or other (e.g., in kind) personal benefits involving Bank Group financed/supported operations or corporate procurement.

[...]

Paragraph 2.01 – Misconduct does not require malice or guilty purpose, and it includes, but is not limited to, the following acts and omissions:

[...]

- d. Misuse of Bank Group funds or other public funds for personal gain of oneself or another in connection with Bank activities or employment, or abuse of position in the Bank for personal gain of oneself or another.

172. In the present case, the Applicant contends that (i) he could not have abused his position or interfered in the competitive selection process of resources because the Bank uses panels in the selection of resources; (ii) the Bank has not shown he benefitted from the alleged kickback payments made by PVK; and (iii) ultimately, he had the Bank’s interest in mind in securing good resources in accordance with the discretion given to him by management.

173. In *CH* [2014], para. 58, the Tribunal explained that misuse of Bank funds “occurs when Bank-financed contracts are awarded improperly,” including but not limited to interference in the competitive selection process in violation of Bank rules.

174. Several instances of the Applicant’s interference in the resource selection process already have been discussed in this judgment. The Tribunal has found that the Applicant did not recuse himself from the procurement and hiring process for several resources hired through IT firms owned by individuals who had financial ties to the Applicant and who made significant payments and/or loans to the Applicant or to a company of which the Applicant’s wife was a beneficial owner. The Tribunal has further found that the Applicant’s personal communications outside of WBG channels of communication violated the standards of conduct identified in the Procurement Manual and contravened the Bank Group’s stated procurement principles of fairness, transparency, and competition.

175. A selection panel may help to reduce the potential for unfair procurement practices. It is nevertheless the obligation of a staff member to conduct himself in a competitive selection process consistent with the Staff Rules. The Tribunal finds that the Applicant's conduct and interference in the competitive selection process violated the Staff Rules.

176. The Applicant also contends that the Bank has not shown that the Applicant used his check-writing authority to write checks to himself from Rangoli Fashions and claims, therefore, that the Bank has failed to demonstrate how he benefitted from the alleged kickback payments.

177. In *CF*, Decision No. 486 [2014], para. 153, the Tribunal found that the applicant received improper payment from a U.S. construction company involved in a Bank project, although that applicant did not receive the payment directly. In that case, the funds were initially deposited into the applicant's friend's account and thereafter into his brother-in-law's account. *Id.*, para. 151. The Tribunal found that the deposit benefitted the applicant because the applicant owed money to his brother-in-law's wife, who was the applicant's sister, for the sale of a family property. *Id.*, paras. 151–53.

178. Here, the circumstances of the received benefit are even more direct and evident than that of *CF* [2014]. The Tribunal is satisfied that the Bank has shown that PVK made payments benefitting a company owned in part by the Applicant's wife and considers that the payment is therefore a benefit to the Applicant regardless of whether the Applicant personally wrote a check to himself from Rangoli Fashions. The Tribunal finds that the evidence establishes that the two PVK resource hirings were related to the Applicant's personal and/or financial relationship with Mr. K and that these resources were therefore not hired solely with the interests and objectives of the Bank in view.

179. The Applicant also contends that, ultimately, his conduct secured good resources for the Bank. This contention mirrors the general defense raised by the applicant in *CH* [2014], para. 59, wherein the applicant claimed that his conduct did not amount to misconduct because "his primary interest was to ensure that qualified individuals were selected for the contracts." However, the Tribunal found in that case that "this interest does not absolve [the applicant] of his responsibility

to follow Bank rules and policies.” In so finding, the Tribunal explained that “the Bank’s rules cannot be ignored simply because staff members [...] have a rationale for ignoring them.” *Id.*, para. 55.

180. The Tribunal similarly reasons here that, regardless of whether the Applicant secured good resources, “the Bank would be ungovernable if staff members were allowed to construct *post facto* rationalizations for their disregard of the rules” so long as the staff member could show that the net effect was not detrimental to the Bank. *See K*, Decision No. 352 [2006], para. 40. In the present case, the quality of the resources is not at issue, nor can it be a defense. The Tribunal has determined that the Applicant conducted himself in breach of the Bank’s procurement rules and in violation of the Staff Rules.

181. The Tribunal is satisfied that there is substantial evidence to support the HRDVP’s decision that the Applicant’s conduct interfered with the award of Bank-financed contracts amounting to misuse of Bank funds and receipt of kickback payments or personal benefits involving Bank Group-financed operations.

182. Having completed its review of the facts and whether the facts amount to misconduct, the Tribunal upholds the HRDVP’s findings that the Applicant committed misconduct regarding (i) real or apparent conflicts of interest and the duty to disclose, (ii) general obligations of staff members, and (iii) abuse of position or misuse of Bank funds for the personal gain of oneself or another.

183. In view of the Applicant’s admissions and the well-developed evidentiary record, which consists of strong testimonial and documentary materials, the Tribunal finds substantial evidence, “higher than a mere balance of probabilities,” to support the finding of misconduct as outlined in the HRDVP’s decision letter.



## WHETHER THE SANCTIONS ARE SIGNIFICANTLY DISPROPORTIONATE TO THE OFFENSE

184. The Tribunal notes that the Applicant does not challenge whether the sanctions imposed are provided for in the law of the Bank. Rather, the Applicant contends that the decision to terminate his employment was significantly disproportionate to any finding of misconduct on his part, given the context of the Bank's hiring practices.

185. In this case, the following sanctions were imposed:

- 1) termination of [the Applicant's] WBG employment;
- 2) ineligibility for future WBG employment;
- 3) access restriction to all WBG premises; and
- 4) written censure in the form of [the HRDVP's] letter to remain in [the Applicant's] personnel record.

186. In *Gregorio*, Decision No. 14 [1983], para. 47, the Tribunal held that, in order for a sanction to be proportionate,

there must be some reasonable relationship between the staff member's delinquency and the severity of the discipline imposed by the Bank. The Tribunal has the authority to determine whether a sanction imposed by the Bank upon a staff member is significantly disproportionate to the staff member's offense, for if the Bank were so to act, its action would properly be deemed arbitrary or discriminatory.

187. In *Houdart*, Decision No. 543 [2016], para. 95, the Tribunal reiterated the principle of proportionality and observed that,

in addressing the issue of proportionality, its job is not to decide what sanction the Tribunal would impose or whether the [HRDVP] chose the best penalty, but, rather, whether the [HRDVP] reasonably exercised his discretion in this matter. [...] [T]here is no mechanical formula on how to weigh these considerations. The selection of the sanction in a given case requires a judgment of balancing the relevant factors by the [HRDVP]. That discretionary judgment is for the [HRDVP] to make, and as long as [the] [HRDVP's] decision was not unreasonable, the Tribunal will not interfere.

188. Staff Rule 8.01, paragraph 3.01, provides that

termination of service will be mandatory, where it is determined that a staff member has engaged in the misuse of Bank Group funds or other public funds for the personal gain of oneself or another in connection with Bank Group activities or employment, or has engaged in the abuse of position in the Bank Group for the personal gain of oneself or another.

189. Staff Rule 8.01, paragraph 3.01, requires that,

[u]pon a finding of misconduct, disciplinary measures, if any, imposed by the Bank Group on a staff member will be determined on a case-by-case basis. Any decision on disciplinary measures will take into account such factors as the seriousness of the matter, any extenuating circumstances, the situation of the staff member, the interests of the Bank Group, and the frequency of conduct for which disciplinary measures may be imposed.

190. In considering whether the HRDVP properly exercised her discretion in determining the sanctions imposed, the Tribunal will examine the five factors enumerated in Staff Rule 8.01, paragraph 3.01. *See, e.g., S, Decision No. 373 [2007], para. 52.*

191. With regard to the seriousness of the matter and the interests of the Bank Group, the Tribunal notes that the Bank's mission, to alleviate poverty and build prosperity, demands that it be a model of integrity, transparency, competition, and value in its procurement activities. The Bank also demands high standards of business and procurement conduct from corporations and individuals working on Bank-financed projects. It can demand no less of its own staff. As the Bank points out, it is charged with the administration of public funds and, accordingly, its staff members are placed in a position of public trust.

192. Based on the foregoing, the Tribunal notes the seriousness of the Applicant's having influenced the hiring of resources from certain vendors on the grounds of his personal relationships and/or financial interests, not "solely with the interests and objectives of the [Bank] in view."

193. These matters are all the more serious given the Applicant's special responsibility as a staff member involved in procurement activity on behalf of the Bank. This special responsibility is expressly recognized in Staff Rule 3.01, paragraph 10.11, and is plainly apparent from Principle 3, both of which have been quoted at paragraphs 69 and 120 of this judgment. The Tribunal notes that the record demonstrates a pattern and practice of the Applicant hiring resources through subcontractors under the ITS staff augmentation program with whom he had extensive personal, business, and financial dealings, thereby benefitting his friends and at times resulting in his own personal enrichment and benefit.

194. The Tribunal further notes the frequency of the Applicant's misconduct and that this pattern and practice was found to have spanned "at least nine years" and was not an isolated instance.

195. With respect to extenuating circumstances, the Applicant attempts to shift the blame to ITS culture, stating that his conduct was permissible because ITS procurement procedures are commonly ignored, as evidenced, in the Applicant's view, by the wide discretion he received from his manager in 2008 to find resources. According to the Applicant, his manager told him to "go outside and bring whatever it is." Even taking the Applicant's assertion at face value, the Tribunal observes that this vague statement does not instruct the Applicant to conduct hiring practices in violation of the Staff Rules or the Bank's Procurement Manual, and any such instruction would not be permissible to carry out because all staff members have an individual duty to adhere to the Staff Rules, Principles of Staff Employment, and all other policies and procedures of the Bank Group, as applicable. *See* Staff Rule 3.01, paragraph 3.01.

196. In considering the above factors, the Tribunal reiterates that "there is no mechanical formula on how to weigh these considerations. [...] That discretionary judgment is for the [HRDVP] to make, and as long as [the HRDVP's] decision was not unreasonable, the Tribunal will not interfere." *Houdart* [2016], para. 95.

197. As explained in *FO* [2020], para. 83, “[i]n considering the proportionality of sanctions, the Tribunal has examined other misconduct cases to assess whether the sanctions imposed in a given case are reasonable.”

198. Here, the Tribunal ordered the Bank to produce, in the form of a comparative chart, five years’ worth of information on the sanctions the Bank has imposed in other instances of staff misconduct pertaining to Staff Rule 8.01, paragraphs 1.01(a) and/or 2.01(a), (c), and (d).

199. In considering the information, the Tribunal is mindful that, pursuant to Staff Rule 8.01, paragraph 3.01, disciplinary measures are determined on a case-by-case basis. Still, the information provided in accordance with the Tribunal’s order is helpful to determine whether the sanctions imposed are reasonable in this case.

200. In considering the comparative chart provided, the Tribunal notes that, of the five cases in which there was a misconduct finding under Staff Rule 8.01, paragraphs 1.01(a) and/or 2.01(a), (c), and (d), all staff members were sanctioned with ineligibility for future WBG employment, access restriction to all WBG premises, and written censures to remain on their respective personnel files indefinitely. The Tribunal further notes that, in instances in which the staff member was employed at the WBG at the time of the misconduct decision, those staff members were additionally sanctioned with termination.

201. In the present matter and having regard to the nature and persistence of the misconduct in question, the Tribunal finds no reason in the record to hold that the HRDVP’s decision on sanctions was unreasonable, nor does it find any other grounds upon which the imposed sanctions should be set aside.

202. The Tribunal is, therefore, satisfied, on the basis of the circumstances of this case, that the sanctions imposed on the Applicant do not go beyond the test stipulated by the Tribunal in its case law in that they are not significantly disproportionate to the offense.

## WHETHER THE REQUIREMENTS OF DUE PROCESS WERE OBSERVED

203. The next issue for the Tribunal to address in its examination of this case is whether the Bank observed the requirements of due process.

204. In *AJ* [2009], para. 120, the Tribunal stated that claims related to an alleged lack of due process “must be examined bearing in mind that the Bank’s disciplinary proceedings are administrative rather than criminal in nature.” In *Kwakwa*, Decision No. 300 [2003], para. 29, the Tribunal observed that the Bank is not required to accord a staff member accused of misconduct “the full panoply of due process requirements that are applicable in the administration of criminal law.”

205. In *Rendall-Speranza*, Decision No. 197 [1998], para. 57, the Tribunal explained the nature of disciplinary proceedings in the Bank as follows:

In order to assess whether the investigation was carried out fairly, it is necessary to appreciate the nature of the investigation and its role within the context of disciplinary proceedings. After a complaint of misconduct is filed, an investigation is to be undertaken in order to develop a factual record on which the Bank might choose to implement disciplinary measures. The investigation is of an administrative, and not an adjudicatory, nature. It is part of the grievance system internal to the Bank. The purpose is to gather information, and to establish and find facts, so that the Bank can decide whether to impose disciplinary measures or to take any other action pursuant to the Staff Rules. The concerns for due process in such a context relate to the development of a fair and full record of facts, and to the conduct of the investigation in a fair and impartial manner. They do not necessarily require conformity to all the technicalities of judicial proceedings.

206. In the present case, the Applicant maintains that he was not afforded due process because INT did not transcribe Mr. K’s testimony. The Applicant further objects to the presentation of the Final Report. Specifically, he objects to the allegations being included in the “findings and analysis” section of the Final Report.

207. While interviews with Mr. K were not transcribed verbatim by INT, the Tribunal has previously held that “due process does not necessarily require that a staff member receive

transcripts of all witness interviews undertaken.” *CF* [2014], para. 209, citing *Rendall-Speranza* [1998], para. 61; *Arefeen*, Decision No. 244 [2001], para. 46. In the present case, INT summarized Mr. K’s testimony and provided these summaries to the Applicant.

208. The Tribunal observes that the Notice of Alleged Misconduct, as well as the Supplemental Notice of Alleged Misconduct, provided the Applicant with the specific charges being investigated. The Tribunal also notes that the Applicant was provided the opportunity to explain his conduct through the production of evidence as well as written and oral testimony. The parties agree that INT gave the Applicant its Draft Report and provided him the opportunity to submit comments on the Draft Report. The Tribunal further observes that the Applicant’s comments on the Draft Report were considered and included in the Final Report.

209. The cases referred to above emphasize the requirement that subject staff members receive an adequate opportunity to respond to allegations made against them and to put forward their own evidence. The Tribunal is satisfied the Applicant had such an opportunity in the present case. The Tribunal therefore concludes that the requirements of due process were observed.

## DECISION

The Application is dismissed.

/S/ Mahnoush H. Arsanjani

Mahnoush H. Arsanjani

President

/S/ Zakir Hafez

Zakir Hafez

Executive Secretary

At Washington, D.C., \* 3 June 2022

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\* 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.