World Bank Administrative Tribunal

2025

Decision No. 717

HZ,
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

World Bank Administrative Tribunal
Office of the Executive Secretary

HZ,
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 Janice Bellace (President), Seward Cooper (Vice-President), Lynne Charbonneau (Vice-President), Martha Halfeld Furtado de Mendonça Schmidt, Thomas Laker, Raul C. Pangalangan, and Joëlle Adda.

2. The Application was received on 19 November 2024. The Applicant was represented by Ryan E. Griffin of James & Hoffman, P.C. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 8 May 2025.

3. The Applicant contends that (i) his behavior did not amount to misconduct; (ii) the sanctions imposed are grossly disproportionate under the totality of the circumstances; and (iii) there were procedural irregularities in the disciplinary process.

FACTUAL BACKGROUND

4. The Applicant joined the Bank in November 2011. In December 2021, he was relocated from Washington, D.C. to the Country Office in Country X as a Senior Agriculture Economist, Grade Level GG.

5. On 12 October 2023, while returning from a mission trip to the Arab Republic of Egypt (Egypt), the Applicant took a pair of sunglasses from the duty-free shop located in the Arrivals section of an airport in Country X without paying for them.

6. On 1 November 2023, Country X's Ministry of Foreign Affairs informed the Bank's Resident Representative for Country X that the Applicant had been captured on video taking the sunglasses.

7. On 2 November 2023, the Resident Representative notified the Ethics and Business Conduct Department (EBC) as follows:

> MOFA [Country X's Ministry of Foreign Affairs] said they had drafted a Note Verbale on the matter but preferred to talk to me directly and try to resolve the issue. I subsequently spoke with [the Applicant], who quickly admitted to taking the merchandise and expressed his embarrassment and remorse. I informed him of the difficult position he had put the WB [World Bank] in as an institution, and in breaking local laws. I also told him of my obligation to report the incident to EBC. Our MOFA counterpart has asked for payment for the merchandise; a letter of apology for the incident and assurance that the staff member is seeking counseling support ([the Applicant] informed me of his intention to do so). MOFA does not intend to take further action at this stage, for which we are greatly appreciative for the partnership with GOJ [the Government of Country X].
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> [The Applicant] is an excellent professional and valued member of our team—therefore, this incident, from my perspective, is very out of character and is without precedent during the over 1.5 years I have worked with him.

8. On 8 November 2023, EBC conducted an intake interview with the Resident Representative. She provided the following testimony:

> I received a call and was asked to come in for a meeting with […] our contact at the Ministry of Foreign Affairs […]. He asked to see me privately, one-on-one. When I was meeting with him, he said that he wanted to sit down and talk with me in person, because he had basically received information from the [Country X] Security Services that one of our international staff […] was caught on camera shoplifting in the duty free shop at the airport arrivals in [Country X]. […] And the Ministry of Foreign Affairs contacted the ambassador, said that, you know, I was planning to potentially send a [Note Verbale], but I wanted to instead just talk to you one-on-one and see if we could resolve the issue. So, I told him […] this is a great embarrassment for the World Bank, breaking local laws, and also just in terms of behavior of our international staff, and that I would talk to the individual and try to understand what might have happened. […] I promised to get back to him quickly.
>
> […] I sat down with [the Applicant] to ask him about whether, you know, if he was aware of this issue. And he immediately admitted and expressed a lot of

> embarrassment and remorse about the fact that he had stolen a pair of sunglasses from the duty free […]. So, I subsequently then went back to our MOFA contact, you know, to say that he admitted to the incident and that he, you know, we wanted to either return the merchandise or pay the bill for the sunglasses. The MOFA contact very kindly put us in touch with a captain that allowed the Duty Free Store to basically directly charge [the Applicant] for the cost of the sunglasses. And that happened just 2 days ago, he paid that full amount.
>
> […] I went back to see the MOFA contact […] and again expressed my embarrassment and my remorse for this incident. And he was very understanding. […] I also noted that we were contacting our internal ethics department because this, you know, obviously has implications for staff. And from my vantage point, I think that this on the [Country X] side, I don't expect anything further in terms of requests. And I think he viewed this as kind of closing the issue with them.
>
> And, sorry, I should have noted that it was […] on November 1st, right after I had talked to [the Applicant], that I also sent an e-mail to EBC. As I understand, you know, it's an obligation for managers to report this type of misconduct immediately to EBC. So, that's why I had reached out by e-mail to you all, to put that in writing quickly. […]
>
> I really found this quite shocking. It was very much out of his normal behavior patterns. He's an excellent professional and a really fantastic member of our team. I count on him a lot on a number of issues. And I think, yeah, so this was without precedent in a way very shocking for me. And so I was—I wanted to also just emphasize that part of the case as well.

9. When asked by EBC investigators whether the surveillance video was provided to her or whether there was anything in writing about the incident, the Resident Representative stated:

> No, but the MOFA contact offered [the video] if we needed to show it. […] I think he very kindly, I think, based on our partnership, wanted to not put anything in writing and just speak with me kind of face-to-face and see if we could resolve the issue. So, yeah, there was no e-mail or […] letter or anything.

10. The Resident Representative also described her conversation with the Applicant as "difficult […] for both of us" noting that, during the conversation,

> I did ask why [this happened], and I think he wanted to try to explain. […] I think he was trying to explain himself while realizing that it wasn't a sufficient explanation. But he said something like, this is […] a kind of game that my wife and I play sometimes, where—probably to see if we can get away with, you know,

> shoplifting. […] [H]e subsequently […] texted me and just said, "I've been doing a lot of soul-searching and I, you know, just feel really horrible about this."

11. During the interview, EBC investigators noted that the Resident Representative appeared to be emotionally affected and inquired about the reason for that. In response, the Resident Representative stated:

> I worry for him […] because I don't want it to impact his career and his work, which I think is excellent. And so, I'm upset with him for putting that at risk. And, you know, I'm putting us in a difficult situation vis-à-vis the government relationship. I mean, I think they were very kind with us in how they managed it. And I'm glad that he paid for the glasses now. And, you know, nothing further will come of it from the [Country X] side. But, you know, it's still a—it's not how I want to spend my time with the government here.

12. On 9 November 2023, the Resident Representative provided EBC with screenshots of correspondence showing that Country X authorities contacted her regarding the incident. She further provided screenshots of correspondence showing that the Applicant apologized to her and reimbursed the cost of the sunglasses to the duty-free shop. Based on its review of the record, EBC found sufficient factual basis to proceed with an investigation.

13. On 6 December 2023, EBC provided the Applicant with a preliminary notice of the allegations made against him.

14. On 11 December 2023, EBC interviewed the Applicant. During the interview EBC provided the Applicant with the Notice of Alleged Misconduct, which stated:

> [I]t is alleged that on October 12, 2023, you stole a pair of sunglasses from the duty-free shop at the […] Airport in [Country X]. According to the allegation the monetary value of the sunglasses is 159 [U.S. Dollars].
>
> If the allegations made against you are substantiated, your actions may constitute misconduct under applicable Bank Group rules and policies, including, but not limited to the provisions of:
>
> i) Staff Rule 3.00, paragraph 6.01(b): Reckless failure to identify, or failure to observe, generally applicable norms of prudent professional conduct;

ii) Staff Rule 3.00, paragraph 6.01(c): Acts or omissions in conflict with the general obligations of staff members set forth in Principle 3 of the Principles of Staff Employment including the requirements that staff avoid situations and activities that might reflect adversely on the Organizations (Principle 3.1) and conduct themselves at all times in a manner befitting their status as employees of an international organization (Principle 3.1(c)).

15. At the outset of the interview, the Applicant stated, "I made a terrible mistake. […] The allegations are true." He explained that he had recently undergone elective eye surgery and that, during his mission in Egypt, he lost his sunglasses. He further said that, upon his return to Country X, he stopped by the duty-free shop and stole a pair of sunglasses costing $159.00. The Applicant apologized for his actions and said, "[T]his was an error of judgment." He added that he has been attending psychotherapy for depression and anxiety.

16. During the interview, EBC investigators asked about whether the Applicant was on a World Bank mission at the time of the incident. The exchange was as follows:

> [EBC Investigator]: So, when this happened, were you going on a mission to Egypt? […]
>
> [The Applicant]: Coming back. I was coming back.
>
> [EBC Investigator]: Oh, you were coming back from Egypt.
>
> [The Applicant]: Yeah.
>
> [EBC Investigator]: Like you were traveling on a World Bank mission.
>
> [The Applicant]: Yeah. Yeah, I think so.

17. During the interview, EBC investigators also asked the Applicant how the duty-free shop owners knew he was a World Bank staff member, to which the Applicant responded, "I imagine that they tracked back the video to perhaps the check-in on the visa where we [World Bank staff] use the special passport line or something like that."

18. When asked by EBC investigators whether he ever engaged in theft during any of his other World Bank missions, the Applicant replied in the negative. He added, "I have in the past, maybe

in two or three incidents over the course of my life, similarly, like stolen something. Somehow, especially at a—it also happened at duty frees."

19. On 10 January 2024, the Manager, Human Resources Corporate Operations (HRDCO) provided the Applicant with an Option Letter, offering him the option to either resign from the Bank or continue with the investigation process.

20. On 15 January 2024, the Applicant notified the HRDCO that he was choosing to continue with the investigation process.

21. On 22 January 2024, EBC emailed the Applicant's interview transcript to the Applicant for his review and comments. On 24 January 2024, the Applicant replied, indicating that he had no comments other than to note the following clarification:

> The incidents when I took things from a duty free were never an actual game, the parallel I was trying to draw was only that I erroneously took these incidents lightly, that it was naively playful somehow. I since have realized that there is nothing light about it, that it is a serious offence. I deeply regret not having realized this earlier, but as a result of this realization I am certain it will never happen again.

22. On 8 February 2024, EBC emailed the Applicant a copy of the draft report of investigation for his review and comments. On 14 February 2024, the Applicant informed EBC that he did not have any comments on the draft report of investigation.

23. On 15 February 2024, EBC sent its Final Investigation Report to the Acting Vice-President, Human Resources (HRDVP). In its Final Investigation Report, EBC concluded, based on the Applicant's unequivocal admission, that the Applicant engaged in theft and that his "actions were contrary to the general applicable norms of prudent professional behaviour and inconsistent with the obligations of staff to behave in a manner befitting their status as employees of an international organization." EBC viewed the theft as "a violation of the standards of conduct expected of WBG [World Bank Group] staff members."

24. In its Final Investigation Report, EBC identified the following mitigating factors for consideration:

> EBC is not aware of prior allegations and/or disciplinary proceedings against [the Applicant]. [The Applicant] was cooperative with the investigation, admitted that he engaged in theft, reimbursed the cost of the sunglasses he stole, and apologized for his actions.

25. On 2 May 2024, an HR Specialist emailed the Applicant to notify him that a Misconduct Advisory Committee, a committee which had been introduced by the Bank in July 2023, had been convened and was reviewing the Final Investigation Report. This email included a link to the Bank procedure titled HRDVP Decision-Making Process in Misconduct Matters for EBC, which explained the Bank's decision-making procedure in misconduct cases. The Bank's Misconduct Advisory Committee was created to enhance decision-making in misconduct matters. It consists of a three-person panel, composed of one staff member appointed by the Staff Association, one staff member appointed by World Bank management, and one external advisor. The committee advises the HRDVP on misconduct matters referred by EBC; its deliberations and advice are confidential, and, according to the Bank, records are not kept of the committee's discussions. While the HRDVP considers the deliberations of the Misconduct Advisory Committee and its feedback in reaching a disciplinary decision, such deliberations and feedback are not binding on the HRDVP.

26. On 13 June 2024, members of the HRDVP's team phoned the Applicant's Manager to discuss the proposed sanctions.

27. On 19 June 2024, the HRDCO called the Applicant to inform him that the HRDVP was prepared to issue a finding of misconduct and had decided on termination of employment as the appropriate sanction. The HRDCO also re-extended the same Option Letter that was offered in January.

28. Within the Option Letter was a paragraph that stated:

> The alleged actions, if substantiated during the course of the Staff Rule 3.00 investigation, could amount to a finding of misconduct (failure to observe generally applicable norms of prudent professional conduct and/or acts or omissions in

> conflict with the general obligations of staff members set forth in Principle 3 of the Principles of Staff Employment including the requirements that staff avoid situations and activities that might reflect adversely on the Organizations (Principle 3.1) and conduct themselves at all times in a manner befitting their status as employees of an international organization). Pursuant to Staff Rule 3.00, paragraph 10.10, such a finding of misconduct mandates termination of employment under Staff Rule 3.00.

29. On 21 June 2024, the Applicant replied indicating that he could not find Staff Rule 3.00, paragraph 10.10. That same day, the HRDCO responded with a correction to the Option Letter, noting that the Staff Rule had been updated that month and that the "[s]ection to which [the Applicant] refer[red], 10.10," now resides in Staff Directive 3.07.

30. Staff Directive 3.07, paragraph 10.10, states:

> **Review of Mandatory Termination of Service**
> Where termination is mandatory under this Directive, the President or their designee appointed to review the case, retains full and sole discretion to determine otherwise based on particular circumstances—i.e., where an act is a felony in one jurisdiction but not in most others, or where there has been a manifest lack of due process in the relevant case.

31. On 25 June 2024, the Applicant's Manager emailed the HRDVP to (i) express her concern about the proposed disciplinary sanctions; (ii) note that she felt that the consultation of 13 June 2024 was insufficient for purposes of due process because she was not consulted on the sanction decision but, rather, was consulted only regarding the business implications of the already-decided sanctions; and (iii) request a meeting with the HRDVP. The HRDVP responded positively to the Manager's request for a meeting and thereafter held a phone call with the Manager.

32. On 28 June 2024, the Applicant wrote to the HRDVP as follows:

> Thank you for awarding me with additional time to conclude my misconduct case by this coming Monday. I was informed on June 19 by the HR team that you have decided on termination, based on the findings of the EBC investigation and recommendations from a panel.
>
> Please allow me to express my deep regret for the wrong and impulsive act I committed, which was clearly not in line with the standards expected of World Bank

Staff and of the standards I expect of myself. I take full responsibility for my action and feel sorry for any distress caused.

I would be grateful for you to consider the following in the hope of paving the way toward a more lenient and considered sanction:

The period in question was extraordinarily stressful for me. I was asked to jump in to rescue a high-profile project preparation effort outside my CMU [Country Management Unit], entailing 4 missions to Baghdad and Cairo during the month in question and nonstop work under utmost pressure, whilst suffering from the complications of eye surgery which required me to use sunglasses at all times (see attached medical report). Shortly after October 7, it was also an extremely tense time for my family in [Country X]. I was in emotional distress and believe this clouded my judgement. Following this incident, I decided to undergo psychotherapy, and have been working through the issues at hand and what led to them.

The option letter prepared by the HR team advised that the type of misconduct identified in my case entails mandatory termination. Upon reviewing the relevant staff rules, I struggle to understand how my case applies to the specific provisions cited in the letter. I want to say that I can change, and I have changed and while I recognize this "moment of madness" as reckless, I think I have shown in all my working years at the [B]ank that I am not a reckless person.

Even if you find it imperative to uphold the termination, I sincerely ask you to consider a degree of leniency. For instance, you could stop short of an unlimited ban from future work by attaching a temporary ban (3, 5 years) to the resignation or termination conditions. There is precedent for such a solution in previous decisions.

I plead with you humbly to offer me a chance to explain myself personally to you. After over 12 years of outstanding service having started when I was 26 years old, I hope you would consider such an opportunity merited.

33. On 29 June 2024, the HRDVP responded:

I have checked with my HR colleagues, and no one has ever said your termination is mandatory. It would be discretionary under the circumstances of your case.

I am also aware of your situation as you describe below, just as you previously described to EBC while you were interviewed, and as relayed to me by your immediate manager and others. I also have given you extra time to think things through. This is not something we do routinely. As Monday approaches, I honestly do hope you consider accepting [the offer in the Option Letter] and resigning. Otherwise, you will have my decision Monday afternoon […].

34. On 1 July 2024, the Applicant emailed the HRDVP as follows:

> Thank you for your response. It caused me much pain because I feel very highly personally identified with our work at the Bank. After over 12 years of hard and consistently highly rated work, I do not wish to leave it unfinished.
>
> After careful consideration, I will not be accepting the option to resign and would like to express my objection to the termination.
>
> First, the event occurred in a largely private context and should be treated differently from official business given nonexistent or much reduced potential reputational risks to the World Bank. The mission trip had either ended or was interrupted when I decided to enter the duty free shop in a personal capacity. My regrettable impulsive actions under duress from severe eye pain in the shop were if anything only tangentially related to the World Bank and my official capacity. They therefore should be outside the remit of disciplinary action or at least this factor would need to be considered in the discretion applied as part of the decision. As consequently borne out by events, any reputational risk to the World Bank revealed itself to be non-existent or minor. While the Government of [Country X] used communication channels via the World Bank to establish communication with me following the event because of diplomatic immunity, it subsequently treated the event as personal, choosing not to issue any official communication, offered an avenue to repair the damage (repayment) and dropped all further actions.
>
> Second, I believe your sanctions would violate the principle of proportionality. As I highlighted in my email to you, I believe the range of aspects to be considered when applying reasonable discretion should have pointed to a more lenient penalty (seriousness of the matter, extenuating circumstances, situation/track record, frequency, etc.). In particular, I believe the extreme stress under which I found myself during the period in question including severe eye pain should have been seen as (i) an extraordinary circumstance that is unlikely to repeat itself; and (ii) a lack of judgement of a degree that [remains] within an individual's ability to address, especially if he/she already indicated [a] willingness to undergo therapy etc.
>
> Finally, I also question whether due process was followed overall: (i) I believe my line manager was only informed at the very end (June 13) and never previously consulted during >6 months of investigation, weakening the Bank's ability to apply reasonable discretion; (ii) your response notwithstanding, the option letter I was given stated "Pursuant to Staff Rule 3.00, paragraph 10.10, such a finding of misconduct mandates termination of employment under Staff Rule 3.00" —i.e. that termination is mandatory in a case such as this one, which I take to have been an attempt to apply pressure on me to resign; and (iii) I also struggle to understand how my actions would require so extreme a sanction—whilst not considered sufficiently severe as to prevent me from continuing to fulfil my duties for >4 months after the results of the investigation were already available.

> I have done everything possible to clarify this matter and, accordingly, I expect a response from the World Bank that is in line with its reputation as a good and fair employer, one that is neither excessive nor grossly ungrateful. It has been an honor to serve the World Bank to date.

35. On 1 July 2024, the HRDVP provided the Applicant with his written decision. The decision letter informed the Applicant as follows:

> Based on a careful review of the evidence, including your own admissions, EBC concluded that there was sufficient evidence to substantiate the allegations that you stole a pair of Ray Ban sunglasses from the duty-free shop at the […] Airport in [Country X], while travelling on an official WBG mission. I agree with EBC's conclusion.

36. In the decision letter, the HRDVP stated that the Applicant engaged in misconduct under the following provisions of Staff Rule 3.00:

> Paragraph 6.01(b): Reckless failure to identify, or failure to observe, generally applicable norms of prudent professional conduct.
>
> Paragraph 6.01(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.

37. The HRDVP's decision letter further stated:

> To decide on the proportionality of the disciplinary measures to be imposed, and in accordance with WBG Directive Staff Rule 3.07, paragraph 10.09, I considered such factors as the seriousness of the matter, the interests of the WBG, any extenuating circumstances, the situation of the Staff Member, and the frequency of the conduct for which disciplinary measures may be imposed.
>
> By way of mitigating factors, EBC noted that you have had no prior adverse disciplinary findings against you during your service with the WBG. EBC further indicated that you were cooperative with the investigation, admitted that you engaged in theft, reimbursed the cost of the sunglasses (159 USD […]) to the [Country X] authorities, and apologized for your actions to the Resident Representative for [Country X]. Nonetheless, the theft of a pair of sunglasses from the duty-free shop at the airport while travelling on an official WBG mission is a serious matter which creates reputational risk to the WBG and raises fundamental concerns regarding your fitness for employment with the WBG.

38. The HRDVP imposed the following sanctions:

a) Termination from WBG employment;
b) A hiring restriction on future employment with the WBG;
c) A permanent restriction from access to WBG premises; and
d) Written censure to remain in your personnel file indefinitely.

39. On 19 November 2024, the Applicant submitted this Application contesting the misconduct decision, the sanctions imposed, and the process followed, and requesting the following remedies:

i) [Rescission] of the July 1, 2024, misconduct findings and disciplinary sanctions.

ii) Reinstatement to an equivalent and mutually agreeable position, along with backpay and benefits from the date of termination. […]

iii) Alternatively, compensation in lieu of reinstatement […] in an amount no less than three years' salary. […]

iv) Removal of disciplinary records from [the Applicant's] personnel file.

v) […Compensation] in an amount deemed just and reasonable by the Tribunal to remedy the damage to [the Applicant's] career and professional reputation resulting from his wrongful termination.

40. The Applicant further requests legal fees and costs in the amount of $26,493.75.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Applicant's Contention No. 1

The Applicant's actions did not constitute misconduct

41. The Applicant contends that his actions should be considered private conduct outside of the Bank's disciplinary jurisdiction.

42. In the Applicant's view, his conduct took place "while [he] was returning home to [Country X] following mission travel to Egypt." He explains that he was therefore not working or acting in

an official capacity at the time in question, nor was he in Country X on mission travel—he lived there.

43. The Applicant asserts that, even though he lived in Country X by virtue of being a Bank staff member, it would be an untenable proposition to consider that a valid basis for the Bank to exercise disciplinary authority. To the Applicant, it would mean that every staff member on field assignment would be subject to the Bank's constant oversight for conduct engaged in on personal time, even in their own homes.

44. The Applicant further supports his assertion that the conduct in question was private and not official by explaining that the conduct falls squarely within the competence of national law enforcement authorities or courts and is therefore beyond the purview of the Bank and the Tribunal.

45. The Applicant accepts that there are circumstances wherein personal conduct may come within the purview of the Bank or the Tribunal, namely if the conduct, while personal, nevertheless reflects adversely upon the reputation or integrity of the World Bank. In this respect, the Applicant asserts that there is no evidence of any such effect. The Applicant points out that the HRDVP's decision letter simply asserts, without evidence or analysis, that the Applicant's conduct created a reputational risk to the World Bank. The Applicant maintains that, moreover, EBC's Final Investigation Report did not provide any evidence or findings pertaining to any reputational harm to the institution.

46. The Applicant contends that the Resident Representative, as the Bank's main focal point with Country X's Ministry of Foreign Affairs, was best positioned to understand any reputational risks, and that she expressed to EBC during her interview that "nothing further will come of it from the [Country X] side." The Applicant asserts, however, that the Final Investigation Report fails to make any mention of the Resident Representative's views on this issue.

47. The Applicant asserts that, had there been a genuine concern regarding a reputational risk, the Bank would have placed him on administrative leave following the incident and pending investigation. The Applicant states that the Bank never exercised that option; instead, the Applicant

continued to successfully engage with Country X's government on behalf of the Bank without any subsequent issues for eight months after the Bank first learned of the incident. The Applicant points out that, following his separation, the Country X Country Office even held a farewell event for him with high-ranking Country X officials in attendance. To the Applicant, the farewell event decisively confirms that the Resident Representative, and other World Bank officials with actual responsibility for managing the World Bank's relationship with Country X's government, did not have any ongoing reputational concerns relating to the Applicant.

The Bank's Response

The facts establish misconduct for which disciplinary measures may be imposed

48. The Bank contends that the Applicant's admitted theft—committed in a client country, where he maintained residency based on his status as a World Bank staff member, at the airport and at the conclusion of a mission trip—is clearly not in line with the standards of professional conduct; nor is it consistent with the obligation of World Bank staff to conduct themselves at all times in a manner befitting their status.

49. The Bank maintains that it is charged with the administration of public funds and, accordingly, its staff are placed in a position of public trust. To the Bank, theft is a crime of dishonesty and, by its very nature, is a crime that adversely reflects on the honesty, integrity, and trustworthiness of the person who commits it.

50. Consequently, the Bank avers that the Applicant's theft constitutes misconduct in violation of Staff Rule 3.00, paragraph 6.01(b) and (c).

51. The Bank contends that the Applicant misrepresents the Resident Representative's position regarding the reputational risk caused to the World Bank. In support of its contention, the Bank cites the Resident Representative's testimony to EBC that the Applicant's shoplifting had put the World Bank in a "difficult situation vis-à-vis the government relationship" and was a "great embarrassment to the World Bank." To the Bank, the Resident Representative's intervention with the high-level Country X authorities prevented the issue from escalating further; however, the

success of her diplomatic efforts did not negate the risk that had already materialized and that adversely affected the relationship between the World Bank and Country X's government. The Bank maintains that this was not just a case of risk; it was realized risk that required the diffusing of a diplomatic incident.

52. The Bank rejects the Applicant's claim that, because he was not placed on administrative leave during the investigation and because certain Country X government officials attended his farewell party, he was clearly not viewed as a reputational risk. To the Bank, not placing a staff member on administrative leave cannot preclude the Bank's ability to take certain disciplinary actions at the conclusion of the investigation. The Bank avers that the Applicant's continued engagement with Country X's government on behalf of the World Bank pending the disciplinary decision, and even the attendance by Country X officials at his farewell party, is irrelevant to the determination of reputational risk. Moreover, in the Bank's view, there was no reason to expect that Ministry of Agriculture officials attending the farewell party were aware of the Applicant's theft.

The Applicant's Contention No. 2

The sanctions imposed are grossly disproportionate under the totality of the circumstances

53. The Applicant contends that, even if his private actions could constitute misconduct, the totality of the record weighs strongly in favor of a lenient sanction for a one-time error in judgment that the Applicant fully remedied, and does not support the harshest set of sanctions available.

54. In this respect, the Applicant points to his twelve years of service to the Bank, combined with his extensive track record of strong performance and the absence of any prior disciplinary issues, and contends that these factors should weigh strongly against a sanction as harsh as termination of employment.

55. The Applicant further points to the small monetary value of the sunglasses, his immediate repayment of such amount, and his honesty and cooperation during the investigation as mitigating factors.

56. The Applicant implores that his actions be understood in light of the highly stressful context in which they occurred. He maintains that (i) his ongoing sensitivity to light following eye surgery and loss of his sunglasses while in Egypt, (ii) the fact that he was in a period of intensive work travel, including four missions to Cairo and Baghdad in the span of a month, and (iii) the precarious geopolitical situation in the region immediately following the 7 October 2023 attack in Israel all contributed to his momentary lapse in judgment and should have been acknowledged and considered as mitigating factors by EBC and the HRDVP.

57. Finally, the Applicant contends that the views of the Resident Representative, which he states were completely omitted from the Final Investigation Report, strongly favor leniency. In particular, the Applicant points to the Resident Representative's statement that the Applicant's actions were "so out of character" and to the fact that she found it appropriate to invite high-ranking officials to the farewell gathering for the Applicant held in the Country X Country Office. To the Applicant, the Resident Representative's statements and actions confirm that she did not believe that the Applicant's actions created any ongoing reputational risk or long-term difficulties in the World Bank's relationship with Country X's government.

58. In sum, the Applicant claims that there is no reasonable basis for the HRDVP to disregard the clear evidence that both the Country X authorities and the Resident Representative deemed the issue to have been satisfactorily resolved, and instead to treat the Applicant's actions as on par with the most serious types of misconduct warranting the harshest set of sanctions available. The Applicant therefore believes that, if the Tribunal concludes that the Applicant engaged in misconduct, it should nevertheless order the Bank to rescind the termination decision and the ban on future employment and to limit management to reasonable, lesser penalties.

The Bank's Response

The disciplinary measures imposed by the HRDVP are proportionate to the misconduct

59. The Bank contends that the disciplinary sanctions imposed by the HRDVP are reasonable and proportionate to the misconduct because (i) mitigating factors were considered, (ii) the

contextual justifications presented by the Applicant are unavailing, and (iii) the misconduct was serious and there were aggravating factors.

60. In the Bank's view, the Applicant has not demonstrated how his years of service to the World Bank, his track record of performance, and the absence of prior disciplinary issues warrant the imposition of lesser sanctions considering the seriousness of the misconduct. The Bank maintains that such factors, which were presented in the Final Investigation Report and weighed by the HRDVP when making his decision, are not an automatic bar to termination of employment.

61. According to the Bank, none of the contextual factors to which the Applicant refers—namely, his eye sensitivity, the loss of his sunglasses, his intense work travel, and the precarious geopolitical situation in the region following the 7 October 2023 attacks—justify stealing a pair of sunglasses. Indeed, the Bank points out, the Applicant acknowledged that he was "perfectly well paid enough to just purchase these sunglasses [him]self."

62. The Bank considers the Applicant's misconduct to be serious in nature because it was a criminal act and, according to the Applicant's own admissions, was neither an accident nor his first time stealing. The Bank avers that the Applicant knew he was in Country X, a client country, where he maintained residency and special status by virtue of his World Bank employment. The Bank further avers that the Applicant knew or should have known that the duty-free shop was a surveilled area to which he had access only because of his mission trip travel and where his status as a World Bank representative was highly visible. The Bank points out that, at the time the act was committed, the Applicant was traveling on an official World Bank mission and that, moreover, the Applicant himself believed that he was still on mission when he committed the theft as evidenced by the Applicant's speculation during his EBC interview that he was able to be identified in the airport because of his official travel.

63. The Bank reasons that the success of the Resident Representative's diplomatic efforts in getting the Country X authorities not to pursue additional actions in connection with the Applicant's theft does not lessen the gravity of the misconduct or imply that harm to the World Bank's reputation had not already been caused.

64. To support its assertion that the sanctions were proportionate, the Bank also provided to the Tribunal a table with comparative disciplinary data of cases involving theft demonstrating that, in all cases of theft from a third party, the staff member was sanctioned with termination of employment if employed at the time of the finding, and was further sanctioned with ineligibility for future employment, an access restriction, and written censure. Like the Applicant, these staff members also had no prior disciplinary findings. Examples of items stolen in other cases were prayer mats, a computer, and hotel towels.

65. In sum, the Bank contends that none of the factors or justifications raised by the Applicant show that the HRDVP exercised his discretion unreasonably in sanctioning the serious misconduct.

The Applicant's Contention No. 3

The HRDVP's misconduct finding and sanction decision stemmed from multiple irregularities in the decision-making process

66. The Applicant contends that the Bank failed to adhere to its misconduct decision-making process.

67. The Applicant first claims that EBC failed to fully and fairly present all relevant information to the HRDVP to inform his disciplinary decision. Specifically, the Applicant points to the fact that EBC failed to present the Resident Representative's highly qualified opinion on the matter with respect to whether any risks to the institution were adequately addressed by the Applicant's payment for the sunglasses. As a result, the Applicant claims, the HRDVP relied on his own unfounded speculation about reputational risks as opposed to actual, relevant evidence that pointed precisely in the opposite direction.

68. The Applicant next claims that there is no indication that the HRDVP convened a Misconduct Advisory Committee to review the record, consulted with the Applicant's Manager, or assessed proportionality of the sanctions against prior disciplinary decisions, as he was required to do.

69. Last, the Applicant claims that the HRDCO attempted to pressure the Applicant into resigning by falsely telling him that a finding of misconduct would result in mandatory termination of his employment, even though the conduct at issue indisputably did not present one of the narrow circumstances in which mandatory termination is required under Staff Directive 3.07, paragraph 10.09. To the Applicant, regardless of whether the HRDVP ultimately acknowledged that this was not a mandatory termination situation and that the termination of employment sanction was instead an exercise of his discretionary authority, that did not prevent the HRDCO from trying on multiple occasions to get the Applicant to give up his right to challenge his unjust discipline.

The Bank's Response

The Applicant's due process rights were not violated during the EBC investigation and HRDVP decision-making process

70. The Bank contends that the Applicant has failed to support his claim that EBC failed to fully and fairly present all relevant information to the HRDVP by not including the Resident Representative's views on the reputational risk to the World Bank in the Final Investigation Report. The Bank rebuts the Applicant's assertion first by pointing to the fact that the Resident Representative's interview transcript was presented to the HRDVP in the Final Investigation Report and next by noting that, if the Applicant believed certain views of the Resident Representative were missing from the Final Investigation Report, he had the opportunity to request their inclusion; however, no such request was made.

71. The Bank states that the Applicant was notified that a Misconduct Advisory Committee was convened to review the matter. The Bank further states that all required consultations with the Applicant's Manager were carried out and that no prejudice ensued. To the Bank, the fact that the Manager did not change the HRDVP's ultimate disciplinary decision is of no consequence for purposes of the due process assessment.

72. Regarding the language of the Option Letter, the Bank points out that, as soon as the Applicant expressed his concerns about what he believed was mandatory termination language, the HRDVP confirmed that mandatory termination of employment was not applicable to the

misconduct of which he was accused. The Bank maintains that there was no malice, and certainly no such evidence of malice, in the apparent mistake in the text of the Option Letter. Moreover, the Bank avers that the mistake in the Option Letter did not cause the Applicant any prejudice, as he did not accept the option to resign.

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

THE SCOPE OF THE TRIBUNAL'S REVIEW IN DISCIPLINARY CASES

73. 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 FA, Decision No. 612 [2019], para. 138; *CH*, Decision No. 489 [2014], para. 22; *AB*, Decision No. 381 [2008], para. 53.

74. The Tribunal notes that the Applicant does not challenge the existence of the facts or whether the sanction imposed is provided for in the law of the Bank. The Tribunal will therefore limit its examination to the contentions advanced by the parties.

75. The Tribunal has held that the burden of proof in misconduct cases lies with the respondent organization. The burden of proof applied in misconduct cases is provided in Principle 8.3 of the Principles of Staff Employment. The Tribunal notes that, effective 17 May 2023, the Principles of Staff Employment were amended such that Principle 8.3 provides:

> The Organizations shall determine whether the evidence supports the conclusion that it is more likely than not that the staff member engaged in misconduct. "More likely than not" means that, upon consideration of all the relevant evidence, a

> preponderance of the evidence supports a finding that the staff member engaged in misconduct.

76. In *HQ*, Decision No. 707 [2024], paras. 123–125, the Tribunal held that the above standard of evidence identified in Principle 8.3 is applicable to assessing alleged misconduct occurring on or after the date of the amendment, as is the case here.

77. The Tribunal has also stated that it is not 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 light of that evidence. *See M*, Decision No. 369 [2007], para. 54.

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

WHETHER THE ESTABLISHED FACTS LEGALLY AMOUNT TO MISCONDUCT

79. The Tribunal observes that the HRDVP, in his decision letter, stated that, considering the established facts, namely, that the Applicant purposefully took a pair of sunglasses without paying for them from a duty-free shop at the airport and at the conclusion of his mission trip, the Applicant engaged in misconduct under the following provisions of Staff Rule 3.00:

> Paragraph 6.01(b): Reckless failure to identify, or failure to observe, generally applicable norms of prudent professional conduct.
>
> Paragraph 6.01(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.

80. The Applicant claims that his conduct occurred outside of work, and that his conduct therefore cannot be sanctioned by the Bank.

81. The Applicant's claim will be evaluated in light of the Principles of Staff Employment, the Staff Rules, the Code of Ethics, the Tribunal's jurisprudence, and the jurisprudence of other international administrative tribunals.

82. The Tribunal recalls Principle 3.1 of the Principles of Staff Employment, which sets out the general obligations of staff members as follows:

> 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: […] 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 […] 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.

83. The Tribunal also recalls Principle 7.1, which describes the types of conduct that may warrant ending employment. It states:

> Separations may […] be initiated by The World Bank […]. They shall be based on the needs for efficient administration and for upholding the standards of the Organizations. Staff members separated at the initiative of the Organizations have the right to be notified in writing of the decision and the reason for it, which shall be based on the following:
>
> […]
>
> iv. […] personal or professional misconduct, […] or action adversely reflecting upon the reputation and integrity of the Organizations or their staff.

84. The Tribunal notes that the Staff Rules provide more context for what it means for staff to comply with the Principles of Staff Employment and to conduct themselves at all times in a manner befitting their status as employees of an international organization. Staff Rules 3.01–3.06 provide a non-exhaustive list of staff duties, standards, and obligations, many of which would be unreasonable if they could only be applied strictly during working hours, or on World Bank premises. These include, for example, duties, standards, and obligations relating to child support payments, political activities, accepting gifts, and criminal activities resulting in convictions.

85. The Tribunal also observes the Code of Ethics, which "describes the ethical norms and behaviors that the WBG expects from [its] staff." It states:

> As WBG staff, we are mindful that we represent the organization at all times […]. As staff, we commit to […] abiding by the laws of the countries where we reside or operate. We fulfill our legal and personal obligations. […] We prioritize the interests of the WBG and our clients above our own personal gain. This includes protecting the reputation of the WBG.

86. The Tribunal further observes that, in the Code of Ethics, theft is identified as an integrity issue that staff are encouraged to report to EBC.

87. The Tribunal has not had the opportunity to opine about the scope of the Bank's disciplinary powers with respect to staff conduct occurring outside of work and absent a criminal conviction. It has, however, previously explained, in *O'Humay*, Decision No. 140 [1994], para. 27, that "[p]rivate conduct may come under [the disciplinary jurisdiction of the Bank] only if it reflects adversely upon the reputation or integrity of the Bank."

88. The Tribunal considers that, even if conduct occurs outside of work, it may, in some circumstances, come under the disciplinary jurisdiction of the Bank. This is in line with the jurisprudence of other international administrative tribunals.

89. For example, the Tribunal looks to the jurisprudence of the United Nations Dispute Tribunal (UNDT), which, in *Conteh*, Judgment No. UNDT/2020/189, para. 39, considered the termination of an applicant's appointment based on a misconduct finding wherein the applicant's conduct "occurred in particular during private parties in the [a]pplicant's house or its proximity and, in general, outside working hours and working premises." As the UNDT explained in that case, staff obligations under the staff regulations "are not limited to the work environment but also apply in a certain way to their private lives," reasoning that the staff regulations explicitly provide that staff members "shall conduct themselves at all times in a manner befitting their status as international civil servants." *Id*., para. 44.

90. In that case, the UNDT concluded, at paragraph 46:

> [The] private life and activities of a staff member may be intruded in the context of imposition of disciplinary measures within the United Nations and the International Civil Service when the highest standards of efficiency, competence and integrity are not observed, or the behaviour may reflect on the image and reputation of the Organization or on its activities, or the activities are specifically prohibited by the Staff Regulations and Rules of the United Nations.

91. While the UNDT's *Conteh* judgment was later reversed by the UN Appeals Tribunal (UNAT) in *Conteh*, Judgment No. 2021-UNAT-1171, it should be noted that the reversal addressed only the proportionality of the sanction, not the finding of misconduct, which was not contested on appeal. *See id*., paras. 34–36.

92. In *Woldeselassie*, Judgment No. UNDT/2010/096, para. 55, the UNDT elaborated on the behavioral expectations of staff of an international organization, stating, "In the UN, as in any other international organization, theft constitutes an egregious lapse in the integrity expected of an international civil servant."

93. The UNAT, in *Lecca*, Judgment No. 2014-UNAT-408, paras. 25–27, upheld the determination that the applicant's theft of a bicycle from a third party constituted serious misconduct, and further found that separation from service was not a sanction manifestly disproportionate to the facts.

94. In *In re Williams*, Judgment No. 1128 (1991), the International Labour Organization Administrative Tribunal (ILOAT) upheld the respondent organization's decision to discontinue a staff member's employment after thirteen years of service based on "off-duty activities" which had prompted the Indonesian government to carry out an investigation. The investigation resulted in a police report accusing the staff member of being the ringleader of a group which practiced "'religious activities' based on 'free sex' and repugnant to the religious and cultural traditions of the country's people." *Id*., para. 4. Following the investigation, the Indonesian Ministry of Foreign Affairs contacted the respondent organization to object to aspects of the staff member's private life and told the institution that "staff ought to be chosen more carefully in future and made to respect the culture, religious sentiments and traditions of the country's people." *Id*. In forming its decision, the ILOAT cited, at paragraph 6, the organization's staff regulations, which state, "Staff members

shall conduct themselves at all times in a manner befitting their status as international civil servants […] they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status." Based on this regulation, the ILOAT determined, "It is at the discretion of an international organisation to discontinue employment if it has lost confidence in the staff member and no longer believes that he will show due respect for its good name." *Id*.

95. In view of the Principles of Staff Employment, Staff Rules, Code of Ethics, and above jurisprudence, the Tribunal affirms that a staff member's conduct, including conduct outside of work, may come under the disciplinary jurisdiction of the Bank if it reflects adversely upon the reputation or integrity of the Bank.

96. The Tribunal therefore finds it unnecessary to determine whether the Applicant's conduct at issue here, at the conclusion of his mission travel, occurred inside or outside of work. Instead, the relevant consideration, here, is whether the Applicant's conduct reflects adversely upon the integrity or reputation of the Bank.

97. The Applicant maintains that his actions could not, and did not, reflect adversely on the integrity or reputation of the Bank because he eventually paid for the sunglasses and because Country X's Ministry of Foreign Affairs thereafter regarded the matter as resolved. The Tribunal considers that the Applicant's viewpoint lacks a basic understanding of his position as a staff member of the Bank and of how his actions reflected adversely on the organization.

98. To this end, the Tribunal observes that the Applicant's theft was committed in a client country, where he maintained residency based on his status as Bank staff, at the airport, and at the conclusion of his mission trip. Moreover, his conduct was brought to the attention of Country X's Ministry of Foreign Affairs, resulting in meetings between high-level Country X government officials and Bank management to reach a resolution.

99. The Tribunal observes that the conduct became intrinsically connected to the Applicant's employment when the Resident Representative was contacted by the Country X official, resolved the incident on the Applicant's behalf, and arranged that he would be permitted to pay for the stolen

item without further consequence for the theft, an arrangement that was accorded to the Applicant by virtue of his employment status with the Bank.

100. The Tribunal also looks to the testimony of the Resident Representative who served as the head of office for the Bank in Country X and was responsible for managing the dialogue with the government and leading the crisis management team there. During her interview with EBC, the Resident Representative described the incident as "unacceptable" and "a great embarrassment for the World Bank, breaking local laws and also just in terms of behavior of our international staff." The Tribunal further observes that the Resident Representative notified the Country Director of the incident, stating to EBC investigators that she did so because "it was […] an issue that was related to our dialogue with the government of [Country X]." She further noted that the incident "put us [the Bank's Country Office] in a difficult situation vis-à-vis the government relationship." The Resident Representative explained that, from her viewpoint, the Ministry of Foreign Affairs contact had extended a kindness to her "based on [their] partnership" by not submitting a formal diplomatic exchange for the record and, instead, resolving the matter face-to-face. The Resident Representative further commented that "it's not how I want to spend my time with the government here." The record demonstrates that the Resident Representative was able to address the matter to the satisfaction of the Country X government, such that the drafted Note Verbale did not officially materialize and no criminal charges were pursued.

101. The Tribunal concludes that the Applicant's conduct was viewed by high-level officials of a client country's government as being problematic enough for the matter to be raised by Country X's Ministry of Foreign Affairs with Bank management. That the matter was ultimately handled in a way that was acceptable to Country X's Ministry of Foreign Affairs does not negate the potential or realized harm to the World Bank's reputation. The Tribunal considers that the Applicant's actions placed the World Bank in a position where it could be viewed as accepting a favor from a client country's government. Regardless of whether there is an expectation of reciprocating such favor, the Tribunal considers that the Applicant's actions affected the World Bank's relationship with a client country's government.

102. Moreover, the Tribunal agrees with the Bank's view that theft is a crime that adversely reflects on the honesty, integrity, and trustworthiness of the person who commits it; therefore, a World Bank staff member engaging in theft reflects adversely on the integrity and/or reputation of the World Bank as an employer of such person. The Tribunal further notes that the absence of a conviction for an admitted theft is not exonerative when such prospect was in whole or part avoided by diplomatic efforts between the Bank and the client government.

103. In view of the circumstances of the case, as well as the Principles of Staff Employment, Staff Rules, and Code of Ethics, the Applicant's theft is plainly not in line with the standards of professional conduct. Nor is it consistent with the obligation of World Bank staff members to conduct themselves at all times in a manner befitting their status as employees of an international organization.

104. Consequently, the Tribunal finds that the Applicant's admitted theft is subject to the disciplinary authority of the Bank and constitutes misconduct under Staff Rule 3.00, paragraph 6.01(b) and (c).

WHETHER THE SANCTIONS ARE SIGNIFICANTLY DISPROPORTIONATE TO THE OFFENSE

105. In his decision letter of 1 July 2024, the HRDVP imposed the following sanctions:

a) Termination from WBG employment;
b) A hiring restriction on future employment with the WBG;
c) A permanent restriction from access to WBG premises; and
d) Written censure to remain in your personnel file indefinitely.

106. Whether the sanctions are significantly disproportionate in this case must be determined in line with the guidelines provided in paragraph 10.09 of Staff Directive 3.07, which states:

> Upon a finding of misconduct, disciplinary measures, if any, imposed by the World Bank Group on a Staff Member are determined on a case-by-case basis. Any decision on disciplinary measures takes into account such factors as the seriousness of the matter, any extenuating circumstances, the situation of the Staff Member, the interests of the World Bank Group, and the frequency of conduct for which disciplinary measures […] may be imposed.

107. The Tribunal recognizes that the decision as to the disciplinary measure to be imposed in a given case is within the discretion of the HRDVP. "The Tribunal will not disturb the exercise of this discretion unless it can be shown that the penalty imposed is so disproportionate that the Tribunal must conclude that the discretion was abused." *CH* [2014], para. 66.

108. The Tribunal will now examine whether the discretion was abused in this case considering the factors set out in Staff Directive 3.07, paragraph 10.09, namely, (i) the seriousness of the matter, (ii) any extenuating circumstances, (iii) the situation of the staff member, (iv) the interests of the World Bank, and (v) the frequency of conduct for which disciplinary measures may be imposed.

109. With respect to the situation of the staff member, the record shows that, before EBC's investigation, the Applicant had a good record of conduct and satisfactory performance during his twelve-year career with the Bank, circumstances which were presented in the Final Investigation Report and/or by the Applicant in his direct communications to the HRDVP.

110. The Tribunal explained in *D*, Decision No. 304 [2003], para. 53, that a staff member's good performance cannot bind the judgment and discretion of the HRDVP, but that good performance and lack of prior disciplinary measures fall under "the situation of the staff member," a factor which was duly considered by the HRDVP. However, the Tribunal has consistently stated that "[an] applicant's able performance [is] not sufficient to overcome the consequences even of an isolated instance of financial impropriety." *See, e.g., CH* [2014], para. 67; *AJ*, Decision No. 389 [2009], para. 117; *S*, Decision No. 373 [2007], para. 63.

111. Equally unpersuasive is the Applicant's reference to his willingness to reimburse the duty-free shop after the incident was escalated to the attention of Country X's Ministry of Foreign Affairs, and after he was confronted about his actions by the Resident Representative. As the Tribunal stated in *K*, Decision No. 352 [2006], para. 41, "People who have benefited from cutting corners but are found out are often eager to make restitution, but misconduct is not so easily expunged."

112. In considering the extenuating circumstances presented by the Applicant, the Tribunal notes that the Applicant had recently undergone elective eye surgery, lost his sunglasses, and had been traveling frequently for work. This, however, is merely a list of circumstances explaining why the Applicant felt compelled to acquire sunglasses in the airport's duty-free shop; it does not explain or excuse why he did not pay for the sunglasses such that his disciplinary sanction should be lessened.

113. The Tribunal notes that certain mental states or conditions could be extenuating circumstances considered by the HRDVP in the imposition of sanctions. In the present case, the Tribunal observes that the Applicant informed EBC investigators that he attends psychotherapy "for other, totally other reasons." The Final Investigation Report duly provided the HRDVP with the fact that the Applicant attended psychotherapy for depression and anxiety. The Tribunal observes, however, that the Applicant has not put forward any contentions or evidence that his depression or anxiety impaired his ability to differentiate right from wrong.

114. With respect to the frequency of the conduct, the Tribunal notes that, while the Applicant had no prior disciplinary actions against him, this was not an isolated incident; the Applicant stated that he purposefully took items from duty-free shops on other occasions without paying for them. The Resident Representative also informed the EBC investigators that the Applicant had explained to her that stealing is "a game that [he] and [his] wife play." The Applicant also stated something similar to EBC investigators, namely that "to [him] it was a silly thing almost […] like a game." These statements indicate that the Applicant, a Bank staff member, completely lacked awareness of the gravity of engaging in theft. While the Applicant explained that he now understands that theft is not a game, the factors of frequency and flippancy are not factors weighing in favor of a more lenient sanction.

115. With regard to the seriousness of the matter and the interests of the World Bank, the Tribunal notes that the World Bank's mission, to alleviate poverty and build shared prosperity, demands that it be a model of integrity in the administration of public funds; accordingly, its staff members are placed in a position of public trust. *See GN*, Decision No. 667 [2022], para. 191; *CF*, Decision No. 486 [2014], para. 206.

116. Considering the World Bank's mission and function, the Tribunal has previously acknowledged and accepted the seriousness with which the Bank addresses financial misconduct. In *S* [2007], the Tribunal upheld the Bank's termination of employment of a staff member who pleaded guilty to a felony count of structuring financial transactions to evade reporting requirements under U.S. laws, conduct which was unrelated to his employment. In upholding the decision, the Tribunal noted that the Bank has devoted significant resources to combatting financial improprieties and that it would therefore be discordant for the Tribunal to compel the Bank to retain a staff member who committed financial impropriety. *See id*., para. 70.

117. Here, the Applicant acknowledges that he took sunglasses without paying for them; however, he maintains that the price of the sunglasses makes his conduct less serious or egregious, as compared to other staff who were sanctioned less severely for their financial improprieties. The Tribunal is unpersuaded. While intent is not necessary for a finding of misconduct, the Tribunal considers that it is intent, more so than price, that speaks to the integrity of a subject staff member and informs the proportionality of sanctions. In the present case, it is undisputed that the Applicant intended to take the sunglasses, and did so, without paying for them.

118. Moreover, in the course of the proceedings, the Bank provided the Tribunal with a table of all disciplinary cases occurring between 2011 and 2024 involving theft from a third party. While the Tribunal observes that there were few cases, it also notes that all cases were sanctioned with (i) termination of employment if the staff member was employed at the time of the decision, (ii) a bar from future employment, (iii) an access restriction to World Bank premises, and (iv) a written censure to remain in their respective HR records. The Tribunal considers that the Bank has demonstrated its consistent practice when sanctioning conduct involving theft from a third party.

119. The Tribunal considers that the Bank, in dealing with acts of financial impropriety by staff, must be conscious of the consequences of the particular infraction for the reputation of the World Bank and the workplace example that is set. It is unfortunate that the Applicant's previously unblemished career with the Bank came to such regrettable conclusion.

120. The Tribunal has observed that termination of employment "is the most severe sanction available" and thus calls for an examination before concluding that it was not disproportionate. *Kim (No. 1 and No. 2)*, Decision No. 448 [2011], paras. 82–83. The Tribunal notes that the HRDVP did convene the Misconduct Advisory Committee, consisting of three persons, including one appointed by the Staff Association, to review the Final Investigation Report and make recommendations to the HRDVP on the possible findings of misconduct and appropriate disciplinary sanctions. Based on the Final Investigation Report, including the testimony and exhibits gathered by EBC, and the recommendations of the Misconduct Advisory Committee, the HRDVP decided to impose the sanctions of termination of employment, a hiring restriction, an access restriction, and a written censure.

121. The Tribunal finds that the sanctions accord with the practice of the Bank in cases of theft from a third party, and further finds that the sanctions are not significantly disproportionate to the seriousness of the offense in this case.

WHETHER THE REQUIREMENTS OF DUE PROCESS WERE OBSERVED

122. The Tribunal's insistence on due process in the investigation of allegations of misconduct is manifested in numerous decisions. *See, e.g., Koudogbo* [2001], paras. 41–54; *Ismail*, Decision No. 305 [2003], para. 75; *Mustafa*, Decision No. 207 [1999], paras. 30–36.

123. In *King*, Decision No. 131 [1993], para. 29, the Tribunal emphasized that the Staff Rule describing disciplinary proceedings is "intended to give expression to the basic principles of due process of law with respect to disciplinary measures. It contains a number of essential components—none of which can be neglected if it is to be properly applied."

124. The Applicant claims that the Bank failed to adhere to its misconduct decision-making process because, in his view, (i) EBC failed to fully and fairly present the Resident Representative's opinion about whether any reputational risks to the institution were adequately addressed by the Applicant's repayment of the sunglasses; (ii) there is no indication that the HRDVP convened a Misconduct Advisory Committee review, consulted with his Manager, or assessed the

proportionality of the sanctions against prior disciplinary decisions; and (iii) the HRDCO attempted to pressure the Applicant into resigning by falsely telling him that a finding of misconduct would result in mandatory termination of employment.

125. The Tribunal observes that EBC summarized the Resident Representative's testimony in the Final Investigation Report and included her full interview transcript when it presented the Final Investigation Report to the HRDVP.

126. The Tribunal notes that, following the Applicant's immediate admission to the theft to EBC during his interview, EBC investigators continued with a comprehensive fact-finding to determine further information regarding the substance and circumstances of the matter.

127. In view of the above, and the Final Investigation Report overall, including its exhibits, the Tribunal considers the EBC record to be adequate such that the HRDVP had sufficient information to consider the reputational risks to the institution.

128. The Tribunal observes that the Applicant was informed that a Misconduct Advisory Committee had been convened to review his case and consider the Final Investigation Report, including its exhibits. The Tribunal is satisfied that there is sufficient evidence in the record to confirm that a Misconduct Advisory Committee was convened to review the Applicant's case.

129. The Tribunal notes that the Misconduct Advisory Committee is newly established within the HRDVP decision-making process in misconduct matters; its composition is designed to incorporate the views of both staff and management. According to paragraph 3.07 of the HRDVP Decision-Making Process in Misconduct Matters for EBC, the Misconduct Advisory Committee is tasked with "consider[ing] prior cases involving the same or similar misconduct, and the corresponding HRDVP decisions in those cases to ensure that the proposed disciplinary sanctions are aligned with past misconduct decisions." While there is no written record of the Misconduct Advisory Committee's deliberations, during the proceedings of this case, the Bank produced a table of cases involving misconduct findings relating to theft. Having examined the table, the Tribunal considers that there is no marked departure from the Bank's past practice to suggest, as

the Applicant claims, a procedural irregularity with respect to the Misconduct Advisory Committee's consideration of proportionality of the Applicant's sanctions.

130. The Tribunal observes that the Misconduct Advisory Committee is not procedurally required to meet with witnesses or the subject staff member's management. The Tribunal therefore finds that no procedural irregularity arose from the fact that the Misconduct Advisory Committee did not meet with the Resident Representative or the Applicant's Manager.

131. The Tribunal also observes, in the record, the communications between the HRDVP, the HRDVP's team, and the Applicant's Manager, which demonstrate that the HRDVP and the HRDVP's team "consult[ed] with the Subject Staff Member's Manager on the misconduct matter" before the HRDVP's final decision letter was issued. The Tribunal considers that this fulfills the procedural requirement set out in paragraph 3.10 of the HRDVP Decision-Making Process in Misconduct Matters for EBC.

132. Last, the Tribunal notes that, while the HRDCO cited an incorrect Staff Rule in the Option Letter presented to the Applicant, the error was acknowledged by the Bank and promptly corrected in response to the Applicant's query on the matter. The Tribunal finds that the corrected error, which the Applicant did not rely upon to his detriment, does not amount to an abuse of process.

133. In view of the above, the Tribunal is satisfied that the Bank adhered to its decision-making process and that the Applicant's due process rights were respected.

DECISION

The Application is dismissed.

/S/Janice Bellace
Janice Bellace
President

/S/ Zakir Hafez
Zakir Hafez
Executive Secretary

At Vienna, Austria, 23 May 2025