World Bank Administrative Tribunal

2025

Decision No. 718

IA,
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

World Bank Administrative Tribunal
Office of the Executive Secretary

IA,
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 10 December 2024. The Applicant was represented by Ryan E. Griffin of James & Hoffman, P.C. The Bank was represented by Amir Shaikh, Lead Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 14 May 2025.

3. The Applicant challenges the determination by the Corporate Support Vice President, International Finance Corporation (COSVP) that he committed misconduct and the disciplinary sanctions imposed therein.

FACTUAL BACKGROUND

4. The Applicant joined the Bank in 1993 as a consultant. He received a staff appointment in 1998 and has held several positions in both country offices and Headquarters, including Country Manager in the Lao People's Democratic Republic from 2005 to 2010 and Manager, Operations in Afghanistan from 2012 to 2014. From 2015 to 2020, the Applicant served as the Country Director for Pakistan. From 2020 to 2024, the Applicant served as the Director of Strategy and Operations for the South Asia Region, Grade Level GI, based in Washington, D.C. The Applicant now serves in a Grade Level GH position based in Washington, D.C. The Applicant's appointment is open-ended.

5. On 26 May 2022, the Office of the Anti-Harassment Coordinator referred to the Ethics and Business Conduct Department (EBC) two complaints of sexual harassment allegedly committed by the Applicant during his tenure as Country Director for Pakistan. The first complaint was made by Complainant 1, who worked for the Applicant from August 2016 to January 2018 as a Senior Executive Assistant in the Pakistan Country Office. The second complaint was made by Complainant 2, who worked for the Applicant from September 2019 to January 2020 as a Team Assistant in the Pakistan Country Office. The complainants each alleged that, when they worked for the Applicant, he repeatedly engaged in verbal and physical sexually harassing behavior toward them.

6. On 1 June 2022, EBC contacted the complainants separately through video conference to acknowledge receipt of their complaints and confirm their agreement that they wished EBC to initiate an investigative process into their allegations.

7. On 6 June 2022, the EBC investigative team traveled to Pakistan. Between 9 and 14 June 2022, EBC conducted interviews with the complainants and relevant witnesses in the Pakistan Country Office.

8. On 9 June 2022, EBC interviewed Complainant 1. In her interview, Complainant 1 explained that she joined the Bank in 2016 as the Applicant's Senior Executive Assistant, and that in January 2018 she moved to a different unit. Complainant 1 further explained that she decided to report her allegations to Ms. A, a Senior Human Resources (HR) Business Partner, after attending an EBC townhall in December 2021 focused on respectful and harassment-free workplaces. Regarding her allegations against the Applicant, Complainant 1 told EBC:

- The Applicant would ask her about her weekend "almost every Monday" while "making [her] stand in the office."
- The Applicant would tell her that she should join a gym.
- The Applicant would "purposely touch [her] hands whenever [she] used to hand over something to him" in a way that made her uncomfortable.

- On three or four occasions, when the Applicant would go over documents with her at the end of the day in the seating area of his office, he would touch her knee with his knee and then move his knee away.
- The Applicant used the word "fuck" in her presence three or four times.
- When she visited the Applicant at his home after the death of his dog, the Applicant hugged her in front of his wife.
- At an event at the Applicant's home, the Applicant questioned why she was not drinking alcohol.
- The Applicant would stare at her "all the time" while she was at her desk working.
- The Applicant would have "deep eye contact" while talking to her which made her uncomfortable, describing his eyes as "very penetrating."
- The Applicant would look at "[a]lmost every female he used to meet" "up and down" and with "[l]ust in his eyes."
- She had the sense that the Applicant "liked" her, stating, "The way he used to look at me, the way he used to touch, and I—his touch, I can sense that he liked me" and "I think if he didn't like me, or if he was not attracted, he would not have intentionally and again and again touched my hand and touched my knee. If he didn't like me, then he would not have tried to hug me."
- The Applicant instructed another staff member to tell her she could not wear jeans in the office.
- In February 2017 the Applicant said negative things in her mid-year performance review because, in her view, she was "not acting the way he wanted [her] to" and he was "taking revenge" on her for "not being friendly with him."
- After Complainant 1 had worked for the Applicant for four or five months, his tone and attitude became "harsh" and he would ask her questions about the documents she brought him to sign when he had not before.
- She requested to be moved to a different unit because she did not want to work with the Applicant.
- When Complainant 1 was being rotated to a different unit, the Applicant told Ms. B, the then-Operations Manager, that Complainant 1 should be demoted from Grade Level GD to GC.

- In November 2017, she told the Applicant she was getting married the next month and he was "shocked" and asked why she did not share the information earlier.
- After she moved to her new unit, she was in a meeting that the Applicant also attended and the Applicant touched her foot with his three times under the table over the course of around ten minutes then said "[O]h, sorry" after she looked under the table.
- When the Applicant visited the Pakistan Country Office in 2021 and 2022, she chose to work from home to avoid him.

9. On 10 and 12 June 2022, EBC interviewed Complainant 2. In her interview, Complainant 2 explained that she joined the Bank in September 2019 as a Team Assistant working with the Applicant, and that in January 2020 she moved to start working with Ms. B, the Operations Manager. Regarding her allegations against the Applicant, Complainant 2 told EBC:

- After a few days of working for the Applicant, she began to "feel a bit uncomfortable sitting with him, like the way he ask questions, and the way he looked at [her]."
- The Applicant asked her to bring the documents he needed to review to him at the end of the day and, on the first day she went to his office after 5:00 PM, he told her to sit on the sofa in his office while he finished work at his desk and then he sat in the chair next to the sofa.
- On the next day, she had to wait until 7:00 PM to meet with the Applicant when everyone else in the office had left, he told her to sit on the sofa again, and he turned off half the lights in the office before sitting in the chair next to the sofa.
- Almost every day from mid-September to the end of November 2019, while the Applicant was looking over the documents, he would ask questions about what she did in the evenings and weekends, how she would get home, and if she was in a relationship; and she explained that it was "not comfortable" for her because of the way "he sits and […] he look," describing that he would look at her "head to toe."
- When she was not wearing the traditional dress, the Applicant would look at her "in a different way."
- One day she left around 6:00 PM, and the next day the Applicant told her that he missed an invitation from an embassy and that she should have seen it; and she understood from him that she was meant to stay in the office until he left.

- On one occasion she brought her laptop to his office to review an email, and the Applicant held her hands and smiled at her in a "flirting" way while she was handing him her laptop.
- During two separate parties in November 2019 at the Applicant's house, the Applicant put his arm around her shoulder.
- She did not verbally tell the Applicant not to hug or touch her because he was the Country Director and "most of the people feel even scared to talk to him" and because she was still in her probation period.
- Toward the end of November 2019, she asked Ms. B, the Operations Manager, if she could move to a different department, but Ms. B said it would not be possible.
- In January 2020, she was switched to work with Ms. B instead of the Applicant.
- On one occasion after Complainant 2 began working with Ms. B, the Applicant passed her and commented that she was smiling more now that she worked with Ms. B and that she did not smile like that when she worked with him.

10. Also on 10 June 2022, EBC interviewed Ms. B, the Operations Manager in the Pakistan Country Office; Mr. C, a Senior Program Assistant; and Mr. D, a Team Assistant.

11. Ms. B was the Operations Manager during the Applicant's tenure as Country Director and was the manager for the Administrative and Client Support (ACS) staff, including the complainants. In her interview, Ms. B told EBC that she never heard any concerns about how the Applicant interacted with his assistants and that his relationships with his assistants were good. Ms. B also explained to EBC that she never observed or had any concerns about the interactions between the Applicant and female staff, noting that the Applicant worked to change the gender balance in the Pakistan Country Office from under 20% female staff to over 50% during his tenure as Country Director. Ms. B told EBC that Complainant 1 was not performing at the level expected of a Senior Executive Assistant after she joined the Bank and explained that this was why she was rotated to another role where she "flourished." With respect to Complainant 2, Ms. B told EBC that it was decided to move Complainant 2 to work for Ms. B so that she could benefit from working in Operations.

12. Mr. C joined the Pakistan Country Office in 2019 as a Senior Program Assistant. In his interview, Mr. C told EBC that he never saw "any unusual thing at [his] working place happening to one of [his] colleagues around [him]."

13. Mr. D joined the Pakistan Country Office in 2018 as a Team Assistant working for Ms. B, the Operations Manager, and was switched to work for the Applicant in 2020. In his interview, Mr. D told EBC that he did not hear any concerns regarding the way the Applicant worked with his assistants, that he never heard that anyone was afraid of the Applicant or scared to talk to him, and that he never saw the Applicant hug any of his assistants either at a party or in the office.

14. On 13 June 2022, EBC interviewed Ms. E, a Senior Program Assistant; Ms. F, a Program Assistant; Ms. G, a Senior Program Assistant; and Ms. H, a Team Assistant.

15. Ms. E, a Senior Program Assistant in the Pakistan Country Office, told EBC in her interview that she never observed any behavior from a Country Director toward female colleagues that made her concerned or uncomfortable and that she never saw any Country Director looking or staring at female colleagues in a way that was inappropriate. Ms. E also told EBC that, sometime before 2020, Complainant 1 told her about two occasions when the Applicant touched her knee with his knee and touched her foot under a table with his foot and that Complainant 1 was upset when she told her about the occasions. With respect to Complainant 2, Ms. E told EBC that, around March or April 2022, Mr. D told her that Complainant 2 felt uncomfortable staying late in the office. Ms. E also told EBC that she had heard conversation "around the office" regarding the Applicant liking female staff because a lot of female staff were hired while he was Country Director.

16. Ms. F, a Program Assistant in the Pakistan Country Office, told EBC in her interview that she was not comfortable with the Applicant and that she observed him staring at female colleagues. Specifically, Ms. F recounted three occasions to EBC: first, she saw the Applicant staring at Complainant 1's breast while they were in the hallway of the office; second, she saw the Applicant staring at the bottom of Ms. I, a Program Assistant, while they were walking in the hallway; and third, she saw the Applicant staring at the breast of Ms. H, a Team Assistant, while at the reception

desk. Ms. F noted to EBC that a group of female colleagues, including Ms. E, discussed with her observing the same behavior by the Applicant and that Ms. H told the group that she did not feel comfortable with the Applicant because of his stares. Ms. F also told EBC that Complainant 1 told her that the Applicant had brushed his foot against her leg and that it "was not the first time." Finally, Ms. F explained to EBC that the Applicant had "favorites in the sexual way" and that, when Complainant 1 was recruited, she observed that the candidates that were shortlisted were "women with exceptional body structure" and that she saw "why [Complainant 1] was chosen."

17. Ms. G, a Senior Program Assistant in the Pakistan Country Office, told EBC that she believed Complainant 1 was tense while working as the Senior Executive Assistant for the Applicant because she was new to the Bank and possibly uncertain that her position would be confirmed. Ms. G told EBC that she also believed Complainant 2 was tense while working for the Applicant because she was new and would sometimes make mistakes. Ms. G also told EBC that she did not observe the Applicant look at others in a way that was inappropriate or disrespectful. Finally, Ms. G denied that staff were "scared" of the Applicant and noted that, while the Applicant on occasion hugged her in greeting, it was not "in a bad way" and she did not observe him hugging his assistants.

18. Ms. H, who was initially a third-party contractor in 2016 and then in 2018 was selected as a Team Assistant in the Pakistan Country Office, explained to EBC that, between November 2018 and June 2019, she worked with the Applicant directly. Ms. H told EBC that, when she joined the Country Management Unit, Ms. B and the Applicant were "so friendly" and "so nice" toward her and that it was a "good experience." Ms. H explained that working with the Applicant was "a very good experience," that he was a "very good teacher" and "very good boss," and that working with him was "easy." She also explained that she never felt afraid to talk to the Applicant, but that some people were afraid to talk to him "[s]olely because he is the Country Director." Ms. H told EBC that there was never any behavior from the Applicant that made her uncomfortable, she was never concerned about the way he talked to or looked at her, she never heard of similar concerns from other colleagues, and the Applicant never asked her to wait until the end of the day to have meetings with him alone.

19. On 14 June 2022, EBC interviewed Ms. K, a Program Associate. Ms. K explained to EBC that from 2016 to 2018 she was the focal person for the residence of the Country Director. Ms. K told EBC in this interview that she noticed many times that, when the Applicant was talking to Complainant 1 at her desk, he would be looking at her breast instead of her face, and that Complainant 1 told her about the Applicant's staring. Ms. K also told EBC that Complainant 1 had told her that on one occasion the Applicant came to her desk and touched her hand while he was checking something. Ms. K also stated that the Applicant's wife asked her two or three times in the context of other conversations if Complainant 1 was wearing a "dupatta" to cover her breast. Finally, Ms. K told EBC that she did not notice the Applicant looking at other female staff inappropriately.

20. On 6 July 2022, EBC interviewed Ms. I, who worked as a Program Assistant in the Pakistan Country Office. Ms. I explained to EBC that in 2015 she began backing up the Executive Assistant of the Applicant, and then in 2017 she began supporting the Applicant as the Executive Assistant before moving to Washington, D.C. for a new position in 2019. Ms. I told EBC that working for the Applicant was a "great experience" because it was a "stretch assignment" since her position was actually a Program Assistant. She also described that her interactions with her colleagues and the Applicant were "friendly" and that the Applicant was "patient" and "respectful." Ms. I also told EBC that she never saw or heard about any disrespectful or inappropriate interactions between the Applicant and Complainant 1 and that she never heard any concerns about the Applicant's behavior, particularly with regard to how the Applicant spoke, looked at, or touched anyone.

21. On 12 July 2022, EBC provided the Applicant with a Notice of Alleged Misconduct which provided:

> I am writing to inform you that the Ethics and Business Conduct Department ("EBC") is currently investigating two separate complaints that you may have committed misconduct under the World Bank Group ("WBG") rules and policies. It is alleged that during your tenure as Country Director for the Pakistan Country Office, you engaged in sexually harassing behavior (verbal and physical) towards two female WBG staff members. It is further alleged that your behavior created a hostile work environment.

> Specifically, [Complainant 1] alleged that when she worked as your Senior Executive Assistant (between August 2016 to January 2018), you engaged in a pattern of unwelcomed conduct of a sexual nature including touching her on several occasions in an inappropriate manner, leering at her in [a] manner that made her feel uncomfortable, and asking her personal and intimate questions about her romantic life. According to [Complainant 1], because she did not welcome your advances you became "harsh" and "difficult" towards her. [Complainant 1] further alleged that on several occasions you used profanity. She stated that your behavior created an intimidating, hostile, and offensive work environment.
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> Additionally, [Complainant 2] alleged that when she worked as your Executive Assistant (between September 2019 to January 2020), you engaged in a pattern of unwelcomed conduct that had sexual overtones including touching her in an inappropriate manner and directing at her sexually suggestive looks. [Complainant 2] further alleged that you directed "up and down" looks at her body that made her feel uncomfortable, and asked her personal and intimate questions about her romantic life. According to [Complainant 2], your behavior created an intimidating, hostile, or offensive work environment.

22. EBC interviewed the Applicant the same day. This first interview focused on the allegations raised by Complainant 1, and the Applicant stated to EBC that he did not think he did anything toward Complainant 1 that constituted sexual harassment. Specifically, the Applicant denied that he ever touched Complainant 1's knee with his knee while they were seated in his office, that he ever insisted Complainant 1 drink alcohol at a party at his home, that he ever had a standing instruction for Complainant 1 to go over documents with him at the end of the day, or that he ever stared at Complainant 1 in an inappropriate or sexual way. The Applicant explained that it was possible that he may have accidentally touched Complainant 1's hand as they were looking through a document and that, while he did not recall ever touching Complainant 1's foot with his foot during a meeting, it was possible he may have stretched his feet and hit her and that he would have apologized if so. The Applicant also told EBC that he did not recall hugging Complainant 1 when his dog died or during a party at his home; the Applicant explained that he may greet people by shaking hands, patting their shoulders, or hugging, based on their comfort.

23. The Applicant also told EBC that Complainant 1 would wear "revealing" outfits with a "deep cut" in the chest area, but he stated that he never stared at her dress or body. In his subsequent interview, the Applicant explained that he believed he asked Ms. L, a Senior Operations Officer, to advise Complainant 1 about the "cultural norms and behavioral practices in the office,"

particularly in light of representing the Country Director; the Applicant noted though that he may have asked someone else to have this conversation with Complainant 1. The Applicant also told EBC that, contrary to Complainant 1's claims, he congratulated her when she told him she was getting married and that he already knew she was in a relationship. The Applicant also explained that he would look at Complainant 1 and ask her how her weekend was because it would have been "insulting" to ask and walk away, but denied that he stared at her body when he asked. When asked about rotating Complainant 1 to a new position, the Applicant told EBC that the Country Leadership team had a conversation about downgrading Complainant 1 because she was not working at the GD level, but decided to rotate her to a better-suited position instead.

24. When asked if he used the "F word" in front of Complainant 1, the Applicant stated, "I may have used, I don't deny that, because sometimes when you're frustrated with colleagues who use it on me, I say, yeah, it's F word, it's an F situation. But not aimed at her, no." The Applicant clarified that he would say the full word "fuck" and would say "pardon my French" after, but that he did not notice any discomfort on the part of Complainant 1.

25. On 20 July 2022, EBC conducted a follow-up interview with the Applicant. At the beginning of the interview, the Applicant noted his concerns that one of the EBC investigators was participating via video conferencing rather than in-person. This interview then focused on the allegations by Complainant 2. In describing his work relationship with Complainant 2, the Applicant explained to EBC that she was hired in an effort to "promote new and young talent"; that he made an effort to help her understand how the Bank works, how to perform in the position, and what his expectations were; and that he would ask her about her career motivations and family situation to get to know her. The Applicant also explained that Complainant 2 had trouble meeting the demands of the position so, after he consulted with Ms. B, the Operations Manager, Complainant 2 was moved to support Ms. B to become familiar with the Bank in a lower-pressure role.

26. In his interview, the Applicant acknowledged that he may have asked Complainant 2 what she did in the evening or on the weekend as "part of normal courtesy and manners" and not to suggest anything inappropriate, noting that the office would organize weekend family events like

hiking or cricket games. The Applicant denied looking at Complainant 2 "head to bottom like scanning her body" or directing "flirtatious looks and flirtatious smiles" while asking these types of questions. He also denied asking Complainant 2 if she was single or had a boyfriend and explained that, if he asked her about her living situation, it was in the context of security-related challenges in the Pakistan Country Office and the Bank's duty of care to staff.

27. The Applicant further denied turning off the lights in his office before discussing documents with Complainant 2 at the end of the day. The Applicant did not recall having a standing meeting at the end of the day with Complainant 2 and noted that Complainant 2 rarely stayed in the office late. The Applicant did not recall any particular occasion on which Complainant 2 handed him her laptop and he held her hands; the Applicant noted that it was possible Complainant 2 may have brought him her laptop, but he stated that he would not have rubbed her hand and looked at her in a "flirtatious way" when receiving the laptop. The Applicant stated that he did not recall if he ever gave Complainant 2 a hug during a party at his home, noting that he would hug, shake hands, or pat the shoulders of colleagues, depending on their comfort, as a form of appreciation.

28. At the end of the interview, the Applicant noted to EBC that he was surprised by the allegations and shared the comments made by the complainants in a farewell video from the Pakistan Country Office staff in 2020 expressing their gratitude and admiration for the Applicant. The Applicant also noted that his last communications with Complainant 1 and Complainant 2 were holiday greeting messages shared in 2020 and 2021, respectively.

29. On 17 August 2022, EBC interviewed Ms. A, a Senior HR Business Partner who covered the Pakistan Country Office. In her interview, Ms. A described to EBC how in 2021 Complainant 1 shared with her that she had experienced harassment while working for the Applicant; specifically, Ms. A stated that Complainant 1 told her that the Applicant would try to hold her hand, would touch her hand when she passed him things, would touch her leg with his foot in meetings, and tried to downgrade her position as a way to punish her. Ms. A also stated that Complainant 1 started crying as she told her about her experience. Ms. A next explained to EBC that Complainant 1 told her Complainant 2 also wanted to speak to her about a similar issue. Ms.

A then explained that Complainant 2 told her that she was asked to stay late while working for the Applicant and was made to feel uncomfortable by the way he spoke to her.

30. When asked about her experience working in the Pakistan Country Office with the Applicant, Ms. A told EBC that "he was generally fine" but that he was "very open with staff." She also stated that people in the office felt that the Applicant "preferred the company of […] females" and that there was a perception that he preferred "to hire girls." When asked if she witnessed the Applicant make inappropriate comments to staff, Ms. A explained that the Applicant would tell staff to use the stairs rather than the elevator for exercise and that he would say things like "what's the topic of the day today" to groups of female staff talking together. Ms. A also told EBC that the Applicant would look at female colleagues "up and down" "like scanning their body"; she explained that the Applicant's looks were not targeted and "that's how he would look at everybody." Ms. A stated that the Applicant "at times" looked at her up and down, which made her uncomfortable. Ms. A also told EBC that staff in the Pakistan Country Office were "[v]ery, very afraid" of the Applicant.

31. On 19 August 2022, EBC emailed the Applicant a copy of his interview transcripts for review and comment.

32. On 30 August and 6 September 2022, EBC interviewed Ms. J, a former Communications Officer. Ms. J explained to EBC that beginning in 2012 she was a Communications Officer based in the Pakistan Country Office and that in 2020 she went on leave-without-pay before ultimately resigning. With respect to her experiences with the Applicant, Ms. J told EBC that initially she had a "good working relationship" with the Applicant but that it became "difficult and toxic." With respect to other colleagues, Ms. J stated that she did not witness the Applicant behave or look inappropriately toward other colleagues and that she never heard of any concerns from colleagues about any kind of inappropriate behavior.

33. On 2 September 2022, the Applicant emailed his written comments on the Notice of Alleged Misconduct and interview transcripts. In his comments, the Applicant shared his view that the wording of some of the investigators' questions "suggest[s] that there is an element of

presumption of guilt" and a "fishing expedition." The Applicant also emailed comments and corrections to the interview transcripts as well as documents demonstrating Complainant 1's performance challenges while she worked for him. EBC confirmed receipt of the Applicant's email the same day.

34. On 19 September 2022, EBC interviewed Ms. M, an HR Analyst. Ms. M worked as a Program Assistant in the Pakistan Country Office before becoming an HR Analyst in 2022. Regarding her experience with the Applicant, Ms. M told EBC that the Applicant would pass her and her female colleagues making conversation and ask something like "oh, what are you guys gossiping about?" Ms. M also told EBC that she was with Ms. A when Complainant 1 shared her experience with the Applicant; Ms. M explained that Complainant 1 told them that the Applicant would brush her hand with his when she handed him files, that the Applicant made remarks to her about joining a gym, and that the Applicant suggested she drink alcohol during a party at his home. Ms. M did not remember Complainant 1 saying anything about how the Applicant looked at her. Finally, Ms. M told EBC that no one else raised similar concerns with her regarding the Applicant.

35. On 12 October 2022, EBC interviewed Mr. N, who in 2018 was a Program Leader in the Pakistan Country Office. Mr. N told EBC that he never experienced disrespectful behavior from the Applicant toward himself or others, that he never heard of any concerns about the way the Applicant behaved toward female colleagues, and that he never witnessed the Applicant behave in a way that could have made female colleagues uncomfortable.

36. On 20 October 2022, EBC interviewed Ms. L, who was an Operations Officer then later a Senior Operations Officer in the Pakistan Country Office. During her interview, Ms. L explained to EBC that, while she was in the Pakistan Country Office, she would delegate tasks to ACS staff and had a mentorship role with them. With respect to Complainant 1, Ms. L told EBC that she struggled when she first joined the Bank and had trouble keeping up with the pace of the office. Ms. L also told EBC that she never heard any concerns from Complainant 1 regarding her interactions with anyone in the office. With respect to Complainant 2, Ms. L told EBC that she had similar struggles to Complainant 1 in keeping up with the pace of the office and that she never heard any concerns from Complainant 2 regarding her interactions with anyone in the office. Ms.

L denied ever giving any advice to Complainant 1 or Complainant 2 regarding dressing professionally in the office. With respect to the Applicant, Ms. L told EBC that she enjoyed working with him and that he was a good manager. She further stated that she never experienced or witnessed any inappropriate behavior from the Applicant toward others such as inappropriate looks, comments, or any behavior with sexual overtones.

37. On 25 October 2022, EBC interviewed Ms. O, a Senior Operations Officer, and Ms. P, a Senior Executive Assistant.

38. Ms. O worked for the Applicant from 2020 through mid-2022 in Washington, D.C. When asked to describe the Applicant's managerial style, Ms. O told EBC that he was "friendly," "caring," "casual," and occasionally "teasing." Ms. O told EBC that the Applicant did not make any comments that made her uncomfortable or that she felt were inappropriate, but she added that she was "annoyed" that he would ask her why she was not smiling or call her "my dear." She further stated that the Applicant never behaved, spoke to, or looked at her with sexual overtones or in a way that was uncomfortable, and that she never saw him or heard about him acting that way toward others.

39. Ms. P began working as the Applicant's Senior Executive Assistant in 2021, based in Washington, D.C. Ms. P described the Applicant as a "very wonderful supervisor" and "a very respectful person" and stated that he never talked to her in a way that made her feel uncomfortable or offended. Ms. P told EBC that she never saw or heard about the Applicant behaving inappropriately or disrespectfully toward other colleagues and noted that the Applicant "cares about his behavior very much."

40. On 26 October 2022, EBC interviewed Ms. Q, a Manager of Development Effectiveness, who had worked with the Applicant since 2021. Ms. Q described the Applicant's communication and managerial style as "direct in a respectful way." Ms. Q also told EBC that she never experienced, witnessed, or heard of any inappropriate behavior from the Applicant toward others such as inappropriate looks, comments, or any behavior with sexual overtones.

41. On 31 October 2022, EBC interviewed Mr. R, who worked as a Program Leader in the Pakistan Country Office from 2014 to 2018. Mr. R told EBC that he never experienced, witnessed, or heard of any inappropriate behavior from the Applicant toward others such as inappropriate looks, comments, or any behavior with sexual overtones.

42. On 8 November 2022, EBC interviewed Ms. S, a Senior Executive Assistant, and Mr. T, a Country Lawyer.

43. Ms. S worked as the Applicant's Senior Executive Assistant from July 2020 to April 2021 but did not meet him in person while he was her supervisor because of the COVID-19 pandemic. Ms. S told EBC that she never experienced, witnessed, or heard of any inappropriate behavior from the Applicant toward others such as inappropriate looks, comments, or any behavior with sexual overtones.

44. Mr. T worked as the Country Lawyer for Afghanistan and Pakistan from 2014 to 2018. In his interview, Mr. T told EBC that the Applicant is "one of [his] role models" and described him as "one of the best managers [he has] had." He also told EBC that he never experienced, witnessed, or heard of any inappropriate behavior from the Applicant toward others such as inappropriate looks, comments, or any behavior with sexual overtones.

45. On 10 November 2022, EBC interviewed Ms. U, a Program Leader, Human Development. Ms. U worked as a Program Leader in the Pakistan Country Office during the Applicant's tenure as Country Director. Ms. U told EBC that she never experienced, witnessed, or heard of any inappropriate behavior from the Applicant toward others such as inappropriate looks, comments, or any behavior with sexual overtones.

46. On 4 January 2023, the Applicant provided EBC with a 23 December 2022 email he received containing holiday greetings from five female colleagues who worked with him in the Pakistan Country Office.

47. On 7 July 2023, EBC sent the Applicant a draft investigation report for his review and comments.

48. After receiving an extension of time to submit comments, the Applicant emailed EBC on 11 and 12 August 2023 with his comments on the draft investigation report. In his comments, the Applicant disputed the allegations that he used profanity toward the complainants and that he directed sexually suggestive looks at the complainants. The Applicant also discussed changes to the office culture that he brought to the Pakistan Country Office during his tenure as Country Director. Finally, the Applicant disputed some of the witness statements relied upon by EBC in its preliminary conclusions.

49. On 6 September 2023, EBC conducted a follow-up interview with Complainant 2. In this interview, EBC asked Complainant 2 about the farewell message she wrote for the Applicant; Complainant 2 explained that she wrote the message because "everybody" in the office wrote something and because the Applicant was still in a "strong position" even after he left Pakistan, so she did not want non-participation to affect her job.

50. On 8 September 2023, EBC conducted a follow-up interview with Complainant 1. In this interview, EBC asked Complainant 1 about the farewell message she wrote for the Applicant, which she explained she did because she was asked to say something. EBC also shared with Complainant 1 positive emails she had sent the Applicant and asked how they could be reconciled with her reports of sexual harassment. Complainant 1 followed up with EBC by email on 13 September 2023, explaining:

> I was in a position of weakness where he was my supervisor and the one able to decide on my career and job, I feared that since I had ignored his attempts of inappropriate touching he would retaliate and hold it against me. All the appreciation and pleasant words used by me were not because he deserved them but because that's how I am as a person. At times we are nice to bad and unkind people not because they deserve our kindness but because we are like that, and we think that by doing this they might change themselves.

51. On 8 and 11 September 2023, EBC conducted follow-up interviews with Ms. F. In these interviews, EBC asked Ms. F how she witnessed the inappropriate looks she stated she saw the

Applicant direct at female staff members. Ms. F explained that she saw the Applicant looking at the breast of Ms. H while Ms. F was passing by where Ms. H was seated at the reception desk.

52. With respect to Complainant 1, Ms. F told EBC in these interviews that she saw the Applicant staring at Complainant 1's backside while walking behind her in the corridor. Ms. F also explained to EBC that on another occasion she walked by the Applicant and Complainant 1 standing outside the Applicant's office and that she saw the Applicant looking at Complainant 1's breast while talking to her.

53. When asked about her previous statement regarding the Applicant staring at Ms. I's backside, Ms. F stated, "Yes, I noticed that," and added, "This is what I saw. But what we have seen is that she, uh, has moved—when he moved to Washington, he moved her with him to Washington. So, I don't know what the story is there. I really don't know, but I did notice it when she was here."

54. Ms. F also added in these interviews that, during the Applicant's tenure as Country Director, "[t]here were many things that were happening in that office that—The atmosphere was very, very suppressive, oppressive, you know. It was a very tense year—four years were very tense years, uh, for all of us, uh, and especially some of us. So they were trying times."

55. On 11 September 2023, EBC conducted a follow-up interview with Ms. K. EBC asked Ms. K about her previous statement that she saw the Applicant looking at Complainant 1's breast while speaking with her, specifically where she saw it happen. In response, Ms. K stated that she could not recall that the Applicant was staring at Complainant 1's breast.

56. On 1 November 2023, EBC submitted the Final Investigation Report to the then-Acting Vice-President, Human Resources (HRDVP). EBC transmitted the Final Investigation Report to the Applicant the same day. The Final Investigation Report concluded:

> Based on a careful review of the totality of the evidence gathered, including the interviews of [Complainant 1], [Complainant 2], [the Applicant] and 21 relevant witnesses (including current and former staff), this Office has determined that: (i)

> there is sufficient evidence to substantiate [Complainant 1's] and [Complainant 2's] allegations that [the Applicant] directed at them sexually suggestive looks that made them feel uncomfortable; (ii) there is sufficient evidence to substantiate [Complainant 1's] allegation that on several occasions [the Applicant] used profanity, specifically the word "fuck"; and (iii) there is insufficient evidence to substantiate [Complainant 1's] and [Complainant 2's] allegations that [the Applicant] engaged in [a] pattern of unwelcomed conduct whereby he touched them inappropriately or in a way that could be reasonably perceived as sexual harassment.
>
> Based on EBC's findings that [the Applicant's] conduct amounted to sexual harassment, EBC determined that [his] overall conduct also amounted to: (i) a reckless failure to observe applicable norms of prudent professional conduct; and (ii) a conflict with the general obligations of staff members set forth in Principle 3 of the Principles of Staff Employment including the requirement that staff conduct themselves at all times in a manner befitting their status as employees of an international organization.

57. On 13 November 2023, the Applicant emailed EBC, stating that the Final Investigation Report "includes additional transcripts of follow-on interviews conducted by EBC based on the material evidence that [he] included in [his] response on August [11–12], 2023, to the draft investigation report." The Applicant continued, "These additional transcripts have erroneous and misleading statements in them. I was not given the opportunity to review and/or address these and the conclusions drawn from them."

58. EBC responded to the Applicant the same day:

> Please note that in accordance with Staff Rule 3.00 (Office of Ethics and Business Conduct) and the WBG Conduct of Disciplinary Proceedings for EBC Investigations ("Proceedings"), Section C (Procedural Safeguards), paragraph 4 (Review of the Draft Investigative Report), (ii), you were provided with an opportunity to provide comments to the EBC's draft report of investigation (RoI). EBC carefully reviewed your comments and conducted appropriate follow up. This follow-up is reflected in the revised RoI.
>
> We also wish to draw your attention to Section C, para. 4 (iv) of the Proceedings which provides as follows:
>
> > If the subject staff member's comments on the draft of the final report result in a substantive revision to the findings or conclusions, which is adverse to the subject staff member, the subject staff member will be given an opportunity to review the subsequent draft

> of the final report and to submit an additional response to the revised draft before it is finalized and submitted to the decision-maker.
>
> Given that the revised RoI did not result in a substantive revision to the findings or conclusions, EBC determined that it was not necessary to send you the revised RoI for additional comments. This is consistent with Section C, para. 4 (iv) of the Proceedings and EBC's usual practice in similar scenarios.

59. The Applicant replied to EBC on 16 November 2023:

> The final report includes additional facts, namely emails provided by the complainant, including a contestable fact as to what the CMU [Country Management Unit] may have asked her to do. Second, one of the witnesses retracted her statement. Third, the other interviewed witness altered her testimony without giving any facts like date or time or that information was not validated by another witness who was interviewed in 2022 but alleged to have been present. Also the report repeats an allegation made by her that was previously denied by another witness in question. Further, the report brings into the current case the previous EBC investigation which was concluded seven years ago without evidence of wrongdoing.
>
> I would have expected an opportunity to review and respond.
>
> I note again for the record that the two complainants and two adverse witnesses were performance cases, known to and handled with colleagues from Human Resources. None of the other 19 witnesses provided any corroboration.

60. Following the submission of the Final Investigation Report to the Acting HRDVP, a Misconduct Advisory Committee was constituted in accordance with the World Bank Group (WBG) Procedure on the HRDVP Decision-Making Process in Misconduct Matters for EBC. The Misconduct Advisory Committee included the Acting HRDVP, a staff member appointed by the Staff Association, a staff member appointed by management, and an external advisor. The Misconduct Advisory Committee met on 14 February 2024 to consider the evidentiary record.

61. According to the Bank, in April 2024 the Acting HRDVP "determined that, based on his disclosed relationship with [the] Applicant and out of an abundance of caution, he needed to recuse himself from the decision-making process" and notified the Office of the President of the Bank. According to the Applicant, he met with the Acting HRDVP "regularly in the course of his work but does not have any social relationship with [him] outside of the professional context."

62. On 23 May 2024, the President of the Bank requested the COSVP to be the decision-maker in the case, and the COSVP accepted.

63. According to the Applicant, on 4 June 2024, the Senior Managing Director for Development, Policy & Partnerships (DPP) contacted him to "assess his interest in becoming Director of Strategy and Operations for the newly established Digital Transformations Vice Presidential Unit (Digital VPU)." The Applicant states that he confirmed his interest.

64. According to the Applicant, on 14 June 2024, the Senior Managing Director DPP called him again to inform him that he could not be offered the Director position because of the pending EBC case. According to the Bank, the Chief of Staff in the Office of the President became aware of the pending EBC case when consulted regarding the recusal of the Acting HRDVP. The Bank states that the Chief of Staff advised the Senior Managing Director DPP to consult with HR when considering the Applicant for the Director position and the Senior Managing Director DPP then became aware of the pending matter. According to the Bank, "[n]either the Chief of Staff nor the Senior Managing Director DPP was provided with the EBC report or the details of the allegations."

65. On 24 June 2024, the Misconduct Advisory Committee reconvened with the COSVP to consider the evidentiary record. Pursuant to the HRDVP Decision-Making Process in Misconduct Matters for EBC, paragraphs 3.08 and 3.09, "[a]fter the [Misconduct Advisory Committee] has fully discussed the case and made every effort to reach a consensus, the HRDVP considers the deliberations of the [Misconduct Advisory Committee] and prepares a summary brief and draft decision letter" which the HRDVP then shares "with the [Misconduct Advisory Committee]. [Misconduct Advisory Committee] members are provided a five-day review period and may provide feedback for the HRDVP to consider in issuing a final letter." The Bank states that, in accordance with this procedure, a decision letter was drafted and, on 26 July 2024, was shared with the Misconduct Advisory Committee for feedback.

66. On 9 August 2024, the COSVP consulted with the Applicant's direct supervisor, the Regional Vice President, South Asia Region. According to the Bank, the Regional Vice President

requested that the issuance of the decision letter be postponed until he could discuss it with the Applicant, and the COSVP agreed.

67. On 12 August 2024, the COSVP issued her decision letter:

> After a careful and thorough review of the Final Report [(Final Investigation Report)], I have determined that there is sufficient evidence to support a finding that you engaged in misconduct, as defined under WBG Directive Staff Rule 3.00, "Ethics and Internal Justice Services Vice-Presidency":
>
> i. Paragraph 6.01(e): Harassment; contributing to a hostile work environment.
>
> ii. Paragraph 6.01(b): Reckless failure to identify, or failure to observe, generally applicable norms of prudent professional conduct.
>
> iii. 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.
>
> iv. Code of Conduct: Living Our Values: Sexual Harassment – "Sexual harassment is any unwelcome sexual advance, request for sexual favor, or other verbal, nonverbal or physical conduct of a sexual nature that interferes with work, is made a condition of employment, or creates an intimidating, hostile, or offensive work environment."
>
> Based on EBC's Final Report, I have determined that your conduct amounted to sexual harassment under WBG Staff Directive 3.00 and the WBG Code of Conduct: Living our Values. EBC found sufficient evidence to substantiate the allegations that in the Pakistan Country Office, you directed at two female staff members sexually suggestive looks that made them feel uncomfortable. EBC also found sufficient evidence to substantiate the staff member's allegation that on several occasions you used profanity.
>
> I have further determined that your overall conduct also amounted to a reckless failure to observe applicable norms of prudent professional conduct and a conflict with the general obligations of staff members set forth in Principle 3 of the Principles of Staff Employment, including the requirement that staff conduct themselves at all times in a manner befitting their status as employees of an international organization.
>
> EBC did not find sufficient evidence to substantiate the allegations that you engaged in a pattern of unwelcome conduct whereby you touched the female staff

> members inappropriately or in a way that could be reasonably perceived as sexual harassment.
>
> The overall record shows that the evidence presented in the Final Report supports a finding based on the standard of evidence established in Principle 8.3 of the Principles of Staff Employment that in this case, it is more likely than not that you engaged in misconduct. "More likely than not" as a standard of evidence means that, upon consideration of all the relevant evidence, a preponderance of the evidence supports a finding that you engaged in misconduct. In making my decision, I complied with the provisions of the WBG Procedure "HRDVP Decision-Making Process in Misconduct Matters for EBC."

68. The COSVP imposed the following disciplinary sanctions with immediate effect:

> 1) Demotion to a Level GH non-managerial, non-supervisory position with an appropriate title change until your mandatory retirement on June 30, 2026.
>
> 2) Reduction in future pay. Under Staff Rule 5.06, your new net salary will not exceed the maximum salary range of the Level GH grade.
>
> 3) Ineligibility for promotion until your mandatory retirement date on June 30, 2026.
>
> 4) Written censure in the form of this letter to remain in your personnel record.

69. In determining the sanctions, the COSVP referred to a prior misconduct investigation in which the allegations of misconduct against the Applicant were unsubstantiated, noting in the decision letter:

> [I]n July 2016, following an EBC investigation, even though you were not found to have committed misconduct, the HRDVP warned you not to engage in unwelcome physical contact with other colleagues and reminded you that "you are expected to behave in a manner commensurate with your higher level of responsibility – modeling best practices and [being] careful always not to offend the morals and values of others."

The present Application

70. The Applicant filed the present Application with the Tribunal on 10 December 2024. The Applicant challenges the 12 August 2024 misconduct decision and the disciplinary sanctions imposed therein.

71. In its pleadings following the filing of the Application, the Bank noted that the COSVP's decision was made under the preponderance of the evidence standard provided for in Principle 8.3 of the Principles of Staff Employment, effective 17 May 2023. The Bank further noted that in *HQ*, Decision 707 [2024], para. 125, the Tribunal held that it would "review misconduct determinations in respect of acts occurring before 17 May 2023 applying a standard of 'substantial evidence.'" The Bank requested a stay of proceedings for the purpose of reviewing the misconduct decision under the substantial evidence standard if the Tribunal "maintains that the pre-May 2023 standard of evidence, namely the substantial evidence standard, should have been used."

72. The Tribunal granted the stay of proceedings on 12 March 2025, after which time the Misconduct Advisory Committee and the COSVP reviewed the evidentiary record under the substantial evidence standard. On 10 April 2025, the COSVP issued her new decision letter with the results of this review:

> [M]y decision stands: there is substantial evidence higher than a mere balance of probabilities to support a finding that you engaged in misconduct as defined under WBG Directive "Staff Directive 3.00 Ethics and Internal Justice Services Vice-Presidency."
>
> As I stated in my August 2024 decision, your conduct in directing at two female staff members sexually suggestive looks that made them feel uncomfortable while you were the Country Director in the Pakistan Country Office amounted to sexual harassment under WBG Staff Directive 3.00. I have further determined that there is substantial evidence higher than a mere balance of probabilities that your overall conduct also amounted to a reckless failure to observe applicable norms of prudent professional conduct and a conflict with the general obligations of staff members set forth in Principle 3 of WBG Policy "Principles of Staff Employment."
>
> My review of the record confirms my finding that the complaints against you are serious and supported by substantial evidence. The two female staff members affected by your conduct provided testimony that included detailed descriptions of the nature of the sexually suggestive looks you directed at them and their discomfort resulting from these interactions. The complaints are not one-off allegations; several instances of misconduct were found to be substantiated and, regarding one of the staff members, the conduct took place over the course of many months. I also found that the conduct was not welcomed by the staff members. I find the testimony of the affected staff members credible. Moreover, during the entire period during which the conduct at issue occurred, and when the complaints were referred to EBC, there was a significant power differential between the complaining staff members and you.

> Regarding the staff member's allegation, which EBC found to be substantiated, that on several occasions you used profanity, I continue to find it troubling that someone at your senior level at the WBG would use profanity in the cultural and social context of this office environment, especially when a staff member felt uncomfortable with such language and found it inappropriate. However, this poor judgment in the use of such language does not impact the proportionality of the disciplinary measures imposed, which would remain the same regardless of the substantiation of your use of profanity in such a context.

73. Noting that the allegations against the Applicant were "serious, especially in light of [his] responsibility as a WBG Director to maintain an appropriate work environment for [his] staff and lead by example" and that his "behavior was not consistent with the standards of conduct expected of WBG staff," the COSVP re-confirmed the disciplinary sanctions.

74. Following the issuance of the COSVP's new decision letter, the proceedings resumed.

75. The Applicant continues to challenge the new 10 April 2025 misconduct decision and the disciplinary sanctions imposed therein.

76. The Applicant requests the following relief: (i) rescission of the 12 August 2024 and subsequent 10 April 2025 misconduct findings and disciplinary sanctions; (ii) removal of disciplinary records from his personnel file; (iii) retroactive restoration of his grade level to Grade Level GI; and (iv) retroactive restoration of his salary to the pre-discipline level, plus appropriate adjustments for any intervening performance-related annual increases. The Applicant further requests

> compensation in an amount deemed just and reasonable by the Tribunal to remedy the damage to [his] career, professional reputation, and future earnings prospects resulting from the impugned disciplinary decision, as well as the stress and mental anguish to [him] and his wife and family caused by the unfounded allegations against him and the multiyear investigative and disciplinary process that resulted.

77. The Applicant claims legal fees and costs in the amount of $58,475.00. The Applicant additionally requests reimbursement of legal fees incurred during the EBC investigative process in the amount of $1,800.00.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Applicant's Contention No. 1

The evidentiary record does not support the finding that the Applicant engaged in sexual harassment

78. The Applicant contends that there is insufficient evidence in the record to support the finding that he directed sexually suggestive looks at two female staff members which made them uncomfortable. The Applicant submits that the COSVP's findings "rest exclusively on multiple inferences drawn from competing testimony about [the Applicant's] intent and the perceptions of the complainants." To the Applicant, the circumstantial evidence from which these inferences draw was not "so clear as to generate conviction in the mind of a reasonable person," citing *FW and FX*, Decision No. 649 [2021], para. 156.

79. The Applicant submits that, while there is "no basis to question the credibility or reliability of [his] testimony," there are multiple reasons to do so for the complainants' testimony. The Applicant notes that multiple claims in the complainants' testimonies were contradicted by the statements of other witnesses and submits that the "extreme vagueness of complainants' allegations and testimony, coupled with the total absence of contemporaneous evidence of complainants' concerns, also bears negatively on the weight to be afforded to their testimony."

80. Next, the Applicant submits that only two of the twenty-one witnesses interviewed were deemed by EBC to corroborate the allegations. To the Applicant, "such a massive discrepancy between what complainants allege and what the vast majority of witnesses saw, heard about, or experienced (or rather, did not see, hear about, or experience) would, even without more, raise serious questions about whether even the lower 'preponderance' standard could be met." The Applicant further contends that the testimonies of the nineteen witnesses deserve decisive weight because the witnesses were "well-positioned" to see, hear about, or experience any misconduct similar to what was alleged, some directly contradicted the complainants' allegations, and EBC never identified a reason to question any of these testimonies.

81. The Applicant next submits that the testimonies of Ms. A and Ms. F do not bolster the complainants' allegations. With respect to Ms. A, the Applicant notes that she never claimed to have seen the Applicant looking at either of the complainants inappropriately. To the Applicant, Ms. A's testimony was "so completely devoid of specificity that it cannot properly serve as corroboration of anything, much less of either complainant's allegations."

82. With respect to Ms. F, the Applicant first notes that none of her testimony pertained to Complainant 2 and submits that "[n]ot a single person ever saw [the Applicant] looking at [Complainant 2] inappropriately even though she alleged that it occurred regularly for a period of months." The Applicant next contends that Ms. F was "arguably both the least reliable and most biased witness in the entire investigation," noting her allegations that all of the staff were terrified of the Applicant and that only good-looking young women were hired by the Applicant. Thus, to the Applicant, there was not a single reliable witness who corroborated the complainants' allegations of being looked at inappropriately.

83. In the Applicant's view, the COSVP's misconduct determination with respect to the Applicant's alleged sexually suggestive looks must be reversed because the Applicant's

> credible denials, as bolstered by the consistent and unchallenged testimony of 19 witnesses who in many instances directly contradict complainants' allegations, simply outweighs by a substantial margin the limited evidentiary value of complainants' vague allegations and the vanishingly thin testimony that EBC managed to elicit to support them after an extensive effort.

84. With respect to the Applicant's alleged use of profanity, the Applicant submits that the record demonstrates that his use of profanity was "entirely non-sexual in nature." As such, the Applicant contends that the conclusion that his use of profanity constituted sexual harassment cannot be sustained.

The Bank's Response

The EBC investigation clearly established misconduct

85. The Bank contends that the facts support the finding that the Applicant engaged in sexual harassment. In this respect, the Bank submits that the Applicant's "substantiated suggestive looks were sexual in nature." The Bank notes the allegations by Complainant 2 that the Applicant looked at her "head to toe" and by Complainant 1 that the Applicant made deep eye contact and had "penetrating eyes." The Bank further notes the Applicant's statement in his interview that Complainant 1 would dress "provocatively" or in "revealing" clothing, suggesting that he was "aware of his colleagues' bodies in a more than passing way." Referencing the testimonies of Ms. A and Ms. F, the Bank submits that the Applicant's conduct described by the complainants and supporting witnesses—"repeatedly looking [at] female colleagues 'head to toe' and specifically at their 'breasts' and 'bottom'—was sexual in nature," regardless of any intent on the part of the Applicant.

86. The Bank next submits that the Applicant knew or should have known that his behavior was unwelcome. In this respect, the Bank contends that, as a supervisor, the Applicant owed a greater duty of care to his staff who "were each in a precarious situation that reasonably made them fearful of the consequences of speaking up." The Bank notes that, while there is no "perfect" way for individuals to react to harassment, the complainants' reactions were "consistent with what could be expected from new female support staff colleagues in the face of sexual harassment from the Country Director with whom they are working directly on a daily basis."

87. The Bank further contends that the Applicant's conduct created an intimidating, hostile, or offensive work environment. The Bank notes Complainant 1's statement that the Applicant's conduct made her feel "[d]isgusting," that she had difficulty sleeping at night, that working with the Applicant was "mental torture," and that she avoided coming to the office during the Applicant's return visits to the Pakistan Country Office. The Bank also notes that, during her interviews with EBC, Complainant 2 was crying while describing the Applicant's alleged conduct.

88. In the Bank's view, EBC

> reasonably concluded that "[t]he evidence […] shows that [the Applicant] has engaged in a pattern of inappropriate behavior characterized by leering and directing sexually suggestive looks that made at least three female employees (including [Complainant 1] and [Complainant 2]) feel uncomfortable and offended and thus created a hostile work environment."

89. The Bank notes that EBC relied on the consistent and credible testimony of the complainants and supporting witnesses to meet the standard required to substantiate the allegations of sexual harassment.

90. With respect to the Applicant's use of profanity, the Bank submits that the Applicant's "failure to moderate his behavior in the workplace around other staff members is a legitimate issue to be considered." The Bank notes that conduct does not need to be hostile or abusive to constitute harassment; rather, "conduct could constitute harassment if unwelcome and having 'the result of interfering with work or creating an intimidating, hostile or offensive work environment.'" The Bank submits that the "repeated use of profanity […] by the Country Director in front of a new executive assistant […] could reasonably be perceived as intimidating and creating a hostile work environment."

The Applicant's Contention No. 2

The disciplinary sanctions imposed are grossly disproportionate

91. The Applicant contends that "the sanctions imposed on him are grossly disproportionate to any misconduct it deems to have been substantiated for at least three reasons." First, the Applicant contends that EBC failed to report significant mitigating factors in its Final Investigation Report, depriving the COSVP of the opportunity to recognize or credit these factors in her decision. As mitigating factors, the Applicant submits that the COSVP should have considered his 30-plus years of service, stellar performance record, absence of prior misconduct findings, efforts in transforming the Pakistan Country Office by "dismantl[ing] a male-dominated office culture and establish[ing] a gender balance among staff," and efforts to ensure the safe evacuation of Bank staff and families from Kabul in 2021.

92. Second, the Applicant submits that the Final Investigation Report improperly treated prior unsubstantiated allegations of misconduct as an aggravating factor. To the Applicant, the inclusion of these unsubstantiated allegations violated the presumption of innocence and deprived the Applicant of an opportunity to defend himself.

93. Third, the Applicant contends that the allegations at issue should have been resolved informally and voluntarily at the time the alleged conduct occurred. In the Applicant's view, the ambiguous conduct alleged in this case was an ideal candidate for early intervention; conduct that was perceived differently than intended could stop, complainants could be supported in requests for reassignment if they were uncomfortable working with the Applicant, and ongoing monitoring could have ensured that any inappropriate conduct was not repeated.

94. The Applicant notes that his point is

> not to fault complainants for the timing or to second-guess their reasons for waiting for the length of time they did. Nor is it to trivialize their allegations of being looked at in a way that made them feel uncomfortable because, regardless of whether their perceptions were objectively reasonable, their desires to avoid being made to feel uncomfortable certainly were. Rather, the point is simply that this is a matter that could have been fully resolved without any formal disciplinary process at all. And when looked at through that lens, the temporal scope and financial and reputational impacts of the sanctions imposed on [the Applicant] are grossly disproportionate under the totality of the circumstances.

The Bank's Response

The sanctions imposed are proportionate

95. The Bank contends that the sanctions imposed are proportionate to the misconduct established in this case and notes that a finding of sexual harassment "is often considered severe enough to warrant termination of employment." The Bank submits that sexual harassment is one of the most serious forms of misconduct and avers that the facts in this case demonstrate the "deep impact" the Applicant's conduct had on the complainants.

96. With respect to mitigating factors, the Bank notes that the COSVP considered the Applicant's cooperation with the investigation but submits that the Applicant's performance record cannot be considered a mitigating factor in a case of harm against an individual. The Bank further contends that it was appropriate to consider the HRDVP's warning to the Applicant in 2016 even though misconduct was not established. To the Bank,

> [the] Applicant knew the World Bank's ethical standards and was additionally specifically cautioned in writing not to engage in unwelcome physical contact with colleagues and regarding the need to model best practices and be careful not to offend the mores and values of others. He did not heed this caution.

The Applicant's Contention No. 3

The EBC investigative process, the Final Investigation Report, and the disciplinary decision-making process violated the Applicant's due process rights

97. The Applicant contends that his due process rights were violated by the EBC investigative process, by the Final Investigation Report, and by the disciplinary decision-making process.

98. The Applicant first contends that EBC failed to conduct its preliminary inquiry into the allegations of misconduct fairly and impartially and to afford the Applicant the presumption of innocence throughout the investigative process. The Applicant submits that EBC failed to fully investigate certain aspects of the allegations or to seriously examine the witness testimony on which it relied. To the Applicant, EBC's decision to launch an investigation was a fundamental breach of due process because nothing in the preliminary inquiry record satisfies the obligation for EBC investigators to "have at least a good-faith belief that further investigation was likely to uncover 'substantial evidence' of misconduct." Rather, the Applicant submits, the EBC investigation "was merely a fishing expedition founded upon nothing more than complainants' vague and largely uncorroborated allegations."

99. The Applicant further contends that his due process rights were violated when EBC conducted his second interview via video conference rather than in person with the lead investigator. The Applicant notes in this respect that the complainants were interviewed in person and submits that there "can be no doubt that there is a difference between in-person and

videoconference when it comes to assessing the credibility of competing claims in such situations." In the Applicant's view, EBC's denial of equal treatment was unfair and potentially prejudicial.

100. The Applicant next submits that another notable breach of due process was EBC's refusal to allow the Applicant to comment on the additional interview transcripts following his comments on the draft investigation report. In this respect, the Applicant avers that EBC did not merely make revisions to the draft investigation report; rather, EBC added new material to the factual record it presented to the COSVP, and the Applicant did not have the opportunity to comment on that material.

101. The Applicant further submits that the Final Investigation Report was unbalanced and prejudicial to him. The Applicant critiques the entirety of the Final Investigation Report, noting that the Executive Summary has inaccuracies and misrepresentations, the investigative chronology is incomplete, the background information references an unsubstantiated misconduct allegation against the Applicant, the evidentiary record is biased, the analysis is flawed and unduly prejudicial, and the aggravating factors improperly reference unsubstantiated allegations of misconduct.

102. The Applicant also contends that the disciplinary decision-making process was tainted by a lack of due process. In this respect, the Applicant submits that the extended timeline for a decision following the issuance of the Final Investigation Report was professionally damaging to him. The Applicant also notes that it is unclear why the disciplinary decision was made by the COSVP rather than any of the three individuals who served as HRDVP between November 2023 and August 2024. The Applicant submits that information regarding the pending disciplinary decision was improperly spread beyond the Acting HRDVP as reflected by the Senior Managing Director DPP's knowledge of the matter which, according to the Applicant, led to the rescission of an offer for a Director-level position. The Applicant finally submits that there is no indication in the record that a Misconduct Advisory Committee was convened to review the record or that the COSVP consulted with the Applicant's manager prior to making her decision, denying the Applicant another procedural protection.

The Bank's Response

The Applicant was accorded due process during the EBC investigation and disciplinary decision-making process

103. The Bank contends that the Applicant was accorded due process during the EBC investigation. The Bank avers that the record shows that EBC carried out its investigation fully within the parameters set out in WBG Staff Directive 3.07 and due process standards for EBC investigators. The Bank submits that the Applicant was provided appropriate notice, participated in the investigation process, was provided extensions for deadlines to submit comments, made substantive comments on the draft investigation report, and was able to submit new evidence and propose witness names which were considered by EBC.

104. The Bank submits that "there is no basis under the applicable procedures or in Tribunal precedent for an absolute right for a staff member to review every change in the final investigation report." To the Bank, "allowing unlimited opportunities for a subject to review a report that is amended each time the subject provides comments" would give the subject "the power to indefinitely delay the final issuance of the report." The Bank avers that EBC made a reasonable determination that the draft investigation report had not significantly changed after the Applicant's comments.

105. The Bank further submits that the reference to the unsubstantiated misconduct allegations and 2016 letter of caution from the then-HRDVP was "factual and relevant." To the Bank, the Applicant is "not being disciplined in relation to the 2016 investigation, but the fact he received the [HRDVP] warn[ing] at that time about specific conduct is relevant now."

106. The Bank next contends that the Applicant was accorded due process during the disciplinary decision-making process. The Bank avers that the extended timeline for the COSVP decision was consistent with the facts of the case and voluminous record, noting that the Acting HRDVP determined that it was necessary to recuse himself, a new decision-maker was appointed, the Misconduct Advisory Committee was re-convened, and the COSVP consulted with the

Applicant's manager prior to issuing her decision. To the Bank, "any delay in decision-making in this case was due to the full implementation of the relevant rules and consultative processes."

107. The Bank next submits that the existence of the EBC investigation was made known to the President of the Bank precisely because of the application of the Bank's rules, as the Acting HRDVP was required to notify the Office of the President of his recusal. The Bank further submits that the "implication that [the] Applicant was improperly prevented from a career opportunity—one for which he did not compete and that did not materialize—because of the President's knowledge of these proceedings is without basis."

108. Finally, the Bank notes that a Misconduct Advisory Committee was convened to review the evidentiary record in accordance with the HRDVP Decision-Making Process in Misconduct Matters for EBC and that the Applicant's manager was consulted by the COSVP as required.

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

SCOPE OF THE TRIBUNAL'S REVIEW

109. 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; *EZ*, Decision No. 601 [2019], para. 67; *CH*, Decision No. 489 [2014], para. 22.

110. 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.*

111. 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.

112. 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.

113. In *HQ* [2024], para. 125, the Tribunal held:

> To avoid concerns of procedural fairness, the Tribunal considers that it will review misconduct determinations in respect of acts occurring before 17 May 2023 applying a standard of "substantial evidence." It will review misconduct determinations in respect of acts occurring on or after 17 May 2023 applying a preponderance of the evidence standard.

See also HR, Decision No. 708 [2024], para. 137.

114. The Tribunal notes the Bank's contention that the Tribunal "erred in its reasoning" and its submission that the "goal of consistency and proportionality in misconduct decisions would be better served if the same standard is applied by the decision-maker after the effective date of the new standard, independently of when a staff member may have engaged in the conduct being evaluated." The Tribunal finds that there is no compelling basis to reconsider its holdings in *HQ* [2024] and *HR* [2024] and thus holds that its ruling on the standard of evidence is settled.

115. The acts forming the basis of the complaints in this case having occurred prior to 17 May 2023, the Tribunal will review the present case in light of the substantial evidence standard.

THE EXISTENCE OF THE FACTS AND WHETHER THEY LEGALLY AMOUNT TO MISCONDUCT

116. The EBC Final Investigation Report concluded:

> Based on a careful review of the totality of the evidence gathered, including the interviews of [Complainant 1], [Complainant 2], [the Applicant] and 21 relevant witnesses (including current and former staff), this Office has determined that: (i) there is sufficient evidence to substantiate [Complainant 1's] and [Complainant 2's] allegations that [the Applicant] directed at them sexually suggestive looks that made them feel uncomfortable; (ii) there is sufficient evidence to substantiate [Complainant 1's] allegation that on several occasions [the Applicant] used profanity, specifically the word "fuck"; and (iii) there is insufficient evidence to substantiate [Complainant 1's] and [Complainant 2's] allegations that [the Applicant] engaged in [a] pattern of unwelcomed conduct whereby he touched them inappropriately or in a way that could be reasonably perceived as sexual harassment.

117. The COSVP's 10 April 2025 decision letter informed the Applicant:

> [T]here is substantial evidence higher than a mere balance of probabilities to support a finding that you engaged in misconduct as defined under WBG Directive "Staff Directive 3.00 Ethics and Internal Justice Services Vice-Presidency."
>
> […] [Y]our conduct in directing at two female staff members sexually suggestive looks that made them feel uncomfortable while you were the Country Director in the Pakistan Country Office amounted to sexual harassment under WBG Staff Directive 3.00. I have further determined that there is substantial evidence higher than a mere balance of probabilities that your overall conduct also amounted to a reckless failure to observe applicable norms of prudent professional conduct and a conflict with the general obligations of staff members set forth in Principle 3 of WBG Policy "Principles of Staff Employment."

118. As noted by the Tribunal in *HD*, Decision No. 697 [2023], para. 120, "[t]he Bank's disciplinary proceedings […] are subject to certain principles including the following. First, a staff member has a right to a presumption of innocence." The WBG Directive/Procedure: Conduct of Disciplinary Proceedings for EBC Investigations guarantees presumption of innocence as a staff right. It states in Section III, Part A.I.1, "Throughout the course of disciplinary proceedings,

subject staff members are presumed innocent until all facts and circumstances have been obtained and a decision on the evidence has been made by the World Bank Group Human Resources Vice President."

119. Second, as noted above, the burden of proof is on the Bank and "there must be *substantial evidence* to support the finding of facts which amount to misconduct." (Emphasis added.) *FQ* [2020], para. 88. Moreover, such a standard of evidence leading to disciplinary sanctions "must be *higher than a mere balance of probabilities*." (Emphasis added.) *Dambita* [2001], para. 21. *See also FG* [2020], para. 67; *EZ* [2019], para. 69.

120. Finally, as stated by the Tribunal in *HD* [2023], para. 122, "if evidence is inconclusive then the benefit of the doubt goes to the staff member accused of misconduct." This principle is expressly endorsed by the Integrity Vice Presidency (INT), an independent unit within the World Bank whose core function involves investigating fraud and corruption in World Bank–financed projects. The current INT Guide to the Staff Rule 8.01 Investigative Process (Fourth Edition) (2016) states at page 5, "If the evidence is inconclusive or insufficient to meet the WBG's standard of proof, the allegations are considered to be unsubstantiated, in which case the benefit of the doubt goes to the staff member accused of misconduct." The International Labour Organization Administrative Tribunal (ILOAT) has applied this principle in misconduct cases. *See V*, ILOAT Judgment No. 3880 (2017).

121. The Tribunal explained in *HD* [2023], para. 123, that generally "misconduct allegations can be substantiated by admission, documentary or testimonial evidence, or circumstantial evidence, or can be based on the totality of evidence in the record." At the outset, the Tribunal notes that the evidence in the record here is limited to testimonial evidence by the complainants and witnesses interviewed by EBC. The Tribunal will now examine the evidence presented in the record and review if it meets the substantial evidence standard to determine the Applicant's culpability regarding the alleged sexually suggestive looks.

Sexually suggestive looks

122. With respect to the finding that the Applicant directed sexually suggestive looks at Complainant 1 and Complainant 2 which made them uncomfortable, the COSVP noted the following:

> My review of the record confirms my finding that the complaints against you are serious and supported by substantial evidence. The two female staff members affected by your conduct provided testimony that included detailed descriptions of the nature of the sexually suggestive looks you directed at them and their discomfort resulting from these interactions. The complaints are not one-off allegations; several instances of misconduct were found to be substantiated and, regarding one of the staff members, the conduct took place over the course of many months. I also found that the conduct was not welcomed by the staff members. I find the testimony of the affected staff members credible. Moreover, during the entire period during which the conduct at issue occurred, and when the complaints were referred to EBC, there was a significant power differential between the complaining staff members and you.

123. The Tribunal will review the allegations by each of the complainants in turn.

Allegations by Complainant 1

124. In her interview with EBC, Complainant 1 stated that the Applicant would stare at her "all the time" while she was at her desk working. She further stated that the Applicant would have "deep eye contact" while talking to her which made her uncomfortable, describing his eyes as "very penetrating." She explained that she had the sense that the Applicant "liked" her based on "[t]he way he used to look at [her]." Complainant 1 also claimed that the Applicant would look at "[a]lmost every female he used to meet" "up and down" and with "[l]ust in his eyes."

125. When asked about Complainant 1's allegations, the Applicant denied ever staring at her in an inappropriate or sexual way. He noted that he would have looked at Complainant 1 when asking her a question but denied staring at her body when he did so. He further denied staring at Complainant 1 while she was at her desk and explained that her desk faced away from his office. The Applicant noted that Complainant 1 wore "revealing" outfits but maintained that he did not

look at her body in this context and requested another colleague to speak with Complainant 1 about professional attire.

126. In the Final Investigation Report, EBC concluded that

> the testimony of [Ms. F and Ms. A], combined with that fact that [Complainant 2] also stated that [the Applicant] looked at her body from "head to toe" as if he were scanning her body, is sufficient to substantiate [Complainant 1's] allegation that [the Applicant] leered at her and/or directed sexually inappropriate looks at her.

127. Turning first to the testimony of Ms. F, a Program Assistant in the Pakistan Country Office, the Tribunal observes that Ms. F was interviewed in 2022 regarding her recollections of events that occurred between August 2016 and January 2018 in respect of Complainant 1 and between September 2019 and January 2020 in respect of Complainant 2. The Tribunal recalls that, in her first interview with EBC, she recounted three occasions on which she saw the Applicant staring at female colleagues: first, she saw the Applicant staring at Complainant 1's breast while they were in the hallway of the office; second, she saw the Applicant staring at the bottom of Ms. I, a Program Assistant, while they were walking in the hallway; and third, she saw the Applicant staring at the breast of Ms. H, a Team Assistant, while at the reception desk. In her second interview with EBC, Ms. F told EBC that she also saw the Applicant staring at Complainant 1's backside while walking behind her.

128. Ms. F told EBC that other female colleagues, specifically Ms. E, a Senior Program Assistant, had discussed with her observing the same behavior by the Applicant. When EBC interviewed Ms. E, however, she stated that she never saw or heard concerns about the Applicant looking or staring at female colleagues in a way that was inappropriate.

129. Ms. F also noted to EBC that, in addition to observing the Applicant staring at Ms. H's breast, Ms. H had told her and other female colleagues that she did not feel comfortable with the Applicant because of his stares. When interviewed by EBC, however, Ms. H stated that there was never any behavior from the Applicant that made her uncomfortable, she was never concerned about the way he talked to or looked at her, and she never heard of similar concerns from other colleagues.

130. Ms. F told EBC that she saw the Applicant stare at the bottom of Ms. I. In her interview with EBC, however, Ms. I stated that she could not remember any instance when the Applicant made her uncomfortable because of how he looked at her.

131. Reviewing the above evidence, the Tribunal observes that significant elements of Ms. F's recollections were refuted by other witnesses interviewed by EBC. The Final Investigation Report, however, does not cross-reference or address the inconsistencies in these testimonies.

132. The Tribunal further observes Ms. F's assertions that, when Complainant 1 was recruited, she observed that "there were only women who were interviewed," that the shortlisted candidates were "[p]retty women" and "women with exceptional body structure," and that she saw "why [Complainant 1] was chosen." However, Ms. F also stated that she did not know who participated in the interview panel when Complainant 1 was hired. The Final Investigation Report does not reconcile her statement of the reasons for the selection of the shortlisted candidates and Complainant 1 with her statements about her lack of knowledge of the selection process.

133. The Tribunal recalls the statements of Ms. B, the Operations Manager of the Pakistan Country Office during the relevant time, during her interview with EBC. When asked if she had any concern about the interactions between the Applicant and female staff, Ms. B explained to EBC that the Applicant "completely changed the balance of women in the office. It was under 20 percent when he came. And when—at least when I left it was over 50 percent," adding that this change was for both ACS and professional staff. Ms. B further described the culture of the Pakistan Country Office prior to the Applicant's tenure: "There was a culture of senior staff both men and women but mostly men, asking ACS to get their laundry, and to bring food." She explained the Applicant's efforts, which she states were supported by the then-Vice President of the South Asia Region, to shift the culture of the office:

> The GPs [Global Practices] were asked to bring in—to always, you know, be looking at the gender balance of [t]heir shortlist, and it was not easy but it worked. There were many more women in the office. There were serious conversations in the country team about kind of being inclusive and there were a few times where we needed to have conversations with staff that sometimes I did, sometimes [the Applicant] did, saying, look this is what it means to work in the World Bank. No

> comment about people's clothes, nothing, right. So this was a major effort to shift the culture.

134. In his interview with EBC, the Applicant also recounted the efforts to achieve balanced gender representation in the Pakistan Country Office, stating:

> I think we must have hired about I don't know how many but quite a number of staff, and primarily, we [were] trying to change the office demographics from being a very male-centered organization to making it much more balanced. I think we got to a fairly good number of women and men, 45/55, I think. And as part of that, I—my leadership team I insisted should be 50/50, men and women.

135. In view of the above statements, the Tribunal observes that there was a regional effort, supported by Bank management, to balance the gender representation in the Pakistan Country Office. The Final Investigation Report does not address the inconsistency between Ms. B's and the Applicant's explanation for the increase in female staff in the office and Ms. F's imputation to the Applicant of the reasons for this increase.

136. The Tribunal finds that, on the whole, there is a sufficient degree of unreliability in the testimony given by Ms. F to diminish the probative value of her testimonial evidence.

137. Turning now to the testimony of Ms. A, a Senior HR Business Partner in the Pakistan Country Office, the Tribunal recalls that she told EBC that the Applicant would look at female colleagues "up and down" "like scanning their body" and that the Applicant's looks were not targeted and "that's how he would look at everybody." She also stated that the Applicant "at times" looked at her up and down, which made her uncomfortable.

138. The Tribunal first observes that Ms. A's testimony describes general behavior ascribed to the Applicant and does not speak to whether he directed sexually suggestive looks specifically at Complainant 1. Next, the Tribunal notes that Ms. A asserted that the Applicant would look at *all* female colleagues inappropriately and that it was a common occurrence. However, thirteen female witnesses who worked with the Applicant testified that they never experienced or observed such behavior. Sexually harassing behavior can be selective, and the testimony of some witnesses that they were not harassed does not invalidate the testimony of others that they have been. However,

the Final Investigation Report does not address the gap between generalized statements of behavior made by Ms. A and the conflicting testimony of a significant number of other witnesses.

139. The Tribunal also observes Ms. A's assertions that people in the office felt that the Applicant "preferred the company of […] females" and that there was a perception that he preferred "to hire girls." The Tribunal has already observed that the increase in female hires was the result of management's effort to achieve gender balance in the Pakistan Country Office and not attributed to any personal preference on the part of the Applicant. As in the case of Ms. F, the Tribunal finds that Ms. A's suggestions to the contrary cast doubt on the reliability of her remaining testimony.

140. EBC also refers to the testimony of Complainant 2 in order to substantiate Complainant 1's allegations. The Tribunal observes that Complainant 2 did not work for the Bank at the time Complainant 1 worked as the Senior Executive Assistant to the Applicant, the relevant time for the alleged conduct, and thus had no personal knowledge of the conduct at issue. The Tribunal considers that the Bank is not entitled to make conclusions on individual acts in disciplinary proceedings based on general impressions; in this respect, Complainant 2's testimony does not establish that the Applicant directed sexually suggestive looks at Complainant 1.

141. The Tribunal wishes to clarify that it is not the case that an allegation of sexual harassment necessarily must be corroborated by witness testimony. In the present case, the Tribunal has carefully reviewed the evidence in the record regarding the allegations by Complainant 1, observing in particular the broadness and subjective nature of the generalized allegations by comparison to the want of specific details provided by Complainant 1. The Tribunal recalls the reliability issues noted above. Where there is an absence of any contemporaneous evidence related to generalized allegations, the Tribunal finds it all the more essential that, in its capacity as neutral fact-finder and collector of both exculpatory and inculpatory evidence (*see Z*, Decision No. 380 [2008], para. 27), EBC demonstrate in its Final Investigation Report that it has carefully cross-referenced and weighed the probative value to be assigned to each witness's testimony. Here, having regard to the totality of the evidence, the Tribunal concludes that EBC did not sufficiently

so demonstrate and that the witness testimony does not sufficiently support a finding of fact for disciplinary purposes that the Applicant directed sexually suggestive looks at Complainant 1.

Allegations by Complainant 2

142. In her interview with EBC, Complainant 2 told EBC that the Applicant made her uncomfortable when he looked at her, stating that, "when he looked you on this side, that side, from the top to when you—or you are standing in front of him, he is just looking like this, head to toe. So, it feel a bit uncomfortable, you know?" When asked by EBC if it would be accurate to say that the Applicant was looking at her like "scanning [her] body," Complainant 2 answered yes. Complainant 2 also told EBC that the Applicant would look at her smiling and on one occasion smiled at her in a "flirting" way.

143. When asked about Complainant 2's allegations, the Applicant denied looking at Complainant 2 "head to bottom like scanning her body" or directing "flirtatious looks and flirtatious smiles."

144. In the Final Investigation Report, EBC concluded that

> the testimony of [Ms. F and Ms. A], combined with the fact that [Complainant 1] also testified that she noticed that [the Applicant] leered at her and that she saw him looking at other female employees from top to bottom like he was scanning their bodies, is sufficient evidence to substantiate [Complainant 2's] allegations that on several occasions [the Applicant] looked at her from "head to toe" like he was scanning her body.

145. The Tribunal first notes that none of the witnesses cited by EBC—Ms. F, Ms. A, and Complainant 1—gave any testimony regarding looks directed by the Applicant at Complainant 2. Moreover, the Tribunal's conclusions with respect to the reliability of the testimonies of Ms. F and Ms. A are equally applicable with respect to Complainant 2's allegations. In this respect, the Tribunal recalls that it considered Ms. F's testimony to be refuted by other witnesses or otherwise unreliable and Ms. A's testimony to be similarly unreliable.

146. The Tribunal has carefully reviewed the evidence in the record regarding the allegations by Complainant 2, which were similarly characterized by generalized statements and subjective impressions, by comparison to the want of specific details provided by Complainant 2. In view of the reliability issues noted above and in the absence of any contemporaneous evidence related to the generalized allegations, the Tribunal again points out that it is incumbent on EBC to demonstrate in its Final Investigation Report that it has executed on its neutral fact-finder role and its above-noted obligations. Having regard to the totality of the evidence, the Tribunal again concludes that EBC did not sufficiently so demonstrate and that the witness testimony does not sufficiently support a finding of fact for disciplinary purposes that the Applicant directed sexually suggestive looks at Complainant 2.

147. Having determined that the Bank has not discharged its burden of proof to establish by substantial evidence that the Applicant directed sexually suggestive looks at either of the complainants, the Tribunal need not consider whether such conduct would legally amount to misconduct.

Use of profanity

148. In her 10 April 2025 decision letter, the COSVP stated:

> Regarding the staff member's allegation, which EBC found to be substantiated, that on several occasions you used profanity, I continue to find it troubling that someone at your senior level at the WBG would use profanity in the cultural and social context of this office environment, especially when a staff member felt uncomfortable with such language and found it inappropriate. However, this poor judgment in the use of such language does not impact the proportionality of the disciplinary measures imposed, which would remain the same regardless of the substantiation of your use of profanity in such a context.

149. The Tribunal observes that the language in the COSVP's decision letter is ambiguous as to whether the Applicant's alleged use of profanity was considered an aggravating factor or whether it was determined to constitute a separate finding of misconduct.

150. In *M* [2007], para. 53, the Tribunal observed that

> disciplinary cases are different from the broader range of disputes relating to managerial decisions. The Tribunal has always recognized that the Bank has discretion to run its business. But punitive measures are not business decisions. They must be subjected to meaningful checks and balances, in the interest not only of individual applicants but also to realize expectations that the Bank will eschew arbitrary behavior in this sensitive sphere.

151. The Tribunal expanded on the significance of this distinction in *HB (Merits)*, Decision No. 693 [2023], para. 50:

> [I]t is necessary, in terms of legal security and predictability, to limit the scope of sanctions to the express and precise language of the sanctions which were imposed. As a guarantee against arbitrariness and retroactivity, sanctions must always be explicitly and strictly stated.

152. The Tribunal observes that such principles are not confined to the imposition of sanctions but are also relevant to the findings of misconduct themselves. Staff members are entitled to know, with specificity, the conduct for which they are being sanctioned and the rules which they are found to have violated. A finding of misconduct and the imposition of sanctions should not have to be inferred from general language.

153. The Tribunal finds that the COSVP's decision letter does not satisfy these principles with respect to the finding that the Applicant used profanity. To the extent that such a finding was determined to constitute misconduct, and to the extent that the Applicant was sanctioned for such a finding, the Tribunal finds that neither decision can be upheld.

154. Having found that there is no substantial evidence to support the finding that the Applicant engaged in misconduct, the Tribunal also finds that the sanctions imposed cannot be upheld. As such, there is no need to consider their proportionality.

WHETHER THE REQUIREMENTS OF DUE PROCESS WERE OBSERVED

155. The Tribunal recalls the Applicant's contention that his due process rights were violated by the EBC investigative process, the Final Investigation Report, and the disciplinary decision-making process.

156. In *AJ*, Decision No. 389 [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." As stated in *Kwakwa* [2003], para. 29:

> [T]he due process requirements for framing investigations of misconduct in the context of the World Bank Group's relations with its staff members are specific and may be summarized as follows: affected staff members must be [apprised] of the charges being investigated with reasonable clarity; they must be given a reasonably full account of the allegations and evidence brought against them; and they must be given a reasonable opportunity to respond and explain.

157. While the Applicant was provided with some of the basic requirements of due process, there are a few matters that warrant the Tribunal's consideration.

158. The Applicant submits that his due process rights were violated by EBC's refusal to allow the Applicant to comment on the additional interview transcripts following his comments on the draft investigation report. The Bank responds that "there is no basis under the applicable procedures or in Tribunal precedent for an absolute right for a staff member to review every change in the final investigation report" and avers that EBC made a reasonable determination that the draft investigation report had not significantly changed after the Applicant's comments.

159. The WBG Directive/Procedure for the Conduct of Disciplinary Proceedings for EBC Investigations provides at Section III, Part C.4:

> i. Subject staff members will be provided a copy of the final report in draft for review and comment before the report is finalized and submitted to the decision-maker. The draft report will contain all findings and evidence (including transcripts of witness interviews) upon which the decision-maker will make his/her decision. The purpose of this review will be to enable the subject staff member to: (i) identify any perceived factual errors before the report is finalized; (ii) introduce any other relevant information the subject staff member believes may rebut the findings or support the subject staff member's position; (iii) clarify any of the subject staff member's previous statements; and (iv) comment on the report.

> […]
>
> iv. If the subject staff member's comments on the draft of the final report result in a substantive revision to the findings or conclusions, which is adverse to the subject staff member, the subject staff member will be given an opportunity to review the subsequent draft of the final report and to submit an additional response to the revised draft before it is finalized and submitted to the decision-maker.

160. The Applicant was provided with a draft investigation report on 7 July 2023, upon which he submitted comments to EBC on 11 and 12 August 2023. After receiving the Applicant's comments, EBC conducted follow-up interviews with Complainant 1, Complainant 2, Ms. F, and Ms. K, a Program Associate. Notably, in her follow-up interview, Ms. F made an additional assertion that she observed on one occasion the Applicant staring at Complainant 1's backside while walking behind her, an assertion which was not included in the draft investigation report reviewed by the Applicant. In addition, Ms. K retracted her testimony that she witnessed the Applicant staring at Complainant 1's breast, stating instead that she could not recall seeing such conduct. This retraction effectively reduced the number of witnesses relied upon by EBC for its conclusion by one-third.

161. The Tribunal considers that depriving the Applicant of an opportunity to comment on additional and changed evidence, including significant changes to witness testimony, constitutes a serious breach of due process. The ability to review and respond to evidence upon which misconduct findings are based is one of the procedural safeguards guaranteed to staff members under investigation for misconduct.

162. The Tribunal notes the Bank's assertion that "allowing unlimited opportunities for a subject to review a report that is amended each time the subject provides comments" would give the subject "the power to indefinitely delay the final issuance of the report." While the Bank's concern has merit and there is surely a circumstance in which minor revisions to a draft report do not require review by the subject staff member, that is patently not the case here. A comparison between the draft investigation report reviewed by the Applicant and the Final Investigation Report sent to the COSVP for a decision easily refutes the Bank's assertion that no substantial changes were made. Though EBC ultimately arrived at the same conclusion regarding the Applicant's conduct, the

testimony upon which the conclusion was based was reduced by one witness who recanted her recollection, and four new interview transcripts were added to the record. The Applicant was entitled to know and comment on these changes. The Tribunal finds that depriving the Applicant of such an opportunity violated his due process rights.

163. The Applicant also contends that the extended timeline for a decision following the issuance of the Final Investigation Report was professionally damaging to him. To the Bank, the extended timeline for the COSVP decision was consistent with the facts of the case and voluminous record, noting that the Acting HRDVP determined that it was necessary to recuse himself, a new decision-maker was appointed, the Misconduct Advisory Committee was re-convened, and the COSVP consulted with the Applicant's manager prior to issuing her decision.

164. The Tribunal notes that the Final Investigation Report was issued to the Acting HRDVP on 1 November 2023. The Acting HRDVP did not recuse himself from the decision-making process until April 2024, more than five months later. The Bank offers no reason for this delay.

165. Staff Rule 3.00, paragraph 10.06, in effect at the relevant time, creates a three-year time period within which disciplinary measures may be imposed, counting from the day the misconduct is discovered. The Tribunal has previously determined that, for misconduct investigations conducted under Staff Rule 8.01, the start date of this time limitation is the date on which the Notice of Alleged Misconduct is issued. *See FQ* [2020], para. 124. The Tribunal finds that the same is true for misconduct investigations conducted pursuant to Staff Rule 3.00.

166. The Tribunal observes that the Notice of Alleged Misconduct was provided to the Applicant on 12 July 2022. The COSVP's first decision letter was issued on 12 August 2024, a little over two years after the Notice of Alleged Misconduct. While the Bank should make all efforts to carry out its work in misconduct investigations and determinations in a timely manner (*see DN*, Decision No. 544 [2016], paras. 96–97) the Tribunal notes that the misconduct determination in this case was made within the time limitation prescribed by the Staff Rules. That said, the Tribunal also considers the negative impact on a subject staff member that the uncertainty

a pending misconduct investigation and decision may have. In this respect, the Tribunal considers that the Bank has a duty to avoid undue delay in conducting misconduct investigations.

167. Reviewing the record, the Tribunal notes that, while there was a delay in issuing the misconduct determination, such delay was not wholly unjustified by the circumstances of the present case. In this respect, the Tribunal observes the voluminous record, the Acting HRDVP's recusal, the subsequent appointment of the COSVP as decision-maker, and the review by the Misconduct Advisory Committee, all of which contributed to the lengthy decision-making process. The Tribunal is therefore unpersuaded that, in the circumstances of this case, the extended timeline for the misconduct determination amounts to a violation of due process.

168. The Applicant next contends that his due process rights were violated by the references made to prior, unsubstantiated misconduct allegations both in the Final Investigation Report and in the COSVP's first decision letter. The Applicant notes that the COSVP removed all reference to the prior misconduct investigation in her 10 April 2025 letter which, to the Applicant, was "a seemingly tacit admission that this was not a proper consideration for discipline."

169. The Tribunal observes that EBC refers to the prior, unsubstantiated allegations against the Applicant both in its analysis of the evidence and in the aggravating factors sections of the Final Investigation Report. The prior investigation report and HRDVP decision letter are also both included as exhibits in the Final Investigation Report. The COSVP's 12 August 2024 decision letter refers to the prior, unsubstantiated allegations as an aggravating factor when determining sanctions. Unlike the circumstances of *GR*, Decision No. 671 [2022], paras. 219–220, in which the Tribunal considered an anonymous complaint that had been included as background information and found not to have been relied upon by EBC or the decision-maker, here both EBC and the COSVP relied upon the unsubstantiated allegations in arriving at their conclusions.

170. The Tribunal agrees that it was improper for both EBC and the COSVP to refer to a prior misconduct investigation in which no misconduct was substantiated as an aggravating factor when considering the sanctions imposed. Of particular concern is the statement in the Final Investigation Report that EBC found "very concerning the fact that [the Applicant] has been accused of

inappropriate touching and/or unwelcome physical contact by three different female employees in two unrelated offices." The Tribunal notes that none of these accusations were substantiated by EBC in either investigation. While these accusations are undoubtedly serious, "[i]t is of critical importance not to conflate the established facts with an allegation […] which was not substantiated." *FG* [2020], para. 104. As the Tribunal held in *FG* [2020], para. 104, "[w]ithout more, an allegation […] cannot be relied upon to support a misconduct finding and disciplinary sanctions."

171. The Tribunal notes the removal by the COSVP of the reference to the prior unsubstantiated allegations in the 10 April 2025 letter. However, the Bank notes in its rejoinder that it is standard for EBC to identify prior complaints against a subject at the beginning of the investigation to provide critical context for an investigation and to help identify potential serial offenders. It further notes that the omission of the previous investigation is not a tacit concession that its inclusion in the 12 August 2024 COSVP letter was inappropriate. The Bank considers that the key point was the expectation that the Applicant maintain an appropriate work environment and that his behavior was not consistent with the standard of conduct expected of WBG staff.

172. The Tribunal notes that this earlier warning was given in respect of allegations of physical conduct that were not substantiated in the earlier investigation. The Tribunal is not persuaded by the Bank's justifications for its standard practice of referencing the existence of earlier unsubstantiated allegations when investigating and deciding on subsequent complaints. This practice is at odds with the presumption of innocence to be afforded to staff members in the investigation and decision-making process, as well as the principle that staff members are to be given the benefit of the doubt in circumstances where the evidence is inconclusive or insufficient to meet the WBG's standard of proof. The Tribunal finds that this standard practice amounts to a violation of due process in that it undermines a fundamental right accorded to staff.

173. The Tribunal will finally consider the Applicant's submission that information regarding the pending disciplinary decision was improperly spread, leading to the rescission of an offer for a Director-level position.

174. The Tribunal observes the Bank's submission that the existence of the EBC investigation was made known to the President of the Bank precisely because of the application of the Bank's rules, as the Acting HRDVP was required to notify the Office of the President of his recusal. The Bank notes that, "once the Office of the President became aware of the ongoing proceedings involving [the] Applicant as part of the Acting [HRDVP's] recusal, this information could not be 'unknown' in other contexts." In this respect, the Bank further notes "the potential reputational consequences to the new VPU—depending on the outcome of the decision—if [the] Applicant were appointed to a Director-level position."

175. Based on the record, the Tribunal considers that the President of the Bank became aware of the pending misconduct investigation due to the recusal of the decision-maker based on proper business reasons. The Tribunal finds it persuasive that this information could not, thereafter, be unknown, and considers that it was not improper for the senior management of the Bank to make decisions based on reputational risks to the Bank. In so finding, the Tribunal notes the Bank's submission that "[n]either the Chief of Staff [to the President of the Bank] nor the Senior Managing Director DPP was provided with the EBC report or the details of the allegations."

REMEDIES

176. The Tribunal has determined that the Bank did not discharge its burden of proof to establish by substantial evidence that the Applicant committed misconduct. The Tribunal thus holds that the misconduct finding and sanctions shall be rescinded and the disciplinary record shall be removed from the Applicant's personnel file.

177. The Tribunal further orders that the Applicant's grade level be restored to Grade Level GI and that he shall be paid the salary and benefits he would have received had his position not been demoted, including pension contributions and retroactive salary increases, for the period from 12 August 2024 until the date on which his grade level is restored. *See DN* [2016].

178. The Tribunal has also found serious violations of due process, including the denial of an opportunity to review additional testimony and evidence presented in the Final Investigation

Report and the improper reference to and reliance on prior, unsubstantiated allegations of misconduct. For these violations, the Tribunal awards twelve months' net salary, based on the Applicant's adjusted salary following this judgment. *See FG* [2020].

179. Having succeeded in his claims, the Applicant shall also be awarded legal fees and costs for the proceedings before the Tribunal.

DECISION

(1) The finding of misconduct and disciplinary sanctions of demotion to a Grade Level GH non-managerial, non-supervisory position with an appropriate title change, reduction in future pay, ineligibility for promotion, and written censure to remain on the Applicant's personnel file are hereby rescinded;
(2) The Applicant's grade level shall be restored to Grade Level GI and he shall be paid the salary and benefits he would have received had his position not been demoted, including pension contributions and retroactive salary increases, for the period from 12 August 2024 until the date on which his grade level is restored;
(3) The Bank shall remove from the Applicant's personnel file all records relating to the allegations of misconduct, including the Final Investigation Report and the decisions of the COSVP;
(4) For violations of due process, the Bank shall pay the Applicant compensation in the amount of twelve months' net salary based on the Applicant's adjusted net salary following the implementation of this judgment;
(5) The Bank shall pay the Applicant's legal fees and costs in the amount of $58,475.00; and
(6) All other claims are dismissed.

/S/Janice Bellace
Janice Bellace
President

/S/ Zakir Hafez
Zakir Hafez
Executive Secretary

At Vienna, Austria, 23 May 2025