
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2015/1 0

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Date: 9) a*+, 201 '

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Before:

1. The Applicant's submission (via email on 16 June 2015) and filed (via the Tribunal's e-filing portal on 2 June 2015) the Applicant contests a decision of

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g. On the basis of the above and additional facts, the Arbitral Tribunal recommended to award the respondent to pay the amount of \$1,000,000. The award is made on the basis of the following findings of fact and law:

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22. As to the second ground for dismissal /#a+a. 1 . ' a'o(e4) t'e &ontested de&%s%on stated>

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26. On 16 June 2015) the Applicant emailed the Tribunal and on 2 June 2015) the Respondent filed a rejoinder.

27. The Respondent filed a rejoinder on 10 July 2015.

28. On 15 July 2015) the Tribunal issued its decision on the Respondent's rejoinder. The Tribunal found that the Respondent's rejoinder was not timely and that the Respondent had not provided any new evidence or arguments. The Tribunal also found that the Respondent's rejoinder contained several inaccuracies and that the Respondent had not addressed the Tribunal's findings in its decision of 10 July 2015).

29. On 1 January 2016) the Tribunal issued its decision on the Respondent's appeal. The Tribunal found that the Respondent's appeal was not timely and that the Respondent had not provided any new evidence or arguments. The Tribunal also found that the Respondent's appeal contained several inaccuracies and that the Respondent had not addressed the Tribunal's findings in its decision of 10 July 2015).

30. The Applicant's contentions are:

Gross negligence in the submission of false and fraudulent quotations for procurement

a. The facts in support of the first ground for dismissal (a) (not been established as the contested decision relies upon witnesses, statements that are not signed) are as follows: On 21st February 2015) the Applicant received a document and is neither dated nor signed (its author(s) an anonymous email and the content of the same is in the Note for the Appeal sent to the Applicant, for the purpose of the 5 AIA (in the attached email the contested decision also contains unsupported allegations in respect of the Applicant's tendering on procurement matters).

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Proportionality of sanction

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Procedural irregularities in the conduct of the investigation

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and amounts to gross negligence and constitutes misconduct pursuant to
section 1.4(d) of C-12/HD/2012/0056

Irregularities and abuse of authority in the handling of petty cash

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46.

51. It is noted that gross negligence is a concept of a higher degree in (of) an employee and it is less favorable to act as a reasonable person in a particular situation. The regulations and uses of the Statute of the United Nations, 1948, of the Charter of the United Nations of staff members for gross negligence or in fulfillment of assigned duties (see Mwamsa v UNDT/2011/16; Mushema v UNDT/2011/1624). It may also result from a failure to act as a reasonable person or to act in a reasonable manner (see Mwamsa v UNDT/2011/16; Mushema v UNDT/2011/1624; and Amara v UNDT/2012/16). In 2014, UNAT found that gross negligence must be distinguished from an inadvertent error or omission or simple negligence or negligence to foresee the negative consequences of the act. (see Mwamsa v UNDT/2011/16; Mushema v UNDT/2011/1624; and Amara v UNDT/2012/16).

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62. The Tribunal finds that the fact that the respondent admitted to the issuance of the A# and committed misconduct pursuant to section 1.1 of C-2/HD/2012/005 is not a bar.

63. As to the Tribunal's finding that the A# also used the

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