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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/046/T

Order No.: 120 (NY/2021)

Date: 7 December 2021

Original: English

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**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

SAINT-LOT

v.

SECRETARY-



8. However, the Tribunal notes that the comments were deemed to amount to sexual misconduct because, among other factors, they were unwelcome and made the receiver feel uneasy. Therefore, even if the articulated, the Applicant has the right to test the evidence on testimony is therefore allowed.

*Testimony of PM*

9. The Applicant further requests the testimony of PM who, he claims, will testify that she did not feel sexually harassed by the Applicant.

10. The Respondent objects to this testimony on the grounds that the initial charges concerning PM were dropped and her testimony is therefore irrelevant.

11. The Tribunal agrees with the Respondent in this respect. The sanction letter is based exclusively on is irrelevant to the issues in dispute in this case. This testimony will therefore not be allowed.

*Testimony of DW*

12. The Applicant further requests the testimony of DW which, he asserts, contradicts that of MB and impeaches her testimony.

13. The Respondent replies that

there is no evidence to suggest that DW was present during the relevant incident.

14. The Tribunal notes that DW did indeed not witness the incident for which the Applicant was charged and eventually sanctioned. DW stated in his interview that MB had related being uncomfortable around the Applicant after the comments he made to

her and provided  
UNICEF colleagues.

15. The Applicant, however, fails to point out how any testimony from DW would

disciplinary cases, which requires the party requesting such production of evidence to show its relevance.

20. The Tribunal agrees with the Respondent that the Applicant does not clarify how OSO lied or prejudged the Applicant or to what extent his testimony would impeach any of the evidence relied on by the Administration.

21. Moreover, the Applicant states with respect to his request for MB

22.

is precisely the reason why his conduct was found to be unwelcome. Indeed, the sanction letter explains that OSO confirmed that MB, after her conversation with the Applicant, reported to him that she felt uncomfortable during the meeting with the Applicant and that he had made comments of a sexual nature.

23. Therefore, the Applicant, who is represented by a professional counsel, has case.

24. testimony is therefore rejected.

*Testimony of MCD*

25. The Applicant , he claims, was ignored. The Applicant alleges that M

26. The Tribunal notes that, as the Respondent points out, MCD was not a witness to the incidents for which the Applicant was sanctioned.

27. Moreover, the Applicant's prior good record is not in dispute and was actually considered as a mitigating factor in the sanction letter.

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29. The Applicant does not request the production of any additional documentary evidence.

30. In light of the above,

IT IS ORDERED THAT:

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32. The Tribunal will hold a one-day hearing **between 17 and 28 January 2022** to hear the testimony of MB;

33. By **4:00 p.m. on Friday, 7 January 2022**, the parties will inform the New York availability to testify within the above-mentioned timeframe;

34. Upon receipt of the parties' confirmation as per the above, the Tribunal will schedule the one-day hearing and provide all the relevant instructions through the New York Registry;

