# UNDT/2010/034, Cabrera, Streb

#### **UNAT Held or UNDT Pronouncements**

There was sufficient material before the Secretary-General, after a fair and impartial investigation, to reach a finding of serious misconduct. The sanction of summary dismissal was fair and proportionate to the seriousness of the offences. The applications are dismissed.

### Decision Contested or Judgment/Order Appealed

Summary dismissal of the Applicants. A vendor companies' representative indicated in evidence given in US criminal proceedings that he had offered lavish hospitality to two staff members of the UN Procurement Division in 2002. The UN's internal Procurement Task Force carried out an investigation into the alleged conduct and concluded in a report that such hospitality was lavish, inappropriate and in violation of the Organization's guidance, rules and policy. Both applicants were summarily dismissed in accordance with former staff regulation 10.2, with immediate effect. The applicants appealed the summary dismissal, alleging that these decisions were improperly influenced by the views and concerns of Member States.

### Legal Principle(s)

Principles of natural justice and internationally recognized standards: Internationally recognized norms of fairness must be taken into account in examining the thoroughness and fairness of internal UN investigatory and disciplinary procedures, which must comply with the principles of natural justice and internationally recognized standards for reviewing decisions in relation to disciplinary matters in an employment context. Views and concerns of Member States: It is not inappropriate for the Secretary-General to have regard to the views and concerns of Member States. However, the decision of the Secretary-General must accord with internationally respected norms of fairness and justice in both the investigatory and

#### decision making process

### Outcome

Dismissed on merits

### Full judgment

Full judgment

### Applicants/Appellants

Cabrera, Streb

### **Entity**

**UN Secretariat** 

### Case Number(s)

UNDT/NY/2009/013/JDC/2008/002 UNDT/NY/2009/014/JDC/2008/003

### **Tribunal**

**UNDT** 

### Registry

New York

### Date of Judgement

26 Feb 2010

### **Duty Judge**

Judge Meeran

### Language of Judgment

English French

## **Issuance Type**

Judgment

### Categories/Subcategories

Disciplinary matters / misconduct Dismissal/separation Investigation Due process

## **Applicable Law**

Administrative Instructions

• ST/AI/371

Former Staff Rules

• Rule 10.2

### Related Judgments and Orders

UNDT/2009/006 UNDT/2009/009