

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