# UNDT/2013/036, Arigi-Oikelomen

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

Due process: The evaluation of the Applicant's performance for the 2008/2009 reporting cycle was not carried out in accordance with the established procedures and materially discredits the Respondent's case. UNON had an obligation to defer the non-renewal decision until the rebuttal process had been completed but failed to do so. This was a violation of the Applicant's due process rights. Bad faith: The negative relationship between the Applicant's former FRO and SRO was contributory to the non- renewal of the Applicant's contract. The Applicant's SRO demonstrated ill-motive and unethical conduct when, after the Applicant's separation from service, she decided to personally "investigate" the Applicant's qualifications. Her efforts to introduce the purported results of this investigation into evidence constituted an abuse of the Process of the Tribunal.

#### Decision Contested or Judgment/Order Appealed

The Applicant is contesting a decision dated 16 September 2009 separating her from service on 1 November 2009 on the basis of performance shortcomings.

## Legal Principle(s)

N/A

#### Outcome

Judgment entered for Applicant in full or in part

#### **Outcome Extra Text**

#### Both financial comp. and specific performance

# Full judgment

Full judgment

# Applicants/Appellants

Arigi-Oikelomen

## **Entity**

DSS

## Case Number(s)

UNDT/NBI/2011/020

#### **Tribunal**

**UNDT** 

## Registry

Nairobi

# Date of Judgement

28 Feb 2013

## **Duty Judge**

Judge Izuako

# Language of Judgment

English

## **Issuance Type**

Judgment

# Categories/Subcategories

Non-renewal Reason(s) Performance management Rebuttal Separation from service

# **Applicable Law**

#### Administrative Instructions

• ST/AI/2002/3

#### **UNDT RoP**

• Article 15

#### **UNDT Statute**

• Article 10.5(a)

# Related Judgments and Orders

UNDT/2013/032 UNDT/2009/088 UNDT/2010/049 UNDT/2010/213