

# 2015-UNAT-545, Jaffa

## UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT erred by considering as mitigating factors the recommendation of Mr Jaffa's immediate supervisors that his actions warranted a reprimand and the fact that Mr Jaffa continued to perform for two further years (with positive reviews). UNAT held that UNDT erred in not attaching sufficient importance to the fact that Mr Jaffa held a position of trust as a Finance Assistant. UNAT held that the Secretary-General had not overlooked relevant mitigating factors in imposing the sanction of separation from service. UNAT held that it could not be said that the sanction of separation with compensation in lieu of notice and with termination indemnity was unfair or disproportionate to the seriousness of the offences. UNAT held that the sanction imposed on Mr Jaffa was not unreasonable, absurd or disproportionate and as such, was a reasonable exercise of the Administration's broad discretion in disciplinary matters. UNAT held that UNDT erred in finding the sanction disproportionate and in substituting its opinion for that of the Administration. UNAT allowed the Secretary-General's appeal and vacated the UNDT judgment, solely with respect to UNDT's findings regarding the sanction.

## Decision Contested or Judgment/Order Appealed

Mr Jaffa contested the imposition of the disciplinary measure of separation from service with compensation in lieu of notice and with termination indemnity for misconduct in the form of manipulating the payroll system in order to create and receive overpayments on three separate occasions. UNDT found that Mr Jaffa had committed misconduct, but considered the sanction of termination excessive and disproportionate. UNDT ordered rescission of the sanction of termination, reinstatement of the Applicant, Mr Jaffa be subject to demotion with the deferment of promotion, and set compensation in lieu as an alternative to reinstatement and demotion.

## Legal Principle(s)

The Secretary-General is vested with the authority to impose the sanction which he considers to be appropriate and such discretion can only be reviewed in cases of obvious absurdity or flagrant arbitrariness.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Jaffa

## Entity

UNMIS

## Case Number(s)

2014-628

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

2 Jul 2015

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Dismissal/separation

Theft and misappropriation

## Applicable Law

Administrative Instructions

- ST/AI/2009/1

## Related Judgments and Orders

UNDT/2014/052

2010-UNAT-089

2015-UNAT-510

2010-UNAT-040

2010-UNAT-084

2013-UNAT-292