



**PETER ANTHONY GALLO**

-v-

**SECRETARY-GENERAL  
OF THE UNITED NATIONS**

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**APPLICATION**  
*(Final Decision)*

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**Registry:** New York

**UNDT case number:**

**Date of application:** 1 July 2015

**Counsel for Applicant:** Mr. Paul Harris. SC

**Counsel for Respondent:**

**I. Applicant's general information**

1. Title: **Mr.**
2. Surname: **Gallo**
3. First name: **Peter**
4. Middle Name: **Anthony**
5. Former UN staff member: **Date of Separation - 16 March 2015**

**II. Applicant's employment information at the time of the contested decision**

Employment information at the time of the contested decision

- a) Type of appointment: **Fixed term. 2 Years, ending 16 March 2015**
- b) Grade and step: **P4/8**
- c) Functional title: **Investigator.**
- d) Entity of employment: **Office of Internal Oversight Services  
Investigations Division**
- e) Duty station: **New York**

**III. Applicant's contact information**

- a) Email address for correspondence: **gweilicus@gmail.com**
- b) Optional email address: *none*
- c) Cellular phone: **917-575-8835**
- d) Work phone: *none*
- e) Home phone: *none*
- f) Facsimile: *none*
- g) Mailing address for service of documents: **244 Halstead Ave, #3E, Harrison, NY 10528**

**IV. Applicant's representation**

1. Are you assisted by a legal representative? Yes  No
2. If yes, identify whether you are represented by:  
 OSLA;  
 a volunteer (staff member or former staff member); or  
 a private lawyer.
3. Legal representative's contact information:
  - a. Last name: **Harris**
  - a. First name: **Paul**
  - b. Place of work and functional title: **Doughty Street Chambers, London.  
Senior Counsel**
  - c. Email address: **paul.harris.s.c@gmail.com**
  - d. Cellular phone: **+44 1865 514923**
  - e. Work phone: **+44 7827 572840**
  - f. Facsimile:
  - g. Mailing address: **23 Burgess Mead, Oxford OX2 6XP, England**

If you are represented by a private lawyer, provide details of jurisdiction in which he or she is admitted to practice and date of admission to practice: **England & Wales. Hong Kong**

#### **V. Details of the contested decision**

1. This is a challenge to a final determination made pursuant to a Third Party complaint of 'harassment' under ST/SGB/2008/5, made against the Applicant on 17 January 2014.
2. A finding of misconduct was reached but despite the fact that the decision was not to take any further action on the complaint, a written letter of reprimand was placed on the Applicant's Official Status File, notwithstanding the fact that the Applicant had separated from the Organisation two weeks earlier on 17 March 2015.
3. The decision was made on 1 April 2015.
4. The decision was made by Mr. Jan Eliasson, Deputy Secretary General, on the recommendation of Mr. Richard Bridle, Director of the Division of Human Resources (UNICEF) following a delegation of authorities agreed upon between UNICEF and the UN Department of Management.
5. The decision was communicated by e-mail from Ms. Serwaah Acheampong of the Office of the Under-Secretary-General, Department of Management on 9 April 2015.

#### **VI. Management evaluation**

Have you requested a management evaluation of the contested decision? **No.** Not required

#### **VII. Summary of the facts of the case or facts relied upon**

- 7.1 On 20 December 2013, the judgement in Nguyen-Kropp & Postica UNDT/2013/176 was delivered and handed down on the Tribunal's website.
- 7.2 In that judgement, the then Deputy Director OIOS/ID Mr. Michael Dudley was found to have altered photographs submitted as evidence in an investigation.
- 7.3 Following publication of the judgement, and concerned that the harmful implications that the judgement would have on staff confidence in the Investigations Division, the Director Mr. Michael Stefanovic requested that the staff whose unethical conduct was reported therein; Mr. Dudley, Ms. Schultz and Ms. Mulley, be placed on administrative leave. Ms. Lapointe declined to take any action on that request.
- 7.4 On 10 January 2014, the judgement was reported in the press worldwide as a result of an Associated Press news report entitled 'UN ruling on whistleblowers shows limits to accountability.'
- 7.5 On 14 January 2014, the Applicant found an inappropriate statement written on a whiteboard, and altered it to make a satirical reference to the findings of fact in Nguyen-Kropp & Postica.

- 7.6 Mr. Dudley reported this in an e-mail addressed to Mr. Michael Stefanovic on 14 January 2014 at 2:56pm. On being advised of the complaint, the Under-Secretary-General for Oversight, Ms. Carman Lapointe took action on the complaint to determine whether the Applicant was involved.
- 7.7 The Applicant freely admitted, and has never denied, having made the satirical changes on the whiteboard. The Applicant invited Mr. Stefanovic to charge him with misconduct. In so doing, the Applicant requested that this complaint to be added to the large number of other complaints pending against staff of the OIOIS/ID New York office, and that it be dealt with in turn.
- 7.8 On 17 January 2014, Mr. Dan Wilson made a Third Party complaint of 'harassment' under ST/SGB/2008/5 against the Applicant, identifying Mr Michael Dudley as the allegedly aggrieved party.
- 7.9 On 17 January 2014, upon receipt of Mr. Wilson's memo, Ms. Lapointe immediately sent a request to the then ASG/OHRM Ms. Catherine Pollard (copying Chef du Cabinet Ms. Susana Malcorra) for the Applicant to be placed on immediate administrative leave pending investigation of the complaint, which was for the stated purpose of "*sending a clear message*" that criticism of any of the individuals named in the Nguyen-Kropp & Postica decision would not be tolerated.
- 7.10 On 23 January 2014, Mr. Dudley made a further complaint to Ms. Lapointe alleging that the Applicant was "continuing to act in a threatening manner" and that he walking past Mr. Dudley's office door without a lawful excuse.<sup>1</sup>
- 7.11 On 31 January 2014 Ms. Lapointe appointed a panel under to investigate as 'harassment' an incident on 14 January 2014, based on the Third Party complaint filed by Mr. Wilson on 17 January, as opposed to the complaint by Mr. Dudley, the allegedly aggrieved party, on 14 January.
- 7.12 On 20 March 2014, the Applicant filed application **UNDT/NY/2014/017** contesting Ms. Lapointe's decision to consider the comment on the whiteboard of sufficient gravity as to merit investigation by a fact finding panel. That Application and all subsequent submissions thereto are incorporated into the present Application.
- 7.13 On 31 March 2014, the fact finding panel submitted their report. The panel failed to establish the elements of the alleged misconduct, failed to determine if the satirical comment had been seen by any person other than the allegedly aggrieved party and reached the ultra vires conclusion that the Applicant was guilty of misconduct.
- 7.14 On 9 April 2014, Ms. Lapointe deemed the report to be "well founded," and stated that she "concurred" with the finding of misconduct and sent the report to the ASG/OHRM, whose responsibility it was to determine whether or not misconduct was established.
- 7.15 The Applicant challenged the Ms. Lapointe's decision to refer the report of the fact finding panel to the ASG/OHRM in **UNDT/NY/2015/013**, which Application and all subsequent

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<sup>1</sup> Attachment 28 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.

submissions are incorporated herein.

- 7.16 On 6 November 2014, Mr. Takasu, on the directions of Chef du Cabinet Ms. Susana Malcorra, entered into an agreement with Mr. Anthony Lake, Executive Director, UNICEF to make a decision on the report of fact finding panel.
- 7.17 The Applicant challenged Mr. Takasu's decision to refer the report of the fact finding panel to UNICEF in **UNDT/NY/2015/014**, which Application and all subsequent submissions are incorporated herein.
- 7.18 On 4 March 2015, the Applicant learned of the existence of an audio recording of the panel's of Investigations Division Director Mr. Michael Stefanovic. No such audio recording was provided to the decision-maker.<sup>2</sup> The believes that the audio recording of the director's interview discloses information about Ms. Malcorra's knowledge of, or involvement with the complaint made by Mr. Dudley on 14 January 2014.
- 7.19 On 1 April 2015, Mr. Richard Bridle, Director of the Division of Human Resources, UNICEF found the Applicant's satirical alteration to the comment on the whiteboard constituted misconduct, and that a written letter of reprimand should be placed on the Applicant's Official Status File. The Applicant's contract of employment lapsed and he separated from the Organisation on 16 March 2015.

### **VIII. Grounds for contesting the administrative decision**

- 8.1 ST/SGB/2008/5 provides, at para 5.20 that an aggrieved individual or alleged offender who has grounds to believe that the procedure followed in respect of the allegations of prohibited conduct was improper, may make an appeal.
- 8.2 Having received a complaint, the Director OIOS/ID acted on the instructions of Ms. Lapointe and conducted a preliminary fact-finding, as required under ST/AI/371. This was done because the e-mail from Mr. Dudley at 2:56pm on 14 January 2014 constituted, and was intended to constitute, a report of possible misconduct.
- 8.3 Ms. Lapointe had knowledge of the alleged act of misconduct, and acted on that information when she directed Mr. Stefanovic to interview the applicant, but failed to pursue the complaint from Mr. Dudley, preferring to act on a Third Party complaint made on his behalf by Mr. Dan Wilson, three days later, on 17 January 2014.
- 8.4 At this time, the existence of a hostile working environment in the OIOIS/ID New York office was widely acknowledged, and by Ms. Lapointe's own admission, there were some 18 other complaints pending, on which no action had been taken. Despite this, Ms. Lapointe gave precedence to the complaint against the Applicant.
- 8.5 Upon receipt of the Third Party complaint from Mr. Wilson, Ms. Lapointe contacted the then ASG/OHRM, Ms. Catherine Pollard, seeking to have the Applicant placed on administrative leave, when she also copied Chef du Cabinet, Ms. Susana Malcorra.

<sup>2</sup> e-mail PAG-Panel 041315-1755 Subject: Possible withholding of material evidence

- 8.6 Mr. Wilson is on record as admitting that the reason he made the Third Party complaint was because he was afraid of criticism if he failed to do so. Mr. Wilson also admitted that he was under pressure to take action against the Applicant in November 2013 when, notwithstanding that it was the Applicant who was the subject of numerous complaints by Mr. Dudley and others closely associated with him; that it was only the Applicant who was required to give any sort of undertaking not to confront Mr. Dudley. At no time did Ms. Lapointe direct that either Mr. Dudley or anyone else should refrain from making petty or malicious complaints against the Applicant.
- 8.7 Despite numerous public statements on the subject of ‘accountability’, which the UN holds to be a ‘core competency’ for staff appraisal purposes; the implication of the Secretary-General’s decision in respect of the Applicant is that it is possible for a senior manager in the United Nations to be ‘harassed’ by making reference to his own judicially established misconduct.
- 8.8 The decision to find misconduct and impose a written letter of reprimand is unsound, and the Applicant’s rights were violated by unreasonable prejudice on the part of the Under Secretary General of Oversight, Ms. Carman Lapointe. In particular, by
- A) The decision to find misconduct was made on the basis that it was foreseeable that Mr. Dudley *would* feel distressed and/or embarrassed by the comment on the whiteboard.
  - B) The decision to find misconduct was made on the basis that a satirical comment was a breach of a prior commitment which constitutes ‘harassment’ per se.
  - C) The decision to find misconduct was made on the basis that the Applicant’s response to Ms. Lapointe’s decision
  - D) The Applicant was improperly denied the right to Freedom of Expression
  - E) The complaint against the Applicant, and the decision to appoint the Fact Finding Panel, were made in bad faith.
  - F) The Fact Finding Panel was wilfully blind to clear conflicts of interests.
  - G) The Fact Finding Panel lacked impartiality and acted under the direction of Ms. Lapointe.
  - H) The Fact Finding Panel failed to establish elements of ‘harassment’
  - I) The Fact Finding Panel was negligent in failing to recognise bias.
  - J) The Department of Management had a conflict of interests that should have prevented them from selecting the external party to whom the decision-making authority should be delegated.
  - K) The Applicant has continued to experience a pattern of retaliation and prejudice.
  - L) The Respondent has wilfully failed to identify 'retaliation' contrary to ST/SGB/2005/21.
  - M) The Respondent has failed to act on misconduct complaints submitted by the Applicant

#### **8A. Unreasonable Bias on the part of Ms Lapointe**

- 8A.1 Ms. Lapointe’s decision to appoint a fact finding panel was indicative of bias and retaliatory in nature. The Applicant had made a misconduct complaint against Mr. Michael Dudley, Ms Roberta Baldini and Mr Vladimir Dzuro on 11 March 2013 and experienced overt retaliation from the subjects of that complaint from that time onwards.

§A.2 The Applicant is legally qualified, admitted to practice law in three countries, has written a large number of articles published on investigative topics and has some twenty years international investigative experience.

8A.3 The Applicant made a misconduct complaint after an attempt – in which Mr. Dudley played a leading role - to coerce him into agreeing to a Professional Improvement Plan which could reasonably be construed as being entirely unworkable on grounds that it would require the Applicant to:

1. only ask questions during investigations that were pre-approved by Mr. Dzuro;
2. limit questions only to those absolutely necessary to establish guilt or innocence;
3. never ask questions “*just to satisfy (his) curiosity*” and
4. meet objectives that were irrational and subjective standards such as having “*improved his judgement*” - to the satisfaction of Mr. Dzuro.

8A.4 The Applicant asked for examples of what he had done that was alleged to constitute a ‘performance shortcoming’ but neither Mr. Dzuro, Ms. Baldini nor Mr. Dudley was either willing or able to cite a single example of any such alleged shortcoming, thus disproving that any alleged shortcomings had been identified, as required under ST/AI/2010/5.

8A.5 In view of

1. the patent unreasonableness of the terms of the Performance Improvement Plan;
2. the inability of OIOS management to cite a single example of what was alleged to constitute a shortcoming;
3. the unseemly urgency with which the Applicant was required to sign the Performance Improvement Plan;
4. being informed that the Performance Improvement Plan was to be signed before his employment contract could be renewed;

the Applicant concluded that the entire exercise was an abuse of authority and therefore made a misconduct complaint on 11 March 2013.

§A.6 As the ‘Responsible Official’ under ST/SGB/2008/5, Ms. Lapointe’s obligation was ~~to~~ limited to determining whether or not the complaint was made in good faith. Instead, Ms. Lapointe advised the Applicant that she had received another (anonymous) complaint alleging that he had stated his complaint had been incited by Mr. Florin Postica; the second named applicant in Nguyen-Kropp & Postica. On being assured by the Applicant that Mr. Postica was not involved, Ms. Lapointe took no further action against on the complaint.

8A.7 Notwithstanding the complete absence of justification supporting the PIP, and the patent flaws in the proposed document; Ms. Lapointe, actively supported the very parties against whom the Applicant’s complaint had been made, and praised the PIP as one of the better ones she had seen. She was complicit in repeatedly denying the Applicant any sort of explanation as to how any effective investigation could be conducted by a professional

investigator such as the Applicant while complying with the requirements stipulated in the Performance Improvement Plan such as the prohibition on asking questions of interviewees which had not been pre-approved .

8A.8 Upon learning that Ms. Lapointe had taken no action on the complaint, the Applicant raised the matter to the level of the Secretary-General, and made a request that the investigation into his complaint now also include the ongoing harassment experienced by the Applicant, and Ms. Lapointe's failure to act on the original complaint.

8A.9 Neither the ongoing harassment, nor Ms. Lapointe's failure to act on the complaint, were ever investigated. The decision to clear Mr. Dudley and others was challenged by the Applicant in **UNDT/NY/2014/027**, which was dismissed by the Tribunal without consideration of the facts. Nevertheless, regardless of any finding by the Ethics Office, the Applicant's complaint of 11 March 2013 explains the retaliation against the applicant.

8A.10 Ms. Lapointe admitted that the motivation for investigating the Applicant was to send a message that criticism of Michael Dudley and the other OIOS staff members named in Nguyen-Kropp & Postica (UNDT/2013/176) would not be tolerated. (See para 7.9 above)

8A.11 The decision to act on the Third Party complaint by Mr. Wilson as opposed to the original complaint by Mr. Dudley is indicative of bias on the part of Ms. Lapointe, particularly as she:

1. refused to address the Applicant's misconduct complaint of 11 March 2013 , having enquired only if Mr. Florin Postica was implicated in it,
2. expressed prejudiced opinions in response to petty complaints made against the Applicant by Ms. Roberta Baldini on 15 August 2014,<sup>3</sup>
3. was aware of the Applicant being the subject of a number of petty complaints initiated by Mr. Dzuro, Ms. Baldini and Mr. Dudley, but required only the Applicant, and not the said complainants, to give an undertaking not to be confrontational;
4. failed to take action on a report of possible misconduct that the Applicant had submitted, detailing how the UNDT had been misled by an OIOS witness testifying on oath in the Nguyen-Kropp & Postica hearing in October 2013, giving erroneous evidence;
5. failed to even acknowledge there was any wrongdoing by any of the parties named in Nguyen-Kropp & Postica judgment, and on the contrary actively sought to advance their careers.

8A.12 Given the Nguyen-Kropp & Postica judgement and the Associated Press report, the decision to consider the comment on the whiteboard as rising to the level of 'misconduct' is not a decision that any reasonable person acting reasonably could ever have made.

8A.13 Ms. Lapointe declined to respond to a request from the Applicant's New York legal counsel

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<sup>3</sup> E-mail Lapointe-Wilson (Re Complaint against Peter Gallo) 15 August 2014 at 2:25pm, included in Attachment 23 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.

dated 12 March 2014, and refused to take any action against Ms. Baldini for making a mala fide complaint, accusing the Applicant of criminal acts of assault and possession of a firearm. That is in addition to the evidence from Mr. Stefanovic, the Director, OIOS Investigations Division, that there were no fewer than seven other misconduct complaints pending against Ms. Baldini, on which Ms. Lapointe – the responsible official – had failed to act.<sup>4</sup>

8A.14 Ms. Lapointe was aware of her decision to appoint the fact-finding panel already having been challenged (now under reference UNDT/NY/2014/017) but nevertheless either (a) negligently failed to consider whether the report of the fact-finding panel was well-founded, or (b) was reckless in disregarding the legal obligation to do so under ST/SGB/2008/5 para 5.18(c), but she nevertheless referred the report to the ASG/OHRM.

8A.15 The Applicant challenged Ms. Lapointe’s decision to refer the report of the fact-finding panel to the ASG/OHRM in **UNDT/NY/2015/013**, which Application and all subsequent submissions related thereto are incorporated herein.

8A.16 It is disingenuous to make any presumption of what Mr. Dudley might possibly have felt, particularly given that he:

1. denied being the complainant, despite evidence to the contrary
2. denied requesting that the matter be treated as misconduct, despite evidence that he copied the ASG/OHRM and the Chef du Cabinet on the e-mail he denied was a complaint,
3. described the investigation as “*offensive and wrong*”,
4. was recognised in Nguyen-Kropp & Postica (UNDT/2013/176) as having been a contributing factor in what Meeran J. found to be “*a catalogue of extraordinarily toxic interpersonal relationships that existed at the time amongst a few individuals at the higher echelons of OIOS*”<sup>5</sup> and
5. confirmed there was a pre-existing “*intimidating, hostile or offensive work environment*” in OIOD/ID which Ms. Lapointe had failed to address.<sup>6</sup>

## **8.B Finding that the satirical comment was a breach of a prior commitment**

8B.1 The recommendation that the Applicant be issued a written reprimand was made, on the basis that the Applicant had made a prior commitment to refrain from inappropriate conduct directed at Mr. Dudley.

8B.2 The role of the Panel was to establish whether or not the Applicant caused offence or humiliation to Mr. Dudley, and whether the Applicant was, by clear and convincing evidence, the cause of that offence or humiliation. Whether or not the Applicant had been pressured to give an undertaking not to engage in any course of conduct is not an element

<sup>4</sup> Interview of Mr. Stefanovic. Response to Q8. Attachment 8 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.

<sup>5</sup> Nguyen-Kropp & Postica. UNDT/2013/176. Para 19

<sup>6</sup> Interview of Mr. Dydley. Response to Q8. Attachment 9 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.

in establishing whether or not that conduct was proven.

- 8B.3 Moreover, both Mr. Bridle and the Panel were provided with evidence as to the circumstances surrounding the Applicant being required to give that undertaking. They were also aware of the definition of retaliation under ST/SGB/2005/21 and the fact that while the Applicant was required to give an undertaking not to respond to such retaliation, no one was required to give any undertaking not to continue their established practice of harassing the Applicant by multiple petty complaints against him.
- 8B.4 The Applicant is still awaiting a response to an Application for Protection against Retaliation which was made almost 18 months ago. Ms. Dubinsky, Director of the Ethics Office, recused herself from making any finding on account of an alleged “conflict of interests” arising from her relationship with Ms. Lapointe.<sup>7</sup> The matter was referred to Ms. Malcorra for a decision on 12 March 2014. Ms. Malcorra failed to act.
- 8B.5 Ms. Malcorra appears to have been aware of the complaint against the Applicant made by Mr. Dudley on 14 January 2014.<sup>8</sup> Ms. Malcorra was also aware of the request by Ms. Lapointe on 17 January 2014 for the Applicant to be placed on immediate administrative leave (See para 7.9 above).<sup>9</sup>

#### **8C The Applicant’s response to Ms. Lapointe’s decision**

- 8C.1 The recommendation that the Applicant be issued a written reprimand was based on the Applicant’s response to Ms. Lapointe’s decision to establish the fact-finding panel which was copied to all staff members in OIOS; alleging that this included unfavourable comments on Mr. Dudley’s conduct.<sup>10</sup>
- 8C.2 The panel’s response to an ex-facie retaliatory decision made by the Under-Secretary-General of Oversight which post-dated the appointment of the panel, is *ultra vires* of the panel, and not a legal basis upon which a decision can be made. To find otherwise would empower a fact-finding panel to conduct an ongoing investigation and continue to make negative findings against the subject on an open-ended basis.
- 8C.3 At no time did the Organisation address the Applicant’s concerns that the credibility of OIOS had been compromised by the failure to take any action following the publication of findings of misconduct against Mr. Dudley and other OIOS staff members.

#### **8D Denial of Freedom of Expression**

- 8D.1 The Secretary-General endorsed the opinion that the satirical comment was not protected as freedom of opinion under in the Universal Declaration of Human Rights, as this is subject

<sup>7</sup> Annex 10 to Application UNDT/NY/2013/017

<sup>8</sup> Interview of Mr. Stefanovic. Response to Q5. Attachment 7 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.

<sup>9</sup> The Applicant notes how documents disclosed by the Code Blue Campaign on 29 May 2015 reveal Ms. Malcorra, Ms. Dubinsky and Ms. Lapointe similarly acting in a conspiratorial manner with disregard for the UN “zero tolerance” policy on sexual exploitation and abuse; with disregard for the due process rights of Mr. Anders Kompass, putting their own interests ahead of the Staff Rules and ahead of the interests of any other parties affected. That conduct appears to be a further example of a pattern of unethical conduct of which the Applicant’s experience is only one example.

<sup>10</sup> Annex 3 to Application UNDT/NY/2013/017

to the restriction to act in accordance with the Staff Regulations and Staff Rules. [Annex 2]

- 8D.2 The Joint Declaration on Freedom of Expression issued on 4 May 2015 by the UN Special Rapporteur on Freedom of Opinion and Expression, together with the Organisation for Security and Co-operation in Europe, (2) the Organisation of American States and (3) the African Commission on Human and Peoples' Rights, states, at Para 5(b): *Individuals who expose wrongdoing, serious maladministration, a breach of human rights, humanitarian law violations or other threats to the overall public interest, for example in terms of safety or the environment, should be protected against legal, administrative or employment-related sanction, even if they have otherwise acted in breach of a binding rule or contract, as long as at the time of the disclosure they had reasonable grounds to believe that the information disclosed was substantially true and exposed wrongdoing or the other threats noted above.*<sup>11</sup>
- 8D.3 In making a satirical reference to a finding of fact in a UNDT judgement, the Applicant:
1. exposed wrongdoing on the part of Mr. Dudley who had made changes to photographs in OIOS case 0052/09;
  2. exposed serious maladministration on the part of Ms. Lapointe who refused to take action following the publication of the judgement;
  3. exposed an attempt to breach of Article 10 of the Universal Declaration of Human Rights in that effect of making changes to the photographs would reasonably be foreseen to compromise the fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations of the subject of the 0052/09; and
  4. exposed a failure of the part of OIOS managers to act as a role models and uphold the highest standards of conduct, and to uphold the Organisation's zero tolerance of prohibited conduct, in violation of ST/SGB/2008/5, para 3.2, and
  5. exposed something of overall public interest.
- 8D.4 Moreover, at the time the Applicant made the satirical comment, he had more than reasonable grounds to believe that the information referred to – that Mr. Dudley had made changes to photographs - was substantially true, and in making the comment he was making further reference to wrongdoing that had already been exposed by the Tribunal.
- 8D.5 The UN Special Rapporteur for Freedom of Opinion and Expression condemns efforts by Governments who use the excuse of “*the protection of national security or public order*” to make use of the criminal law as a pretext to clamp down on free speech.
- 8D.6 The Secretary-General, on the other hand, appears to condone the excuse of that UN Staff members are required to act in accordance with the UN Staff Regulations & Rules – which are of lesser importance than the criminal law – and that those rules constitute a “*reasonable restriction*” on freedom of expression.

## **8E Bad Faith surrounding Complaint of Misconduct**

<sup>11</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15921&LangID=E> (4 June 2015)

- 8E.1 The complaint against the Applicant was made by Mr Dudley in an e-mail addressed to Mr. Michael Stefanovic on 14 January 2014 at 2:56pm. On being advised of the complaint, Ms. Lapointe instructed Mr. Stefanovic to interview the Applicant. Mr. Stefanovic later told the fact Finding Panel that he considered the matter a management issue and that it did not rise to the level of misconduct.<sup>12</sup>
- 8E.2 Mr. Dudley also advised the then ASG/OHRM, Ms. Catherine Pollard, and Chef du Cabinet, Ms. Susana Malcorra that a satirical comment had been made about him.<sup>13</sup>
- 8E.3 The Panel was provided with evidence by Mr. Wilson, that he had received a series of petty complaints about by Applicant from Mr. Dudley and others, which series of complaints commenced as soon as the Applicant was assigned to work for him on 26 June 2014, and also that Ms. Lapointe was aware of this series of complaints.<sup>14</sup>
- 8E.4 Ms. Lapointe did nothing to discourage these complaints, thus failing in her duty under ST/SGB/2008/5, para 3.2 *“to take all appropriate measures to promote a harmonious work environment, free of intimidation, hostility, offence and any form of prohibited conduct.”*
- 8E.5 On the contrary, the panel was provided with evidence of a complaint being made against the Applicant by Ms. Baldini on 15 August 2013.<sup>15</sup> Ms. Lapointe consulted OHRM on this matter immediately<sup>16</sup> and expressed her prejudicial opinion<sup>17</sup> that this constituted misconduct<sup>18</sup>- something with OHRM apparently did not agree.
- 8E.6 The panel was provided with evidence that Ms. Lapointe, initially decided on 3 October 2013 to deal with Ms. Baldini’s complaint against the Applicant on 15 August 2013 as a management issue. Then, when Ms. Baldini objected to it being so treated, Ms Lapointe changed her mind, followed up on what Ms. Baldini admitted to be hearsay, and which had already been investigated by Mr. Wilson and dismissed<sup>19</sup>, and asked the Applicant to comment on an allegation that he had stated some unspecified “rude words” to Ms. Baldini some six weeks earlier.<sup>20</sup>
- 8E.7 The Panel was provided with evidence of Ms. Baldini’s continued obstinacy in refusing to accept the USG’s decision, and her continued insistence that the Applicant be investigated for misconduct, regardless of the lack of foundation for such an investigation and all the

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<sup>12</sup> It is noted that documents released by the Code Blue Campaign on 29 May 2015 also show Ms. Lapointe taking an active role in the investigation into Mr. Anders Kompass, overruling the reservations expressed by Mr. Stefanovic.

<sup>13</sup> Interview of Mr. Stefanovic. Response to Q5. Attachment 7 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.

<sup>14</sup> See Annexes 12 to 26 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.

<sup>15</sup> Appendix J to Statement by Dan Wilson to Fact Finding Panel. Attachment 23 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.

<sup>16</sup> email Wilson- Le Crichia-Wenzel, 150813-1600. Appendix J to Statement by Dan Wilson to Fact Finding Panel. Included. (Attachment 23 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015). Page 15

<sup>17</sup> e-mail Lapointe-Wilson. 15 August 2013 at 2:27. Appendix J to Statement by Dan Wilson to Fact Finding Panel. (Attachment 23 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.) Page 11

<sup>18</sup> This practice has been reflected in prejudicial statements imputing misconduct on the part of Mr. Anders Kompass.

<sup>19</sup> Wilson Response to USG, attached to email Wilson-Lapointe 071013-1426. Appendix J to Statement by Dan Wilson to Fact Finding Panel. (Attachment 23 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.) Page 61

advice to the contrary.<sup>21</sup>

- 8E.8 The Panel was provided with evidence of Mr. Dudley's hostility towards the Applicant, which Mr. Wilson said he "*honestly believed is a bit of witch hunt*" attributing this to "*people that want his blood because of issues peripheral to his conduct.*"<sup>22</sup>
- 8E.9 Ms. Lapointe accepted a Third Party Complaint of harassment from Mr. Wilson; naming the (allegedly) aggrieved party as Mr. Dudley, when he had earlier recused himself from making any decision on a complaint by Ms. Baldini, citing "unwarranted attacks" by Ms. Baldini and Mr. Dudley, when he also stated that they were "after Peter's blood" and his own, because the Applicant had been reassigned to work for him.<sup>23</sup>
- 8E.10 The Panel failed to consider all the evidence indicative of a history of prejudice as to whether the complaint against the Applicant was made or pursued in good faith.

### **8F Panel's Conflict of Interests**

- 8F.1 The Panel appointed by the USG/Oversight comprised two individuals for whom she herself was Second Reporting Officer.<sup>24</sup>
- 8F.2 The Panel members were aware of the alleged misconduct being a reference to the Nguyen-Kropp & Postica judgement in which Ms. Lapointe had been discussed as a possible witness, and where Ms. Lapointe had been criticised for her failure to issue a timely clearance letter to Ms. Nguyen-Kropp and Mr. Postica.
- 8F.3 The Panel members were aware of irregularities in that Ms. Lapointe was aware of the alleged misconduct and had instructed a preliminary fact finding interview three days before receipt of what she claimed was the complaint of said misconduct.
- 8F.4 Both panel members had a working relationship with the complainant Mr. Dudley going back a number of years, but neither had even met the Applicant before.
- 8F.5 The panel members were given the opportunity to recuse themselves on grounds of there being at least a perceived conflict of interests. Both failed to do so.

### **8G Panel: Lack of impartiality / direct influence from Ms. Lapointe.**

- 8G.1 The panel members asked witnesses whether they considered the Applicant's actions undermined Ms. Lapointe's efforts to improve the working conditions in the Investigations Division. The Applicant and the three witnesses: (1) Mr. Stefanovic, (Director, OIOS/ID), (2) Mr. Dudley, (then Deputy Director OIOS/ID), and (3) Mr. Wilson, (then Unit Chief,

<sup>20</sup> e-mail Lapointe-Wilson 7 October 2013 at 9:59. Appendix J to Statement by Dan Wilson to Fact Finding Panel. (Attachment 23 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015) Page 59.

<sup>21</sup> e-mail Lapointe-Wilson 24 October 2013 at 3:01pm. Appendix J to Statement by Dan Wilson to Fact Finding Panel. (Attachment 23 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015). Page 68

<sup>22</sup> e-mail Wilson-Stefanovic 1 October 2013 at 5:15pm. Appendix J to Statement by Dan Wilson to Fact Finding Panel. (Attachment 23 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015) Page 51

<sup>23</sup> e-mail Wilson-Lapointe 3 October 2013 at 10:06. Appendix J to Statement by Dan Wilson to Fact Finding Panel. (Attachment 23 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015) Page 55

<sup>24</sup> Interview of the Applicant by the Fact Finding panel. Annex 10 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.

OIOS/ID Proactive Investigations Unit) were all in agreement and gave the same response to the questions; they were unaware of any efforts Ms. Lapointe had made to improve conditions in the Investigations Division.

- 8G.2 This question assumes facts not in evidence and is indicative of the Panel either: (a) having knowledge of Ms. Lapointe's memo to the ASG/OHRM on 17 January 2014 (which, if they did, was not included in the file), or (b) having been specifically briefed by Ms. Lapointe as to how the panel was to proceed with their fact-finding investigation (which, if they were, was not recorded in the file.)
- 8G.3 The inclusion of this question is an acknowledgement of the continuation of the hostile environment described in Nguyen-Kropp & Postica which is indicative of a failure, on the part of Ms. Lapointe as the head of the responsible official to *take all appropriate measures to promote a harmonious work environment, free of intimidation, hostility, offence and any form of prohibited conduct*, contrary to ST/SGB/2008/5 para 3.2.
- 8G.4 The panel was not acting independently. The panel members had a conflict of interests in taking direction on the conduct of the investigation from their own Second Reporting Officer, particularly having been made aware of reasonable doubts being raised as to prejudice and procedural irregularities.

#### **8H Panel: Failure to establish elements of 'harassment'**

- 8H.1 The Panel failed to establish that Michael Dudley – the allegedly aggrieved party – was actually offended or humiliated, or that he suffered any embarrassment or belittlement that could be attributed to the Applicant's actions.
- 8H.2 On the contrary, the Panel received evidence from Mr. Dudley himself to the effect that he considered the work of the Fact-Finding Panel to be “*offensive and wrong*”.<sup>25</sup>
- 8H.3 The Panel failed to establish that anyone - other than Mr. Dudley himself - had even seen the satirical text on the whiteboard.
- 8H.4 The Panel relied on an allegation that the Applicant had been “*confrontational*” but failed to investigate any such allegation, and failed to obtain any corroborative information to that effect. The panel drew conclusions from the Applicant having signed a memorandum on 19 November 2013 in which he acknowledged having embarrassed certain persons in OIOS. This is irrelevant; failing to abide by an undertaking is not an element of, and does not constitute, “harassment” under ST/SGB/2008/5.

#### **8I Panel: Failure to recognise bias/hostility on part of complainants**

- 8I.1 The panel failed to consider evidence of overt hostility towards the Applicant from Mr. Dzuro, Ms. Baldini and Mr. Dudley. Mr. Dan Wilson provided evidence of this, and of a history of petty complaints against the Applicant, which commenced as soon as the Applicant was assigned to work for him on 26 June 2014.

<sup>25</sup> Interview of Michael Dudley. Response to Q8. (Attachment 9 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.)

- 8I.2 The panel failed to consider evidence, which was provided to the decision-maker, that Mr. Dudley ha been untruthful on matters pertinent to the Applicant. There was also evidence of how Mr. Dudley had lost his temper when asked about work carried out by the Applicant,<sup>26</sup> reflecting evidence of Mr. Dudley’s irate behaviour referred to in para 141 in Nguyen-Kropp & Postica.
- 8I.3 The panel was provided with evidence from Mr. Wilson quoting Mr. Dudley as saying he “*wanted Gallo out of here*” on the first day that the Applicant was assigned to work for him.<sup>27</sup> Mr. Wilson failed to recognise or report this as either retaliation or harassment.

## **8J. Conflict of Interests decisions within the Department of Management**

- 8J.1 Both the ASG/OHRM and the USG/DM declined to make a finding against the Applicant on the basis of the report of the Fact Finding Panel, citing a “conflict of interests” which prevented her from making a decision, notwithstanding the fact that no such conflict ever impeded Ms. Lapointe.
- 8J.2 The conflict of interests notwithstanding, the Department of Management considered they had the right to select the third party who should make the decision on their behalf, and according agreed that it be referred to UNICEF.
- 8J.3 The Applicant appreciates that both the ASG/OHRM and the USG/DM may have considered they had a conflict of interests, and that it was preferable for the matter to be referred to a Third Party for a decision, but such a conflict is not circumvented if the designated decision-maker who admits to having a conflict of interests is left to select the party to whom the matter should be referred.
- 8J.4 The Applicant challenged Mr. Takasu’s decision to refer the report of the fact finding panel to UNICEF in **UNDT/NY/2015/014**, which Application and all subsequent submissions are incorporated herein.

## **8K Continuing pattern of Retaliation and Prejudice**

- 8K.1 Following Mr. Dzuro’s failure to identify what he considered a “performance shortcoming” for the purposes of the PIP, on 26 June 2013 the Applicant received an egregious Annual Appraisal for the year ending 31 March 2013. This included harsh and misleading criticism of the Applicant’s work on case number 0496/11, an investigation completed to the satisfaction of then Unit Chief Ms. Baldini on 27 February 2013.
- 8K.2 In October 2014, it came to the Applicant’s attention that Ms. Baldini had delayed sending out the 0496/11 report, and that OIOS did not release the report for a further 16 months after it had been completed. Moreover, on receipt of the report, the USG/DFS had recommended action for which the Applicant had been soundly criticised in his Annual Appraisal.

<sup>26</sup> e-mail Wilson-Lapointe 3 October 2013 at 10:43. Appendix J to Statement by Dan Wilson to Fact Finding Panel. (Attachment 23 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015) Page 56

<sup>27</sup> Statement of Dan Wilson. Para 10. (Attachment 13 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015)

- 8K.3 It was known that the subject in 0496/11 was due to separate from the organisation. That report was one of only a tiny number of insurance fraud investigations in which OIOS reported finding fraud. The delay in sending out the investigation report effectively sabotaged the investigation and ensured the subject suffered no consequences for her fraud.
- 8K.4 The Applicant demanded to know why this delay had been permitted to occur and did not receive a response to this reasonable request. However in an apparent retaliatory response, on an unknown date shortly prior to 5 November 2014, Mr. Wilson made another Third Party complaint of ‘harassment’ against the Applicant; alleging that it was ‘harassment’ by the Applicant for him to require Mr. Dzuro to explain why, in a grossly defamatory Annual Appraisal, Mr Dzuro criticised the Applicant for suggesting action later recommended by the Program Manager. Again OIOS management used a Third Party ‘harssment’ complaint to deflect attention away from apparent wrongdoing by the same OIOS staff as Ms. Lapointe refused to investigate following the Applicant’s complaint of 11 March 2013.
- 8K.5 This was therefore the second occasion when Mr. Wilson made a complaint on behalf of a third party when there was nothing to prevent the (allegedly) aggrieved party – neither of whom had shown any reluctance to make complaints against the Applicant in the past - from making a complaint of their own accord.
- 8K.6 In addition to making another Third Party complaint against the Applicant, the Applicant was denied access to the office, and a request was made to the Department of Safety and Security to consider the Applicant as some sort of a security threat.
- 8K.7 The Applicant had previously been reported to the Department of Safety and Security by Ms. Baldini in January 2013 for “a possible assault” and accused of possession of a firearm. Ms. Lapointe failed to respond to a letter from the Applicant’s legal counsel on this matter and took no action against Ms. Baldini for making a bad faith report.
- 8K.8 The Applicant was required to sign a telecommuting agreement under ST/SGB/2003/4, which he declined to do on that basis that that Bulletin clearly states all flexible working arrangements are purely voluntary and this was an attempt to force the Applicant into such an arrangement against his will. The Applicant holds this was a disguised disciplinary measure.
- 8K.9 On 5 February 2015, three months after the harassment complaint, and given the three months time limit specified in ST/SGB/2008/5, the Applicant enquired as to the progress of the investigation and whether he could return to the office.
- 8K.10 Ms. Lapointe advised that she had decided not to pursue the complaint, as she considered the Applicant’s sarcastic e-mails following up on why the 0496/11 investigation report had been delayed after he had been prejudicially criticised for his work on that investigation was a continuation of the conduct which involved his quoting a UNDT judgement in January 2014.
- 8K.11 Ms. Lapointe therefore refused to lift the disguised disciplinary measure and allow the Applicant to return to the office, therefore imposing a punishment for something which she refused to even investigate, on the basis of a finding of misconduct (albeit ultra vires)

having been made in the report of a fact-finding panel delivered to her on 31 March 2014, and on which no final decision had yet been made. This is not a decision any reasonable person acting reasonably could have made. It is also clearly indicative of malice.

**8L. Wilful failure to identify 'retaliation' contrary to ST/SGB/2005/21**

- 8L.1 On 23 July 2013, the Ethics Office rejected an application for protection against retaliation under ST/SGB/2005/21 which the Applicant had submitted after receipt of a patently biased Annual Appraisal for the Year ending March 2013. The Ethics Office claimed the Applicant was not entitled to protection because his misconduct complaint of 11 March 2013 lacked “evidence” to support a reasonable belief that misconduct had occurred. In so doing, the Ethics Office misrepresented the wording of ST/SGB/2005/21 which clearly states “information or evidence”. The Ethics Office also ignored the reference in the complaint to a specific e-mail made on a specific date at a specific time, which constitutes ‘evidence’ as well as the fact that the complaint contained 2000 words of information.
- 8L.2 On 9 January 2014, following the explanation of ‘retaliation’ contained in Nguyen-Kropp & Postica UNDT/2013/176, and the fact that the Applicant experienced an almost identical pattern of harassment and retaliation as was found in that case, by some of the very same people, the Applicant invited the Ethics Office to reconsider their decision of 23 July 2013.
- 8L.3 On 12 March 2014, Ms. Joan Dubinsky, the Director of the Ethics Office recused her office from making a prima facie determination of retaliation under ST/SGB/2005/21, citing her relationship with Ms. Lapointe. Ms. Dubinsky referred the matter to the Executive Office of the Secretary-General, to be actioned by Ms. Malcorra.
- 8L.4 A prima facie finding of retaliation against the Applicant would necessarily implicate Ms. Lapointe and others, including Mr. Dudley (again) in retaliation, repeating the pattern of retaliation and the abuse of authority found in Nguyen-Kropp & Postica.
- 8L.5 Ms. Malcorra was aware of the prejudicial intent demonstrated by Ms. Lapointe's desire to “*send a message*” and place the Applicant on administrative leave<sup>28</sup>. Mr. Dudley had also advised Ms. Malcorra of his complaint on 14 January 2014.<sup>29</sup> There is no legal reason why the Chef du Cabinet should be advised of a misconduct complaint being made
- 8L.6 Ms. Malcorra failed to take any action on the the application for protection against retaliation made by the Applicant under ST/SGB/2005/21.
- 8L.7 Any finding of retaliation that Ms. Malcorra would have made would implicate Ms. Lapointe in wrongdoing. As such, her failure to find retaliation can reasonably be interpreted as creating an obligation of indebtedness to Ms. Malcorra in the future.
- 8L.8 Ms. Lapointe’s apparent indebtedness to Ms. Malcorra must be considered in the light of information in the public domain of collusion between Ms. Malcorra, Ms. Dubinsky and Ms. Lapointe in a conspiracy prejudicial to the rights of Mr. Anders Kompass.

<sup>28</sup> See para 7.9 above

<sup>29</sup> Interview of Mr. Stefanovic. Response to Q5. Attachment 7 to Applicants Response to Order 29 (NY/2015) dated 12 March 2015.

## **8M. Misconduct complaints: Failure to Act.**

8M.1 On 12 November 2014, the Applicant filed a misconduct complaint against:

1. Mr. Dan A. Wilson (Section Chief, OIOS/ID) for (a) abuse of authority, contrary to ST/SGB/2008/5, para 1.4, (b) failure to take all appropriate measures to promote a harmonious work environment free of prohibited conduct, contrary to ST/SGB/2008/5 para 3.2, and (c) retaliation, contrary to ST/SGB/2005/21, para 1.4, and Staff Rule 1.2(f).
2. Ms. Lapointe (USG/Oversight) for; (a) failure to form a fact-finding panel on receipt of a complaint made in good faith on 11 March 2013, contrary to ST/SGB/2008/5 para 5.14; (b) failure to take all appropriate measures to promote a harmonious work environment free of prohibited conduct, contrary to ST/SGB/2008/5 para 3.2; (c) failure to ensure that 'protection against retaliation' was provided for an individual who had made a misconduct report in good faith, contrary to ST/SGB/2005/21, section 1; and (d) 'retaliation' contrary to ST/SGB/2010/5, para 1.3, and Staff Rule 1.2(f).
3. Mr. Yukio Takasu, (USG/Management), for failure to take appropriate measures to monitor the status of the aggrieved party, the alleged offender and the work unit(s) concerned, contrary to ST/SGB/2008/5 para 6.4
4. Ms. Joan Dubinsky, (Director, Ethics Office) for (a) failure to identify 'retaliation' through an erroneous finding on 23 July 2013, (b) failure to make a decision under ST/SGB/2005/21, para 5.5 and failing to provide 'protection against retaliation' after having conducted a preliminary review under para 5.2(c), and (c) failure to make appropriate recommendations under ST/SGB/2005/21 para 5.6 pending the completion of the investigation for which responsibility had been unlawfully passed to the Office of the Secretary-General, and
5. Ms. Susanna Malcorra (Chef du Cabinet) for: (a) failure to make a decision under ST/SGB/2005/21, para 5.5 and failing to provide 'protection against retaliation' and (b) failure to recuse herself from involvement in the evaluation of a management decision taken by the USG/DM after accepting responsibility to make a decision under ST/SGB/2005/21.

The complaint was submitted to the Executive Office of the Secretary General. No action was taken in response.

8M.2 On 14 March 2015, the Applicant filed a further report of possible misconduct following the discovery that an audio recording of Mr. Stefanovic's interview by the fact finding panel then withheld from the decision-maker. The complaint was submitted to the Executive Office of the Secretary General. No action was taken in response.

## **IX. What remedies are you seeking?**

1. **Rescission of the decision finding the Applicant guilty of misconduct, and**
2. **Rescission of the decision to impose a written reprimand.**

The Applicant did not seek to renew his employment contract and separated from the Organisation as a result of:

- a) OIOS management's unwillingness to address the unwarranted and defamatory PIP,
- b) the harassment and the retaliation that followed,
- c) the lack of accountability following the Nguyen-Kropp and Postica judgement,
- d) the failure of OIOS management to address the malicious accusation of a "possible assault" made against the Applicant and
- e) the combined series of failures of the part of
  - (i) the Department of Management,
  - (ii) the Ethics Office and
  - (iii) the Chef du Cabinet.

There is no remaining alternative other than to seek financial compensation.

<b>X. Supporting documents</b>		
<i>Annex</i>	<i>Title</i>	<i>Date</i>
1	Authorization for legal representative	
2	Letter from Mr. Jan Eliasson to the Applicant	4/1/15
3	Covering e-mail in respect of serial 2	4/9/15

UNDT applications

- 1) UNDT/NY/2014/017,
- 2) UNDT/NY/2014/027,
- 3) UNDT/NY/2014/043,
- 4) UNDT/NY/2015/013 and
- 5) UNDT/NY/2015/014

together with all subsequent submissions related thereto are incorporated by reference herein.

**XI. Signature and certification**

I hereby certify that to the best of my knowledge the information provided in this application form is true, accurate and complete and all copies submitted to the Dispute Tribunal are true copies of the original documents.

**Applicant:**

Name: PETER ANTHONY GALLO Date: 1 July 2015  
 Signature: 

**Legal representative (if applicable):**

Name: PAUL HARRIS SC Date: 2 July 2015  
 Signature: Paul Harris



UNITED NATIONS DISPUTE TRIBUNAL

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Peter Anthony Gallo

-v-

SECRETARY-GENERAL

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**ANNEXES**

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Annex 1

Authorisation for Legal Representative



UNITED NATIONS DISPUTE TRIBUNAL

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Peter Anthony Gallo

-v-

SECRETARY-GENERAL

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**ANNEXES**

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Annex 2

Letter from Deputy Secretary General Jan Eliasson  
dated  
1 April 2015



THE DEPUTY SECRETARY-GENERAL

CONFIDENTIAL

1 April 2015

Dear Mr. Gallo,

As you are aware, on 9 April 2014, the Under-Secretary-General in the Office of Internal Oversight Services (OIOS), Ms. Carman Lapointe, in accordance with Section 5.18 (c) of ST/SGB/2008/5 ('Prohibition on Discrimination, Harassment, Including Sexual Harassment, and Abuse of Authority'), referred to Ms. Catherine Pollard, then Assistant Secretary-General in the Office of Human Resources Management, a report from a fact-finding panel that Ms. Lapointe had established in accordance with Section 5.14 of ST/SGB/2008/5, and which had found that you had engaged in misconduct, in particular, harassment directed at Mr. Michael Dudley, Deputy Director, Investigations Division, OIOS.

Ms. Lapointe's decision to establish a fact-finding panel followed her receipt and review of a complaint filed under Section 5.11 of ST/SGB/2008/5 by Mr. Dan Wilson, Senior Investigator, OIOS, further to his understanding that, on 14 January 2014, you had included a comment on a whiteboard in the OIOS offices; a comment that referred to the conduct of Mr. Dudley as reported in the United Nations Dispute Tribunal (UNDT) Judgment No. 2013/176 (*Postica and Nguyen-Kropp*), an act Mr. Wilson found to constitute misconduct, in particular, in view of your prior commitment to refrain from inappropriate conduct directed at Mr. Dudley.

As you are aware, on 6 November 2014, the Under-Secretary-General for Management, Mr. Yukio Takasu, requested Mr. Anthony Lake, Executive Director of UNICEF, to assist the United Nations Secretariat with this matter, which Mr. Lake accepted to do.

Mr. Richard Bridle, Director of the Division of Human Resources (UNICEF), further to the delegation of authorities agreed upon between UNICEF and the United Nations Secretariat and after a careful assessment of the report and your comments thereon, informed Mr. Takasu that he had decided,

Mr. Peter Gallo  
Investigator  
Office of Internal Oversight Services  
New York

with reference to Section 5 of ST/AI/371 ("Revised Disciplinary Measures and Procedures") not to pursue the matter. However, he recommended that you be issued a written reprimand in view of the fact that: (i) the inclusion of the comment was inappropriate in that it was foreseeable that Mr. Dudley would see the comment and feel distressed and/or embarrassed as a result; (ii) you had made a prior commitment to refrain from inappropriate conduct directed at Mr. Dudley; and (iii) you had circulated your reply to Ms. Lapointe's decision to establish the fact-finding panel to all staff members in OIOS; a reply in which you commented on Mr. Dudley's conduct in an unfavourable manner.

The Secretary-General has decided to accept Mr. Bridle's recommendation and the current letter will serve as a written reprimand, issued pursuant to Staff Rule 10.2 (b) (i), which shall be placed in your Official Status File. In this connection, the Secretary-General has taken note of Mr. Bridle's view that your comment is not, as you assert, protected under the freedom of opinion as enshrined in the Universal Declaration of Human Rights, as this freedom is subject to reasonable restrictions, including the requirement to act in accordance with the United Nations Staff Regulations and Staff Rules.

Yours sincerely,



Jan Eliasson



UNITED NATIONS DISPUTE TRIBUNAL

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Peter Anthony Gallo

-v-

SECRETARY-GENERAL

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**ANNEXES**  
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Annex 3

Covering email dated 9 April 2015

**From:** Serwaah Acheampong [acheampong@un.org](mailto:acheampong@un.org)   
**Subject:** Letter from DSG  
**Date:** April 9, 2015 at 3:15 PM  
**To:** [gweilicus@gmail.com](mailto:gweilicus@gmail.com)

SA

Dear Mr. Gallo,

Please see attached letter.

Thank you,  
Serwaah

Ms. Serwaah Acheampong  
Office of the Under-Secretary-General  
Department of Management  
S-3224  
Tel: (917) 367-5744  
[acheampong@un.org](mailto:acheampong@un.org)



Ms. Serwaah Acheampong  
Office of the Under-Secretary-General  
Department of Management  
S-3224  
Tel: (917) 367-5744  
[acheampong@un.org](mailto:acheampong@un.org)



**From:** Peter A Gallo <[gweilicus@gmail.com](mailto:gweilicus@gmail.com)>  
**To:** Peter A A Gallo <[gweilicus@gmail.com](mailto:gweilicus@gmail.com)>, [acheampong@un.org](mailto:acheampong@un.org)  
**Date:** 09/04/2015 03:13 PM  
**Subject:** test

test



Letter to Mr. Gallo from  
DSG.pdf