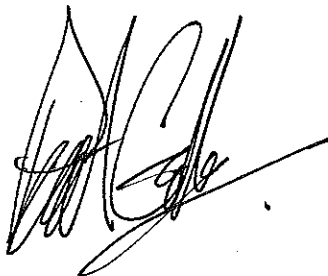


United Nations  Nations Unies  
INTEROFFICE MEMORANDUM MEMORANDUM INTERIEUR

TO: Carman L. Lapointe, Under-Secretary-General  
A: Office of Internal Oversight Services

FROM: Peter A Gallo, Investigator  
DE: Investigations Division  
Office of Internal Oversight Services



DATE: 6-Feb-14  
REF: OUSG-14-00067

UNCLASSIFIED DOCUMENT

SUBJECT: **Appointment of a Fact Finding Panel to investigate a complaint of allegedly prohibited**  
OBJET: **conduct under ST/SGB/2008/5 lodged against myself on 17 January 2014**

This is an open response to your memo dated 31 January 2014 advising me of the establishment of the referenced panel.

I am being investigated, albeit at my own invitation, for making a satirical editorial comment, on a whiteboard, with a non-permanent marker, on Tuesday 14 January, when I made reference to information in the public domain; and which Michael Dudley admitted on 20 May 2009, and for which no disciplinary action is known to have been taken.

For a year now, it has been made clear to me that I can have my integrity, or I can have a job, but the UN does not wish me to have both. So in the finest traditions of terrorist organisations everywhere, I "*claimed responsibility*" for the seditious act of writing on the whiteboard.

Moreover, in respect of this fact finding exercise, as the subject, I wish to **waive my right to confidentiality.**

The right to confidentiality exists for the protection of the subject of any investigation. In this case, I am the subject and I don't mind who knows; the alleged "misconduct" in the matter is so trivial as to be a joke. It would be churlish of me not to share the matter.

Still, having initiated this action against me - even though it was at my request - management must also be confident that that decision stands up to critical scrutiny in the light of the sworn declaration of every UN staff member; "*to discharge these functions and regulate my conduct with the interests of the United Nations only in view.*"

The unthinkable alternative could be that the decision to waste time effort and money in taking seriously a complaint made against me by Michael Dudley was actually a decision for the personal benefit of Michael Dudley.

Perish the thought. *That* could even be considered retaliation.

Still, management must be confident that my satirical commentary was an action that rises to the level of misconduct. (I contend that it is not, of course and shall support my argument with evidence of decisions of the Investigations Intake Committee, but that is another story for another day.)

If my writing on the whiteboard is not serious enough to be misconduct, it could even be construed that this is an attempt to silence any critical discussion in this office about a public judgment which impacts on the career of every staff member in OIOS worldwide, IAD & IED included?

If so, that could even be considered as *intimidation*.

Unfortunately for whoever thought that this tactic stood a snowball's chance in hell of actually succeeding, I do not care who threatens to report me to the US Permanent Mission, to the US Senate or to "Judge Judy" on TV for that matter, because I have never succumbed to intimidation in the past and have no intention of starting.

The role of speaking up on matters that impact on all of us would ordinarily fall to the Staff Union, but right now, down that road lies madness. I am painfully aware of my own litany of unanswered grievances against the organisation, and I know that creates the perception of bias, but nobody else appears to be willing to speak out, and we have a situation which, in a bad light, could be seen as an attempt to stifle free speech. As a point of principle, that is unacceptable.

So, adhering to the legal maxim that one is "*as well to be hanged for a sheep as a lamb*" (as I was recently advised by a prominent member of the New Zealand Bar) if anyone is going to exercise their rights under Article 19 of the Universal Declaration of Human Rights and speak up, it might as well be me.

I do this because I have concerns about a number of the very large elephants crowding into the corner:

- 1) I am concerned that not all OIOS staff are able to work in a productive and harmonious working environment, as they have a right to expect - *ironically enough* - under ST/SGB/2008/5 and where they are free from management by fear and favoritism, and where para 4.6 has some meaning.
- 2) I am concerned about the rights of one former OIOS staff member in particular and that is Ai-Loan Nguyen-Kropp. Having sat through the whole week of the UNDT/2013/176 case - I am still unsure of what she did that was wrong, or why she should even have been there. In fact, at one point Counsel for the Respondent had to be reminded by the Judge that there were *two* Applicants, not just one. Ai-Loan was harassed and persecuted by innuendo; she suffered retaliation for no reason other than that she worked for her Supervisor. Her career was spitefully and maliciously harmed as a consequence - by individuals whose gross unprofessionalism, ineptitude and sundry other failings are now a matter of public record, *but who still remain in post*. Given managements continued failure to act; what happened to Ai-Loan could happen to anyone.



- 3) I am concerned about the rights of the un-named "Ms X" in 0052/09. Not only was that case handled improperly, but OIOS appears to have taken punitive action against her by even initiating 0234/09. That staff member was suspended from her employment on the basis of an OIOS investigation that must now be considered "unsafe". Her career with the UN appears to have been comprehensively trampled on. This is outrageous, and I am concerned that there may be other victims of the same prejudice and malice.
- 4) I am concerned that after reading the UNDT/2013/176 judgment - **and seeing that such unethical conduct is clearly still tolerated within OIOS** - ordinary UN staff members who are aware of misconduct will simply not have the confidence to report it to us. That judgment shows that not only OIOS Investigation Division but the USG's office and the Policy and Oversight Coordination Service of the Office of USG in the Department of Management as well, all failed to ensure that someone who is the subject of a report should be investigated fairly when accused of wrongdoing. The judgment has, sadly, **destroyed the credibility that this office once had**. If Staff Members have a duty to report misconduct, they should at least expect that reports will be taken seriously and considered without fear, favor or bias. That judgment now gives staff every reason to be suspicious of us, particularly as the Organisation continues to protect the individuals responsible. As a result, I am concerned that Fox News and Inner City Press become the grievance portals of choice for UN staff members wishing to report misconduct.
- 5) I am concerned that the UN now faces the rather daunting prospect of every staff member who has been the subject of an OIOS investigation over the past five years now believing that he was not investigated fairly and demanding that the case be reviewed. I am concerned about how many of them will even be right. The financial cost alone will be staggering.
- 6) I am concerned that the UN can maintain the fiction that "accountability" is a 'Core Competency' when it is very clear from what we see around us that it simply is not enforced. I believe it is patently inequitable that the careers of every innocent staff member in OIOS should be adversely affected by the Organisations refusal to hold its own senior staff accountable for their wrongdoing.

Senior management still wish to hide behind the fiction that nothing can be done because the UNDT/2013/176 judgment may be subject to appeal.

Whether it is or whether it is not, I suggest that the substance of the judgment is really of no interest to anyone other than Mr. Postica, though Ms. Schultz and Ms. Mulley do have something at stake. Ms. Alhenius is no longer a Staff Member, and Counsel for the Respondent argued vigorously that the case had *absolutely nothing* to do with Michael Dudley.

What staff members are concerned about, on the other hand, are the findings of fact that came out of the Hearing.

I cannot seriously believe that I am the only staff member in OIOS concerned that such abuses could be tolerated, or that investigations could be so biased, or that retaliation could be so institutionalised, or that innocent individuals could be so maliciously victimised.



No appeal is going to remove any of those concerns, *because no appeal is going to change those facts.*

The Respondent had full opportunity to rebut all and any of the evidence of those facts *and elected not to do so*; so the facts stand. The Tribunals ruling on the law can be appealed from now until the end of time - *or at least as long as the Fifth Committee continues to sanction the expense* - but the facts remain the facts. They are in the public domain and cannot be withdrawn.

As if the media reports are not enough of a public embarrassment, more was revealed in the public Hearing. I know because I was sat through the Hearing. The Staff Union did not attend, and OIOS management did not attend. I did.

I was there throughout, and if anyone wants to ask me about what went on; they are free to do so.

Some six weeks have passed since the UNDT/2013/176 judgment was published, and so far the Organisation has prevaricated and tried to confuse the issue, and appears to be adopting a policy of *just keeping ones eyes shut in the hope that it all goes away* – while management insists that Michael Dudley’s demands that his reputation that must be protected trumps anyone else’s right of freedom of expression.

Josef Stalin would certainly approve, *though not necessarily of me.*

Ridiculous as though it may be, in this Kafkaesque situation, I am actually quite happy to be the subject of any investigation for exercising my freedom of expression. I have grown tired of the incessant stream of puerile and groundless complaints I have experienced since 14 March 2013.

I find it curious that a disaster on a truly monumental scale can be ignored, but the best and the brightest legal brains of the UN can seriously suggest that a satirical remark on a whiteboard, that cannot have been seen by more than a dozen people - all of whom are themselves affected by the judgment anyway - should constitute “*harassment*”.

The supreme irony is that the alleged “victim” of this *harassment* should be Michael Dudley, the undisputed “star” of the UNDT/2013/176 judgment; the man who Counsel for the Respondent fought so valiantly to keep from even being invited to observe the proceedings; the man who admitted there was so much evidence against him he could not defend himself; the man who has been publicly acknowledged to have taken retaliation to new and hitherto unimaginable heights, the man whose retaliatory zeal has cost the United Nations at least \$250,000 in unwarranted investigation costs alone, and God alone knows how much more in the cost of litigation since.

All of that money could have been better spent. Feeding kids in Somalia comes to mind, but implementing ST/SGB/273 would be good too.

When I joined the United Nations, it was to do a job of work. Instead, I find myself beset by behaviour that would not be tolerated from precocious pre-school age children in the most liberal of kindergartens – but that seems to be the standard management style of so-called “senior managers” in this office; and that is the management style that has brought us to the sorry mess we are all in today.

Any of us who wants to resign and apply for a job tomorrow, regardless of which Division they have worked in and regardless of whether they worked in New York or anywhere else; we are now all up the same creek as someone applying for a job in the financial industry, having worked for Bernie Madoff.

OIOS faces a crisis of epic proportions, IED and IAD are under the cloud of guilt by association, but I am sure every staff member will be relieved to know that anything even vaguely critical of Michael Dudley is dealt with, to the full extent of ST/SGB/2008/5.

Still, if the best and brightest legal brains of the UN have thought to pursue me for “*harassment*”, I assume they must be confident of seeing it through to the end. They must assume, at last, there is the light at the end of the tunnel, and they might be rid of me.

In the meantime: **I waive my right to confidentiality in respect of this fact finding panel.**  
Turn “the whiteboard incident” into a TV soap opera for all I care.

If there is a matter that impacts on the careers of all of us, or if something has to be done to ensure that ordinary UN staff members have a chance of justice when aggrieved, I will say what I think and I will say it out loud.

Most of all, **I will not be intimidated.**

I believe I have a proven track record in this regard, having done so consistently since 4 March 2013, and the reasons for that are no secret either.

When and if this 2008/5 panel ever does sit; can it be done in public?

A handwritten signature in black ink, appearing to be 'D. Dudley', written in a cursive style.



TO: Mr. Peter Gallo, Investigator  
A: Investigations Division, OIOS

DATE: 31 January 2014

REFERENCE: OUSG-14-00067

THROUGH:  
S/C DE:

FROM: Carman L. Lapointe, Under-Secretary-General  
DE: Office of Internal Oversight Services

SUBJECT: **Appointment of a Fact-Finding Panel to investigate a complaint of prohibited  
OBJET: conduct under ST/SGB/2008/5 lodged against you on 17 January 2014**

1. Please be advised that pursuant to the Secretary-General's Bulletin on the Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority (ST/SGB/2008/5), I have appointed a Panel comprised of Mr. [REDACTED] and Mr. [REDACTED] to conduct a fact-finding investigation in connection with a complaint of "Harassment, Discrimination and Abuse of Authority" lodged against you on 17 January 2014 by Mr. [REDACTED].
2. The Panel has been tasked with establishing the facts in relation to the complaint and has been instructed to treat all information developed during the fact-finding investigation with sensitivity and confidentiality to the maximum extent possible in order to protect the privacy of the individuals concerned.
3. The Panel will contact you in the near future to arrange an interview. In the meantime, if you have any questions about the fact-finding process, please feel free to contact Mr. [REDACTED] at [REDACTED] or Mr. [REDACTED] at [REDACTED].

Copy to: Mr. Yee Woo Guo  
Mr. William Petersen  
Ms. Catherine Pollard