



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2016/093

Judgment No.: UNDT/2018/102

Date: 11 October 2018

Original: English

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**Before:** Judge Alexander W. Hunter, Jr.

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

SOLOMON

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT ON  
RECEIVABILITY**

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**Counsel for the Applicant:**

Daniel Achach, Ocheing, Achach & Kaino Advocates

**Counsel for the Respondent:**

Lauren Alaie, UNDP





Failed to disclose actual or potential conflicts of interest to UNDP;  
and

Abetted, concealed and/or conspired in any of the above actions,  
including any act or omission, bringing UNDP into disrepute”.

11. On 2 December 2015, the Applicant wrote to the Resident Representative (RR) for advice on her early retirement options given that she had “been experiencing a lot of challenges with [her] health”.

12. On 7 January 2016, the RR informed the Applicant that while the Office was prepared to support her in dealing with her health issues and 0 1 36p6Dd-8(u)-419her ihabeen

17. On 29 March 2016, Ms. Maria-Threase Keating, the then-Country Director, UNDP Kenya wrote to the Applicant informing her that “[a]s you are aware, your resignation comes at a time when the Office of Audit and Investigation (OAI) is in the processes of reviewing certain transactions at the CO and have invited you as a Subject in their investigation. In this respect, management has consulted Legal office on the matter and the response given was that the CO should temporarily withhold your final entitlements until such a time as you are cleared by OAI”. The Country Director further explained that this was consistent with the response provided to the Applicant by the former Resident Representative on 7 January 2016 and the Applicant’s acknowledgement of 8 January 2016.

18. On 31 March 2016, the Applicant was separated from the service of the UNDP, Kenya.

19. On 27 May 2016, Mr. Charles Njenga, then-counsel to the Applicant wrote to the Senior Legal Advisor requesting information on the status of the investigation and about the release of the Applicant’s final entitlements.

20. On 3 June 2016, the Senior Legal Advisor replied that due to the complexity of the investigation more time was needed in order to present the Applicant with a draft investigation report for her comments. With respect to the final entitlements, the Senior Legal Advisor advised that the Organization was not in a position to release such payment until a determination was made, based on the findings of the investigation, that there was no indebtedness to the Organization.

21. On 22 June 2016, the then-Counsel to Applicant replied to the Senior Legal Advisor raising the same issues and indicating that the Applicant intended to “escalate the matter to the next level”.

22. On 28 November 2016, the Applicant filed her application with the United Nations Dispute Tribunal.

23. On 1 May 2017, OAI sent the Applicant a copy of the draft investigation report and requested her comments on the findings contained therein. The Applicant was given thirty days to submit her response and any countervailing evidence.

24. On 2 October 2018, this Tribunal requested, in a case management order, the following from the parties:

The Tribunal requires the parties to provide written responses to the following questions:

Has the investigation been completed;

and Investigations (OAI) find and

f the summary memo or full report

or part of her final entitlements?

dent replied in relevant part as follows:

t was finalized on 22 June 2017.
omended that the allegations
stantiated.... The Applicant has not
ents. As established in the OAI
pproximately US\$ 12,253.00 on the
ve resulted from the actions of the
f this amount has been effected
ments. The parties remain in *inter*
he resolution of the issues between
balance of the entitlements.

~~the W/O... Rated... W/O... the W/O... (6)...~~

tion that the Respondent has acted in
NDP Legal Framework Addressing Non-
nduct which requires investigations to be
s certified to be a complicated case.

fied as complex by OAI, the prolonged
ed and has caused the Applicant anxiety,

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*(Signed)*

Judge Alexander W. Hunter, Jr  
Dated this 11<sup>th</sup> day of October 2018

Entered in the Register on this [10] TJET@.000008873 0 595.44 841.68 reW\*nBT/F1 12 Tf1 0 Tf1 0 0

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