Date of issuance: September 29, 2015

Sanctions Board Decision No. 80

Decision of the World Bank Group Sanctions Board denying a request filed by the respondent entity and the individual respondent in Sanctions Cases No. 77 and No. 110 (respectively, the "Respondent Firm" and the "Respondent Owner," and collectively the "Respondents") for clemency from the sanctions imposed by Sanctions Board Decision No. Board

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II. PROCEDURAL BACKGROUND

3. The Original Decision addressed two sanctions cases - No.

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A. Whether the Request should be considered under a lower "clemency" standard

11. The Respondents'

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for reconsideration as first established in Sanctions Board Decision No. 43.7 Similarly, the Sanctions Board may now consider the present Request in substance to be a request for reconsideration, and decide whether relief may be granted under this standard.

14. Consistent with the standards noted in Paragraph 5, the Sanctions Board has previously reviewed requests for reconsideration by evaluating whether the challenged decision should be reopened due to exceptional circumstances including, but not necessarily limited to, the discovery of newly available and potentially decisive facts; fraud or other misconduct in the original proceedings; or a clerical mistake in the issuance of

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fail to demonstrate the type of newly available and potentially decisive facts that could justify reconsideration. 13

17. Secondly, the Respondents do not assert, and the record does not reveal, any clerical mistake in the issuance of the Original Decision that could justify reconsideration or revision of that decision. The Sanctions Board notes that the Respondents seem to assert another type of error in the Sanctions Board's rejection, in the original sanctions proceedings, of the Respondents' potentially mitigating evidence of remedial actions. However, the Original Decision reflects that the Respondents offered the evidence during the Sanctions Board hearing and well after the applicable Response deadline; 14 and the Respondents' belated proffer of evidence was rejected consistent with the Sanctions Board Chair's authority to admit or exclude additional submissions, "as a matter of discretion," under Section 10(4) of the Sanctions Procedures.

18. Finally, the Request does not allege any other exceptional circumstances that could justify reconsideration. For example, the Sanctions Board does not find the Respondent Firm's asserted introduction of a new ethics and compliance program to constitute an exceptional circumstance that may justify review of the Original Decision, particularly considering the Sanctions Board's previously expressed concerns with respect to the Respondents' apparently persistent failures to adopt compliance improvements.P Nor would the willingness of other national or international bodies to contract with the Respondents justify reconsideration, as other entities may have different standards and eligibility criteria. Assertions of the adverse consequences of debarment - which the Sanctions Board has repeatedly found insufficient to justify mitigation even in the Sanctions Board's initial determination of sanctions I 6

- would not

meet the higher standard of exceptional circumstances justifying the Sanctions Board's reconsideration of existing sanctions. In addition, the Original Decision already took into account the issue of proportionality between the sanctions imposed and the Respondents' role in the misconduct. 17

13 See Sanctions Board Decision No. 62 (2014) at paras. 9, 11 (finding no newly available or potentially decisive fact where the respondent's asserted history of performance had been duly considered in the original sanctions proceedings) .

14 Sanctions Board Decision No. 41 (2010) at para. 59.

15 See id. at para. 82 (rejecting the Respondents' invocation of remedial measures to try to avoid or minimize culpability, given what appeared from the record to be their persistent failures to timely establish and effectively utilize appropriate compliance measures to prevent and redress further irregularities, despite their repeated claims to have taken all appropriate actions).

16 See, e.g., Sanctions Board Decision No. 66 (2014) at para. 48.

17 See Sanctions Board Decision No. 41 (2010) at paras. 86-89.

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19. For all the reasons stated above, the Sanctions Board hereby denies the Respondents' request for relief in the form of clemency or reconsideration.

L. Yves Fortier (Chair)

On behalf of the
World Bank Group Sanctions Board

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