



**Date of issuance: February 22, 2022**

**Sanctions Board Decision No. 136  
(Sanctions Case No. 631)**

<sup>3</sup> **decide, in her discretion, to convene a hearing. Accordingly, the Sanctions Board deliberated and reached its decision based on the written record<sup>4</sup>**

- 2.** In accordance with Section III.A, sub-paragraph 8.02(a) of the Sanctions Procedures, the written record for the Sanctions Board’s consideration included the following:
- i. Notice of Sanctions Proceedings issued by the World Bank’s Suspension and Debarment Officer (the “SDO”) to the Respondent and the company for which the Respondent served as Managing Director (the “Company”) on March 5, 2021 (the “Notice”), appending the Statement of Accusations and Evidence (the “SAE”) submitted by INT to the SDO (undated);
  - ii. Explanation submitted by the Respondent to the SDO on May 6, 2021;

---

<sup>1</sup> In accordance with Section II(y) of the World Bank Procedure: Sanctions Proceedings and Settlements in Bank



- iii. Response submitted by the Respondent to the Secretary to the Sanctions Board on July 9, 2021 (the “Response”); and
- iv. Reply submitted by INT to the Secretary to the Sanctions Board on August 9, 2021 (the “Reply”).

## **II. PROCEDURAL HISTORY AT THE FIRST TIER**

3. *Issuance of Notice and temporary suspension:* On March 5, 2021, pursuant to Section III.A, sub-paragraphs 4.01 and 4.02 of the Sanctions Procedures, the SDO issued the Notice and temporarily suspended the Respondent and the Company, together with any entity that is an Affiliate directly or indirectly controlled by either the Respondent or the Company, from eligibility<sup>5</sup> with respect to any Bank-Financed Projects,<sup>6</sup> pending the final outcome of these sanctions proceedings. The Notice specified that the temporary suspension would apply across the operations of the World Bank Group.

4. *SDO’s recommendations:* Pursuant to Section III.A, sub-paragraphs 4.01(c), 9.01, and 9.04 of the Sanctions Procedures, the SDO recommended in the Notice the sanction of debarment with conditional release for the Respondent, together with any entity that is an Affiliate directly or indirectly controlled by the Respondent. The SDO recommended a minimum period of ineligibility of six (6) years, after which period the Respondent may be released from ineligibility only if he has, in accordance with Section III.A, sub-paragraph 9.03 of the Sanctions Procedures, demonstrated to the World Bank Group’s Integrity Compliance Officer (the “ICO”) that (i) he has taken appropriate remedial measures to address the sanctionable practices for which the Respondent has been sanctioned; (ii) he has completed training and/or other educational programs that demonstrate a continuing commitment to personal integrity and business ethics; and (iii) any entity that is an Affiliate directly or indirectly controlled by the Respondent has adopted and implemented, in a manner satisfactory to the Bank, integrity compliance measures as may be imposed by the ICO to address the sanctionable practices. The SDO took into account the two



Response, and the SDO's recommended sanction for the Company went into effect on June 8, 2021, pursuant to the Notice of Uncontested Sanctions Proceedings.

### **III. GENERAL BACKGROUND**

6. This case arises in the context of the Avian Influenza Control and Human Pandemic Preparedness and Response Project (the "Project") in Romania, which seeks to assist Romania in "reducing the threat posed to humans and the poultry sector by [Highly Pathogenic Avian Influenza] and other zoonoses, and preparing for, controlling and responding to influenza pandemics and other infectious disease emergencies in humans." On October 5, 2006, IBRD entered into a loan agreement with Romania to provide EUR 29,600,000 for the Project (the "Loan Agreement"). The Project became effective on March 19, 2007, and closed on December 31, 2010.

7. On January 16, 2009, the project management unit (the "PMU") within Romania's Ministry of Public Health issued bidding documents for the procurement of equipment for the isolation and intensive care units of a national institute and eight hospitals (the "Bidding Documents"). On May 27, 2009, the Company submitted bids for Lots 2, 3, and 6. On October 22, 2009, the PMU recommended the award of Lot 2 to the Company. The Company's bids for Lots 3 and 6 were not successful. On December 18, 2009, the Company and the PMU entered into a contract for Lot 2 for EUR 2,223,138.83 (the "Contract").

8. INT alleges that the Respondent offered and paid a percentage of the Contract to a World Bank consultant involved in the procurement process (the "Procurement Advisor") in order to influence the award of the Contract in the Company's favor. INT further alleges that the Respondent failed to disclose commissions to be paid (and ultimately paid) to a firm (the "Firm"), which INT contends was the Company's agent in connection with the Contract.

### **IV. APPLICABLE STANDARDS OF REVIEW**

9. *Standard of proof:* Pursuant to Section III.A, sub-paragraph 8.02(b)(i) of the Sanctions Procedures, the Sanctions Board determines whether the evidence presented by INT, as contested by a respondent, supports the conclusion that it is "more likely than not" that the respondent engaged in a sanctionable practice. Section III.A, sub-paragraph 8.02(b)(i) defines "more likely than not" to mean that, upon consideration of all the relevant evidence, a preponderance of the evidence supports a finding that the respondent engaged in a sanctionable practice.

10. *Burden of proof:* Under Section III.A, sub-paragraph 8.02(b)(ii) of the Sanctions Procedures, INT bears the initial burden of proof to present evidence sufficient to establish that it is more likely than not that a respondent engaged in a sanctionable practice. Upon such a showing by INT, the burden of proof shifts to the respondent to demonstrate that it is more likely than not that its conduct did not amount to a sanctionable practice.

11. *Evidence:* As set forth in Section III.A, sub-paragraph 7.01 of the Sanctions Procedures, formal rules of evidence do not apply; and the Sanctions Board has discretion to determine the relevance, materiality, weight, and sufficiency of all evidence offered.





management's role, repeated denials of misconduct despite evidence thereof, involvement of a public official; and repetition. INT contends that no mitigating factors apply.

**B. The Respondent's Principal Contentions in His Explanation and Response<sup>10</sup>**

16. *Corruption allegation:* The Respondent disputes that he made a corrupt offer or payment, arguing that the payment to the Intermediary was a "one-off payment in order to keep good relations with [the Intermediary] as relevant person active in . . . one of [the Company's] main equipment suppliers at that time." According to the Respondent, the supplier "was at that time in position to furnish (or not!) [the Company] with Manufacturer Authorizations in other markets, which was in several projects a decisive criteria for eligibility in tenders." The Respondent contends that he was not aware of any onward payment from the Intermediary to the Procurement Advisor. In addition, the Respondent submits that legal proceedings in a national jurisdiction in relation to these events resulted in not guilty verdicts for himself, the Company, the Intermediary, and the Intermediary's wife.

17. *Fraud allegation:* The Respondent argues that he did not consider the Firm to be a "simple sales agent" requiring disclosure, referring to the Company's broader business relationship with the Firm. The Respondent also raises his not guilty verdict in the national legal proceedings.

18. *Sanctioning factors:* The Respondent does not specifically address sanctioning factors.

**C. INT's Principal Contentions in the Reply**

19. *Corruption allegation:* INT replies that the evidence presented in the SAE "clearly shows that [the Respondent] agreed to pay, and paid half of, three percent of [the Contract] value to [the Intermediary] and [the Procurement Advisor]." INT contends that the Respondent "has given unconvincing, differing and contradictory explanations for his meeting and interactions with [the Procurement Advisor] and for agreeing to pay . . . [the Procurement Advisor] via [the Intermediary]."

20. *Fraud allegation:* INT argues that, as set out in the SAE, it is clear that the Firm acted as the Company's agent in relation to the Contract. INT further argues that the Firm's status as the Company's agent is not even relevant for these purposes, as the Respondent was required to disclose "any commissions, gratuities, or fees" regardless of who was paid or to be paid.

**VI. THE SANCTIONS BOARD'S ANALYSIS AND CONCLUSIONS**

21. The Sanctions Board will first address the evidentiary matter raised in this case. The Sanctions Board will then consider whether it is more likely than not that the Respondent engaged in the alleged corrupt and fraudulent practices. Finally, the Sanctions Board will determine what sanction, if any, should be imposed on the Respondent.



**A. Evidentiary Matter**

22. INT requested to withhold ev



1. Offering or giving, directly or indirectly, any thing of value

26. INT alleges that the Respondent offered to pay 3% of the value of the Contract, and ultimately paid half of that amount, to the Procurement Advisor through the Intermediary. While the Respondent acknowledges that he made the payment to the Intermediary, he argues that he was unaware of any onward payment to the Procurement Advisor.

27. As the Sanctions Board has previously observed,<sup>13</sup> the recipient of the thing of value under this first element of the definition of corrupt practices need not be – though may be – the public official who is the intended target of influence under the







recommendation to award the Contract to the Company, and the Company ultimately won the Contract. As the Sanctions Board has previously observed, evidence that the desired influence actually materialized may bolster a showing of the respondent's intent to influence, even though it is not necessary for a finding of corrupt practices.<sup>18</sup>

36. The Sanctions Board is not persuaded by the Respondent's defense based on national legal proceedings that resulted in not guilty verdicts in relation to these events for himself, the Company, the Intermediary, and the Intermediary's wife. This is because national law standards and judgments are not binding on the Bank or the Sanctions Board's proceedings, and the scope of a respondent's liability for purposes of the Bank's administrative sanctions process may not be coextensive with the scope of the respondent's potential liability under national law.<sup>19</sup> Rather, the Sanctions Board applies the standards set out in the sanctions framework, including the Sanctions Board Statute, Sanctions Procedures, and other formal guidelines issued by the World Bank with respect to sanctions matters.<sup>20</sup>

37. In light of the above, and considering the record as a whole, the Sanctions Board finds that it is more likely than not that the Respondent made the payment to the Intermediary to ensure that the Procurement Advisor would not slow down the procurement process – and that the Respondent thereby acted to influence the actions of a public official in the procurement process for the Contract.

### **C. Evidence of Fraudulent Practice**

38. In accordance with the definition of “fraudulent practice” under the May 2004 Procurement Guidelines, and consistent with the Sanctions Board's interpretation of pre-October 2006 definitions of “fraudulent practice,” INT bears the initial burden to show that it is more likely than not that the Respondent (i) made a misrepresentation or omission of facts (ii) that was knowing or reckless (iii) in order to influence a procurement process or the execution of a contract.

#### **1. Misrepresentation of facts**

39. INT alleges that the Company misrepresented in its bid for the Contract that no fees had been paid, or were to be paid, in connection with the Contract – when it had in fact hired the Firm as its agent and paid the Firm EUR 133,380 for its agency services. The Respondent argues that he did not consider the Firm to be a “simple sales agent” requiring disclosure, referring to the Company's broader business relationship with the Firm.

40. On January 16, 2009, the PMU issued the Bidding Documents. The “Bid Submission Form” provided that the bidder shall state whether any “commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract.” The Form then instructed bidders to “insert complete name of each Recipient, its full address, the reason for

---

<sup>18</sup> See, e.g., Sanctions Board Decision No. 78 (2015) at para. 56; Sanctions Board Decision No. 87 (2016) at para. 104; Sanctions Board Decision No. 103 (2017) at para. 28.

<sup>19</sup> Sanctions Board Decision No. 63 (2014) at para. 53.

<sup>20</sup> Id.





44. In addition, for the same reasons set out in Paragraph 36 above in relation to the corruption allegation, the Sanctions Board rejects the Respondent's defense based on national legal proceedings with respect to the allegation of fraud.

45. In these circumstances, the Sanctions Board finds the evidence sufficient to support a finding that the Respondent made a misrepresentation in the Company's bid for the Contract.

2. Made knowingly or recklessly

46. INT contends that the Respondent knowingly committed the fraud. As noted above, the Respondent argues that he did not consider the Firm to be an agent requiring disclosure.

47. The Sanctions Procedures recognize the Sanctions Board's discretion to infer knowledge on the part of a respondent from circumstantial evidence; and state broadly that any kind of evidence may form the basis of conclusions reached by the Sanctions Board.<sup>24</sup> The Sanctions Board has previously found that respondents made a knowing misrepresentation where the director of the respondent's predecessor firm negotiated and signed an agreement with a marketing consultant, knew that the agreement established a commission agent relationship – yet failed to disclose this relationship and the commissions paid despite the firm's obligation to do so.<sup>25</sup>

48. In the present case, evidence shows that the Respondent signed both the Agreement (pursuant to which the Firm was appointed as the Company's "sole and exclusive agent in Romania") and the Addendum (pursuant to which the Company agreed to pay a five percent commission to the Firm for services under the Contract). Evidence also shows that the Respondent signed the Company's bid for the Contract, which contained the misrepresentation discussed above. The misrepresentation was made in response to the clear disclosure obligation set out in the Bidding Documents. This evidence indicates that the Respondent had actual knowledge of (i) the Company's arrangement with the Firm, (ii) the disclosure obligation set out in the Bidding Documents, and (iii) the misrepresentation made in the Company's bid.

49. On the basis of this record, the Sanctions Board finds that it is more likely than not that the Respondent acted knowingly in making the misrepresentation in the Company's bid for the Contract.

3. In order to influence the procurement process

50. The Sanctions Board has held that misrepresentations sought or served to influence a procurement/selection process where the respondent's false statements or documents rendered the respondent's submission eligible for consideration, made the submission more competitive, or were generally responsive to the requirements of that procurement/selection process.<sup>26</sup> Here, the Bidding Documents required bidders to disclose whether any "commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract."

---

<sup>24</sup> Sanctions Procedures at Section III.A, sub-paragraph 7.01.

<sup>25</sup> Sanctions Board Decision No. 83 (2015) at para. 51.

<sup>26</sup> See, e.g., Sanctions Board Decision No. 49 (2012) at para. 26; Sanctions Board Decision No. 51 (2012) at







of the Sanctions Procedures. Considering that INT's allegations regarding the two lots are time-barred, the Sanctions Board declines to apply aggravation on this basis.

60. *Sophisticated means*: Section IV.A.2 of the Sanctioning Guidelines states that this factor may include “the complexity of the misconduct (e.g., degree of planning, diversity of techniques applied, level of concealment); the number and type of people or organizations involved; whether the scheme was developed or lasted over a long period of time; and if more than one jurisdiction was involved.” INT contends that aggravation is warranted because the Respondent’s corrupt misconduct included “the use of payment intermediaries and payments to bank accounts in a foreign jurisdiction.” The Sanctions Board applies some aggravation under this factor. In reaching this conclusion, the Sanctions Board considers that the Respondent made the payment to the Intermediary under the guise of fulfilling an invoice for consultancy services. The Sanctions Board also takes note that the consultancy services were purportedly provided by a company owned by the Intermediary’s wife.

61. *Management’s role in misconduct*: Section IV.A.4 of the Sanctioning Guidelines states that this factor may apply “[i]f an individual within high-level personnel of the organization partic



b. Period of temporary suspension

63. Pursuant to Section III.A, sub-paragraph 9.02(h) of the Sanctions Procedures, the Sanctions Board takes into account the period of the Respondent's temporary suspension since the SDO's issuance of the Notice on March 5, 2021.

c. Other considerations

64. Under Section III.A, sub-paragraph 9.02(i) of the Sanctions Procedures, the Sanctions Board shall consider "any other factor" that it "reasonably deems relevant to the sanctioned party's culpability or responsibility in relation to the Sanctionable Practice."

65. *Lack of candor*: The Sanctions Board has applied aggravation for actions that demonstrate a respondent's lack of candor in sanctions proceedings, such as persistent yet implausible statements contradicting substantial evidence.<sup>35</sup> By contrast, the Sanctions Board has declined to apply aggravation where it found that the respondent's denials of responsibility were reasonably made in the usual course of argument and defense.<sup>36</sup> Here, INT submits that the Respondent's repeated denials of the improper relationship with the Procurement Advisor through the Intermediary, "despite the documentary evidence proving that the Respondents knew about their role in the procurement, is an aggravating factor." It is true that the Respondent did not admit to wrongdoing and that he repeatedly denied responsibility for misconduct. However, considering basic principles of fairness and due process, the Sanctions Board finds that the Respondent's denials were appropriately and reasonably presented as part of his defense against INT's allegations. In these circumstances, aggravation is not justified.

66. *Passage of time*: The Sanctions Board has previously considered as a mitigating factor the passage of a significant period of time from the commission of the misconduct, or from the Bank's awareness of the potential sanctionable practices, to the initiation of sanctions proceedings.<sup>37</sup> This passage of time may affect the weight that the Sanctions Board attaches to the evidence presented, as well as the fairness of the process for respondents.<sup>38</sup> At the time of the SDO's issuance of the Notice in March 2021, approximately 10 years and 9 months had elapsed since the Company made the corrupt payment to the Intermediary in May 2010; and 11 years and 9 months had elapsed since

---

<sup>35</sup> See, e.g., Sanctions Board Decision No. 71 (2014) at para. 107 (applying aggravation where the respondent presented "an uncorroborated version of events that lacks credibility in order to justify the submission of inauthentic documents with its [b]id," noting that such conduct "could not have taken place without the endorsement of the [r]espondent's management").

<sup>36</sup> Sanctions Board Decision No. 130 (2020) at para. 94.

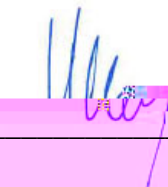
<sup>37</sup> See, e.g., Sanctions Board Decision No. 50 (2012) at para. 71 (applying mitigation where sanctions proceedings were initiated approximately five years after the Bank's awareness of the potential sanctionable practices); Sanctions Board Decision No. 63 (2014) at para. 116 (applying mitigation to multiple respondents where sanctions proceedings were initiated more than five (and up to nine) years after the misconduct, and more than



the Company submitted the bid containing the misrepresentation in May 2009. While it is not clear when the Bank first became aware of the potential misconduct, the record reflects that INT interviewed the Procurement Advisor as early as April 2011. The Sanctions Board finds that significant mitigation is warranted for the Respondent in these circumstances.

**E. Determination of Appropriate Sanction**

67. Considering the full record and all the factors discussed above, the Sanctions Board determines that the Respondent, together with any entity that is an Affiliate directly or indirectly controlled by the Respondent, shall be, and hereby declares that he is, ineligible to (i) be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;<sup>39</sup> (ii) be a nominated sub-contractor, consultant, manufacturer or supplier, or service provider<sup>40</sup> of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) receive the proceeds of any loan made by the Bank or otherwise participate further in the preparation or implementation of any Bank-Financed Projects, for a period of two (2) years. The Respondent's ineligibility shall extend across the operations of the World Bank Group. This sanction is imposed on the Respondent for a corrupt practice as defined in Paragraph 1.14(a)(i) of the May 2004 Procurement Guidelines and for a fraudulent practice as defined in Paragraph 1.14(a)(ii) of the May 2004 Procurement Guidelines.

  
\_\_\_\_\_  
Rabab Yasseen (Panel Chair)

On behalf of the  
World Bank Group Sanctions Board

Rabab Yasseen  
Adedoyin Rhodes-Vivour  
Eduardo Zuleta

---

<sup>39</sup> A respondent's ineligibility to be awarded a contract includes, without limitation (i) applying for prequalification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract. Sanctions Procedures at Section III.A, sub-paragraph 9.01(c)(i), n.14.

<sup>40</sup> A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its prequalification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower. Sanctions Procedures at Section III.A, sub-paragraph 9.01(c)(ii), n.15.