



**SANCTIONS
BOARD**

WORLD BANK GROUP
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Sanctions Board Insights

FEBRUARY • 2022

SBS MEMBERSHIP CHANGES

Retired



Mark Kantor

New



Michael Ostrove

In December of 2021, the Sanctions Board announced the appointment of Michael Ostrove (U.S. and France). Mr. Ostrove currently serves as partner at DLA Piper and is the Global Co-Chair of the firm's International Arbitration group. Admitted to both the Paris and New York bars, he has over 25 years' experience with international commercial arbitrations, investment arbitrations, and other public international law disputes; as well as litigation before domestic and regional courts, such as the Cour Commune de Justice et d'Arbitrage and the Court of Justice of the European Union. At the ICC International Court of Arbitration, Mr. Ostrove holds the position of Vice President. In academia, Mr. Ostrove teaches international arbitration at the graduate level at the Université de Paris II and is a member of the Advisory Committee to the Wayne State University Law School Program for International Legal Studies and of the Executive Committee of the Foundation for International Arbitration Advocacy. Mr. Ostrove earned his B.A. from Yale University, magna cum laude, and his J.D. from the University of California at Berkeley, with Order of the Coif honors.

The appointment of Mr. Ostrove follows the retirement of Sanctions Board member Mark Kantor (U.S.), who served on the Board since 2017. Mr. Kantor is a seasoned arbitrator and mediator who had brought to the Sanctions Board a wealth of experience from private practice and academia. In his career prior to joining the WBG, Mr. Kantor held the position of partner at Milbank, Tweed, Hadley & McCloy, served as a private arbitrator and mediator in numerous international matters, and was appointed as Adjunct Professor at the Georgetown University Law Center. Over his four years of work at the Sanctions Board, Mr. Kantor was the panel member (and often the panel Chair) in eleven cases that involved diverse allegations of fraud, corruption, obstruction, and collusion in Bank-financed projects. These cases affected projects in Laos, Vietnam, Ukraine, Bangladesh, Ghana, Nigeria, Lebanon, Colombia and Myanmar, and involved financing in sectors to develop transport, technology, environmental resilience, extractives, water safety, and access to electricity in the Bank's partner countries. The Sanctions Board is extremely grateful for Mr. Kantor's efforts and invaluable contributions during his term.

In addition, at the time of this Newsletter, Judge John Murphy had to temporarily step away from Sanctions Board duties, having been appointed as a designated judge to assist South Africa's Judicial Commission of Inquiry into State Capture to finalize the Commission's report. During this period, Ms. Maria Vicien Milburn is serving as the Acting Sanctions Board Chair.



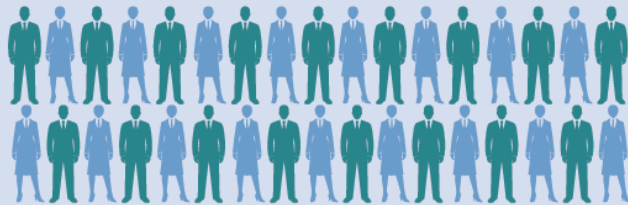
3,900+

Views and downloads of Law Digest



90

Decisions Published



Number of SB Members over time

34

48

Cases resulting in conditions imposed



47 Hearings held



97

Contested cases considered



22 Respondents rehabilitated*
**conditions for release satisfied*

(December 2011–December 2021)

RECENT DECISIONS

In the second half of calendar year 2021, the Sanctions Board issued the following two decisions:

SANCTIONS BOARD DECISION
NO. 134

Country and Projects: [Social Republic of Vietnam](#), projects to address technical assistance on project preparation and sustainable city development in Da Nang

In this decision, the Sanctions Board imposed sanctions of debarment with conditional release on each of two respondent firms. Both sanctions required a minimum debarment period of six years. The sanctions were imposed for fraudulent and obstructive practices in the course of selection for Bank-financed contracts in Vietnam and during INT's investigation, respectively. The two respondent firms were accused of related misconduct and were connected as businesses in various ways. The first respondent firm was a larger international entity that had bid on the relevant contracts as a joint venture member. The second respondent firm was identified as a future sub-consultant of the first and, acting as

Panel Members: John R. Murphy (Chair), Rabab Yasseen, and Eduardo Zuleta



a local representative, was closely involved in proposal preparation and contract execution. The fraudulent acts amounted to significant misrepresentations of the experience of key experts identified in contract proposals. The Sanctions Board also found that the key experts' backgrounds were not merely inaccurate, but revised in a manner that significantly increased the proposals' value. In assessing liability, the Sanctions Board considered closely at evidence of how proposal documents were prepared.

With respect to obstruction, the Sanctions Board concluded that the first respondent firm, as the recipient of an audit request, did not meet its obligation to cooperate with said request and could not avoid liability by ascribing non-compliance to the individual representatives it had tasked with responding to INT. The Sanctions Board further found that the conduct of these representatives reflected acts to conceal evidence from INT and mislead the investigators. This issue was discussed in the decision and affected that respondent's sanction.

The respondents' sanctions took into account the severity of misconduct, which was repeated and involved various staff, including at the management level. The Sanctions Board assessed the respondents' arguments for mitigation but declined to accept them where the documentary record contradicted the respondents' assertions, or the issues raised were not directly relevant to culpability/responsibility. After the expiration of the minimum debarment period, the respondents will be eligible for release pending confirmation of their compliance with conditions imposed by the Sanctions Board. These conditions each relate to corporate integrity and future risk of misconduct, including better proposal-preparation processes and disciplinary actions for responsible staff.

SANCTIONS BOARD DECISION **NO. 135**

Country and Project: [Social Republic of Vietnam](#), Mekong Delta Region Urban Upgrading Project

Panel Members: John R. Murphy (Chair), Maria Vicien Milburn, and Eduardo Zuleta



In this decision, the Sanctions Board imposed a sanction of debarment with conditional release after a minimum of six years and six months on a respondent firm for fraudulent and obstructive conduct. The allegations of fraud in this case stemmed from the respondent's non-disclosure of sub-contractors on a Bank-financed contract. When INT investigated the potential misconduct and sought information from the respondent, the firm acted to impede that investigation in various ways – this constituted the obstructive conduct, for which the respondent was also sanctioned.

In assessing allegations of fraudulent conduct, the Sanctions Board examined evidence of the respondent's specific disclosure obligations under the Bank-financed contract, documentary evidence of the respondent's subsequent connection with sub-contracting companies, and information to show that the Borrower was neither aware of nor approved of the same. The Sanctions Board did not accept the respondent's arguments that the specific relationship between it and its subcontractors was exempt from disclosure requirements. The respondent's evidence was outweighed by inculpatory records, such as agreements, invoices, and correspondence with the sub-contractor. Moreover, the respondent's assertion of a direct employment (rather than sub-contracting) relationship with one of the external firms appears to have been factually false. In the course of this argument, the respondent's staff made false statements to INT, submitted false records into evidence, and induced a witness to falsify additional documents. The Sanctions Board concluded that this served to materially impede INT's investigation and constituted sanctionable obstruction.

In selecting the appropriate sanction, the Sanctions Board considered the severity of the different types of misconduct, as evidenced by sophisticated actions to avoid detection and by managerial involvement. In spite of the respondent's communication with INT during the investigative process, no credit was applied for cooperation, given the respondent's obstructive actions. Before the respondent is released from debarment, it

must remain ineligible for 6 years and 6 months and must demonstrate adoption and implementation of an effective integrity compliance program for the company. As the Sanctions Board has previously noted, such programs contain specific elements to reduce risk of future misconduct and to ensure that a company is a strong partner in future development projects that may be financed by WBG.

() The full text of final published decisions is the primary authority on the Sanctions Board's analysis and determinations in a sanctions case. Summaries of Sanctions Board decisions provided in this newsletter are the work product of the Sanctions Board Secretariat and do not supersede or complement the text of final published decisions, which is publicly accessible as referenced above.*

WBG SANCTIONS POLICY AND OTHER ANNOUNCEMENTS

In October 2021, the WBG issued the [FY21 Sanctions System Annual Report](#), with contributions from many key actors in the sanctions system in addition to the Sanctions Board, including the WBG Integrity Vice Presidency, the Bank's Office of Suspension and Debarment, and the Integrity Compliance Office. This report recalled the legacy of [James D. Wolfensohn](#) (1933-2020), the ninth President of the World Bank Group. During his tenure, Mr. Wolfensohn made crucial contributions to the institution's anti-corruption agenda and established the Anti-Corruption and Fraud Investigation Unit – a precursor to the current Integrity Vice Presidency – to review possible misconduct and issue sanctions against firms and individuals.

Also in the Fall of 2021, the Sanctions Board participated in an event for multiple MDBs, hosted by our sanctions colleagues at the Inter-American Development Bank Group. This virtual meeting included other "appellate" sanctions units at the Asian Development Bank; African Development Bank Group; European Bank for Reconstruction and Development; the Global Fund to Fight AIDS, Tuberculosis and Malaria; and the International Fund for Agricultural Development. Our agenda for discussion at this meeting focused on efficiency of sanctions proceedings, promotion of institutional integrity cultures, and trends in the selection of specific sanctions.

The Sanctions Board notes our continued practice of remote work during the pandemic, which applies to both the consideration of cases and the functioning of the Secretariat. The World Bank Group's Headquarters in Washington, D.C. will reopen in part or in full pending Management's review of the pandemic situation.



NOTE FROM THE ACTING CHAIR & EXECUTIVE SECRETARY:



This issue of Sanctions Board Insights reports on a productive 2021 and brings us into the new calendar year. We thank our WBG sanctions system colleagues for continued collaboration and knowledge building, which has produced meaningful results circulated in the Annual Report. We also look forward to further engagement with our counterparts at multilateral development institutions in the coming months and welcome the new member of the Sanctions Board, Mr. Ostrove, who joins us for an initial term of four years. Any questions, reactions, or suggestions for future editions are welcome and should be sent to us via sanctionsboard@worldbank.org.

With warm regards,
Maria & Giuliana



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