

INDEPENDENT INVESTIGATION
REPORT TO THE EXECUTIVE BOARD
OF THE INTERNATIONAL MONETARY FUND

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I. METHODOLOGY

A. Morgan, Lewis & Bockius LLP (“MLB”) was retained to conduct an independent review of the reported allegations of abuse of authority by the Managing Director (“MD”) of the International Monetary Fund (“IMF”). The team is: Robert J. Smith, Senior Partner, Barbara Van Gelder, Senior Partner, and Joyce E. Taber, Senior Associate. The methodology employed was as follows:

- The IMF is an international organization and is not governed by domestic employment laws. MLB reviewed original documentation of the standards of conduct, policies, and procedures of the IMF with respect to the conduct of staff. MLB consulted with IMF legal and ethics staff regarding the application of the standards of conduct, policies, and procedures.
- The applicable IMF standard of conduct, policies, and procedures provide the framework for the MLB investigation.
- MLB conducted 28 interviews and engaged in a review of an extensive number of hard copy and electronic documents.
- As with all non-governmental investigations, MLB could not subpoena witnesses or place witnesses under oath. Nonetheless, all persons interviewed cooperated with the investigation.
- To the extent possible, MLB verified information from the principal witnesses by interviewing third party witnesses and reviewing extrinsic documentary and electronic evidence to corroborate information received.
- Notwithstanding the time constraints placed on the investigation by the untimely public disclosure of its existence, MLB believes its investigation to be comprehensive and complete.
- MLB believes the investigation results provide a reasonable basis for the IMF Executive Board to reach its own conclusions with respect to each area of inquiry.

II. FINDINGS OF FACT

A. Did the establishment of the relationship by the MD with a subordinate female staff member constitute sexual harassment and an abuse of authority?

- No complaint of sexual harassment or abuse of authority was filed with the IMF by the female staff member regarding her relationship with the MD.
- The MD, in his official capacity, made the initial contact with the female staff member.
- Both the MD and the female staff member agree that the initial discussions concerned legitimate IMF business.
- Both the MD and the female staff member acknowledge that thereafter a two week long exchange of consensual and very personal messages occurred between them. Both parties initiated those communications.
- Both the MD and the female staff member acknowledge that there was a consensual physical relationship of short duration in January 2008.
- Contemporaneous documentary evidence makes clear that both the MD and the female staff member consented to and actively engaged in the pursuit of the relationship.
- There is no evidence that the MD, either expressly or implicitly, promised, arranged for or provided the female staff member with any work-related benefit for participating in the affair or to keep it confidential.
- There is no evidence that the MD, either expressly or implicitly, threatened the female staff member in any way to induce her to engage in the affair or to keep it confidential.
- There is evidence that during the period immediately prior to the physical relationship and thereafter, the MD and the female staff member agreed to take various steps to hide the existence of their personal relationship.

B. Did the MD encourage the female staff member to leave the IMF?

- The female staff member contends that the decision to leave was hers and hers alone.
- The evidence indicated that the MD did not directly communicate to the female staff member a preference that she leave.
- The evidence suggests that prior to the female staff member applying to participate in the IMF's voluntary separation program, that she was called by her personal attorney (after he had talked to the MD's personal attorney) and was asked whether she intended to stay with the IMF or leave the organization and offered that the MD would feel more comfortable if she left.
- There is undisputed evidence that the MD did not make such a statement or authorize his attorneys either to make such a statement or to make the inquiry.
- Documentary evidence indicated that the female staff member expressed interest in a position at the European Bank for Reconstruction and Development ("EBRD") (a former employer) on February 12, 2008.
- That expression of interest by the female staff member to leave the IMF pre-dates the call from her personal attorney asking about whether she intended to stay or leave the IMF.
- The female staff member indicated that it was her choice to leave the IMF and that she did so for personal reasons, and because she had a job offer in London that she could pursue.
- The MD played no role in her subsequent employment by the EBRD in London.

C. Did the relationship between the MD and a subordinate female staff member lead to any favoritism either regarding the voluntary separation package received by the female staff member or any other term or condition of employment?

- The female staff member left the IMF after the termination of the affair. Her departure was pursuant to a voluntary separation program designed to implement a broad based downsizing of staff for which she, and other interested employees, were eligible to apply. She and all of the 110 employees at her level (“B Level”) were accepted in the program.
- There is no evidence that the MD played any role in her application for the program, the selection of those who were permitted to participate in the program, or that the former female staff member in question received any treatment or benefit that was more favorable or more beneficial than her “similarly situated” (“B Level”) counterparts.
- The MD played no role in arranging for any benefit or improved term or condition of employment with respect to her employment with the IMF or the conclusion of that employment.

D. Did the MD seek confidential ethics advice regarding an intimate personal relationship with a subordinate female employee to prevent an actual or apparent conflict of interest?

- Shortly after the physical affair occurred, the former staff member's husband discovered the affair and advised his wife and the MD of the potential for adverse publicity.
- As a consequence, the MD retained counsel at his own expense and sought advice from friends at a public relations firm to advise him personally on the situation.
- The MD acknowledged that, at that point in time, he was concerned about the damage the disclosure of the affair would have on him and the former female staff member, personally, and on the reputation of the IMF.
- The MD acknowledged that at no time did he seek confidential ethics advice from the IMF's General Counsel, Ethics Officer, or any other IMF official to apprise them of the fact of the intimate relationship or the threat that its existence could be publicized and expose the IMF to reputational damage.
- With the publication of the existence of the intimate relationship between the MD and the former female staff member, both the MD and the former female staff member have suffered damage to their reputations.
- The testimony of the MD confirmed that was not his intent.
- The MD acknowledged that while he thought his conduct was purely personal in nature, the public disclosure of the relationship he had with a subordinate female employee would have been damaging to the reputation of the IMF, the office of the MD, and the person of the MD.
- The MD acknowledged that he made both "a personal mistake and a business mistake" by engaging in an intimate personal relationship with a subordinate female employee.

E. Did the MD abuse the authority of his office by improperly interfering in the employment of a Winter Intern in the Research Department?

- The Winter Intern in question is a female family friend.
- The family friend was enrolled as a graduate student at the time at George Washington University.
- The evidence confirms that the normal application process was followed.
- The evidence indicates that the MD, through a senior staff member in his office, did request that the family friend be considered for an internship in the Research Department.
- The MD played no direct role in that request and talked to no one in the Research Department about the prospect of the internship.
- There is no evidence that the MD applied pressure on anyone in the IMF to employ the family friend or that normal procedures for the employment of interns were violated or manipulated in any way.
- The practice of referring candidates for consideration is a common practice at the IMF.

F. Did the confidential investigation identify other allegations of improper conduct regarding the MD?

- During the course of the investigation, independent counsel reviewed other allegations involving the MD raised by witnesses during the investigation.
- The investigation did not find any evidence to support other allegations of improper conduct by the MD.

III. CONCLUDING OBSERVATIONS

- Going forward, and based on the above-referenced factual findings, the question arises as to whether the framework for the standard of conduct applicable to the MD (which, by contract, applies the standard of conduct applicable to staff) should be modified to hold the MD to a higher standard of conduct than staff, given his prominence and the reputational consequences of his activities and consistent with prevailing “best practices.”