

**FOREIGN SERVICE GRIEVANCE BOARD
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May 7, 2007

SUBJECT: Appeals of [REDACTED]
FSGB Nos. 2007-007, 2007-008, 2007-009
ORDER: MOTION TO CONSOLIDATE CLAIMS

The Board has issued its **ORDER: MOTION TO CONSOLIDATE CLAIMS** in response to the subject appeal.

I hereby certify that a true and correct copy of the Board's **ORDER: MOTION TO CONSOLIDATE CLAIMS** has been sent to:

[REDACTED]
Sabrina Segal, Esq.
Douglas Broome

on this seventh day of May 2007.

Jacqueline Ratner
Executive Secretary

Attachment:
As stated.

cc: Panel: H. Davidson, Bigart, Greenfield

FSGB 2007-007
FSGB 2007-008
FSGB 2007-009

BEFORE THE FOREIGN SERVICE GRIEVANCE BOARD

In the Matter Between

████████████████████

Grievant

And

u.S. Agency for International Development

Record of Proceedings

FSGB No. 2007-007, 2007-008,2007-009

Date: May 7,2007

**ORDER: MOTION TO
CONSOLIDATE CLAIMS**

EXCISED

For the Foreign Service Grievance Board:

Presiding Member:

Harriet Davidson

Board Members:

Robert J. Bigart
Walter Greenfield

Special Assistant:

Janet M. McGhee

Representative for the Grievant:

Pro se

Representative for the Agency

Sabrina Segal, Esq.
USAID/GC/EA

Employee Exclusive Representative:

American Foreign Service Association

ORDER: MOTION TO CONSOLIDATE CLAIMS

I. THE ISSUE

This Order addresses the motion of the Agency for International Development (agency), to consolidate three individual grievances of the grievant, [REDACTED]

II. BACKGROUND

The agency requests the Board to consolidate the following grievances: FSGB Nos. 2007-007, 2007-008, and 2007-009, filed by grievant on March 21, 2007. It asserts that consolidation is appropriate where the grievances share a common core of fact and/or law and that, pursuant to 22 CFR 904.2(b), the Board is authorized to make preliminary determinations of issues whose resolution might avoid unnecessary further proceedings. The agency maintains that all three grievances pertain to a particular Settlement Agreement and General Release executed by grievant under advice of counsel and, as such, should be consolidated into one claim.

Grievant opposes agency's attempt to consolidate her claims. She asserts that the claims are separate, based on different premises and related to the Settlement Agreement in very different ways. Grievant contends that in FSGB No. 2007-008, the agency failed to follow through on a key provision of the Settlement Agreement, namely, that the agency would help grievant obtain a suitable position, and its actions amounted to a "punishment."

According to the grievant, FSGB No. 2007-009 is based upon the fact that the agency breached the Settlement Agreement, rendering it null and void. Since the agreement was null and void, grievant asserts that the clause restricting her right of action

is likewise null and void. The alleged breach occurred when the agency failed to follow through on a key provision of the agreement. Grievant maintains that the restrictive clause is not relevant to this grievance, since, like in the case of FSGB No. 2007-008, applying it would amount to "asserting that the agreement does not obligate the agency to follow-through with its stated intentions." (*See* Appellant's Response to USAID's Statement in Opposition to Appeal, dated April 19,2007, p.3, para 1).

III. DISCUSSION AND FINDINGS

The Board has carefully reviewed all the relevant documents and the arguments of the parties with respect to the issue of consolidation of claims. In FSGB No. 2007-007, grievant charged that the agency had not worked with her, as promised in the Settlement Agreement and General Release, dated November 29, 2005, to find a suitable position but rather, worked against her efforts to secure such a position. We are not persuaded by grievant's arguments that FSGB Nos. 2007-008 and 2007-009 are based on such different premises as to warrant separate treatment. In fact, grievant submitted one appeal to the Board, dated March 19,2007, covering the three grievances which she separately called Grievance #1 (FSGB 2007-007), Grievance #2 (FSGB 2007-008), and Grievance #3 (FSGB 2007-009). Moreover, grievant stated in her appeal:

In terms of Grievance #3, the fundamental basis of this grievance is like that of Grievance #1 and #2, that the Agency convinced me to sign the Agreement based on my understanding of their intention to place me in a real position (FTE) in the [REDACTED] Bureau temporarily and that they would help me to find a suitable position to restorer (*sic*) my position and status to the Agency.

It is clear that grievant considers the grievances to have common questions of law and/or fact. We find the rights and responsibilities of the parties, as contained in the provisions of the Settlement Agreement and General Release, to be at the core of all of

her claims. Furthermore, claims concerning the validity of the agreement are intertwined with grievant's other arguments and need to be addressed before other issues may be adjudicated. The Board finds that grievance numbers FSGI3 2007-007, 2007-008, and 2007-009 may be fairly and expeditiously treated together. Grievant has not shown that her interests will be adversely affected by consolidation of these appeals.

Further steps will be addressed at the Status Conference.

IV. ORDER

The Motion to Consolidate is granted. Grievances FSGB Nos. 2007-008 and 009 are consolidated into FSGB No. 2007-007.

For the Foreign Service Grievance Board:

Harriet Davidson
Presiding Member

Robert J. Bigart
Member



Walter Greenfield
Member

FSGB 2007-007
FSGB 2007-008
FSGB 2007-009