

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA  
SITTING IN ITS OCTOBER TERM, A.D. 2025

BEFORE HIS HONOR : YAMIE QUIQUI GBEISAY, SR.....CHIEF JUSTICE  
BEFORE HER HONOR : JAMESETTA H. WOLOKOLIE ..... ASSOCIATE JUSTICE  
BEFORE HIS HONOR : YUSSIF D. KABA ..... ASSOCIATE JUSTICE  
BEFORE HER HONOR: CEATNEH D. CLINTON JOHNSON ..... ASSOCIATE JUSTICE  
BEFORE HIS HONOR : BOAKAI N. KANNEH ..... ASSOCIATE JUSTICE

The Management of Access Bank Liberia, of the City of )  
Monrovia, Republic of Liberia.....Appellant )  
 )  
Versus ) Appeal  
 )

His Honor, Joseph Kollie, Judge National Labor Court and )  
Valkai Massalay, all of the City of Monrovia, R.L.....Appellees )  
 )  
 )  
 )

GROWING OUT OF THE CASE: )  
 )

The Management of Access Bank Liberia, of the City of )  
Monrovia, Republic of Liberia.....Petitioner )  
 )  
Versus )  
 )

Vaikai Massalay of the City of Monrovia, Republic of ) Petition for Judicial Review  
Liberia.....1<sup>st</sup> Respondent )  
 )  
And )  
 )

His Honor Charles M. Tuazama, Hearing Officer, of the City )  
of Monrovia, Liberia.....2<sup>nd</sup> Respondent )  
 )  
GROWING OUT OF THE CASE: )  
 )

Vaikai Massalay of the City of Monrovia, Republic of )  
Liberia.....Complainant )  
 )  
Versus ) Unfair Labor  
 ) Practices

The Management of Access Bank Liberia, of the City of )  
Monrovia, Republic of Liberia.....Defendant )

Heard: November 11, 2025

Decided: February 12, 2026

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

Section 14.4 (a) of the Decent work Act (2015) states:

- (a) An employer may only terminate the employment of an employee for just cause, based on:
  - i) The (in)ability of the employee to perform the work required of them in accordance with the terms of:
    - (1) Their Contract;
    - (2) Any Collective agreement that applies to their work; or
    - (3) This Act and any regulations made under it; or
  - ii) The conduct of the employee:
    - (1) At work; or
    - (2) In circumstances which have a real and substantial connection to the working relationship; or
  - iii) The operational requirements of the undertaking establishment or service.
- (b) In all cases an employer shall implement a fair internal procedure before making a final decision whether to terminate an employee's employment.

Section 14.9 of said Act provides for a review of decision to terminate employment, that is, subject to this section, an employee who alleges that their employment was not terminated in accordance with this Act may lodge a complaint to the Ministry of Labor in accordance with section 9.2, within six (6) months from the date of the employer's decision. The appellee was dismissed on January 23, 2017, and he filed a complaint with the Labor Ministry alleging wrongful dismissal.

In the appeal before us, the records reveal that the appellee, Charles N. Tuazama, complained to the Ministry of Labor that he was hired by the appellant, Access Bank, and served as branch manager in the appellant's Duala Branch; that on January 23, 2017, he was wrongfully dismissed by the appellant who issued him a dismissal letter for an alleged breach of duty and violation of the appellant regulations. The appellee alleges that the reason given by the appellant for the alleged breach of duty and violation of the appellant's regulations was that the appellee witnessed a loan agreement executed by one of the appellant's staff and a money exchanger but that the loan had been paid by the appellant's staff long before his dismissal.

The appellee being dissatisfied with what he terms as an arbitrary dismissal which he says was done without an investigation, he filed a complaint with the Minister of Labor against the

appellant bank, alleging wrongful dismissal. The Minister had the matter forwarded to a Hearing Officer at the Ministry of Labor for an investigation.

The Investigation was held and the hearing officer thereafter found the appellant AccessBank liable to the appellee Vaikai Massalay for wrongfully dismissal, stating that the appellee dismissal was done without an investigation, and that the appellant bank also failed to show proof of the alleged breach or injury caused by the appellee for which he was dismissed. The Hearing Officer awarded the appellee US\$36,000.00 (Thirty-Six Thousand United States Dollars), representing twenty-four (24) months of appellee's monthly salary of US\$1,500.00 (One Thousand Five Hundred United States Dollars) for arbitrarily dismissing him.

The appellant excepted to the Hearing Officer's ruling, and in fulfilment of Chapter 10.1 (b) of the Decent Work Act (2015), appealed the Hearing Officer's ruling to the National Labor Court for judicial review.

The Labor Court Judge in his review asked whether there was sufficient evidence in the records to support the findings of the Hearing Officer that the appellee was dismissed without an investigation, and whether the appellant failed to prove the alleged breach or injury cause by the appellee to the bank.

The Judge in his final ruling held that the court was not impressed with the evidence and theory of the appellant's case for two reasons (1) the purported investigation alluded to by the appellant was only a mere allegation and nothing more as there was no support in the records in terms of citations inviting the appellee to appear before the purported disciplinary committee; that there was no showing that the appellee's constitutional right to confront his accusers or traverse incriminating evidence was met or provided during the appellant's alleged investigation; and further, the appellee was never apprised of his right to have a lawyer represent him during the purported investigation, that the omission of all these basic tenants constitutes a gross violation of the appellee's right to an impartial investigation; and (2), the appellant miserably failed to establish how the appellee breached the bank's regulations and cause injury to the bank; that though he took due note of the bank's regulations exhibited in the records, he was unable to see how the appellee breached the said regulations and injured the bank in instances where the appellee acted in his personal capacity to witness a loan between two contracting parties completely not related to the appellant bank. He asked what was the basis of signalling out the appellee and using him as an example when one of the contracting parties (the bank staff) who was the borrower is still in the employ of the bank.

The Labor Court Judge concluded that the Administrative Procedure Act 82.9(2) states that “findings made by an administrative agency with respect to questions of fact are conclusive on the court.” The Judge in his support cited the Supreme Court cases: *The Liberian Institute of Certified Public Accountants of Liberia v. Ministry of Finance*, 38 LLR 657 (1998), and *Vijayraman and Williams v. The Management of Xoanon Liberia (Ltd)*, 42 LLR 41 (2004), where the Supreme Court held that courts cannot substitute their discretion or judgment for that of an administrative agency but will only determine the lawfulness of its action. He therefore ruled confirming the Hearing Officer’s ruling but with modifications, holding that the appellant reinstates the appellee and pays him all benefits as though he was never dismissed, or paid him United States Twenty-one Thousand Dollars (US\$21,000.00) representing fourteen (14) months’ salary of US\$1,500.00, instead of the US\$36,00.000 awarded by the Hearing Officer which represented twenty-four (24) months payments.

The appellant bank in line with section 11.2 (g) of the Decent work Act (2015) excepted and filed a bill of exceptions, seeking the Supreme Court’s review of the Labor Court Judge’s ruling.

The appellant in its bill of exceptions states that the ruling of the Labor Court Judge was erroneous and reversible in that the Judge failed, neglected, and refused to consider vital pieces of evidence in the records that substantiated that the appellee was indeed investigated before he was dismissed and that the appellee’s allegation that he was dismissed without investigation was untrue. Also, the Judge’s ruling that the appellant bank had miserably failed to establish how the appellee breached the bank’s regulations and caused injury to the bank to warrant his dismissal was erroneous in the face of the appellant bank’s production of both documentary and oral evidence proffered at the Ministry of Labor and which formed part of the court’s records showing that the appellee did commit gross breaches of duty.

This Court in its review of the records initially looked to whether there was an investigation as contested by both parties before the appellee was dismissed.

The Decent Work Act, Section 14.4.2 (b) requires that in cases of termination of an employment, the employer shall implement a fair internal procedure before making a final decision to terminate an employee’s employment. The Supreme Court has upheld this law, reiterating that dismissals without investigations is considered wrongful, and will lead to reinstatement or compensation for wrongful dismissal: *Management of Sethi Bros. v. Jenteh*, Supreme Court Opinion, March Term 2021; *Dans & Sayeh v. LTA*, Supreme Court Opinion, October Term, 2016; *LOIC v. Williams*, 42 LLR 275, 285 (2004).

The appellee alleged that he was not investigated and the Hearing Officer and National Labor Court Judge so confirmed. The appellant countered that as provided for by the Decent Work Act, the appellee was subjected to an internal investigation set up in its work place to probe employees found to be in breach of the bank's credit procedure and code of conduct.

We see in the records the dismissal letter of the appellee placed in evidence showing that the appellant was referred to a disciplinary committee set up by the appellant to hear the appellee's response to a list of alleged breach of credit procedures and for which the appellant made a decision to have the appellee dismissed. The letter reads:

"Vaika Massallay  
Branch Manager  
Access Bank, Liberia  
Duala Branch  
January 23, 2017

Dear Vaika,

Letter of Summary Dismissal.

We regret to inform you that your employment with Access Bank Liberia terminates forthwith upon receipt of the communication.

As you may recall, Management set up a disciplinary committee to hear your response to the list of alleged breach of credit procedures with respect to loan disbursement, due diligence for credit application, proper handling of collateral and other related breaches.

During the Committee hearing, you admitted that you used your official position as a Branch Manager to serve as a witness for one of your staff to take a loan from a money exchanger in the amount of US\$700. You also confirmed that you affirmed your official stamp in the capacity of a Branch Manager of Access Bank Liberia on the application. In the same case you committed yourself to block the staff account if he (Viddy) defaulted on the loan. As you are aware, you are not permitted to commit the Bank in such transactions without expressed approval from the Management.

Additionally, you also confirmed during the Committee hearing that you forgot to send the hard collateral documents obtained from the loan clients to the vault as required by the Credit Procedures, one of which you kept in your office for over 4 months knowing the risk of theft and other risks associated with the security of the documents.

Moreover, you admitted to ignoring and approving some loan cases that had Credit Committee decisions of verification of income proof of guarantors and original documents during the hearing. You further stated that the Committee should rather put blame on the Credit Support Staff and not you as the Branch Manager. Meanwhile, these cases were approved by you as a Branch Manager of the branch prior to disbursement by the Credit Support Staff.

The above actions and inactions and other breaches on your part are regarded by Management as serious breaches of procedures to be committed by a Branch Manager. As a Branch Manager, it is your responsibility to oversee the entire wellbeing of the branch entrusted in your care by making sure that the Bank's procedures in all respects are followed by your branch staff. You are required to set good examples for your team members by abiding by all credit procedures and by carrying out your responsibilities in a diligent and professional manner. The investigation report and your responses at the Committee Hearing showed otherwise. Your action left Management with no other option than to terminate your employment with the Bank.

You are aware through training on the HR guide and other procedures that Access Bank Liberia is committed to maintaining the highest possible professional, moral, ethical, and business standards and attaches great importance to personal integrity, professionalism, and transparency.

Where an employee is deemed to be in breach of these regulations, disciplinary action in accordance with disciplinary procedure and code of conduct will be taken, up to and including dismissal of employment. Meanwhile, you are kindly requested to return all the Bank's properties in your possession and perform a proper turnover, including sitting an exit interview.

Please confirm receipt and understanding of the contents of this letter by signing below.

Access Bank wishes you well in your future endeavours.

Sincerely yours,

Jacqueline Allison Saye  
Head of Human Resources

Final approval by \_\_\_\_\_  
Jones K. Nyaye  
(Managing Manager/CEO)

Received by Signature: \_\_\_\_\_  
Vaika Massalay  
(Branch Manger)

Date:26/01/2017

CC. Legal Department"

From the dismissal letter referenced above, it is evident that the appellant did set up a disciplinary committee to hear the appellee's response to the list of alleged breach of credit procedures with respect to loan disbursement, due diligence for credit application, proper handling of collateral and other related breaches, such as, where the appellee used his official position as the appellant's Branch Manager, using the appellant's stamp to guaranty the

repayment of an external loan taken by a bank staff, and committing himself to blocking the staff's account if he defaulted on the loan.

The records show that during the investigation at the Ministry of Labor, the appellee took the stand and testified as follows:

“Before leaving the office, I was told that there was going to be an investigative team set up to show management why the portfolio quality is bad in the branch. After several weeks, in January, I cannot remember the date, I was called by the HR Department to proceed at the bank, I arrived, and was presented a document stating that those were findings gather by the guy that was sent at the bank; that they wanted me to respond to the allegations in the document presented to me, and I did. On January 27, at about 3:00 p.m., while still under the indefinite suspension, I was called by the HR Department again, when I arrived, I was invited into the CEO office by the HR and I was presented a letter of summary dismissal for the reasons stated in my letter of dismissal.”

On the direct examination the following questions was posed to the appellee:

Q. Mr. Witness, please say what was the composition of Access Bank staff that investigated you prior to your dismissal?

A. It was only one (1) person sent to the branch to temporarily replace me and at the same time serve as the lone investigator, ignoring the Audit and Risk Departments who are responsible for such investigation at the bank.

On the cross-examination, the following questions was posed to the appellee:

Q. Mr. witness, in your testimony as found on page 2 of the March 23, 2017 minutes, you stated that you were called to the bank and presented findings of an allegation relative to our branch. What was your responds then?

A. I responded to the findings and gave them back the paper and they refused to give me copy.

Q. Mr. witness, was your responses written or verbal?

A. Written

Q. Mr. witness, is it general practice and procedure of the bank that a branch manager or department head that are straightly connected to credit be a part of an outside arrangement to get his or her staff member obtained credit from an outside source?

A. It is not a policy of the bank, and equally so the bank policy did not tell us that none can witness any private arrangement.

Q. Mr. witness, it goes to say that the testimony that you give to this investigation relative to the outside credit that you witnessed was one of the findings or queries presented to you by disciplinary committee?

A. Yes, it was one of them.

- Q. Mr. witness, on May 22, 2017, during the hearing of this case, you answered yes to a question relative to findings or query presented to you by the disciplinary committee of the defendant/bank. By that answer Mr. witness, please say whether or not the response to the disciplinary committee that you made reference to was in writing?
- A. Yes, it was in writing, and the copy was taken away from me and when I asked to be given a copy it was rejected so the disciplinary committee has all the copies.
- Q. Mr. witness, did you sign on the written response?
- A. I cannot rightly remember because it being since January, but if I see and it is my response then I will confirm it.
- Q. By that answer Mr. witness, I pass to you these hand written instrument please look at it and determine whether the name, writing and signature are yours?
- A. Yes, it is my signature, handwriting, and responses.
- Q. Mr. witness, in your testimony as found on Page 2 of the March 23, 2017 stating that you were called to the bank and presented findings of an allegation relative to your branch. What was your responds then?
- A. I responded to the findings and give them back the paper and they refused to give me copy.
- Q. Mr. witness, was your responses written or verbal?
- A. Written
- Q. Mr. witness, is it general practice and procedure of the bank that a branch Manager or department head that are straightly connected to credit be a part of an outside arrangement to get his or her staff member obtained credit from outside source?
- A. It is not a policy of the bank and equally so the bank policy did not tell us that no one is not allowed to witness any private arrangement.
- Q. Mr. witness, it goes to say that the testimony that you give to this investigation relative to the outside credit that you witnessed was one of the findings or query presented to you by disciplinary committee?
- A. Yes, it was one of them.

The appellee, Vaikai Massalay, having rested with evidence, the appellant witness, Cephus W. Teewiah took the stand and testified.

Witness Teewiah testified that in December 2016, the Management team instructed him to do an investigation of the appellant's Duala Branch due to the branch's poor portfolio which led to thousands of United States Dollars being in arrears, in addition to the poor management

of the branch which led to a breach of credit procedures that guide the appellant's credit department. He explained that an investigation at the appellant's Duala Branch uncovered multiple breaches of the bank's credit procedures, which ultimately led to the appellee's dismissal. The major findings he said were the unprofessional handling of collateral documents (land deeds, contracts, etc.) that they were not secured in the store room as required but were instead kept in offices by the Branch Manager and credit staff in violation of the appellant-clients confidentiality; that loans were issued to clients without functioning businesses; that several persons received loans despite not operating any business, and he named several of these businesses and this, the witness stated, contributed to large loan arrears because these clients could not repay. Further, multiple businesses were financed beyond their capacity, leading to significant losses and poor portfolio quality to the bank in addition to the lack of oversight responsibility which led to poor management of the branch where some employees did not regard the procedure which is the working tool for credits and the guide for every staff which the appellee was aware of, especially as the credit procedure hard copy is kept in his office. Based on these findings, the witness said the appellee was called to the appellant's Head Office to meet with the disciplinary committee to read and reply to the findings. During the disciplinary committees meeting, the appellee responded to the findings of the investigation, a copy of which was given to him and he had in his possession.

Witness Cephus W. Teewiah's testimony in essence was that there was a general lack of oversight and internal control at the appellant's Duala Branch, as the appellee who was the General Manager failed to enforce the bank's policies; that he allowed non-compliance by staff, and did not supervise the credit department properly, and as head of a financial institution he was liable for any breach of the working tool, which is the credit procedures, and as the appellant's bank manager, the appellee was responsible for the poor performance of the branch which the appellant entrusted him to manage.

The appellant second witness, George Constance, Jr. testified that in February 2017, the Management of the Access bank, through the Credit Manager, commissioned a three-man team, headed by Cephus K. Teewiah, to investigate some issues at Access Bank, Duala Branch. During the investigation, it was discovered that some clients' businesses were over financed and, in some instances, some clients' businesses were faked and other businesses did not exist. He named some of the businesses that did not exist and those over funded.

On cross-examination, the appellant's witness George Constance, Jr. answered to the following questions posed to him:

Q. Mr. witness, you said that there was a 3-man team headed by Cephus Teewiah to investigate the appellee, can you please name the two persons that worked with Teewiah?

A. The two persons that worked along with Cephus Teewiah were: George Constance, Jr. and Shirely Konah, those were the two persons.

The appellant's third witness, Jacqueline Allison-Saye confirmed that the appellee was suspended, thereafter investigated, and given a query to respond to in front of the disciplinary team. She concluded that the appellee was dismissed after the investigation.

Having perused the records and the testimonies of the witnesses, this Court ask whether there is evidence sufficient to convince the Court that the appellee was investigated, that is, confronted and given the opportunity to be heard before he was dismissed, and whether the appellant proved sufficient injury to warrant the appellee's dismissal?

The appellant has argued that the Labor Judge's reliance on the Administrative Procedure Act 82.9(2) and the cases cited in support thereof, where the Supreme Court relied on the general rule that courts cannot substitute their discretion or judgment for that of an administrative agency, but will only determine the lawlessness of its action, is a general administrative legal principle not cast in stone; that the Supreme Court, in the cases: *Management of International Bank v. Natt and Ochoada*, Supreme Court Opinion, October Term, A.D. 2012 and *Dickerson et al, v. Her Honor Natt et al*, Supreme Court Opinion, March Term, A.D. 2016), recognizes that the rule is not exclusive and that there may be instances where the appellate court may disturb and even reverse the conclusions and decisions of an administrative agency as in the case immediately referenced herein. Thus, the Supreme Court has held that the findings of an administrative agency are not so conclusive upon appellate courts and that they cannot be questioned or corrected where the errors in the findings and conclusions are so obvious and brings the decision growing therefrom into confrontation with the law.

The appellant says there are clear grounds for reversing the co-appellee Judge's ruling because the appellant testified by both oral and documentary evidence that the co-appellee Massallay was investigated before being dismissed, and it was confirmed by the co-appellee Massallay himself; yet, the Hearing Officer and co-appellee Judge disregarded the rule of evidence and biasedly ruled against the appellant. The appellant had the following placed in the records as proof of its investigation:

"To: MT, Credit Department, Recovery Officers and Risk Department  
From: Credit Manager  
Subject: Disciplinary Committee

Date: 22 December 2016

Taking into account the findings from Duala investigation, it decided

1. The Disciplinary Committee (DC) should be organized at 09 January 2017
2. The members of the DC are:
  - Emmanuel Z. Holder, Risk Team Leader
  - Vezele K. Gbogie, Banking Service Manager, member of MT
  - Sergil Blyzniuk, Credit Manager, member of MT
  - Jacqueline Allison Saye, Head of HR department
  - Charles Kollie, Head of Micro
3. The Chairman of the investigation team is Sergil Blyzniuk
4. For hearing to answer the findings contained in the investigation should be invited:
  - Vaikai Massalay, Branch Manager, Duala Branch
  - Alfred Carmo, SGL, Duala Branch
  - Adolphus J. Gono, Loan Officer, Duala Branch
5. The results of the DC should be presented to MT at 11 January 2017

Jonas Nyaye  
Chief Executive Officer

Sergil Blyzniuk  
Credit Manager

## AccessBank

January 12, 2017

Dear Management,

After a thorough and extensive disciplinary hearing, the Disciplinary Committee is please to inform you that as per findings from the Disciplinary Hearing, the below staffs:

- Vaikai Massalay (Branch Manager)
- Alfred S. Carmo (Senior Group Leader)
- Adolphus J. Gono (Senior Credit Support Staff)

Can no longer serve in their various capacities and as such they cannot be in the employ of ABL. Please see below summary of their response to the findings and DC observation as well.”

The above referenced report reflects a spread sheet of the various findings of the appellant's MT Credit Department, and the appellee and two other employees' oral responses to the findings, and the Disciplinary Committee's unanimous decision reached to have the appellee dismissed along with one other employee that was investigated.

This Court finds it perplexing that the Judge of the National Labor Court would confirm the hearing officer's ruling that the appellee was not investigated before being dismissed, considering the oral and written evidence in the records, where the appellee himself stated on the cross-examination that he was given the findings/report of a team set up by the appellant to investigate the mal-functioning of the appellant bank, and he was subsequently called in to give his response to the report, which he responded to in writing; that even on the direct examination, the appellant as written above, responded on the direct examination as follows:

Q. Mr. Witness, please say what was the composition of Access Bank staff that investigated you prior to your dismissal?

A. It was only one (1) person sent to the branch to temporarily replace me and at the same time serve as the lone investigator, ignoring the Audit and Risk Departments who are responsible for such investigation at the bank.

Our question is, what can be considered as an investigation where an employee has been accused in violation of an employer's management policy? The appellant bank did not accuse the appellee of theft, it rather alleged that he was mismanaging the appellant Duala Branch where the appellee served in as the Managing Director. Why was the Audit and Risk Departments needed for an investigation where the appellee was accused of failing to manage the appellant bank properly? Does the Labor Law state the number of persons to carry out an investigation by an employer? We say no. The Supreme Court has held that employers are to provide clear evidence of an investigation properly conducted at the place of work to warrant an employee's dismissal. *Scanship Liberia, Inc. v. Nimely et al.*, 37 LLR 371, 378 (1974). In this case, the appellee himself, as quoted above, stated that he was investigated, but by one person contrary to the appellant statement that a team of three investigated him, calling him in to respond to the findings by the appellant.

This Court holds that in face of the testimonies of the appellant bank which show overwhelming evidence that the appellee was investigated, and the appellee himself having confirmed that he was investigated by one person and he not having shown any law as to the number of persons to have investigated him, the Court finds the ruling of the Labor Court Judge erroneous and reversible as to the issue of the appellee not having been investigated before his dismissal. The records show clear evidence that the appellant was investigated and confronted by the appellant before he was dismissed.

Regarding the issue of the appellant proof of injury to warrant the appellee's dismissal, we resort to the Decent Work Act of (2015), section 14.4. (a). It states: "An employer may only terminate the employment of an employee engaged for an indefinite employment for just

cause, based on: i) the (in)ability of the employee to perform the work required of them in accordance with the conduct of the employee at work; or in circumstances which have a real and substantial connection to the working relationship; or the operational requirement of the undertaking establishment or service.”

Our review of the records shows that the appellant bank had an investigation instigated by a team of three individuals based on the appellant’s Duala Branch poor portfolio of thousands of United States Dollars in arrears and which branch the appellee headed; that the investigation revealed the unprofessional handling of collateral document, in that the appellee did not send the hard collateral documents obtained from the loaned clients to the vault as required by the credit procedures but were kept in the appellee’s office and other credit staff which according to the credit procedure violated the appellant-clients confidentiality. Further, loans were issued to clients without functioning businesses and multiple businesses were finance beyond their capacity. The appellant went on to name several businesses that fell in the said categories. The appellant bank also stated that the appellee even used his official position as a branch Manager to guarantee a staff taking loan from a money exchanger, using the office stamp and in his capacity as the bank Manager committing to block the staff account if he defaulted on paying the loan, something he could not do without permission from the appellant’s Management.

We see that the appellant in his testimony did not actually deny the appellant’s Duala Branch poor portfolio which led the bank to thousands of dollars in arrears. He rather stated that the Committee should rather put the blame on the Credit Support Staff and not on him, the Branch Manager. Meanwhile, these cases as the appellant states were approved by him as the Branch Manager of the branch prior to disbursement by the Credit Support Staff.

As the appellant’s first witness stated, there was a general lack of oversight and internal control at the appellant’s Duala Branch, as the appellee who was the General Manager failed to enforce the bank’s policies; that he allowed non-compliance by staff, and did not supervise the credit department properly, and as head of a financial institution he was liable for any breach of the working tool, which is the credit procedures, and he was to take responsibility for the poor performance of the appellant’s branch which the appellant entrusted him to manage.

The appellee harped on the issue that his dismissal by the appellant bank was based on its disapproval of him using his office as a Branch Manager to guarantee a loan by a staff from a money exchanger and his further commitment to block the staff account if the staff defaulted on the loan. The appellant does not deny this but states that the appellant bank had no policy

stating that he could not carry out this role. We must ask, where the appellee served as the Branch Manager of the appellant, an entity whose primary business is serving as a credit institution and which business the appellee was hired to promote, should he have, while serving as the appellant's Branch Manager, supported and encouraged an employee or anyone for that matter to credit outside of the entity he headed and which carry out similar business function? Wasn't that a conflict of interest? We are baffled that the Labor Court Judge did not find so.

The appellant investigation found that the Duala Branch which the appellee headed was poorly managed and was causing the appellant bank losses, and as the Branch Manager, it was encumbered on the appellee to oversee the entire wellbeing of the appellant's branch over which he (appellee) was placed in control, and to oversee that all the branch's procedures were followed by the branch staff. The blame on the credit staff for the poor portfolio at the Duala Branch as stated by the appellee is unacceptable. This Court recognizes that every institution or organization has the right to establish policies, rules or guidelines that govern the administration of said institution; that said policies or rules are effective and binding on employees or members of the institution or organization except it is repugnant to or inconsistent with any statutory or decisional law extant in this jurisdiction. When the appellee was employed as the Branch Manager for the appellant bank, it was incumbent upon him not to be merely a spectator but to apply the skill, attention, and diligence necessary to protect the interests of his employer; that is, to take the necessary disciplinary action against other subordinate employees of the appellant's bank in line with applicable policies. The appellee inability to meet the technical, ethical and professional standards required of his position as Bank Manager, as the record of the investigation shows, constitutes a breach of his fundamental duty.

Employment is a contractual relationship built upon a foundation of mutual trust; while the employer is obligated to provide a safe and fair working environment, the employee is equally duty-bound by an implied covenant of loyalty, competence, and professional care. Our Decent Work Act (2015) at Section 14.4 (a) states:

- a) an employer may only terminate the employment of an employee engaged for indefinite employment for just cause, based on:
  - 1) the ability (inability) of the employee to perform the work required of *him/her* in accordance with the terms of their contract.

From the records transcribed to this Court which we have reviewed, the Court is bound to deviate from the general administrative procedure rule as stated by the Labor Judge, as the

evidence in the records prove otherwise. The records show that the appellant was investigated and that his dismissal was based on his lack of diligence and professionalism in the running of the appellant's Duala Branch and that his poor managerial skills led the appellant bank to lose thousands of dollars in arrears.

WHEREFORE AND IN VIEW OF THE FOREGOING, the Court holds that the final ruling of the National Labor Court confirming the Hearing Officer's findings that the appellee was wrongfully dismissed by the appellant Access Bank, and awarding the appellee payment of Twenty-one thousand United States Dollars (US\$21,000.00) representing fourteen months' salary is hereby reversed. The Clerk of the Court is ordered to send a Mandate to the court below informing the Judge therein of the Court's Ruling. Costs are ruled against the appellee. AND IT IS HEREBY SO ORDERED.

**WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR POWO C. HILTON APPEARED FOR THE APPELLANT. COUNSELLORS MOMOLU G. KANDAKAI AND PHILIP Y. GONGLOE OF THE GONGLOE AND ASSOCIATES LAW OFFICE APPEARED FOR THE APPELLEE.**