



DISCIPLINARY BOARD OF THE INTERNATIONAL CRIMINAL COURT

Original: English

Reference: SDO-2024-51-DB Decision

Date: 18 April 2024

Before: **Mr. Vincent Asselineau**, Presiding member
 Mr. Etienne Rosenthal, Permanent member
 Mr. Sean Morton, Ad hoc member

Case: Disciplinary complaint against Ms. Melinda Taylor

Public Document

Decision of the Disciplinary Board

Counsel for Ms. Taylor:
Ms. April Carter

Commissioner:
Ms. Diane Turner

I. Factual basis of the complaint as given in the summons to appear:

At all relevant times, counsel subject to this disciplinary procedure, Ms. Melinda Taylor, was serving as lead defense counsel for Mr. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud before Trial Chamber X of the International Criminal Court. On 11 February 2022, Trial Chamber X granted the withdrawal request of Ms. Kirsty Sutherland, an associate counsel on Ms Taylor's defense team; Ms. Sutherland was the fifth such member of the defense team to seek withdrawal and alleged, in short, that Ms. Taylor had mistreated her and had engaged in a campaign of harassment. Accordingly, the Registrar submitted the aforementioned complaint to the Commissioner upon his own initiative pursuant to article 34(4) of the Code and therein alleged that Ms. Taylor had failed to comply with the obligations imposed on her under article 7(1) of the Code. Upon receipt of the Registrar's complaint, the Commissioner undertook an investigation and, as a result thereof, including consideration of Ms. Taylor's responses to the complaint dated 11 December 2022 and 26 February 2023, the Commissioner issued her Report to the Disciplinary Board pursuant to article 39(2) of the Code on 25 July 2023. The Commissioner's Report alleges that the conduct of Ms. Taylor could be found by the Disciplinary Board to be in violation of Articles 5, 7(1), 16(3) and 24(1) of the Code, and that Ms. Taylor's conduct also falls within the ambit of Administrative Instruction Ref. ICC/AI/2022/003. In sum and substance, the Commissioner alleges that, according to the information gathered from those occupying various positions at different stages of the case, the atmosphere created by Ms. Taylor on the defense team was oppressive and counterproductive to the effective representation of Mr. Al Hassan. Descriptors of her behavior include targeting, gaslighting, infantilizing, condescension, humiliation, demeaning conduct, expressions of dismay through seeming indifference, unapproachability, and the failure to include the work of team members responsible for filings.

II. Summary of procedural history:

6 May 2022: Disciplinary Complaint of the Registrar with referral to the Commissioner.

11 December 2022: Response to the Disciplinary Complaint by Ms. Melinda Taylor.

26 February 2023: Additional response to the Disciplinary Complaint by Ms. Taylor.

25 July 2023: Report of the Commissioner, alleging that Ms. Taylor, in her capacity as lead counsel in the case against Mr. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (Mr. Al Hassan), had engaged in conduct in violation of sections 5, 7(1), 16(3) and 24(1) of the Code of Professional Conduct of counsel.

2 November 2023: First meeting of fully composed Disciplinary Board for counsel was held wherein it was determined by the Board that a disciplinary proceeding should be continued against Ms. Taylor pursuant to section 8.1(b) of the Rules and Procedures of the Disciplinary Board and the Disciplinary Appeals Board.

14 February 2024: Issuance of Summons to Appear before the Disciplinary Board for a determination as to whether Ms. Taylor's conduct constitutes a violation of sections 5, 7(1), 16(3) and 24(1) of the Code of Professional Conduct of counsel.

1 March 2024: Response of Ms. Taylor to the Commissioner's Report.

8 March 2024: Pre-Hearing Conference (conducted via teleconference) attended by the Disciplinary Board, the Commissioner and Mr. Michael Karnavas and Mr. Noah al-Malt, as counsel to Ms. Taylor, regarding timing and page limitations of pre-hearing written submissions, protocols for witness testimony and Ms. Taylor's request to compel certain disclosure.

15 March 2024: Pre-Hearing Conference (conducted via teleconference) attended by the Disciplinary Board, the Commissioner, and Mr. Karnavas and Mr. al-Malt, as counsel to Ms. Taylor, regarding potential disqualification of Mr. Karnavas as counsel to Ms. Taylor.

18 March 2024: Decision of the Disciplinary Board (1) disqualifying Mr. Karnavas from representation of Ms. Taylor due to a conflict of interest, and (2) directing certain additional disclosure to counsel for Ms. Taylor.

22 March 2024: Pre-Hearing Conference of the Disciplinary Board concerning protocol for the hearing.

27 March 2024: Pre-Hearing Conference of the Disciplinary Board (absent Mr. Morton), the Commissioner and Ms. April Carter, as counsel for Ms. Taylor, concerning protocol for the hearing.

11 April 2024: Pre-Hearing Conference of the Disciplinary Board, the Commissioner and Ms. Carter, as counsel for Ms. Taylor, concerning protocol for the hearing, the schedule of witness appearances at the hearing and Ms. Carter's request for closure of the hearing.

12 April 2024: Decision of the Disciplinary Board denying Ms. Carter's request for closure of the hearing and directing that the hearing remain public pursuant to Art 15.1 of the Rules and Procedures of the Disciplinary Board and the Disciplinary Appeals Board for counsel, subject to closure by the Disciplinary Board as circumstances warrant.

The disciplinary hearing was publicly held as scheduled on 15, 16, 17 and 18 April 2024 in the Press Briefing Room of the International Criminal Court in The Hague. As per the Hearing Agenda circulated in advance, the following witnesses appeared before the Disciplinary Board and were examined by the Commissioner, Ms. Carter as counsel for Ms. Taylor, and by the Board:

15 April 2024:

- Ms. Marie-Hélène Proulx, for the Commissioner
- Mr. Thomas Hannis, for the Commissioner
- Ms. Kirsty Sutherland, for the Commissioner

16 April 2024:

- Ms. Cécile Lecolle, for the Commissioner
- Ms. Kirsty Sutherland, for the Commissioner
- Mr. Mohammed Youssef, for Ms. Taylor (via teleconference)
- Ms. Havneeth Kaur Sethi, for Ms. Taylor (via teleconference)

17 April 2024:

- Mr. Iain Edwards, for Ms. Taylor (via teleconference)
- [REDACTED] for Ms. Taylor (via teleconference)

18 April 2024: Final oral submissions of the Commissioner and Ms. Carter, including the statement of Ms. Taylor, followed by private deliberations of the Disciplinary Board.

III. Discussion:

Testimony of Ms. Marie-Hélène Proulx:

Upon examination by the Commissioner, Ms. Carter and the members of the Disciplinary Board, Ms. Proulx adopted her written statement of 3 June 2023 and further testified as follows:

Ms. Proulx has been a licensed member of the Québec bar since 2003 and was hired as a Legal Consultant for the Al Hassan defense team in January 2019 by then-Lead Counsel, Mr. Yasser Hassan. In April 2019, Mr. Al Hassan elected to change his Lead Counsel and Ms. Taylor accordingly assumed the role of Lead Counsel for the Al Hassan team in May 2019. Ms. Proulx indicated that the Al Hassan team was initially pleased with Ms. Taylor's appointment due to her "good reputation in The Hague" and her record of advocacy on behalf of the rights of defense team support staff. Ms. Proulx further testified that, following a meeting with Ms. Taylor on the date of her appointment as Lead Counsel, Ms. Taylor requested that Ms. Proulx assume the role of Associate Counsel and that promotion was formalized later in May 2019.

Ms. Proulx's depiction of the first few months of Ms. Taylor's tenure was generally positive, albeit very intense. Ms. Proulx initially attributed the tension to Ms. Taylor's recent appointment, her need to get up to speed and the pending deadline of a pre-confirmation brief in the Al Hassan matter. However, Ms. Proulx also indicated that, during these initial months, she observed that Ms. Taylor's mood often fluctuated unpredictably with a corresponding impact upon the entire Al Hassan team. Ms. Proulx also recounted an episode where Ms. Taylor expressed dissatisfaction with the work of a junior team member and told Ms. Proulx that she was attempting to make arrangements to have the individual removed from the team. Ms. Proulx also related that her confidence was shaken by Ms. Taylor's wholesale revision of Mr. Proulx's written work product.

Ms. Proulx described a "turning point" in her relationship with Ms. Taylor which occurred in September 2019. Ms. Proulx had been dispatched to visit with Mr. Al Hassan concerning an unspecified issue relevant to his defense and Mr. Al Hassan thereafter requested a private meeting with Ms. Taylor. In the wake thereof, Ms. Taylor's mood darkened and, on 27 September 2019, Ms. Taylor confronted Ms. Proulx in a public area of the ICC and angrily accused her of trying to "steal" Mr. Al Hassan as a client, an accusation which Ms. Proulx characterized as "entirely unfounded." During the 27 September episode, Ms. Taylor further accused Ms. Proulx of undermining Ms. Taylor's authority during team meetings and of taking certain initiatives without prior approval. Ms. Proulx indicated that Ms. Taylor's accusations were so serious that Ms. Proulx offered to resign; although Ms. Taylor declined to accept that resignation, Ms. Proulx came away from the meeting with the impression that Ms. Taylor insisted on a strict hierarchy with direct control over every aspect of the team's work, and that Ms. Proulx would no longer have any latitude over the direction of the team's work, notwithstanding her position as Associate Counsel and prior directives from Ms. Taylor to the contrary.

Ms. Proulx characterized the ensuing several months as permeated by Ms. Taylor's "constant mood swings," with her "passive-aggressive comments" and condescension, along with "ever-changing objectives," micromanagement and persistent dissatisfaction with "the work of anyone" as creating a toxic work environment which Ms. Proulx found to be "disheartening, and demoralizing, on a daily basis." Ms. Proulx also claimed that her view of the Al Hassan team environment was shared by her colleagues. To that end, Ms. Proulx recounted her impressions of the circumstances leading to the departure of one particular member of the Al Hassan team.¹ Ms. Proulx was of the opinion that the colleague's withdrawal was the result of Ms. Taylor's "bullying" and "humiliation" and contemporaneous text messages between Ms. Proulx and her colleague support that conclusion to a certain extent. In any event, Ms. Proulx also related that, in the week following the colleague's withdrawal, Ms. Taylor pressured her to speak about the

¹ We note that the colleague in question has explicitly declined to participate in this disciplinary matter and has affirmatively stated that the circumstances of their withdrawal from the Al Hassan case "did [not] amount to misconduct" on the part of Ms. Taylor.

colleague's withdrawal while making disparaging remarks about the colleague's "lack of professionalism." Ultimately, Ms. Taylor's persistence led to a verbal confrontation between her and Ms. Proulx that culminated in Ms. Proulx leaving the ICC for the day in contemplation of her own withdrawal.

Ms. Proulx remained on the Al Hassan team for several more months but described the interim period following her colleague's withdrawal as marked by her increased marginalization from the day-to-day operation of the Al Hassan team, notwithstanding her continued nominal role as Associate Counsel. Ms. Proulx described an incident where she responded to Mr. Al Hassan's questions about a particular aspect of his case and was castigated and prohibited from doing so again by Ms. Taylor. In another incident, Ms. Taylor disparaged Ms. Proulx's work in a team chat and, by late Spring 2020, Ms. Proulx was routinely being tasked with "mostly irrelevant" and "unimportant" tasks, with "minimal input" on the substance of the team's filings. Ms. Proulx's marginalization was further exacerbated by Ms. Taylor's proliferation of multiple chat threads on Signal from which Ms. Proulx was excluded, meaning that she was often unaware of information shared with other members of the team, including members junior to herself. Drafts of important pretrial filings were shared with Ms. Proulx, if at all, with little opportunity for substantive feedback, including submissions ascribed with Ms. Proulx's signature denominating her professional responsibility therefore. When Ms. Proulx complained, her signature was removed altogether and drafts were no longer shared with her going forward. Ms. Proulx stated that she attempted to "hold on" out of a sense of obligation to her client, and remained hopeful that she might be able to contribute in the imminent trial. When it ultimately became clear to her that Ms. Taylor did not intend to meaningfully include her as part of the trial team, Ms. Proulx resigned in July 2020.

The Board finally notes the highly emotional tenor of Ms. Proulx's testimony. She described her service on the Al Hassan team as an "ordeal," and the "most difficult" and "toxic" period of her professional career, and it is clear that merely recounting what she had endured triggered an emotional response. As she herself acknowledged, it was clear that Ms. Proulx took no pleasure in participating in this disciplinary process and that her testimony was instead motivated by a desire for "accountability for this kind of behavior at the ICC, which should be upholding the highest standards."

Testimony of Mr. Thomas Hannis:

Upon examination by the Commissioner, Ms. Carter and the members of the Disciplinary Board, Mr. Hannis adopted his written statement of 20 July 2023 and further testified as follows:

Mr. Hannis is an experienced criminal law practitioner, first in the United States beginning in 1981 and, since 2001, in the international arena. Mr. Hannis testified credibly concerning his brief experience as a member of the Al Hassan team from March 2020

through May 2020. Notably, Mr. Hannis's testimony was largely corroborated by the account of Ms. Proulx, and his telling was also consistent with the testimony of other witnesses.

It is significant that Mr. Hannis's service on the Al Hassan team coincided with the onset of the COVID pandemic, as the cross-examination of Mr. Hannis and the testimony of some other witnesses supports the inference that Mr. Hannis was terminated from the Al Hassan team due to COVID restrictions applicable to his age cohort and his inability to adequately function in the remote work environment which spontaneously came into existence in the Spring of 2020. However, Mr. Hannis's direct testimony strongly suggests that his termination was instead the direct consequence of two public disagreements with Ms. Taylor.

Mr. Hannis testified that, a few weeks after he joined the Al Hassan team, Ms. Taylor proposed a particular course of action to him and Ms. Proulx which, in his view and that of Ms. Proulx, amounted to the fabrication of trial evidence. Upon Ms. Proulx and Mr. Hannis voicing their reservations, however, that course of action was apparently abandoned.

Thereafter, in late May 2020, Ms. Taylor circulated a draft pleading to Ms. Proulx and Mr. Hannis which, in the view of Mr. Hannis, was "highly aggressive" and accused the Al Hassan prosecution of acts of misconduct and malfeasance. Mr. Hannis agreed with Ms. Proulx that the draft was inappropriate and should not be filed without extensive revision. According to Mr. Hannis's recollection, Ms. Taylor did not discuss the pleading any further but, on the very next day, Ms. Taylor advised Mr. Hannis by telephone that she was going to remove him from the team. Although shocked by the first termination of his lengthy legal career, Mr. Hannis nonetheless testified to a sense of relief, as he "could not see how [he] could participate in such a long and serious trial with a superior who seemed so short-tempered, stubborn and unfair."

Testimony of Ms. Kirsty Sutherland:

Upon examination by the Commissioner, Ms. Carter and the members of the Disciplinary Board, Ms. Sutherland adopted her written statement of 24 July 2023 and further testified as follows:

While Ms. Sutherland's tenure with the Al Hassan team — October 2020 through February 2022 — did not overlap with that of Ms. Proulx, we nonetheless note that the testimony of each of these two witnesses is strikingly consistent in terms of the working conditions and environment which each described. According to Ms. Sutherland, her tenure as Associate Counsel on the Al Hassan team, like that of Ms. Proulx, was marked by Ms. Taylor's opaque and "mercurial" decision-making, her steadfast resistance to

delegation and collaboration and, in the end, by Ms. Sutherland's systematic marginalization from the work of the rest of the Al Hassan team.

Ms. Sutherland related one particular anecdote from several months into her tenure which she claimed was emblematic of Ms. Taylor's capricious decision-making and management style. In sum, the Al Hassan team had been tasked by Ms. Taylor with drafting arguments premised upon a particular legal principle —theory X — while Ms. Sutherland advocated for application of a related, but altogether different, theory Y. According to Ms. Sutherland, her "repeated suggestions" to pursue theory Y were met with belligerence by Ms. Taylor and, as per Ms. Taylor's directive, the team dutifully proceeded to craft an argument premised on theory X while Ms. Taylor appeared in court. Upon her return, however, Ms. Taylor openly castigated the team for not drafting an argument premised on theory Y. According to Ms. Sutherland, it became "standard practice" for the team to memorialize Ms. Taylor's instructions verbatim in the expectation that Ms. Taylor would later change course and disclaim her own prior instructions.

On the issue of delegation and collaboration, Ms. Sutherland related her reasonable expectation — borne of her personal experience in other defense teams — that she would be tasked with a level of team oversight which would be commensurate with her role as Associate Counsel. That expectation was quickly dashed, however, and Ms. Sutherland's testimony and contemporaneous notes demonstrate that she felt purposely excluded from "important case management and decision-making processes" within months of her appointment. Ms. Sutherland's perceived exclusion was compounded by what she characterized as Ms. Taylor's "course of conduct designed to humiliate and publicly undermine" her, manifested in contemptuous "sighs and eye rolls" and repeated instances where Ms. Taylor would castigate or contradict Ms. Sutherland in the company of other team members or would micromanage Ms. Sutherland's performance of routine administrative tasks.²

In our view, Ms. Sutherland testified credibly concerning not only her time on the Al Hassan team, but also as to the deleterious consequences that such service had upon her physical and emotional well-being. Her often-emotional testimony made clear that, while her service on the case was intolerable almost from its inception, she endured until January 2002 out of a sense of professional duty to her client and only applied to withdraw following the conclusion of the prosecution case and upon the advice of her bar ethics

² Notably, like Ms. Proulx, Ms. Sutherland also recounted her perceptions of Ms. Taylor's mistreatment of other, nontestifying team members.

counsel.³ We also note that, in the February 2022 order granting Ms. Sutherland leave to withdraw, a Single Judge of Trial Chamber X pointedly observed that her withdrawal was the fifth withdrawal of an Associate Counsel in the Al Hassan matter in less than two years, a circumstance which the Single Judge found "troubling."

The Board also takes note of the emotional tenor of Ms. Sutherland's statement and testimony. It was clear that Ms. Sutherland was not eager to put her experience on the record, and she herself admitted considerable reticence to display the emotions which her retelling invariably put on display. Nonetheless, Ms. Sutherland testified convincingly about the unprecedented nature of her experience on the Al Hassan team and bravely acknowledged the degree to which her experience had shaken her professional confidence, a confidence which she only regained after "several months and encouragement from senior international and domestic judges and colleagues."

Testimony of Ms. Cécile Lecolle:

Upon examination by the Commissioner, Ms. Carter and the members of the Disciplinary Board, Ms. Lecolle adopted her written statement of 15 June 2023 and further testified as follows:

Ms. Lecolle joined the Al Hassan team in March 2022, notwithstanding her apprehension at working with Ms. Taylor due to her previous "extremely difficult" interactions with Ms. Taylor in another matter in 2014-2015. At the time that she joined the Al Hassan team, however, Ms. Lecolle was unaware that an investigation of Ms. Taylor's conduct was underway in the wake of Ms. Sutherland's withdrawal.

Upon joining the Al Hassan team, Ms. Lecolle was tasked with primary responsibility for drafting the Pre-Defence Brief which was due for filing in a few weeks. Ms. Lecolle testified that, on the day before the Brief was to be filed, she was confronted by a frantic Ms. Taylor expressing dismay that the Brief would not be completed in time, despite Ms. Lecolle's reassurances to the contrary. Ms. Taylor presented no constructive proposals for timely completion of the pending brief, however, and, in the view of Ms. Lecolle, Ms. Taylor's "only intention" was to convey an impression that Ms. Lecolle had failed. Ultimately, Ms. Lecolle and others on the team timely completed the brief despite Ms. Taylor's criticism, but the lasting impression upon Ms. Lecolle had been that Ms. Taylor had "been both unfair and unprofessional."

³ On the second day of Ms. Sutherland's testimony, this Board took the extraordinary step of engaging in direct questioning of Ms. Taylor in order to provide confirmation and context to Ms. Sutherland's testimony. In the context of that examination, Ms. Taylor requested the opportunity to apologize to Ms. Sutherland personally. In our view, however, Ms. Taylor's ensuing passive statement, "I'm sorry for what you have gone through," failed to acknowledge any personal responsibility for Ms. Sutherland's suffering.

Ms. Lecolle, like Ms. Sutherland and Proulx before her, also testified convincingly as to the general tenor of the workplace under Ms. Taylor's leadership and the treatment of Al Hassan team members by Ms. Taylor. As stated by Ms. Lecolle:

"[T]here would often be something that [Ms. Taylor] would be unhappy or stressed about. She would react by becoming very tense, would look down on my colleagues or me, and would become outwardly hostile. This manifested in the tone of her voice, in the way she looked at us, in the way she stopped interacting with us for a day or so, in the way she gave our usual work to someone else on the team, in the way she laughed at our proposals with disdain. . . . I observed that she treated my colleagues the same way, and I saw them becoming extremely stressed, angry, distressed or even reduced to tears. When she exhibited this behavior either towards my colleagues or me, it would effect the whole team. We would all feel the tension and witness the inappropriate behavior, and watch as the person targeted would feel diminished, bullied, unworthy and/or distressed. . . . Often, the way that [Ms. Taylor] talked to me would make me feel as though I was either very stupid, or a child. I found this extremely difficult to cope with. However, she would then act nice again, and I would feel that maybe I had exaggerated the situation, that it was my fault, or that I had probably been tired and shouldn't overreact. I knew that this situation was not normal, but I convinced myself that I could handle it and could remain strong."

Ms. Lecolle's endurance lasted until early January 2023 when, following a dispute with Ms. Taylor over remote work during the holiday period, Ms. Lecolle tendered her resignation by correspondence to Ms. Taylor. Therein, Ms. Lecolle related that Ms. Taylor's "ways of leading, commanding and supervising the team" had caused "a lot of individual suffering" which Ms. Lecolle could no longer ignore. Accordingly, Ms. Lecolle resigned "in the interests of [her] personal health and . . . professional career development." The Board further notes that, when questioned about the drafting of her statement, Ms. Lecolle described it as a difficult process which, after a great deal of procrastination, caused her to revisit a traumatic and painful episode of her professional career.

Testimony of Mr. Mohammed Youssef:

Upon examination by Ms. Carter, the Commissioner and the members of the Disciplinary Board, Mr. Youssef adopted his written statement of 10 April 2024 and further testified as follows:

Mr. Youssef has known Ms. Taylor since 2012 and was a member of the Al Hassan defense team from April 2018 through the end of November 2023, although he indicated during questioning by members of the Disciplinary Board that he was frequently away

from the rest of the Al Hassan team on 10-15 missions which took place between 2019 and 2021.

In both his written statement and testimony before the Board, Mr. Youssef spoke in broad terms about the organization of the Al Hassan team, the work responsibilities of the various team members and the reasons therefore. He also spoke at length about the stresses attendant to defense work at the ICC generally, offering that any tumult on the Al Hassan team was less about Ms. Taylor's leadership and was instead ascribable to institutional shortcomings such as a chronic lack of defense resources and various personnel policies which "demonstrated a clear disregard for family and personal life." While acknowledging that Ms. Taylor was an imperfect leader, he nonetheless lauded her efforts on behalf of Al Hassan team members, specifically noting the availability of paid leave, "full pay for all team members" and professional development training and Ms. Taylor's efforts at securing same.

However, the Board also notes that Mr. Youssef's written statement — which was admittedly crafted with the assistance of Ms. Taylor's counsel on the eve of the instant disciplinary hearing — often reads as a point-by-point rebuttal of the statements of other witnesses. Among other statements, Mr. Youssef offers his opinion as to the rationale for the termination of Mr. Hannis and provides an explanation for withdrawals of Ms. Sutherland, Ms. Proulx and others which is contrary to the statements of those witnesses themselves. Mr. Youssef's testimony provides the impression that he was afforded a greater degree of autonomy than certain of his colleagues, and there is also the unfortunate suggestion in Mr. Youssef's statement that others simply lacked the fortitude to endure the adversity which was a natural consequence of defense work at the ICC. While it is unsurprising that a statement offered in Ms. Taylor's defense would offer her absolution at every turn, the Board notes that Mr. Youssef's current statement is often odds with the more critical statements which he made to his colleagues contemporaneous with events as they unfolded. The Board has accordingly chosen to ascribe little weight to the statement and testimony of Mr. Youssef.

Testimony of Ms. Havneeth Kaur Sethi:

Upon examination by Ms. Carter, the Commissioner and the members of the Disciplinary Board, Ms. Sethi testified as follows:

The Board also ascribes little weight to the testimony of Ms. Sethi, who did not join the Al Hassan team until August 2022 and thereafter worked exclusively in a remote capacity and admittedly could not speak to the atmosphere at the team's offices in The Hague. She also offered little insight into the circumstances concerning the withdrawals of her colleagues. Nonetheless, the Board notes that Ms. Sethi characterized Ms. Taylor as "empathetic" and the "most welcoming" counsel that she has worked with and, like Mr. Youssef before her, Ms. Sethi lauded Ms. Taylor's efforts on behalf the ICC workforce,

specifically noting that Ms. Taylor personally took a pay cut to ensure that staff were retained during the reduction period at the conclusion of the Al Hassan case.

Testimony of Mr. Iain Edwards:

Upon examination by Ms. Carter, the Commissioner and the members of the Disciplinary Board, Mr. Edwards testified as follows:

Mr. Edwards joined the Al Hassan team in a limited role in October 2021 and thereafter served for four months, until February 2022. A longtime acquaintance of both Ms. Taylor and her spouse, he expressed “no concern” with Ms. Taylor’s management style — which he described as “hands on” yet “collaborative” — and indicated that he “was treated with respect and received good direction on what was required of him.” Mr. Edwards also offered his opinion on defense team dynamics, stressing the ultimate responsibility of Lead Counsel and emphasizing that an effective defense team is collaborative, but “not a democracy.” While Mr. Edwards’s testimony was generally favourable to Ms. Taylor, given the limited role and duration of his involvement on the Al Hassan team, he offered little meaningful insight into the circumstances of various team members’ withdrawal. However, we do note that, upon questioning by members of the Board concerning the circumstances of Mr. Hannis’s withdrawal, Mr. Edwards acknowledged that he would agree with Ms. Proulx and Mr. Hannis, in that he would not pursue a trial strategy which involved the fabrication of trial evidence.

Testimony of [REDACTED]:

Upon examination by Ms. Carter, the Commissioner and the members of the Disciplinary Board, [REDACTED] testified as follows:

A longtime Case Manager on the Al Hassan team from [REDACTED] through [REDACTED], [REDACTED] generally testified as to the productive working environment of the team, notwithstanding the inherent stresses of the work itself. Although [REDACTED] admitted that he observed other Al Hassan team members “in tears” at various points, like others who testified in Ms. Taylor’s defense, [REDACTED] underscored certain institutional constraints, such as lack of staffing and funding, as the primary contributors to difficult team dynamics.

Statement of Ms. Melinda Taylor:

Upon the close of the proof, Ms. Taylor addressed the Board directly and, to her immeasurable credit, she acknowledged her own shortcomings, particularly in terms of communication, listening to others, her need to be “right,” and her inability to foster effective team collaboration. She also acknowledged her “unhelpful” stress response, particularly as it played a role in the brief-drafting incident described by Ms. Lecolle. Ms. Taylor also emphasized her continuing efforts on behalf of the rights of ICC workers. Importantly, through the closing argument of her counsel, Ms. Carter, Ms. Taylor also acknowledged that the testimony of the witnesses at the hearing had made clear to her that

her actions had been more damaging to her team members than she had previously understood. The Disciplinary Board has found these expressions of regret and newfound understanding to be sincere and credible.

IV. Decision:

Findings of the Disciplinary Board

The Disciplinary Board has fully considered the testimony of the witnesses at the hearing before the Board of 15-18 April 2024, including the witnesses' explicit adoption of their prior statements provided to the Commissioner and to Ms. Taylor in furtherance of her defense. The Board has further considered the statements of Ms. Taylor at the hearing and the arguments of the Commissioner and of Ms. Carter, as counsel to Ms. Taylor. In consideration thereof, and following full deliberation, the Board finds as follows:

- Ms. Taylor acted disrespectfully and discourteously in her relations with persons involved in the Al Hassan proceeding in violation of section 7 (1) of the Code of Professional Conduct for counsel;
- Ms. Taylor failed to take all necessary steps to ensure that her actions (1) did not prejudice the proceedings in the Al Hassan matter and, and (2) did not bring the International Criminal Court into disrepute in violation of section 24 (1) of the Code of Professional Conduct for counsel;
- In her role as lead counsel in the Al Hassan matter, Ms. Taylor failed to perform her duties before the International Criminal Court with integrity, honor and conscientiousness, and is therefore in violation of the Solemn undertaking she has undertaken as counsel pursuant to article 5 of the Code of Professional Conduct for counsel.

The Disciplinary Board has additionally concluded that Ms. Taylor's conduct is not in violation of article 16 (3) of the Code of Professional Conduct for counsel. Further, in accord with the prior Board decision in *Matter of Paul Djunga*, the Disciplinary Board holds that Administrative Instruction Ref. ICC/AI/2022/003 is applicable to the employees of the International Criminal Court but does not apply to counsel in the position of Ms. Taylor, who serve as independent contractors.

Sanction

In determining the appropriate disciplinary sanction pursuant to article 42 of the Code of Professional Conduct for counsel, the Disciplinary Board has considered the deleterious impacts of Ms. Taylor's conduct upon the various members of the Al Hassan

team, including the fact that such conduct had a negative effect upon the physical, emotional, psychological and professional well-being of various members of the Al Hassan team. However, the Board has also considered Ms. Taylor's acceptance of responsibility — however belated — in her statements before the Board, including her acknowledgement of her personal shortcomings as a manager and team leader. The Board has further considered Ms. Taylor's demonstrated advocacy to improve the working conditions on behalf of all International Criminal Court staff, and in particular, the staff who work in the capacity of the defense. Accordingly, the Disciplinary Board has determined that it is appropriate to adjourn consideration of the disciplinary sanction to be imposed for a period of one year, upon the following conditions:

1. On or before 18 April 2025, Ms. Taylor shall issue a public statement and personal letters of apology — on notice to the Commissioner and the Secretariat — to Ms. Kirsty Sutherland, Ms. Cécile Lecolle, Mr. Thomas Hannis and Ms. Marie-Hélène Proulx, and to any other individuals she deems appropriate.
2. On or before 18 April 2025, Ms. Taylor shall undertake professional development training of her choosing in the following areas or disciplines; Human Resources, stress management, interpersonal communications and personnel management.
3. The Board further recommends that Ms. Taylor engage the services of mental health professionals and/or therapists, and to follow the recommendations thereof, in order to assist her in insuring that her conduct will not be repeated.
4. The Disciplinary Board further directs Ms. Taylor to provide the Secretariat with a quarterly report, beginning 18 July 2024, concerning her compliance with the aforementioned conditions (1)-(3).

The Disciplinary Board will reconvene on a date to be determined after 18 April 2025, in the presence of Ms. Taylor, her counsel and the Commissioner, to determine the disciplinary sanction to be imposed, if any, upon consideration of each of the aforementioned conditions.

Ms. Taylor is further advised of her right to appeal this Decision of the Board pursuant to article 43 of the Code of Professional Conduct of counsel within 30 days of the date on which the written copy of this Decision is delivered.

[This decision was delivered orally at the conclusion of the hearing on 18 April 2024.]

The Hague, 18 April 2024.

Mr. Vincent Asselineau



Mr. Etienne Rosenthal



Mr. Sean Morton

