15. A %ase management d$s%uss$on 4as !e#d on 16 De%em9e' 2015& 4!e'e t!e T'$9una# !ea'd t!e "a't$es6 1$e4s& inter alia& on t!e "oss$9#e a""#$%at$on o a't$%#e 20 o t!e T'$9una#6s Au#es o P'o%edu'e. >o##o4$ng t!$s d$s%uss$on& 93 ('de' No. 264 +GVA/2015. o 22 De%em9e' 2015& t!e T'$9una# dete'm$ned t!at

"'o%esses-D t!$s "assage su""o'ts t!at t!e T'$9una#s !a1e <u'$sd$%t$on to $nte'1ene 4!en t!e Adm$n$st'at$on does not ad!e'e to $ts $nte'na# "'o%essesD

d. Powell 20125UNAT52=5 'u#ed t!at on#3 #$m$ted due "'o%ess '$g!ts a""#3 du'$ng t!e "'e#$m$na'3 $n1est$gat$on. T!e '$g!t to a ,du#3 aut!o'$:ed& $m"a't$a# and $nde"endent $n1est$gat$on and de%$s$on5ma;e'- $s "a't o t!ese #$m$ted due "'o%ess '$g!tsD

e. T!e /D/(AJ #a%;s aut!o'$t3 to a""o$nt a a%t5 ndng "ane# 9e%ause t!e A""#$%ant no #onge' se'1es $n t!e)e%'eta'$at. @e 'etu'ned to UN@CAH 'om 4!e'e !e !ad 9een se%ondedHa te' t!e UNAT Judgment 4as $ssued 9ut 9e o'e t!e ne4 a%t5 ndng "ane# 4as a""o$nted. T!$s a%t st'$""ed t!e /D/(AJ o !e' <u'sd%t$on $n 'e#at$on to t!e A""#$%ant. @en%e& at t!e t$me o t!e %ontested de%$s$on& t!e /D/(AJ !ad no aut!o'$t3 to a""o$nt t!e a%t5 ndng "ane#& and (@A2 4ou#d !a1e no aut!o'$t3 to ta;e an3 u't!e' a%t$on o##o4$ng t!e "ane#6s $n1est$gat$on& "a't$%u#a'#3 o a d$s%$"#$na'3 natu'eD

. Unde' a't$%#e 11 o t!e A""ea#s T'$9una#6s)tatute& t!e ('gan$:at$on %ou#d& and s!ou#d& !a1e soug!t 'e1$s$on o t!e <udgment on t!e g'ounds o t!e d$s%o1e'3 o a de%$s$1e a%t un;no4n at t!e t$me o t!e <udgment name#3& $n t!$s %ase& t!e A""#$%ant6s se"a'at$on& o' e#se $ts 'e1$s$on& as a means o %#a'$ $%at$onD

g. B t!e $n1est$gat$on $s not %a''$ed out $n a%%o'dan%e 4$t!)T/)G7/2008/5& $ts out%ome and 1a#$d$t3 ma3 9e %!a##enged& $n 4!$%! %ase t!e A""#$%ant 4$## !a1e to unde'go t!e same "'o%ess o' a t!$'d t$meD

!. T!e a%t5 ndng "ane#6s %om"os$t$on $s $m"'o"e'. Bt $s %om"osed o t4o nd1$dua#s 4!o a'e on t!e 'oste' o (@A2 9ut 4!o a'e no #onge' UN sta mem9e's& as t!e3 'et$'ed& and a'e 'e"o'ted#3 !o#d$ng a %onsu#tan%3 o' ,4!en a%tua##3 em"#o3ed- %ont'a%tD

$.

30. /1en $ t!e T'$9una#& us$ng $ts ,$n!e'ent "o4e' to nd1$dua#$:e and de $ne t!e adm$n$st'at$1e de%$s$on $m"ugned I and $dent$ 3 4!at $s $n a%t 9e$ng %ontested- +**%**assabni 20125UNAT5238.& 4as to $nte'"'et t!e %ontested de%$s$on $n a #a'ge' manne' and unde'stand t!at t!e A""#$%ant 'at!e' meant to ta;e $ssue 4$t! t!e a%t o #aun%!$ng a ne4 $n1est$gat$on on t!e a##egat$ons aga$nst !$m& t!e #atte' 4ou#d st$## 9e s$m"#3 a "'e"a'ato'3 ste". Bndeed& $n Nguyen-Kropp & Postica 20155UNAT550= +"a'a. 31.& t!e A""ea#s T'$9una# ound t!at aut!o'$s$ng o' #aun%!$ng an $n1est$gat$on 4as a "'e"a'ato'3 a%t& as o##o4s?

> Gene'a##3 s"ea;$ng& a""ea#s aga$nst a de%$s$on to nt$ate an $n1est$gat$on a'e not 'e%e$1a9#e as su%! a de%$s$on $s "'e#$m$na'3 $n natu'e and does not& at t!at stage& a e%t t!e #ega# '$g!ts o a sta mem9e' as 'eCu$'ed o an adm$n$st'at$1e de%$s$on %a"a9#e o 9e$ng a""ea#ed 9e o'e t!e D$s"ute T'$9una#.

31. Not4$t!stand$ng t!$s Cu$te %#ea' o'mu#at$on o t!e "'$n%$"#e& t!e A""#$%ant %ontends t!at t!e use o t!e e0"'ess$on ,gene'a##3 s"ea;$ng- suggests t!e e0$sten%e o e0%e"t$ons to $t. @e u't!e' notes t!at Nguyen-Kropp & Postica "u'sues stat$ng +"a'a. 32.?

> T!$s a%%o'ds 4$t! anot!e' gene'a# "'$n%$"#e t!at t'$9una#s s!ou#d not $nte' e'e 4$t! t!e matte's t!at a## 4$t!$n t!e Adm$n$st'at$on6s "'e'ogatR17 11.28 T f D9874 6( )-37.787 a
($436(e)-3.66637 2 29(e)6.99348( )-389.5 2 4)-9.78436(a)-3.66653(t)0.87 4349($)0.87 4341(u)-0.960 2 2 1991(89 2 7(

.641(2.69849(n)00.960 2 21(1)9..960 2 21(

34. T!e T'$9una# notes t!at $t $s e0"e%ted to ,'e%ogn$:e& 'es"e%t and a9