

In the Matter of Sociedad Química y Minera de Chile, S.A. (2017) In the Matter of Patricio Contesse González (2018)

Nature of the Business.

Sociedad Química y Minera (“SQM”) is a multinational mining and chemical company headquartered in Santiago, Chile. Shares of SQM, in the form of American Depositary Receipts, are traded on the New York Stock Exchange and are registered with the Commission.

Patricio Contesse González, a Chilean citizen and resident, was SQM’s Chief Executive Officer from at least 1990 to March 2015.

Influence to be Obtained.

According to the SEC, from 2008 to 2015, SQM maintained a discretionary fund for use by the company’s CEO for, among other things, travel, publicity and advisory services for the office of the CEO. The fund ranged in value from \$3.3 million to \$5.7 million per year. The SEC claims that SQM allegedly failed to exercise proper due diligence, verification, or oversight of the discretionary fund to ensure that the account was used for proper and lawful purposes.

As a result, an SQM executive allegedly made approximately \$14.75 million in improper payments to Chilean politicians, political candidates and individuals connected to them. Most of the payments were allegedly made using fictitious documentation submitted to SQM by Chilean officials or individuals associated with them who posed as legitimate vendors to the company. According to the SEC, the payments were not supported by documentation that demonstrated that any services were provided in connection with the payments.

Enforcement.

On January 13, 2017, the SEC announced that it had resolved an FCPA enforcement action against SQM for violations of the books-and-records and internal controls provisions of the FCPA. According to the SEC’s order, SQM was required to pay a \$15 million civil penalty and engage an independent compliance monitor for a period of two years. On September 25, 2018, the SEC announced in a separate order that it had settled the FCPA action against Mr. Contesse González for alleged violations of the FCPA’s books-and-records and internal control provisions. He was required to pay a civil monetary penalty of \$125,000 pursuant to the settlement.

The DOJ separately resolved an FCPA enforcement action against the company wherein SQM agreed to pay approximately \$15 million in criminal penalties.

Key Facts

Citation. *In the Matter of Sociedad Química y Minera de Chile, S.A.*, Admin. Proc. File No. 3-17774 (Jan. 13, 2017); *In the Matter of Contesse González*, Admin. Proc. File No. 3-18839 (Sept. 25, 2018).

Date Filed. January 13, 2017 (SQM); September 25, 2018 (Contesse González).

Country. Chile.

Date of Conduct. 2008 – 2015.

Amount of the Value. Approximately \$14,750,000.

Amount of Business Related to the Payment. Not Stated.

Intermediary. Subcontractor.

Foreign Official. Unnamed Chilean politicians, political candidates, and associated individuals.

FCPA Statutory Provision. Books-and-Records; Internal Controls.

Other Statutory Provision. None.

Disposition. Cease-and-Desist Order.

Defendant Jurisdictional Basis. Issuer (SQM); Agent of Issuer (Contesse González).

Defendant’s Citizenship. Chilean.

Total Sanction. \$15,000,000 (SQM); \$125,000 (Contesse González).

Compliance Monitor/Reporting Requirements. None.

Related Enforcement Actions. *United States v. Sociedad Química y Minera de Chile, S.A.* (deferred prosecution agreement).

Total Combined Sanction. \$30,487,500.