

United States v. Sociedad Química y Minera de Chile, S.A. (D.D.C. 2017)

Nature of the Business.

Sociedad Química y Minera de Chile ("SQM") is a Chilean chemical and mining company with sales offices around the world. SQM trades its shares in the form of American Depositary Receipts on the New York Stock Exchange.

Influence to be Obtained.

According to the DOJ, from 2008 to 2015, SQM maintained a discretionary fund worth between \$3.3 million and \$5.7 million each year for use by the company's CEO. The funds budgeted for the CEO's discretionary fund were allegedly designated within SQM's accounting system as being intended for payment of, among other things, the CEO's travel, certain SQM publicity efforts, and consulting and advisory services deemed necessary by the CEO. The DOJ claims that the company failed to maintain internal accounting oversight of the fund to ensure that the fund was used in accordance with applicable law and properly recorded on the company's books and records. As a result, the DOJ alleges that an SQM executive used the discretionary fund to make direct payments of approximately \$14.75 million to Chilean politicians, political candidates, and individuals connected to them.

Enforcement.

On January 13, 2017, the DOJ announced that it had entered a deferred prosecution agreement with SQM. According to the agreement, SQM agreed to pay a \$15,487,500 criminal penalty as a result of alleged violations of the FCPA's books-and-records and internal controls provisions. In addition to the criminal penalty, SQM agreed to work with an independent monitor for two years.

On the same day, the SEC separately announced that it had resolved an FCPA enforcement action against SQM in which the company agreed to pay an additional civil monetary penalty of \$15 million. On September 25, 2018, the SEC announced that it had settled an enforcement action against SQM's former CEO for violations of the FCPA's internal controls and books-and-records provisions, pursuant to which he must pay a civil monetary penalty of \$125,000.

Key Facts

Citation. *United States v. Sociedad Química y Minera de Chile, S.A.*, No. 1:17-cr-00013 (D.D.C. 2017).

Date Filed. January 13, 2017.

Country. Chile.

Date of Conduct. 2008 – 2015.

Amount of the Value. Not Stated.

Amount of Business Related to the Payment. Not Stated.

Intermediary. None.

Foreign Official. Unnamed Chilean politicians, political candidates, and individuals connected to them.

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

Other Statutory Provision. None.

Disposition. Deferred Prosecution Agreement.

Defendant Jurisdictional Basis. Issuer.

Defendant's Citizenship. Chile.

Total Sanction. \$15,487,500.

Compliance Monitor/Reporting Requirements. Compliance Monitor.

Related Enforcement Actions. *In the Matter of Sociedad Química y Minera de Chile, S.A.* (2017); *In the Matter of Contesse González* (2018).

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