

APR 17 2013

No.
Vancouver Registry



In the Supreme Court of British Columbia

Between:

Napoleón Gómez Urrutia, and

Sindicato Nacional de Trabajadores Mineros, Metalúrgicos, Siderúrgicos y Similares de la
República Mexicana (SNTMMSRM) (a.k.a: Los Mineros or National Mine, Metal, and Steel
Workers Union of Mexico)

Plaintiffs

and:

Grupo Mexico, S.A.B. de C.V.,

German Feliciano Larrea Mota-Velasco, Oscar Gonzales Rocha, Eduardo García Puebla, Garcia
Puebla Consultores, Elias Morales Hernandez, Miguel Castilleja Mendiola and José Martin
Perales Lozano

Defendants

NOTICE OF CIVIL CLAIM

This action has been started by the Plaintiffs for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the Plaintiffs.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the Plaintiffs and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the Plaintiffs,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFFS

Part 1: STATEMENT OF FACTS

A. PARTIES

Napoleón Gómez Urrutia

1. The Plaintiff Napoleón Gómez Urrutia ("**Gómez Urrutia**") is a citizen of Mexico and a permanent resident of Canada, who currently resides in British Columbia. Gómez Urrutia is an international labour leader. He has served and continues to serve as the Secretary General of Sindicato Nacional de Trabajadores Mineros, Metalúrgicos Siderúrgicos y Similares de la República Mexicana, also known as Los Mineros or the National Mine, Metal, and Steel Workers Union of Mexico (the "**Miners Union**") since his election in 2002. He was reelected Secretary General in 2008 and in 2012. In 2012, he was also unanimously elected President of the Miners Union.
2. Gómez Urrutia was trained in economics at the University of Oxford where he obtained his master's degree in economics. He also began his doctoral studies at Oxford. He graduated with honours from the Department of Economics at the National Autonomous University of Mexico. Prior to becoming the Secretary General of the Miners Union, Gómez Urrutia served as Director General of the Mexican National Mint from 1979 to 1992, and served as the International President of the Mint Directors Conference, the global national mint coordinating organization, a position he held from 1986 to 1988.
3. Gómez Urrutia was the 2011 recipient of the prestigious American Federation of Labour/Congress of Industrial Organizations prestigious International Meany-Kirkland

Human Rights Award and in the same year was also nominated for the Edelstam Prize in Sweden and Norway's Arthur Svensson International Prize for Trade Union Rights.

4. From May 2005 to May 2012, Mr. Gomez was a member of the International Executive Committee of the International Metalworkers Federation ("IMF"), based in Geneva, Switzerland.
5. In June 2012, Gómez Urrutia was unanimously elected to the Executive Committee of the IndustriALL Global Union, a new international labour federation created at that time by the merger of the IMF, the International Federation of Chemical, Energy, Mine and General Workers Unions and the International Textile, Garment and Leather Workers Federation. IndustrialAll represents more than 50 million members from 140 countries and is based in Geneva, Switzerland.

The Miners Union

6. The Plaintiff Miners Union has an address at Doctor Vértiz No. 668, Col. Narvarte Deleg. Benito Juárez, C.P. 03020, México, D.F. The Miners Union has 290,000 members (active and retired) in Mexico, of which approximately 6,400 are current employees of Grupo Mexico S.A.B. de C.V, one of the defendants. The Miners Union represents and advocates on behalf of its members to improve their working conditions including by negotiating collective bargaining agreements on their behalf with employers such as the Defendant Grupo Mexico S.A.B. de C.V. The Miners Union's national Secretary General is the Plaintiff Gómez Urrutia.

Grupo Mexico S.A.B. de C.V

7. The Defendant Grupo Mexico S.A.B. de C.V ("**Grupo Mexico**") is a holding company with an address at Campos Eliseos No. 400 Lomas de Chapultepec C.P. 11000, Mexico D.F. and whose main activities are in the mining-metallurgic industry, the exploration, exploitation, and benefit of metallic and non-metallic ores, multimodal freight railroad service, and infrastructure development. Grupo Mexico operates primarily in Mexico, Peru, and the United States, and it is one of the major copper producers in the world. Grupo Mexico is

listed on the Mexican Stock Exchange and is one of the most actively traded stocks on the exchange.

8. Along with the other Defendants, Grupo Mexico conspired to and did defame the Plaintiffs by funding, authorizing, inciting and/or encouraging the making and repetition of defamatory allegations and the spreading of them further afield.

German Feliciano Larrea Mota-Velasco

9. The Defendant German Feliciano Larrea Mota-Velasco ("**Larrea**") has an address at Campos Eliseos No. 400 Lomas de Chapultepec C.P. 11000, Mexico D.F. and was at all material times the Chairman of the Board of Directors, President and Chief Executive Officer of Grupo Mexico. Larrea was previously Executive Vice Chairman of Grupo Mexico and has been a member of the Board of Directors since 1981.
10. Larrea is also Chairman of the Board of Directors and Chief Executive Officer of Empresarios Industriales de Mexico, S.A. de C.V. (holding), Compañía Perforadora Mexico, S.A. de C.V., (a drilling company), Mexico Compañía Constructora, S.A. de C.V. (a construction company) and Fondo Inmobiliario (a real estate company). Larrea has also been Chairman of the Board of Directors and Chief Executive Officer of Grupo Ferroviario Mexicano S.A. de C.V (a railroad company) since 1997.
11. Larrea also founded Grupo Impresa, a printing and publishing company in 1978, remaining as the Chairman and Chief Executive Officer until 1989 when the company was sold. He is also a member of the Board of Directors of Banco Nacional de Mexico, S.A. (Citigroup), which forms part of Grupo Financiero Banamex, S.A. de C.V., Consejo Mexicano de Hombres de Negocios, and of Grupo Televisa, S.A.B (a television company).
12. Along with the other Defendants, Larrea conspired to and did defame the Plaintiffs by funding, authorizing, inciting and/or encouraging the making and repetition of defamatory allegations and the spreading of them further afield.

Oscar Gonzales Rocha

13. The Defendant Oscar Gonzales Rocha ("**Rocha**") was at all material times the Chief Executive Officer of Grupo Mexico. He has an address at Campos Eliseos No. 400 Lomas de Chapultepec C.P. 11000, Mexico D.F.
14. Along with the other Defendants, Rocha conspired to and did defame the Plaintiffs by funding, authorizing, inciting and/or encouraging the making and repetition of defamatory allegations and the spreading of them further afield.

Elias Morales Hernandez, Miguel Castilleja Mendiola and José Martin Perales Lozano

15. The Defendant Elias Morales Hernandez ("**Morales**") is a former member of the Miners Union's executive committee. Morales was expelled from the Miners Union at the May 2001 Miners Union National Convention further to an internal investigation undertaken by the Miners Union's Justice and Honour Committee which found that Morales had been passing confidential information from Miners Union meetings to Grupo Mexico. Morales is a former employee of Grupo Mexico and at all material times has had close ties with Larrea, Rocha and other executives of Grupo Mexico.
16. The Defendant Miguel Castilleja Mendiola ("**Castilleja**") was also a member of the Miners Union and an employee of Grupo Mexico. He was expelled from the Miners Union on April 9, 2002 for soliciting members of the Miners Union to join another dissident union and for passing confidential Miners Union information to Grupo Mexico.
17. The Defendant José Martin Perales Lozano ("**Perales**") was also a member of the Miners Union and an employee of Grupo Mexico. He was expelled from the Miners Union on 16 October, 2001 for soliciting members of the Miners Union to join another dissident union and passing confidential Miners Union information to Grupo Mexico.
18. Morales, Castilleja and Perales were disaffected former members of the Miners Union who, in consort with the other Defendants, attempted to oust Gómez Urrutia as leader of the Miners Union and conspired with the other Defendants to and did fabricate criminal

accusations against Gómez Urrutia, which were defamatory of the Plaintiffs, as further described herein.

Garcia Puebla Consultores and Eduardo García Puebla

19. Garcia Puebla Consultores is a public relations firm operating out of Mexico City. Its principle is the Defendant Eduardo García Puebla. Garcia Puebla Consultores and/or Eduardo García Puebla were hired by Grupo Mexico and conspired with the other Defendants to defame and did defame the Plaintiffs by assisting the other Defendants to attempt to conceal the fact that they initiated and paid for a relentless and continuous campaign to disseminate and perpetuate the fabricated criminal allegations through a variety of media channels and by a variety other means.
20. Eduardo García Puebla (“**Garcia Puebla**”) is the principle of Garcia Puebla Consultores. Garcia Puebla was hired by the Defendant Grupo Mexico and/or Larrea and, along with the other Defendants, conspired to defame and did defame the Plaintiffs.
21. Along with the other Defendants, Garcia Puebla Consultores and Garcia Puebla conspired to and did defame the Plaintiffs by assisting, funding, authorizing, inciting and/or encouraging the making and repetition of defamatory allegations and the spreading of them further afield.

B. NATURE OF THE CLAIM

22. The facts pleaded herein demonstrate how the Defendants conspired to and did defame the Plaintiffs by maliciously bringing false accusations of a serious criminal offence to the *Procuraduria General de la Republica* (“**PGR**”) (the equivalent of the public prosecutor’s office in Canada) against the Plaintiff Gómez Urrutia, all the while knowing that the accusations were false and knowing that in accordance with Mexican law, if charged, Gómez Urrutia would not be granted bail upon the issuance of a warrant for his arrest and would therefore be jailed at least until the end of his trial, which trial could take years to even begin. In furtherance of the conspiracy to maliciously defame the Plaintiffs, the Defendants knowingly went forward to make false accusations, which caused warrants to be issued for the arrest of Gómez Urrutia, forcing him into exile in Vancouver, British Columbia.

23. The accusations leveled against Gómez Urrutia by the Defendants are entirely baseless and brought for the sole purpose of injuring the Plaintiffs' reputation, harming the Plaintiffs and attempting to break the Miners Union. The false accusations are profoundly malicious and were motivated by a desire for financial profits by means of reducing the health, safety and labour costs of Grupo Mexico so as to ultimately artificially increase Grupo Mexico's operational profits.
24. Although it is difficult to predict what manipulations the Defendants may engage in to fabricate other charges, as of the date of the claim, all of the outstanding warrants for the arrest of Gómez Urrutia have now been formally dismissed by the Mexican courts. The baseless nature of the accusations is also attested to by the fact that notwithstanding persistent diplomatic efforts by the Government of Mexico, Canada has refused to initiate extradition proceedings against Gómez Urrutia, as the Defendants' accusations were found by Canada to be without merit.
25. Moreover, Interpol has deleted an international arrest warrant for Gómez Urrutia, which had been requested by the Government of Mexico on the basis that "*information recorded concerning him [Gómez Urrutia] raised strong doubts concerning its compliance with INTERPOL's rules*".
26. The Defendants defamatory accusations were republished, read and viewed many times over in newspapers and on television, often paid for by the Defendants, and were republished and read in newspapers and on the internet accessible all over the world, including in British Columbia. The Defendants are responsible under defamation law in British Columbia for these republications. The Plaintiffs therefore seek general, aggravated, punitive, and special damages from the Defendants in libel, slander and injurious falsehood. The amount sought for punitive damages will be commensurate with the unprecedented nature of the Defendants' conduct: a malicious, relentless, well-funded effort to destroy a man, and the organization he leads, by the making of false accusations of grave criminality, all motivated by greed and the desire for profit.

C. BACKGROUND TO DEFAMATION

The Miners Union properly obtains 5% of a Grupo Mexico subsidiary

27. When, during a wave of privatizations in Mexico, Grupo Mexico bought the La Caridad and Cananea copper mines through its subsidiary Mexcobre Corp. (“**Mexcomb**re”) and Mexcananea Corp. (“**Mexcananea**”) from the Mexican government in 1988 and 1990 respectively, the Miners Union’s support for the purchases was fundamental to the privatization process. In exchange for backing Grupo Mexico and helping the privatization to be approved, politically and legally, the Government of Mexico and the Miners Union (prior to Gómez Urrutia joining the Miners Union) negotiated that 5% of the shares of Mexcobre and Mexcananea would pass to the Miners Union. Grupo Mexico never did deliver the shares to the Miners Union, but instead, 15 years later, and after protracted litigation, ultimately transferred to the Miners Union the 1990 share-value equivalent in cash: US\$55 million. This money was put into a trust to be administered by the Miners Union (the “**Trust**”).

Gómez Urrutia’s leadership of Miners Union

28. Since Gómez Urrutia assumed leadership of the Miners Union in 2002, the Miners Union has resolutely sought to defend the health, safety and economic interests of its membership. In the course of doing so, the Miners Union has conducted approximately twenty (20) strikes, all of which were legal, compared to three (3) in the previous decade and has achieved wage increases (albeit from a very low base) averaging approximately 12% to 14% per year, in comparison to an average of between 4% and 6% in the case of other unions.

Gómez Urrutia’s attempt at democratizing the Mexican Labour Congress

29. In early 2006, Gómez Urrutia joined forces with Isaías González Cuevas, the national general secretary of the Revolutionary Confederation of Mexican Workers, to campaign for the control, reform and democratization of Mexico’s Labor Congress; Mexico’s leading national amalgamation of unions. The Mexican Labour Congress has traditionally been criticized as too friendly to government and Mexican big business. The Labour Congress’ national leader at the time was Victor Flores Morales. On February 14, 2006, Isaías González Cuevas and Gómez Urrutia were elected to lead the Mexican Congress. On February 17, 2006, the Miners Union’s offices were vandalized and robbed by thugs who were intent upon intimidating Gómez Urrutia from assuming the leadership of the Mexican Labour Congress.

The agreement and plan to defame and the Defamatory Accusation

30. Gómez Urrutia's willingness to take his members on strike to advance their rights and his challenge of Flores Morales for the head of the Mexican Labour Congress combined to motivate the Defendants to initiate patently false criminal accusations against the Plaintiff Gómez Urrutia in an attempt to marginalize him and to ultimately break the Miners Union.
31. On or around 20 January 2006, the Defendants maliciously agreed to file a criminal complaint against Gómez Urrutia and other union leaders for allegedly misappropriating the US\$55 million in liquidated Mexcobre and Mexcananea shares that had been properly transferred to the Miners Union (the "**Defamatory Accusation**"). The Defendants knew that the Defamatory Accusation was false. A criminal complaint was filed by the Defendants Morales, Castilleja and Perales who were authorized, incited, assisted and/or encouraged to by the Defendants Grupo Mexico, Larrea, Rocha, Garcia Puebla and Garcia Puebla Consultores. A copy of the criminal complaint is attached hereto as **Schedule "A"** and incorporated by reference to this Notice of Civil Claim.
32. The Defamatory Accusation led to formal criminal charges being laid against the Plaintiff Gómez Urrutia and three (3) other Miners Union executives: specifically, Hector Felix Estrella, Juan Linares and José Angel Rocha. The essence of the Defamatory Accusation and the criminal charge against Gómez Urrutia and other Miners Union officials was that when they terminated the Trust on February 22, 2005 and transferred its assets to the Miners Union they committed fraud because the monies should instead have been distributed directly to some or all of the miners individually. The Defendants knew that this was not the case.
33. The Defamatory Accusation was later repeated and republished many times over in publications all over the world, including in British Columbia. **Schedule "B"** to this Notice of Civil Claim incorporates to this Notice of Civil Claim a sample of the print media articles that have repeated the Defamatory Accusation.
34. In addition, the Defendant Larrea, Rocha and Grupo Mexico, aided by the Defendants Garcia Puebla and Garcia Puebla Consultores, purchased journalistic, editorial and paid advertisements in many Mexican newspapers to repeat the Defamatory Accusation.

35. Moreover, the Defendant Larrea used his influence as a board member of one of the largest television companies in Mexico, Televisa, to influence Televisa to take an adversarial journalistic and editorial stance in regard to the Plaintiffs, which further spread afield the Defamatory Accusation and injurious falsehoods.
36. Furthermore, the Defendants Larrea and Grupo Mexico funded millions of dollars' worth of paid television programming to repeat the Defamatory Accusation and further spread afield the defamation and injurious falsehoods. Copies of such television programming are attached hereto and incorporated by reference to this Notice of Civil Claim at **Schedule "C"**.

Gómez Urrutia was illegally removed by the Government of Mexico then reinstated by the Mexican Courts as head of the Miners Union

37. On February 17 2006, Gómez Urrutia was illegally removed by the Mexican Secretary of Labour, Salazar Sáenz, as head of the Miners Union. The announcement of this removal occurred shortly after he demanded an investigation into the death of 65 workers after the Pasta de Conchos coal-mine explosion, which Gómez Urrutia called "industrial homicide", and which led to widespread industrial unrest. Miners, electricians, bus drivers, airline workers, teachers and farmers all marched to protest government interference in union activities.
38. Moreover, on February 17, 2006, the Labour Minister in the Mexican Government had secretly purported to sign over control of the Miners Union to the expelled Defendant Morales by granting him a *toma de nota*, although it did not announce the revocation of Gómez Urrutia's governmental recognition until February 28, 2006. A *toma de nota* is the legal instrument the Government of Mexico uses to sanction the leadership of a union.
39. Notwithstanding Mexico's illegal effort to strip Gómez Urrutia of his Miners Union authority, Gómez Urrutia nonetheless continued to act as the *de facto* leader of the Miners Union and continued to receive the support of an overwhelming majority of the Miners Union's members. At the Miners Union's convention in 2008, Gómez Urrutia was unanimously elected for another six-year term.

40. On May 2, 2012, the Supreme Court of Mexico ruled that the Mexican Government's refusal to recognize Gómez Urrutia's legal authority as the elected leader of the Miners Union was unlawful with the result that the Court ordered that the Secretary of Labor issue a *toma de nota* formally recognizing his leadership for the 2008-2014 term.

Gómez Urrutia accuses Grupo Mexico of "industrial homicide" in consequence of the Pasta de Conchos mine disaster that killed 65 miners

41. On February 19, 2006, the Pasta de Conchos coal mine in San Juan de Sabinas, State of Coahuila in Mexico, exploded, killing 65 workers, the majority of which were Miners Union members. Gómez Urrutia immediately flew to Coahuila, where he publicly accused Grupo Mexico of "industrial homicide". This allegation was justified as prior to the Pasta de Conchos mine explosion, the Miners Union had campaigned for the improvement of the Pasta de Conchos mine and had indeed gone on strike 14 times to protest the Defendant Grupo Mexico's refusal to review and address security and health issues within the mine.
42. Following the mine disaster, Grupo Mexico announced that rescue teams could not enter the mine due to high levels of methane gas, and on February 25, 2006, only six (6) days after the explosion, Grupo Mexico also announced that the rescue mission would be abruptly terminated. According to Grupo Mexico none of the sixty-five (65) trapped miners could have survived, especially given the fact that Grupo Mexico had only allotted each miner with one oxygen pack with the capability of providing only six hours of oxygen. Prior to halting the rescue effort, Grupo Mexico sought and was provided with a military blockade of the disaster site.
43. However, Grupo Mexico's decision to halt the rescue mission was made prematurely before obvious rescue options were explored. For example, no attempt was made to dig through preexisting air holes, as was done in Chile four (4) years later when 33 miners were rescued. Moreover, it was clear that Grupo Mexico did not have any effective disaster relief plan to deal with a catastrophic explosion of this nature.
44. On July 12, 2004, approximately nineteen (19) months prior to the explosion, the Government of Mexico initiated an inspection of the mine. Forty-eight (48) deficiencies were recorded within the three hours that the Government conducted the inspection.

45. Based on the results of this inspection, a Safety and Health Measures Order, signed by the Director of the Federal Labour Delegation in the State of Coahuila, was issued to the Defendant Grupo Mexico on September 12, 2005. The order required the Defendant Grupo Mexico to resolve thirty-four (34) of the forty-eight (48) deficiencies noted in the inspection record. The order also stated that six (6) of the recorded deficiencies needed to be remedied immediately in order to ensure that the lives of the workers were not placed at risk.
46. Deficiencies recorded at this initial inspection included high levels of methane gas in the mine, large quantities of highly combustible coal dust in the mine, as well as electrical, ventilation, and structural problems. Essentially, Grupo Mexico refused, despite numerous demands, to build a second tunnel that would serve two purposes instrumental to the safety and well-being of the miners: 1) it would have provided an emergency exit in the event that one entrance became blocked, and 2) it would have dramatically improved the air quality of the mine by allowing bad air to exit via one tunnel and good air to enter via another.
47. In follow-up investigations, the Mexican Geological Service concluded that a possible cause of the mine disaster included the fact that the mine was operating on a continuous basis at a higher capacity than recommended, resulting in carbon methane emissions reaching explosive levels. The Mexican Geological Service also concluded that the explosion may have been caused by the coal dust that had accumulated in the mining areas, and from poorly maintained equipment and the improper use of welding and cutting equipment in the mining area.
48. Following the disaster, the Director of Inspection Policies and the Assessment of the Federal General Directorate of the Labour Inspection ordered an extraordinary inspection of the general safety and health conditions in the mine. This inspection took place on March 3, 2006. The Defendant Grupo Mexico was ordered to provide documentation attesting to actions taken in regards to a number of safety and health requirements. The result of the order revealed that the Defendants had failed to demonstrate compliance with thirty-seven (37) of September 12, 2005 Safety and Health Measures Order.

The Defamatory Accusation is clearly false and made with knowledge that it was false

49. The Mexican Government's initial investigation of the Defamatory Accusation was carried out by the Federal Attorney General under a federal statute, which required a technical opinion (the "**Technical Opinion**") from the National Banking and Securities Commission (the "**CNBV**"). The issuance of a CNBV Technical Opinion confirming that a crime has occurred is a condition precedent to the commencement of a criminal prosecution in relation to such matters under Mexican law. In Gómez Urrutia's case, the Technical Opinion rendered by the CNBV on March 10, 2006, specifically stated the Plaintiffs' handling of the Trust did not violate Federal Law. Notwithstanding notice of this opinion, the Defendants nonetheless chose to continue their malicious unfounded accusations.

50. The Defendants, including Larrea, Rocha and Grupo Mexico and their proxies Morales, Castilleja and Perales, knew that their accusations that the Plaintiffs had committed a crime were false. Indeed, Larrea himself filed a petition to a Mexican bankruptcy court to correct a mistake made in a court document. The document had mistakenly stated that the 5% share capital was for the miners, individually, not for their authorized union. Larrea's petition clearly stated that the 5% share capital belonged to the Miners Union and not the miners individually. Specifically, the petition dated August 20, 1990, signed by Larrea, stated:

As can be noted in the comment presented by his Honor in subsection C of point VIII previously transcribed, there is a mistake since it says that the company I represent offered to deliver 5 percent of its share capital to the workers of the bankrupted company, when in fact the company I represent declared to offer the said percentage to the Union of Miner, Steel and Related Workers of the Mexican Republic, as Trust Beneficiary of the Trust established on November 14, 1988, with Multibanco Comermex S.N.C.
[emphasis added]

51. Upon receiving Larrea's petition, on August 30, 1990, a judge issued an order modifying the bankruptcy document to show that the assets belonged to the Miners Union, not to any particular group of workers.

52. Further to the Defamatory Accusation by the Defendants, Gómez Urrutia and his family received numerous death threats.

53. In consequence of the February 2006 illegal revocation of Gómez Urrutia's *toma de nota*, the Government of Mexico's seizure of the Miner's Union bank accounts, as well as various suggestions that the Defendants were planning to initiate false criminal accusations

against him (and knowing that pursuant to such charges, bail could not be granted under Mexican law), Gómez Urrutia travelled to the United States and then to Canada, where he has resided with his family in Vancouver, BC ever since in order to avoid political persecution.

54. For the past seven years the Defendants have engaged in what can only be described as a malicious, profit-motivated campaign aimed at silencing Gómez Urrutia and breaking the Miners Union. Unfortunately, even after the initial criminal charges that were laid in 2006 alleging that Gómez Urrutia had misappropriated Miners Union monies completely failed to meet the requirements for a federal prosecution, urged on by the Defendants, Mexican prosecutors simply brought a myriad of new carbon-copy charges at the state level in different jurisdictions based on exactly the same allegations. These state charges have now all been dismissed as the senior Mexican Courts, to their credit, have consistently held that no crime had ever been committed.
55. At the urging of the Defendants, the Government of Mexico attempted to bring yet another federal prosecution despite the fact that the CNBV was of the opinion that there had been no violation of Mexican law. The Federal Courts held that the Trust had operated in a completely legal manner and that all of Gómez Urrutia's actions were legal. As of the date of this claim, every single state and federal charge filed has been found to be groundless by the Mexican Courts. Nonetheless, in defiance of the Mexican judiciary, which has consistently held that Gómez Urrutia, nor any of his co-accused, did anything improper with respect to the Miners Union's funds, and that there was in fact no crime committed, the Defendants have continued to make public accusations against Gómez Urrutia.
56. The Defendants have been able to delay and extend this defamatory course of conduct in part due to Mexico's civilian based criminal justice system, which, unlike common law criminal justice systems, is largely driven by the allegations and wishes of the complainant. In Mexico, a complainant can, for example, refuse to bring a complaint or withdraw a complaint and, as a general rule, if this is the case, the prosecution cannot proceed.

Although Canada and ultimately Interpol have refused to recognize the Defamatory Accusation, the Plaintiffs were nonetheless harmed

57. The Canadian Government has steadfastly refused to extradite Gómez Urrutia to Mexico to face these spurious charges despite inordinate and public political pressure from the Mexican government.
58. Indeed, on November 2, 2010, an adjudicator of Citizenship and Immigration Canada granted Gómez Urrutia permanent residence status notwithstanding the then outstanding warrant for his arrest in Mexico.
59. Furthermore, to advance their scheme to marginalize Gómez Urrutia and to attempt to break the Miners Union, the Defendants urged the Mexican Government to request that Interpol issue a Red Notice, which is in effect an international arrest warrant, which was in fact then issued against Gómez Urrutia on June 5, 2006. The Defendants have thereby made global travel impossible for Gómez Urrutia. As a result, Gómez Urrutia cannot properly fulfill his responsibilities in his capacity as an international labour leader, and to marshal international support for the Miners Union.
60. On May 23, 2012, submissions were made by the Plaintiff Gómez Urrutia to Interpol requesting that it delete the Red Notice on the basis that Mexico's request for it was without foundation and politically motivated.
61. In a decision of the First Federal Collegiate Tribunal in Criminal matters dated February 14, 2013, the Collegiate Tribunal ordered Mexico to request that Interpol delete the Red Notice it had requested and also held that Mexico's support of the Interpol Red Notice violated Gómez Urrutia's constitutional rights.
62. On March 29, 2013, Interpol deleted the Red Notice against the Plaintiff Gómez Urrutia stating that "*information recorded concerning him [Gómez Urrutia] raised strong doubts concerning its compliance with INTERPOL's rules*".

Although the Plaintiffs received local and International support their reputation and effectiveness was nonetheless harmed

63. On April 3 2006, a national strike broke in Mexico supporting Gómez Urrutia. On April 20, 2006, in the State of Michoacan, the Government of Mexico sent 1,000 troops to end the strike. As a result, two (2) workers were killed and 100 injured.
64. Gómez Urrutia enjoys the support of international labour movement. The Defendants' Defamatory Accusation and the Mexican Government's follow on political persecution of Gómez Urrutia have also been thoroughly condemned by numerous high-ranking democratically elected officials around the globe.
65. Notwithstanding the Plaintiff's efforts to mitigate the damages that have flowed from the Defamatory Accusation by managing the Miners Union and discharging his IndustriAll responsibilities from his home in British Columbia, his effectiveness in this has been compromised as a consequence of his forced exile and his inability to travel internationally.

Inappropriate conduct of the Government of Mexico and the Defendants

66. On 27 February, 2007, the Governor of the State of Coahuila, Mr. Humberto Moreira publically stated that the President of Mexico at the time, Mr. Vicente Fox, had pressured him to fabricate criminal charges against Gómez Urrutia in his State. Mr. Moreira announced publicly that he had refused to do so and insisted that Gómez Urrutia had committed no crime.
67. In June 2008, on behalf of the Defendants, Mr. Alonso Elizondo Ancira offered Gómez Urrutia US\$100 million if he resigned from the Miners Union. The offer was rejected by Gómez Urrutia.
68. On May 31, 2010 a meeting took place attended by Mr. Alvaro Castro, a representative of the Mexican Secretary of Labor, Gómez Urrutia's Mexican counsel Marco Del Toro, and Mr. Benjamin Davis, the Director of International Affairs for the United Steelworkers of America. At that meeting, Mr. Castro suggested that if the Miners Union would resolve a long standing labor dispute at Mexico's largest copper mine that Juan Linares, one of the Miners Union officials who was being held in custody in relation to the charges relating to

the Defamatory Accusation, might be released from jail. By any democratic or ethical standard, it is highly improper for a very senior representative of the Government of Mexico to link the outcome of a criminal proceeding against a union leader to a request for labour concessions in favour of a particular Mexican mining company.

Impact of the Defamatory Accusation

69. The Defamatory Accusation led to warrants being issued for the arrest of the Plaintiff Gómez Urrutia, and a protracted legal battle ensued, which has had life altering consequences for Gómez Urrutia (and his family) and which has compromised the Miners Union's ability to represent and advance the interests of its members.
70. As a result of the Defamatory Accusation, the Plaintiff Gómez Urrutia has been brought into public scandal and contempt, and suffered, and will continue to suffer grave damage to his character and reputation.
71. The Plaintiff Gómez Urrutia and his family have suffered distress and embarrassment in British Columbia and all over the world as a result of the Defamatory Accusation.

Part 2: RELIEF SOUGHT

1. The Plaintiffs seek the following relief from the Defendants, jointly and severally:
 - (a) General damages;
 - (b) Aggravated damages;
 - (c) Punitive damages;
 - (d) Special damages, including :
 - for Gómez Urrutia's living expenses in Vancouver;
 - legal fees incurred in Canada and in Mexico to fight the Defamatory Accusation and the ensuing legal proceedings;

- costs to respond to the Defamatory Accusation in the media, and to thereby attempt to mitigate damages;
 - travel and accommodation costs for members of the Miners Union's executive committee to meet with Gómez Urrutia in Canada;
 - Financial loss associated with the restraint of Miners Union property and property belonging to Gómez Urrutia, including the inability to invest money and obtain returns on bank accounts and investments;
- (e) An order that an apology be published in the Vancouver Sun, The Province and in the Mexican newspapers Reforma and El Economista, as well as on the Mexican television networks Televisa and Azteca;
- (f) Interim, interlocutory and permanent injunctions to restrain the Defendants from further publishing or causing to be published the Defamatory Accusation or any similar words defamatory of the Plaintiffs;
- (g) Interest pursuant to the *Court Order Interest Act*, RSBC 1996, c 79;
- (h) Such other relief as this Honourable Court deems just to award;
- (i) Special costs.

Part 3:LEGAL BASIS

2. The Plaintiffs rely on the law of libel, slander and injurious falsehood.
3. The Defamatory Accusation was published by the Defendants and in its natural and ordinary meaning and in the context in which it was made was defamatory (in the sense that it would tend to lower the Plaintiffs in the eyes of a reasonable person and injure the Plaintiffs' reputation), and was meant and was understood by the public to mean that the Plaintiffs are criminals, are corrupt, are dishonest, and are not acting in the best interest of the Miners Union's membership.
4. The Defendants made the Defamatory Accusation knowing that it was false and knowing that in accordance with Mexican law, if Gómez Urrutia was charged and arrested he would

not be granted bail pending trial and would therefore be jailed at least until the end of his trial. The Defendants maliciously made the Defamatory Accusation against the Plaintiffs to inflict as much harm as possible to the Plaintiffs' reputation and cause the Plaintiffs harm.

5. The Defendants also knew that by making the Defamatory Accusation to the PGR, the natural and probable result was that the Defamatory Accusation would be repeated, reprinted or republished to the public and read or viewed all over the world, including in British Columbia, or there was a significant risk that such an accusation would be repeated, reprinted or republished to the public and read or viewed all over the world, including in British Columbia. As such, the Defendants are legally responsible for any and all republications of the Defamatory Accusation. Examples of the republication and repetition of the Defamatory Accusation are found at **Schedule "B"**. Schedule "B" incorporates by reference these articles to this Notice of Civil Claim.

Republications of the Defamatory Accusation (in Print)

6. The cover of the August 27, 2006 edition of The Province newspaper included a picture of Gómez Urrutia and the following headline in large bold letters:

Fired as leader of a large miners union and accused of embezzling millions,
Napoleón Gomez Urruria flees to Vancouver and threatens to destabilize
Mexico if the government doesn't exonerate and reinstate him

FUGITIVE UNION BOSS HIDES IN B.C., THREATENS MEXICAN
CHAOS

7. The article in connection to this headline on the cover of the August 27, 2006 edition of The Province is still available electronically online (a copy republished online on April 4, 2013 is attached at Schedule "B") and was entitled: "Who will blink in Mexican Standoff? The leader of a powerful Mexican mine workers' union- who fled to B.C. after being accused of embezzling \$61 million- has vowed to launch, by cellphone, a national strike unprecedented in Mexico's modern history". The article repeats and republishes the Defamatory Accusation, and specifically states:

"Napoleón Gómez Urrutia is accused of acts of corruption against workers and there is information that he, from outside the country [Mexico],

specifically Canada, was directing this regrettable operation [civil unrest]" Fox [President Vicente] has been quoted saying.

[...]

The Mexican Secretary of Labour has said that his government will not recognize him as head of the union nor retract its accusations he pilfered workers' funds.

8. The Province has a wide readership and is published electronically and read all over the world, including in British Columbia.
9. An article published online by Radio-Canada (www.radio-canada.ca) on 15 April, 2009 and still available electronically online (a copy republished on March 20, 2013 is attached at Schedule "B") repeats and republishes the Defamatory Accusation made against Gómez Urrutia and the Miners Union, and specifically states:

Le procureur général de la République du Mexique accuse le secrétaire général du central syndical des mineurs du Mexique d'avoir volé 55 million de dollars au syndicat. "M. Gomez a pris cet argent dans la fiducie, sans le distribuer aux travailleurs à qui il était du", explique Leopoldo Valarde Ortiz, sous-procureur aux affaires internationales.

10. Radio-Canada has a wide readership and viewership, is published electronically and is read or viewed all over the world, including in British Columbia.
11. An article first published in the South Asian Post on August 7, 2009 and still available electronically online (a copy republished on March 20, 2013 is attached at Schedule "B") entitled "*Canada's Tale of Broken Treaties*" repeats and republished the Defamatory Accusation and shows a picture of Gómez Urrutia next to the picture of notorious fugitives. Specifically, the article states:

We have fugitive of Mexico labour leader Napoleón Gómez Urrutia, accused of embezzling \$61 million from a union fund, who says he sought refuge in Canada on the advice of his lawyers. Proclaiming his innocence, he wants to fight his case in Canada at your expense.

12. The South Asian Post has a wide online readership and is published electronically and read all over the world, including in British Columbia.

13. A Vancouver Sun article first published on January 9, 2010 (a copy republished online on April 17, 2013 is attached at Schedule "B") entitled "*International team fights extradition of labour boss*", repeats and republishes the Defamatory Accusation, and specifically states:

The country's embattled mining and metalworkers' union head, Napoleón Gómez Urrutia, who represents workers at several Canadian-owned operations, fled to Canada to avoid being arrested on fraud charges pertaining to the alleged mismanagement of a workers' trust fund worth \$55 million US.

14. The Vancouver Sun has a wide readership and is published electronically and read all over the world, including in British Columbia.

15. An article first published on February 27, 2013 in the Vancouver Sun and still available electronically online (a copy republished online on April 11, 2013 is attached at Schedule "B") was entitled "*Embezzlement arrest of powerful union boss shows Mexico's new president playing hardball*". The article repeats and republishes the Defamatory Accusation, and specifically states:

MEXICO CITY - The arrest of Mexico's most powerful union leader echoes the hardball tactics of Mexico's once-imperial presidency while pushing forward an education reform that Enrique Peña Nieto has made a centerpiece of his new administration.

Elba Esther Gordillo, known for flashing her Hermes handbags and heels, stood behind bars Wednesday in a grim prison in eastern Mexico City as a judge read off charges of embezzlement and organized crime. The arrest sidelined a woman who had tried to mobilize teachers to block a schools shake-up designed to end her control over hiring and firing of teachers across the country.

It also sent a message to other union bosses and business magnates: Don't get in the way of Peña Nieto, whose Institutional Revolutionary Party has newly returned to the power it held for seven straight decades, when incoming presidents often crushed those who challenged them.

This is an old tactic, let's hope that it doesn't just stop there, as it did in the past, when a single case was enough to calm things down and add legitimacy to presidential power, said Jose Antonio Crespo, an analyst at the Center for Economic Studies. "Let's hope this doesn't stop and that it becomes something more systematic, for which there is a burning need."

Crespo was referring to the business magnates and union bosses who have built fortunes and political power by dominating whole sectors of the economy. Like Gordillo, their resistance could be an obstacle to Pena Nieto's pledges to modernize and open up Mexico's economy.

But the tough message of Tuesday's arrest may have been enough. Gordillo, whose 1.5 million-member National Union of Education Workers organized protests against Pena Nieto's education reform signed into law this week, was pulled off a plane arriving from San Diego late Tuesday and taken to Mexico City's women's prison.

It was a dizzying fall from power for a woman often credited with swinging a presidential election and who maintained properties worth millions of dollars in Southern California, where she spent much of her time.

Gordillo, 68, was charged with embezzling 2 billion pesos (about \$160 million) from the union she has led for nearly a quarter century. The judge in the case said he would rule in three to six days on whether the evidence is sufficient to merit a trial.

If found guilty, Gordillo could face 30 years in prison.

[...]

For many, Gordillo stood as a symbol of the powers that dominate Mexico. She was a favourite of newspaper cartoonists because of her immediately recognizable face and designer clothes and accessories. Prosecutors said she spent nearly \$3 million in purchases at Neiman Marcus department stores using union funds, as well as \$17,000 in U.S. plastic surgery bills and \$1 million to buy a home near San Diego.

It was unclear if the arrest would force Gordillo out of her union leadership position. Mexican mining union boss Napoleón Gómez Urrutia has continued to hold his post more than four years after he moved to Canada amid accusations that he misappropriated \$55 million in union funds.[emphasis added]

16. Collectively, these articles, which are attached at **Schedule "B"**, are referred to herein as the **"Republications of the Defamatory Accusation"**.
17. The Republications of the Defamatory Accusation are defamatory of Gómez Urrutia and the Miners Union (in the sense that they would tend to lower the Plaintiffs in the eyes of a reasonable person and injure the Plaintiffs' reputation) in their natural and ordinary meaning and in the context in which they were made, and meant and were understood by

the public to mean that Gómez Urrutia and the Miners Union are criminals, are corrupt, are dishonest, are thieves, and have not acted in the best interest of the Miners Union's membership, and in the case of Gómez Urrutia, that he is living an opulent lifestyle by illegally using the Miners' Union funds.

18. The Republications of the Defamatory Accusation each referred to the Plaintiffs, each republished and repeated the Defamatory Accusation and were each read in British Columbia.

Republications of the Defamatory Accusation (Audiovisual)

19. Between April and December 2007, during peak television hours and with national coverage, Televisa Channel 2, one of the most widely viewed television networks in Mexico, repeatedly broadcast the following paid advertisement in Spanish (translated into English below and attached hereto at Schedule "C"), which can still be viewed online at the time of filing:

We, the Mexico miners ask Napoleón Gómez Urrutia to return. Yes! To return the \$55 million he stole from us, the miners; to come back and pay all the felonies he has committed against the Union; and to come back so he may know the darkness of a prison cell, because he has never known the darkness of a mine!

20. Another illustrative advertisement, which was broadcast in Spanish and repeated many times between April and December 2007 on Televisa Channel 2 and on another widely viewed Mexican television network, Azteca Television Channel 13, and which can still be viewed online at the time of filing (translated into English below and attached hereto at Schedule "C"), stated:

I have worked in the mine all my life; what could frighten me? Darkness? Lack of air? No man, my fear is to bump into Napoleón Gómez Urrutia, he is dark indeed. He steals in front of us, he cheats us and, on top of it all, he threatens us. I do not know about other things, but I do know that our worst nightmare is named Napoleón Gómez Urrutia.

21. Another television advertisement which was broadcast between April and December 2007 and during peak hours, and which still can be viewed online at the time of filing (translated into English below and attached hereto at Schedule "C"), stated the following in Spanish:

Napoleón Gómez Urrutia does not like Mexican miners, but he like us three metres underground. He steals \$55 million which are ours, not his. He threatens us and even hits us if we are not with him; and now with this labour strike mess, he also takes away the bread from our mouths. We also like this thug, but we'd like to see him in jail!

22. **Schedule "C"** incorporates by reference these three broadcasts (the **"Three Defamatory Broadcasts"**) to this Notice of Civil Claim. The Three Broadcasts are defamatory of Gómez Urrutia and the Miners Union (in the sense that they would tend to lower the Plaintiffs in the eyes of a reasonable person and injure the Plaintiffs' reputation) in their natural and ordinary meaning and in the context in which they were made, and meant and were understood by the public to mean that Gómez Urrutia and the Miners Union are criminals, are corrupt, are dishonest, are thieves, and have not acted in the best interest of the Miners Union's membership, and in the case of Gómez Urrutia, that he is living an opulent lifestyle by illegally using the Miners' Union funds.
23. The defamation in the Three Defamatory Broadcasts was achieved and crafted by the Defendants or their agents combining images and scenes, false statements and accusations, music and narration, and the combination of all these elements, which by themselves and in their totality were calculated to convey and did convey to the viewing public the defamatory imputations described in the previous paragraph.
24. The Three Defamatory Broadcasts each referred to the Plaintiffs, were and could be viewed around the world, including in British Columbia, and each republished and repeated the Defamatory Accusation.
25. The motive of the Defendants in making and repeating the Defamatory Accusation knowing that it would be republished was to cause injury to the reputations of both Plaintiffs, to harm the Plaintiffs and for profit.

Plaintiffs' address for service:

863 Hamilton Street, Vancouver, British Columbia, V6B 2R7

Fax number address for service (if any): None.

E-mail address for service (if any): None.

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street, Vancouver, BC V6Z 2E1

Date: April 17, 2013

A handwritten signature in black ink, appearing to be 'CJ', is written over a horizontal line.

DAVID J. MARTIN and
CASEY L. LEGGETT

Rule 7-1(1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

APPENDIX**Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

The Plaintiff claims against the Defendants for damages as compensation for personal injuries arising out of a motor vehicle accident which occurred on or about 22 March 2011.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☐ another cause

A dispute concerning:

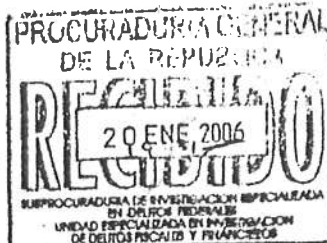
- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☐ a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- ☐ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☒ none of the above
- ☐ do not know

Part 4:

SCHEDULE “A”



C. PROCURADOR GENERAL DE LA REPUBLICA.

Presente.

ELIAS MORALES HERNANDEZ, MIGUEL CASTILLEJA MENDIOLA, JOSE MARTIN PERALES LOZANO y otros, por nuestro propio derecho, señalando como domicilio para oír notificaciones y recibir documentos el despacho ubicado en calle Querétaro número 498, colonia Guadalupe, Tlalpam, Delegación Ixtapalapa A. Madero, Código Postal 07210, en esta ciudad de México, Distrito Federal, autorizando para tales efectos al Licenciado Ezequiel García Bustamante de Solís, a usted atentamente exponemos:

Con fundamento en los artículos 21 y 102 de la Constitución Política de los Estados Unidos Mexicanos; 7 y 13 del Código Penal Federal; 118 y 123 del Código Federal de Procedimientos Penales, venimos a formular querrela y denuncia de hechos posiblemente constitutivos de delito, presuntamente cometidos por NAPOLEON GOMEZ URRUTIA, JUAN LINARES MONTUFAR, JUAN LUIS ZUÑIGA VELAZQUEZ, JUAN PABLO PATINO ROCHA, JOSE ANGEL ROCHA PEREZ, HECTOR FELIX ESTRELLA, CARLOS PAVON CAMPOS, CONSTANTINO ROMERO GONZALEZ y BALTAZAR ZARATE GARCIA, así como a la persona moral denominada Scotiabank Inverlat, S.A., quien actuó a través de sus funcionarios JORGE GOMEZ MORENO y FELIPE ALBERTO LOPEZ LOPEZ, Delegados Fiduciarios de dicha institución; igualmente en contra de MIRALIA CASSO VALDEZ, TONY CASSO VALDEZ, ERNESTO GOMEZ CASSO, HUMBERTO FELIPE DE JESUS TORRES KURI, ALEJANDRO GOMEZ CASSO, SANTIAGO GARZA, RODOLFO (Rudy) MONTALVO, EDUARDO MAIZ MONFORT, JAVIER MAIZ MONFORT, MARCELO FAMILIAR DE LA GARZA, ARMANDO FAMILIAR DE LA GARZA, MANUEL FAMILIAR HARO, SERGIO y RAUL GUTIERREZ MUGUERZA, ANTONSO ANCIRA ELIZONDO, JORGE CLAUDIO LEIBEN GARAY, MOISE KOLTENIUK TOYBER y CONSUELO AGUILAR ESCOBARTE, así como a quienes mas resulten responsables. Lo anterior en razón de lo siguientes:

HECHOS

DO DE PRIMERA DE DELITO
E LO PENAL
S. G. O. P. N. A. J. U. S. T. I. C. I. A.
ANEXO UNO, de los cuales también exhibimos originales para efecto de que sean cotejados y nos sean devueltos estos últimos, los suscritos somos actualmente o, en algunos casos, fuimos miembros del Sindicato Nacional de Trabajadores Mineros y Metalúrgicos y Similares de la República Mexicana, al cual nos referiremos como el SINDICATO, pero aclaramos que todos tenemos el carácter de fideicomisarios del Fideicomiso F966-2, que en adelante y para efecto del presente es lo será el FIDEICOMISO.

2. El SINDICATO referido, representado en ese entonces por NAPOLEON GOMEZ SADA, finado, quien tuvo el carácter de Secretario General del Comité Ejecutivo Nacional, constituyó el catorce de noviembre de 1988 un FIDEICOMISO como fideicomitente, en el que aparecen como fideicomisarios sus agremiados y como fiduciaria la referida Institución bancaria, en ese tiempo, Multibanco Comemex S.N.C., para afectar en fideicomiso irrevocable el derecho del SINDICATO fideicomitente de adquirir en propiedad y recibir de Nacional Financiera 5% de acciones de las empresas Mexicana de Cobre S.A. de C.V. y Mexicana de Acido Sulfúrico, S.A. de C.V., en lo sucesivo, MEXCOBRE Y MEXASUL, debidamente endosadas en propiedad por Nafinsa al fiduciario, los títulos o certificados provisionales que amparen las acciones mencionadas y que el fiduciario conserve la propiedad y titularidad de las acciones, las cuales formarán parte del patrimonio del FIDEICOMISO; que éste ejerce todos los derechos corporativos y patrimoniales que se deriven de las acciones; que una vez instruido por el comité técnico, proceda a vender las acciones a las personas y términos y condiciones que se le indique por escrito; que una vez realizada la

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venta, reciba las cantidades correspondientes y lo invierta temporalmente hasta en tanto no deba distribuir las cantidades que reciba por los conceptos indicados; que conforme a las instrucciones que reciba del Comité Técnico del FIDEICOMISO entregue a los trabajadores de las EMPRESAS MINERAS a que se refiere el inciso a) de la declaración del Contrato de Fideicomiso que en fotocopia se anexa, en lo sucesivo, EL CONTRATO.

3. Es importante destacar que conforme al Apartado 6 de la Cláusula Segunda de EL CONTRATO, el fin inicial y principal del Fideicomiso se insiste- irrevocable, fue que el Fiduciario entregara a los trabajadores de diversas, pero específicas empresas, a saber: Mexicana de Cobre S.A. de C.V., Mexicana de Acido Sulfúrico S.A. de C.V., Industrial Minera México S.A. de C.V., Minerales Metálicos del Norte S.A., Zinc de México S.A., y Carbonifera de Nueva Rosita S.A. de C.V. que fueran miembros del SINDICATO y de nacionalidad mexicana, las acciones referidas o las cantidades que resultasen de dividendos o de la venta de las acciones, conforme a: planes de asignación de acciones, incentivos, permanencia en el empleo e incentivos o ayuda para vivienda que establecería el Comité Técnico.

4. El Comité Técnico del Fideicomiso se integró, entonces, con los señores ARMANDO FAUSTO ORTEGA GOMEZ y RAFAEL A. VILLAR CALVO, como miembros Propietario y Suplente, respectivamente, en calidad de representantes de la empresa Industrial Minera México, S.A. de C.V.

5. La cláusula décima señala que el FIDEICOMISO tendría la duración necesaria para el cumplimiento de sus fines.

6. Las acciones cuyo derecho de ser recibidas y que resultaban materia del Fideicomiso fueron entregadas, hasta que, transcurridos aproximadamente dieciséis meses, el 22 de octubre de 2004, ante la Secretaría del Trabajo y Previsión Social, se firmó un convenio entre el SINDICATO indicado, ahora representado por NAPOLEON GOMEZ URRUTIA como Secretario General y JUAN LINARÉS VENTUFAR, Presidente del Consejo General de Vigilancia y del SINDICATO y por la otra parte las empresas Mexicana del Cobre S.A. de C.V., Mexicana de Cananea S.A. de C.V., Minera México SA de CV e Industrial Minera México SA de CV, para acordar básicamente el pago al Fideicomiso número 13642 de cincuenta y cinco millones de dólares después de la firma del Contrato de venta de las acciones que las empresas entregarían al Fiduciario, previa modificación del Fideicomiso para que el Comité Técnico se integrara solo por miembros del SINDICATO y reformar lo necesario para implementar el acuerdo, para tardar el 29 de octubre de 2004.

7. El 20 de octubre de 2004 se celebró sesión del Comité Técnico integrado por los miembros propietarios NAPOLEON GOMEZ URRUTIA, en adelante el LIDER, quien ese mismo día fue designado nuevo miembro del Comité Técnico, sin mediar, como se requería alguna para realizar esa sesión, HECTOR FELIX ESTRELLA, ARMANDO F. ORTEGA GOMEZ y JOSE ANGEL ROCHA PEREZ miembro suplente, así como el licenciado ALBERTO LOPEZ LOPEZ, Delegado Fiduciario, para acordar en forma unánime instruir al fiduciario para modificar el contrato inicial, instrucción de la que se dio por notificado el licenciado FELIPE ALBERTO LOPEZ LOPEZ, Delegado Fiduciario de Scotiabank Inverlat, S.A. causahabiente de Multibanco Comermex, S.N.C.

8. La sesión que se menciona en el apartado anterior, concluyó a las 21.30 horas. Sin embargo, ese mismo día, 26 de octubre, se realizó un Convenio Modificatorio del Fideicomiso inicial, que, esencialmente, cambió en lo que a continuación se señala:

A) Los trabajadores y/o extrabajadores de las empresas Mexicana de Acido Sulfúrico, S.A. de C.V., Zinc de México, S.A. y Carbonifera de Nueva Rosita, S.A. de C.V. que tienen derecho a recibir su parte proporcional del 5% del capital accionario ya indicado en el CONTRATO de 14 de noviembre de 1988, fueron excluidos en forma indebida y sin mediar razón alguna.



CUAGÉSIMO PRIMER
OPENA



DE DISTRITO
LES FEDERALES
FEDERAL

EGUNDO LO PENAL
IA DE EL SEÑOR
ILLO

Causa Minera / 11
27-2-04
[Signature]

El artículo 381 de la Ley mencionada dice que la institución fiduciaria estará obligada a cumplir el fideicomiso conforme al acto constitutivo y que deberá obrar siempre como buen padre de familia.

En su espíritu de la Ley es proporcionar la garantía de que el fideicomiso, una vez definido el fin, se cumpla, porque de lo contrario, dicha figura no pasaría de ser un depósito al arbitrio y modo del depositante.

Debe constarse que el fideicomiso se constituyó como irrevocable.

Para que se extinga el fideicomiso es necesario que: a) Se haya realizado el fin para el que fue constituido o, bien, b) Se haga un convenio expreso entre el fideicomitente y el fideicomisario. En este caso, los fideicomisarios fueron los trabajadores. Sin embargo, como el representante de éstos es el SINDICATO, resultó que fideicomitente y fideicomisario se reunieron en uno solo y, de esta manera, se desvirtuó la naturaleza del acto de constitución al realizarse el retiro del dinero producto de la venta.

En este caso, existen relevantes irregularidades que coadyuvaron a preparar la mecánica de una operación engañosa para apoderarse de los recursos a los que solían tener derecho los trabajadores.

En efecto, el SINDICATO no podía ser fideicomitente de algo que no era suyo de origen, pues las acciones se encontraban en poder de las empresas, según se desprende de los actos jurídicos que han sido relatados en la presente denuncia. Es decir, el derecho a recibir cincuenta por ciento de las acciones a que se refiere EL CONTRATO original, es de los trabajadores, pues estos recibieron ese derecho desde el momento en que las empresas fueron adquiridas de FIDENOME. El SINDICATO era solo representante de los trabajadores, a quienes correspondía el derecho a las mencionadas acciones.

Consta en la Declaración I del Convenio Modificatorio en su página 3 que las acciones fueron entregadas a favor del Fiduciario, lo que resultó acertado por la existencia del fideicomiso. No obstante, en el mismo Convenio en el que participó el Fiduciario se reconoce al SINDICATO el carácter de fideicomitente de las acciones y, al amparo de tan ilegal y contradictorio reconocimiento, se le permite nombrar a todos los miembros propietarios y suplentes del Comité Técnico, personas todas miembros del comité ejecutivo general del SINDICATO, y por tanto, subordinadas a los mandatos y voluntad del LIDER. No obstante, el carácter de irrevocable del fideicomiso y la totalidad de sus fines, en especial la obligación de entregar a los trabajadores la parte proporcional que les corresponde, quedan a la Fiduciaria la obligación de distribuir el producto de la venta de las mencionadas acciones.

Si bien es cierto que en la Cláusula Novena del CONTRATO, se señaló que el Fiduciario no tendría ninguna responsabilidad frente al fideicomitente o frente a los fideicomisarios por actuar en acatamiento de instrucciones del Comité Técnico. Sin embargo, tales instrucciones no podrían ser omnímodas sino que estaban acotadas por la naturaleza jurídica del fideicomiso y, en especial, por la Cláusula Octava del mismo CONTRATO que invistió de facultades al Comité para emitir instrucciones pero solo las previstas en los diversos incisos de la Cláusula Segunda. Ninguna de ellas prevé la extinción del fideicomiso. A pesar de ello, lo extinguieron sin cumplir con su fin que, a final de cuentas, es exactamente lo mismo que revocarlo.

El fiduciario debió considerar que no se había cumplido el fin del fideicomiso y que las acciones y, posteriormente, el producto la venta de éstas no era ya propiedad del SINDICATO, ni siquiera de los Trabajadores sino patrimonio y propiedad del propio Fideicomiso y, por tanto, afectadas al cumplimiento de su fin y que no podía extinguir hasta no cerciorarse de que quedara garantizada la distribución a las personas físicas. En cambio, le bastó con que la representación sindical afirmara que se sustituía en la obligación, atendiendo una instrucción ilegal y contraria a su



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obligación consistente en garantizar el cumplimiento del fin del contrato y su convenio modificatorio, debiendo distribuir por sí mismo y hacer entrega del patrimonio a los fideicomisarios, que para ello se le contrató, sin renunciar como lo hizo a sus derechos patrimoniales derivados del pacto fideicomisario.

El fiduciario, indebidamente aceptó que no se expidiera la conveniencia que estaba obligado a emitir conforme a las Cláusulas Quinta y Sexta para que pudiera celebrarse la reunión del Comité Técnico de fecha 26 de Octubre del 2004 en donde se acordó modificar EL CONTRATO y el posterior Convenio Modificatorio celebrado el mismo día después de las 24:30 horas, tomando nota después de la petición de quien no era propietario ni Fideicomitente, este es el SINDICATO para que le entregara el dinero en un monto de cincuenta y cinco millones de dólares que se signora como fue calculado para fijar el precio de venta de los títulos.

Los hechos relatados revelan conductas concertadas que, en conjunto, constituyeron maquinaciones contrarias a derecho para permitir que se obtuviera un lucro indebido por parte del LIDER y quienes resultan copartícipes de esas conductas, en quebranto de los trabajadores, entre los que nos encontramos los suscritos denunciantes.

Cabe agregar que el elemento engaño o error a que la ley punitiva se refiere, es de naturaleza penal y requiere que exista en la mente del autor, o autores, una dañada intención que tienda, no solo a conducir a otro a celebrar un contrato, sino a la obtención ilícita de una cosa o al avance de un lucro indebido, es decir, que entre la dañada intención del acusado de defraudar y el beneficio ilícito debe haber una relación inmediata de causa y efecto.

De este extenso se desprende que el Sr. NAPOLEON GOMEZ URRUTIA y los miembros del Comité Técnico del Fideicomiso nombrados por el propio SINDICATO fideicomitente, engañaron no solo a los trabajadores, sino a quienes celebraron contractualmente con ellos para hacerse ilícitamente de una cosa en su propio beneficio y de otros que no tenían derecho a ello; igualmente administraron de manera fraudulenta el patrimonio de los trabajadores, beneficiados del derecho de recibir las acciones y/o el producto de su venta. La anterior afirmación se sustenta en que el SINDICATO nunca fue propietario de las acciones, y desatendiendo a la naturaleza de ésta, y todas las agrupaciones sindicales, estas únicamente representan los derechos de los trabajadores, pero no pueden sustituirse en titulares de derechos o patrimonio de sus representados.

Aunado a lo anterior, si los títulos, desde el Contrato de compra venta original fueron destinados para los trabajadores, estos únicamente fueron quienes, en realidad, fideicomitieron su derecho a través de sus representantes, quienes usurparon su voluntad, nunca expresada, para fijar el precio de la venta de las acciones, instruir el destino de los recursos y extinguir unilateralmente el fideicomiso a fin de disponer de un patrimonio de éstos últimos legalmente destinado a ser repartido por el fiduciario, conforme a planes y programas que fueron propuestos y nunca cumplidos, mucho menos entregados al fideicomiso o a la institución fiduciaria. Todo lo anterior sucedió con la colaboración de los funcionarios fiduciarios, quienes, desatendiendo su obligación y engañando a la institución para la cual laboran, en detrimento de los trabajadores fideicomisarios y, por ende destinatarios de los recursos, abdicaron de la titularidad y propiedad del patrimonio del Fideicomiso sin realizar los fines para los que fue creado.

Dicho en otras palabras: Mediante maquinaciones entre los representantes sindicales y los funcionarios de la institución fiduciaria, a las que se les quiso dar apariencia legal, los primeros se apoderaron ilícitamente de un patrimonio que no les correspondía para beneficiarse económicamente, obteniendo un lucro indebido en perjuicio de los fideicomisarios, estos sí acreedores de las acciones o del producto de su venta.

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Ciertamente, el FIDEICOMISO es el contrato por el cual el fideicomitente ya sea persona física o moral, transfiere a una institución fiduciaria la propiedad, titularidad de ciertos bienes o derechos, para ser destinados a fines lícitos y determinados, encomendando la realización de los mismos a la propia institución fiduciaria.

Analizado este texto que define con precisión cual es la naturaleza de este CONTRATO, concluimos necesariamente lo siguiente:

El fideicomitente, o sea, los trabajadores de las empresas mencionadas en la declaración primera del contrato original del FIDEICOMISO y miembros del SINDICATO transmitieron al fiduciario, ahora Scotiabank Inverlat S.A., el derecho de adquirir y recibir en propiedad cinco por ciento de las acciones de las empresas MEXCOBRE Y MEXASUL.

Por virtud del Contrato de FIDEICOMISO al materializarse la entrega de las acciones, quien las recibió en propiedad fue el propio FIDEICOMISO, tan es así que fue este quien procedió a la venta de dichas acciones.

Es claro que la titularidad de las acciones, la propiedad de ellas y todo cuanto se derivara de las mismas, fueron en su momento, propiedad del FIDEICOMISO y no del SINDICATO.

El fiduciario, al atender el requerimiento del SINDICATO mediante el Comité Técnico, que eran lo mismo en el sentido de que le entregara el producto de la venta de las acciones, renunció a sus derechos de propiedad en perjuicio de los fideicomisarios únicamente con la promesa de NAPOLEON GOMEZ URRUTIA de sustituirse en la obligación de distribuir los recursos. La pregunta obligada es ¿Entonces para que fue creado el FIDEICOMISO?

En el caso cobrero, consta que las empresas compradoras, pagaron al FIDEICOMISO, no al SINDICATO, consecuentemente no podían los representantes sindicales sustituirse mediante un convenio celebrado sin consentimiento de los trabajadores fideicomisarios en las obligaciones del FIDEICOMISO, ni disponer como persona moral distinta de las personas físicas agremiadas y con derechos, de los recursos propiedad de estos últimos, sin su voluntad expresa.

Todo lo anterior se tradujo en un resultado: el quebranto patrimonial de los trabajadores mediante las maquinaciones y acuerdos ilegales que se han presenciado, ocultando los recursos obtenidos ilícitamente como se señaló.

Los denunciantes, bajo protesta de decir verdad, manifestamos que nos enteramos de las maquinaciones que dieron fin al fideicomiso ilícitamente desde el mes de junio del 2005, con motivo del informe rendido por el Fiduciario a la Comisión Nacional para la Defensa de los Usuarios de los Servicios Financieros.

Se debe aclarar que el apoderamiento y obtención indebida del patrimonio de los trabajadores mediante engaño y maquinaciones, ocurrió entre los días 22 y 27 de Octubre del 2004 cuando fue firmado el Convenio laboral con intervención del entonces Secretario del Trabajo, el Convenio Modificador del FIDEICOMISO inicial y las Acciones del Comité Técnico descritas, pero debe resaltarse que los ahora denunciados, solo pudieron alcanzar el pretendido lucro indebido, hasta el mes de Abril del 2005, según hemos tenido conocimiento, previa la orden de extinción del FIDEICOMISO de fecha 4 de Marzo de ese año, documento que ya fue relatado en la presente denuncia y que se acompaña como Anexo.

Debemos agregar que por nosotros mismos y a través de personas cercanas al Lic. NAPOLEON GOMEZ URRUTIA, así como de sus familiares y sujetos que lo rodean, hemos obtenido información relevante respecto de las actividades ilícitas en que esta Red ha incurrido

Como parte medular de la Red de cómplices del LIDER sabemos que éste utiliza a familiares, amigos y empresarios como co-participes y prestanombres de sus ilícitas actividades. Entre los cuales destaca en primer lugar ORALIA CASSO VALDEZ, esposa del LIDER: Su encubridora y prestanombres, participa activamente en decisiones del SINDICATO, maneja grandes cantidades de dinero en efectivo para apoyar actividades ilegales, acomoda a su familia como prestanombres, influenciando la desmedida ambición de poder y dinero; TADEO CASSO VALDEZ (cuñado del LIDER): Prestanombre en la empresa Excelencia Numismática, S.A., ex director de la sucursal Legaria de la Casa de la Moneda, cuando el LIDER era su Director General, traficaba con metales extraídos ilegalmente de las diferentes áreas de la casa de la moneda; ERNESTO GÓMEZ CASSO (hijo del LIDER): Relacionado con droga. Ha recibido cantidades de dinero de las cuentas del SINDICATO, además de ser uno de sus operadores de actividades ilícitas. El señor Ernesto Gómez Casso es y ha sido inversionista y socios de personas de dudosa reputación como el señor EDUARDO RESENDEZ, considerado el cerebro financiero del Cartel del Golfo, fondeado recursos de una papelería del Resendez (papelería Lasamí) al restaurante Mirabau propiedad de Gómez Casso; HUMBERTO FELIPE DE JESUS TORRES KURI (cuñado del LIDER): Esposo de María de Lourdes Casso. También prestanombre de actividades ilícitas; ALEJANDRO GÓMEZ CASSO (hijo del LIDER): Junto con la Señora Oralia Casso los más influyentes con el LIDER: Alejandro trabajó en Altos Hornos de México, S.A. de C.V., contacto entre los empresarios Sergio y Raúl Gutiérrez Muguierza y Alonso Ancira Eolzondo y el LIDER, estableciendo acciones para fortalecer al SINDICATO y al LIDER a costa de otras empresas, y haciendo entregas de dinero a personas relacionadas con el LIDER, para financiar en forma ilegal campañas sindicales, principalmente en perjuicio de otras empresas de la industria minera y siderúrgica; SANTIAGO GARZA: Prestanombre y amigo cercano del LIDER. Su socio en una casa de campo en el estado de Morelos. Su empresa, LA DEXTRA de traslado de valores se ha visto favorecida con las influencias del LIDER, amedrentando a través del SINDICATO a sus clientes. RODOLFO (RUDY) MONTALVO: Empresario radicado en la ciudad de Mc Allen Texas y amigo y socio del ex cerebro financiero del Cartel de Juárez Eduardo Resendez, asesinado. La amistad de Montalvo, Resendez y el LIDER se inició desde finales de los setenta cuando Resendez era asesor de Javier Lobo de Proteja y el LIDER director de la Casa de Moneda, posteriormente Resendez laboró bajo las órdenes del LIDER en La Casa de Moneda. A partir de la muerte de Resendez, Montalvo y el LIDER continuaron directamente su relación en la compra venta de metales preciosos sustraídos de la Casa de Moneda. Igualmente JUAN LUIS ZUNIGA VELAZQUEZ, JOSE ANGEL ROCHA PEREZ, CARLOS RAYON CAMPOS, CONSTANTINO ROMERO GONZALEZ, BALTAZAR ZARATE GARCIA, todos ellos funcionarios del Comité Ejecutivo General del SINDICATO, operadores y colaboradores del LIDER.

Entre los sujetos que rodean al LIDER además de los familiares mencionados, se incluye a EDUARDO MAIZ MONFORT y JAVIER MAIZ MARTÍNEZ: Cerebros y asesores financieros, quienes realizan la ingeniería financiera para desviar los ingresos ilícitos producto de fraude en perjuicio de los miembros del SINDICATO, así como de otras actividades; recursos que son ocultados al ser enviados a la familia GARZA, ARMANDO FAMILIAR DE LA GARZA y MANUEL FAMILIAR DE LA GARZA. Los dos primeros prestanombres del LIDER en sus actividades ilícitas. Manolo desde la empresa Wathors; Armando desde Vector Casa de Bolsa, S.A. de C.V.; y Manuel desde Seguros Argos, S.A.; SERGIO y RAUL GUTIERREZ MUGUERZA, así como ALONSO ANCIRA EOLZONDO, asesores financieros y empresarios cercanos al LIDER, hacen entregas de dinero para favorecer a las empresas y lograr que el SINDICATO perjudique a otras empresas que son competencia y así ganar participación en el mercado. JORGE CLAUDIO LEIPEN GARAY: Reclutó como empleado cercano al LIDER cuando dirigió Sidermex. Ahora es su prestanombre, no reporta ingresos fiscales desde hace varios años, sin embargo detenta inmuebles y cuentas bancarias con saldos y movimientos muy elevados; el entonces Subsecretario del Trabajo es responsable de haber ordenado a la Directora de Registro de Asociaciones el registro de la

Toma de Nota del LIDER como Secretario General del SINDICATO, aun cuando su documentación es irregular, pues nunca cumplió legalmente con el requisito de ser trabajador minero; MOISÉS KOTENIUK TOYBER: Ex Coordinador General de Minas en la Secretaría de Comercio y Fomento Industrial hoy de Economía, puesto donde realizó operaciones irregulares en complicidad con el LIDER. Posteriormente éste lo colocó en Altos Hornos de México, S.A. de C.V. con apoyo de Ancira Elizondo, donde continúa sirviendo de enlace para realizar apoyos económicos ilegales a favor del LIDER y de sus allegados; JUAN LINARES MONTUFAR: Miembro del Consejo General de Vigilancia y Justicia del Sindicato Nacional de Trabajadores Metalúrgicos y Similares de la República Mexicana. Co-participe junto con el LIDER en irregularidades en el manejo del SINDICATO y de disposiciones indebidas de dinero, en perjuicio de los trabajadores siderúrgicos y mineros afiliados al mismo; JUAN LUIS ZÚNIGA VELÁSQUEZ: Miembro del Consejo General de Vigilancia y Justicia del Sindicato. Co-participe del LIDER en irregularidades en el manejo del SINDICATO al ejecutar disposiciones indebidas de dinero en perjuicio de los trabajadores; JUAN PABLO PATIÑO ROCHA: Miembro del Consejo General de Vigilancia y Justicia del Sindicato, co-participe junto con el LIDER también en irregularidades en el manejo del SINDICATO y de disposiciones indebidas de dinero, en perjuicio de los trabajadores; HÉCTOR FÉLIX ESTRELLA: Tesorero del Sindicato y Secretario de Finanzas de la Asociación Política Cambio Democrático Nacional (Cadena). Co-participe junto con el LIDER de disposiciones indebidas de dinero en perjuicio de los trabajadores afiliados al sindicato; CONSUELO AGUILAR: Vocera del Sindicato Nacional de Trabajadores Metalúrgicos y Similares de la República Mexicana, persona de total confianza del LIDER, quien conoce todas sus actividades ilícitas.

La mayoría de las personas mencionadas como parte de la red de cómplices del LIDER tienen registrados a su nombre inmuebles y cuentas bancarias con elevados saldos, sin embargo, se sabe que, lo no se encuentran inscritos en el padrón de contribuyentes fiscales, o en caso de estar inscritos, no reportan a la Secretaría de Hacienda los ingresos que depositan, muchos de los cuales provienen de actividades en México y en el extranjero relacionadas con el LIDER, utilizan tácticas y engaños, practican hostiles y amenazas a empresas y trabajadores, como medio para fortalecerse y conseguir sus propósitos y el de otros empresarios cómplices, desestabilizando la paz laboral sindical. Esta táctica le ha permitido altos ingresos y beneficios en México y el Extranjero, como ejemplo, estas conductas lo llevaron a conseguir los 55 millones de dólares de Grupo México, fondos que nunca han sido cuestionados por la autoridad ni por los integrantes del organismo sindical, pero sí por la base trabajadora.

NAPOLEÓN MEZ URRUTIA utiliza también para sus actividades ilícitas de sustracción de recursos, ocultamiento y lavado de dinero a las empresas: SEGUROS CAJON S.A.; DE ACERO, S.A. DE C.V.; ACEROS NACIONALES, S.A. DE C.V.; ALTOS HORNOS DE MÉXICO, S.A. DE C.V.; GRUPO ACERERO DEACERO, S.A. DE C.V.; GRUPO ACERERO DEL NORTE, S.A. DE C.V.; DIGITAL MEDIA TECHNOLOGIES, S.A. DE C.V.; BUT & COMPANY, S.A. DE C.V.; MINERA DEL GUFO, S.A. DE C.V.; WALTER LEE ASOCIATES; PRODUCTORA DE MONOSPELES, S.A. DE C.V.; COMEXTRA; Las Joyerías propiedad de Rudy Montalvo, en la ciudad de Mc Allen, Texas; y la ASOCIACIÓN POLÍTICA CAMBIO DEMOCRÁTICO NACIONAL (CADENA). Esta asociación está íntimamente ligada con el Sindicato, pues en ella también funge como Tesorero HÉCTOR FÉLIX ESTRELLA.

Se sabe que el LIDER y su esposa ORALIA CASSO VALDEZ, tienen registradas a su nombre un muy alto número de cuentas bancarias, en dólares y en euros en diversos países de Europa. Por pláticas del Lider se sabe que están en el Reino Unido, Suiza y otros países europeos, cuyos saldos arrojan millones; sumas que son ocultadas también en varios lugares de los considerados paraísos fiscales.

HÉCTOR FÉLIX ESTRELLA, Secretario-Tesorero y JUAN LINARES MONTUFAR, Presidente del Consejo General de Vigilancia y Justicia del Sindicato, junto con

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NAPOLÉON GÓMEZ URRUTIA, tienen sus firmas autorizadas en las distintas instituciones bancarias donde operan las cuentas del propio sindicato, prestandose a realizar maniobras ilegales, simulando contratos y pagos inexistentes en agravio del patrimonio del sindicato, expidiendo órdenes de pago, transferencias electrónicas y firmando cheques a nombre de las empresas y de las personas ya mencionadas, así como de MARÍA DEL CARMEN PÁEZ MARTÍNEZ DE LA GARZA, EVIA GUILLERMO SEPÚLVEDA, BERNARDO ORTIZ GARZA, GERARDO CALIFA MATTÁ Y MAGDA PERLA CUEVA DE CALIFA y de las empresas TALEBI RUG GALLERY, GALERIA JUDIN AG, HAPPY LION, L.L.C., SELAHATTIN TURKKAN, USD. INTERNATIONAL METAL WORKERS FEDERATION.

Se hace mención que las personas que han proporcionado parte de la información contenida en la presente denuncia son los señores Luis Espinosa Mendoza, quien laboró para la familia del LIDER como chofer durante varios años; y los señores Mario Alberto Gonzalez Paez, René Ramírez Resendez, Carlos Anibal Oropeza Prado y Jose Luis Pérez Vilchez, así como otra persona cuyo nombre estamos indagando, quienes han sido asistentes personales de Napoleón Gómez Urrutia. Debemos puntualizar que estas personas actualmente muestran temor de sufrir represalias por parte del LIDER y sus cómplices, por lo que han solicitado se les brinde protección en caso de que sus nombres se den a conocer.

De todo lo anterior se colige que los aquí denunciados, actuando en forma organizada, han coparticipado en diversas actividades ilícitas en perjuicio de los trabajadores miembros del SINDICATO. Igualmente, dichos sujetos, han incurrido en maniobras de ocultamiento de recursos económicos utilizando al sistema financiero transgrediendo disposiciones jurídicas del orden federal en perjuicio de la Nación, por lo que la presente denuncia deberá ser recibida y turnada al área de delincuencia organizada, a efecto de que se pida a la autoridad hacendaria que proporcione la información a su alcance, y en caso de justificarse la supuesta comisión de algún ilícito en concreto el delito de fraude, y quede justificada cualquier tipo de operaciones de ocultamiento con los recursos provenientes de ese ilícito, se proceda al aseguramiento de las cuentas que sean localizadas y pertenezcan a las personas que de alguna manera resulten involucradas, a efecto de que los elementos del tipo de las siglas nombradas puedan justipreciarse y, a la vez, no se continúe dilapidando el patrimonio de los trabajadores y sus familias.

A efecto de subsanar los hechos que nos permitimos denunciar, acompañamos también copia de diversos documentos relacionados con el presente oculto. A saber:

DO DE PRIMERA INSTANCIA
LO PENAL
CONVENCION DE LOS
14 de Noviembre de 1988.

DOS: CONTRATO DE FIDEICOMISO F/9645-2, de fecha 14 de Noviembre de 1988.

ANEXO TRES: RESOLUCION emitida por el Juez Primero de lo Concursal de Sonora de Agosto de 1990, relativa a la Compra-Venta de MEXICANA DE CANANEA, S.A. DE C.V. y a la asignación del 5% del Capital Accionario de dicha empresa en favor de los trabajadores fideicomisarios.

ANEXO CUATRO: CONVENIO de fecha 22 de Octubre del 2004 celebrado entre el SINIDCATO NACIONAL DE TRABAJADORES MINEROS METALURGICOS Y SIMILARES DE LA REPUBLICA MEXICANA y las Empresas MEXICANA DE COBRE, S.A. DE C.V. MEXICANA DE CANANEA, S.A. DE C.V., MINERA MEXICO, S.A. DE C.V. e INDUSTRIAL MINERA MEXICO, S.A. DE C.V.

ANEXO QUINTO: ACTA DE SESION DEL COMITÉ TECNICO del Fideicomiso F/9645-2 de fecha 26 de Octubre del 2004.

ANEXO SEXTO: CONVENIO MODIFICATORIO del CONTRATO de Fideicomiso original de fecha 26 de Octubre del 2004

ANEXO SEPTIMO: ACTA DE SESION DEL COMITÉ TECNICO del Fideicomiso F/9645-2 de las 18:00 horas del día 27 de Octubre del 2004

ANEXO OCTAVO: CONTRATO DE COMPRA VENTA de las Acciones del citado Fideicomiso, de fecha 27 de Octubre del 2004

ANEXO NOVENO: OFICIO dirigido a la COMISION NACIONAL PARA LA PROTECCION Y DEFENSA DE LOS USUARIOS DE SERVICIOS FINANCIEROS (CONDUSEF) de fecha 11 de Mayo del 2005 por parte del Sr. ELIAS MORALES HERNANDEZ

ANEXO DECIMO: OFICIO que dirige SCOTIABANK INVERLAT a la COMISION NACIONAL PARA LA PROTECCION Y DEFENSA DE LOS USUARIOS DE SERVICIOS FINANCIEROS (CONDUSEF) de fecha 20 de Junio del 2005.

ANEXO DECIMO PRIMERO: OFICIO que dirige la COMISION NACIONAL PARA LA PROTECCION Y DEFENSA DE LOS USUARIOS DE SERVICIOS FINANCIEROS (CONDUSEF) de fecha 22 de Junio del 2005 al Sr. ELIAS MORALES HERNANDEZ

por lo expuesto, a Usted C. Procurador General de la República, atentamente solicitamos

PRIMERO.- Tener por presentada en tiempo y forma la denuncia de hechos probablemente constitutivos de los delitos de fraude y administración fraudulenta previsto por los artículos 386 y 388 del Código Penal Federal, así como los delitos de operaciones con recursos de procedencia ilícita y encubrimiento, previstos y sancionados en los artículos 400 y 400 bis del Código Penal Federal.

SEGUNDO.- Iniciar la indagación correspondiente e instruir los elementos de prueba que resulten necesarios para la justificación del tipo de los ilícitos mencionados, dando la intervención que legalmente corresponda a los suscritos

TERCERO.- Envíe atenta comunicación a la Unidad de Inteligencia Financiera de la Secretaría de Hacienda y Crédito Público, a efecto de que indague en los registros de sus dependientes sobre operaciones bancarias que tengan relación con las cuentas del SINDICATO, así como de todas aquellas cuentas relacionadas o beneficiadas ya sea de personas físicas o morales, en especial de quienes aparecen como personas afines, ya sea al LIDER o al propio SINDICATO.

CUARTO.- En su oportunidad ejercitar la acción penal que corresponda en contra de quien o quienes resulten responsables.

Fundamos también nuestra promoción en el artículo 8º Constitucional.

Protestamos a Usted nuestro respeto.
México Distrito Federal a 18 de Enero del 2005.

ELIAS MORALES HERNANDEZ

MIGUEL CASTILLEJA MENDIOLA

JOSE MARTIN PERALES LOZANO

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| SUNDAY, AUGUST 27, 2006 |

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Fired as leader of a large miners union and accused of embezzling millions, Napoleon Gomez Urrutia flees to



Vancouver and threatens to destabilize Mexico if the government doesn't exonerate and reinstate him

FUGITIVE UNION BOSS HIDES IN B.C., THREATENS MEXICAN CHAOS

FULL STORY, PAGE A3

B.C. loads the bases

Local talent is shining bright in the majors
PAGES A54, A50-51



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Who will blink in Mexican standoff?

The leader of a powerful Mexican mine workers' union -- who fled to B.C. after being accused of embezzling \$61 million -- has vowed to launch, by cellphone, a national strike unprecedented in Mexico's modern history.

By The Vancouver Province August 27, 2006

- [Story](#)
- [Photos \(1\)](#)

Who will blink in Mexican standoff?

The leader of a powerful Mexican mine workers' union -- who fled to B.C. after being accused of embezzling \$61 million -- has vowed to launch, by cellphone, a national strike unprecedented in Mexico's modern history.

In an exclusive interview with The Province from a secret Lower Mainland location Friday, Napoleon Gomez Urrutia -- whose removal as head of the 280,000-member National Union of Miners and Metalworkers (Los Mineros) in February sparked six months of crippling labour unrest across Mexico -- said he and his union executive have set a deadline of Sept. 4 for his reinstatement and the dropping of allegations against him.

If neither take place, he will call for a national strike, he said.

Escalating unrest in Mexico has already triggered a warning from the Department of Foreign Affairs.

"Protests and subsequent civil unrest in general have affected local security and resulted in vandalism, arson attacks, violence and one reported fatality," a current Canadian travel advisory states. "The situation remains tense."

Gomez Urrutia, a 60-year-old Oxford-educated economist who five years ago took over leadership of Los Mineros from his father, Napoleon Gomez Sada, has been highly critical of Mexico's labour and safety standards and has organized as many as 30 wildcat strikes.

He was replaced as union head and accused of corruption shortly after demanding an investigation into the death of 65 workers in a Feb. 19 coal-mine explosion he called "industrial homicide."

His removal led immediately to three copper-mine strikes and sparked union walkouts and street demonstrations across the country as miners, electricians, bus drivers, airline workers, teachers and farmers marched to protest government interference in union activities.

Both the RCMP and the Department of Justice are aware of Gomez Urrutia's presence in B.C., but refused to comment on the case.

Mexican Foreign Minister Luis Ernesto Derbez said Thursday that the government plans to request Gomez Urrutia's extradition from Canada within days.

Gomez Urrutia, in an interview from an untraceable cellphone he uses to conduct union business from his home in an undisclosed Vancouver suburb, said Friday he fled Mexico with his wife and three sons, fearing for his family's safety. His sons are "dispersed" across Canada for their own security.

He first fled to the U.S. in early March and then, on the advice of his lawyers, to Canada, arriving in Vancouver later that month.

"Canada is a more independent country, more liberal in terms of immigration and much more respectful of human rights," he said.

In the Mexican press, President Vicente Fox has repeatedly called for Gomez' extradition, though no formal criminal charges against him have been approved by the Mexican courts.

"Napoleon Gomez Urrutia is accused of acts of corruption against workers and there is information that he, from outside the country, specifically Canada, was directing this regrettable operation [civil unrest]," a Fox spokesman has been quoted as saying.

Gomez Urrutia maintains he is being "persecuted" for his opposition to Mexico's labour policies and because miners under his leadership have clashed with powerful economic and political interests.

"They are false accusations, completely false, a bunch of lies," he said when asked about the \$61 million he is accused of stealing. "This is like a curtain of smoke they created in order to deflect attention away from serious problems."

He says the money remains in union accounts, which have been frozen by the Mexican government.

In June, Gomez Urrutia met with several Canadian MPs. NDP leader Jack Layton subsequently sent a letter to the Mexican ambassador in Canada lending his support.

Canada's United Steelworkers Union, which has a "strategic alliance" with Los Mineros codified in 2003, has passed a resolution in support of Gomez and sent formal letters of protest to representatives of Mexico in Canada.

Steelworkers national director Ken Neumann said Friday that the union is "hosting" Gomez Urrutia during his stay in Canada but has not accepted money from him "in any way, shape or form."

Steve Hunt, Steelworkers Western and Northern Canada director, added that "the courts [in Mexico] have systematically thrown out these charges against [Gomez]" and that "the Mexican government has tried to discredit a union leader that has been able to go against the grain of the Mexican policy in regards to wages and benefits."

Gomez Urrutia, who has been conducting union business, exercising, attending concerts and writing a book about his recent experiences during his Mexican standoff in the Lower Mainland, says he will return to his homeland only if it is safe to do so. He has not ruled out making a refugee claim as a political refugee if an extradition order is brought against him.

Gomez Urrutia's threat to launch crippling strikes on Sept. 4 came on the heels of his call for the Mexican government to make good on a deal struck last Monday to end a violent, 141-day strike at Sicartsa, Mexico's largest steel rebar plant.

The government-brokered settlement between plant owner Grupo Villacero and 2,300 Los Mineros members would have seen wages and benefits boosted by eight per cent for plant workers, two of whom were shot dead by federal police during the protracted strike.

The strike was lifted, union officials claim, on the condition that Gomez Urrutia be reinstated as the democratically elected head of Los Mineros and that "false" accusations that he masterminded a \$61-million money laundering scheme be revoked, both within 15 days.

The Mexican Secretary of Labour has said that his government will not recognize him as head of the union nor retract its accusations he pilfered workers' funds.

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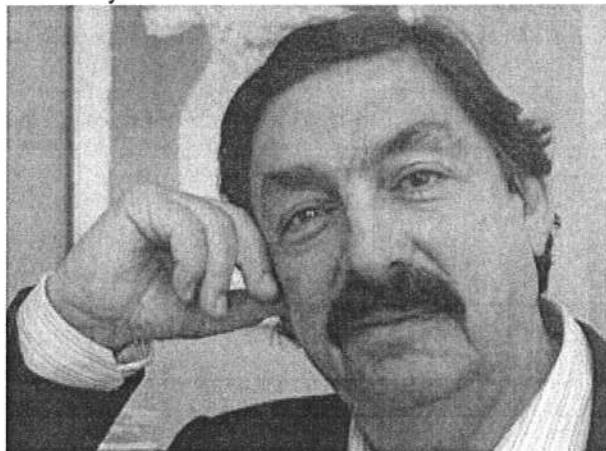
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 Napoleon Gomez Urrutia's dismissal from Los Mineros sparked six months of labour unrest in Mexico.

Un syndicaliste mexicain menacé d'extradition

Mise à jour le mercredi 15 avril 2009 à 20 h 46 HAP



Napoleon Gomez Urrutia Photo :
PC/Fred Chartrand

Réfugié au Canada depuis trois ans, Napoleon Gomez Urrutia est accusé d'avoir volé l'argent du Syndicat des mineurs du Mexique. Mais le secrétaire général de la centrale se dit victime de persécution politique.

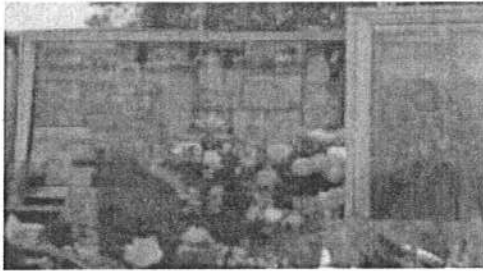
Le Mexique demande l'extradition du leader syndical Napoleon Gomez Urrutia, qui est réfugié depuis trois ans au Canada. Début d'une saga judiciaire sans précédent entre les deux pays.

Le bureau du procureur général de la République du Mexique accuse le secrétaire général de la centrale syndicale des mineurs du Mexique d'avoir volé 55 millions de dollars au syndicat. « M. Gomez a pris cet argent dans la fiducie, sans le distribuer aux travailleurs à qui il était dû », explique Leopoldo Velarde Ortiz, sous-procureur aux affaires internationales.

Napoleon Gomez Urrutia affirme au contraire qu'il est victime d'une persécution politique et qu'il a l'appui de tous les membres du syndicat. « Si je rentrais au Mexique sans garantie pour ma liberté ou ma sécurité de la part de mon gouvernement, je serais immédiatement en prison ou mort », affirme-t-il.

« Nous sommes victimes de persécution politique de la part d'un gouvernement mexicain d'extrême droite, qui déteste les syndicats et veut les faire disparaître, et aussi avec la plus grosse industrie minière du Mexique avec qui il est en collusion. » — Le leader syndical Napoleon Gomez Urrutia

Tout a commencé par une explosion



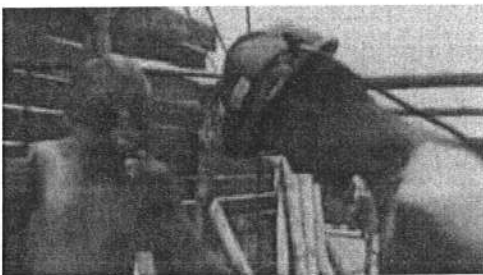
Les ennuis du secrétaire général du syndicat des mineurs ont vraiment commencé avec l'explosion, en février 2006, de la mine de Pasta de Conchos, dans le nord du Mexique. Ce coup de grisou tue 65 mineurs. Deux corps seulement ont été récupérés.

« J'ai accusé la compagnie d'homicide industriel, que vous appelez ici "meurtre corporatif". Quand je l'ai accusé, j'ai commencé à recevoir des menaces. J'ai aussi demandé la démission du ministre du Travail de l'époque », raconte Napoleon Gomez Urrutia.

La mine appartient à la multinationale Grupo Mexico, qui est entre autres le troisième producteur mondial de cuivre. Lorsque la compagnie est privatisée, en 1990, elle s'engage à verser 5 % des actions aux employés.

Elle ne le fera qu'en 2004 à l'issue d'une négociation avec le Syndicat des mineurs. Total à verser: 55 millions de dollars. Ceux qu'on accuse Napoleon Gomez Urrutia d'avoir volés.

L'appui du milieu syndical



Les membres du Syndicat des mineurs sont convaincus que leur secrétaire général n'a jamais volé ces 55 millions de dollars, dont la moitié a déjà été distribuée aux travailleurs.

« Tout l'argent est là, à la banque. C'est documenté. On a la preuve comptable, le gouvernement aussi l'a. Le procureur général aussi l'a », affirme Jose Barajas Prado, trésorier Syndicat des mineurs, qui compte 35 000 membres dans 120 sections.

Une firme d'audit suisse l'a vérifié: l'argent est bel et bien à la banque et les comptes du syndicat ont été gelés à la suite des accusations. Comment aurait-il pu être volé? Mystère du système judiciaire mexicain.

Grupo Mexico a refusé la demande d'entrevue de Radio-Canada. « Ce n'est pas dans notre intérêt », a fait valoir la compagnie. Par contre, une vaste campagne anti-Napoleon Gomez a été lancée sur les ondes des grandes télévisions mexicaines. Le syndicat poursuit les télévisions et le Grupo Mexico pour diffamation.

Plusieurs manifestations et grèves ont été organisées en appui à Napoleon Gomez. L'une d'entre elles a été durement réprimée en 2006: deux manifestants ont été tués par balle et il y a eu une centaine de blessés. Les travailleurs de la principale mine de cuivre du Grupo Mexico, à Cananea, sont en grève depuis près de deux ans. La mine est fermée.

Audience en extradition

Depuis les locaux du Syndicat des travailleurs de l'acier, à Vancouver, Napoleon Gomez continue à diriger le syndicat mexicain. Il a aussi l'appui des grandes centrales syndicales canadiennes et du Nouveau Parti démocratique du Canada.

Il souhaite vivement son audience en extradition pour prouver son innocence, ici, au Canada. « Nous aurions ici un procès équitable au Canada, ce que nous n'aurions pas au Mexique. Je fais confiance à l'objectivité et aux normes du système judiciaire du Canada », dit-il.

Le ministère canadien de la Justice ne veut pas confirmer la demande d'extradition de Napoleon Gomez, sous prétexte que toutes les demandes d'extradition sont confidentielles.

À plus long terme, Napoleon Gomez espère que le président Barak Obama tiendra sa promesse de renégocier l'Accord de libre-échange nord-américain (ALENA) de façon à forcer les compagnies minières mexicaines à renforcer les normes de sécurité et à améliorer la condition générale des travailleurs.

D'après un reportage de Jean-Michel Leprince

En complément



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CANADA'S TALE OF BROKEN TREATIES

published by Asianpost on Wed, 07/08/2009 - 22:01



By the time you read this, Michael Le will be on his way to stand trial for one of the worst gangland slayings in the history of British Columbia.

The 24-year-old alleged leader of the notorious Red Scorpion gang, who also goes by the name Quang Vin Thang, was arrested in The Philippines last week.

He has been charged with the October 2007 Surrey Six slayings, which saw two innocent young men get killed as well.

Shortly after his arrest, Antonio Rivera, The Philippines deputy of operations and deportation with the Bureau of Immigration's Interpol Unit in Manila, said a team of three RCMP officers will fetch Thang and escort him to Canada as soon as the bureau's board of commissioners issues the order for his deportation.

Now that's what you call an effective system based on mutual legal assistance treaties.

Fortunately for us, Le was busted in a country that abides by the treaty it has signed.

Canada, on the other hand does not.

Chances are if Le was a Filipino national, wanted in The Philippines for a similar crime and was caught creeping into Vancouver, he would spend the next decade or so using the Canadian system to avoid the long arm of the law.

Be it deportation or extradition, the way Canada deals with international fugitives who have made their way to our shores is heavily influenced by politics, judges and lawyers.

Throw in the Canadian Charter of Rights, under which fugitives can seek any number of protections, and it will take years to send a wanted person home.

When it comes to extradition, wealthy fugitives live the high life in Canada while their high-priced lawyers dance around our legal system, which has limitless options for the accused.

We have fugitive banker Rakesh Saxena who has for over a decade stymied all efforts by Thailand to get him to answer charges of embezzling \$88 million from the Bangkok Bank of Commerce. Come July 2010, the fraud charges against him in Thailand will become statute-barred and he could walk free.

We have fugitive Mexican labour leader Napoleon Gomez Urrutia, accused of embezzling \$61 million from a union fund, who says he sought refuge in Canada on the advice of his lawyers. Proclaiming his innocence, he wants to fight his case in Canada at your expense.

The Philippines in particular has been harshly critical of Canada while we afford their fugitives protection - and in some cases a permanent escape from their courts.

We have Gloria and Faustino Chingkoe in Richmond, B.C. accused of allegedly defrauding The Philippines government of \$75 million.

Ironically, our judges have scolded The Philippines for having a tardy judicial system while allowing Rodolfo Pacificador to stay in Canada. He is wanted in The Philippines for his alleged role in the assassination of a provincial governor. Earlier, we granted Ferdinand Marcos crony Dewey Go Dee, wanted for plunder, asylum in Canada.

India is totally frustrated with Canada because it is unable to get its hands on a whole range of fugitives, including Subhash Agrawal of Ottawa, wanted in India as a suspect in the 2003 murder of his sister, Canadian Dr. Asha Goel; Harnek Singh Grewal, who leads a powerful Sikh sect, wanted for allegedly inciting a deadly riot; and Malkiat Kaur Sidhu and Surjit Singh Badesha of Maple Ridge, wanted for the alleged contract killing of Sidhu's daughter.

Similarly, our deportation system is in shambles.

China has many of its most wanted seeking refugee status in Canada after they fled charges in their homeland.

Leading the pack is Lai Changxing, an accused smuggling mastermind who has been fighting to stay in Canada for almost a decade. Others include several bankers accused in multi-million dollar embezzlement schemes.

Even when deportation orders are issued, those slated for return find ways to stay in Canada, like Mikhail Lennikov, a former Russian KGB agent who has sought sanctuary at Vancouver's First Lutheran Church.

The list of fugitives who have made Canada their safe haven is long and large.

It is an ugly reputation that is growing because our politicians, without exception, do not have the wherewithal to institute extradition/deportation protocols that lead to speedy and effective removal.

Canada has signed mutual legal assistance treaties and has extradition concords with dozens of countries around the world.

When we want a fugitive returned to Canada, these agreements are enforced without delay by our partners.

When our partners want their fugitives returned from Canada, these treaties are not worth the paper they are written on.

Editorial

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International team fights extradition of labour boss

A team of Canadian and international labour leaders is demanding the Mexican government drop legal proceedings against a mining union boss who's been resisting extradition in Vancouver for nearly three years.

By Vancouver Sun January 9, 2010

A team of Canadian and international labour leaders is demanding the Mexican government drop legal proceedings against a mining union boss who's been resisting extradition in Vancouver for nearly three years.

The country's embattled mining and metalworkers' union head, Napoleon Gomez Urrutia, who represents workers at several Canadian-owned operations, fled to Canada to avoid being arrested on fraud charges pertaining to the alleged mismanagement of a workers' trust fund worth \$55 million US.

The team also planned to champion Gomez's case -- and decry the current state of Mexican unionism -- in a Friday meeting with Guillermo Rishchynski, Canadian ambassador to Mexico.

"We made a commitment to Napoleon [Gomez] that we're going to make sure that justice comes to him," said Ken Neumann, national director for Canada with the United Steelworkers. "Mexico is a NAFTA partner with Canada and the United States and the fact is that we should not be sitting back and allowing these repressions to take place."

The Canadian and international unions' petition on Gomez's behalf marks their latest foray into a complex case that has generated front-page headlines in Mexico over the past three years. The case has been marked by allegations of fraud, a mining disaster that claimed 65 lives, legal hijinks and a strike at one of the world's most lucrative copper pits that has dragged on for more than two years.

Gomez and his backers -- who include NDP leader Jack Layton -- allege that successive federal governments and mining giant Grupo Mexico have persecuted him for his political independence, tough negotiating postures and his promotion of workplace safety.

His supporters hail him as an independent labour leader, whose tactics set him apart from other Mexican union bosses, who often have checkered reputations for corruption, leading lavish lifestyles and putting political agendas ahead of workers' interests.

While Mexican union leaders traditionally negotiate contracts based on the inflation rate and minimum wage increases, Munoz said that Gomez has won large pay increases for his members by tying wages to productivity and mineral prices.

The differences between Gomez and other union leaders go beyond bargaining tactics, however. Gomez is the son of the late mining union boss, Napoleon Gomez Sada.

He went to Oxford University, ran the national mint and ran a government-owned mine. He assumed control of the mining union after the death of his father in 2001 -- even though union rules stipulated that only miners could become president.

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Embezzlement arrest of powerful union boss shows Mexico's new president playing hardball

If found guilty, Gordillo could face 30 years in prison.

Asked if he had other cases planned, Attorney General Jesus Murillo Karam told the Televisa news network, "I don't have evidence as clear as in this case."

Still, analysts said other powerful figures will surely take notice.

"I think there will be more willingness to negotiate and accept" reforms "rather than engage in confrontation," said Crespo.

Pena Nieto went on television Tuesday night to say the case was strictly based on enforcing the rule of law.

"This investigation has to be pursued to the very end but always adhering to the rule of law," he said, without referring to Gordillo by name.

The president also spoke directly to the millions of teachers in the two-minute national broadcast, saying his government will support them and respect the union's autonomy.

"My government will continue to be your ally and will continue to work to improve the conditions in which you carry the high mission of educating tomorrow's citizens," he said.

With education reform now enacted, Pena Nieto is also proposing to open the state oil company to more private investment, a move that could awaken opposition from the oil workers union. The administration is also proposing measures to bring more competition in the highly concentrated television and telecom sectors, steps that business magnates have long tried to stymie with court appeals.

There is a sense that "this is a message to all the other corrupt leaders," said Humberto Castillo, a 55-year-old retired teacher from Mexico State, who was reading a newspaper story about Gordillo's arrest while he waited for his daughter to come out of a job interview. "I thought she was untouchable."

For many, Gordillo stood as a symbol of the powers that dominate Mexico. She was a favourite of newspaper cartoonists because of her immediately recognizable face and designer clothes and accessories. Prosecutors said she spent nearly \$3 million in purchases at Neiman Marcus department stores using union funds, as well as \$17,000 in U.S. plastic surgery bills and \$1 million to buy a home near San Diego.

It was unclear if the arrest would force Gordillo out of her union leadership position. Mexican mining union boss Napoleon Gomez Urrutia has continued to hold his post more than four years after he moved to Canada amid accusations that he misappropriated \$55 million in union funds.

Many Mexicans immediately began suggesting prosecution of other union leaders. Opposition parties mentioned the boss of the oil workers union, Carlos Romero Deschamps, who, according to Mexican news media, gave his son a \$2 million Ferrari and whose daughter posted Facebook photos of her trips to Europe aboard private jets and yachts.

Romero Deschamps' immunity from prosecution as a legislator — a status he still enjoys — helped keep him from going to jail in a scandal over his union's illegal \$61.3 million campaign donation to the PRI in 2000.

But if Deschamps stayed within the womb of the PRI while under fire, Gordillo was unusually defiant, allying at times with presidents from the National Action Party, helping create a new political party and finally bolting from the PRI, where she had long been an influential figure. Many credited her party with pulling enough votes to swing the narrow 2006 election to National Action's Felipe Calderon.

Sergio Aguayo, a political analyst at the elite Colegio de Mexico, said Gordillo "wasn't just a shadow power, but one that wanted to be a political power."

"In Pena Nieto's vision of Mexico, no one can be above the president," Aguayo said. "It's the same old imperial presidency."

Gordillo's combativeness may have led her to miscalculate Pena Nieto's willingness to reinstate the old tradition of unquestioned presidential authority.

"She underestimated him," columnist and political analyst Raymundo Riva Palacio said of Pena Nieto.

The PRI, which ruled Mexico from 1929 to 2000, spent 12 years out of power before returning to the presidency with Pena Nieto's 2012 election victory.

Gordillo's arrest recalled the 1989 detention of once-feared oil union boss Joaquin Hernandez Galicia. He had criticized the presidential candidacy of Carlos Salinas and threatened a strike if Salinas privatized any part of the government oil monopoly.

On Jan. 10, 1989, about a month after Salinas took office, soldiers used a bazooka to blow down the door of Hernandez's home in the Gulf Coast city of Ciudad Madero.

He was freed from prison after Salinas left office.

Salinas' sweep of old, unco-operative union bosses also led to opening the way for a new, up-and-coming leader in the teachers union, Gordillo, who was at first seen as a reformer.

Gordillo's arrest alone is far from enough to help Pena Nieto improve Mexico's schools. So great is the union's control over hiring that even the government acknowledges it's not sure how many schools, teachers or students exist in Mexico.

The Mexican education system has been persistently one of the worst performers among the world's developed economies, with few signs of improvement. Nearly every Mexican 4-year-old is in pre-school, but only 47 per cent are expected to graduate high school. In the U.S., the number is closer to 80 per cent.

In a television interview last week about education reform, the interviewer told Gordillo that she was the most hated woman in Mexico.

"There is no one more loved by their people than I," Gordillo answered. "I care about the teachers. This is a deep and serious dispute about public education."

Union leaders voiced support for her during a meeting in Guadalajara but issued no formal statement and there were no public demonstrations by teachers.

"To our leader, teacher Elba Esther Gordillo, we affirm our loyalty, our love and our solidarity," Juan Diaz de la Torre, the union's general secretary, said during the meeting.

Associated Press writers Olga R. Rodriguez, Adriana Gomez Licon and Michael Weissenstein contributed to this report.

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In this photo released by Mexico's federal court system, the head of Mexico's powerful teachers' union, Elba Esther Gordillo, stands behind bars as she appears for a hearing at a federal prison in Mexico City, Wednesday, Feb. 27, 2013. Mexico's most powerful woman was formally charged with a massive embezzlement scheme on Wednesday, standing grim-faced behind bars live on national television in what many called a clear message that the new government is asserting its authority.

Photograph by: Juzgado Sexto de Distrito en Procesos Penales Federales, AP Photo



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