

## CODELCO / Juan Pablo Davila

**Case ID:**

ARW-44

**Jurisdiction of Origin of Public Official or Entity Allegedly Involved:**

Chile

**Position of Public Official(s) (yrs in office):**

Chief commodities futures trader, CODELCO (1989-1994)

**Jurisdiction of Asset Recovery:**

Cayman Islands

**Jurisdiction of Asset Recovery ? Description:**

Location of Recovery Effort, Asset Location / Alleged Asset Location

**Asset Recovery Start:**

1995

**Asset Recovery End:**

Unknown

**UNCAC Offenses Implicated:**

Art.17

**Money laundering Implicated:**

No

**Legal Basis for Asset Recovery:**

Private Civil Action

**Intl.Cooperation: MLAT/Letter of Request?:**

No

**Basis for Intl Cooperation:**

NA

**Contributing Factors in Asset Recovery:**

Early warning to bank putting it on notice that it may hold proceeds from fraud which encouraged it to report the funds in order not to risk liability as constructive trustee under Cayman laws. (Source: Website of the Government of Cayman Islands "Forfeiting Proceeds of Corruption," last accessed on February 28, 2011, at [http://www.gov.ky/portal/page?\\_pageid=1142,1687439&\\_dad=portal&\\_schema=PORTAL](http://www.gov.ky/portal/page?_pageid=1142,1687439&_dad=portal&_schema=PORTAL)).

**Status of Asset Recovery :**

Completed

**Assets Returned (USD) - Description:**

Unknown amounts returned

**Agreement for Returned Assets:**

No

**Agreement for Returned Assets - Description:**

NA

**Case Summary:**

According to the 2002 decision by the Grand Court of the Cayman Islands, as part of his sentence in Chile, Mr. Davila was ordered to pay US\$186,183,060 in damages to Codelco. (Source: Corporacion Nacional del Cobre de Chile v. Interglobal Incorporated and Avendano Sabugao, 2002 CILR 298 (May 23, 2002)) According to the official website of the Government of Cayman Islands, "In the matter of Re Codelco an early warning to the bank putting it on

notice that it may hold accounts which contained the proceeds of official corruption visited on a large scale upon the State-owned copper producing enterprise of the State of Chile, caused the bank voluntarily to freeze the accounts. In responding as it did, the bank's primary early concern was to avoid its own civil liability as a constructive trustee; but this allowed the Chilean Government time to get discovery orders against the bank for disclosure of information about the accounts and ultimately to freeze the accounts and recover the proceeds. This resulted also in information being disclosed for use in proceedings in other jurisdictions to recover other assets and by the U.S. Commodity Futures Trading Commission [CFTC] in proceedings taken against some of the co-conspirators, employees of a large futures brokerage firm and who were regulated by the CFTC." (Source: Website of the Government of Cayman Islands, "Forfeiting Proceeds of Corruption," last accessed on October 18, 2010 at

[http://www.gov.ky/portal/page?\\_pageid=1142,1687439&\\_dad=portal&\\_schema=P...](http://www.gov.ky/portal/page?_pageid=1142,1687439&_dad=portal&_schema=P...)).

**Disposition of Criminal Case(s):**

According to a 2002 decision by the Cayman Islands Grand Court, "Following criminal proceedings in Chile, Davila was found guilty of, inter alia, fraud against the state and the crime of presentation of false documents in a criminal proceeding. The latter relates to his production of the fabricated Drexel Burnham documentation. Davila was sentenced to a total of eight years' imprisonment."

**Jurisdiction of Origin: Investigative Agency:**

[Congressional and criminal proceedings in Chile]

**Jurisdiction of Origin: Prosecuting Authority/Civil Attorney(s):**

Consejo de Defensa de Estado

**Jurisdiction of Origin: Courts Involved:**

Unspecified

**Jurisdiction of Asset Recovery: Investigative Agency:**

NA

**Jurisdiction of Asset Recovery: Prosecuting Authority/Civil Attorney(s):**

Attorney General; Ritchie & Duckworth (G.F. Ritchie, Charles Adams, representing CODELCO)

**Jurisdiction of Asset Recovery: Courts Involved:**

Grand Court

**Documents:**

[CODELCO\\_Cayman\\_Islands\\_Deutsch\\_Sudamerikanische\\_Bank\\_1996\\_CILR\\_1.pdf](#)

[CODELCO\\_Cayman\\_Islands\\_Enforcement\\_Judgments.pdf](#)

[CODELCO\\_Cayman\\_Islands\\_Interglobal\\_2002\\_CILR\\_298.pdf](#)

**Documents Links:**

[http://www1.worldbank.org/finance/star\\_site/documents/arw/CODELCO\\_Cayman...](http://www1.worldbank.org/finance/star_site/documents/arw/CODELCO_Cayman...)

[http://www1.worldbank.org/finance/star\\_site/documents/arw/CODELCO\\_Cayman...](http://www1.worldbank.org/finance/star_site/documents/arw/CODELCO_Cayman...)

[http://www1.worldbank.org/finance/star\\_site/documents/arw/CODELCO\\_Cayman...](http://www1.worldbank.org/finance/star_site/documents/arw/CODELCO_Cayman...)

**Other Sources:**

Corporacion Nacional del Cobre de Chile v. Interglobal Incorporated and Avendano Sabugao, 2002 CILR 298, Judgment dated May 23, 2002, accessed at

<http://www.caymanjudicial-legalinfo.com.ky/judgments/Cayman-Islands-Law-...>

Deutsch-Sudamerikanische Bank A.G. v. Corporacion Nacional del Cobre de Chile and Attorney General, 1996 CILR 1, Judgment dated December 9th, 1995, accessed at <http://www.caymanjudicial-legalinfo.ky/Judgments/Cayman-Islands-Law-Repo...>

See also Website of the Government of Cayman Islands "Forfeiting Proceeds of Corruption," last accessed on February 28, 2011, at [http://www.gov.ky/portal/page?\\_pageid=1142,1687439&\\_dad=portal&\\_schema=P...](http://www.gov.ky/portal/page?_pageid=1142,1687439&_dad=portal&_schema=P...)