

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 93135 / September 27, 2021

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4259 / September 27, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20601

In the Matter of

**CARLOS JAVIER
MOCTEZUMA VELASCO,**

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE PROCEEDINGS AND
IMPOSING TEMPORARY SUSPENSION
PURSUANT TO RULE 102(e)(3) OF THE
COMMISSION'S RULES OF PRACTICE**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Rule 102(e)(3)¹ of the Commission's Rules of Practice against Carlos Javier Moctezuma Velasco ("Respondent" or "Moctezuma").

II.

The Commission finds that:

¹ Rule 102(e)(3)(i) provides, in relevant part, that:

The Commission, with due regard to the public interest and without preliminary hearing, may, by order, . . . suspend from appearing or practicing before it any . . . accountant . . . who has been by name . . . permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

A. RESPONDENT

1. Carlos Javier Moctezuma Velasco, age 50, a Mexican citizen residing in Mexico, served as the Chief Financial Officer of Desarrolladora Homex S.A.B. de C.V. from December 2009 until May 2016.

B. CIVIL INJUNCTION

2. On June 29, 2021, the U.S. District Court for the Southern District of California entered an Order for Default Judgment against Moctezuma, permanently enjoining him from future violations, direct or indirect, of Section 17(a) of the Securities Act of 1933, Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5) of the Securities Exchange Act of 1934 and Rules 10b-5, 12b-20, 13a-1, 13a-14, 13a-16, 13b2-1 and 13b2-2 thereunder. Securities and Exchange Commission v. Gerardo de Nicolás, et al., Civil Action Number 17-cv-02086 (S.D. Cal.).

3. The Commission's complaint alleged that Moctezuma and others engaged in a multi-billion dollar financial fraud involving Moctezuma's former employer, Desarrolladora Homex S.A.B. de C.V. ("Homex"), a Mexico-based homebuilding company. In addition to Moctezuma, the Commission's complaint charged Homex's former Chief Executive Officer, Gerardo de Nicolás Gutiérrez ("de Nicolás"), former Controller, Ramón Lafarga Bátiz ("Lafarga"), and a former manager in Homex's Operations department, Noe Corrales Reyes ("Corrales"), for their roles in the fraud. From 2010-2012, Homex reported revenue from the sale of more than 100,000 homes that it had neither built nor sold. Homex's resulting overstatements of its revenue across its annual reports filed with the Securities and Exchange Commission during the three-year period totaled at least MXN \$44 billion (USD \$3.3 billion) or 355%. The Commission's complaint alleged that Homex's annual reports for 2010 through 2012 portrayed the company as productive and financially sound, and that de Nicolás and Moctezuma certified their accuracy, when in fact the defendants knew Homex was in a dire financial state. The complaint further alleged that Lafarga directed Corrales to create a false second set of books, through which the fraud was perpetrated. The Commission's complaint also alleged that de Nicolás and Moctezuma caused Homex to enter into loan agreements with at least 13 Mexican banks, which Homex was able to repay only by additional bank borrowing, in check-kiting fashion, and that de Nicolás and Moctezuma hid the true nature of these loans from Homex's investors and mischaracterized them to Homex's auditor.

III.

Based upon the foregoing, the Commission finds that a court of competent jurisdiction has permanently enjoined Moctezuma from violating the Federal securities laws within the meaning of Rule 102(e)(3)(i)(A) of the Commission's Rules of Practice. In view of these findings, the Commission deems it appropriate and in the public interest that Moctezuma be temporarily suspended from appearing or practicing before the Commission.

IT IS HEREBY ORDERED that Moctezuma be, and hereby is, temporarily suspended from appearing or practicing before the Commission. This Order shall be effective upon service on the Respondent.

IT IS FURTHER ORDERED that Moctezuma may within thirty days after service of this Order file a petition with the Commission to lift the temporary suspension. If the Commission within thirty days after service of the Order receives no petition, the suspension shall become permanent pursuant to Rule 102(e)(3)(ii).

If a petition is received within thirty days after service of this Order, the Commission shall, within thirty days after the filing of the petition, either lift the temporary suspension, or set the matter down for hearing at a time and place to be designated by the Commission, or both. If a hearing is ordered, following the hearing, the Commission may lift the suspension, censure the petitioner, or disqualify the petitioner from appearing or practicing before the Commission for a period of time, or permanently, pursuant to Rule 102(e)(3)(iii).

This Order shall be served upon Moctezuma as provided for in Rule 141(a)(2)(iv) of the Commission's Rules of Practice, 17 C.F.R. § 201.141(a)(2)(iv).

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to service of paper copies, service to the Division of Enforcement of all opinions, orders, and decisions described in Rule 141, 17 C.F.R. § 201.141, and all papers described in Rule 150(a), 17 C.F.R. § 201.150(a), in these proceedings shall be by email to the attorneys who enter an appearance on behalf of the Division, and not by paper service.

By the Commission.

Vanessa A. Countryman
Secretary