

## **Notice of Uncontested Sanctions Proceedings**

**April 6, 2023**

**Sanctions Case No. 756  
IBRD Loan Number 8505-EC  
(Ecuador Guayaquil Wastewater Management Project)**

**Respondent:  
Construcciones y Servicios de Minería Consermin S.A.**

1. On September 14, 2022, the World Bank’s Chief Suspension and Debarment Officer (the “SDO”) issued a Notice of Sanctions Proceedings (the “Notice”) to Construcciones y Servicios de Minería Consermin S.A. (the “Respondent”) pursuant to sub-paragraph 4.01(a) of Section III.A of the Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects issued by the Bank on June 28, 2016 (the “Sanctions Procedures”).
2. The Statement of Accusations and Evidence (the “SAE”) prepared by the Bank’s Integrity Vice Presidency (“INT”) and appended to the Notice contained INT’s accusation that the Respondent engaged in a Sanctionable Practice (as defined in the Sanctions Procedures) in connection with the above-named project (the “Project”). The SAE also contained the evidence gathered by INT in support of this accusation.
3. The specific accusation made by INT in the SAE was that the Respondent engaged in a fraudulent practice by misrepresenting – in an Expression of Interest and in a bid letter for a construction contract under the Project – that a consortium formed by the Respondent and two other companies did not pay or intend to pay any fees, commissions, or gratuities in connection with the contract.
4. Based on a review of INT’s SAE conducted in accordance with sub-paragraph 4.01(a) of Section III.A of the Sanctions Procedures, and pursuant to sub-paragraph 4.01(c), sub-paragraph 9.01, and sub-paragraph 9.04 of Section III.A of the Sanctions Procedures, with due consideration of the factors set forth in sub-paragraph 9.02 of Section III.A of the Sanctions Procedures and in the World Bank Group Sanctioning Guidelines, the SDO recommended in the Notice<sup>1</sup> that the Respondent, together with certain Affiliates (as defined in the Sanctions Procedures) where so specified, be sanctioned as follows:

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<sup>1</sup> *As the Notice was unable to be delivered to the Respondent at the address designated by INT and INT was unable to ascertain the current address of the Respondent after reasonable efforts, delivery of the Notice was accomplished pursuant to sub-paragraph 11.04(a) of Section III.A and sub-paragraphs 6 through 8 of Section III.C of the Sanctions Procedures (“Constructive Delivery of Notices”).*

***Recommended Sanction: Debarment with Conditional Release  
Minimum Period of Ineligibility of Two (2) Years and Ten (10) Months***

*It is recommended that CONSERMIN (together with any entity that is an Affiliate directly or indirectly controlled by CONSERMIN) be declared ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;<sup>2</sup> (ii) to be a nominated<sup>3</sup> sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-Financed Project; provided, however, that after a minimum period of ineligibility of two (2) years and ten (10) months, CONSERMIN may be released from ineligibility only if CONSERMIN has, in accordance with sub-paragraph 9.03 of Section III.A of the Sanctions Procedures, demonstrated to the World Bank Group’s Integrity Compliance Officer that CONSERMIN has complied with the following conditions:*

- (a) CONSERMIN has taken appropriate remedial measures to address the Sanctionable Practices for which CONSERMIN has been sanctioned; and*
- (b) CONSERMIN has adopted and implemented, in a manner satisfactory to the Bank, integrity compliance measures as may be imposed by the World Bank Group’s Integrity Compliance Officer pursuant to sub-paragraph 9.03(b) of Section III.A of the Sanctions Procedures (e.g., an integrity compliance program or elements thereof) to address the Sanctionable Practice.*

*In determining this recommended sanction, the SDO took into account, as aggravating factors, (i) CONSERMIN’s repeated pattern of fraudulent practices involving multiple misrepresentations regarding the fees paid or to be paid in connection with a contract under the Project, and (ii) the involvement of CONSERMIN’s Manager in the misconduct. The SDO took*

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<sup>2</sup> For the avoidance of doubt, the declaration of ineligibility to be awarded a contract will include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

<sup>3</sup> A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid or (ii) appointed by the borrower.

*into account, as mitigating factors, (i) INT's representations regarding CONSERMIN's limited cooperation during the course of the investigation, noting that CONSERMIN representatives participated in interviews with INT, (ii) INT's representations regarding the relatively minor role that CONSERMIN played in the fraudulent scheme, and (iii) the significant amount of time that has elapsed since the Sanctionable Practice occurred and since the Bank became aware of it. The SDO did not apply any additional aggravating or mitigating factors.*

*This declaration of ineligibility will extend across the operations of the World Bank Group, including IFC, MIGA, and the guarantee and carbon finance operations of the Bank.<sup>4</sup> The Bank will also provide notice of this declaration of ineligibility to the other multilateral development banks ("MDBs") that are party to the Agreement for Mutual Enforcement of Debarment Decisions (the "MDB Cross-Debarment Agreement") so that they may determine whether to enforce the declarations of ineligibility with respect to their own operations in accordance with the MDB Cross-Debarment Agreement and their own policies and procedures.<sup>5</sup>*

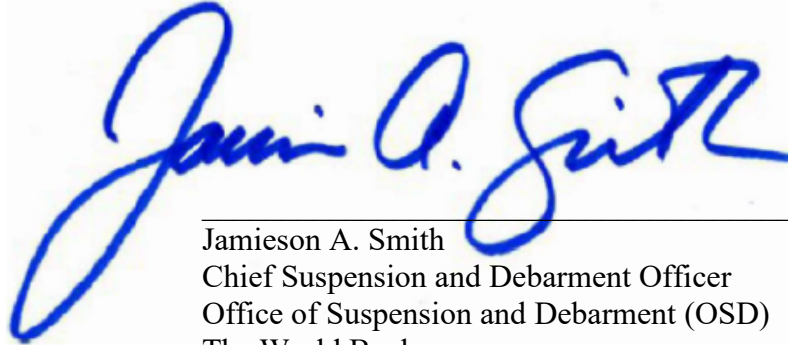
5. The Respondent did not submit an Explanation (as defined in the Sanctions Procedures) in accordance with sub-paragraph 4.02(b) of Section III.A of the Sanctions Procedures.
6. Sub-paragraph 4.04 of Section III.A of the Sanctions Procedures provides that if a respondent does not contest the accusation or the sanction recommended by the SDO in a Notice of Sanctions Proceedings by submitting a Response (as defined in the Sanctions Procedures) to the World Bank Group Sanctions Board (the "Sanctions Board") within ninety (90) days after delivery of such Notice of Sanctions Proceedings, the sanction recommended by the SDO shall enter immediately into force.

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<sup>4</sup> *Sanctions Procedures, . . . sub-paragraph 9.01(c) of Section III.A. For the avoidance of doubt, the declaration of ineligibility also extends to activities financed through trust funds administered by the Bank to the extent governed by the Bank's Procurement Regulations (or either of the Regulations' predecessor documents, the Procurement Guidelines and Consultant Guidelines) or Anti-Corruption Guidelines. Id., sub-paragraph 1.01(c)(i) of Section III.A.*

<sup>5</sup> *At present, the parties to the MDB Cross-Debarment Agreement are the Bank Group, the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group. The MDB Cross-Debarment Agreement provides that, subject to the prerequisite conditions set forth in the MDB Cross-Debarment Agreement, unless a participating MDB (i) believes that any of the prerequisite conditions set forth in the MDB Cross-Debarment Agreement have not been met or (ii) decides to exercise its rights under the "opt out" clause set forth in the MDB Cross-Debarment Agreement, each participating MDB will promptly enforce the debarment decisions of the other participating MDBs.*

7. No Response having been submitted to the Sanctions Board by the Respondent within the specified period, INT's accusation in the SAE and the sanction recommended by the SDO in the Notice are deemed uncontested for purposes of sub-paragraph 4.04 of Section III.A of the Sanctions Procedures, and the recommended sanction set forth in paragraph 4 above has entered into force as of the date hereof.



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Jamieson A. Smith  
Chief Suspension and Debarment Officer  
Office of Suspension and Debarment (OSD)  
The World Bank