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## Mike Lubrano, the Gringo that became the conscience of “Sanhattan” <sup>1</sup>

Iván Weissman

El Mostrador

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*He has a 30-year relationship with the Chilean financial market and played an important role in the development of its corporate governance policies. But this lawyer became one of its most ferocious critics when he challenged Álvaro Saieh and led the opposition to the terms of the merger between CorpBanca and Itaú. Cartica sued the then controller of CorpBanca in a US court and brought action here before the SVS and the SBIF, revealing existing conflicts of interest in the industry, lack of protections for minorities and the weakness of the national regulatory regime. In an extensive interview with El Mostrador TV, he revealed details of the fight with the Chilean billionaire and accused the regulators of having been more worried about getting CorpBanca off their backs than with protecting the shareholders. The Harvard alumnus – who counts among his network the lawyer Jorge Carey, ex-ministers Eduardo Bitran and Hernán Büchi, as well as with Jorge Errázuriz and Álvaro Clarke – revealed that his fund is again interested in investing in Chile, but didn't give names. And he affirmed that, despite his criticisms, the regulatory framework in our country is solid and by far the strongest in Latin America.*

Mike Lubrano has a 30-year relationship with the Chilean financial market and played an important role in the development of its corporate governance policies.

Lubrano, a founding partner of Cartica Management, is a lawyer by profession and is considered a global expert in corporate governance.

His links with Chile date back to 1988, when as a lawyer at the prestigious firm of Cleary, Gottlieb, Steen & Hamilton, he advised on the initial public offering of the “Chile Fund”, the first closed-end investment fund [of Chilean securities] listed on Wall Street. The fund would later be converted into Moneda Asset Management.

The following year, he advised Celfin on the offering on Wall Street of Compañía de Teléfonos de Chile (CTC). It was the first Latin American enterprise to list on the New York Stock Exchange and issue an ADR. It was during this transaction that he developed a close relationship with Jorge Errázuriz and Mario Lobo, founding partners of Celfin together with Juan Andrés Camus.

In 1998, Lubrano played a key role in advising the Government of Chile on the drafting of the Tender Offer Law, put in place in reaction to the Chispas scandal. In those days, he worked at International Finance Corporation, the investing

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<sup>1</sup> Weissman, Iván. “Mike Lubrano, El ‘Gringo’ Que Se Convirtió En La Conciencia De Sanhattan [Mike Lubrano, the Gringo That Became the Conscience of ‘Sanhattan’].” Elmostrador, El Mostrador, 10 Apr. 2017, [m.elmostrador.cl/mercados/2017/04/10/mike-lubrano-el-gringo-que-se-convirtio-en-la-conciencia-de-sanhattan/](http://m.elmostrador.cl/mercados/2017/04/10/mike-lubrano-el-gringo-que-se-convirtio-en-la-conciencia-de-sanhattan/). Accessed 7 Sept. 2017. Translated, Mike Lubrano and Karin Riechenberg. August 28, 2017.



arm of the World Bank. During this project he became friendly with Eduardo Bitran, who worked on the proposed law together with Álvaro Clarke and Heinz Rudolph.

But, despite his strong links with the country and his profound knowledge of the Chilean capital market, he became one of its most ferocious critics when he challenged Álvaro Saieh and led the opposition to the terms of the merger between CorpBanca and Itaú.

A few days ago he was on a lightning visit to Chile, and in an extensive interview with El Mostrador TV, he revealed details of the fight with Saieh and accused the regulators of having been more worried about getting CorpBanca off their backs than with protecting the shareholders.

“I think that the regulators had a conflict of interest, because they didn’t want to leave the bank in the hands of the old controllers, since their economic condition at that time was weak, and this was not good for the banking system”, said Lubrano. “I think that they stalled so that the participants would reach an agreement between themselves, which wasn’t fair either”, he added.

Cartica sued the then controller of CorpBanca in a US court and brought action here before the SVS and the SBIF, revealing existing conflicts of interest in the industry, lack of protections for minority shareholders and the weakness of the national regulatory regime, that – according to him – obliges shareholders to rely on Wall Street regulators.

The US Fund, which manages more than US\$2 billion and achieved control of 3.2% of CorpBanca, insisted that the transaction was designed to avoid a tender offer and in this way permit the banks to avoid having to share with all shareholders the premium that the merger would probably generate.

Lubrano – who counts among his network the lawyer Jorge Carey, ex-ministers Eduardo Bitran and Hernán Büchi, as well as Jorge Errázuriz and Álvaro Clarke – revealed that during his fight with the then controller of CorpBanca and the regulators many of his “friends” called him and recognized that “it isn’t fair, but it is legal”. In other words, they admitted there was a regulatory vacuum.

“To us it was obvious that it wasn’t fair to minority shareholders, the question was whether it was against the law”, he explained, with annoyance still in his voice even though years have now passed and Cartica sold its participation in CorpBanca at a good price.

### Most Solid Regulation in the Region

Despite his criticisms, he indicated that the regulatory framework in Chile is solid and by far the strongest in Latin America, “but it is a very small country and because of this there are conflicts of interest that we find in every investment we make and that complicates things”.

He added that there are gaps in the structure and that there are things that are too old and need to be modernized. “What’s weak is that being such a small country and having conflicts of interest all over the place, even with a very strong regulatory framework you still face big problems”.



Most revealing for him is the scarcity of protection for minority shareholders. He said that in the US it is much stronger and that is why investors resort to US courts and Wall Street regulators to seek compensation when they feel they have been damaged by a controller or majority shareholders.

In particular, he referred to the dissuasive power that collective lawsuits have. “In Chile these don’t exist. Now, in other countries in Latin America there isn’t even the possibility of complaining, of going to the courts or to the regulators, as we did in CorpBanca. What we did with CorpBanca wasn’t one hundred percent successful, but the regulators responded, they stalled, because they have conflicts of interest, but it was possible to initiate the process, make noise and, finally, Itaú sweetened the deal two times”, he stated.

The multi-million US dollar fine imposed on Sociedad Química y Minera de Chile, S.A. (SQM) for the case of illegal political contributions and the fact that in Chile “nothing has happened” are examples in the market.

The Director from Cartica insisted that the idea of being more transparent and improving corporate governance is more and more accepted. He affirmed that it is demonstrated that “companies that have better corporate governance have better performance and have a higher market value”.

### Renewed Interest in Chile

In the interview, Lubrano revealed that his lightning visit to Chile was due to Cartica’s renewed interest in investing in Chilean companies, but he didn’t give names.

Concerning the region, he affirmed that they are “a bit pessimistic in the short term. There is bad news all over the place, we are experiencing the results of the end of the commodities boom in the region, so right now in South America we have only two investments”.

But he assured that he was optimistic about Mexico, despite the arrival of Donald Trump to the White House. “We are a little more focused on Mexico, because we believe that it is much more competitive in the short and medium term, despite Trump. Trump introduces strong uncertainty, no doubt, but at the end of the day competitiveness and human resources will push against the Trump agenda”, he asserted.

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