

6-20-2002

Disgraced Banker Remains Free

LADB Staff

Follow this and additional works at: <https://digitalrepository.unm.edu/noticen>

Recommended Citation

LADB Staff. "Disgraced Banker Remains Free." (2002). <https://digitalrepository.unm.edu/noticen/8971>

This Article is brought to you for free and open access by the Latin America Digital Beat (LADB) at UNM Digital Repository. It has been accepted for inclusion in NotiCen by an authorized administrator of UNM Digital Repository. For more information, please contact amywinter@unm.edu.

Disgraced Banker Remains Free

by LADB Staff

Category/Department: Guatemala

Published: 2002-06-20

Guatemalan banker Francisco Alvarado MacDonald, who engaged in negligent lending practices as the principal shareholder of two Guatemalan banks, has evaded imprisonment by paying a fine of approximately US\$5,300. Many suggest that government authorities have shielded the banker from justice. Alvarado MacDonald is a close associate of President Alfonso Portillo and helped finance his presidential campaign. Some observers have suggested that the charges brought against Alvarado MacDonald were trivial and out of proportion to the seriousness of his fraudulent practices. After his banks went into financial crisis last year, the state compensated depositors at a cost of nearly US\$150 million.

On March 1, 2001, the government's monetary board (junta monetaria) took over Alvarado MacDonald's two banks, Banco Promotor and Banco Metropolitano, often referred to as the "twins." The banks had run out of reserves and their checks began to bounce (see NotiCen, 2001-03-29). The bank crisis led to the firing of Finance Minister Manuel Maza Castellanos, an ally of Alvarado MacDonald. The daily Siglo Veintiuno reported that Alvarado MacDonald had lobbied the Portillo administration to appoint Maza Castellanos as finance minister to protect his financial interests. Banker loans money to himself In effect, the state rescue packages merely subsidized the banks' highly questionable operations.

The banks' financial problems were deep, stemming from a long-held practice of making insecure or insufficiently secure loans to businesses in which Alvarado MacDonald had an interest. Documents of the Superintendencia de Bancos (SB) showed that close to 95% of the twin banks' loans went to enterprises linked to Alvarado MacDonald. Although Alvarado MacDonald had agreed that, after the last rescue package, he would no longer make loans to firms in which he or his associates held an interest, he did not keep his promise. The twin banks' loan portfolio included interest-free loans and loans to companies that existed only on paper.

Soon after the banks' takeover, it became clear that most of the twin banks' loans would not be repaid, requiring the central bank to bail out depositors with more infusions. In addition, evidence emerged showing that Banco Promotor had offered depositors accounts that paid higher interest rates than normal. The bank did not inform depositors that these accounts involved higher risks, since they were not subject to bookkeeping and they were not insured and regulated by the state. Banco Promotor made hundreds of thousands of dollars from high-risk deposits by investing them in offshore banks. After the state took over Banco Promotor, the depositors lost their money because their investments did not show up on the books as bank liabilities.

Alvarado MacDonald infiltrates seized banks

The state's bank receivers (juntas interventoras) that took over the twin banks were reportedly infiltrated by people loyal to the failed banks' shareholders. Officials of the juntas interventoras

admitted that a bank teller and a supervisor at Banco Metropolitano colluded to enable a bank shareholder to withdraw approximately US\$40,000 from a frozen account. Throughout March 2001, Alvarado MacDonald managed to withdraw large sums of money from Banco Metropolitano despite the junta monetaria's prohibition against withdrawals by shareholders who were deemed responsible for the financial crisis.

Roberto Gutierrez Luna, president of the junta interventora at Banco Metropolitano, said that, to his surprise, "disloyal workers" passed confidential information on to Alvarado MacDonald. Although the accounts of 107 enterprises with links to Alvarado MacDonald had been frozen, informers within the junta interventora were able to notify Alvarado MacDonald of other accounts that had not been blocked, enabling him to withdraw US\$280,000 before these accounts were discovered. The junta interventora accused Alvarado MacDonald of defrauding the state by illegally acquiring funds that had been granted by the government to back the deposits of those who were not shareholders of Banco Metropolitano. Siglo Veintiuno reported that, three days after the state took over Banco Metropolitano, Alvarado MacDonald managed to secure the postponement of payments of five of his indebted companies to Banco Metropolitano, further bankrupting the bank.

Wrongdoing goes unpunished

Despite ample evidence of wrongdoing on the part of Alvarado MacDonald, by May 2001, state authorities had done no more than order him and his associates to remain in the country. This was in marked contrast to the punitive actions against the shareholders of another insolvent bank, Banco Empresarial, which had been taken over by the state in February 2001. Within 15 days of that bank's takeover, the state ordered the arrest of several shareholders and charged them with fraud. Ricardo Falla, a former member of Banco Empresarial's executive board, was ordered to pay US\$260,000 to avoid imprisonment. Unlike Alvarado MacDonald, Falla did not have close ties to President Portillo.

In May 2001, the state took over Fimesa (Financiera Metropolitana), a financial house linked to the twin banks and controlled by Alvarado MacDonald. Fimesa owed US\$64 million to its creditors, including US\$10.5 million to Banco Promotor. With the addition of Fimesa to Alvarado MacDonald's failed financial operations, he and his associates had accumulated nearly US\$200 million in liabilities owed the state.

In June 2001, Alvarado MacDonald's legal efforts to regain control of the twin banks nearly succeeded. Criminal Court Judge Marco Antonio Posadas Pichilla ordered the state to return the banks to their shareholders. Soon thereafter, the Constitutional Court (Corte de Constitucionalidad, CC) revoked the judge's order. Later that year, the Council of the Judicial Profession (Consejo de Carrera Judicial) fired Judge Posadas Pichilla for exceeding the limits of his powers in attempting to return the banks to Alvarado MacDonald.

Rene de Leon Escribano, president of the junta interventora of Banco Promotor, said that, if the shareholders had been able to regain control of the banks for only a couple of hours, they could have withdrawn millions of dollars that had been provided by the state to guarantee the savings of non-shareholders. Despite Alvarado MacDonald's continued legal attempts to regain control of the twin

banks, both the banks and Fimesa were liquidated after non-shareholding depositors retrieved their savings.

Penalty called "laughable"

In July 2001, government authorities finally began formulating a case against Alvarado MacDonald. BANGUAT president Lizardo Sosa remarked, "If I establish a bank to get money from the public and I lend it to myself, hiding it in enterprises of questionable conduct and viability, everything indicates that it's fraud." Nevertheless, since the state takeover of the twin banks, Alvarado MacDonald was able to evade court summons for more than a year, claiming to be in bad health. Finally, in May, after Alvarado MacDonald had exhausted all legal maneuvers to avoid prosecution, a criminal court judge ordered his arrest. He then appeared in court, where the judge found that the only crime he had committed was the falsification of private documents, for which he was asked to pay the US\$5,300 fine.

Many Guatemalans have been outraged by the light penalty. Prosecuting attorneys interviewed by the daily Prensa Libre said that, if the office of the public prosecutor had done a good job, Alvarado MacDonald could have been prosecuted for at least 16 crimes. Prensa Libre noted that the US\$5,300 fine represented 0.000003% of the total the banker and his associates had defrauded the public. Juan Pablo Arce, a member of Movimiento pro Justicia, remarked that the fine was "ridiculous" and "laughable."

Prensa Libre columnist Mario Antonio Sandoval said the sordid affair would adversely affect citizen confidence in the people who had been entrusted to impart justice. The unfortunate message, according to Sandoval, was that justice would not be applied to those who have money and high-level political connections.

-- End --