

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

DAN KOHL, Individually and On Behalf of All  
Others Similarly Situated,

Plaintiff,

vs.

LOMA NEGRA COMPANIA INDUSTRIAL  
ARGENTINA SOCIEDAD ANONIMA,  
LOMA NEGRA HOLDING GMBH, SERGIO  
FAIFMAN, MARCO GRADIN, RICARDO  
FONSECA DE MENDONÇA LIMA, LUIZ  
AUGUSTO KLECZ, PAULO DINIZ, CARLOS  
BOERO HUGHES, DIANA MONDINO,  
SERGIO DANIEL ALONSO, BRADESCO  
SECURITIES INC., CITIGROUP GLOBAL  
MARKETS INC., HSBC SECURITIES (USA)  
INC., ITAU BBA USA SECURITIES, INC.,  
MERRILL LYNCH, PIERCE, FENNER &  
SMITH INCORPORATED AND MORGAN  
STANLEY & CO. LLC

Defendants.

Index No.: 653114/2018

**SECOND AMENDED CLASS  
ACTION COMPLAINT FOR  
VIOLATIONS OF THE  
SECURITIES ACT OF 1933**

**JURY TRIAL DEMANDED**

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Plaintiff Dan Kohl (“Plaintiff”), brings this action pursuant to Sections 11 and 15 of the Securities Act of 1933 (the “Securities Act”) individually and on behalf of all persons or entities other than defendants who purchased American Depositary Shares (“ADSs”) registered by Loma Negra Compañía Industrial Argentina Sociedad Anónima (“Loma Negra” or the “Company”) pursuant to or traceable to the Company’s Initial Public Offering (the “IPO” or “Offering”) that commenced on November 1, 2017 and closed on November 3, 2017.

Plaintiff alleges the following based upon personal knowledge as to himself and his own acts, and upon information and belief as to all other matters. Plaintiff’s information and belief is based on the investigation of his undersigned Counsel, which included, among other things, review and analysis of: (i) Loma Negra’s public filings with the U.S. Securities and Exchange Commission (“SEC”); (ii) Loma Negra’s other public statements, including press releases; and (iii) reports of securities and financial analysts, news articles, and other commentary and analysis concerning Loma Negra and the industry in which it operates. Counsel’s investigation into the matters alleged herein is continuing, and many relevant facts are known only to, or are exclusively within the custody or control of, the Defendants. Plaintiff believes that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

### **SUMMARY OF THE ACTION**

1. This securities class action is brought under §§ 11 and 15 of the Securities Act against: (i) Loma Negra; (ii) certain members of Loma Negra’s senior management and its board of directors (the “Board”) that signed the Registration Statement (as defined herein) in connection with the Company’s Offering (the “Individual Defendants”); (iii) Loma Negra Holding GmbH (the “Selling Shareholder”); and (iv) each of the investment banks that participated in the IPO as an

underwriter (the “Underwriter Defendants” and, together with Loma Negra, the Individual Defendants, and the Selling Shareholder, the “Defendants”).

2. Plaintiff alleges that the Registration Statement<sup>1</sup> (and Prospectus<sup>2</sup> incorporated therein) contained materially untrue statements of material fact and/or omitted to state material facts required to make the statements in the Registration Statement not misleading.

3. Loma Negra is a South American producer and distributor of cement, masonry cement, aggregates, concrete and lime to wholesale distributors, concrete producers and industrial customers in Argentina and Paraguay.

4. The Company is controlled by multinational conglomerate, Brazil-based Mover Participações S.A., formerly known as Camargo Corrêa S.A. (“Camargo Corrêa”).

5. Prior to the IPO, Camargo Corrêa was dealing with the after effects of having been implicated in a wide-sweeping Brazilian corruption probe that exposed the company as part of a pervasive kickback scheme in Brazil involving several governmental authorities and the country’s national oil company, Petróleo Brasileiro S.A. (“Petrobras”). In 2015, Camargo Corrêa’s engineering and construction subsidiary Construções e Comércio Camargo Corrêa S.A. (“CCCC”) and two of its former employees agreed to a plea bargain with the Brazilian government, and CCCC returned \$217 million to state controlled firms for damages related to bribery and price-fixing practices. That did not spell an end to the company’s troubles, however, as in early 2017, 40 Camargo Corrêa executives, including a member of the family that controls the company, also

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<sup>1</sup> “Registration Statement” refers to the Registration Statement filed by the Company with the SEC on Form F-1 on or about September 5, 2017, as signed by each of the Individual Defendants, along with subsequent amendments thereto filed with the SEC on September 27, 2017; October 12, 2017; and October 19, 2017; and declared effective by the SEC on October 31, 2017.

<sup>2</sup> “Prospectus” refers to the Prospectus filed by the Company on Form 424B4 with the SEC on November 2, 2017. The Prospectus and Registration Statement are collectively referred to herein as the “Offering Materials.”

negotiated a plea deal with the Brazilian government.

6. In March 2017 it was widely reported that Camargo Corrêa was shopping InterCement Participacoes S.A. (“InterCement” and, collectively with its subsidiaries, the “InterCement Group”), the cement division of which Loma Negra is a part. The asking price, as reported at that point, was \$6.5 billion USD.

7. Unable to find a buyer for InterCement at that price tag, Camargo Corrêa moved to monetize its stake in Loma Negra through the Offering.

8. Between November 1, 2017 and November 3, 2017, Loma Negra conducted the IPO in which 53,530,000 ADSs representing 267,650,000 ordinary shares of the Company were sold at an IPO price of \$19.00 per ADS.

9. On November 3, 2017, the Company announced the closing of the IPO, including the full exercise by the Underwriter Defendants of their option to purchase an additional 7,530,000 ADSs from the selling Shareholder.

10. Of the total number of ADSs offered in the IPO, 1,800,000 ADSs (representing 9,000,000 ordinary shares) were offered by the Company. The remaining 51,730,000 ADSs (representing 258,650,000 ordinary shares) were offered by the Selling Shareholder, an entity wholly controlled by InterCement, which is controlled by Camargo Corrêa.

11. In total, Defendants raised over \$1 billion in the IPO—with the Company raising gross proceeds of more than \$34 million *and the Selling Shareholder raising an additional approximately \$983 million*, each before deductions for the underwriters’ discount, commissions and estimated expenses.

12. Unbeknownst to investors, the Offering Materials’ representations were materially untrue, inaccurate, misleading, and/or incomplete. Most importantly, despite disclosing in the

Offering Materials that Loma Negra's corporate parent Camargo Corrêa and its construction and engineering subsidiary in Brazil were involved in a kickback scandal, *Loma Negra did not disclose to investors that Loma Negra's parent company, Camargo Corrêa, had bribed Argentine government officials to obtain a massive public works contract, so that Loma Negra could sell as much as one million cubic feet of concrete for the project and that Argentine authorities were then investigating the company for engaging in a bribery scheme similar to that orchestrated in Brazil.*

13. The issues were two-fold as Loma Negra was then susceptible to the negative reputational hit associated with its affiliation with Camargo Corrêa while also running the likelihood of being excluded from future public works project bidding on account of its past association with the company.

14. Further scandal embroiled the Argentine construction industry in August and September of 2018. On August 1, 2018, an Argentine newspaper published an exposé revealing that the prior Argentine administration had accepted as much as \$160 million in bribes for public works contracts, thus implicating a vast number of participants in the current government's drive to build national infrastructure. In August and September 2018, a series of revelations about Camargo Corrêa further rocked the construction industry: the president of Camargo Corrêa's local business partner confessed that he helped facilitate an industry-wide practice where construction companies bribed government officials to obtain contracts, and specifically admitted to his role in bribing officials to secure for Camargo Corrêa a contract to build a massive \$118 million USD water treatment plant outside Buenos Aires. On September 8, 2018, an Argentine newspaper uncovered documents unequivocally showing that *the bribes made their way through Loma Negra's local construction affiliate in Buenos Aires.* On September 16, 2018, a newspaper

revealed a judicial investigation that found that Camargo Corrêa had cut corners with the Argentinian government contract by knowingly using defective equipment to construct the water treatment plant.

15. Public confidence in the Argentine construction industry—and in the country’s public works plans, much like Loma Negra’s stock price—is in a tailspin, presently trading more than 33% below the IPO price and trading as low as a 68% discount to the IPO price in August 2018 during the media’s extensive coverage over Camargo Corrêa’s bribery involvement in Argentina.

16. As a result of the materially misleading Offering Materials, the Company’s ADSs were artificially inflated at the time of the IPO.

17. As alleged herein, Plaintiff, individually and on behalf of similarly situated Class members who also acquired the Company’s ADSs pursuant or traceable to the IPO, now seeks to obtain a recovery for the damages suffered as a result of Defendants’ violations of the Securities Act.

18. For all claims stated herein, Plaintiff expressly disclaims any allegation that could be construed as alleging fraud or intentional or reckless misconduct.

#### **JURISDICTION AND VENUE**

19. The claims asserted herein arise under §§ 11 and 15 of the Securities Act, 15 U.S.C. §§77k and 77(o). This Court has subject matter jurisdiction over this action under § 22 of the Securities Act (15 U.S.C. §77v). Section 22 of the Securities Act, 15 U.S.C. § 77v, states that “[e]xcept as provided in section 16(c), no case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court in the United States.” 15 U.S.C. §77v(a) (emphasis added). Section 16(c) of the Securities Act refers to “covered class actions,”

which are defined as lawsuits brought as class actions or brought on behalf of more than 50 persons asserting claims under state or common law. 15 U.S. C. §77p(c), (f). This is an action asserting federal law claims. Thus, it does not fall within the definition of a “covered class action” under §16(b)-(c) and it therefore is not removable to federal court under the Securities Litigation Uniform Standards Act of 1998. *Cyan, Inc. v. Beaver Cty. Emples. Ret. Fund*, 138 S. Ct. 1061 (2018).

20. Venue is proper in this court as: (i) Loma Negra maintains a registered agent for service in this state at C T Corporation System, 111 Eighth Avenue, New York, New York, 10011; (ii) the Company has engaged Citibank, N.A. as its depository bank for its ADSs and Citibank, N.A.’s depository offices are located at 388 Greenwich Street, New York, New York 10013; (iii) several of the Underwriter Defendants maintain offices in this state; and (iv) the Individual Defendants all signed the Registration Statement and caused it to be transmitted into New York and directed sales of the Company’s IPO ADSs to people and entities located in New York.

## PARTIES

### **A. Plaintiff**

21. Plaintiff purchased Loma Negra ADSs pursuant or traceable to the IPO Materials issued in connection with the Company’s IPO and has been damaged thereby.

### **B. Loma Negra**

22. Defendant Loma Negra is incorporated under the laws of Argentina with corporate headquarters located at Boulevard Cecilia Grierson No. 355, 4th floor, City of Buenos Aires, Argentina. Prior to September 17, 2018, its corporate headquarters were located at Reconquista 1088, 7th Floor, Ciudad Autonoma de Buenos Aires, Argentina, C1003ABQ. According to the Registration Statement, Loma Negra has engaged C T Corporation System, 111 Eighth Avenue, New York, New York 10011 as its agent for service. To this end, James M. Halpin, assistant

secretary of C T Corporation System, signed the Registration Statement as Loma Negra's "Authorized Representative in the United States."

23. In the IPO, the Company sold 1,800,000 ADSs for gross proceeds of \$34.2 million and net proceeds of \$31.8 million.

24. Loma Negra's ADSs are traded on the New York Stock Exchange under the ticker symbol "LOMA."

25. Defendant Loma Negra is strictly liable for the materially untrue and misleading statements incorporated into the Offering Materials.

### **C. The Individual Defendants**

26. Defendant Sergio Faifman ("Faifman") was at the time of the IPO and remains the Company's Chief Executive Officer ("CEO"), Vice President of the Board, and signed or authorized the signing of the Company's Registration Statement. Faifman joined the Company in 1994. At the time of the IPO, Defendant Faifman was also (and remains) the Vice-President of InterCement (the Company's controlling shareholder) for Loma Negra and Yguazú Cementos. Mr. Faifman served as Comptroller and Tax Manager at Loma Negra from May 2006 until September 2010. He has also served as Superintendent of Corporate Comptroller at InterCement Brasil from September 2010 until August 2012. He served as Chief Financial Officer of Loma Negra between August 2012 and June 2015, and as Logistics and Supply Director from June 2015 until November 2016.

27. Defendant Marcos Isabelino Gradin ("Gradin") has been the Company's Chief Financial Officer ("CFO") since March 2016. Gradin signed or authorized the signing of the Company's Registration Statement. He was a director of Loma Negra from August 2015 through July 2017. Gradin also currently serves on the boards of directors of Yguazú Cementos S.A.,

Ferrosur Roca S.A., Cofesur S.A. and Recycomb S.A.U. He has also served as CFO of Cimpor Spain and Portugal, from January 2013 until August 2015. He joined Loma Negra in 1998. At Loma Negra, he was previously Financial Manager from June 2006 until January 2013 and Chief of Financial Operations from January 1998 until June 2006.

28. Defendant Ricardo Fonseca de Mendonça Lima was appointed President of the Company's Board in December 2016. He signed or authorized the signing of the Company's Registration Statement. He served as a member of the Board from 2008 to 2015 and was Vice President of the Board from 2011 to 2015. At the time of the IPO, Defendant Fonseca de Mendonça Lima was also the CEO of InterCement since August 2015, the Company's controlling shareholder and owner and controller of the Selling Shareholder. At the time of the IPO he also served as chairman of Cimentos de Moçambique S.A. and as Manager of Camargo Corrêa Cimentos de Luxemburgo S.à.r.l. and Caue Finance Limited. At the time of the IPO, Mr. Fonseca de Mendonça Lima was also a member of the board of directors of Cimpor—Cimentos de Portugal SGPS, S.A. and chairman of its Executive Committee. Only one month after the IPO, on December 7, 2017, InterCement announced that Mr. Fonseca de Mendonça Lima had resigned from his positions at these companies.

29. Prior to the IPO, Mr. Fonseca de Mendonça Lima had served as General Manager of InterCement Brasil, S.A. in 2008, Cimpor Portugal SGPS S.A. from 2012 to 2016 and from 2010 to 2013 and of Kandmad—Sociedade Gestora de Participações Sociais from 2012 to 2014. He has also served as chairman of the board of directors of NPC - Cimpor (PTY) Limited in 2013, Natal Portland Cement Company (Proprietary) Limited from 2012 to 2013, Cimpor - Serviços De Apoio à Gestão De Empresas S.A. from 2012 to 2014, Cimpor Trading e Inversiones, S.A. from 2012 to 2014, and Cimpor—Industria de Cimentos, S.A. from 2012 to 2016.

30. Defendant Luiz Augusto Klecz joined the Loma Negra Board of Directors in July 2017 and, on information and belief, has since left that position. He was at the time of the IPO a director of the Company and signed or authorized the signing of the Company's Registration Statement. Defendant Klecz previously served on the Loma Negra Board from 2006 to 2008. From 2008 through 2011, he was the Head of the Legal Department for the holding company of the Camargo Corrêa Group. He has been the General Counsel for InterCement since 2011 and has been the Head of the Legal Department of InterCement Brazil since 2002. He was Legal Director of Loma Negra from 2005 through 2008 and was Legal Manager at Camargo Corrêa Cimentos from 2002 to 2005. As of April 2018, he was a director of Loma Negra, but no longer holds that position. He was a Director of InterCement Austria Holding GmbH from 2013 to 2015. At the time of the IPO, he had been Head of the Legal Department of InterCement Brasil since 2002, and between 2005 and 2008, he was also the Legal Director. Since 2011, he is the General Counsel for InterCement.

31. Defendant Paulo Sérgio de Oliveira Diniz was at the time of the IPO (and remains) a director of the Company, having been appointed to that position in July 2017. He signed or authorized the signing of the Company's Registration Statement. He has been the Chief Financial Officer of InterCement since 2015. He has been a member of the board of directors of Cimpor—Cimentos de Portugal SGPS, S.A. and member of its Executive Committee since August 2015.

32. Defendant Carlos Boero Hughes was at the time of the IPO (and remains) a director of the Company, having assumed that role in July 2017. He signed or authorized the signing of the Company's Registration Statement.

33. Defendant Diana Mondino was at the time of the IPO (and remains) a director of the Company, having been appointed in July 2017. She signed or authorized the signing of the

Company's Registration Statement. Among other positions outside the Company, from 2006 to 2011, she served as an independent director of Pampa Energía.

34. Defendant Sergio Daniel Alonso was at the time of the IPO (and remains) a director of the Company and signed or authorized the signing of the Company's Registration Statement.

35. The defendants identified in ¶¶ 26-34 are collectively referred to herein as the "Individual Defendants."

36. The Individual Defendants each participated in the preparation of and signed (or authorized the signing of) the Registration Statement and the issuance of the Offering Materials.

37. The Individual Defendants are strictly liable for the materially untrue and misleading statements incorporated into the Registration Statement. By virtue of their positions with the Company, the Individual Defendants possessed the power and authority to control the contents of Loma Negra's reports to the SEC, press releases, and presentations to securities analysts, money and portfolio managers, and market investors.

#### **D. The Selling Shareholder**

38. The Selling Shareholder is an Austrian limited liability company located at Hohenstaufengasse, 10/ 3rd Floor, 1010 Vienna, Austria. Prior to the IPO, the Selling Shareholder owned 99.4% of Loma Negra's outstanding capital stock. The Selling Shareholder is indirectly (through Cimpor—Cimentos de Portugal, SGPS, S.A.) owned and controlled by InterCement, Loma Negra's controlling shareholder. InterCement in turn is controlled by Camargo Corrêa.

39. Immediately prior to the IPO, the Selling Shareholder's capital stock consisted entirely of ordinary shares.

40. In the IPO, the Selling Shareholder sold 51,730,000 ADS for gross proceeds of approximately \$983 million and net proceeds of approximately \$914 million, each inclusive of the

exercised overallotment option.

41. The IPO was the largest for an Argentine company in over 25 years.

42. Following the IPO, the Selling Shareholder owned 51.04% of Loma Negra's outstanding capital stock and then current minority shareholders (who, before the IPO, owned 0.56%) owned 0.53%.

#### **E. The Underwriter Defendants**

43. Defendant Bradesco Securities Inc. ("Bradesco Securities") is a financial services company located at 450 Park Avenue, New York, New York 10022. According to the Registration Statement, Bradesco Securities acted as U.S. broker dealer on behalf of Banco Bradesco BBI S.A. (collectively with Bradesco Securities, "Bradesco") in connection with the sale of Loma ADSs and ordinary shares in the United States. In the IPO, Bradesco agreed to purchase 4,010,256 Loma Negra ADSs, exclusive of any over-allotment option, which Bradesco Securities then sold in the U.S.

44. Defendant Citigroup Global Markets Inc. ("Citigroup") is a financial services company located at 388 Greenwich Street, New York, New York 10013. Citigroup acted as an underwriter for the Company's IPO. In the IPO, Citigroup agreed to purchase 4,010,256 Loma Negra ADSs, exclusive of any over-allotment option.

45. Defendant HSBC Securities (USA) Inc. ("HSBC") is a financial services company located at 452 Fifth Avenue New York, New York 10018. HSBC acted as an underwriter for the Company's IPO. In the IPO, HSBC agreed to purchase 4,010,256 Loma Negra ADSs, exclusive of any over-allotment option.

46. Defendant Itau BBA USA Securities, Inc. ("Itau") is a financial services company located at 767 Fifth Avenue, 50th floor, New York, New York 10153. Itau acted as an underwriter

for the Company's IPO. In the IPO, Itau agreed to purchase 11,323,077 Loma Negra ADSs, exclusive of any over-allotment option.

47. Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") is a financial services company located at One Bryant Park, New York, New York 10036. Merrill Lynch acted as an underwriter for the Company's IPO. In the IPO, Merrill Lynch agreed to purchase 11,323,077 Loma Negra ADSs, exclusive of any over-allotment option.

48. Defendant Morgan Stanley & Co. LLC ("Morgan Stanley") is a financial services company located at 1585 Broadway, New York, New York 10036. Morgan Stanley acted as an underwriter for the Company's IPO. In the IPO, Morgan Stanley agreed to purchase 11,323,078 Loma Negra ADSs, exclusive of any over-allotment option.

49. The defendants identified in ¶¶ 43-48 are collectively referred to herein as the "Underwriter Defendants."

50. The Company, Individual Defendants, Selling Shareholder, and Underwriter Defendants are collectively referred to herein as the "Defendants."

51. The Underwriter Defendants had an option to purchase up to 37,650,000 additional ordinary shares, representing 7,530,000 additional ADSs, at the initial public offering price paid by investors less applicable underwriting discounts and commissions. The Underwriter Defendants exercised this option in full.

52. Per the Form of Underwriting Agreement filed as an exhibit to the Registration Statement, each Underwriter Defendant agreed, severally and not jointly, to purchase from the Company the number of firm shares plus any optional shares upon the exercise of the Underwriter Defendants' option.

53. Each of the Underwriter Defendants received commissions for their participation

in the IPO, receiving \$1.3319 for each Loma Negra ADS underwritten, totaling approximately \$71 million, accounting for the full over-allotment exercise.

54. In the run-up to the IPO, the Underwriter Defendants: (i) assisted in the preparation and presentation of Loma Negra “road show” materials designed to induce investment in the Company; (ii) conducted due diligence on the Company, including, *inter alia*, access to confidential corporate information concerning Loma Negra’s business operations unknown to the investing public; and (iii) consulted with Company management regarding the content of the Offering Materials.

55. Pursuant to the Securities Act, the Underwriter Defendants are liable for the materially untrue and misleading statements in the IPO Materials. The Underwriter Defendants assisted Loma Negra and the Individual Defendants in planning the IPO and were required to conduct an adequate and reasonable investigation into the business and operations of Loma Negra — a process known as a “due diligence” investigation. The Underwriter Defendants were required to conduct a due diligence investigation in order to participate in the IPO. During the course of their due diligence investigation, the Underwriter Defendants had continual access to confidential corporate information concerning Loma Negra’s operations and financial prospects.

56. In addition to availing themselves of virtually unlimited access to internal corporate documents, agents of the Underwriter Defendants met with Loma Negra’s lawyers, management and top executives and made joint decisions regarding: (i) the terms of the IPO, including the price at which Loma Negra ADSs would be sold to the public; (ii) the strategy to best accomplish the IPO; (iii) the information to be included in the Offering Materials; and (iv) what responses would be made to the SEC in connection with its review of the Offering Materials. As a result of those constant contacts and communications between the Underwriter Defendants’ representatives and

Loma Negra's management and top executives, the Underwriter Defendants knew of, or in the exercise of reasonable care should have known of, Loma Negra's existing problems as detailed herein.

57. Defendants negligently allowed the Offering Materials to contain materially untrue and misleading statements and/or omissions but failed to act in a reasonable manner to prevent the Offering Materials from containing materially misleading statements and/or preventing the materially misleading Offering Materials from being disseminated.

58. On this basis, the Underwriter Defendants knew, or should have known, that the Offering Materials misrepresented or misleadingly failed to disclose that, before the IPO, the government had already stopped paying public works contracts. Defendants also failed to disclose that the government was forced to turn to private companies to fund public works, and that those companies themselves needed foreign financing to launch construction. Furthermore, Defendants knew, but failed to tell investors, that Loma Negra's parent company was, before the IPO, already under investigation for bribery in Argentina and had in fact bribed Argentine government officials, and that Loma Negra had obtained a substantial and direct benefit from those bribes. Moreover, Defendants knew (from their own experience), but failed to tell investors, of the obvious consequences of the eventual disclosure of the bribery: a crisis in confidence in the public construction sector, delays in the launch of public projects, a negative impact on Argentina's economic growth, and the risk of being excluded from government contracts, all of which would negatively affect the prospects for Loma Negra's sales of cement. Therefore, Defendants are liable under the Securities Act for the false and misleading statements in the Offering Materials.

## SUBSTANTIVE ALLEGATIONS

### **A. Background of Loma Negra**

59. Founded in 1926, Loma Negra represents itself as the sole pan-national, vertically-integrated cement and concrete business in Argentina capable of covering all regions of the country. Loma Negra held a market share of 45.4% in terms of sales volume in Argentina for the six months ended June 30, 2017.

60. In Argentina, the Company owns six integrated cement plants (which include limestone quarries and calcination kilns), two cement grinding facilities, one cement blending facility, eleven concrete plants, one lime production facility, and one waste blending facility. The integrated cement plants are located in Benito Juarez, El Alto, Olavarria (the l'Amali and Olavarria plants), San Juan, and Zapata.

61. Loma Negra also owns 51% of an integrated cement production plant in Paraguay through its subsidiary Yguazú Cementos S.A – the second largest cement company in that country, controlling 46% market share in terms of sales volume for the six months ended June 30, 2017

### **B. Camargo Corrêa Acquires Loma Negra**

62. Loma Negra's majority indirect owner is Camargo Corrêa.

63. In 2005, Camargo Corrêa acquired Loma Negra. According to Camargo Corrêa, the purchase, for over \$1 billion, was the largest transaction in the company's history. Upon its acquisition, Loma Negra was placed under the ownership of Camargo Corrêa's directly-controlled subsidiary responsible for Camargo Corrêa's global cement business, InterCement.

64. Camargo Corrêa operates in the cement, energy concessions, urban mobility and transportation concessions, engineering and construction, real estate development, textile, and shipbuilding industries. It produces cement, concrete, and aggregates; generates, distributes, and

trades electric power; and produces denim and professional clothing, as well as develops engineering and construction projects in various segments of infrastructure and industrial buildings, such as energy, oil and gas, ports and shipyards, airports, highways, sanitation, and mining and refineries. The company also develops residential real estate, corporate buildings, and logistics infrastructure projects; and produces ships, as well as drilling and offshore production platforms.

65. The InterCement Group was created by its corporate parent, Camargo Corrêa, via a corporate restructuring in December 2010, having under its umbrella InterCement Brasil S/A (known as Camargo Corrêa Cimentos S/A until April 2011), Loma Negra, and other Camargo Corrêa holdings linked to the cement sector.

66. At all times relevant hereto preceding the Offering, several individual defendants, including the President of Loma Negra's Board, defendant Fonseca de Mendonça Lima, were also high ranking executives within the InterCement Group.

67. As illustrated by its financial performance relative to the other divisions under the Camargo Corrêa umbrella, InterCement was a key contributor to the holding company's overall financial health, with its contribution to Camargo Corrêa's net revenue and EBITDA steadily rising from 2007 to 2015:

<b>Contribution of InterCement Group to Camargo Corrêa S.A.'s Overall Financial Performance</b>		
	<b>Percentage of Total Net Revenues</b>	<b>Percentage of Total EBITDA</b>
2007	15.24%	20.93%
2008	15.51%	17.29%
2009	14.60%	19.94%
2010	13.79%	19.42%
2011	16.67%	32.51%
2012	29.94%	43.12%
2013	29.15%	45.33%
2014	31.18%	41.69%
2015	42.59%	47.30%

68. In fact, by 2015, the InterCement Group was the *largest contributor* to net revenue for Camargo Corrêa:

#### Breakdown of net revenue

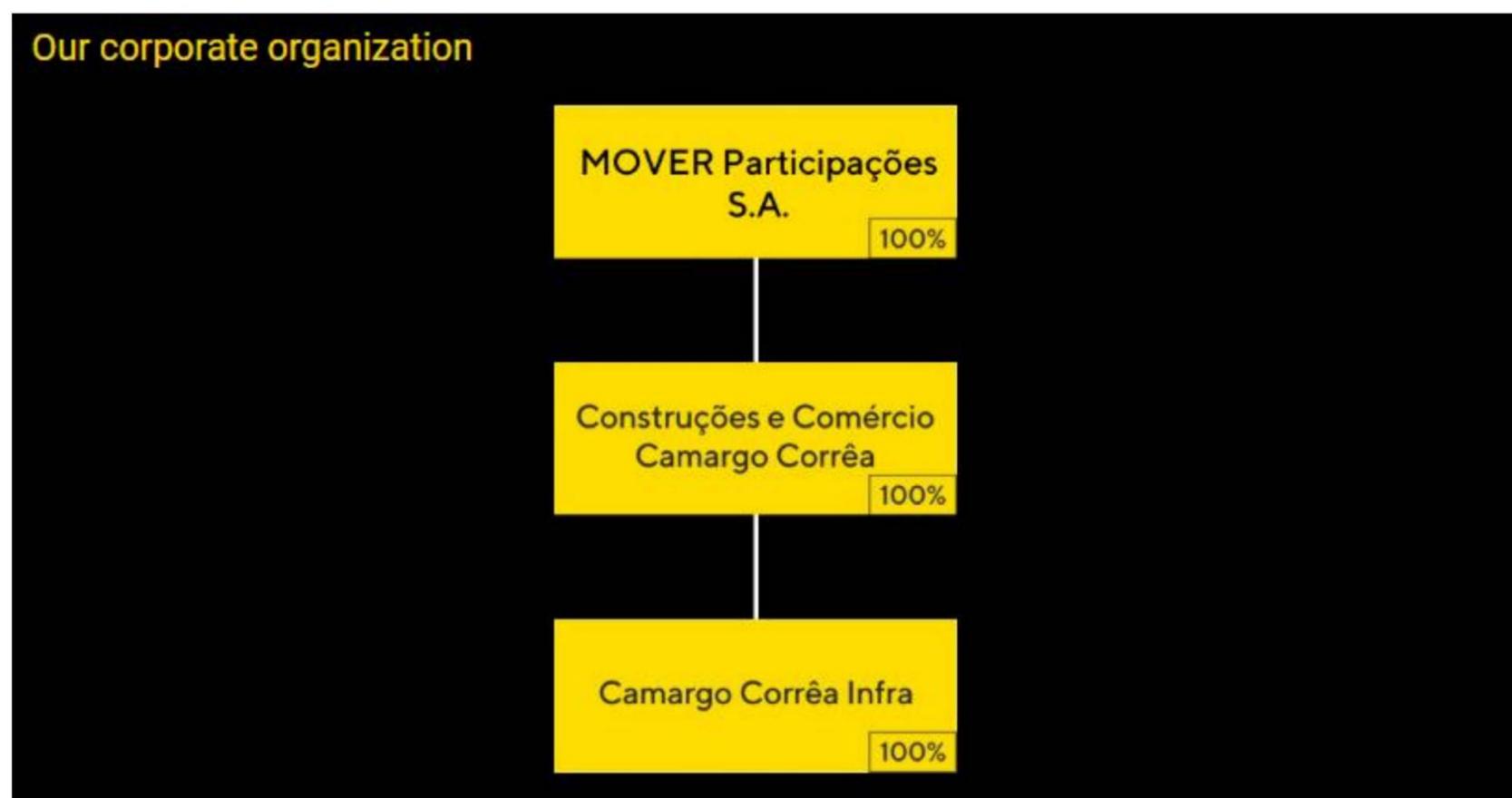


69. Camargo Corrêa also indirectly owns CCCC. CCCC was established in 1939 and is Camargo Corrêa's subsidiary focused on engineering and construction of buildings and social infrastructure, including roads, power plants, and subways. Prior to a corporate restructuring in 2017 (*see infra* ¶ 70), CCCC was the division most historically synonymous with the "Camargo

Corrêa” name based on its seventy-plus year history. Like the InterCement Group, CCCC was also a key contributor to Camargo Corrêa’s finances:

<b><u>Contribution of CCCC to Camargo Corrêa S.A.’s Overall Financial Performance</u></b>		
	<b><u>Percentage of Total Net Revenues</u></b>	<b><u>Percentage of Total EBITDA</u></b>
2007	28.55%	7.79%
2008	36.19%	19.02%
2009	35.58%	27.65%
2010	33.71%	17.69%
2011	29.80%	7.76%
2012	24.87%	12.96%
2013	22.79%	11.94%
2014	24.19%	11.91%
2015	20.22%	10.24%

70. Following the implication of Camargo Corrêa and, specifically, CCCC in the Brazilian corruption investigation Operação Lava Jato (“Operation Car Wash”), in 2017, Camargo Corrêa created a new subsidiary named Camargo Corrêa Infraestrutura (later renamed “Camargo Corrêa Infra”). From that point forward, Camargo Corrêa Infra would be in charge of all construction contracts awarded to the Camargo Corrêa group from 2017 onwards, with Camargo Corrêa Infra acting as a wholly owned subsidiary of CCCC and Camargo Corrêa:



71. Throughout the period relevant to this complaint, InterCement and CCCC engaged in a high volume of related-party transactions. The value of these transactions is reflected by the fact that, in 2017, InterCement settled accounts receivables due from Camargo Corrêa and CCSA Finance Ltd. (a subsidiary of Camargo Corrêa) in a securitization valued at €51,557,000 (equal to approximately \$58.58 million USD).

### **C. Camargo Corrêa’s Long History of Bribing Government Officials in Exchange for Kickbacks**

#### **1. Camargo Corrêa Executes a System of Bribes and Kickbacks to Secure a Lucrative AySA Construction Contract**

72. In early 2008, Argentina’s state-run water and sanitation company, Agua y Saneamientos Argentinos (“AySA”) announced that it would be accepting bids for the construction of two separate water treatment plants in the Buenos Aires province; the first, named the “Bicentenario” water plant in Berazategui (the “Bicentenario”), and the other in Tigre and named the Parana de Las Palmas (the “Las Palmas”).

73. In actuality, the bidding process was a farce orchestrated to enrich the two construction companies handpicked by corrupt Argentine government officials in order to secure kickbacks for themselves. Those two companies were Camargo Corrêa and Odebrecht S.A. (“Odebrecht”).

74. However, before the two Brazil-based construction giants would be allowed to capitalize on their special treatment, they each needed a powerful ally in the Argentine construction market: Carlos Wagner.

75. In addition to being the founder of Argentine construction company Esuco S.A. (“Esuco”), Carlos Wagner was also the head of the Argentina Chamber of Commerce for Construction (“Camarco”). As Wagner would later admit, he played the role of “facilitator,” connecting construction companies to public works projects in Argentina. The lifeblood of that system, according to Wagner, was bribes.

76. Wagner also had close ties to Loma Negra with Wagner acknowledging the strong relationships that bind together Camarco, Loma Negra, and the Argentine construction industry. In February 2012, on the death of the widow of the founder of Loma Negra, Amalia Lacroze de Fortabat, the Spanish-language Argentine newspaper *La Nación* reported:

Carlos Wagner, president of [Camarco], expressed his regret after hearing the news [of Ms. Fortabat’s death]. “We have nothing but words of thanks,” he said. “[A]s an institution *we have had a permanent and important link with Loma Negra* as a cement supplier, the main input of our sector.”

(Emphasis added).

77. For foreign companies like Camargo Corrêa, Wagner’s instructions were simple: if they wanted a seat at the table in Argentina, they would need to join an Argentine construction company and make the necessary kickback payments.

78. Camargo Corrêa did just this with respect to the Bicentenario, creating a “Unión

Transitoria de Empresas” (“UTE”), or joint partnership, with Wagner’s Esuco for the purpose of the project (the “Camargo Corrêa UTE”). Camargo Corrêa controlled 60% of the UTE, with Esuco controlling the remaining 40%.

79. Odebrecht, following Wagner’s directive, did similarly with respect to Las Palmas, forming a UTE of its own with Argentine firms Supercemento SAIC, Benito Roggio e Hijos S.A., and Jose Cartellone Construcciones Civiles S.A.

80. Bidding went as expected for the two projects, with the Camargo Corrêa UTE securing the Bicentenario project with a bid of \$378 million<sup>3</sup> plus an additional approximately \$80 million in taxes, beating out the only other bid submitted for the project by approximately \$30 million. Notably, this second bid was entirely above the increased budget for the project, rendering it out of the running from the outset.

81. On June 27, 2018, the Camargo Corrêa UTE increased its bid to approximately \$482 million, terms that were accepted by the AySA on November 10, 2008.

82. Odebrecht similarly secured the Las Palmas project, defeating only a sham bid from Camargo Corrêa that was higher than the budget proposed by the government for the project.

83. The contract for the Bicentenario project was signed by Carlos Ben, in his capacity as president of AySA, Carlos Wagner on behalf of the Camargo Corrêa UTE, and Jaime José Juraszek Junior and Sergio Gabriel Chividini, each of whom was an executive of Camargo Corrêa at the time, as exporters.

84. There were also three addenda signed related to the contract, each signed by Carlos Ben on behalf of AySA. For the Camargo Corrêa UTE, the first was signed on May 28, 2010 by

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<sup>3</sup> Unless otherwise indicated, all currency figures represented in dollar terms reflect the value amount in Argentine Pesos (“ARS”).

Carlos Wagner, and Camargo Corrêa executives Joao Frapolli de Souza Castro and Sergio Gabriel Chividini; the second, signed on August 31, 2011, was signed by Carlos Wagner, Jaime José Juraszek Junior and Sergio Gabriel Chividini; and the third, signed on November 23, 2012, by Carlos Wagner, Sergio Gabriel Chividini, and Cecilia Diaz Lafarga, the commercial manager of Argentina and general Manager of the Southern Cone of Camargo Corrêa.

85. The construction of the 32,000 square meter (344,445 square feet) Bicentenario facility began in 2009 after AySA deposited the advance for the project equaling approximately 10% (then valued at more than \$12 million USD) in accounts controlled by the Camargo Corrêa UTE. The confirmation of that receipt was shared between Camargo Corrêa employees Jaime José Juraszek Junior, Darcio Brunato, and Pietro Giavina Bianchi, who printed the email and handwrote on the document “Liberación 499 ARG,” translated as “Release 400 ARG,” as would be disclosed in the *Perfil* investigation announced in September 2018. Later media investigations led by the journalist collective that covered and exposed Operation Car Wash attributed this notation as markings of CCCC’s bribes in Argentina related to the Bicentenario project. *See infra* ¶¶ 162-75.

86. The Camargo Corrêa UTE subsequently made a payment in the amount of \$499,176 USD, labeled in internal CCCC documents as the “first installment.” The nearly \$500,000 USD payment came on the heels of two separate payments in similar amounts made during 2008 (during the bidding process for the Bicentenario), the first in February 2008 for \$529,190 USD and the second in December 2008 for \$499,176 USD, each purportedly to an entity named Grupo PSI -- an unknown entity that even Camargo Corrêa could not identify when pressed by the media.

87. At the time of the payments to “Grupo PSI,” CCCC and the Camargo Corrêa UTE had *no* ongoing projects in Argentina. Grupo PSI does not appear in the registry of local companies subcontracted by AySA, nor does it appear in the list of suppliers maintained by CCCC

related to the Bicentenario project. Indeed, these “payments” were later flagged by a media investigation as being bribes paid to a shadow organization on behalf of Argentine officials.

88. The original terms of the Bicentenario project, as agreed to by the Camargo Corrêa UTE, called for completion of the project in 730 days for approximately \$398 million. However, the Camargo Corrêa UTE would soon exploit its system of bribes and kickbacks to extract additional funds from the Argentine government.

89. As the project continued to languish, the Camargo Corrêa UTE and AySA entered into the first addendum on May 28, 2010. That addendum waived fines incurred by the Camargo Corrêa UTE to that point for its failure to meet construction deadlines and extended the completion date by 210 days. This addendum also increased the cost of the project by more than 16% or \$65 million.

90. The second addendum extended the deadline to completion an additional 365 days and waived the more than \$5.4 million in fines incurred by the Camargo Corrêa UTE since the first addendum.

91. The third addendum signed on November 23, 2012 extended the deadline to completion another 365 days, targeting a completion date of July 31, 2013.

92. While construction was ongoing in 2011, Camargo Corrêa injected \$75 million into the Loma Negra’s Buenos Aires cement plant. On or around July 21, 2011, Camargo Corrêa hosted an event in Cañuelas, in the province of Buenos Aires, at which it announced the investment. Rossana Camargo, one of the three billionaire sisters who own Camargo Corrêa, attended the event, as did then-Argentina president Cristina Fernández de Kirchner (commonly known in Argentina as “CFK”). The then-president gave an impassioned speech in which she praised Camargo Corrêa’s investment in cement production and emphasized the importance of the

water treatment plant being built by CCCC.<sup>4</sup> Loma Negra directly benefitted from Camargo Corrêa's bribery of the Kirchner regime by supplying building material for the Bicentenario water treatment plant, which used *over one million cubic feet of concrete*.

93. Further, as would only come out years later, in constructing the site, Camargo Corrêa used cheaper, substandard products in order to further bilk the Argentine government and enrich itself. Specifically, the "Archimedes screws" used to raise sewage liquid to the treatment area were defective, did not meet quality technical parameters, and "got stuck."

**2. Camargo Corrêa is Implicated in Brazil's Operation Car Wash and Exposed for Having Paid Millions in Bribes and Kickbacks Related to Construction Contracts in Brazil**

94. Camargo Corrêa is no stranger to public scandal in South America. The Company's affiliate, CCCC, is, like Loma Negra, a subsidiary of Camargo Corrêa. As the Prospectus disclosed, CCCC was implicated in the Operation Car Wash scandal, which is named after the Brazilian government corruption investigation initiated in 2009. The investigation found that construction companies paid bribes to government officials in exchange for public works contracts. In 2014, CCCC was accused of paying bribes to the national oil company *Petróleo Brasileiro S.A.* ("Petrobras").

95. During Operation Car Wash, the Brazilian federal police investigated CCCC and certain of its former senior management and employees, who subsequently entered into leniency and plea bargain agreements with the Brazilian authorities pursuant to which they admitted to violations of Brazilian antitrust and anti-corruption laws and agreed to pay compensation totaling

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<sup>4</sup> A video recording of CFK's remarks is available at <https://www.youtube.com/watch?v=qX6lFibOU1Y> (accessed Sept. 19, 2018).

more than 800 million Brazilian reais, which included fines and other indemnification, and committed to continue to cooperate with Brazilian authorities.

96. As further information about Camargo Corrêa's involvement became public, investors and analysts expressed caution about the Brazilian company's ability to obtain financing and maintain and secure its contracts with the Brazilian government. Indeed, in December 2014, 23 companies, including CCCC, were banned from contracting with Petrobras and suspended from participating in Petrobras's bids. In response to these developments, the ratings agency Fitch put Camargo Corrêa and other construction companies on negative watch. According to a January 14, 2015 article on *bnamericas.com*,

Besides the probe, the reduction in confidence is due to decreasing financing options for some of the companies, yet-to-be determined punitive measures, challenging conditions for receiving payments for completed projects, and the potential for restructuring, suspension, or delays under existing contracts with state-run oil company Petrobras.

97. In 2015, CCCC and two former employees agreed to a plea bargain with the Brazilian government, and CCCC returned \$217 million to state controlled firms for damages related to bribery and price-fixing practices. In early 2017, 40 Camargo Corrêa executives, including a member of the family that controls the company, also negotiated a plea deal with the Brazilian government. As the financial impact of the Car Wash scandal deepened, a weakened Camargo Corrêa was forced to divest its holdings of the power utility CPFL Energia S.A. and apparel maker Alpargatas SA in 2015, fetching some \$3 billion from the sales.

98. In January 2018, Petrobras agreed to pay \$2.95 billion to settle a U.S. securities class action lawsuit, *In re Petrobras Securities Litigation*, which alleged that, over a 10 year period, Petrobras executives accepted more than \$2 billion in bribes from contractors, including from Camargo Corrêa.

99. Also implicated in Operation Car Wash was multinational construction company Odebrecht. After the arrest of its CEO in 2015 by Brazilian authorities related to Odebrecht's participation in the Petrobras bribery scheme and its cooperation with investigating authorities, on December 21, 2016, Odebrecht entered into a plea agreement with the United States Attorney for the Eastern District of New York, pleading guilty to violating the anti-bribery provision of the Foreign Corrupt Practices Act and agreeing to pay a \$2.6 billion criminal penalty.

100. In its plea agreement, Odebrecht exposed rampant corruption throughout South America, reaching outside of the borders of Brazil.

101. With respect to Argentina, Odebrecht admitted that between 2007 and 2014, the company had paid more than \$35 million in "corrupt payments to intermediaries with the understanding that these payments would be passed, in part, to government officials in Argentina. The corrupt payments were made in association with at least three infrastructure projects, and Odebrecht realized benefits of approximately \$278 million."

102. Odebrecht also admitted that between January 2011 and March 2014, it made additional corrupt payments totaling approximately \$500,000 to private accounts at the direction of an intermediary, with the understanding that the payments were for the benefit of the Argentinian government officials.

### **3. Shortly Before the IPO, Preliminary Indicia of Corruption and Bribery Reach Argentina and Camargo Corrêa is Again Implicated**

103. Ongoing government and media investigations in South America—including in Argentina, Brazil, Peru, and Bolivia—have revealed fresh evidence that firms involved in public works, including Loma Negra's parent, Camargo Corrêa, engaged in systematic bribery to influence politicians and obtain government contracts throughout South America, including in

Argentina, Bolivia, Brazil, Peru, and Venezuela, from at least 2005 until at least 2015. As the bribery scandals have come to light, public works projects in each of the countries have stalled, significantly weakening demand for cement.

104. Following the revelation of pervasive fraud within the construction industry throughout South America orchestrated by two of the continent's largest players (Odebrecht and Camargo Corrêa), Argentine investigators sprang into action.

105. In April 2017, it was revealed that the Argentine government was investigating Odebrecht and Camargo Corrêa related to two projects for the AySa – the Bicentenario and Las Palmas water plants.

106. In connection with this investigation, in May 2017, Argentine authorities raided the Buenos Aires offices of Odebrecht, as well as the offices of Camargo Corrêa and Esuco SA.

107. On June 21, 2017, the Argentine Prosecutor's Office filed a request with the Argentine court, seeking an inquest of numerous individuals, including Carlos Ben (former head of AySA), Carlos Wagner (head of Esuco – Camargo Corrêa's Argentine partner in the Bicentenario project), and Camargo Corrêa executives Jaime José Juraszek Junior and Sergio Gabriel Chividini (signatories to the Bicentenario project contract), along with several other executives in the construction industry, including Mauricio Couri Ribeiro, the top Obdredecht executive in Argentina, specifically citing the runaway costs of the Bicentenario project and improprieties in the bidding process of Bicentenario and Las Palmas.

#### **D. After Decades of Corruption and Mismanagement, Argentina Elects a Government That Promises Public Works and Economic Reform**

108. From 2003 to 2015, Argentina was ruled by Néstor Kirchner, then his widow Cristina Fernández de Kirchner, both of whom implemented a profligate populist economic

agenda. As would later be revealed, the Kirchner regime was marked by extraordinary public corruption in the awards of public contracts, including by Loma Negra's parent company.

109. In November 2015, Cambiemos ("Let's Change"), a center-right coalition led by Mauricio Macri, won national elections on a platform of economic liberalization.

110. In September 2016, the Macri administration announced that it would invest \$260 billion in national infrastructure projects, including, among others, improving existing roads, constructing new roads and highways, and the construction of dams and social housing. According to AAIICI Ingeniería y Construcción Industrial, investment in transportation infrastructure and public works projects in Argentina are expected to total approximately US\$155 billion mainly during the next 10 years.

111. The public works agenda was more a campaign promise to ensure Macri's victory in the 2015 election than it was a plan that could be fulfilled in the near future. Indeed, it was widely reported that the growth rate for public works dropped by over half from late September 2017 to the period immediately after the October election as the government sought to control the increasing national deficit. At that time—prior to the IPO—the Macri administration's ambitious public works agenda was predestined to fail because of existing fiscal, political, economic, and industrial conditions.

112. An early warning about the Macri administration's inability to satisfy its infrastructure-related campaign promises came in the middle of 2017, when reports began to circulate within the construction industry that the government was surreptitiously pumping the brakes on its loudly touted public works spending and that the Macri government had already fallen behind on its payments to government contractors.

113. According to a July 3, 2017 article in Spanish-language Argentine newspaper *El*

*Intransigente,*

One of the most grandiose announcements made by Mauricio Macri was the reactivation of public works. However, the Argentine Chamber of Construction [Camarco] and the union in the sector, UOCRA, requested a meeting in the Ministry of the Interior because, they say, the payments for housing works are being held back. Officials still deny the issue, while acknowledging that there is a political struggle with the provinces.

...

According to [Camarco], the Government was making payments of around 2,000 million pesos a month to companies that are building homes throughout the country. ***“But in May the payments stopped and in June they were only \$ 300 million,”*** they say. “If tomorrow they tell us that it was only a delay, everything is fine, but we will have to see what to do,” the businessmen added.

114. However—likely because contractors were hesitant to go public with criticisms of one of their largest customers—the public learned only in mid-2018 the extent of Argentina’s ongoing difficulties in timely paying for its promised public infrastructure projects. *See infra* ¶¶ 153-57.

115. Given the country’s cash and deficit issues, it would need to look elsewhere for funding in the form of public-private partnerships (“PPPs”).

116. In September 2017, the Spanish-language Argentinian reported that the administration had taken actions indicating that the Government was unable to itself fund the infrastructure projects which Loma told investors would drive the Company’s economic growth. The government publicly touted that that it was entering into PPPs, which it presented as a cost-effective manner of completing public works in light of the growing—and unmanageable—fiscal deficit. The Government stated that it turned to this model to “maximize government resources” and that it is an efficient way to complete long-delayed projects “while bearing in mind the goal of reducing the fiscal deficit.”

117. The terms of the PPPs were heavily criticized as unfair to the public. *El Cronista* noted that private contractors would be offered preferential access to opportunities to

commercially exploit areas adjacent to the newly built highways. According to a Spanish-language editorial by José Marcelino García Rozado, Argentina's former assistant secretary of state, on the website of the Research Institute of the Circle of Ministers, Secretaries and Sub Secretaries of State of the National Executive Power (*El Instituto de Investigaciones del Circulo de Ministros, Secretarios y Sub Secretarios de Estado del Poder Ejecutivo Nacional*, or "ICIMISS"), the Government's inability to finance projects itself forced it to offer prospective bidders a variety of financially onerous sweeteners (described as "inconceivable concessions," including exempting investors from taxation and allowing foreign law to govern the contracts), the sorts of concessions to foreign control over the Argentine economy which Rosado argued had led to the Argentine bond crisis.

118. Further, the Transportation Ministry's general conditions for bidders for the PPPs required prospective bidders to be "financially viable," barred from participation in any entity that had been in breach of a government public works contract in the prior three years, and *disqualified any bidder engaged in bribery*. Thus, unbeknownst to investors, the switch to PPPs would have a detrimental effect on Loma Negra due to its ties to Camargo Corrêa's bribery and kickback scheme.

**LOMA NEGRA GOES PUBLIC BY MEANS OF THE MATERIALLY FALSE AND**

**MISLEADING OFFERING MATERIALS**

119. With Plaintiff and other potential investors unaware of the true extent of Camargo Corrêa's system of kickbacks and bribery in Argentina, Defendant, under the control of Camargo Corrêa's, took Loma Negra public.

120. On or about July 12, 2017, Loma Negra submitted to the SEC its draft registration statement on Form F-1, which was followed by the filing of the Form F-1 on or about September

5, 2017 and several amendments made in response to comments received from the SEC. The Registration Statement was declared effective by the SEC on October 31, 2017.

121. On or about October 31, 2017, the Company and the Underwriter Defendants priced the IPO at \$19 per ADS, the high end of the \$15 to \$19 range previously indicated.

122. On November 2, 2017, the Company filed the Prospectus with the SEC. As stated therein, the Prospectus was incorporated as part of the Registration Statement to form the Offering Materials.

123. The Registration Statement was signed by each of the Individual Defendants, either directly or through the grand of a power of attorney.

124. The Registration Statement, every amendment thereto, and the Prospectus were each publicly filed with the SEC and targeted at Plaintiff and every prospective investor in Loma Negra.

#### **A. Disclosure Obligations Under the Securities Act**

125. “The Securities Act of 1933 . . . was designed to provide investors with full disclosure of material information concerning public offerings of securities in commerce, to protect investors against fraud, and, through the imposition of specified civil liabilities, to promote ethical standards of honesty and fair dealing.” *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 195 (1976); *see also Randall v. Loftsgaarden*, 478 U.S. 647, 659 (1986) (The Securities Act aims “to place adequate and true information before the investor”); *Pinter v. Dahl*, 486 U.S. 622, 638 (1988) (“The primary purpose of the Securities Act is to protect investors by requiring publication of material information thought necessary to allow them to make informed investment decisions concerning public offerings of securities in interstate commerce.”).

126. To effectuate this purpose, a company’s registration statement must provide a full

disclosure of material information. *See Herman & MacLean v. Huddleston*, 459 U.S. 375, 381 (1983). Failure to do so gives rise to private rights of action under the Securities Act. *Id.* at 381-82 (Private rights of action were “designed to assure compliance with the disclosure provisions of the Act by imposing a stringent standard of liability on the parties who play a direct role in a registered offering”); *see also* 15 U.S.C. § 77k(a).

127. Section 11 prohibits materially misleading statements or omissions in registration statements filed with the SEC. *See* 15 U.S.C. § 77k. Accordingly, Section 11 gives rise to liability if “any part of [a company’s] registration statement, when such part became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading.” 15 U.S.C. § 77k(a). Section 11 provides for a cause of action by the purchaser of a registered security against certain statutorily enumerated parties, including: “(1) every person who signed the registration statement; (2) every person who was a director . . . at the time of the filing of . . . the registration statement with respect to which his liability is asserted; (3) every person who, with his consent, is named in the registration as being or about to become a director [;]” (4) “any person . . . who has with his consent been named as having prepared or certified any part of the registration statement[;]” and (5) “every underwriter with respect to such security.” 15 U.S.C. § 77k(a)(1-5).

128. Item 303 of Regulation S-K imposes an affirmative duty on issuers to disclose “known trends or any known demands, commitments, events or uncertainties that will result in or that are reasonably likely to result in the registrant’s liquidity increasing or decreasing in a material way.” *Mgmt’s Discussion and Analysis of Fin. Condition and Results of Operation*, S.E.C. Release No. 6835, 1989 WL 1092885, at \*4 (May 18, 1989); *see also* 17 C.F.R. § 229.303(a)(3). Disclosure of known trends or uncertainties that the registrant reasonably expects will have a

material impact on net sales, revenues, or income from continuing operations is also required. *Id.*

129. Pursuant to Item 303(a), a registrant thus has an affirmative duty to:

1. i. Describe any *unusual or infrequent events or transactions* or any significant economic changes that materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which the income was so affected.

2. ii. Describe *any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income* from continuing operations. If the registrant knows of events that will cause a material change in the relationship between costs and revenues (such as known future increases in costs of labor or materials or price increases or inventory adjustments), the change in the relationship shall be disclosed. 2017 C.F.R. § 229.303(a)(3)(i)-(ii) (emphasis added); *see also S.E.C. Release No. 6835*, 1989 WL 211092885, at \*8 (May 18, 1989) (“Other non-recurring items should be discussed as unusual or infrequent events or transactions that materially affected the amount of reported income from continuing operations.”) (citation and quotation omitted).

130. Under these requirements, even a one-time event, if “reasonably expect[ed]” to have a material impact of results, must be disclosed. Examples of such *required* disclosures include: “[a] reduction in the registrant’s product prices; erosion in the registrant’s market share; changes in insurance coverage; or the likely non-renewal of a material contract.” *S.E.C. Release No. 6835*, 1989 WL 1092885, at \*4 (May 18, 1989).

131. Accordingly, as the SEC has emphasized, the “specific provisions of Item 303 [as set forth above] require disclosure of forward-looking information.” *See S.E.C. Release No. 6835*, 1989 WL 1092885, at \*3. Indeed, the SEC has stated that disclosure requirements under Item 303 are “intended to give the investor an opportunity to look at the company through the eyes of management by providing both a short and long-term analysis of the business of the company” and “a historical and prospective analysis of the registrant’s financial condition . . . with particular emphasis on the registrant’s prospects for the future.” *Id.* at \*3, \*17. Thus, “material forward-looking information regarding known material trends and uncertainties is required to be disclosed

as part of the required discussion of those matters and the analysis of their effects.” *See Comm’n Guidance Regarding Mgmt’s Discussion and Analysis of Fin. Condition and Results of Operations*, S.E.C. Release No. 8350, 2003 WL 22996757, at \*11 (Dec. 19, 2003).

132. Item 503 of Regulation S-K is intended “to provide investors with a clear and concise summary of the material risks to an investment in the issuer’s securities.” *Sec. Offering Reform*, S.E.C. Release No. 8501, 2004 WL 2610458, at \*86 (Nov. 3, 2004). Accordingly, Item 503 requires that offering documents “provide under the caption ‘Risk Factors’ a discussion of the most significant factors that make the offering speculative or risky.” 17 CFR § 229.503(c). The discussion of risk factors: must be specific to the particular company and its operations, and should explain how the risk affects the company and/or the securities being offered. Generic or boilerplate discussions do not tell the investors how the risks may affect their investment. *Statement of the Comm’n Regarding Disclosure of Year 2000 Issues and Consequences by Pub. Cos., Inv. Advisers, Inv. Cos., & Mun. Sec. Issuers*, 1998 WL 425894, at \*14 (July 29, 1998).

133. Thus, Item 503 provides that a registration statement must disclose all known material risks that are “specific to the particular company and its operations.” 17 CFR § 229.503(c). Item 503(c) warns issuers: “Do not present risks that could apply to any issuer or any offering.” *Id.*

134. As detailed herein, Defendants wholly failed to meet this disclosure obligations with respect to the Offering.

#### **B. Defendants Issue the False and Misleading Offering Materials<sup>5</sup>**

135. To the detriment of Plaintiff and all those that bought ADSs in or traceable to the

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<sup>5</sup> For the purposes of this section, those statements in **bolded, underlined** text are alleged to have been false and misleading and/or otherwise omitting facts necessary to make the indicated statement not false and misleading, in violation of the Securities Act. Additional text is provided for context.

IPO, the negligently prepared Offering Materials omitted material information regarding the Company's business prospects considering its parent company's history of corruption in Argentina, and the Argentine government's inability to fund public works projects. As such, the Offering Materials contained untrue statements of material facts or omitted to state the facts necessary to make the statements made not misleading, thus violating the rules and regulations governing their preparation.

**1. Material Statements and Omissions Concerning Corrupt Activities By Loma Negra's Majority Owner**

136. The Prospectus disclosed the existence of government investigations into corruption involving CCCC, thereby creating a duty to fully and accurately describe the nature and extent of the investigation. Defendants, however, failed to disclose the material fact that Loma Negra's owner had, in fact, procured a multi-million-dollar public works contract in Argentina by bribing the Kirchner regime, then failed to properly execute on that contract.

137. The Prospectus stated:

InterCement Participações S.A., our controlling shareholder, is a holding company for the cement business of the Camargo Corrêa group. Construções e Comércio Camargo Corrêa S.A., or CCCC, a construction and engineering affiliate of InterCement Participações S.A., is also controlled by the Camargo Corrêa group.

**CCCC and certain of its former senior management and employees have recently been the subjects of a Brazilian Federal Police investigation referred to as Operation Car Wash, which is an investigation into widespread allegations of corruption, including at the Brazilian federal government controlled national oil company Petróleo Brasileiro S.A.—Petrobras, where certain of its employees accepted bribes from a number of construction companies, including CCCC.**

In connection with the Operation Car Wash investigation and comprehensive internal investigations undertaken by CCCC with the assistance of external experts, CCCC and certain of its former senior management and employees entered into leniency and plea bargain agreements with the Brazilian authorities pursuant to which they admitted to violations of Brazilian antitrust and anti-corruption laws

and agreed to pay compensation totaling more than 800 million Brazilian reais, which included fines and other indemnification, and committed to continue to cooperate with Brazilian authorities. In addition, **CCCC continues to conduct internal investigations on an ongoing basis regarding its anti-corruption compliance.**

The news of Operation Car Wash also had repercussions in other Latin America countries where CCCC operates besides Brazil, including Peru, Argentina and Venezuela. **According to certain media reports, government investigations are underway in those countries for alleged acts of corruption involving Brazilian construction companies. CCCC's management has conducted internal investigations with the help of external experts and to-date has not identified evidence of any wrongdoing performed by CCCC in these countries.**

Any additional violations of anti-corruption and/or antitrust laws involving CCCC may result in additional fines and/or indemnification obligations. **In addition, any additional adverse events or developments could have a material adverse impact on CCCC and the Camargo Corrêa group, which may subject us to reputational damage and could materially adversely affect the trading price of our ordinary shares and ADSs. Moreover, although we have been informed by CCSA and its counsels that CCCC should be solely liable for any violations by CCCC of antitrust and/or anti-corruption laws, no assurances can be given that affiliates of CCCC will not also be found to be liable for any such violations of law.**

Prospectus at 187-88.

138. The foregoing statements were materially false and/or omitted material facts necessary to make them not misleading because they failed to disclose that: (1) the Operation Car Wash investigation not only encompassed Camargo Corrêa's criminal misconduct in Brazil, but also uncovered evidence of Camargo Corrêa's bribery of the Kirchner administration in the procurement of the contract to build the Bicentenario water treatment plant in Buenos Aires Province; (2) documentary evidence in the form of multiple emails, invoices, and receipts, as well as an explicit confession by the president of CCCC's Argentinian partner on the Bicentenario project demonstrate that Camargo Corrêa participated in the bribery and kickback scheme to obtain the Bicentenario contract (*see infra* ¶¶ 162-67), such that it was materially misleading to state that an "internal investigation" involving "external experts" had found "no evidence of any

wrongdoing” by CCCC in Argentina; (3) Loma Negra, by virtue of its strong public links with Camargo Corrêa, CCCC, the Kirchner administration, and the Bicentenario plant, was *certain* to suffer reputational damage and adverse impact on its share price when the Argentine bribery was uncovered; (4) Loma Negra, by virtue of its majority ownership and control by Camargo Corrêa, a company that blatantly defrauded the Argentine state in the corrupt procurement and faulty execution of a major public works contract, would likely be excluded by the Government from supplying cement to the Argentine public works contracts funded by PPPs, that the Prospectus represented were critical to the Company’s success.

139. Further, couched as a risk factor under the heading “Our controlling shareholder will continue to have significant influence over us after this offering, and its interests could conflict with yours,” the Prospectus states:

**Adverse events affecting affiliates of our indirect controlling shareholder, Camargo Corrêa S.A., or Camargo Corrêa, including with respect to the involvement by a subsidiary of Camargo Corrêa in the so-called Operation Car Wash investigation in Brazil (Operação Lava Jato), may have a material adverse effect on our reputation and on the trading price of our ordinary shares and ADSs.** For additional information, see “Principal and Selling Shareholder—Controlling Shareholder.”

Prospectus at 49.

140. This risk warning was wholly deficient as it failed to warn of the state affairs then existing at the Company and with its indirect controlling shareholder – Camargo Corrêa was then under investigation in Argentina for many of the same actions as in Operation Car Wash, and the implication in that domestic investigation had the potential to negatively impact Loma Negra’s reputation and the Company’s ability to participate in public works projects going forward.

## 2. Materially Misleading Statements Concerning Loma Negra's Competitive Advantage

141. The Offering Materials falsely and misleadingly represent Loma Negra's purported "competitive advantage," stating:

### **Our Competitive Strengths**

We believe the following competitive strengths consistently differentiate us from our competitors and contribute to our continued success:

*Market leader in Argentina, uniquely positioned to capture increasing demand for cement*

**As the leading market player, we believe we are the best positioned company to benefit from the increase in cement consumption in Argentina.** We are the leading cement producer in Argentina as measured by our 45.4% market share in cement sales volume for the six months ended June 30, 2017, according to the AFCP. We hold a 49% market share in the Buenos Aires region, a region with the highest concentration of GDP and population in Argentina, and that during the first half of 2017 was the area with greatest local demand and responsible for approximately 42% of the country's cement consumption.

**We believe that our nationwide presence, production and distribution capabilities, our extensive limestone reserves as well as our recognized brand provide us with a competitive advantage to benefit from the expected growth dynamics in our markets in the near and medium term.** We also believe that the relatively low cement consumption per capita in Argentina compared to other countries, the housing deficit, the positive macroeconomic outlook and the announced infrastructure investment plans will translate into growth opportunities in the construction sector driving incremental demand for cement, masonry cement, concrete, lime, aggregates and other building materials.

**Our favorable market position in Argentina and critical scale represent a significant barrier to entry for new cement players.** As production capacity continues to exceed depressed demand in other parts of the world, we may in the future face the possibility of competition from the entry into our market of imported clinker or cement. **However, we believe that cement companies in Argentina are relatively protected from imports since imported raw materials will incur significant incremental costs.** Inland logistics to transport clinker and/or cement also present difficulties for our competitors. In addition, our limestone reserves are strategically located close to key markets and any new entrant would find it difficult to secure the sourcing of raw material in our main markets.

Prospectus at 135-36.

142. The statements identified in the preceding paragraph were materially false and misleading because they omitted any mention of the additional, critical factor underpinning Loma Negra's competitive advantage in Argentina, as well as the key barrier to entry for new cement players in the country: the bribery and kickback system its corporate parent was overseeing through CCCC. Thus, with the scheme no longer in place, Loma Negra is unlikely to enjoy the same competitive advantage and is unlikely to retain its market share through new major contracts.

143. Further, the Prospectus states:

**Highly experienced and professional management team with a successful track record of value creation**

Our management team, with an average of more than 20 years of experience in the cement industry in Argentina and Paraguay, has technical and local market expertise that has contributed to our growth over the past few years. We believe we have developed a strong professional business culture and a team of highly qualified executives. We also have a well-regarded and experienced board of directors, which includes independent directors.

**Our controlling shareholder, the InterCement Group, has a deep knowledge of the cement industry resulting from its global leading position and is deeply committed to its investments in Argentina and Paraguay. We believe that InterCement Group's sponsorship gives us a competitive advantage, due to its continuing support and sharing of its global know-how.**

Prospectus at 139.

144. The foregoing statement was materially false and misleading because it omitted a material factor in the competitive advantage provided by being a part of the InterCement Group: that the group was an essential part of the larger Camargo Corrêa structure that engaged in the systematic bribery of government officials to obtain lucrative public works contracts.

**3. Materially Misleading Statements Concerning the Then-Existing Status of Public Works Contracts in Argentina**

145. The Offering Materials falsely and misleadingly represented that Loma Negra

would be able to benefit from increased demand for cement driven by economic growth and Government-funded public works projects.

146. The Prospectus stated:

**We understand that the low cement consumption per capita in Argentina relative to other Latin American economies, the limited number of major infrastructure investments in the country over the last decade, the local housing deficit and the growth prospects for the Argentine economy create a compelling opportunity for the construction sector and will jointly drive demand for cement, masonry cement, concrete, aggregates, lime and other building materials.**

Prospectus at 3.

147. The foregoing statement was materially false and/or omitted material facts necessary to make them not misleading because (1) the Government was running fiscal deficits that prevented it from funding “major infrastructure investments,” was resorting to unfavorable PPPs instead of pure public investment, and had already delayed payments to its existing public works contractors; (2) the eventual disclosure of the vast, but theretofore-undisclosed, public corruption by construction companies in Argentina, including Loma Negra’s parent company, presented a grave risk of dissuading foreign investment in Argentine public infrastructure projects and PPPs, such that demand for cement would not grow in the manner that the Prospectus projected, if at all; and (3) Loma Negra, by virtue of its majority ownership and control by a company that blatantly defrauded the Argentine state in the corrupt procurement and faulty execution of a major public works contract, would likely be excluded by the Government from supplying cement to new “major infrastructure investments” funded by PPPs, that the Prospectus represented were critical to the Company’s success.

148. The Prospectus also stated:

We intend to take advantage of our differentiated market position in Argentina and further improve our market position **to consistently capture the increasing**

**cement demand anticipated as a consequence of the expected recovery of the Argentine economy. In effect, as the leader in the Greater Buenos Aires region, we are participating in most of the major construction and infrastructure public projects that have commenced in 2017 in the Province of Buenos Aires, supplying their respective cement and concrete needs.** We expect to continue to pursue organic growth on the basis of our value proposition to customers and recent investments in maintenance and new facilities.

Prospectus at 139.

149. The foregoing statement was materially false and/or omitted material facts necessary to make them not misleading because (1) the Government was running fiscal deficits that prevented it from funding “major construction and infrastructure public projects,” was resorting to unfavorable PPPs instead of pure public investment, and had already delayed payments to its existing public works contractors; (2) the eventual disclosure of the vast, but theretofore-undisclosed, public corruption by construction companies in Argentina, including Loma Negra’s parent company, presented a grave risk of dissuading foreign investment in Argentine public infrastructure projects; and (3) Loma Negra, by virtue of its majority ownership and control by a company that blatantly defrauded the Argentine state in the corrupt procurement and faulty execution of a major public works contract in the Province of Buenos Aires, would likely be excluded by the Government from “supplying [the] cement and concrete needs” for new “major construction and infrastructure public projects that have commenced in 2017 in the Province of Buenos Aires,” which the Prospectus represented were critical to the Company’s success.

150. The Prospectus further stated:

**Similar to other regional markets, the demand for cement in Argentina is expected to be driven by infrastructure projects as well as residential and non-residential construction activity. In the near term, the announced infrastructure projects coupled with new financing sources for residential construction are expected to drive incremental local cement demand.**

Prospectus at 127.

151. Similarly, the Prospectus stated,

We believe that our nationwide presence, production and distribution capabilities, our extensive limestone reserves as well as our recognized brand provide us with a competitive advantage to benefit from the expected growth dynamics in our markets in the near and medium term. We also believe that the relatively low cement consumption per capita in Argentina compared to other countries, the housing deficit, **the positive macroeconomic outlook and the announced infrastructure investment plans will translate into growth opportunities in the construction sector driving incremental demand for cement, masonry cement, concrete, lime, aggregates and other building materials.**

Prospectus at 135.

152. The foregoing statements in paragraphs 150-51 were materially false and/or omitted material facts necessary to make them not misleading because (1) the Government was running fiscal deficits that prevented it from funding “the announced infrastructure projects” or “announced infrastructure investment plans,” was resorting to unfavorable PPPs instead of pure public investment, and had already delayed payments to its existing public works contractors; (2) the eventual disclosure of the vast, but theretofore-undisclosed, public corruption by construction companies in Argentina, including Loma Negra’s parent company, presented a grave risk of dissuading foreign investment in Argentine public infrastructure projects and halting or delaying their initiation, such that “incremental local cement demand” and “growth opportunities in the construction sector” could not happen for Loma Negra in the “near term”; and (3) Loma Negra, by virtue of its majority ownership and control by a company that blatantly defrauded the Argentine state in the corrupt procurement and faulty execution of a major public works contract, would likely be excluded by the Government from supplying the “demand for cement . . . driven by infrastructure projects” that the Prospectus represented were critical to the Company’s success.

**LOMA NEGRA'S STOCK PRICE PLUMMETS AS  
PRE-IPO ADVERSE TRENDS COME TO A HEAD**

**A. The Macri Government Stops Paying its Contractors**

153. By the end of November 2017, the situation had become so grave that construction companies that held major public works contracts—*e.g.*, road construction and asphalt laying—as well as the Camarco, finally went public with their accusation that the Government had simply not been paying its bills (*including payments due well before the October 2017 elections and the Offering*). According to a November 24, 2017 article in the Spanish-language Argentine newspaper *Perfil*, three major construction companies and Camarco told the paper that the government owed them 7 billion pesos (close to \$200 million USD at the time) and that the speed of payments had slowed even more noticeably since the election. *Perfil* called this situation a “yellow light in the economic recovery.”

154. Two days into 2018, the Argentine Government confirmed that it had frozen payments for public works that had been due at the time of the IPO in November and December 2017 so as to avoid increasing the deficit during those months.

155. Indeed, by June 2018, as reported on a Spanish-language Argentinian government webpage, the Minister of the Interior, Public Works, and Housing, Rogelio Frigerio, stated that the Government had long been untimely in paying its public works contractors, but reassured industry participants that “the rhythm of payments” was being regulated and would be “normalized” by August 2018.

156. Furthermore, according to a July 11, 2018 report in the Spanish-language Argentine business newspaper *Bae Negocios*,<sup>6</sup> representatives of the construction sector stated that, despite

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<sup>6</sup> All quotations from Latin American sources cited in the Complaint have been translated from Spanish.

the administration's continuing assurances that infrastructure projects have been moving along smoothly, provincial governments had been delaying payments for public works projects from 60 days up to 120 days. According to an unnamed source quoted in the *Bae Negocios* article,

“The government says that the works are still underway with absolute normality, but the reality is different: the provinces and companies no longer charge 60 days but 120 days throughout the country,” said qualified sources from the sector who preferred to remain off the record. *This situation has caused a break in the chain of payments because the slowdown or slowdown of ongoing projects “affects the payment to suppliers. . .”*

157. The regional authorities that have engaged in a slowdown in payments include those in Catamarca Province, where Loma Negra has its second-largest cement production facility and recently engaged in a substantial upgrade of its production capacities. According to business people who spoke to *Bae Negocios* off the record, the affected funds were earmarked for the construction of houses—another supposed driver of industrial growth and cement sales.

## **B. The Breadth of the Argentine Construction Industry's Corruption is Made Public and Camargo Corrêa is Squarely in the Cross-Hairs**

158. Continuing the investigations that commenced just prior to the IPO, and in the wake of revelations regarding Operation Car Wash, Argentine authorities continued to push forward with their investigations and seeking to hold bad actors within the country accountable.

### **1. The Notebook Scandal**

159. In August 2018, an Argentine newspaper dropped a new bombshell—the so-called “Notebook Scandal” (*los cuadernos de las coimas*, or “the bribe notebooks”), which lent support to the earlier announced investigation of the coterie of construction officials in Argentina that included Carlos Wagner and CCCC executives Jaime José Juraszek Junior and Sergio Gabriel Chividini. In connection with the Notebook Scandal, from 2003 to 2015, a driver for a public works official in the Kirchner administration maintained eight spiral notebooks which listed in

detail up to \$160 million in bribes made to the government by bidders for government contracts.

160. On August 1, 2018, *La Nación* published the first of a series of stories revealing the scandal. Since the articles' publication, some 42 government officials, construction company executives, and business people have been charged. Among the arrested was former Esuco President Carlos Wagner—Camargo Corrêa's local partner in the Bicentenario water treatment plant.

161. In addition, the notebooks record that “bags of money” were picked up from the offices of Pampa Energía in May 2009—while Defendant Mondino was a director at that company.

## **2. Carlos Wagner Pleads Guilty to Assisting in the Orchestration of a Pervasive Kickback Scheme in Argentina**

162. With a pending investigation by Argentine authorities and new evidence tying him to the system of bribes in the Notebook Scandal, Carlos Wagner accepted a plea deal in early August 2018.

163. Wagner's testimony was explosive as he described in detail the inner workings of Argentina's public works bidding process, including the instruction from former Argentine Minister of Planning Julio de Vido that Wagner was to sit atop the Camarco and administer a system where public works bids would be subject to a 10 to 20% kickback to governmental officials, admitting that these were not contributions but rather bribes.

164. Wagner stated that “It did not matter who won, the system worked and if you wanted to be a part you had to comply with the rules” and engage in the kickbacks.

165. Wagner further confirmed that the formal bidding process was a sham, with government officials agreeing with the collective of interested construction companies who would win the bid prior to the public bid announcement and squaring away the kickback amount:

“Public works was going to be one of the methods of raising money for political expenses. When a tender was called, interested companies bought the bidding documents and met in different places to determine the winner,” the engineer added. “Once the work was awarded, the commitment was to pay for political expenses, for political needs, the advance that was established in the specifications. The percentage of the financial advance was between 10 and 20 percent of the total work and after taxes (VAT) the commitment was to deliver the rest of the advance as a return (bribe),” Wagner said in his statement.

“My company, Esuco, was not exempt from this mechanism,” he said. “These amounts of money were given to some of the collectors,” who were appointed by former officials Roberto Baratta and José López, secretary of Public Works.

Lopez was the official who was in charge of monitoring what happened in Aysa, confirmed two sources of the state water company. The man was arrested after being discovered throwing a purse with \$9.3 million [over the wall of] a convent, and was the one who followed closely the projects of Camargo Corrêa and Odebrecht. His former colleague in the ministry, Baratta, also accused him during his last testimony in the case investigating alleged bribes in the Aysa plants.

166. Marcio Faria, an Obredecht executive, told Brazilian prosecutors in connection with Operation Car Wash (details of which would only emerge in late 2018) that it was Wagner himself who was the intermediary of all bribes in the industry, which were paid through transfers abroad. Additionally, according to Faria, Wagner had been the one who told Obredecht that it was necessary to join an Argentine construction company in a bid in order to be able to win contracts.

167. Thus, the Wagner revelations made clear that this was not an issue of a one-off bribe or kickback, but instead the Argentine construction sector was rife with corruption. As a major player in the Argentine construction market, especially in the Buenos Aires province where the Company touted in the Prospectus that it was “participating in most of the major construction and infrastructure public projects that have commenced in 2017,” this underground system of corruption was either known or knowable to Loma Negra.

### **3. Previously Undisclosed Findings from Operation Sand Castle Shed Light on Corruption in Argentina**

168. In 2009, Brazilian authorities commenced the precursor to Operation Car Wash, code named “Operação Castelo de Areia,” or “Operation Sand Castle” aimed at construction companies and suspected corrupt politicians in that country, and centered on Camargo Corrêa. The operation was discontinued in 2011 under suspicious circumstances, with the court determining that the investigation and related trials could not proceed based on anonymous sources, in apparent contravention of past practices. In June 2017, former Brazilian Finance Minister Antonio Palocci entered into a plea agreement wherein he admitted that he bribed the former president of the Superior Court of Justice \$5 million Brazilian reais (approximately \$1.3 million USD) to discontinue the investigation into Camargo Corrêa. Just two weeks later, the Brazilian courts ordered the destruction of evidence obtained during the investigation.

169. Details of information related to the interplay and effect of Operation Sand Castle and Operation Car Wash to Argentina surfaced in September 2018 when a collective of South American journalists from various publications who had previously banded together to report on Operation Car Wash published for the first time their explosive findings regarding previously-hidden details regarding Operation Sand Castle.

170. The previously-undisclosed information was recovered years earlier from a flash drive and the possessions of Pietro Giavina Bianchi.

171. Bianchi had been a director of Camargo Corrêa, but in 2008 he took on the underground role as a “consultant” and was given the responsibility of managing CCCC’s bribes to government officials, including in Argentina. Email correspondence between Bianchi and Jaime José Juraszek Junior, a fellow executive at CCCC’s Buenos Aires office, and CCCC

executive Darcio Brunato, along with attached invoices and receipts, reveal that the Buenos Aires office made bribes by transferring millions of dollars to foreign companies that were neither associated with AySA nor were subcontractors on the project.

172. One week after the flash drive's contents were revealed, on about September 13, 2018, an Argentine judge summoned Antonio Miguel Marques, Camargo Corrêa's former president, to appear before him in connection with the alleged bribery. Mr. Marques, a citizen of Brazil, did not appear.

173. Then, on September 16, 2018, *Perfil* reported that "Camargo Corrêa owner of Loma Negra, adulterated the material of the Aysa Bicentenario treatment plant and tried to defraud the Argentine State" – as claims Camargo Corrêa is claimed to have used cheaper, substandard products in order to further bilk the Argentine government and enrich itself. Specifically, the "Archimedes screws" used to raise sewage liquid to the treatment area were defective, did not meet quality technical parameters, and "got stuck," according to a newly revealed judicial file reviewed by *Perfil*.

174. On December 19, 2018, the Argentine appellate court for the federal jurisdiction of Buenos Aires denied the appeals of those individuals charged by the prosecutor's office in June 2017 and confirmed the punishments previously assessed.

175. The appellate court held that Camargo Corrêa employees Sergio Gabriel Chividini and Jaime José Juraszek Junior were "criminally liable parties for the crime of fraudulent administration to the detriment of the public administration," banned them from leaving the country, and fined them \$223.2 million. Carlos Wagner's charge was also upheld and he was assessed the same monetary fine as his Camargo Corrêa UTE cohorts.

**C. As New Details of the Scandals Shock Global Investors, the Macri Administration  
Scrambles in Vain To Find Stopgap Financing to Prevent Public Works Projects  
From Derailing**

176. The news that construction companies had bribed their way into Argentinian public works contracts has had an enduring impact on the value of the Argentinian peso, Argentinian construction companies' valuations, and the prospects for Argentina's continued economic growth. As expected, the markets and media responded to news of the Notebooks Scandal with immediate concern for the future of PPPs. According to an August 2, 2018 *Mining Press* article, "Banks cannot risk giving loans to firms whose managers could be involved in this investigation, which would imply specific risks for their future." The article noted by way of example that the energy company Albanesi Group had just suspended the issuance of a bond of up to \$70 million following the arrest of its president in connection with his role in the Notebook Scandal.

177. *InfoBae* reported on August 5, 2018 that foreign multinational banks, who had previously maintained interest—even as the peso plummeted—in financing the \$6 billion highway project, were now stepping away from funding Argentine public works. While none of the winning bidders on the highway projects had yet been implicated directly in the Notebook Scandal, the article stated that the Government's investigation was ongoing. *InfoBae* reported that the Government was going to review contracts with private companies that may be related to the scandal, and that, in this climate of uncertainty for construction companies, banks would be unwilling to invest in the PPPs.

"What will happen if any of the companies involved the Kirchner bribery scandal appears in the [list of winning PPP bidders]?" the [] official [from the office of the President] was asked.

"Simple: everything will be reviewed and if an irregularity is corroborated [the company] will be removed [from the list]," was the answer.

It is difficult to go out to finance a construction company in the face of such a threat.

178. In an August 21, 2018 article entitled “Corruption Scandal Poses Risk to Argentina Construction Outlook,” the ratings agency Fitch noted that the Notebooks Scandal was likely to weigh down Argentina’s industrial growth because foreign investors would be unwilling to finance the Macri administration’s much-touted PPPs.

*While the eventual reach and legal consequences of the investigation remain unclear, the scandal poses several key threats to Argentina’s construction industry, increasing downside risk to our forecasts for industry growth in 2018 and 2019 in particular. **Rising perceptions of corruption may weigh on the ability of domestic firms to attain financing needed to advance projects as investors and financiers choose to wait for the consequences of the scandal to become clearer. If substantial, this would exacerbate an already complex financing situation for infrastructure projects in the country after a sharp increase in currency volatility starting in May has increased investor caution and led Argentina’s central bank to sharply raise interest rates. Popular pressure on the government to punish those involved in the scandal and potential legal consequences for implicated firms including a prohibition on holding or competing for public contracts also threaten the continued participation of implicated firms in public works contracts.***

*Given the number of firms involved and their involvement in a large portion of major construction contracts underway, any of these scenarios would likely lead to substantial project delays and potentially even project contract cancellations in some cases. This in turn would worsen the decline in project activity expected over H2 2018 and into 2019 as a result of substantial cuts to the government’s budget for public works, part of a loan agreement concluded with the International Monetary Fund in June. . . . This poses downside risk to our forecasts for the industry which we expect will grow by just 1.1% in 2018 and 0.8% in 2019, down from growth of 10% in 2017.*

...

*Public-private partnerships (PPPs), highly dependent on private financing, would be particularly at risk of a decline in investor confidence in financing infrastructure projects in the Argentine market. This would threaten the advance of six road PPP projects awarded earlier this year requiring some USD6bn in investment which have yet to reach financial closure. Five of the six projects have been awarded to consortia including at least one Argentine firm.*

*In addition, the government's plans to tender a number of other PPP projects over the coming months, a key measure needed to compensate for declining public infrastructure investment especially from 2019, would also be at risk.* Given generally high risk in the Argentine market compared to more attractive markets in the region for private investment, domestic firms dominate most contracts in the country and would be the most likely winners of future PPP tenders. Further, if public pressure or legal rulings were to prevent a number of Argentine firms from participating in new tenders, those tenders could suffer from weak interest.

179. On or about August 13, 2018, Guillermo Dietrich, the Transportation Minister, in an apparent pivot from the zero-tolerance policy suggested by Macri's office a week before, stated that companies whose former employees were implicated in the Notebooks Scandal would continue to be allowed to participate in public works, but may be subject to sanctions and would be held accountable for ongoing failures to perform under contracts. As reported in *Clarín* on August 25, 2018, Dietrich stated that the corruption during the Kirchner administration cost the state \$200 billion. Dietrich also acknowledged private foreign banks' fear of lending money to companies potentially tainted by corruption and admitted (in a profound understatement) that the scandal "clearly generates some uncertainty in the economy." On or about August 27, 2018, Dietrich stated that the government would attempt to "separate companies from the people" who committed public corruption and establish a \$300 million government trust fund to enable private contractors to continue work on public projects, including \$6 billion road construction.

180. Dietrich's plan is widely viewed as fundamentally flawed because it does not address the fact that Argentina lacks the resources, and foreign banks now lack the appetite, for funding the PPPs. As a September 11, 2018 article on the news website *Tres Lineas* reported,

Guillermo Dietrich's idea of saving Public Private Participation contracts through a trust is not giving results for the same reason that the original plan to replace public works with PPP was complicated: the lack of private financing.

...

The idea of that trust was to save the contracts, which were seriously jeopardized by the outbreak of the financial crisis and the scandal of the notebooks. The first

raised interest rates to obtain financing and the second scared the international banks that had committed the funds, because several of the winning companies are involved in the matter and by internal rules cannot grant loans to firms linked to corruption cases.

181. As of September 13, 2018, according to *Clarín*, because of the cloud over the Argentine construction industry, only one of the six consortiums that were awarded road works contracts in 2018 is expected to secure the international financing necessary to start a project on time. In addition, only one private bank has committed to contributing to the Argentine government's PPP trust fund.

182. The facts known or knowable to Defendants at the time of the IPO—the risks of public-private partnerships, the government's inability to fund its public works promised, and the risk that corruption in the corruption industry would stall projects and stifle foreign investment—demonstrate that the true prospects for public works and economic growth in Argentina—what Loma Negra said were the drivers of demand for Loma Negra's cement—were, are, and will be far grimmer than Loma Negra disclosed to investors.

### **CLASS ALLEGATIONS**

183. Plaintiff brings this action as a class action pursuant to Article 9 of CPLR on behalf of a class consisting of all persons and/or entities who purchased or otherwise acquired ADSs of Loma Negra pursuant and/or traceable to the Company's false and/or misleading Offering Materials issued in connection with the Company's IPO, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants and their families, the officers, directors and affiliates of Defendants, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which Defendants have or had a controlling interest.

184. The members of the Class are so numerous that joinder of all members is

impracticable. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, there were approximately 53,530,000 ADSs outstanding (representing 267,650,000 shares of common stock) and not held by insiders. Thus, Plaintiff believes that there are at least hundreds, if not thousands, of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Loma Negra, its depository bank, or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

185. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

186. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

187. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- a. whether Defendants violated the Securities Act;
- b. whether statements made by Defendants to the investing public in the Offering Materials were false and/or misrepresented material facts about the business and operations of Loma Negra; and
- c. to what extent the members of the Class have sustained damages and the proper measure of damages.

188. A class action is superior to all other available methods for the fair and efficient

adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

### **CAUSES OF ACTION**

#### **COUNT I**

#### **Violations of § 11 of the Securities Act Against All Defendants**

189. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

190. This Cause of Action is brought pursuant to §11 of the Securities Act, 15 U.S. C. § 77k, on behalf of the Class, against Loma Negra, the Individual Defendants, and the Underwriter Defendants.

191. The Registration Statement for the IPO was inaccurate and misleading, contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and omitted material facts required to be stated therein.

192. The Company is the issuer of the securities purchased by Plaintiff and the Class. As such, the Company is strictly liable for the materially untrue statements contained in the Registration Statement and the failure of the Registration Statement to be complete and accurate.

193. The Individual Defendants each signed the Registration Statement or authorized the signing of the Registration Statement on their behalf. As such, each is strictly liable for the materially inaccurate statements contained therein and the failure of the Registration Statement to be complete and accurate, unless they are able to carry their burden of establishing an affirmative “due diligence” defense. The Individual Defendants each had duty to make a reasonable and

diligent investigation of the truthfulness and accuracy of the statements contained in the Registration Statement, and to ensure that they were true and accurate, that there were no omissions of material facts that would make the Registration Statement misleading, and that the document contained all facts required to be stated therein. In the exercise of reasonable care, the Individual Defendants should have known of the material misstatements and omissions contained in the Registration Statement and also should have known of the omissions of material fact necessary to make the statements made therein not misleading. Accordingly, the Individual Defendants are liable to Plaintiff and the Class.

194. The Selling Shareholder controlled the Company through its significant stock holdings and majority control over the Loma Negra Board, thus it had a duty to make a reasonable and diligent investigation of the truthfulness and accuracy of the statements contained in the Registration Statement, and to ensure that they were true and accurate, that there were no omissions of material facts that would make the Registration Statement misleading, and that the document contained all facts required to be stated therein. In the exercise of reasonable care, the Selling Shareholder should have known of the material misstatements and omissions contained in the Registration Statement and also should have known of the omissions of material fact necessary to make the statements made therein not misleading. Accordingly, the Selling Shareholder is liable to Plaintiff and the Class.

195. The Underwriter Defendants each served as underwriters in connection with the IPO. As such, each is strictly liable for the materially inaccurate statements contained in the Registration Statement and the failure of the Registration Statement to be complete and accurate, unless they are able to carry their burden of establishing an affirmative “due diligence” defense. These defendants each had a duty to make a reasonable and diligent investigation of the

truthfulness and accuracy of the statements contained in the Registration Statement. They had a duty to ensure that they were true and accurate, that there were no omissions of material facts that would make the Registration Statement misleading, and that the documents contained all facts required to be stated therein. In the exercise of reasonable care, the Underwriter Defendants should have known of the material misstatements and omissions contained in the Registration Statement and also should have known of the omissions of material facts necessary to make the statements made therein not misleading. Accordingly, each of the Underwriter Defendants is liable to Plaintiff and the Class.

196. By reason of the conduct herein alleged, each Defendant named herein violated, §11 of the Securities Act.

197. Plaintiff acquired Loma Negra ADSs pursuant or traceable to the Registration Statement used for the IPO without knowledge of the material omissions or misrepresentations alleged herein.

198. Plaintiff and the Class have sustained damages, as the value of Loma Negra ADSs has declined substantially subsequent to and due to these Defendants' violations.

199. By virtue of the foregoing, Plaintiff and the other members of the Class are entitled to damages under §11 as measured by the provisions of §11(e), from the Defendants and each of them, jointly and severally.

## **COUNT II**

### **Violations of §15 of the Securities Act**

#### **Against Loma Negra, the Selling Shareholder and the Individual Defendants**

200. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

201. This Cause of Action is brought pursuant to §15 of the Securities Act, 15 U.S.C.

§77o, against Loma Negra, the Selling Shareholder, and the Individual Defendants.

202. The Selling Shareholder was a control person of Loma Negra by virtue of its more than 99% ownership of the Company's ordinary shares outstanding prior to the IPO.

203. The Individual Defendants each were control persons of Loma Negra by virtue of their positions as directors and/or senior officers of Loma Negra. The Individual Defendants each had a series of direct and/or indirect business and/or personal relationships with other directors and/or officers and/or major shareholders of Loma Negra.

204. Loma Negra controlled the Individual Defendants and all of its employees.

205. Loma Negra, the Selling Shareholder, and the Individual Defendants were each critical components to affecting the IPO, based on their signing or authorization of the signing of the Registration Statement, by voting to execute the IPO and by having otherwise directed through their authority the processes leading to the execution of the IPO.

206. By reason of such wrongful conduct, the Selling Shareholder and the Individual Defendants are liable pursuant to §15 of the Securities Act. As a direct and proximate result of the wrongful conduct, Class members suffered damages in connection with their purchases of the Company's ADSs.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for relief and judgment as follows:

- A. Declaring this action to be a class action pursuant and certifying Plaintiff as a representative of the Class and his counsel as Class Counsel;
- B. Awarding Plaintiff and the members of the Class damages, including interest;
- C. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including and attorneys' fees;

- D. Awarding rescission or a rescissory measure of damages; and
- E. Awarding such equitable/injunctive or other relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a jury trial.

Dated: January 18, 2019

**RESPECTFULLY SUBMITTED,**

**LEVI & KORSINSKY LLP**

*/s/ Shannon L. Hopkins*

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