



ASSOCIATE

## JAVIER GARIBAY

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### OVERVIEW

Javier Garibay plays a pivotal role in the office's Banking & Finance and Corporate & Securities practices. Experienced in the complex legal domains of M&A and restructuring and insolvency, Javier has a wealth of knowledge that is indispensable to our clients.

In M&A, Javier helps companies successfully navigate both domestic and international transactions. He serves as a strategic ally, ensuring that our clients' mergers, acquisitions, and joint ventures are carried out with meticulous precision and foresight.

In the equally demanding area of restructuring and insolvency, Javier leverages both his transactional and regulatory knowledge to manage the intricacies of these matters. He develops comprehensive, legally sound solutions that address our clients' interests, objectives, and needs in particular, safeguarding the rights and claims of lenders in complex financial restructurings.

His expertise in cross-border M&A transactions makes him an asset to clients operating on a global scale. Javier's ability to manage the complexities of international legal systems and corporate governance ensures seamless transactions and compliance for both public and private entities.

In dispute resolution, Javier has demonstrated a remarkable ability to handle conflicts among shareholders, companies, and executives with skill and diplomacy. His significant contributions to high-profile bankruptcy cases in Mexico since 2016 highlight his ability to consistently deliver results that meet our clients' needs. Representing a wide range of stakeholders in both in-court and out-of-court scenarios, Javier's insights and strategies are invaluable in navigating these challenging circumstances.

Javier's commitment to the legal profession extends to his pro bono work, where he lends his expertise to various non-profit organizations. This dedication reflects our firm's ethos of service and social responsibility. Clients working with Javier benefit from his comprehensive legal expertise and his dedication to achieving positive outcomes for both their businesses and the wider community.

## EXPERIENCE

### Restructuring and Insolvency

Advised:

- **Cargill Financial Services International. and Cargill Soluciones Empresariales**, as principal creditors in the landmark bankruptcy case of Altos Hornos de México. With a substantial claim of UD 632,299,838.62, this case, adjudicated in the 2nd District Court in Commercial Bankruptcy Matters (case number 19/2023), stands out not only as one of the largest but also as the most complex and significant in the history of Mexican bankruptcy law.
- **Cargill Financial Services International. and Cargill Soluciones Empresariales**, in their role as major creditors in the ongoing bankruptcy proceedings of Minera del Norte.
- **U.S. Bank Trust Company, National Association**, serving as the indenture trustee, in the ongoing bankruptcy case of *Inversiones y Colocaciones Inmobiliarias*.
- **U.S. Bank Trust Company, National Association**, in its role as the indenture trustee, this case involves the bankruptcy proceedings of Tangerine Pomelo Group. Overseen by the 2nd District Court in Commercial Bankruptcy Matters under case number 34/2023, the representation includes advocating for the recovery of USD 319,792,898.59 owed to our client. This case is emblematic of our commitment to navigating complex financial and legal landscapes to protect the interests of bondholders.

### M&A

Advised:

- **Vente-Privee** for the sale of 100% equity interest in its Mexican subsidiary Privalia Venta Directa, and its subsidiaries that own and operate the business through the platform known as "Privalia" in Mexico.
- **Cointer Concesiones México** and **Sociedad Michoacana de Constructores** on the sale of their joint participation in the capital stock of Concesionaria de Autopistas de Michoacán to Fibra Vía, an energy and infrastructure investment trust, controlled by Promotora y Operadora de Infraestructura.
- **Mezcal Ojo de Tigre** ("ODT") and its existing shareholders (through a Mexican Control Trust incorporated for such purposes) in the acquisition by Pernod Ricard México of a 40% equity participation in ODT, through a capital increase and purchase of shares of the existing shareholders.
- **Casa Montelobos**, Mezcal Montelobos® producer and **Licorera Ancho Reyes**, Ancho Reyes® chili liquor producer, in the sale of their 100% capital stock in two tranches to Campari, a major spirit brand owner and distributor.
- **Destilería y Bodega Abasolo** and its existing shareholders in the acquisition by Pernod Ricard México of a 49% equity participation in Abasolo. The transaction also included the negotiation and execution of the documents applicable to the joint venture among Pernod Ricard and Abasolo's original shareholders.
- **Grupo Financiero Banorte** in reaching an agreement to acquire, through merger, Grupo Financiero Interacciones. The acquisition included the banking, broker-dealer, insurance and asset manager subsidiaries

of Grupo Financiero Interacciones. Grupo Financiero Banorte has become the second-largest banking financial group in Mexico, and the country's largest infrastructure lender. Value: USD 1.4 billion.

- **Asset Administration and Sale Agency** (*Servicio de Administración y Enajenación de Bienes or SAE*) in the design and implementation of the procurement process for the sale of nine sugar mills that together represented 22.2% of the Mexican sugar production market. The deal is considered one of the most important commercial transactions in SAE's history.
- **Nestlé México** in the sale of its ice cream business in Mexico to Grupo Herdez, a publicly traded company in the Mexican Stock Exchange and one of Mexico's food manufacturing and distribution leaders. The transaction was subject to antitrust approval by the Mexican Economic Competition Commission. Value: USD 80 million.
- **Panasonic Corporation** in the acquisition of a stake in Hussmann Corporation, a Missouri-based manufacturer of refrigerated display cases and systems, from Clayton, Dubilier and Rice LLC, representative company of Hussmann Parent Inc.'s shareholders. Value: USD 1.545 billion.

## **Lending**

Advised:

- **Cargill Financial Services International** on a financing package it provided to Altos Hornos de México (AHMSA), one of the largest steelmakers in Mexico. The financing consisted of an advance on accounts receivable and a revolver, which was used to pay off existing creditors. Value: USD 575 million.
- **The Bank of Nova Scotia** as lender and lead arranger in a loan facility granted to Internacional de Cerámica, a wall and floor tiles Mexican company, guaranteed by borrower's subsidiaries, guaranteed by some of Interceramic's subsidiaries. The proceeds of the loan were used for the refinancing of existing indebtedness and for general corporate purposes. Value: USD 30 million.

## **Projects**

Advised:

- **Altán Consortium** on its winning bid to build and operate a mobile 4G network, which will be one of the largest Mexican telecom infrastructure projects during President Peña Nieto's administration. The Red Compartida network is set to cover more than 92 percent of Mexico's population, exceeding the 85 percent minimum coverage outlined in the auction, and will become operative for part of the population in early 2018. Value: USD 7 billion.
- **BlackRock** in structuring and setting up an investment vehicle funded with US\$70 million contributed by the Mexican trust issuer of notes denominated *certificados de capital de desarrollo* (CKDs) managed by I Cuadrada, an entity recently acquired by BlackRock.

## Acquisition Finance

Advised:

- **Concessoc 31 SAS**, a subsidiary of VINCI, in the negotiation and execution of a credit and guaranty agreement with Banco Inbursa, HSBC Mexico, and Scotiabank, which was crucial for the acquisition of a 29.9% stake in Grupo Aeroportuario del Centro Norte (OMA) from Fintech Advisory. Value: MXN 8.75 billion.

## PUBLICATIONS

- "Unveiling Credit Bidding in Mexico: An In-Depth Exploration of an Overlooked Mechanism," Pratt's Journal of Bankruptcy Law, January 2024
- "A Deep Dive into Acquisition Finance in Latin America," Latin Lawyer, 5 January 2024
- "Separation of Trust Assets Under Mexican Bankruptcy Law," Lexis Nexis, 26 October 2023
- "The Mexican Non-Bank Lending Sector Crisis: A Bankruptcy Perspective," Pratt's Journal of Bankruptcy Law, July-August 2023
- "Amendments to Mexican Mining and Environmental Laws: a Comprehensive Overview," Eye on ESG Blog, 9 May 2023
- "Amendments to Mexican Mining and Environmental Laws: a Comprehensive Overview," 8 May 2023
- "Mexican Reform Bill Threatens Private Sector Investments," Law360, 20 April 2023
- "Proposed Mexican Legislative Reform Threatens Private Sector Interests," 3 April 2023
- "Ch. 15 Case Highlights Reach Of Transnational Insolvency," Law360, 16 November 2022
- "Credito Real Strategy Tests US Court," Latinvex, 20 October 2022
- "Credito Real Body-Checks Mexican and US Insolvency Laws - Will US Court Strike Back?," 17 October 2022
- "Distressed M&A Transactions in Mexico," Practical Journal Bankruptcy Law, July/August 2020
- "Measures Taken by the Mexican Federal Government to Protect, Preserve, and Promote the General Health, Safety, and Welfare of the People in Mexico," COVID-19 Response Blog, 14 April 2020
- "Oil and Gas Exploration and Production Contracts in Mexico - COVID-19 and Force Majeure," 31 March 2020

## RECOGNITION

- Recipient of the Chevening Scholarship, the UK government's international awards scheme aimed at developing global leaders since 1983.
- Recipient of the Scholarship for Academic Excellence at Universidad Panamericana.

## EDUCATION

- **Universidad Panamericana**, Dissertation: Proposals to modernize the stock corporation in Mexico.

- **Durham University**, MA, Dissertation: Can a rule permitting anticipatory warfare be justified?

## ADMISSIONS

- Mexico

## PROFESSIONAL & COMMUNITY INVOLVEMENT

Javier Garibay's commitment to the legal community and his passion for sharing knowledge are evident in his extensive involvement in various professional and educational roles:

- **Editorial Board Member:** Javier is a distinguished member of the board of editors for Pratt's Journal of Bankruptcy Law, a prestigious publication in the field. His role here underscores his expertise and thought leadership in bankruptcy law.
- **Recognized Author:** Javier has been honored as a "very popular" author in the field of insolvency, bankruptcy, and restructuring in the United States. This recognition comes from Mondaq's author rankings, which are based on comprehensive readership data from over 25,000 authors. Being in the top 20% of these authors reflects Javier's significant impact and influence in these legal areas.
- **Academic Teaching Roles:**
  - **Associate Lecturer in Civil Law (2019-2020):** At the Instituto Tecnológico de Estudios Superiores de Monterrey (TEC) Campus Santa Fe, Javier served as an associate lecturer alongside Julio Martinez, the lead professor. Together, they enriched the educational experience in civil law.
  - **Associate Lecturer in Business Law (2018-present):** At the Instituto Tecnológico Autónomo de México (ITAM), Javier collaborates with Raul Fernandez, the principal professor, to deliver in-depth knowledge in business law.

Javier's involvement in these roles highlights not only his expertise in law but also his dedication to education and ethical practices, contributing significantly to the legal and academic communities.