UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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In Re TENARIS S.A. SECURITIES LITIGATION

**MEMORANDUM & ORDER**

18-cv-7059 (RJD) (SJB)

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DEARIE, District Judge

This is a purported class action securities fraud suit brought under Sections 10(b) and 20(a) of the Securities Exchange Act ("Exchange Act") by Plaintiffs Jeffrey Sanders and Starr Sanders (collectively, "Plaintiffs") against Defendants Tenaris S.A. ("Tenaris"), Paolo Rocca, Edgardo Carlos, Techint Holdings S.a. r.l. ("Techint"), and San Faustin S.A. ("San Faustin") (collectively, "Defendants"). Plaintiffs allege materially misleading statements and omissions in certain Tenaris public filings made during the purported class period and publicly disclosed employee codes that are referenced in the class period filings. Plaintiffs claim that all Defendants are liable under § 10(b) and that Rocca, Carlos, Techint, and San Faustin are also liable under § 20(a) as "control persons." Defendants move to dismiss under Fed. R. Civ. P. 12(b)(6) for failure to state a claim, and San Faustin and Techint also move to dismiss under Fed. R. Civ. P. 12(b)(2) for lack of personal jurisdiction. For the reasons set forth below, San Faustin's and Techint's motions to dismiss for lack of personal jurisdiction are DENIED; San Faustin's, Techint's, and Carlos's motions to dismiss for failure to state a claim are GRANTED; Rocca's motions to dismiss are DENIED; and Tenaris's motion to dismiss is DENIED.

## BACKGROUND

Plaintiffs bring this suit on behalf of a purported class of fellow investors who acquired American Depository Shares of Tenaris during the class period of May 1, 2014 through December 5, 2018. Amended Complaint, Dkt. No 36, ("Amended Complaint") ¶¶ 1, 24.

Defendants are corporations and executives within the so-called "Techint Group."[1] This case arises out of the downturn in Tenaris's stock price that followed the 2018 disclosure of information implicating Techint Group executives in a decade-old scheme to bribe Argentine government officials. Amended Complaint ¶¶ 11, 143-146.

## I. The Argentine Bribery Scheme

According to the Amended Complaint, late in 2005 and again in 2006, at meetings attended by Rocca, Argentine President Nestor Kirchner, First Lady Cristina Kirchner, Argentine cabinet ministers, and sub-cabinet aides, Rocca sought the Argentine government's help in convincing Venezuelan President Hugo Chavez not to nationalize the Venezuelan assets of SIDOR, a Tenaris subsidiary. Id. ¶¶ 77-78. After the 2006 meeting, an Argentine Planning Ministry aide was dispatched to tell Techint Group executives to "fork it over" if they wanted the Argentine government's help. Id. ¶ 78. One year later, in February 2007, a Planning Ministry aide personally asked Rocca and Techint director Luiz Betnaza to "increase Techint Group's financial support for the Argentine government." Id. ¶ 79. After another solicitation from the Planning Ministry aide, Betnaza began passing bribes to the Kirchners via the Planning Ministry aide in $100,0000 installments totaling $600,000 to $700,000. Id. ¶ 80.

On April 9, 2008, Venezuela announced its intention to nationalize SIDOR's Venezuelan assets. Id. ¶ 82. But negotiations between Venezuelan officials and Techint Group executives over SIDOR's valuation continued for months. Id. ¶ 87. During these negotiations, Techint executive Hector Zabaleta allegedly paid at least $1 million to Argentine officials in exchange for further efforts to lobby Venezuelan officials. Id. ¶¶ 94-95.

This bribery scheme remained out of public view for about a decade until 2018 when it

[1] For a visual representation of the relationships among Defendants and relevant non-party actors, the Court refers to the organizational chart of the Techint Group that is reproduced as an Appendix to this Memorandum & Order.

burst into the open as part of the sprawling corruption allegations known as "The Notebooks Case." Faced with these accusations, Rocca allegedly admitted to Argentine investigators that Techint Group executives bribed Argentine officials but denied contemporaneously knowing that bribery was afoot. Id. ¶ 100. On November 27, 2018, the press reported that an Argentine judge charged Rocca with graft and bribery. Id. ¶ 14. After news of the charges against Rocca broke, Tenaris stock fell approximately 10 percent in one day. Id. ¶ 15. The following month, Tenaris stock fell another 5 percent after the press reported that Argentine prosecutors requested that Rocca be detained. Id. ¶¶ 16-17. However, in April 2019, an Argentine court "revoke[d]" the charges against Rocca for insufficient evidence but called on prosecutors to continue their investigation. Declaration of Brendan P. Cullen, Dkt. No. 55, ("Cullen Declaration"), Exhibit 1.

## II. Uzbekistan Bribery Scheme

In 2011, the Securities and Exchange Commission ("SEC") alleged that from 2006 to 2009, a period that overlaps with the Argentine bribery scheme, Tenaris engaged in bribery in Uzbekistan. Amended Complaint ¶¶ 56-57. The SEC and Tenaris entered into a deferred prosecution agreement ("SEC DPA") regarding the Uzbekistan bribery scheme, the terms of which were in effect from May 2011 to May 2013. Id. ¶ 60; Cullen Declaration, Exhibit 2. Under the SEC DPA, Tenaris agreed to pay a $5.4 million fine; annually review its corporate code of conduct; require senior directors and officers to annually certify compliance with the code of conduct; and, conduct anti-corruption compliance training. Cullen Declaration, Exhibit 2.

## III. Alleged Misstatements and Omissions

During the purported class period, Tenaris filed five annual SEC Form 20-Fs.[2] Plaintiffs claim that certain statements and omissions in Tenaris's class period Form 20-Fs, its Code of

[2] Pursuant to 17 C.F.R. § 249.220f, as a "foreign private issuer," Tenaris files annual Form 20-Fs.

Conduct, and its Code of Ethics are rendered materially misleading by the 2018 disclosures in The Notebooks Case. Specifically, Plaintiffs allege falsities in (1) the Sarbanes-Oxley Act Certification portion of the Form 20-Fs ("SOX Certifications"), Amended Complaint ¶ 107; (2) Tenaris's Code of Conduct, Code of Ethics, and the references to each code in the Form 20-Fs, id. ¶¶ 101-04, 109; and (3) the "risk factor disclosure" portion of the Form 20-Fs, id. ¶ 111. Plaintiffs also allege that the Form 20-Fs omit (1) that bribes were paid to Argentine officials; (2) that bribery violates the law and exposes Tenaris to adverse legal consequences; (3) that the bribery heightened the risk to Tenaris's operations, financial performance, and share price; and (4) the lack of internal controls that allowed the bribery scheme to flourish. Id. ¶¶ 106, 110.

## DISCUSSION

### I. Personal Jurisdiction Over The Parent Defendants

San Faustin and Techint (collectively, "Parent Defendants") seek dismissal under Rule 12(b)(2) for lack of personal jurisdiction. Plaintiffs need only make "legally sufficient allegations of jurisdiction, including an averment of facts that, if credited, would suffice to establish jurisdiction." See Charles Schwab Corp. v. Bank of America Corp., 883 F.3d 68, 81 (2d Cir. 2018). Because the Exchange Act "permits the exercise of personal jurisdiction to the limit of the Due Process Clause of the Fifth Amendment," S.E.C. v. Unifund SAL, 910 F.2d 1028, 1033 (2d Cir. 1990); see 15 U.S.C. § 78aa, "the sole question here is whether due process permits the exercise of jurisdiction" over the Parent Defendants, see DoubleLine Capital LP v. Construtora Norberto Odebrecht, S.A., 413 F. Supp. 3d 187, 217 (S.D.N.Y. 2019).

Plaintiffs submit that the Parent Defendants are subject to the Court's personal jurisdiction under the "alter ego" theory, which permits the Court to exercise personal jurisdiction when a corporation is an alter ego of a corporation that would be subject to personal

jurisdiction in that Court. See Transfield ER Cape Ltd. v. Indus. Carriers, Inc., 571 F.3d 221, 224 (2d Cir. 2009) (citing Patin v. Thoroughbred Power Boats, 294 F.3d 640, 653 (5th Cir. 2002)); Wm. Passalacqua Builders, Inc. v. Resnick Developers South, Inc., 933 F.2d 131, 143 (2d Cir. 1991) ("alter egos are treated as one entity for jurisdictional purposes"). The Parent Defendants counter first with the threshold objection that the alter ego theory of personal jurisdiction violates due process, despite the Second Circuit's clear recognition that it does not. See In re Commodity Exchange Inc., 213 F. Supp. 3d 631, 680 (S.D.N.Y. 2016) (quoting Transfield E.R. Cape Ltd., 571 F.3d at 224). They contend that the recent Supreme Court decisions in Walden v. Fiore, 571 U.S. 277, 284 (2014), and Daimler AG v. Bauman, 571 U.S. 117 (2014), stripped courts of the right to exercise personal jurisdiction based on an alter ego relationship.

The key passage the Parent Defendants highlight in Walden is: "For a state to exercise jurisdiction consistent with due process, the defendant's suit-related conduct must create a substantial connection with the forum State. . . [T]he relationship must arise out of contacts that the defendant *himself* creates with the forum State." Walden, 571 U.S. at 284 (emphasis in original). The Parent Defendants argue that this rule sounded the death knell for the alter ego theory of personal jurisdiction.

The Parent Defendants' interpretation of Walden is incorrect. The Supreme Court was emphasizing that a personal jurisdiction analysis requires courts to evaluate the forum contacts that the "defendant himself creates" as distinguished from the Ninth Circuit's inappropriate focus on the forum contacts the plaintiff creates. This is far afield from voiding the alter ego theory of personal jurisdiction and is nothing more than a reaffirmation of well-established personal jurisdiction law. On the contrary, the alter ego theory of personal jurisdiction is consistent with the directive to evaluate the contacts the "defendant himself creates." For in an alter ego

relationship, as the Court is about to explain more fully, the Parent Defendants are the "real actor[s]" behind their subordinate entity. See Wm. Passalacqua Builders, Inc., 933 F.2d at 138.

Regarding Daimler, it, too, is not at all fatal to the alter ego theory of personal jurisdiction. There, the Supreme Court "expressed doubts as to the usefulness of an agency analysis," but it "[did] not call into question the alter-ego theory of jurisdiction." See In re Commodity Exchange Inc., 213 F. Supp. 3d at 680. Indeed, the Supreme Court contrasted the Ninth Circuit's agency theory of personal jurisdiction, which it rejected, with the alter ego theory of personal jurisdiction, noting that "several Courts of Appeals have held[] that a subsidiary's jurisdictional contacts can be imputed to its parent only when the former is so dominated by the latter as to be its alter ego." See Daimler, 571 U.S. at 134-35.

To determine whether Plaintiffs adequately allege that the Parent Defendants and Tenaris are alter egos for jurisdictional purposes, the Court must evaluate ten factors:

> (1) the absence of the formalities and paraphernalia that are part and parcel of the corporate existence, *i.e.,* issuance of stock, election of directors, keeping of corporate records and the like; (2) inadequate capitalization; (3) whether funds are put in and taken out of the corporation for personal rather than corporate purposes; (4) overlap in ownership, officers, directors, and personnel; (5) common office space, address and telephone numbers of corporate entities; (6) the amount of business discretion displayed by the allegedly dominated corporation; (7) whether the related corporations deal with the dominated corporation at arms length; (8) whether the corporations are treated as independent profit centers; (9) the payment or guarantee of debts of the dominated corporation by other corporations in the group; and (10) whether the corporation in question had property that was used by other of the corporations as if it were its own.

See New York State Elec. and Gas Corp. v. FirstEnergy Corp., 766 F.3d 212, 224 (2d Cir. 2014). Not every factor need be satisfied to find domination. Id. at 225.

After considering the foregoing factors, the Court finds that the Amended Complaint

adequately pleads that Tenaris is an alter ego of the Parent Defendants for jurisdiction purposes. Weighing most heavily is the allegation that dividends from "the operating companies"—which the Court takes to mean Tenaris and its corporate siblings—are maintained in an account of "the central companies"—which the Court takes to mean the Parent Defendants. See Amended Complaint ¶ 95. Cf. Sysco Food Serv of Metro N.Y., LLC v. Jekyll & Hyde, Inc., 2009 WL 4042758, at *3 (S.D.N.Y. 2009) (holding that a conclusory claim that "defendants intermingled their assets" was insufficient to support the existence of an alter ego relationship because it "fails to allege which corporation took funds from which"). The allegation that bribery payments related to a single subsidiary were taken out of this "central" account further supports the conclusion that the Parent Defendants did not separate the profits of its subsidiaries. See Amended Complaint ¶¶ 20, 100. Additionally, the Amended Complaint alleges that the Parent Defendants and Tenaris shared common personnel and office space. See id. ¶¶ 25-28, 46. Finally, that Parent Defendant executives, not SIDOR executives or executives from SIDOR's immediate corporate parent, allegedly delivered bribery payments for official action regarding SIDOR further supports concluding that the Parent Defendants dominated the entire Techint Group corporate hierarchy. See id. ¶¶ 18-19, 80, 94. With these alleged facts, for jurisdictional purposes only, Plaintiffs adequately plead that Tenaris and the Parent Defendants are alter egos. The Court may exercise personal jurisdiction over the Parent Defendants.

## II. The Section 10(b) Claims

### a. Legal Framework

Section 10(b) of the Exchange Act makes it unlawful "to use or employ, in connection with the purchase or sale of any security registered on a national securities exchange . . . any manipulative or deceptive device or contrivance in contravention of such rules and regulations as

the [SEC] may prescribe." 15 U.S.C. § 78j(b). Rule 10b-5(b), which implements § 10(b), prohibits "mak[ing] any untrue statement of a material fact" or "omit[ting] to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading." 17 C.F.R. § 240.10b-5. To state a claim under § 10(b) and Rule 10b-5(b), "a plaintiff must adequately allege the following elements: '(1) a material misrepresentation (or omission); (2) scienter . . .; (3) a connection with the purchase or sale of a security; (4) reliance . . .; (5) economic loss; and (6) loss causation.'" Vladimir v. Bioenvision Inc., 606 F. Supp. 2d 473, 484 (S.D.N.Y. 2009), aff'd sub nom. Thesling v. Bioenvision, Inc., 374 F. App'x 141 (2d Cir. 2010) (quoting Dura Pharm., Inc. v. Broudo, 544 U.S. 336, 341-42 (2005)). Defendants argue that Plaintiffs fail to adequately plead the elements of material misrepresentation or omission, scienter, and loss causation.

To survive a motion to dismiss under Rule 12(b)(6), the Amended Complaint must contain sufficient factual allegations to state a claim that is "plausible on its face." See Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). In evaluating the sufficiency of the Amended Complaint, the Court is required to accept the facts alleged in the Amended Complaint as true and draw all reasonable inferences in Plaintiffs' favor. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

Section 10(b) claims are also subject to heightened pleading standards. First, because this is a fraud claim, under Fed. R. Civ. P. 9(b), Plaintiffs must "state with particularity the circumstances constituting fraud or mistake." In re Petrobras Sec. Litig., 116 F. Supp. 3d 368, 377 (S.D.N.Y. 2015) (quoting Fed. R. Civ. P. 9(b)). "The Second Circuit has interpreted Rule 9(b) to require that a complaint: '(1) specify the statements that the plaintiff contends were fraudulent, (2) identify the speaker, (3) state where and when the statements were made, and (4)

explain why the statements were fraudulent." Id. at 377-78 (quoting Rombach v. Chang, 355 F.3d 164, 170 (2d Cir. 2004)). Similarly, the Private Securities Litigation Reform Act ("PLSRA") requires that a complaint "specify each statement alleged to have been misleading [and] . . . the reasons why the statement is misleading." 15 U.S.C. § 78u-4(b)(1).

The PSLRA also requires Plaintiffs to "'state with particularity [the] facts giving rise to a strong inference that the defendant acted with the required state of mind.'" Rombach, 355 F.3d at 176 (quoting 15 U.S.C. § 78u-4(b)(2)). "A complaint will survive . . . only if a reasonable person would deem the inference of scienter cogent and at least as compelling as any opposing inference one could draw from the facts alleged." Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308, 324 (2007).

**b. Pleading The Bribery Scheme**

"Because the gravamen of the Amended Complaint is that a series of unlawful bribery schemes . . . rendered the challenged statements false or misleading, the Court must determine at the outset whether Plaintiff[s have] adequately alleged any or all of these bribery schemes." In re Banco Bradesco S.A. Securities Litigation, 277 F. Supp. 3d 600, 631-32 (S.D.N.Y. 2017). "As part of the 'circumstances constituting fraud,' such schemes must be pleaded with particularity." See id. at 632. Defendants argue that the Amended Complaint does not adequately plead that Tenaris or anyone employed by Tenaris engaged in bribery, otherwise broke the law, or violated any internal codes or controls.

The Court disagrees. The Amended Complaint alleges that as Tenaris's Chairman and CEO at all relevant times, Rocca requested that Argentine government officials lobby Venezuelan officials on behalf of SIDOR; that Argentine officials were "directed" to contact Rocca to solicit bribe payments; that Rocca was, in fact, personally solicited for bribery

payments; and that Rocca attended meetings where bribes regarding SIDOR were discussed. Amended Complaint ¶¶ 28, 79-80. Accepting these allegations as true, it is plausible to infer that Rocca played some role in the alleged bribery scheme. Cf. In re Banco Bradesco, 277 F. Supp. 3d at 631-32 (holding that a predicate bribery scheme was inadequately pled where the complaint lacked claims that "anyone at [defendant corporation] was aware that they were involved in any unlawful dealings with government officials" and made nothing more than "blanket allegations that [illicit] payments were made").[3]

**c. Material Misrepresentations or Omissions**

Defendants argue that none of the allegedly actionable statements and omissions is materially misleading. Whether a statement is misleading "is measured not by its literal truth, but by its ability to accurately inform rather than mislead prospective buyers." Operating Local 649 Annuity Tr. Fund v. Smith Barney Fund Mgmt. LLC, 595 F.3d 86, 92 (2d Cir. 2010) (quotations omitted). An omission is misleading "only when the corporation is subject to a duty to disclose the omitted facts." Stratte-McClure v. Morgan Stanley, 776 F.3d 94, 101 (2d Cir. 2015). As relevant here, such a duty arises when a statute or regulation requires disclosure or disclosure is necessary to avoid rendering existing statements misleading. See id.

"A statement or omission is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to act." IBEW Local Union No. 58 Pension Tr. Fund & Annuity Fund v. Royal Bank of Scotland Grp., PLC, 783 F.3d 383, 389 (2d Cir. 2015). "In other words, in order for the misstatement to be material, there must be a

[3] The decision by the Argentine Federal Criminal and Correctional Court to "revoke" the bribery charges against Rocca does not impact the sufficiency of Plaintiffs' pleading. See In re Banco Bradesco, 277 F. Supp. 3d at 636 ("hesitat[ing]," at the motion to dismiss stage of a federal securities fraud case, to give weight to a foreign court's decision to dismiss bribery charges against employees of the defendant because the foreign court applied a higher burden of proof and did not give the benefit of inference applicable at the motion to dismiss stage of a federal civil case).

substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available." ECA, Local 134 IBEW Joint Pension Tr. Of Chi. V. JP Morgan Chase Co., 553 F.3d 187, 197 (2d Cir. 2009) (citing Basic Inc. v. Levinson, 485 U.S. 224, 231-32 (1988)). To be "material," the alleged misstatement or omission must also be "sufficiently specific for an investor to reasonably rely on that statement as a guarantee of some concrete fact or outcome which, when it proves false or does not occur, forms the basis for a § 10(b) fraud claim." City of Pontiac Policemen's & Firemen's Ret. Sys. V. UBS AG, 752 F.3d 173, 185 (2d Cir. 2014). "Materiality is a mixed question of law and fact," and a fraud claim "may not properly be dismissed . . . on the ground that the alleged misstatements were not material unless they would have been so obviously unimportant to a reasonable investor that reasonable minds could not differ on the question of their importance." ECA, Local 134, 553 F.3d at 197.

**i. The SOX Certifications**

The first alleged material misstatements are the SOX Certifications. The SOX Certifications, which are part of each Form 20-F and are signed by Rocca and Carlos, certify three relevant things: (1) "financial statements, and other financial information included in this [Form 20-F] fairly present in all material respects the financial condition, results of operations and cash flows of the company;" (2) the Form 20-F "disclosed . . . any change in the company's internal control over financial reporting . . . that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting;" and (3) the signatory has "disclosed . . . to the company's auditors and the audit committee . . . any fraud." See Dkt. No. 60.12.

The SOX Certifications are inactionable for failure to plead why they are misleading, a

requirement of the PSLRA and Rule 9. Regarding the first two certifications, the Amended Complaint does not identify any inaccurate Tenaris financial report and does not allege there were any undisclosed material changes to internal controls at Tenaris. Absent such allegations, there is no basis for finding the SOX Certifications misrepresented the truth. Regarding the third certification, the Amended Complaint mischaracterizes what it states. It does not state that the signatories attest to "the disclosure of all fraud." See Amended Complaint ¶ 107. Rather, it states that "any fraud" had been "disclosed . . . *to the company's auditors and the audit committee*." Dkt. No. 60.12 (emphasis added). Again, nowhere does the Amended Complaint mention what Tenaris did or did not disclose to its auditors and audit committee, which is fatal to the claim that the SOX Certifications misrepresented the truth.

**ii. The Code of Ethics, The Code of Conduct, and References Thereto in the Form 20-Fs**

The next alleged material misstatements are portions of Tenaris's Code of Ethics, Code of Conduct, and the references to both codes in Tenaris's Form 20-Fs. According to the Amended Complaint, Tenaris's Code of Ethics, adopted in July 2005, states that Tenaris "expects all of its employees . . . to comply with applicable law, deter wrongdoing and to abide by [Tenaris's] Code of Conduct." Amended Complaint ¶¶ 103-104. The Amended Complaint also alleges that as of 2012, Tenaris's Code of Conduct includes a provision titled "Bribery is Strictly Prohibited," stating that "Tenaris will not condone, under any circumstances, the offering or receiving of bribes or any other form of improper payments." Id. ¶¶ 101-102. Finally, the Amended Complaint alleges that Tenaris's Form 20-Fs state:

> In addition to the general code of conduct incorporating guidelines and standards of integrity and transparency applicable to all of our directors, officers and employees, we have adopted a code of ethics for financial officers which applies to our principal executive

> officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and is intended to supplement the Company's code of conduct.
> The text of our codes of conduct and code of ethics is posted on our Internet website at:
> www.tenaris.com/en/aboutus/codeofconduct.aspx.

Id. ¶ 109.

It is "well-established that general statements about reputation, integrity, and compliance with ethical norms are inactionable puffery, meaning they are too general to cause a reasonable investor to rely upon them." City of Pontiac Policemen's & Firemen's Ret. Sys. v. UBS AG, 752 F.3d 173, 183 (2d Cir. 2014). In particular, corporate codes that set standards of conduct employees are expected to meet are often deemed inactionable "aspirational" statements if, for example, they do not "contain any representations of historical fact to the effect that its officers had uniformly abided by it." See In re Banco Bradesco, 277 F. Supp. 3d at 658. Further "[t]extbook examples" of "inactionable puffery" include statements in a Code of Ethics that it is "so important for every employee . . . to handle, maintain, and report on [financial] information in compliance with all laws and regulations" and that the company's employees "have a responsibility to act with integrity." Singh v. Cigna Corp., 918 F.3d 57, 61 (2d Cir. 2019). These rulings "inhere[] in the fact that [corporate codes] or other aspirational statements concerning compliance with the law do not guarantee that compliance will occur in every instance." See In re Banco Bradesco, 277 F. Supp. 3d at 658.

In line with this consistent precedent, Tenaris's Code of Ethics and statements referencing the Code of Ethics are not actionable. The Code of Ethics is but a generalized, aspirational statement about how Tenaris "expects" its employees to comport themselves. It is not tethered to any context that would cause a reasonable investor to interpret it as a specific assurance about how Tenaris conducts business. And it contains no representation of historical

fact and makes no guarantee that it would never be broken. For these reasons, it is immaterial to a reasonable investor and not rendered misleading by a Tenaris executive allegedly violating its terms.

But the Court concludes that Tenaris's Code of Conduct and the statements referencing the Code of Conduct in Tenaris's Form 20-Fs are actionable. First, because of the context in which they were made, these statements are not immaterial as a matter of law. The SEC DPA required Tenaris to "review annually and update, as appropriate, the Code of Conduct beginning on February 2, 2012;" and "require[d] that each director, officer, and management-level employee certify compliance with the Code of Conduct on an annual basis beginning on February 1, 2011." Dkt. No. 55, Exhibit 2. Reasonable investors likely knew about the SEC DPA—according to the Amended Complaint, the SEC issued a press release about the DPA and Tenaris referenced it in its FY 2013 Form 20-F. Amended Complaint ¶¶ 109, 111. That the SEC DPA required Tenaris to update and review its Code of Conduct significantly increased the importance of the Code of Conduct in the mind of a reasonable investor. The reasonable investor, perhaps doubtful in the wake of the SEC DPA that Tenaris conducted its business in accordance with the law, may have sought to allay these concerns by looking to the Code of Conduct's anti-bribery provision to evaluate Tenaris's commitment to conducting its business in accordance with the law and its efforts to police its own employees. Viewed in this light, the Code of Conduct and the references in the Form 20-Fs to the Code of Conduct could be material.

Second, Plaintiffs adequately plead that the Code of Conduct and the references to the Code of Conduct are misleading. Defendants argue that these statements are forward looking, so they cannot be rendered misleading by the prior alleged bribery. But these statements are not exclusively forward looking. The Code of Conduct says Tenaris will not "condone . . . bribery."

"Condone" means "To regard or treat (something bad or blameworthy) as acceptable, forgivable, or harmless."[4] And the Form 20-Fs state that the Code of Conduct is "applicable" to Tenaris executives. Taken together, these statements could leave a reasonable investor with the impression that Tenaris does not accept or forgive any instance of bribery among its executives. But according to the Amended Complaint, this impression would be false. Rocca allegedly participated in bribing Argentine officials and there is no indication he faced any internal repercussions under the Code of Conduct. Plaintiffs have, therefore, met the pleading standards for the Code of Conduct and the references thereto in the Form 20-Fs.

**iii. The Risk Factor Disclosures**

Next, Plaintiffs claim that the "risk factor disclosure" portions of Tenaris's Form 20-Fs are materially misleading. The Amended Complaint alleges that the risk factor disclosures in all relevant Tenaris Form 20-Fs state:

> **If we do not comply with laws and regulations designed to combat governmental corruption in countries in which we sell our products, we could become subject to fines, penalties or other sanctions and our sales and profitability could suffer.**
> We conduct business in certain countries known to experience governmental corruption. Although we are committed to conducting business in a legal and ethical manner in compliance with local and international statutory requirements and standards applicable to our business, there is a risk that our employees or representatives may take actions that violate applicable laws and regulations that generally prohibit the making of improper payments to foreign government officials for the purpose of obtaining or keeping business, including laws relating to the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions such as the U.S. Foreign Corrupt Practices Act, or FCPA.

Amended Complaint ¶ 111 (emphasis in original). The Amended Complaint further alleges that the FY 2013 Form 20-F includes an additional sentence regarding the SEC DPA:

[4] See https://www.merriam-webster.com/dictionary/condone.

> Particularly in respect of FCPA, in May 2011, we entered into settlements with the U.S. Department of Justice, or DOJ, and the U.S. Securities and Exchange Commission, or SEC, and we undertook several remediation efforts, including voluntary enhancements to our compliance program. Our obligations under these settlements expired in May 2013.

Id. Defendants ask the Court to conclude that the risk factor disclosures are not misleading, arguing that at the time of these statements, the adverse consequence that they warned could follow from engaging in bribery had not "manifested itself and had a negative effect on [Tenaris's] performance."

The Court disagrees. The risk factor disclosures may mislead a reasonable investor because they use the hypothetical qualifier "if" to warn that a Tenaris employee could fail to comply with the law, when, according to the Amended Complaint, Rocca had already broken the law. See id. ¶¶ 77-81. This is actionable deceit. As one court put it, a statement is actionable where it "warned what might occur if certain contingencies were met [when] the disclosures did not make clear that such contingencies had, in fact, already occurred." In re Facebook, Inc. IPO Securities and Derivative Litigation, 986 F. Supp. 2d 487, 516 (S.D.N.Y. 2013); see also Huddleston v. Herman & MacLean, 640 F.2d 534, 544 (5th Cir. Unit A 1981) ("To warn that the untoward may occur when the event is contingent is prudent; to caution that it is only possible for the unfavorable events to happen when they have already occurred is deceit."). Thus, the risk factor disclosures are actionable across all Form 20-Fs.

**iv. Omissions**

The Amended Complaint alleges that the Form 20-Fs contain four actionable omissions: failing to state the existence of bribery payments to Argentine officials; the violation of various laws and the exposure to adverse legal consequences; the heightened risk to Tenaris's operations, financial performance, and share price; and the lack of internal controls. Tenaris is under a duty

to speak on these matters only if "(1) a statute or regulation requires disclosure or (2) disclosure is necessary to avoid rendering existing statements misleading by failing to disclose material facts." Menaldi v. Och-Ziff Capital Management Group LLC, 164 F. Supp. 3d 568, 579 (S.D.N.Y. 2016) (citing Stratte-McClure, 776 F.3d at 101). Moreover, the securities laws and regulations do not create "a rite of confession" whereby corporations have a duty "to disclose uncharged, unadjudicated wrongdoing." See Diehl v. Omega Protein Corp., 339 F. Supp. 3d 153, 164 (S.D.N.Y. 2018) (citing City of Pontiac, 752 F.3d at 184). Nonetheless, a corporation "may be compelled to disclose uncharged wrongdoing if its statements are or become materially misleading in the absence of disclosure." Menaldi, 164 F. Supp. 3d at 581. Defendants argue that no statute, regulation, or other statement creates a duty to disclose the information Plaintiffs allege Tenaris omitted, and the Court agrees.

The regulation that Plaintiffs argue required Tenaris to speak on these matters is Form 20-F Item 5(D), pursuant to which Tenaris is required to "discuss . . . any . . . uncertainties . . . that are reasonably likely to have a material effect on the company's [financial metrics] or that would cause reported financial information not necessarily to be indicative of future operating results or financial condition."[5] When adjudicating a disclosure duty arising under Item 5(D), courts may look for guidance to the disclosure duty under Item 303 of SEC Regulation S-K, 17 C.F.R. § 229.303, as Item 5(D) requires "the same disclosures as Item 303 of Regulation S-K." See, e.g., Ontario Teachers' Pension Plan Board v. Teva Pharmaceutical Industries Ltd., 432 F. Supp. 3d 131, 163 (D. Conn. 2019) (citing Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations, Securities Act Release No. 8350, Exchange Act Release No. 48960, 81 S.E.C. Docket 2905, 2003 WL

[5] Instructions for Item 5(D) of Form 20-F are available here: https://www.sec.gov/files/form20-f.pdf.

22996757, at *1 n.1 (Dec. 19, 2003)). As relevant here, subject to the doctrine that the securities laws do not set up a "rite of confession," Item 303 may require "negative revelations about key executives" because they "could have . . . an impact . . . on a company's financial condition, liquidity and capital resources." See Construction Laborers Pension Trust for Southern California v. CBS Corp., 433 F. Supp. 3d 515, 541 (S.D.N.Y. 2020).

The omissions Plaintiffs identify are outside the domain of Item 5(D) and Item 303. For Item 5(D) and Item 303 to require disclosing the information Plaintiffs claim should have been disclosed, the Amended Complaint would have to adequately allege that at the time Tenaris issued its Form 20-Fs, the legal consequences that might befall Rocca created an "uncertainty" that was "reasonably likely to have a material effect" on Tenaris's financial condition. See Stratte-McClure, 776 F.3d at 101. The Amended Complaint comes up short. It alleges only Rocca's positions at Tenaris and that he is "highly involved" in management. The most the Court can infer from these pleadings is that Rocca's possible legal jeopardy *could* have had *some* effect on Tenaris's financial condition. But these allegations are too general to allow the Court to infer that Rocca's legal jeopardy was "reasonably likely" to have a "material effect" on Tenaris's financial condition. See CBS Corp., 433 F. Supp. 3d at 542 (holding that Item 303 did not require disclosure of "percolating #MeToo accusations against" the defendant's Chairman and CEO because the complaint only alleged that the executive's possible legal jeopardy could disrupt the defendant's operations in some undefined way and upset its financial condition by some unspecified amount). Thus, no statute, regulation, or other statement requires Tenaris to disclose the allegedly omitted information.[6]

[6] In Plaintiffs' opposition brief, it claims for the first time that Rocca's August 2018 statement at an Argentine business conference is actionable. But because Plaintiffs did not identify this statement in the Amended Complaint, the Court need not address this claim. See Das v. Rio Tinto PLC, 332 F. Supp. 3d 786, 809 (S.D.N.Y. 2018) (citing Wright v. Ernst & Young LLP, 152 F.3d 169, 178 (2d Cir. 1998)).

**d. Scienter**

Next, the Court must assess whether the Amended Complaint adequately pleads the scienter of the "makers" of the actionable statements. See In re Lululemon Securities Litigation, 14 F. Supp. 3d 553, 581 (S.D.N.Y. 2014). Here, the "makers" of the actionable statements are Tenaris, as the entity that filed and published the actionable statements, see City of Roseville Employees' Retirement System v. EnergySolutions, Inc., 814 F. Supp. 2d 395, 417 (S.D.N.Y. 2011); Rocca, as the individual with ultimate authority over the actionable statements, see Janus Capital Group, Inc. v. First Derivative Traders, 564 U.S. 135, 142 (2011); and Carlos, as the individual who signed the relevant SEC forms, see In re Virtus Investment Partners, Inc. Sec. Lit., 195 F. Supp. 3d 528, 541 (S.D.N.Y. 2016).

To plead scienter, the PSLRA requires Plaintiffs to "state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind." 15 U.S.C. § 78u–4(b)(2)(A). To meet this standard, the inference of scienter supported by the Amended Complaint "need not be irrefutable" but it "must be more than merely reasonable or permissible—it must be . . . cogent and at least as compelling as any opposing inference one could draw from the facts alleged." See Tellabs, Inc., 551 U.S. at 324.

"Scienter can be established . . . by alleging facts to show either (1) that defendants had the motive and opportunity to commit fraud, or (2) strong circumstantial evidence of conscious misbehavior or recklessness. Conscious misbehavior or recklessness, in turn, can be established by showing, *inter alia*, that defendants knew facts or had access to information suggesting that their public statements were not accurate." In re Centerline Holding Co. Sec. Litig., 380 F. App'x 91, 93 (2d Cir. 2010) (quotations omitted). The relevant inquiry "is whether *all* of the

facts alleged, taken collectively, give rise to a strong inference of scienter, not whether any individual allegation, scrutinized in isolation, meets the standard." Slayton v. American Exp. Co., 604 F.3d 758, 774 (2d Cir.2010) (quoting Tellabs, Inc., 551 U.S. at 322-23). Plaintiffs "must plead circumstances providing a factual basis for scienter for each defendant; guilt by association is impermissible." See In re DDAVP Direct Purchaser Antitrust Litig., 585 F.3d 677, 695 (2d Cir. 2009).

**i. Rocca**

Defendants argue that the Amended Complaint grounds Rocca's scienter in nothing more than his position as Tenaris Chairman and CEO. According to Defendants, this is precisely the sort of generalized pleading that is inadequate under the PSLRA. They highlight that the Amended Complaint does not allege that Rocca personally paid or authorized any bribes. Defendants urge the Court to find that the Amended Complaint supports only the innocent inference that Rocca was involved in negotiations regarding SIDOR and nothing more.

Defendants' focus on the absence of allegations that Rocca personally paid or authorized bribes is misplaced. To adequately plead Rocca's scienter, the Amended Complaint need only allege that he knew facts "suggesting" that Tenaris's public statements were inaccurate. See In re Centerline Holding Co. Sec. Litig., 380 F. App'x at 93. The Amended Complaint passes this bar. It alleges that Rocca personally asked Argentine officials to lobby the Venezuelan government regarding SIDOR, was at a meeting where bribes were discussed, and, most notably, was personally "confronted" by an Argentine official who tried to "persuade [him] to increase Techint Group's financial support for the Argentine government, specifically Nestor Kichner." Amended Complaint ¶¶ 77-79. From these facts, one can reasonably infer that Rocca knew of the scheme to bribe Argentine government officials, which, if true, means he knew the actionable

statements were misleading. See In re Banco Bradesco, 277 F. Supp. 3d at 666 (holding that a complaint adequately pled an individual's knowledge of a bribery scheme by alleging that the defendant attended meetings where "illicit dealings [were] being discussed"). This inculpatory inference is "at least as compelling" as the innocent inference offered by Defendants that Rocca merely participated in negotiations involving SIDOR. See Tellabs, Inc., 551 U.S. at 324. Rocca's scienter is adequately pled.

**ii. Carlos**

Regarding defendant Edgardo Carlos, the Amended Complaint only alleges that Carlos was Tenaris's Chief Financial Officer at the time the actionable statements were made. Amended Complaint ¶¶ 29, 32(h). It goes on to claim that Carlos was "directly involved in the day-to-day operation of [Tenaris]" and was "privy to confidential proprietary information concerning [Tenaris]." Id. ¶ 32. These are boilerplate allegations, based only on Carlos's corporate position, that do not meet the heightened pleading standards of the PSLRA. See In re Winstar Communications, 2006 WL 473885, at *7 (S.D.N.Y. 2006) ("[S]cienter cannot be inferred solely from the fact that, due to the defendants' . . . executive managerial position they had access to the company's internal documentation as well as any adverse information."). To be sure, as an executive, Carlos could not "ignore reasonably available data that would indicate that [Tenaris's statements] . . . were materially false or misleading." Id. But the Amended Complaint is simply bereft of any specific allegations suggesting Carlos knew or should have known information suggesting the actionable statements were misleading. Such generalized allegations do not support the § 10(b) claim against Carlos.

**iii. Tenaris**

As relevant here, "it is possible to plead corporate scienter by pleading facts sufficient to

create a strong inference . . . that someone whose intent could be imputed to the corporation acted with the requisite scienter." Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 177 (2d Cir. 2015). "Courts routinely impute to the corporation the intent of officers and directors acting within the scope of their authority." In re Banco Bradesco, 277 F. Supp. 3d at 667. As the Amended Complaint alleges Rocca was Chairman and CEO of Tenaris at all relevant times and making the actionable statements falls within the scope of his authority, the Court imputes his scienter onto Tenaris. Tenaris's scienter is, therefore, adequately pled.

**e. Loss Causation**

Lastly, Defendants argue that the Amended Complaint fails to adequately plead "loss causation," which is "the causal link between the alleged misconduct and the economic harm ultimately suffered by the plaintiff." Emergent Capital Inv. Mgmt., LLC v. Stonepath Grp., Inc., 343 F.3d 189, 197 (2d Cir. 2003). To establish loss causation, "a plaintiff must allege . . . that the misstatement or omission concealed something from the market that, when disclosed, negatively affected the value of the security." Lentell v. Merrill Lynch & Co., 396 F.3d 161, 173 (2d Cir. 2005). "[T]he vast majority of courts in [the Second Circuit]" require that pleading loss causation need only meet the notice pleading requirements of Rule 8. See Wilamowsky v. Take-Two Interactive Software, Inc., 818 F. Supp. 2d 744, 748 (S.D.N.Y. 2011). As relevant here, loss causation may be pled by adequately alleging that the market reacted negatively to a "corrective disclosure," which is a disclosure that "reveal[s] an alleged misstatement's falsity or disclosed that allegedly material information had been omitted." See id. at 751. To meet this standard, the corrective disclosure need not be a "'mirror image' tantamount to a confession of fraud." Freudenberg v. E*Trade Fin. Corp., 712 F. Supp. 2d 171, 202 (S.D.N.Y. 2010).

The Amended Complaint alleges that after it was reported on November 27, 2018, that

Rocca was charged in Argentina with bribery, Tenaris's stock fell nearly ten percent. Amended Complaint ¶¶ 143-46. It also alleges that after it was reported on December 5, 2018, that Argentine prosecutors requested that Rocca be detained, Tenaris's stock fell about five percent. Id. Defendants argue that these allegations only support the inference that the downturn in Tenaris's stock price followed from revelations that Rocca was in legal jeopardy, not from revelations that the actionable statements were misleading.

This argument is unavailing. The news of the charges against Rocca and the news that authorities wanted him arrested disabused investors of the allegedly incorrect impression, created by the actionable statements, that Tenaris employees had not engaged in illegal conduct. The corrective disclosures were immediately followed by losses in Tenaris's stock price. The Amended Complaint, therefore, adequately pleads loss causation.

## III. The Section 20(a) Claims

Plaintiffs level § 20(a) "control person" claims against Rocca, Carlos, and the Parent Defendants, all of whom move to dismiss.[7] Section 20(a) of the Exchange Act makes liable "[e]very person who, directly or indirectly, controls any person liable under any provision of this chapter or of any rule or regulation thereunder . . . unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action." 15 U.S.C § 78t(a). To state a claim under § 20(a), Plaintiffs "must show (1) a primary violation by the controlled person, (2) control of the primary violator by the defendant, and (3) that the defendant was, in some meaningful sense, a culpable participant in the controlled person's fraud." Carpenters Pension Tr. Fund of St. Louis v. Barclays PLC, 750 F.3d 227, 236

[7] Ultimately, "a party cannot be liable for both a primary violation and as a control person, [but] alternative theories of liability are permissible at the pleading stage." See In re American Intern. Group, Inc. 2008 Sec. Lit., 741 F. Supp. 2d 511, 534-35 (S.D.N.Y. 2010).

(2d Cir. 2014). As the Court holds that Plaintiffs adequately allege a primary violation by the controlled person, Tenaris, the questions before the Court are whether Plaintiffs adequately allege that each of Rocca, Carlos, and the Parent Defendants controlled Tenaris and culpably participated in Tenaris's alleged fraud.

"Control over the primary violator may be established by showing that the defendant possessed the power to direct or cause the direction of the management and policies of a person," and had actual control "over the transaction in question." In re Veon Ltd. Sec. Lit., 2018 WL 4168958, at *20 (S.D.N.Y. 2018) (citing SEC v. First Jersey Sec., Inc., 101 F.3d 1450, 1472-73 (2d Cir. 1996)). "Actual control requires only the ability to direct the actions of the controlled person, and not the active exercise thereof." Id. "[C]orporate officers usually are presumed to possess the ability to control the actions of their employees." City of Westland Police and Fire Retirement System v. MetLife, Inc., 928 F. Supp. 2d 705, 721 (S.D.N.Y. 2013). "Allegations of control are not averments of fraud and therefore need not be pleaded with particularity." In re Veon Ltd., 2018 WL 4168958 at *21.

The Second Circuit has not defined the term "culpable participation," and in this vacuum, there is a split among the district courts as to what an adequate "culpable participation" allegation requires. See Special Situations Funds III QP, L.P. v. Deloitte Touche Tohmatsu CPA, Ltd., 33 F. Supp. 3d 401, 438 (S.D.N.Y. 2014). The Court joins the majority view in this circuit that the culpable participation element requires pleading "facts indicating that the controlling person knew or should have known that the primary violator . . . was engaging in fraudulent conduct." See id. Culpable participation "must be pleaded with the same particularity as scienter."[8] Id. "[A]llegations of scienter necessarily satisfy the [culpable participation]

[8] The Court agrees with the observation of a sister district court that the minority view that would apply notice pleading standards to the "culpable participation" element "seems to read out the 'culpable participation' prong

requirement." In re AOL Time Warner, Inc. Sec. and ERISA Litig., 381 F. Supp. 2d 192, 235 (S.D.N.Y. 2004).

In their joint brief, Tenaris, Rocca, and Carlos make only one mention of § 20(a) liability, writing in a footnote, "because Plaintiffs fail adequately to allege a Section 10(b) violation, their Section 20(a) claim also should be dismissed in full." Plaintiffs give the issue similarly short shrift, arguing that Rocca exercised actual control over the bribery scheme and the actionable statements through his multiple roles, and that the adequate pleading of his scienter suffices for pleading his culpable participation.

**a. Rocca**

The Amended Complaint adequately alleges that Rocca had "actual control" over the actionable statements. "As an inside director and Chief Executive Officer, [Rocca] had the ability to control the actions of his subordinates," including issuing the actionable statements. See City of Westland Police and Fire Retirement System, 928 F. Supp. 2d at 721. And the allegations that suffice for pleading Rocca's scienter under § 10(b) suffice for pleading his "culpable participation" under § 20(a). Thus, Plaintiffs sufficiently plead a § 20(a) claim against Rocca.

**b. Carlos**

The Court is hard-pressed to imagine an argument against finding that Carlos exercised "actual control" over Tenaris's actionable statements, as the Amended Complaint pleads that he was Tenaris's CFO at all relevant times and signed the subject Form 20-Fs. See id. But because the Amended Complaint fails to adequately allege Carlos's scienter for the § 10(b) claim, so too it fails to adequately allege his "culpable participation" for § 20(a) liability. It is devoid of

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entirely, in essence requiring only (1) a primary violation and (2) 'control.'" See In re EZCorp, Inc. Sec. Lit., 181 F. Supp. 3d 197, 212 (S.D.N.Y. 2016).

particularized allegations that Carlos knew or should have known the actionable statements were misleading. Thus, the § 20(a) claim against Carlos may not proceed.

**c. The Parent Defendants**

The allegation that the Parent Defendants' exercised "actual control" over Tenaris rests on the Parent Defendants' status as controlling shareholders in Tenaris. This is an inadequate basis for pleading actual control. See Alpha Capital Anstalt v. Wimpfheimer & Assoc. LLP, 2018 WL 1627266, at *20 (S.D.N.Y. 2018) ("[I]t is not sufficient for [a plaintiff] to allege that [a defendant] has control person status."). Section 20(a) liability therefore does not extend directly to the Parent Defendants.

## IV. Alter Ego Theory of Liability For The Parent Defendants

Plaintiffs posit an alternate theory for extending §§ 10(b) and 20(a) liability over the Parent Defendants: alter ego liability. Amended Complaint ¶ 34. To survive a motion to dismiss where the theory of liability is an alter ego relationship between two parties, Plaintiffs bear the "heavy" burden of adequately pleading three elements: "(1) the parent corporation dominates the subsidiary in such a way as to make it a mere instrumentality of the parent; (2) the parent company exploits its control to commit fraud or other wrong; and (3) the plaintiff suffers an unjust loss or injury as a result of the fraud or wrong." See FirstEnergy Corp., 766 F.3d at 224. The first element is satisfied by the same facts that suffice for pleading personal jurisdiction by alter ego status. Thus, the Court will proceed to the second and third elements.[9]

Plaintiffs base their argument for alter ego liability on the Parent Defendants' alleged

[9] The Parent Defendants raise the threshold objection that alter ego status is, as a matter of law, not a basis for § 20(a) liability. For this proposition, they cite Alpha Capital Anstalt, 2018 WL 1627266, at *20-21, which contains some discussion that suggests there can be no secondary liability under § 20(a). Id. But Alpha Capital Anstalt's holding is limited to rejecting *respondeat superior* as a theory of § 20(a) liability. See id. at *21. Absent controlling authority, of which the Court is not aware, the Court declines to hold that the alter ego theory of liability is not available to Plaintiffs to make out a § 20(a) claim.

control over the underlying bribery. This is misplaced. The alleged fraud is the actionable misstatements. Thus, the relevant inquiry is not whether the Amended Complaint adequately alleges that the Parent Defendants used their domination to cause bribery payments, but whether it adequately alleges that the Parent Defendants used their domination to cause Tenaris to make the actionable statements.

The Amended Complaint fails in this regard. It is devoid of allegations that San Faustin or Techint used their dominating position over Tenaris to cause Tenaris to make the actionable statements. Nothing in the Amended Complaint even hints, for example, that San Faustin or Techint insisted Tenaris make the actionable statements or in any way influenced the drafting of Tenaris's actionable statements. As Plaintiffs advance no other theory for extending liability to either of the Parent Defendants, the case against the Parent Defendants cannot proceed.

**CONCLUSION**

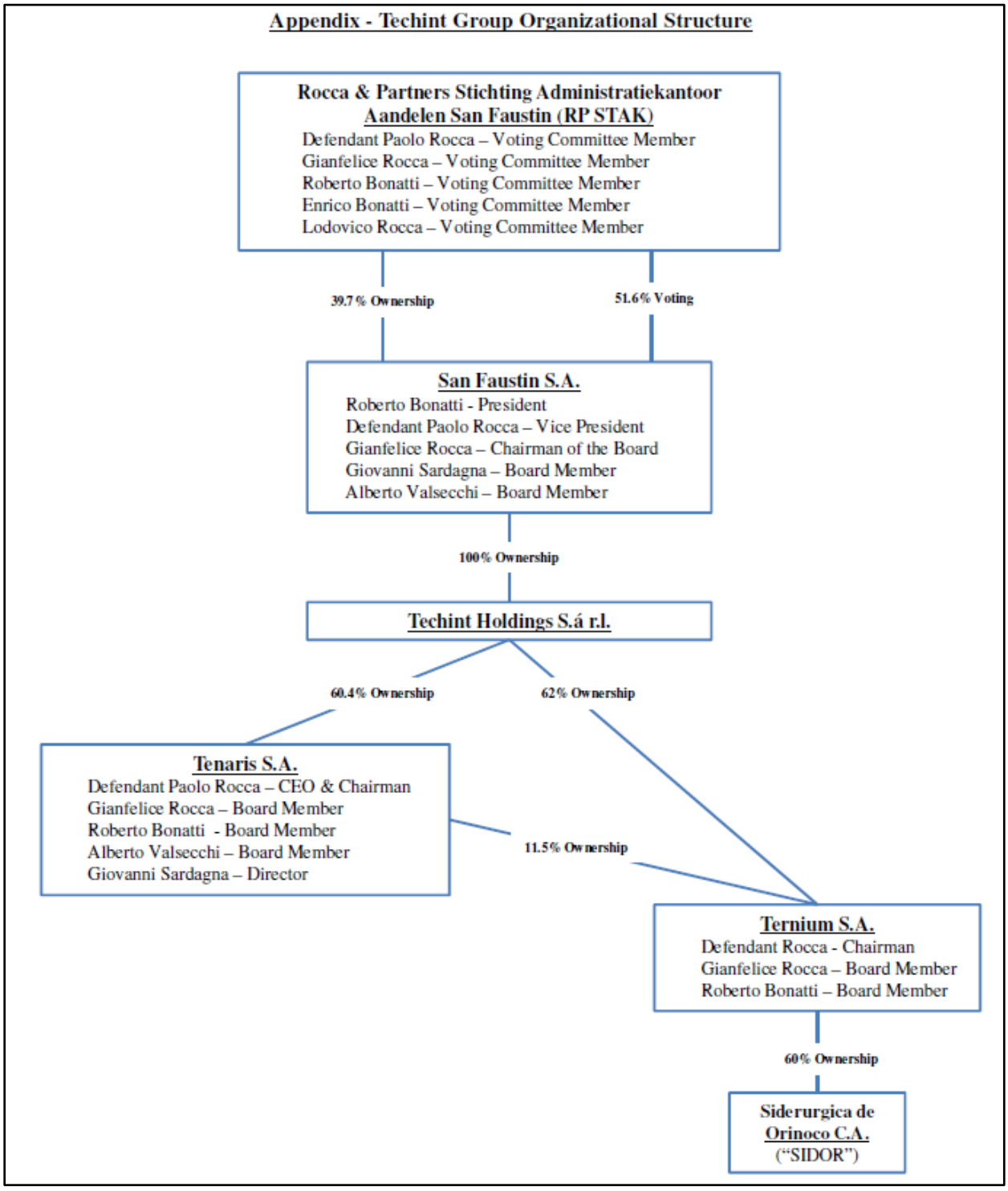
All claims against Carlos, San Faustin, and Techint are dismissed for failure to state a claim. The § 10(b) claims against Tenaris and Rocca and the § 20(a) claim against Rocca may proceed only regarding statements in Tenaris's Code of Conduct, the references to the Code of Conduct in Tenaris's Form 20-Fs, and the risk factor disclosures. The §§ 10(b) and 20(a) claims regarding all other alleged statements and all omissions are dismissed.

SO ORDERED.

Dated: October 9, 2020
Brooklyn, NY

/s/ Raymond J. Dearie
Raymond J. Dearie
United States District Judge

# APPENDIX


Appendix - Techint Group Organizational Structure
Rocca & Partners Stichting Administratiekantoor Aandelen San Faustin (RP STAK)
Defendant Paolo Rocca – Voting Committee Member
Gianfelice Rocca – Voting Committee Member
Roberto Bonatti – Voting Committee Member
Enrico Bonatti – Voting Committee Member
Lodovico Rocca – Voting Committee Member
39.7% Ownership
51.6% Voting
San Faustin S.A.
Roberto Bonatti - President
Defendant Paolo Rocca – Vice President
Gianfelice Rocca – Chairman of the Board
Giovanni Sardagna – Board Member
Alberto Valsecchi – Board Member
100% Ownership
Techint Holdings S.á r.l.
60.4% Ownership
62% Ownership
Tenaris S.A.
Defendant Paolo Rocca – CEO & Chairman
Gianfelice Rocca – Board Member
Roberto Bonatti - Board Member
Alberto Valsecchi – Board Member
Giovanni Sardagna – Director
11.5% Ownership
Ternium S.A.
Defendant Rocca - Chairman
Gianfelice Rocca – Board Member
Roberto Bonatti – Board Member
60% Ownership
Siderurgica de Orinoco C.A. ("SIDOR")