

THE SENDING OF A MAIL CAN BRING MILLIONAIRE IMPLICATIONS.

Recently a national company producer of construction materials, ("National Company"), obtained as indemnification a substantial sum of money from a competitor of foreign capitals ("Foreign Company"), under the provisions that regulate unfair competition in Chilean markets (Law No. 20,169, published in the Official Gazette of February 16, 2007).

It all started with a mail received by an important Building Company, which was sent by personnel of the Foreign Company.

Such mail, according to the National Company, contained erroneous and misleading information as to the quality of its products.

That mail was sent by the Foreign Company to the Building Company while the National Company and the Foreign Company were struggling to obtain the hiring of the services that the Building Company required for the construction of a project in Santiago.

In view of this, the National Company filed a claim with the Civil Courts of Santiago², invoking the regulations that penalize unfair competition, legislation that became effective in our country in 2007.

Given the short life of the legislation that regulates unfair competition, the referred to claim is one of the first that is filed in Chile on this matter, and therefore, national doctrine and jurisprudence in this respect are scant. In this case, and because of the precision of the conducts penalized by the unfair competition law, it was possible that a single electronic mail constituted sufficient evidence of the unlawful action incurred by the Foreign Company.

In view of these circumstances, the Foreign Company – in order to avoid an unfavorable judgment that could have been widely published– decided to settle the matter paying a substantial sum of money to the National Company.

² The interests of the plaintiff company were defended by our law firm.