UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No.:

DANIEL A. GONZALEZ,

Plaintiff,

vs.

AMAZON.COM, INC. a
Delaware Corporation, and
SUSSHI INTERNATIONAL, INC.,
a Florida corporation d/b/a
FOGO CHARCOAL,

Defendants.
_____/

COMPLAINT

Plaintiff DANIEL A. GONZALEZ ("Plaintiff") hereby sues AMAZON.COM, INC., a Delaware corporation, and SUSSHI INTERNATIONAL, Inc. d/b/a FOGO CHARCOAL, a Florida corporation, ("Defendants"), pursuant to the Cuban Liberty and Democratic Solidarity Act ("LIBERTAD Act"), for trafficking in Plaintiff's confiscated property located in Cuba and alleges as follows:

INTRODUCTION

The U.S. Congress enacted the LIBERTAD Act in 1996 to assist the Cuban people in regaining their freedom and prosperity, strengthen international sanctions against the communist Cuban Government, and to deter the exploitation of wrongfully confiscated property in Cuba belonging to United States nationals. Although every U.S. President has suspended the right to bring an action under the

LIBERTAD Act since its enactment, the Defendants have been on notice since 1996 that trafficking in property confiscated by the communist Cuban Government would subject them to liability under the LIBERTAD Act. As of the date of filing this Complaint, the United States Government has ceased suspending the right to bring an action under the LIBERTAD Act, which therefore permits Plaintiff to seek damages for the Defendants' conduct in exploiting Plaintiff's wrongly confiscated property.

PARTIES

1. Plaintiff, Daniel A. Gonzalez, is a U. S. Citizen and a resident of Miami-Dade County, Florida.

2. Defendant, Amazon.com, is a Delaware corporation doing business as Amazon.com, Inc. in Miami-Dade County, Florida. Moreover, Amazon.com, Inc. owns and operates several distribution facilities located in Miami-Dade County, Florida.

3. Defendant Susshi International Inc., d/b/a FOGO Charcoal (hereinafter "FOGO Charcoal") is a Florida corporation with its principal place of business in Miami-Dade County, FL.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction), because Plaintiff's claim arises under 22 U.S.C. § 6021, *et seq*., and the amount in controversy exceeds the sum or value of $50,000, exclusive of interest, costs, and attorneys' fees.

5. In addition to having personal jurisdiction over Defendant FOGO Charcoal by virtue of its incorporation in Florida, this Court has personal jurisdiction

over Amazon.com under Fla. Stat. § 48.193(1)(a)(1), 48.193(1)(a)(2), 48.193(1)(a)(6)(a) and 48.193(2) because it maintains and carries on continuous and systematic contacts with Florida, regularly transacts business within Florida, regularly avails itself of the benefits of its presence in Florida, committed a tortious act within Florida, and caused injury within Florida by committing acts outside of Florida while engaging in solicitation in Florida.

6. Venue is proper in this District under 28 U.S.C. § 1391(a)(l), because Defendants reside or are deemed to reside in the Southern District of Florida under 28 U.S.C. §§ 1391(c)(2) and (d). Venue is also proper in this District under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to the claim occurred in this District.

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

7. The LIBERTAD Act became effective March 12, 1996. One of the LIBERTAD Act's purposes is to "protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro Regime." 22 U.S.C. § 6022(6). Title III of the LIBERTAD Act ("Title III") establishes a private right of action for money damages against any person who "traffics" in such property as defined by 22 U.S.C. § 6023(13). *See* 22 U.S.C. § 6082.

8. The LIBERTAD Act defines a person who "traffics" in confiscated property, *inter alia*, as one who:

> knowingly and intentionally-
>
> (i) Sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives possesses, obtains control of,

manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity, using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking ... by another person, or otherwise engages in trafficking through another person without the authorization of any United States national who holds a claim to the property.

22 U.S.C. § 6023(13).

FACTUAL ALLEGATIONS

9. Plaintiff, a U. S. national as defined by 22 U.S.C. § 6023(15), is the rightful owner of an approximately 2,030 agricultural acre[1] property located in the province of Oriente (now "Granma"), Cuba in the Republic of Cuba (the "Subject Property"). Plaintiff's grandfather, Manuel Gonzalez Rodriguez, purchased the land comprising the Subject Property from 1941 through 1952. By operation of succession, ownership of the Subject Property was passed on to Plaintiff.

Cuba's Confiscation of the Subject Property

10. The communist Cuban Government nationalized the Subject Property on June 3, 1959 by the adoption of the Agrarian Reform Act (ARA), Cuba Gazette Special Edition No. 7. The ARA converted agricultural estates into state-owned farms.

11. Pursuant to the ARA, the Cuban Government confiscated, expropriated and seized ownership and control of the Subject Property in

[1] The Subject Property consist of 61.22 "caballerias" a unit equal to 2030.1776 acres.

August,1964 giving the Gonzalez family only seven (7) days to leave the property with only their personal belongings.

12. The communist Cuban Government maintains possession of the Subject Property and has not paid any compensation to Plaintiff for its seizure.

13. More specifically, the communist Cuban Government nationalized, expropriated, and seized ownership and control of the Subject Property. The Subject Property has not been returned and adequate and effective compensation has not been provided. Further, the claim to the Subject Property has not been settled pursuant to an international claims settlement agreement or other settlement procedure.

14. Plaintiff never abandoned his legitimate interest in the Subject Property.

The Confiscated Subject Property

15. As of the time of filing this lawsuit, Plaintiff is the rightful owner of the Subject Property, which is stolen property that defendants are trafficking and benefitting from trafficking.

16. Plaintiff was not eligible to file a claim with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 (22 U.S.C. § 1643 *et seq*.) because he was not a U.S. citizen at the time the Subject Property was confiscated.

17. The Subject Property has not been the subject of of a certified claim under Title V of the International Claims Settlement Act of 1949 (22 U.S.C. § 1643 *et seq*.).

Defendants' Trafficking
in the Confiscated Subject Property

18. On information and belief, beginning on or about January 5, 2017 and continuing thereafter, the Defendants, Amazon.com and FOGO Charcoal, knowingly and intentionally commenced, conducted, and promoted the sale of marabu charcoal produced on the Subject Property without the authorization of Plaintiff.

19. On information and belief, beginning on or about January 5, 2017 and continuing thereafter, the Defendants also knowingly and intentionally participated in and profited from the communist Cuban Government's possession of the Subject Property without the authorization of Plaintiff who holds a claim to the Subject Property. For example, Defendant Amazon.com's website extolls that its marabu charcoal is "Direct from Farmers in Cuba" and "sourced from independent farmers in Cuba" (See Fig. 1, Amazon.com). In similar fashion, Defendant FOGO Charcoal's website boasts that the product is the "[First] Cuban Export to USA" and "Made from 100% Cuban Marabu." (See Fig. 2, FOGO Charcoal).

[INTENTIONALLY BLANK]

Fig. 1

Amazon.com

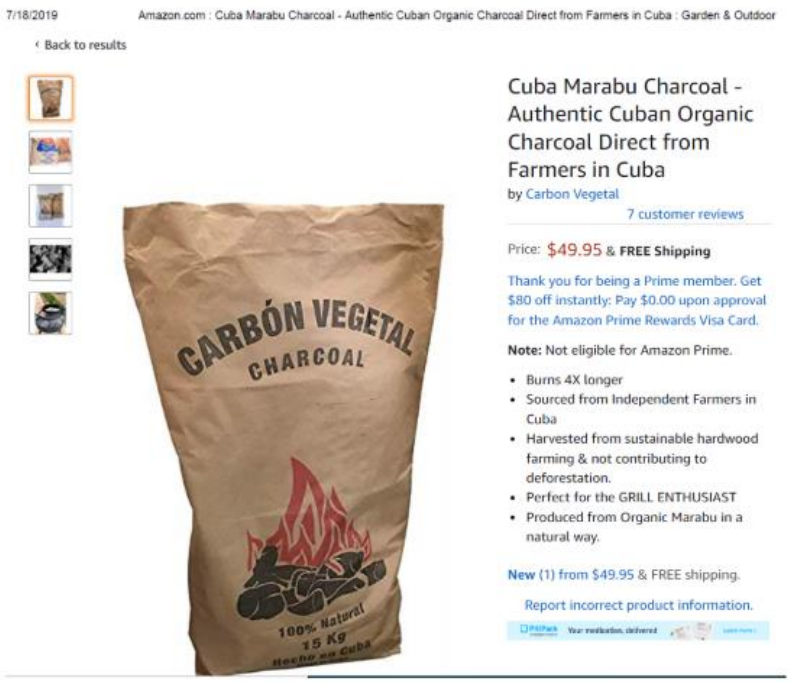
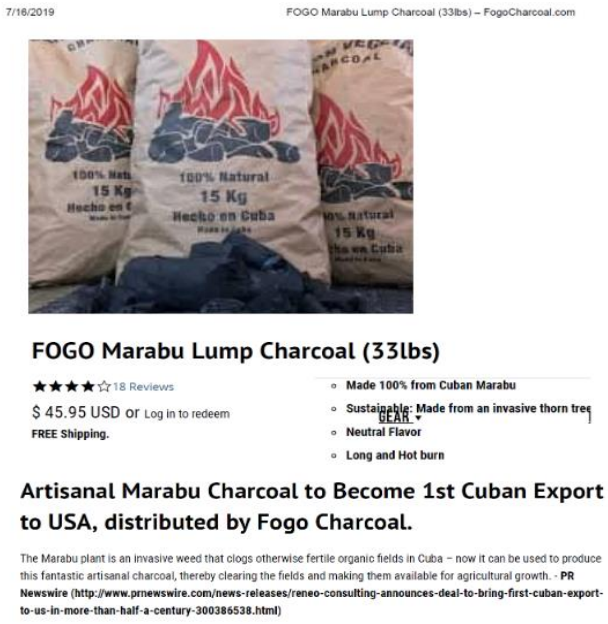


Fig. 2.

FOGO Charcoal



20. The Defendants' knowing and intentional conduct with regard to the confiscated Subject Property is trafficking as defined in 22 U.S.C. § 6023(13)(A).

21. As a result of the Defendants' trafficking in the Subject Property, the Defendants are liable to Plaintiff for all money damages allowable under 22 U.S.C. § 6082(a).

22. Plaintiff timely provided the Defendants with written notice by certified mail of Plaintiff's intent to commence this action with respect to the Subject Property in accordance 22 U.S.C. § 6082(a)(3).

Claim for Damages
Title III of the LIBERTAD Act

23. Plaintiff incorporates by reference paragraphs 1 through 22 as if fully stated herein.

24. This claim is brought pursuant to Title III of the LIBERTAD Act, 22 U.S.C. § 6082.

25. As set forth in Title III and alleged above, beginning on or around January 5, 2017, the Defendants did traffic, as that term is defined in 22 U.S.C. § 6023(13)(A), in the Subject Property, which was confiscated by the communist Cuban Government on or after January 1, 1959 and is therefore liable to Plaintiff, who owns the claim to the Subject Property, for money damages.

26. Plaintiff is entitled to all money damages allowable under 22 U.S.C. § 6082(a), including, but not limited to, those equal to the sum of:

a. The amount greater of: (i) the amount certified by the Foreign Claims Settlement Commission, plus interest;

(ii) the amount determined by a special master pursuant to 22 U.S.C. § 6083(a)(2); or (iii) the "fair market value" of the Subject Property, plus interest;

b. Three times the amount determined above (treble damages); and

c. Court costs and reasonable attorneys' fees.

27. As of the date of filing this Complaint, the United States Government has ceased suspending the right to bring an action under Title III, 22 U.S.C. § 6085, which therefore permits Plaintiff to seek the relief requested herein.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

A. Ordering the Defendants to pay damages (including treble damages);

B. Ordering the Defendants to pay pre- and post-judgment interest on any amounts awarded;

C. Order the Defendants to pay attorneys' fees, costs, and expenses; and

D. Ordering such other relief as may be just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues so triable, and a trial pursuant to Rule 39(c), Federal Rules of Civil Procedure, as to all matters not triable as of right by a jury.

Dated: September 26, 2019

Respectfully submitted,

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