UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.

HEREDEROS DE ROBERTO GOMEZ
CABRERA, LLC,

Plaintiff,

v.

TECK RESOURCES LIMITED,

Defendant.
_____/

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, HEREDEROS DE ROBERTO GOMEZ CABRERA, LLC, a United States citizen, sues Defendant TECK RESOURCES LIMITED ("TECK"), a Canadian corporation, and alleges as follows:

GENERAL ALLEGATIONS

NATURE OF ACTION

1) This is an action brought against pursuant to Title III of the Cuban Libertad and Democratic Solidarity (LIBERTAD) Act of 1996 (the "Libertad Act" or the "Act"), 22 U.S.C. § 6082, for the unlawful trafficking in property that was confiscated by the communist Cuban Government during the regime of Fidel Castro.

2) Specifically, Plaintiff seeks monetary damages to properly compensate for the unlawful and unauthorized mining activities and extraction of valuable minerals from the rich ore and mineral mines in the Sierra Maestra region of Cuba, in and around the town of El Cobre, Province of Oriente.

3) Prior to being confiscated by the communist Cuban Government, Roberto Gomez Cabrera, through his company Rogoca Minera, S.A., was the rightful owner and claimant to

the following twenty-one mines located in or around the town of El Cobre, Province of Oriente, Republic of Cuba:

a) Mina Grande;

b) Demasia Mina Grande;

c) Roberston;

d) Jueves Santo;

e) Gitanilla;

f) Lizzie;

g) Demasia de la mina Lizzie;

h) Estrella;

i) Capitana;

j) Maria Luisa;

k) Cristina;

l) Cobrera;

m) Trewinse;

n) Santa Rita;

o) Demasia de la Mina Maria Luisa;

p) Perla;

q) Resurrecion;

r) Preferencia;

s) Demasia de la mina Preferencia;

t) Ruinas Grandes; and

u) Reconstruccion.

4) The above-identified mining concessions total in size of approximately 253 Hectares or 624.91 Acres.

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5) From 1950 to 1956, Minera Rogoca S.A. explored and mined the above-identified mining concessions pursuant to an agreement with the then-owner International Minerals and Metals Corporation, a New York company.

6) On or around July 1956, Minera Rogoca S.A. purchased the above-identified mining concessions from a New York company named "International Minerals and Metals Corporation."

7) Minera Rogoca S.A. continued to explore and mine the above-identified mining concessions using its own industrial mining equipment and installations until its real and personal property (collectively referred to as the "Confiscated Property") were taken without compensation by the communist Cuban government.

8) All right, title, and interest held by Roberto Gomez Cabrera in Minera Rogoca S.A. and the Confiscated Property were inherited by his children on or about September, 1969.

9) Title III of the Libertad Act has been suspended for over twenty years by Presidential Orders until just recently, which prevented Plaintiff's predecessors in interest from bringing the instant action in the first instance.

PARTIES, JURISDICTION, AND VENUE

10) This Court has specific and general jurisdiction over the parties to this action.

11) Plaintiff, Herederos de Roberto Gomez Cabrera, LLC, is a Florida limited liability company organized and existing under the laws of the State of Florida. Plaintiff is the holder of all right, title to, and interest in the claims brought in the instant lawsuit via an assignment of claims made by the heirs of Roberto Gomez Cabrera, whom owned the claims and were United States citizens on March 12, 1996.

12) Defendant, Teck Resources Limited ("TECK") is a Canadian corporation with its headquarters in Canada.

13) TECK maintains continuous and systematic affiliations within the United States, specifically in, *inter alia*, the States of Washington and Alaska.

14) TECK, directly or indirectly, owns, operates, controls, manages, and/or supervises at least seven U.S.-based subsidiaries in the State of Washington, such as:

a) Teck American Incorporated;

b) Teck Advanced Materials Incorporated;

c) Teck Alaska Maritime Incorporated;

d) Teck American Energy Sales Incorporated;

e) Teck American Metal Sales Incorporated;

f) Teck Washington Incorporated; and

g) TCAI Incorporated.

15) TECK, directly or indirectly, owns, operates, controls, manages, and/or supervises one of the world's largest zinc mines known as "Red Dog" in Alaska, United States and an underground zinc and lead mine known as the "Pend Oreille" in Washington State, United States.

16) TECK offers employment and employing persons to work in the United States.

17) TECK is publicly traded on the New York Stock Exchange.

18) TECK'S U.S.-based operations alone have yielded hundreds of millions of dollars in revenue and gross profit. For instance, Teck's Red Dog mine operations yielded a $990 million gross profit before depreciation and amortization in 2018, compared with $971 million in 2017 and $749 million in 2016.

19) Subject matter jurisdiction is conferred upon this Court by 28 U.S.C. § 1331 because this action arises under the laws of the United States, specifically Title III of the Libertad Act, codified at 22 U.S.C. § 6021 *et seq*.

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20) The amount in controversy exceeds $50,000.00 in damages as required by 22 U.S.C. § 6082(b).

21) Contemporaneous with this filing, Plaintiff will pay the special fee for filing an action under Title III of the Libertad, which is $6,548 pursuant to the fee schedule adopted by the Judicial Conference in September 2018.

22) Venue is proper in this judicial district under, *inter alia*, 28 U.S.C. § 1391(b)(3).

CONFISCATION AND TRAFFICKING OF EL COBRE MINES

23) In October 1960, the communist Cuban Government wrongfully and forcefully nationalized, expropriated, and seized ownership and control of the Confiscated Property by the adoption of Cuba's Gazette Law 890, which applied the Marxist-Leninist ideology of abolishing private ownership over the means of production and provides for the forceful taking of all right, title, and interest in all privately-held commercial and industrial businesses in Cuba.

24) From as early as 1994 through 2009, TECK, together with Joutel Resources Limited, a Canadian corporation, and directly or indirectly with Geominera S.A, a Cuban government-owned and operated entity, exploited the Confiscated Property and extracted significant valuable minerals and other geological materials from the Confiscated Property.

25) In February 1994, TECK and Joutel engaged in a strategic joint venture alliance together to explore and develop significant land holdings in Cuba.

26) At all times material hereto, Joutel held exclusive mineral exploration and development rights to 4,000 sq. km. in Cuba, including El Cobre mines located in the Sierra Maestra regions of Cuba.

27) In January 1996, TECK and Joutel entered into a written agreement giving TECK the right to earn a 50% interest in all of Joutel's holdings in Cuba by completing a formal

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feasibility study and provide mine financing for Joutel's share of development costs to place deposits into production.

28) On or about February 6, 1996, TECK and Joutel reached an agreement to jointly engage in exploration and mining activity in lands in Cuba under an agreement with Geominera S.A.

29) Upon information and belief, in accordance with the above agreement, TECK purchased 1.5 million subordinate voting shares of Joutel for a total investment of $1 million with the option to buy a further 3 million of Joutel shares over three years, representing a investment of $4.5 million. In addition, TECK has the right to participate in future financings to retain its pro rata interest in Joutel. The share purchase allows TECK to earn half of Joutel Resource Limited's interest in all of Joutel's land holdings in Cuba. Joutel holds exclusive mineral exploration and development rights to 4,660 sq. km of land in Cuba. Development and exploitation of a deposit will be shared 50-50 between Joutel and Geominera S.A., a Cuban government entity.

30) In addition, TECK agreed, and did in fact, complete a formal feasibility study and financed Joutel's share of development costs of bringing the properties to the commercial production stage. As a result, TECK operated the mines developed on the Joutel's concessions.

31) TECK had actual and constructive knowledge of the fact that they were trafficking in property that was confiscated by the Cuban government belonging to US citizens. TECK's knowledge is obtained by virtue of, without limitation, the Cuban constitution and laws, public records, and through notice given to Joutel by the Roberto Gomez Cabrera's children via letter dated June 25, 1997.

32) On information and belief, beginning on or about February 6, 1994 and continuing for at least 15 years thereafter, TECK knowingly and intentionally commenced, conducted,

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and used the Confiscated Property for commercial purposes without the authorization of Plaintiff or any U.S. national who holds a claim to the Confiscated Property.

33) On information and belief, beginning on or about February 6, 1994 and continuing for at least 15 years thereafter, TECK also knowingly and intentionally participated in and profited from the communist Cuban Government's possession of the Confiscated Property without the authorization of Plaintiff or any U.S. national who holds a claim to the Confiscated Property.

34) TECK is knowingly and intentionally trafficking confiscated property as defined in 22 U.S.C. § 6023(13)(A).

35) As a result of TECK's trafficking of Plaintiff's Confiscated Property, TECK is liable to Plaintiff for all monetary damages allowable under 22 U.S.C. § 6082(a).

36) The communist Cuban Government maintains possession of the Confiscated Property and has not paid compensation to Plaintiff for its seizure. Further, the claim to the Confiscated Property has not been settled pursuant to an international claim settlement agreement or other settlement procedure.

37) Plaintiff never abandoned his legitimate interest in the Confiscated Property; nor have any of Plaintiff's predecessors in interest ever abandoned their legitimate interest in the Confiscated Property.

CONDITIONS PRECEDENT

38) All conditions precedent to the institution of this action have been waived, performed, or have occurred.

ATTORNEYS' FEES AND COSTS

39) Plaintiff has retained the undersigned counsel to represent it in this action and is obligated to pay counsel a reasonable fee for its services. Plaintiff seeks to recover its reasonable attorney's fees and costs from TECK pursuant to applicable law.

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COUNT I – VIOLATION OF TITLE III OF THE LIBERTAD ACT

40) Plaintiff incorporates by reference, re-alleges, or adopts paragraphs one (1) through thirty-five (35) of this Complaint as though fully stated herein.

41) This is an action for violation of Title III of the Libertad Act, 22 U.S.C. § 6082.

42) 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.

43) Section 302 of the Libertad Act provides, in pertinent part, the following civil remedy:

> any person that, after the end of the 3-month period beginning on the effective date of this title, traffics in property which was confiscated by the Cuban Government on or after January 1, 1959, shall be liable to any United States national who owns the claim to such property for money damages . .

44) The Libertad Act's purpose 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).

45) As set forth in Title III and alleged above, beginning on or around January 15, 1997, TECK did traffic, as that term is defined in 22 U.S.C. § 6023(13)(A), in the Confiscated 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 Confiscated Property, for money damages.

46) 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.

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

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

c) Court costs and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter a judgment in his favor and against TECK for:

A) all recoverable compensatory, statutory, and other damages sustained by Plaintiff;

B) both pre-judgment and post-judgment interest on any amounts awarded;

C) attorneys' fees, costs, and expenses;

D) treble and/or punitive damages as may be allowable under applicable law;

E) equitable relief; and

F) such other relief as the Court may deem 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 to the extent permitted by law.

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Dated: April 17, 2020
Miami, FL

Respectfully submitted,

HIRZEL DREYFUSS & DEMPSEY, PLLC
Counsel for Plaintiff
2333 Brickell Avenue, Suite A-1
Miami, Florida 33129
Telephone: (305) 615-1617
Facsimile No. (305) 615-1585

By: */s/ Leon F. Hirzel*
LEON F. HIRZEL
Florida Bar No.: 085966
Email: hirzel@hddlawfirm.com
PATRICK G. DEMPSEY
Florida Bar No.: 27676
Email: dempsey@hddlawfirm.com

-and-

ROIG & VILLARREAL, P.A.
Co-Counsel for Plaintiff
2333 Brickell Avenue, Suite A-1
Miami, Florida 33129
Telephone: (305) 846 – 9150
PEDRO V. ROIG
Florida Bar No.: 918350
Email: roig@rvlawgroup.com
DAVID A. VILLARREAL
Florida Bar No. 100069
Email: david@rvlawgroup.com

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