UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 19-cv-23591-BLOOM/Louis

HAVANA DOCKS CORPORATION,

Plaintiff,

v.

NORWEGIAN CRUISE LINE HOLDINGS LTD.,

Defendant.
_____/

NORWEGIAN CRUISE LINE HOLDINGS LTD.'S
MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS WITHHELD ON THE BASIS OF THE WORK-PRODUCT DOCTRINE THAT PRE-DATE JANUARY 16, 2019

Pursuant to Federal Rule of Civil Procedure 37(a) and the Court's January 4, 2021 Order on Discovery Hearing [ECF No. 124], Defendant Norwegian Cruise Line Holdings Ltd. ("Norwegian"), through undersigned counsel, files this Motion to Compel Havana Docks Corporation ("Havana Docks") to produce documents withheld on the basis of the work-product doctrine that pre-date when Havana Docks reasonably anticipated or could have anticipated litigation. *See* Norwegian's Notice of Hearing at 1, ECF No. 119. In support of this Motion, Norwegian states as follows:

INTRODUCTION

Norwegian seeks the production of sixty-five documents listed in Havana Docks' Privilege Log.[1] The documents encompass the time period from May 7, 1971, through January 15, 2019. Havana Docks' assertion of work-product privilege over documents that extend back ***decades*** before the suspension of Title III of the Helms-Burton Act, 22 U.S.C. § 6021 *et seq*. (the "Act") was abruptly lifted in May 2019 is based on the premise that litigation during any part of that time was a realistic possibility under the Act. It was not.

[1] Havana Docks has not provided to Norwegian a list of documents to which this issue pertains. Without waiver of the right to add any other documents that Havana Docks may be withholding on the same basis, Norwegian has identified though the following entries listed in Havana Docks' Privilege Log dated January 13, 2021, as the ones at issue: REV0016273, REV0016293, REV0016271, REV0016218, REV0016270, REV0024491, REV0026262, REV0018994, REV0024461, REV0024258, REV0021200, REV0023892, REV0025397, REV0025388, REV0025390, REV0025315, REV0025313, REV0025311, REV0025312, REV0028231, REV0028218, HDC 013888, HDC 015223, HDC 015227, HDC 015231, HDC 015234, HDC 015426, REV0019791, REV0019792, REV0029860, REV0020059, REV0020064, REV0025603, REV0020131, REV0020176, REV0020177, HDC 015218, REV0018866, HDC 015213, REV0025180, REV0025168, REV0025160, REV0020319, REV0020320, REV0020321, REV0020322, REV0025140, REV0020332, REV0018867, REV0025087, REV0025075, REV0025068, REV0025069, REV0025070, REV0025071, REV0025073, REV0025060, REV0025064, REV0025065, REV0025066, REV0025058, REV0025059, REV0025042, REV0025027, REV0025028.

First, Havana Docks asserts work-product protection for documents that precede the enactment of the Act in 1996.[2] Moreover, the declaration that Havana Docks served on Norwegian as the sworn evidence on which Havana Docks is relying on in support of its challenged assertions of the work-product doctrine (the "Declaration") fails to address the creation of documents and communications that pre-date 2017. *See* Johnson Decl., attached as Exhibit "A." Thus, as a matter of law, Havana Docks did not have a cause of action under which it could anticipate litigation pre-1996 and, further, to the extent Havana Docks would now like to assert otherwise, Havana Docks has failed to submit any sworn evidence in support thereof.

Second, with respect to the documents that appear on Havana Docks' Privilege Log for which work-product protection is asserted and that are dated April 23, 2017 through January 15, 2019, the Declaration provides that on March 1, 2017, Havana Docks first consulted an attorney "in connection with instituting, prosecuting, and/or negotiating any claims that ***may be asserted*** against any cruise line for trafficking." Johnson Decl. ¶ 3. As a matter of law, no cause of action could be asserted against any cruise line until May 2, 2019. The Declaration appears to concede as much when Mr. Johnson expressly states that as recently as early 2018, Havana Docks was only "aware of ***early*** indications that U.S. Government officials or representatives ***may be considering*** no longer suspending the Title III cause of action." *Id.* ¶ 4. Havana Docks fails to identify what such early indications were, perhaps because until January 16, 2019 – when the United States government renewed suspension of Title III for forty-five days, as opposed to the usual six-month period – the United States government had consistently suspended Title III in full, every six months.

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[2] *See* Havana Docks' Privilege Log entries for the following documents that pre-date 1996: REV0016273; REV0016293; REV0016271; REV0016218; REV0016270.

In sum, Havana Docks' Declaration does not refute the fact that prior to official action by the United States government on January 16, 2019, there was – at best – only a remote possibility of litigation under Title III. Courts in this Circuit have held that circumstances such as these are insufficient bases on which to assert work-product protection. Thus, the Court should overrule Havana Docks' objection to producing documents withheld on the basis of the work-product doctrine that pre-date January 16, 2019, and order the production of the documents withheld on that basis.

LEGAL STANDARD

The party claiming a privilege bears the burden of proving all of its essential elements, and a "failure of proof as to any element causes the claim of privilege to fail." *Bridgewater v. Carnival Corp.*, 286 F.R.D. 636, 638–69 (S.D. Fla. 2011) (citation omitted). Where a party fails to satisfy such burden, the party seeking discovery may move for an order compelling the production of withheld documents. *See* Fed. R. Civ. P. 37(a)(3)(B)(iv).

First recognized by the Supreme Court in *Hickman v. Taylor*, 329 U.S. 495 (1947), the work-product doctrine is codified in Federal Rule of Civil Procedure 26(b)(3) and offers qualified protection for "[1] documents and tangible things [2] that are prepared in anticipation of litigation or for trial [3] by or for another party or its representative." Fed. R. Civ. P. 26(b)(3)(A). Accordingly, "if a party prepares a document in the ordinary course of business, it will not be protected even if the party [who drafts the document] is aware that the document may also be useful in the event of litigation." *Bridgewater*, 286 F.R.D. at 638 (citation omitted).

ARGUMENT

Havana Docks has failed to satisfy its burden to establish that the documents withheld on the basis of the work-product doctrine that pre-date January 16, 2019, were prepared in anticipation

of litigation. "Because work product protection covers only documents prepared in anticipation of litigation, its application depends upon the date that the parties anticipated litigation." *Ins. Co. of N. Am. v. Levin*, No. 10-CV-60130, 2011 WL 13112244, at *2 (S.D. Fla. Oct. 21, 2011), *clarified on denial of reconsideration*, No. 10-CV-60130, 2012 WL 12861089 (S.D. Fla. Apr. 20, 2012) (citations omitted). That is, the drafting party must have anticipated litigation at the time of drafting. "Although the litigation need not have been imminent, it must have been ***more than a remote possibility***." *See id.* (citation omitted) (emphasis added); *see also Savoie v. Am. Sec. Ins. Co.*, No. 3:05CV244, 2006 WL 1737189, at *1 (N.D. Fla. June 23, 2006) (citation omitted) ("Instead, a 'substantial probability' of litigation must exist and the concern that litigation may occur must be real, not speculative.").

Courts in this District have applied various tests to determine whether a document is prepared in anticipation of litigation. Some courts have stated that "[i]n evaluating whether a document was prepared in anticipation of litigation, courts in this Circuit routinely look to the 'primary motivating purpose' of the document in question, not whether litigation was imminent." *Guarantee Ins. Co. v. Heffernan Ins. Brokers, Inc.*, No. 13–23881, 2014 WL 5305581, at *3 (S.D. Fla. Oct. 15, 2014) (citing *United States v. Davis*, 636 F.2d 1028, 1040 (5th Cir. 1981)).[3] Another test looks to whether the document was prepared or obtained ***because of*** the ***reasonable prospect*** of litigation. *See Doe v. United States*, No. 08–CV–80736, 2015 WL 4077440, at *6–7 (S.D. Fla. July 6, 2015). Lastly, another court has applied a hybrid of the two tests, holding that "litigation need not necessarily be imminent . . . as long as the primary motivating purpose behind the creation of the document was to aid in ***possible*** future litigation." *In re Trasylol Prods. Liab. Litig.*, No.

[3] Fifth Circuit opinions issued prior to October 1, 1981, we adopted as binding by the Eleventh Circuit. *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981).

08–1928, 2009 WL 2575659, at *4 (S.D. Fla. Aug. 12, 2009) (emphasis added).

Here, regardless of the test applied, the result is the same: Plaintiff has not sustained its burden to establish valid work-production protection for documents and communications before January 15, 2019.

First, Havana Docks' assertion of work-product protection for documents that precede the enactment of the Act in 1996 fails for multiple reasons.[4] Given that the Act was not enacted until 1996, Havana Docks could not have reasonably anticipated litigation under the Act nearly two decades before, in 1971, which is when the pre-1996 documents were authored. Indeed, before enactment of the Act, the only use of a claim certified by the Foreign Claims Settlement Commission ("FCSC") was for potential compensation in connection with negotiations between the Cuban and United States governments. There was no cause of action at all for "trafficking" in the property at issue in such certified claim. Moreover, even if Havana Docks were to assert that these documents were created in anticipation of the FCSC certification process itself, the FCSC process was not of an adversarial nature (indeed, neither Havana Docks nor any other claimant had an adversary in such process), so that argument would fail as a matter of law. *In re Trasylol*, 2009 WL 2575659 at *4 (reasoning that litigation under the work-product doctrine "should be understood generally to include proceedings before administrative tribunals [only] if they are of an adversarial nature").

That said, the Court need not even reach this issue for the basic reason that Havana Docks' Declaration not only fails to include any facts in support of such a hypothetical argument, but it does not address ***at all*** the documents withheld on the basis of the work-product doctrine that pre-date March 2017. Accordingly, the Court should overrule Plaintiff's objection to produce work-

[4] *See* Havana Docks' Privilege Log entries for the following documents that pre-date 1996: REV0016273; REV0016293; REV0016271; REV0016218; REV0016270.

product protected documents that pre-date March 1, 2017, for the mere fact that Plaintiff's protection assertions are unsupported by any sworn evidence.

Second, Havana Docks' assertion of work-product protection for various documents dated between April 2017 and January 15, 2019, fails for multiple reasons as well. In support of its assertion of work-product protection with respect to these documents, Havana Docks claims that shortly after it "consulted with an attorney" and "became aware of early indications that U.S. Government officials or representatives may be considering no longer suspending the Title III cause of action," it engaged lobbyists – ***not lawyers*** – in anticipation of litigation. *See* Johnson Decl. ¶¶ 3–4. None of these acts establish work-product privilege under any of the tests applied in this Circuit.

To begin with, the hiring of counsel on March 1, 2017, by itself does not establish that Havana Docks reasonably anticipated litigation at that time. *See Sun Capital Partners, Inc. v. Twin City Fire Ins. Co.*, No. 12-81397, 2015 WL 9257019, at *6 (S.D. Fla. Dec. 18, 2015) (finding that plaintiff's hiring of counsel for the mere purpose of "expert advice on its rights and obligations under the contract" did not mean plaintiff anticipated litigation at that time). Here, any discussions with counsel concerning instituting, prosecuting, and/or negotiating any claims against cruise lines more than ***two years*** before Title III's suspension was lifted at best establishes that Havana Docks, a corporation whose primary purpose is to preserve its Certified Claim, wanted legal advice on its rights and potential damages under Title III – not that it reasonably anticipated litigation at that time. *See id.*

This is so because since the enactment of the Act in 1996, Title III – the only Title in the Act that provides potential plaintiffs with a private cause of action – was suspended every six months, like clockwork, until May 2, 2019. Indeed, the United States Government did not alter its

history of continuous suspensions of Title III to the fullest extent possible under law until January 16, 2019, when it renewed the suspension of Title III for forty-five days instead of the usual six months. *See* U.S. Dep't of State, Media Note, Secretary's Determination of 45-Day-Suspension Under Title III of LIBERTAD Act (Jan. 16, 2019), *available at* https://www.state.gov/secretarys-determination-of-45-day-suspension-under-title-iii-of-libertad-act/. But even then, the lifting of the suspension and activation of a private cause of action was not determined. The United States government's next act was not until March 4, 2019, when it announced an additional thirty-day extension with the limited exception that Title III's suspension would, effective March 19, 2019, not apply to entities listed on the United States State Department's List of Restricted Entities and Sub-entities Associated with Cuba (the "Cuba Restricted List"). *See* U.S. Dep't of State, Media Note, Secretary Enacts 30-Day Suspension of Title III (LIBERTAD Act) With an Exception (Mar. 4, 2019), *available at* https://www.state.gov/secretary-enacts-30-day-suspension-of-title-iii-libertad-act-with-an-exception/. On April 3, 2019, the United States government extended the suspension on Title III once more, this time for two weeks, and left in place the limited exception concerning the Cuba Restricted List. *See* U.S. Dep't of State, Media Note, Secretary Pompeo Extends For Two Weeks Title III Suspension with an Exception (LIBERTAD Act) (Apr. 3, 2019), *available at* https://www.state.gov/secretary-pompeo-extends-for-two-weeks-title-iii-suspension-with-an-exception-libertad-act/. Once again, this action did not actually activate any rights for Havana Docks. *See* HDC 014705 (Mickael Behn, Havana Docks' President, expressing on April 5, 2019, that Havana Docks could still not sue the entities he believed were using the Subject Property), attached as Exhibit "B." It was not until April 17, 2020, that the United States government announced that come May 2, 2019, Title III would be fully effective for the first time since its enactment in 1996.

Thus, to the extent that Havana Docks consulted counsel "in connection with instituting, prosecuting, and/or negotiating any claims that may be asserted against cruise line," such consultations, at best, were in anticipation of the remote possibility that one day Havana Docks would be able to bring a lawsuit under Title III, rather than ***because of*** the reasonable prospect of ***actual*** litigation. *See Sun Capital Partners, Inc.*, 2015 WL 9257019, at *5–6 (emphasis added) (finding that emails from counsel to plaintiff did not show that plaintiff was anticipating litigation at that time reasoning that "[w]hile there is very brief and limited discussion of coverage litigation in these documents, the documents appear to ***only be an investigation into coverage issues and alternatives that may at some point be considered*** by Sun Capital" and that this was especially so given that plaintiff did not file suit against defendant until more than two years later); *see also In re Trasylol Products Liab. Litig.*, 2009 WL 2575659, at *5 (reasoning that while litigation does not have to be imminent, the party asserting protection must have "reasonable grounds for anticipating litigation," such as becoming the subject of a government agency's investigation).

Nothing in the Declaration refutes the fact that until the United States government began to take actions in furtherance of the complete lifting of Title III's suspension (which actions began on January 16, 2019), "future litigation under Title III" remained – at best – only a remote possibility. And even so, there was no private cause of action that Havana Docks could institute or prosecute until May 2, 2019. Indeed, Havana Docks' Declaration is tellingly selective: it addresses only the remote possibility of litigation under Title III, and says nothing about the fact that Havana Docks' "primary business . . . since 1960 . . . has been to protect Havana Docks Corporation's interest in their certified claim," not to perpetuate a lawsuit. *See* Havana Docks Corp. Dep. 230:16–231:2, Dec. 8, 2020; *see also Bridgewater*, 286 F.R.D. at 642 (finding that a defendant's strong business interest was the primary purpose behind the creation of a document

where the record showed that the defendant's business interest was paramount at the time of its creation and, thus, the document was not work-product protected).

Mickael Behn, Havana Docks' President, expressly admitted to a reporter as late as April 5, 2019, following the partial lifting of Title III with respect to those on the Cuba Restricted List, that Havana Docks ***still*** could not sue the entities he believed were using the Subject Property. *See* HDC 014705. This statement supports the conclusion that Havana Docks did not anticipate litigation at all until around the time Havana Docks sent demand letters regarding its interpretation of its rights under the Act, which it did on or about February 11, 2019. *See* HDC-NCLH000943-44, attached as Exhibit "C"; *see also RTG Furniture Corp. v. Indus. Risk Insurers*, No. 07-80538, 2008 WL 11331986, at *3 (S.D. Fla. May 15, 2008) (finding that plaintiff reasonably anticipated litigation only ***after*** negotiations with defendant broke down).

The hiring of Otto Reich, Jose Cardenas, and Jonathan Slade – as lobbyists, not lawyers – when "Havana Docks became aware of ***early indications*** that U.S. Government [sic] officials or representatives ***may be considering*** no longer suspending the Title III cause of action," Johnson Decl. ¶ 7, only confirms that as recently as early 2018, Havana Docks understood that litigation under Title III was just a possibility that the United States government had taken no steps towards materializing. Again, that Havana Docks wanted advice on its rights under Title III does not establish that the primary motivating purpose of creating the documents that provided such advice was to aid in possible future litigation. *See Sun Capital Partners, Inc.*, 2015 WL 9257019, at *6 (finding that the hiring of counsel for the mere purpose of "expert advice on its rights and obligations under the contract" does not show the anticipation litigation at that time); *see also Guarantee Ins. Co.*, 2014 WL 5305581, at *3 (citation omitted) ("Documents prepared for a business purpose do not enjoy work product protection even if the preparing party 'is aware that

the document may also be useful in the event of litigation.'"). Perhaps, most tellingly, Havana Docks admits that it did not hire its litigation counsel "Colson Hicks Eidson to ***file lawsuits*** under Title III" until 2019 (though Havana Docks neglects to state the precise date) and its first lawsuit was not filed until May 2019. *See* Johnson Decl. ¶ 7 (emphasis added).

Thus, Havana Docks' attempts to shield from discovery under work-product protection any and all documents that concern Title III, regardless of their date, is refuted by (1) the legislative history of Title III, (2) its own conduct, and (3) the fact that Havana Docks' primary business since 1960 has been "to protect Havana Docks Corporation's interest in [its] certified claim," but ***not*** necessarily to perpetuate litigation. Havana Docks Corp. Dep. 230:16–231:2, Dec. 8, 2020.

CONCLUSION

For the foregoing reasons, the Court should enter an Order granting Norwegian's Motion and compelling Havana Docks to produce all documents withheld on the basis of the work-product doctrine that pre-date January 16, 2019.

Dated: January 15, 2021.

Respectfully submitted,

HOGAN LOVELLS US LLP
600 Brickell Avenue, Suite 2700
Miami, FL 33131
305-459-6500 – Telephone
305-459-6550 – Facsimile

By: /s/ *Allen P. Pegg*
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Counsel for Norwegian Cruise Line Holdings Ltd.

CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2021, the foregoing was filed with the Clerk of Court using CM/ECF, which will serve a Notice of Electronic Filing on all counsel of record.

By: *<u>/s/ Allen P. Pegg</u>*
Allen P. Pegg

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 19-23591-CIV-BLOOM/Louis

HAVANA DOCKS CORPORATION,

Plaintiff,

v.

NORWEGIAN CRUISE LINE HOLDINGS LTD.

Defendant.
_____/

DECLARATION OF JERRY JOHNSON

I, Jerry Johnson, declare as follows:

1. My name is Jerry Johnson. I am over 21 years of age, I am a citizen a resident of the United States, and I am competent to make this declaration.

2. I make this declaration in my capacity as Vice President, Comptroller, Treasurer, Secretary and Board Member of Havana Docks Corporation ("Havana Docks"). This declaration is based on my personal knowledge.

3. On March 1, 2017, Havana Docks first consulted with an attorney named Rodney Margol in connection with instituting, prosecuting, and/or negotiating any claims that may be asserted against any cruise line for trafficking on Havana Docks' Subject Property in Cuba.

4. In early 2018, as Havana Docks Corporation became aware of early indications that U.S. Government officials or representatives may be considering no longer suspending the Title III cause of action, Havana Docks Corporation enlisted

the assistance of consultants Otto Reich, Jose Cardenas, and Jonathan Slade, Esq., to assist, among other things, in devising a legal strategy in anticipation of litigation under Title III of the Libertad Act.

5. To the extent these consultants also engaged in consulting or lobbying efforts with respect solely to Title IV of the Libertad Act, Havana Docks Corporation has not asserted work product protection over such documents or communications in this litigation.

6. Between 2017 and early 2019, Havana Docks undertook activities in anticipation and preparation for future litigation under Title III. Among these activities were discussions among Havana Docks' principals, attorneys, consultants and experts about theories of liability and damages in potential litigation under Title III against cruise lines and collecting and developing information regarding the cruise lines' travel to Cuban and use of the Subject Property.

7. In 2019, Havana Docks retained attorneys at Colson Hicks Eidson to file lawsuits under Title III. Havana Docks Corporation filed its first lawsuit pursuant to Title III in May 2019.

I declare under the penalty of perjury under the law of the United States of America that the foregoing is true and correct.

Executed January 7, 2021.

Jerry M. Johnson

Jerry Johnson

EXHIBIT B

Message

From: mickaelbehn@havanadockscorp.com [mickaelbehn@havanadockscorp.com]
Sent: 4/5/2019 12:26:38 AM
To: Mickael Behn [mickaelbehn@gmail.com]
Subject: Re: HAVANA DOCKS AND CUBAN AMERICAN CLAIMS

It's the weakest policy. The Cubans will be laughing at the government for such a weak play. All the bravado and none of bite.

For Havana docks corporation we can't sue because we are not on the list. The regime owns are building but leases out to the a european company. So that's a gray area.
Those that can sue (which is suspect is close to 0) can only sue the regime. And the regime will just not care.

Th

Sent from my iPhone

On 4 Mar 2019, at 19:14, Paul Guzzo <pguzzo@tampabay.com> wrote:

> Any thoughts on the partial lifting of Title III?
>
> Are any of the entities that can be sued the trafficker on your land? Can you sue?
>
> ---
>
> **From:** Mickael Behn <mickaelbehn@havanadockscorp.com>
> **Sent:** Thursday, January 24, 2019 9:57 AM
> **To:** Paul Guzzo <pguzzo@tampabay.com>
> **Subject:** Re: HAVANA DOCKS AND CUBAN AMERICAN CLAIMS
>
> Hi Paul,
>
> I hope all is well.
>
> Just wanted to share with you some photos had had a friend take in Cuba of the Havana Docks Corp Ports in 2019.
>
> **Two things to note:**
> They have begun to renovated the two other ports. I suspect this is the money from the Turkish/London based Global Port holdings
> Getting the extra births rebuilt and ready for more cruise ships.
>
> The first photo here is of a Resturant right in front go Havana Docks Corp. the interesting thing is the "restaurante Dos Hermanos"
> The "two brothers" are my Great grandfather **Sosthenes Behn** and **Hernan Behn**.
> The founders of **Havana Docks Corp**. and **I.T.T. Corp**.
> The also built the "*Puente Dos Hermanos" in San Juan, Puerto Rico.*
>
> It's a bit of a slap in the face to my family that they are running a Resturant named after the founders of property they stole.
> In front of the property they stole.

EXHIBIT C

MARGOL & MARGOL
ATTORNEYS AT LAW
2029 NORTH THIRD STREET
JACKSONVILLE BEACH, FLORIDA

RODNEY S. MARGOL
BOARD CERTIFIED CIVIL TRIAL LAWYER

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February 11, 2019

Certified Mail Return Receipt Requested

Frank Del Rio
Norwegian Cruise Line Holdings, Ltd.
7665 Corporate Center Drive
Miami, Florida 33126

RE: Violation of Title III Helms Burton Act. 22 U.S.C.A. Sections 6021-6091

Dear Mr. Del Rio:

This correspondence is to put you on formal notice that my client, Mickael Sosthenes Behn personally and as President of Havana Docks Corporation, has rights over the shipping ports and cruise ports, in the harbor of Havana ("the Property"). This property, formerly known as Havana Docks Corporation is now referred to as Havana Cruise Port Terminal Sierra Maestra.

The Property was taken without compensation by the government of the Republic of Cuba on November 21, 1960. Havana Docks Corporation has been in operation since 1917 and is still in operation today with valid claims to the Property including claims that have been certified by the United States Foreign Claims Settlement Commission. (American Cuban Claim CU-2492 Decision No. CU-6165).

Your company has knowingly and intentionally engaged in trafficking as defined in the Cuban Liberty and Solidarity (Libertad) Act of 1996 (the Helms-Burton Act) and engages in transactions related to the Property, including the use of commercial facilities constructed thereupon in connection with the operation of its cruise lines, at its own risk.

Havana Docks Corporation reserves all rights related to the Property including but not limited to the right to seek any recourse that might be available under applicable laws against your company and any other company in connection

with any transactions and activities carried out by your company and others regarding the Property.

Although my client possesses a claim with respect to the Property which was certified by the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949, my client hereby provides you with formal notice under Title III of the Helms Burton Act adopted in 1996 and codified in Title 22, Sections 6021-6091 of the United States Code of his intention to seek all money damages and other remedies available to him and Havana Docks Corporation. Notice is hereby given pursuant to 22 U.S.C.A. Section 6082 (a) (3) (D) of his intention and Havana Docks Corporation's intention to commence an action under this section against your company and individuals associated with it as defendant(s) for trafficking on the property in violation of 22 U.S.C.A. Section 6082.

Furthermore, demand is hereby made that the unlawful trafficking on my client's property cease immediately.

A copy of the summary statement of the relevant portions of the above referenced statutes published in the United States Federal Register is attached to this correspondence in accordance with 22 U.S.C.A. Section 6082 (a) (3) (D) (iii) (III) & (8).

By serving this notice my client does not waive any rights or remedies which have previously been established or have vested.

Please give this matter your immediate attention.

Sincerely,

Rodney S. Margol

RSM:kf
Enclosures

cc: Mickael Sosthenes Behn, President of Havana Docks Corporation