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Suit Says Turbine Co. Owes \$291M For Seized Cuban Port Use

By **Morgan Conley**

Law360 (June 16, 2020, 2:57 PM EDT) -- The original owner of a port seized by Cuba's communist government says a Chinese wind turbine manufacturer and companies it worked with owe \$291 million for using its confiscated property to deliver products to the island's largest wind power project.

North American Sugar Industries Inc. on Monday accused Xinjiang Goldwind Science & Technology Co. Ltd. and some of its associates of illicitly profiting off the port, Puerto Carupano, to transport equipment to the government-owned Herradura Wind Farm Project. The sugar company wants a Florida federal court to award it treble damages for the companies profiting off its seized asset, which it says is valued at \$97 million.

American Sugar accuses Goldwind of attempting to hide the particulars of its business dealings with Cuba by lying that the equipment ordered by the government was being dropped off in Miami. The American port was "merely a refueling stop en route to delivery in Cuba," according to the complaint.

Goldwind knew it was committing sanctionable conduct under the Helms-Burton Act and the concealment was an "attempt to circumvent being found liable," American Sugar said.

Representatives for the parties didn't immediately respond to requests for comment Tuesday.

The suit says twice over the last three years Goldwind is known to have used the port to drop off supplies, including 22 turbines purchased from it by the Cuban government for the "multi-hundred-million-dollar wind farm project."

American Sugar says in the suit it didn't receive "a speck of compensation" for the use of the port.

The complaint also names DSV Air & Sea Inc., a unit of Danish transport and logistics company DSV Panalpina A/S, as a defendant for allegedly assisting not only Goldwind but other suppliers for the wind project. Two other companies — BBC Chartering USA LLC and BBC Chartering Singapore PTE Ltd., which are both units of a German shipping company — are also accused of dropping off the cargo at Puerto Carupano.

The American government certified American Sugar's loss to be more than \$97 million in 1969. But it wasn't until May 2019, when the Trump administration cleared the way for U.S. nationals to bring litigation over property seized by Cuba's communist government, that the sugar company could sue those who profited off its loss.

The move by the current administration allowed Title III of the Helms-Burton Act to take effect. The three previous administrations had kept this section of the law, which created a right for U.S. companies and individuals to bring lawsuits against anyone currently trading in such seized assets in Cuba, suspended since its enactment.

"Now that the act's private right of action is in force, American Sugar seeks long-overdue relief for the uncompensated exploitation of its confiscated property, including defendants' knowing and intentional use of that property for their own financial gain," the complaint stated.

North American Sugar is represented by Miguel A. Estrada, Audi K. Syarief, Andrea E. Neuman, Rahim Moloo and Casey Kyung-Se Lee of Gibson Dunn & Crutcher LLP and David S. Mandel of Mandel & Mandel LLP.

Counsel for Goldwind and the other companies were not immediately available Tuesday.

The case is North American Sugar Industries Inc. v. Xinjiang Goldwind Science & Technology Co. Ltd. et al., case number 1:20-cv-22471, in the U.S. District Court for the Southern District of Florida.

--Editing by Janice Carter Brown.

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