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Poultry Magnate's Family Feud Erupts into Big Tax-Fraud Case

Christina Hoag. Knight Ridder Tribune Business News. Washington: Jan 27, 2003. pg. 1

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Abstract (Document Summary)

[Dionisio Gutierrez] and [Juan Luis Bosch] then increased their involvement in the family's businesses that [Juan Arturo Gutierrez] was running, which included Pollo Campero; a poultry raising and distribution operation, Grupo Avicola Villalobos; flour and feed mills; and a meat-packing plant. The friction started.

According to the nephews, Arturo named a price "at an exorbitant, unwarranted premium. . . . Arturo's response was to begin a cynical campaign predicated on fundamental falsehoods to force the buyout of [his] interest in the Avicola," states a court document.

The nephews' court documents state that "plaintiff always has had all the information regarding the companies available and has received any and all interest that it has been entitled to from the Avicola." Arturo sued his nephews alleging fraud in 1999; another suit charges that the \$24 million he received for his share of Pollo Campero was vastly below its worth due to the purported financial ruses.

Full Text (1252 words)

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Jan. 27--This family saga is like a plot plucked straight from a Latin telenovela.

The characters are the Gutirrezes of Guatemala, one of Central America's richest and most powerful clans who are best known for Pollo Campero, an enormously popular chicken restaurant chain that is rolling out 200 outlets across the United States, including Florida.

But behind Campero's chirpy chick logo lies a deeply bitter feud between the family's aging patriarch and his two nephews.

Against a backdrop of palatial mansions and luxury yachts in South Florida, the plot involves surveillance stakeouts, secret recordings, anonymous threats, tussles over financial documents and a no-expense-spared media war.

Then there are the allegations of financial skulduggery: millions of dollars flown offshore by private plane, phony companies in Caribbean Islands, and big-time tax fraud.

This millionaires' drama is being played out in Miami and Guatemalan courts by: -- The uncle, Juan Arturo Gutierrez, 72, and his son, Juan Guillermo Gutierrez, 46, who live in Toronto and run Xela Enterprises, a conglomerate of

various international businesses.

-- The nephews, Juan Luis Bosch and Dionisio Gutierrez, whose Guatemala City-based Grupo Gutierrez consists of myriad business interests in Central America, the United States and the Dominican Republic, as well as a charitable foundation. They own neighboring multimillion-dollar holiday homes on Harbor View Drive in Key Biscayne. Dionisio, 43, is well known as a TV-show host in Guatemala.

Arturo accuses his nephews of swindling him of millions of dollars in dividends from Pollo Campero and the rest of the family's business empire, which was started more than 80 years ago in Guatemala by his father.

The nephews say it's nonsense invented by a vindictive uncle to force them to buy his remaining stake in the family holdings at an inflated price.

Moreover, Arturo alleges that his nephews have not only cheated him, but also the Guatemalan government -- through labyrinthine tax evasion schemes involving at least \$39.8 million.

"We were brought up in a very honest way," said Arturo in an interview aboard his yacht. "It never went through my mind that members of my own family would do something like that." Through an attorney, the nephews declined to be interviewed.

In court documents, they label the accusations a "sham" by a "bitter uncle" who is trying to "extort a higher price in a buyout of [his] shares." In a statement faxed to The Herald, Marco Augusto Garcia Noriega, general counsel for Grupo Gutierrez in Guatemala City, categorically denied all allegations. "This case is essentially an accounting dispute relating to the management of the family business in Guatemala. Any attempt to characterize the dispute otherwise would be misguided," he wrote.

The seeds of the feud date to 1974, when the fathers of Dionisio Gutierrez and Juan Luis Bosch were killed in an airplane crash while they were flying relief supplies to Honduran hurricane victims.

Dionisio Gutierrez and Bosch then increased their involvement in the family's businesses that Arturo was running, which included Pollo Campero; a poultry raising and distribution operation, Grupo Avicola Villalobos; flour and feed mills; and a meat-packing plant. The friction started.

In 1982, as Guatemala's then-military government steered the country's civil war into a scorched-earth campaign in which thousands of people were killed, Arturo moved his family to Canada.

They had been unnerved since 1976, when guerrillas had kidnapped Juan Guillermo for ransom for 39 days.

Also unhappy at the helm of the family businesses, Arturo handed management duties to his nephews. He and his son started building a new commercial conglomerate based in Toronto.

Eventually, he decided to let go of his old businesses altogether.

From 1991 to 1995, he sold his nephews his shares in all the companies, hanging on to a 25 percent stake in the family's crown jewel worth "hundreds of millions of dollars," Grupo Avicola Villalobos, which consists of 19 companies that control about 70 percent of Guatemala's chicken market.

In 1997, the nephews offered to buy out that stake, too, but Arturo said the proposal was vastly below value.

According to the nephews, Arturo named a price "at an exorbitant, unwarranted premium. . . . Arturo's response was to begin a cynical campaign predicated on fundamental falsehoods to force the buyout of [his] interest in the Avicola," states a court document.

Juan Guillermo said his suspicions were aroused when it proved difficult to get the financial statements he wanted in order to come up with a fair price. In one 1998 meeting with an Avicola executive, he related, both he and the executive grabbed a statement and tussled over it. When he finally obtained a balance sheet, "those numbers did not balance with the numbers we had," Juan Guillermo said.

In 1998, two Avicola executives flew to Toronto to meet privately with Juan Guillermo, who had secretly set up a video camera to tape the meeting, legal under Ontario law.

On the tape, the suit says, the executives confess that the companies evaded taxes by selling live chickens, eggs, manure and oranges for cash without invoices and then laundered the off-the-books proceeds through a maze of 41 offshore shell companies and 50 bank accounts, most in Miami.

According to the suit, the nephews couriered black-market checks, travelers' checks and money orders by private jet for deposit in Miami; created shell companies that wrote Avicola false loans and insurance policies; and invoiced for bogus consulting services.

The nephews' court documents state that "plaintiff always has had all the information regarding the companies available and has received any and all interest that it has been entitled to from the Avicola." Arturo sued his nephews alleging fraud in 1999; another suit charges that the \$24 million he received for his share of Pollo Campero was vastly below its worth due to the purported financial ruses.

In 2001 he alleged tax evasion by Avicola to Guatemalan authorities, who reached a \$15 million settlement for back taxes and interest with the nephews, Juan Guillermo said. However, Guatemala's Corruption Prosecutor Karen Fischer has since opened an investigation into the tax-evasion charges. She said the settlement would be nullified if tax evasion is proved.

The case is grinding on, with each side winning and losing procedural court battles. Arturo won an injunction freezing millions of dollars of his nephews' assets; the nephews won a round when a judge agreed their uncle's side had acted in bad faith by calling a settlement meeting in Key Biscayne and then "ambushing" the participants by serving them with a lawsuit.

That happened after "plaintiff's investigators staked out Dionisio's vacation home in Key Biscayne . . . in an elaborate military-like campaign, complete with concealed weapons," a court memo states.

To tell his side of the story, Arturo published 30,000 copies of a magazine and set up a website, www.casogutierrez.com. Juan Guillermo said his cousins countered with a newsletter attacking him and his father; they responded with another magazine.

Their adversaries' response, he said, was a book detailing what they say is the truth behind Pollo Campero -- that it was the brainchild of Dionisio's father and not Arturo.

Arturo said that for him, his legal fight has become larger than a family affair. He took out a full-page ad in The Washington Post on Jan. 8 stating that the case underscores Guatemala's lack of rule of law and investor protection.

One thing is certain: this telenovela is far from over.

Credit: The Miami Herald

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