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A Poultry Empire is Plucked in Miami

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The prevailing calm atmosphere in the elegant room at the Sonesta Hotel in Key Biscayne on the morning of February 16, 1999, nurtured the hopes of some who were present that the closed-door meeting being held there would bring closure to a long dispute among members of one of the most powerful families in Central America.

During the first part of the session, one of the family groups listened patiently to the explanations given by the other group regarding the commercial activities of the enormous and prosperous Avícola Villalobos company. There was no shouting or attacks.

But the lives of those who were present changed when one of the patriarchs of the family in discord, Juan Arturo Gutiérrez, better known in Guatemala as Don Arturo, pressed the play button on a DVD player.

Don Arturo himself appeared on the screen, accusing the members of the opposing family group of theft and lying, and to support his allegations, he played scenes that had been filmed secretly during a meeting in Canada towards the middle of the previous year.

Two Avícola Villalobos senior executives appeared on camera, unscrupulously explaining a series of allegedly fraudulent schemes to generate millions in income, unbeknownst to company auditors, and to defraud the Guatemalan internal revenue service by keeping the sales tax for themselves.

The testimony of an auditor for the family group was also quoted there, who described how Don Arturo's nephews were using bank accounts in Miami to conceal company income and dividends.

At the conclusion of the documentary, the entrepreneur warned them to prepare for legal action.

According to the defendants' version, the hotel room doors opened and a horde of process servers appeared and accosted the executives to sign summonses in a civil process that Don Arturo's parent company, Lisa, S.A., had just filed in a state court in Miami.

A camera installed by the plaintiffs' investigators at the entrance to the room captured the arrival and departure of those attending the meeting and, in another part of the hotel, filmed the automobiles of the guests.

With this Gutierrez family *reality show*, a legal battle was drawn which involves – as defendants on charges of fraud and money laundering – members of the wealthiest and most politically influential family in Guatemala, proprietors of a conglomerate worth some \$2.2 billion which controls the poultry industry, has investments in hydroelectric concerns, banks, communications media and the food industry.

As a result of the litigation, several luxurious homes and apartments in Key Biscayne, two executive aircraft, automobiles and numerous bank accounts in Miami and New York have been seized pursuant to the preventive injunction which was issued by a state judge.

In Miami, on behalf of Lisa, S.A., Don Arturo and his son, Juan Guillermo Gutiérrez, have filed two civil cases, one at the state level for the use of stolen property, and another at the federal level in accordance with the Racketeer Influenced and Corrupt Organizations Act (RICO) for conspiracy to commit fraudulent acts and money laundering.

The federal process regained strength a month ago when an appellate court decision ordered the District Court to reopen the case irrespective of the development of the State's proceedings.

The two most visible directors of the family empire are among the defendants:

- Dionisio Gutiérrez Mayorga, business leader, television journalist and political financier with presidential ambitions, popularly known as Diosito [little God] for his extraordinary power. Gutiérrez holds the position of co-President of Multi-Inversiones, the family group's parent company. He is Don Arturo's nephew.
- Juan Luis Bosch, president of Multi-Inversiones. He is one of the most outstanding promoters of the Central American Free Trade Association, CAFTA, and champions the battle against the region's oil dependency, as intended by Venezuelan President Hugo Chávez.

With battle fronts in the United States, Canada, Guatemala, Panama and the Virgin Islands, the legal battle has come to the point where one of the parties alleges that the opposing party delivered service of process at a wake for a family member in Guatemala.

Don Arturo maintains a web page on the case and has printed a free magazine containing his allegations. On the opposing side, his nephew Dionisio has made veiled references to Don Arturo as a "closet psychopath" in his television program *Libre Encuentro*.

Edward H. Davis, attorney for the majority of the defendants, told the El Nuevo Herald that he was abstaining from making comments on the case. The

decision was made a day after he had agreed to grant this reporter an interview.

“We apologize for the conflicting signals, but we have reached the conclusion that we prefer not to speak of pending litigation,” explained Davis.

“That is further evidence that they have no arguments”, said Juan Rodríguez, the attorney for Don Arturo. “What answer could they have to the famous videotapes where the most important executive in Guatemala appears and acknowledges that he launders money?”

In several briefs filed at the two courts in Miami, the defendants have asserted that the quarrel is a form of “extortion” and have concentrated their defense on arguments that the courts in the United States have no jurisdiction over the case, but they have not responded in depth to the indications of alleged money laundering in banks in Miami through front companies.

The long family quarrel has its roots in the dissensions and recriminations arising from the acquisition process by Dionisio and Bosch of the interests Don Arturo’s parent company had in the family conglomerate.

Don Arturo has lived in Canada since 1982. He decided to move to that country after his son, Juan Luis, was kidnapped, for whom he had to pay ransom after he had been held captive for 39 days. The entrepreneur left the management of his interests in the family group in the hands of his nephews Dionisio and Bosch.

The defendants assert that Don Arturo lost interest in business in the years that followed. Don Arturo’s version is that his nephews stopped rendering accounts, and that in 1991, he had to vigorously demand documentation on the state of the companies. After several arguments, the nephews made a purchase offer that led to a disagreement over the price. The plaintiffs assert that from an offer of \$47.5 million made in 1992, the potential buyers came down to \$17 million towards the end of 1997.

“That reduction was a red flag for Don Arturo and his family,” explained attorney Rodríguez.

Rodríguez added that the nephews made a counteroffer of \$49.5 million in view of Don Arturo’s indignation, who could see that they were toying with his interests.

The strange highs and lows of the proposals led Don Arturo to employ an accountant and to retain a well-known Canadian attorney, Robert Amsterdam, who represents the Russian oil magnate Mijail Jodorkovsky, former president of the Yukos petroleum company in a lawsuit against the Russian state.

The lawyer was deported from Russia three weeks ago based on his statements about the corruption in Vladimir Putin's government.

In order to analyze the claims made by each side, in April 1998, Amsterdam met in Canada with representatives of the opposing party, Fernando Rojas, managing director of the group, and Roderico Rosell, financial director.

The plaintiffs claim that during said meeting Rojas and Rosell admitted that 50 percent of the poultry company's sales were not posted in the accounting books. The company was selling live chickens under the table. According to documents filed in the lawsuit, they also admitted that they had mistakenly submitted an accounting report to Juan Luis, Don Arturo's son, instead of to his counterpart, Bosch.

Amsterdam demanded a list of documents from Don Arturo's nephews and at the same time retained Rodríguez in Miami, and a legion of private investigators to investigate the irregular sale of poultry. According to Rodríguez, in the midst of that investigation, Don Arturo received a call from the former internal auditor of the poultry business, Mario de Aguila Cancinos, who was seeking employment.

De Aguila "revealed the secret," commented Rodríguez. In May of 1998, the former auditor explained "several mechanisms which were used by Bosch and Dionisio to divert profits and dividends without recognizing the rights of Lisa (Don Arturo's holding company)".

He added that De Aguila "confirmed the fraud in relation to the cash sales of live chickens, and gave us evidence of large sums of cash deposits in Miami bank accounts."

Based on De Aguila's sworn statement, the attorneys sought a preventive injunction on real estate in Miami, primarily in Key Biscayne, front companies which were allegedly used by the defendants to divert the money, and bank accounts in Hamilton Bank, Israel Discount Bank, Total Bank, Republic International Bank of New York, Merrill Lynch, Chase Manhattan, Marine Midland Bank and Barclays Bank.

A Cessna Citation and a Piper PA31T were also seized.

A new meeting of the parties was held in Toronto, Canada, but without Amsterdam present, at the request of Dionisio and Bosch. Amsterdam agreed, but ordered a secret camera installed in the room where Juan Luis met with Rojas and Rosell.

The plaintiffs would later argue that the consent of only one party is required to make this type of recording in Canada.

According to Rodríguez, this meeting would yield the most convincing evidence his clients have to prove their allegations of fraud and money laundering by the partners in the poultry concern.

There are six hours of videotape during which Rojas and Rosell explain the underground world of the company's accounting, stated Rodríguez.

According to the complaint, the process operated in the following manner. Funds were deposited in the accounts of the executives of the group, then cash was used to buy dollars at exchange houses and other monetary instruments, and later deposited in Miami accounts. The funds in these accounts were used to buy homes and other assets in South Florida. A company called Ancona Finance was created in Panama to justify the overseas transfers of funds, which made "fake loans" in dollars to the poultry company.

The second set of books was kept in an office known as "the room of tricks".