



## **Bacardi Testifies at Request of Congress in Havana Club Rum Matter**

### **Bacardi executive takes the witness stand as part of the U.S. House of Representatives Subcommittee on Courts, Intellectual Property, and the Internet**

Coral Gables, Fla., February 11, 2016 – At the request of the U.S. House of Representatives Judiciary Committee, Rick Wilson, senior vice president for external affairs, with Bacardi, appeared as a witness at a Subcommittee on Courts, Intellectual Property, and the Internet Congressional hearing earlier today on “Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property.”

The Bacardi executive was invited to provide support to Congress in investigating the sudden and unexplained decisions of the U.S. Office of Foreign Assets Control (“OFAC”) and the U.S. Patent & Trademark Office (“PTO”) to authorize Cuba to renew and maintain the Havana Club trademark registration in the United States. This marked a stunning reversal as OFAC previously denied the very same license in 2006 as being contrary to U.S. foreign policy.

Mr. Wilson opened his testimony by saying, “These decisions are unprecedented and shocking because they undo decades of United States law and policy by approving Cuba’s efforts to capitalize on, and traffic, in stolen goods.”

As part of continued efforts to defend the legitimacy of the Bacardi rights and ownership of Havana Club rum, Mr. Wilson testified to a history of fraud committed by the Cuban government in obtaining and renewing the Havana Club registration. Mr. Wilson also explained the timeline of events leading up to the January 2016 decisions of OFAC and the PTO which Bacardi contends were done in violation of the language and spirit of U.S. law – and at a speed which is likely unmatched in the chronicles of administrative law.

“Courts in the United States have steadfastly held that foreign confiscations will not be given effect because such confiscations are ‘shocking to our sense of justice,’” added Mr. Wilson on behalf of family-owned Bacardi, which acquired the rights to Havana Club rum from the Arechabala family who founded the company in Cuba in 1878, created the Havana Club brand in 1934 and ran the business until it was forcibly confiscated by the Castro regime in 1960.

The Bacardi testimony also reminded the House Judiciary Committee that the Cuban Assets Control Regulations (“CACR”), which implement the trade embargo against Cuba, prohibit all transactions involving property, including trademarks, in which Cuba, or any national thereof, has any interest of any nature whatsoever, direct or indirect, except as specifically authorized by the Secretary of the Treasury. The CACR provided a general license for trademark registration and renewal by Cuban nationals. However, this allowed a loophole for the Cuban government to register and renew trademark registrations for marks created or owned by private businesses in Cuba which were confiscated by the Castro government. Congress took action to close this loophole by passing Section 211 of the Omnibus Appropriations Act of 1998 which ensures that the general license in the CACR cannot be used by foreign states to register marks associated with businesses that were confiscated without compensation. Section 211 has been critical to the efforts of the Arechabala’s, Bacardi, and other companies, to ensure that Cuba does not profit off of stolen property, especially through U.S. trademark registrations and renewals. Section 211 rescinds the general license for trademark registration and renewal of marks that were used in connection with a confiscated business and prohibits courts from recognizing Cuba’s rights in confiscated property. The purpose of Section 211 is simple: to deny giving effect to Cuba’s claims to illegally confiscated property in the United States.

House Judiciary Committee Chairman Bob Goodlatte (R-Va.) and Courts, Intellectual Property, and the Internet Subcommittee Chairman Darrell Issa (R-Calif.) issued the following statements on Thursday’s hearing.

Chairman Goodlatte: “This week the IP subcommittee will examine the issue of confiscated property in Cuba. The Cuban government, led by Fidel Castro, has stolen billions in property, including homes and businesses, owned by Americans and American investors. Perhaps the most recognized case is that of the Arechabala Family liquor business, which had its trademark for Havana Club Rum seized by the Cuban government and then licensed to another company against the family’s wishes. As the Obama Administration looks to improve relations with Cuba, important questions remain about how these claims will be satisfied.”

Subcommittee Chairman Issa: “Integrity in our trademark system is fundamental to property rights in the United States. The decision to grant the Havana Club trademark to the Cuban government decades after it was effectively stolen during the revolution is an act that deserves scrutiny by the Committee.”

Mr. Wilson ended his testimony by stating, “The Cuban government seized Jose Arechabala S.A. (“JASA”), a viable business with a well-known mark, and, without any interruption in the business, began making and selling rum under the Havana Club brand. What occurred was a forcible confiscation at gunpoint. Pernod Ricard, knowing all of this sordid history, chose to invest with Cuba in this stolen brand. For decades, the United States has prevented Cuba and its business partners from profiting off of the United States Havana Club registration – it should continue to do so. Well-settled United States law and policy, as reaffirmed by Section 211, ensures that the United States will always protect the creators and owners of intellectual property, like JASA and Bacardi, and not reward an authoritarian state, like Cuba, which uses force of arms to steal such property and enrich itself at the expense of its citizens. The sudden and unexplained decision of OFAC and the PTO to permit Cuba’s renewal of the Havana Club mark flies in the face of these legal and policy principles.”

Bacardi has been a long-time supporter of trademark rights for legitimate trademark holders and remains committed to defending the fundamental rights against confiscations without compensation. The company supports both legislation and legal action to uphold the principle of protection of trademarks and ensuring trademarks that have been confiscated by the Cuban government without the consent of their rightful owners not be recognized by the international community.

Bacardi will continue to pursue all the necessary legal and other actions regarding its rights and ownership of Havana Club rum. As the company has maintained all along, Bacardi is the legitimate owner of the brand.

### **About the House Judiciary Committee**

Established in 1813, the House Judiciary Committee is the second oldest standing committee in Congress. Today, the Committee is at the forefront of some of the most significant issues facing our nation, including protecting constitutional freedoms and civil liberties, oversight of the U.S. Departments of Justice and Homeland Security, legal and regulatory reform, innovation, competition and anti-trust laws, terrorism and crime, and immigration reform. The Committee has jurisdiction over all proposed amendments to the Constitution, and each of its subcommittees has roots in that document.

### **About Bacardi**

Bacardi, the largest privately held spirits company in the world, produces and markets internationally recognized spirits and wines. The company boasts a portfolio of some of the most iconic and top-selling spirits brands including BACARDÍ® rum, GREY GOOSE® vodka, DEWAR'S® blended Scotch whisky, BOMBAY SAPPHIRE® gin, CAZADORES® 100% blue agave tequila, MARTINI® vermouth and sparkling wines, and other leading and emerging brands. Founded 154 years ago in Santiago de Cuba on February 4, 1862, family-owned Bacardi manufactures its brands at 29 facilities and sells in more than 160 countries. Based in Hamilton, Bermuda, Bacardi Limited refers to the Bacardi group of companies, including Bacardi International Limited.

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