**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF FLORIDA**

Case No.: 19-cv-21725-King

JAVIER GARCIA-BENGOCHEA,

Plaintiff,

vs.

CARNIVAL CORPORATION, d/b/a
Carnival Cruise Lines, a foreign corporation,

Defendant.
_____/

**CARNIVAL CORPORATION D/B/A CARNIVAL CRUISE LINE'S**
**SECOND AMENDED ANSWER AND AFFIRMATIVE DEFENSES**

Pursuant to Federal Rule of Civil Procedure 15(a)(2), Defendant Carnival Corporation ("Carnival") answers Plaintiff's Complaint ("Complaint") as follows:

**PARTIES**

1. Plaintiff, Javier Garcia-Bengochea, is a U. S. Citizen and a resident of Jacksonville, Duval County, Florida.

**RESPONSE**: Carnival lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 1, and accordingly, denies same.

2. Defendant, Carnival Corporation, 3655 N.W. 87th Avenue, Doral, Florida 33178, is a foreign corporation doing business as Carnival Cruise Lines and maintains its principal place of business in Doral, Miami-Dade County, Florida.

**RESPONSE**: Carnival admits the allegations in paragraph 2 of the Complaint.

## JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction), because Plaintiff's claim arises under 22 U.S.C. § 6021, *et seq.*, and the amount in controversy exceeds the sum or value of $50,000, exclusive of interest, costs, and attorneys' fees.

**RESPONSE**: Carnival admits that Plaintiff's claim arises under federal law and that plaintiff seeks more than $50,000. Carnival denies that this Court has subject matter jurisdiction.

4. Venue is proper in this judicial District under 28 U.S.C. § 1391(b)(1), because the Defendant resides in this judicial District, and under 28 U.S.C. §§ 1391(b)(2) and 1391(d), because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this judicial District.

**RESPONSE**: Carnival admits the allegations in paragraph 4.

## THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

5. The LIBERTAD Act became effective March 12, 1996. One of the LIBERTAD Act's purposes is to "protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro Regime." 22 U.S.C. § 6022(6). Title III of the LIBERTAD Act ("Title III") establishes a private right of action for money damages against any person who "traffics" in such property as defined by 22 U.S.C. § 6023(13). *See* 22 U.S.C. § 6082.

**RESPONSE**: The allegations in paragraph 5 state a legal conclusion, and as such no response is required. To the extent a response is required, Carnival states that the text of the LIBERTAD Act speaks for itself.

## FACTUAL ALLEGATIONS

6. Plaintiff, a U. S. national as defined by 22 U.S.C. § 6023(15), is the rightful owner of an 82.5% interest in certain commercial waterfront real property in the Port of Santiago de Cuba identified specifically by the Republic of Cuba ("Cuba") as La Maritima and Terminal Naviera (the "Subject Property").

**RESPONSE**: Carnival denies the allegations in paragraph 6.

Cuba's Confiscation of the Subject Property

7. The communist Cuban Government confiscated the Subject Property on October 13, 1960 by the adoption of Cuba's Gazette Law 890. The communist Cuban Government maintains possession of the Subject Property and has not paid any compensation to Plaintiff for its seizure.

**RESPONSE**: Carnival lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 7, and accordingly, denies same.

8. More specifically, the communist Cuban Government nationalized, expropriated, and seized ownership and control of the Subject Property. The Subject Property has not been returned and adequate and effective compensation has not been provided. Further, the claim to the Subject Property has not been settled pursuant to an international claims settlement agreement or other settlement procedure.

**RESPONSE**: Carnival lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 8, and accordingly, denies same.

9. Plaintiff never abandoned its legitimate interest in the Subject Property.

**RESPONSE**: Carnival lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 9, and accordingly, denies same.

Certification of the Confiscated Subject Property

10. A portion of Plaintiff's ownership interest in the Subject Property, which represents Plaintiff's 32.5% interest in the Subject Property, has been certified by the Foreign Claims Settlement Commission under the International Claim Settlement Act of 1949. A copy of the certified claim is attached hereto as Exhibit A.

**RESPONSE**: Carnival admits that Exhibit A is a Foreign Claims Settlement Commission document. Carnival denies the allegations in paragraph 10 to the extent Plaintiff seeks to imply anything beyond what is indicated in Exhibit A, which speaks for itself.

11. The remaining portion of Plaintiff's interest in the Subject Property is based upon an uncertified claim.

**RESPONSE**: Carnival lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 11, and accordingly, denies same.

Carnival's Trafficking in the Confiscated Subject Property

12. On information and belief, beginning on or about May 6, 2016 and continuing for at least a year thereafter, the Defendant knowingly and intentionally commenced, conducted, and promoted its commercial cruise line business to Cuba using the Subject Property by regularly embarking and disembarking its passengers on the Subject Property without the authorization of Plaintiff or any U.S. national who holds a claim to the Subject Property.

**RESPONSE**: Carnival Corp. d/b/a Carnival Cruise Line denies the allegations of paragraph 12 and affirmatively states that starting in 2016 and pursuant to both a general and a specific license from the U.S. government Fathom Travel Ltd., formerly a subsidiary of Carnival PLC, which was subsequently dissolved on January 8, 2019, and assumed by Carnival PLC,

conducted cruises to Santiago, Cuba and embarked and disembarked passengers on docks at the port.

13. On information and belief, beginning on or about May 6, 2016 and continuing for at least a year thereafter, the Defendant also knowingly and intentionally participated in and profited from the communist Cuban Government's possession of the Subject Property without the authorization of Plaintiff or any U.S. national who holds a claim to the Subject Property.

**RESPONSE**: Carnival denies the allegations in paragraph 13.

14. The Defendant's knowing and intentional conduct with regard to the confiscated Subject Property is trafficking as defined in 22 U.S.C. § 6023(13)(A).

**RESPONSE**: Carnival denies the allegations in paragraph 14.

15. As a result of the Defendant's trafficking in the Subject Property, the Defendant is liable to Plaintiff for all money damages allowable under 22 U.S.C. § 6082(a).

**RESPONSE**: Carnival denies the allegations in paragraph 15.

16. Plaintiff timely provided the Defendant with written notice by certified mail of Plaintiff's intent to commence this action with respect to the Subject Property in accordance 22 U.S.C. § 6082(a)(3).

**RESPONSE**: The allegations in paragraph 16 state a legal conclusion and as such no response is required. To the extent a response is required, Carnival admits that it received a notice dated February 11, 2019. Carnival states that the notice and Section 6082 of the LIBERTAD Act speak for themselves; Carnival denies any allegation that is inconsistent with the terms of the notice of the text of the LIBERTAD Act.

**Claim for Damages**
**Title III of the LIBERTAD Act**

17. Plaintiff incorporates by reference paragraphs 1 through 16 as if fully stated herein.

**RESPONSE**: Carnival incorporates by reference its responses to paragraph 1 through 16 as if fully stated herein.

18. This claim is brought pursuant to Title III of the LIBERTAD Act, 22 U.S.C. § 6082.

**RESPONSE**: The allegations in paragraph 18 state a legal conclusion and as such no response is required.

19. As set forth in Title III and alleged above, beginning on or around May 6, 2016, the Defendant did traffic, as that term is defined in 22 U.S.C. § 6023(13)(A), in the Subject Property which was confiscated by the communist Cuban Government on or after January 1, 1959 and is therefore liable to Plaintiff, who owns the claim to the Subject Property for money damages.

**RESPONSE**: Carnival denies the allegations in paragraph 19.

20. Plaintiff is entitled to all money damages allowable under 22 U.S.C. § 6082(a), including, but not limited to, those equal to the sum of:

a. The amount greater of: (i) the amount certified by the Foreign Claims Settlement Commission, plus interest; (ii) the amount determined by a special master pursuant to 22 U.S.C. § 6083(a)(2); or (iii) the "fair market value" of the Subject Property, plus interest;

b. Three times the amount determined above (treble damages); and

c. Court costs and reasonable attorneys' fees.

**RESPONSE**: Carnival denies the allegations in paragraph 20, including all allegations in subparts.

21. As of the date of filing this Complaint, the United States Government has ceased suspending the right to bring an action under Title III, 22 U.S.C. § 6085, which therefore permits Plaintiff to seek the relief requested herein.

**RESPONSE**: Carnival admits that the United States Government, effective May 2, 2019, did not suspend the right to bring an action under Title III, and otherwise denies the allegations in paragraph 21.

## REQUEST FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendant as follows:

A. Ordering the Defendant to pay damages (including treble damages);

B. Ordering the Defendant to pay pre- and post-judgment interest on any amounts awarded;

C. Order the Defendant to pay attorneys' fees, costs, and expenses; and

D. Ordering such other relief as may be just and proper.

**RESPONSE**: Carnival denies that Plaintiff is entitled to judgment, and therefore, Carnival denies that Plaintiff is entitled to any relief.

## DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues so triable, and a trial pursuant to Rule 39(c), Federal Rules of Civil Procedure, as to all matters not triable as of right by a jury.

**RESPONSE**: Carnival denies that there is a right to a jury trial under Title III, and reserves its rights to strike the jury trial demand.

In addition to the foregoing responses, Carnival denies any liability for the claims alleged in the Complaint and denies each allegation that has not been specifically admitted.

## DEFENSES

Carnival asserts the following affirmative defenses to the claims alleged against it in the Complaint:

## FIRST DEFENSE – LAWFUL TRAVEL

Carnival's use of the Subject Property, if any, was at all times, incident to lawful travel to Cuba and necessary to the conduct of such travel. 22 U.S.C. § 6023(13).

## SECOND DEFENSE – LAWFUL TRAVEL

Carnival's transactions relating to and involving the Subject Property, if any, were at all times, incident to lawful travel to Cuba and necessary to the conduct of such travel. 22 U.S.C. § 6023(13).

## THIRD DEFENSE – FAILURE TO OWN CLAIM

Plaintiff's claim is barred because he does not own the claim he asserts.

## FOURTH DEFENSE – UNTIMELY ACQUISITION OF CLAIM

Plaintiff's claim is barred because, to the extent he ever acquired the claim he asserts, he acquired his claim after March 12, 1996. 22 U.S.C. § 6082(a)(4)(B). As shown in the attached Exhibit 1 (which includes a certified translation), if Plaintiff acquired the claim he asserts at all, he acquired the claim from his cousin Desiderio Parreno via a will executed in 2000.[1] Accordingly, Plaintiff acquired his claim, if at all, after March 12, 1996.

[1] Exhibit 2 shows that Desiderio inherited all of Albert Parreno's Cuban assets, including his claims to shares of La Maritima, S.A.

**FIFTH DEFENSE – INTERNATIONAL LAW**

Plaintiff's claim is barred to the extent that it interprets the LIBERTAD Act inconsistently with international legal principles, including limitations on the extraterritorial application of United States law.

**SIXTH DEFENSE – EX POST FACTO CLAUSE**

Plaintiff's claim is barred in whole or in part by the Ex Post Facto Clause to the extent Plaintiff seeks to penalize Carnival for conduct occurring before the LIBERTAD Act's cause of action came into effect.

**SEVENTH DEFENSE – ARTICLE II**

Plaintiff's claim is barred in whole or in part by Article II of the Constitution to the extent it seeks to impose liability for foreign policy decisions made by the Executive Branch.

**EIGHTH DEFENSE – STANDING**

The Court lacks jurisdiction over this case because Plaintiff lacks standing as Plaintiff has not suffered an injury in fact that is fairly traceable to Carnival's conduct and redressable by a favorable decision.

**NINTH DEFENSE – SETOFF**

Carnival is entitled to a set-off or reduction of any verdict or judgment for all amounts which have been paid or are payable to or for the benefit of Plaintiff or which are otherwise available to the Plaintiff.

**TENTH DEFENSE – ONE SATISFACTION RULE**

Plaintiff's damages are barred in whole or in part by the one-satisfaction rule.

**ELEVENTH DEFENSE – FIFTH AMENDMENT**

Plaintiff's damages claim is barred in whole or in part as the damage remedy under Title III is wholly disproportionate and violates the Due Process Clause of the Fifth Amendment.

**TWELFTH DEFENSE – EIGHTH AMENDMENT**

Plaintiff's damages claim is barred in whole or in part by the Eighth Amendment.

**THIRTEENTH DEFENSE – LACK OF INTENT**

Plaintiff's claim is barred in whole or in part because Carnival did not knowingly and intentionally traffic in the Subject Property.

**FOURTEENTH DEFENSE – LACK OF TRAFFICKING**

Plaintiff's claim is barred because it held only stock in a Cuban company, and thus, Plaintiff does not and did not own a claim to property that Carnival allegedly trafficked in.

**FIFTEENTH DEFENSE – FAILURE TO STATE A CLAIM**

Plaintiff's complaint fails to state a claim upon which relief may be granted.

**SIXTEENTH DEFENSE – LACK OF USE OF ALL CLAIMED PROPERTY**

Plaintiff's damages claim is barred in whole or in part because to the extent Carnival trafficked in Plaintiff's claimed property (which Carnival denies), Carnival did not traffic in all of the property underlying Plaintiff's claim.

**SEVENTEENTH DEFENSE – ELECTION OF REMEDIES**

Plaintiff's claim is barred in whole or in part because it has brought another "civil action or proceeding" under "Federal law" that seeks monetary compensation "by reason of the same subject matter" as that of this suit. 22 U.S.C. § 6082(f).

**EIGHTEENTH DEFENSE – CAUSATION**

Plaintiff's claim is barred in whole or in part for failure to plead causation.

**NINETEENTH DEFENSE – ACT OF STATE**

Plaintiff's claim is barred by the act of state doctrine, which must be applied here because it has constitutional underpinnings. *See Occidental of Umm al Qaywayn, Inc. v. A Certain Cargo of Petroleum Laden Aboard Tanker Dauntless Colocotronis*, 577 F.2d 1196, 1201 n.4 & n.6 (5th Cir. 1978) ("Although in one decision the [Supreme] Court stated both that the [act of state] doctrine had constitutional underpinnings and the doctrine was not compelled by the Constitution, the better view would be that the doctrine is constitutionally compelled by the concept of separation of powers and placement of plenary foreign relations powers in the executive.").

**TWENTIETH AFFIRMATIVE DEFENSE – INCORRECT CERTIFIED AMOUNT**

The amount certified by the Foreign Claims Settlement Commission ("FCSC") is incorrect, and therefore rebuttable. The FCSC valued an ownership interest in La Maritima, S.A., a Cuban company, not the underlying assets of the company.

**TWENTY-FIRST DEFENSE – NO CLAIM**

Plaintiff's claim is barred in whole or in part by the fact that at the time of the confiscation, the property Plaintiff alleges he owns a claim to was owned by Cuban nationals, and accordingly, those nationals had no "claim" for an expropriation under international law.

**TWENTY-SECOND DEFENSE – IMPROPER ASSERTION OF CERTIFIED CLAIM**

Plaintiff's claim is barred in whole or in part because he is seeking to assert an "interest in property for which a United States national has a certified claim." 22 U.S.C. § 6082(a)(5)(d).

**TWENTY-THIRD DEFENSE – STATUTE OF LIMITATIONS OR REPOSE**

Plaintiff's claim is barred in whole or in part by the applicable statute of limitations or repose because it involves uses of property and transactions that occurred more than two years before suit was filed. 22 U.S.C. § 6084.

**TWENTY-FOURTH DEFENSE – DUE PROCESS**

Plaintiff's claim is barred in whole or in part by the Fifth Amendment's Due Process Clause including because Plaintiff seeks to hold Carnival liable for conduct that the Federal Government authorized as lawful by both general and specific licenses and under regulations promulgated under 31 C.F.R. Part 515 and facilitated and encouraged as a matter of national policy, because Carnival reasonably relied on the LIBERTAD Act's suspension, because Plaintiff seeks to hold Carnival liable for conduct occurring before the LIBERTAD Act's cause of action came into effect, because the LIBERTAD Act is unconstitutionally vague, and to the extent Plaintiff seeks to use findings from the Foreign Claims Settlement Commission against Carnival because Carnival had no opportunity to be heard before the Commission.

Dated: November 14, 2019

Respectfully submitted,

By: *s/ Stuart H. Singer*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on all counsel of record via the court's CM/ECF System on November 14, 2019.

By:*/s/ Stuart H. Singer*

# Exhibit 1

LIONBRIDGE

STATE OF NEW YORK )
) ss
COUNTY OF NEW YORK )

**CERTIFICATION**

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached Protocol No. 355746 I.

Dilara O'Neil, Proofreader
Lionbridge

Sworn to and subscribed before me

this 15TH day of SEPTEMBER, 20 19.

LAURA E MUSICH
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MU6386791
Qualified in Queens County
My Commission Expires 01-28-2023

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**No. 355746 I**

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Section and registration [deletion] indicate Second: [illegible] position of Treasurer, stating that [illegible] directly to the Chairman of the company Carlos Hernán [illegible] Lund, without on the date [illegible] taken any provisions whatsoever in that respect. [illegible] in this act, requests the Public Registry to register said [illegible]. That is all. I issue the first copy to the grantor. Having read what is written to the appearing party [illegible] we sign in the city of San José at 3:00 pm on January twenty-fifth, two thousand.
[signature] [signature]

**NUMBER FIFTY-ONE.** Before me, **ANDRE JESUS VARGAS SIVERIO**, Notary Public with offices in San José, appeared Mr. **DESIDERIO PARREÑO VELAZQUEZ**, of legal age, single, a landlord, residing in San Rafael de Escazú, identity card number eight-zero sixty-three one hundred fifty, and states: That he appears to state for the record the provisions of his last will, which he orders as follows: **One**. **Bequests**. He bequeaths to his friend, Mr. **LUIS TOUS PONS**, of legal age, married, a business man, residing in San Rafael de Escazú, identity card number eight-zero thirty-two hundred seventy-four, all the furnishings, appliances, rugs, décor, paintings, books, clothing, and other personal effects, which are found in his home at the time of his death, so that they may be used personally, gifted to relatives and friends of the deceased, sold, donated to charity, or disposed of in any other manner he sees fit. If Luis Tous Pons dies before the testator and therefore cannot make use of his bequest, Ms. **ROSARIO GOLDEROS PONS**, of legal age, married, a housewife, residing in San Rafael de Escazú, residence ID number one hundred seventy-five – one hundred eighteen thousand six hundred seventy-one-ten thousand seven hundred ninety-eight shall be called to collect them. **Two**. He bequeaths to Ms. Maria Julia Anaya Moreno, his domestic servant, of legal age, a widow, a Salvadoran national, residence ID number two hundred twenty-one hundred four thousand seventy-four-four thousand eighty-eight, resident in San José, Gravilias de Desamparados, the

exact sum of two million five hundred thousand colones. If Ms. Maria Julia Anaya Moreno dies before the testator and therefore cannot make use of her bequest, the **ASILO CARLOS MARÍA ULLOA** [Carlos Maria Ulloa Nursing Home] (Guadalupe) shall be called to collect it. **Three**: He bequeaths to Ms. **JUANA MARTINEZ MARTINEZ**, known as Juana Martínez Campos, who was previously his domestic servant, of legal age, a widow, a Salvadoran national, residence ID number two hundred twenty-one hundred sixteen thousand eight hundred seventy-five-six thousand six hundred forty-eight, resident in San José, Hatillo Ocho, Avenida thirty-nine, patio six, house one thousand eight hundred thirty-four, the exact sum of two million five hundred thousand colones. If Juana Martinez Martinez dies before the testator and therefore cannot make use of her bequest, Ms. **LAURA SUSANA ENRIQUEZ**, of legal age, identity card number eight-one hundred one-seven hundred seventy-eight, resident in San José, Dulce Nombre de Coronado, Villanova Urbanización, second floor, house number twenty-six. shall be called to collect it. **Four:** He bequests to his cousin and godchild **JAVIER CARCIA-BENGOCHEA BOLIVAR**, of legal age, married, a doctor of medicine, a United States citizen, resident of one thousand two hundred one, Vandiveer Road, Jacksonville, Florida, thirty thousand two hundred ten United States of North America, whatever assets, property or rights in Cuba that were appropriated by the Communist government of Fidel Castro, but that are the property of the testator and that could someday be recovered. These assets and rights include, inter alia, an apartment building situated at calle veinticuatro [24], between Séptima Avenida and la Sierra, Miramar Division, Marianao, Havana; another apartment building situated at Avenida treinta y dos [32], number three thousand two hundred two, Alturas de Miramar, Marianao, Havana; three thousand three hundred registered shares of "La Maritima Sociedad Anónima," concessions, dock, and warehouses in the port of Santiago de Cuba, one thousand five hundred shares of which were issued in the name of Maria Velásquez, widow of Parreño, already deceased, nine hundred in the name of Alberto Parreño Velásquez, already deceased, and nine hundred in the name of Desiderio Parreño Velásquez, who inherited the others upon the death of, respectively, his mother and brother, who bequeathed to him a valuable oil painting "Venice Lagoon with the Fondamento Nuovo" [sic], by the eighteenth century Italian painter Francesco Guardi, said painting was acquired by the testator in the Parke-Bernet Gallery, now Sotheby's, in New York, in the 1950s, and

Official Paper


**No. 355746 I**

**PROTOCOL**

which was then stolen from his home in Miramar by the Castro government, another painting by the nineteenth-century English painter George Frederick Watts, "Prairie with Cattle", bought in New York in the Aquabella gallery, which was also stolen. If Doctor Javier García Bengochea predeceased the testator, and therefore cannot make use of his bequest, Mrs. **MARGARITA GARCÍA BENGOCHEA**, better known as Mrs. James L. Schumacher, of legal age, married, a United States citizen, resident at one thousand eight hundred thirty-six Montgomery Place, Jacksonville, Florida, shall be called to collect it. **Five**. **Heirs**. The sole and universal heirs of the rest of his assets in Costa Rica, minus the costs for his burial, debts of the estate, and any other debts that remain pending at the time of his death are established as the following entities, in the proportions indicated: to **the ASOCIACION EDUCACIONAL MARIA AUXILIADORA DE COSTA RICA** [Maria Auxiliadora Educational Association of Costa Rica], thirty-three percent of the total to be distributed; to the **ASILO CARLOS MARIA ULLOA** [Carlos Maria Ulloa Nursing Home], Guadalupe, thirty-three percent of the total to be distributed; to the **ASOCIACION ORATORIA SALESIANA DON BOSCO** [Don Bosco Salesian Oratory Association], for the Centro Educacional Saleciano (CEDES) Don Bosco [Don Bosco Salesian Educational Center], thirty-four percent of the total to be distributed. **Six**: That any other testamentary provisions that may have been granted previously are revoked and voided. **Seven**: That he designates to the aforementioned Mr. Luis Tous Pons, as Primary Executor and Mr. Pedro Celestino Joaristi Arguelles, of legal age, married, a banker, identity card number eight-zero fifty-nine-two hundred ninety-one, resident in San Rafael de Escazú, as alternate executor. **Eight**: He makes a special provision that the Executor may convert any sum that is part of the assets of the testator in dollars into colones, exchanging such assets at the exchange rate in effect when the exchange is made; none of the heirs or legatees may object to this exchange rate. That is all. I issue a first copy, which I hereby deliver to the testator. Having read what is written to the appearing party before the witnesses Lilliana Castro López, of legal age, single, an attorney, resident in La Uruca, from the Rehabilitation Center one hundred seventy-five to the south, identity card number one-five hundred eighty-seven-nine hundred twenty-one, Marianella Mora Barrantes, of legal age, single, a student, resident in San Francisco de Guadalupe at Centro Comercial one hundred seventy-five to the south, identity card number one-nine hundred thirty-seven-one hundred fifty,

Jimmy Marín Mora, of legal age, married one time, a painter, resident in Cartago, Urbanización Manuel de Jesús Jiménez, house one hundred thirty-two K, identity card number one-six hundred eight-eight hundred eighty-nine. Before said witnesses the grantor states his full agreement, and all parties sign in the city of San José, at 3:30 pm on January twenty-fifth, two thousand.

[4 signatures]

**NUMBER FIVE-HUNDRED TWO.** The following persons appeared before me, Andre Jesús Vargas Siverio, with offices in this city: Mr. **ESTEBAN BOLAÑOS LUND**, an odontologist, identity card number one-four hundred seventy-eight-five hundred fifty-two, and Mrs. **JANE DURMAN ESQUIVEL**, housewife, identity card number one-four hundred fifty-three-one hundred, both of legal age, married one time, residents of Río Oro de Santa Ana, fifty meters to the east of the church, and STATE: That they appear in order to state for the record the provisions of their last will and testament, which they order as follows: That they establish as the sole and universal heirs to equal parts of the entirety of their assets, which are common and registered shares in the joint stock companies known as Bolaños y Durman, Servicios Peridontales, Costa Mesa, Indio Junin, Atardeceres de Coral, Lila del Norte and [Veintisiete?], or whatever assets subsequent to this date that emerge on their death, to their children **Sebastián, Jimenz** [sic]**, and Juliana**, all with the surnames **Bolaños Durman**, students and residents at the same address as their parents, the first being of legal age, with identity card

[redacted]

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sección y registro indicados. **Segundo:** Que desde hace varios años [illegible] al cargo de Tesorero, manifestándose que [illegible] directamente al señor Presidente de la compañía Carlos Hernán Bolaños Lund, sin que a la fecha la Asamblea de socios haya tomado previsión alguna al respecto. **Tercero:** Que habiendo transcurrido más que suficiente en este acto, solicita al Registro Público la inscripción de dicho nombramiento. En todo. Expido un primer testimonio para el otorgante. Dictó lo pedido al compareciente, manifiesta conforme y firmamos en la ciudad de San José a las quince horas del veintiocho de enero del dos mil.

**NUMERO CINCUENTA Y UNO.-** Ante mí, **ANDRE JESUS VARGAS SIVERIO,** Notario Público con oficina en San José, comparece el señor **DESIDERIO PARREÑO VELAZQUEZ,** mayor, soltero, rentista, vecino de San Rafael de Escazú, cédula de identidad número ocho-cero sesenta y tres-ciento cincuenta, y dice: Que comparece para hacer constar las disposiciones de su última voluntad que ordena como sigue: **Primero. Legados:** Lega a su amigo, don **LUIS TOUS PONS,** mayor, casado, empresario, vecino de San Rafael de Escazú, cédula de identidad número ocho-cero treinta-doscientos setenta y cuatro, todos los muebles, electrodomésticos, cubiertos, adornos, cuadros, libros, ropa y demás efectos personales, que en el momento de su deceso se encuentren en su casa de habitación, para que los aproveche personalmente, los regale a parientes y amigos del difunto, los venda, los reparta a caridades o de cualquier otra manera que estime conveniente disponga de ellos. En caso de que Luis Tous Pons falleciera antes que el testador y por lo tanto no pueda aprovechar su legado, será llamada a recogerlo a la señora ROSARIO GOLDEROS PONS, mayor, casada, de oficios del hogar, vecina de San Rafael de Escazú, cédula de residencia número ciento setenta y cinco- ciento dieciocho mil seiscientos setenta y uno-diez mil setecientos noventa y ocho. **Segundo:** Lega a la señora María Julia Amaya Moreno, su empleada domestica, mayor, viuda, de nacionalidad salvadoreña, cédula de residencia número doscientos veinte-ciento cuatro mil setenta y cuatro-cuatro mil ochenta y ocho, vecina de San José, Gravilias de Desamparados, la

cantidad de dos millones quinientos mil colones exactos. Si doña María Julia Anaya Moreno falleciera antes que el testador y por lo tanto no pudiera aprovechar su legado, será llamado a recogerlo el **ASILO CARLOS MARÍA ULLOA** (Guadalupe). **Tercero**: Lega a doña **JUANA MARTINEZ MARTINEZ**, conocida como Juana Martínez Campos, quien antiguamente fue su empleada doméstica, mayor, viuda, de nacionalidad salvadoreña, cédula de residencia número doscientos veinte-ciento dieciseis mil ochocientos sesenta y cinco-seis mil seiscientos cuarenta y ocho, vecina de San José, Hatillo Ocho, avenida treinta y nueve, acera seis, casa mil ochocientos treinta y cuatro, la cantidad de dos millones quinientos mil colones exactos. Si Juana Martínez Martínez falleciera antes que el testador y por lo tanto no pudiera aprovechar su legado, será llamado a recogerlo la señora **LAURA SUSANA ENRIQUEZ**, mayor, cédula de identidad número ocho-ciento uno-setecientos sesenta y ocho, vecina de San José, Dulce Nombre de Coronado Urbanización Villanova segunda etapa, casa número veintiseis. **Cuarto**: Lega a su primo y ahijado **JAVIER GARCIA-BENGOCHEA BOLIVAR**, mayor, casado, doctor en medicina, ciudadano estadounidense, residente de mil doscientos uno, Vandiveer Road, Jacksonville, Florida treinta mil doscientos diez Estados Unidos de Norteamérica, cualesquiera bienes, propiedades o derechos en Cuba que fueron apropiados por el gobierno comunista de Fidel Castro, pero que son de la propiedad del testador y que puedan algún día ser recuperados. Estos bienes y derechos incluyen entre otros un edificio de apartamentos situado en calle veinticuatro, entre Séptima Avenida y la Sierra, Reparto de Miramar, Marianao, Habana; otro edificio de apartamentos situado en avenida treinta y dos, número tres mil doscientos dos, Alturas de Miramar, Marianao, Habana; tres mil trescientas acciones nominativas de "La Marítima Sociedad Anónima", concesiones, muelle y almacenes en el Puerto de Santiago de Cuba; mil quinientas de cuyas acciones fueron emitidas a nombre de María Velásquez viuda de Parreño, ya difunta, novecientos a nombre de Alberto Parreño Velásquez ya difunto, y novecientas a nombre de Desiderio Parreño Velásquez, quien heredó las otras a la muerte de, respectivamente, su madre y su hermano quienes testaron a su favor, un valioso cuadro al óleo " Laguna de Venecia con el Fondamento Nuovo", del pintor italiano del siglo dieciocho Francesco Guardi, cuyo cuadro fue adquirido por el testador en la Galería Parke-Bernet, hoy Sotheby's en New York en los años cincuenta y

PAPEL DE OFICIO

Nº 355746 I

PROTOCOLO

46

TOMO Nº 12

huego fuera sustraído de su casa en Miramar por el gobierno de Castro, otro cuadro del pintor inglés del siglo diecinueve George Frederick Watts "Pradera con Ganado" comprado en Nueva York en la galería Aquabella y que también fue sustraído. Si el doctor Javier García Bengochea falleciera antes que el testador y por lo tanto no pudiera aprovechar su legado, será llamada a recogerlo la señora **MARGARITA GARCÍA BENGOCHEA**, mejor conocida como Mrs. James L. Scrumacher, mayor, casada, ciudadana estadounidense, vecina de mil ochocientos treinta y seis Montgomery Place, Jacksonville, Florida. **Quinto. Herederos.** Instituye como únicos y universales herederos del resto de sus bienes en Costa Rica, deducidos los gastos de su entierro, las deudas de la mortual y cualesquiera otra deudas que hayan quedado pendientes en el momento de su deceso, a las siguientes entidades en las proporciones que se indican: a la **ASOCIACION EDUCACIONAL MARIA AUXILIADORA DE COSTA RICA** un treinta y tres por ciento del total a repartir, al **ASILO CARLOS MARIA ULLOA**, Guadalupe, un treinta y tres por ciento del total a repartir, a la **ASOCIACION ORATORIA SALESIANA DON BOSCO**, para Centro Educacional saleciano Cedes don Bosco, un treinta y cuatro por ciento del total a repartir. **Sexto**: Que revoca y deja sin efecto cualesquiera otras disposiciones testamentarias que hubiere otorgado previamente. **Setimo**: Que designa como Albacea Propietario a don Luis Tous Pons, previamente mencionado y como Albacea Suplente a don Pedro Celestino Joarist: Arguelles, mayor, casado, banquero, cédula de identidad número ocho-cero cincuenta y nueve-doscientos noventa y uno, vecino de San Rafael de Escazú. **Octavo**: Dispone especialmente que el Albacea podrá convertir a colones cualquier cantidad que, formando parte de los bienes del testador esté en dóláres, cambiando éstos al tipo de cambio vigente cuando se efectúe el cambio y sin que ninguno de los herederos o legatorios pueda objetar este tipo de cambio. Es todo. Expido un primer testimonio que entrego en el acto al testador. Leído lo escrito al compareciente ante los testigos Lilliana Castro López, mayor, soltera, abogada, vecina de La Uruca, del centro de rehabilitación ciento setenta y cinco al sur, cédula de identidad número uno-quinientos ochenta y siete-novecientos veintiuno, Marianella Mora Barrantes, mayor, soltera, estudiante, vecina de San Francisco de Guadalupe del Centro Comercial ciento setenta y cinco al sur, cédula de identidad número uno-novecientos treinta y siete-ciento cincuenta,

Jimmy Marín Mora, mayor, casado una vez, pintor, vecino de Cartago urbanización Manuel de Jesús Jiménez, casa ciento treinta y dos K, cédula de identidad número uno-novecientos ocho-ochocientos ochenta y nueve. Ante los testigos dichos manifestó el otorgante su plena conformidad y firmamos todos en la ciudad de San José, a las quince horas con treinta minutos del veintiocho de enero de dos mil.

NUMERO CINCUENTA Y DOS.- Ante mí, Andre Jesús Vargas Siverio, oficina en esta ciudad, comparecen los señores ***ESTEBAN BOLAÑOS LUND***, odontólogo, cédula de identidad número uno- cuatrocientos setenta y ocho-quinientos cincuenta y dos y ***JANE DURMAN ESQUIVEL***, ama de casa, cédula de identidad número uno-cuatrocientos cincuenta y tres- cien, ambos mayores, casados una vez, vecinos de Río Oro de Santa Ana, cincuenta metros al este de la iglesia y DICEN: Que comparecen para hacer constar las disposiciones de su última voluntad que ordenan como sigue: Que instituyen como únicos herederos universales por partes iguales de la totalidad de sus bienes, que son acciones comunes y nominativas de las sociedades anónimas denominadas Bolaños y Durman, Servicios Peridontales, Costa Mesa, Indio Junín, Atardeceres de Coral, Lila del Norte y Veintisiete, o cualesquiera otros bienes futuros a esta fecha que aparezcan a su muerte, a sus hijos Sebastián, Jimenr y Juliana, todos de apellidos Bolaños Durman, estudiantes y vecinos del mismo domicilio que sus padres, el primero mayor y con cédula de identidad

# Exhibit 2

I, ALBERT J. PARRENO, residing in New York, New York, do make, publish and declare this to be my Last Will and Testament, hereby revoking all wills and testamentary dispositions by me at any time heretofore made.

FIRST: I direct that all my estate, inheritance, succession and transfer taxes, of whatever jurisdiction, together with interest and penalties thereon if any, paid by my Executrix by reason of my death with respect to any property included in my estate for such tax purposes, whether or not passing under this Will, shall be paid out of my residuary estate and shall not be apportioned.

SECOND: I hereby expressly decline to exercise any power or powers of appointment I may have at the time of my death over any property, and nothing contained in this Will shall be construed as exercising any such power or powers of appointment.

THIRD: I give and bequeath the sum of Ten Thousand Dollars ($10,000) to my brother, DESIDERIO PARRENO, now residing in Madrid, Spain, if he survives me.

FOURTH: I give and bequeath to PRINCETON UNIVERSITY, for its library, and to the JOHN CARTER BROWN LIBRARY of Brown University any ten items as each such library shall select from my collection of rare books and manuscripts. In selecting their respective ten items, I direct that the Librarian of each said library shall consult with the other. All other books and manuscripts from my collection I direct my Executrix to sell at auction in New York or London, or otherwise to dispose of as she shall determine in her complete discretion, except as otherwise provided in Paragraph SIXTH hereof, the proceeds being added to my

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residuary estate.

FIFTH: I give, devise and bequeath to my said brother, DESIDERIO PARRENO, all my rights to and under property held by me which has been confiscated by the Fidel Castro regime in Cuba, including, but not limited to, my shares in La Maritima S.A., Terminal Naviera S.A. and Molinera Oriental S.A. (all Cuban corporations) and my interest in real estate located in Cuba.

SIXTH: All the rest, residue and remainder of the property, real and personal and wheresoever situated, which I may own at the time of my death or to which I may then be or may thereafter become entitled, including any property hereinbefore mentioned but not effectually disposed of, I give, devise and bequeath to my wife, FREDERICA PARRENO, if she shall survive me.

If my said wife shall predecease me, I dispose of my residuary estate as follows:

A. I give and bequeath my collection of rare books and manuscripts to PRINCETON UNIVERSITY, for its library, and to the JOHN CARTER BROWN LIBRARY of Brown University, in as nearly equal shares as may be practicable, division among them to be as they may agree after consultation by their respective Librarians or, failing agreement, to be made by my Executor, whose decision shall be conclusive. In the event any of the items in the collection are not desired by either of these libraries I direct my Executor to sell at auction or otherwise dispose of such items, adding the proceeds therefrom, if any, to my residuary estate.

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B. The remainder of my residuary estate I give, devise and bequeath as follows:

(1) One-half to my said brother, DESIDERIO PARRENO, if he survives me.

(2) Four-tenths to PRINCETON UNIVERSITY, to be used for the Latin American collection of its said library.

(3) One-tenth to my first cousin, JOSE PARRENO, presently residing in Elmhurst, Queens, New York, if he survives me.

If either of the two aforesaid individuals predecease me, I direct that his share be divided between the remaining beneficiaries in the same proportion as designated above. If both of said individuals predecease me, I direct that all of the property passing under this subparagraph go to PRINCETON UNIVERSITY, to be used as aforesaid.

SEVENTH: Should any of the persons named or designated herein die either simultaneously with me or so that it is difficult to determine who predeceased the other, I direct that such person shall be deemed not to have survived me, and the provisions of this Will based on such contingency shall take effect accordingly.

EIGHTH: In addition to the general powers vested by law in executors, I specifically authorize and empower the Executrix hereof with respect to all property at any time held by her hereunder as follows:

(a) To continue to hold any property, real or personal, in the form in which it may be at the time of my death or of the receipt thereof by her for such time as she may deem proper or desirable, and she shall not be liable for any loss resulting from so doing nor for failure to diversify.

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(b) To litigate, compromise, submit to arbitration, or settle, any claim in favor of or against me or my estate.

(c) To pay, as soon as may be convenient after my death, all my just debts, including the expenses of my last illness which I direct shall be paid out of my estate, all funeral expenses and expenses of the administration of my estate, including ancillary administration wherever the same may be required.

(d) To convert, exchange, sell at public or private sale, or otherwise dispose of, any securities or other property at any time held by her upon such terms and conditions and on credit or otherwise as she shall deem advisable.

(e) To mortgage, partition, release, exchange, grant options with respect to, sell at public or private sale, and convey without Court order any and all real estate or interest therein at any time owned by my estate, at such times, and upon such terms, and in such manner as she may deem advisable; and to join with co-owners in the carrying out of any of the above powers.

(f) To abandon any property, real or personal, which she may deem worthless or not of sufficient value to warrant keeping or protecting, or to convey any such property for a nominal consideration or without consideration so as to prevent the imposition of any liability by reason of the continued ownership thereof.

(g) To invest and reinvest any funds at any time held by her in such manner as she may deem advisable, including the purchase of shares or interests in common trust funds, mutual funds, pools, syndicates, joint ventures and the like, without limitation to investments legal for fiduciaries, and irrespective of the proportion that such property or property of a similar character held bears to the total value of all investments held and irrespective of whether the same be expected to produce income; also to hold any funds uninvested or on deposit with one or more savings banks or other depositories, with or without interest, and whether or not such deposit be insured, for such periods as she may deem advisable.

(h) To pay to herself at any time and from time to time without Court order the amount of any personal claims against me.

(i) To have and to exercise with respect to any property held by her hereunder all the rights, powers and privileges which an individual owner would have, including, but without intending hereby to limit the above grant in any manner, power to give proxies; to pay assessments and other sums which she may deem advisable for the protection of any property held by her; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, liquidations or other capital readjustments of any corporation or entity and in connection therewith to deposit securities with or transfer title to any property to any protective or other committee or depositary under such terms as she may deem advisable; to exercise or sell stock subscription or conversion rights; to surrender for exchange, upon such terms and conditions as she shall deem proper, any securities or other property for other securities or property of like or different nature, whether of the same or a different corporation, company or association; and to accept and retain any securities or other property received through the exercise of any of the foregoing powers.

(j) To register any securities or other property in the name of any nominee, whether or not the nominee of a bank, trust company or private banker, or to hold securities unregistered or in bearer form.

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(k) To borrow money for the purpose of paying taxes or for any other purpose in connection with the administration of my estate and to secure any or all amounts so borrowed by mortgage or pledge of any property, real or personal, at any time forming a part of my estate.

(l) To appoint or employ such agents and assistants, such investment or tax counsel or advisors, and such custodian of any or all of the assets of my estate as she may deem advisable.

(m) To transfer all or any part of the assets of my estate from any state of the United States or any foreign country to any other state or country and to administer my estate in any state or country in which she may deem it desirable to do so for the purpose of preserving, safe-guarding or enhancing the same or for convenience of administration.

(n) To elect to claim as deductions on one or more of the income tax returns of my estate, rather than on federal or state estate tax returns, all or any part of any items which by law may be deducted from either.

(o) To join with my widow in the execution and filing of joint income tax returns for the year in which my death shall occur and, if the same shall not have been filed at the time of my death, for the year prior thereto, and to pay the full amount of the tax shown on such returns to be due, provided that no such payment shall exceed the amount for which I would be liable if returns were filed for me as a single person for the period or periods covered by such returns. Also for gift tax purposes to execute consents to the treatment of all gifts made by my wife prior to my death as having been made one-half by me and to pay the tax due from me as a result thereof and to pay any tax attributable to my wife by reason of her consent to the treatment of gifts made by me prior to my death as having been made one-half by her.

(p) To distribute all or any part of my estate wholly or in part in kind.

(q) To execute and deliver any and all instruments necessary, proper or convenient in connection with the exercise of any one or more of the foregoing powers.

NINTH: I appoint my wife, FREDERICA PARRENO, to be Executrix of this Will. If she shall for any reason fail to qualify or cease to act, I appoint MINER D. CRARY, JR. as Executor hereof. If at any time there shall be no individual acting or qualified to act as Executor hereof, I appoint FIRST NATIONAL CITY BANK to be sole Executor hereof.

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TENTH: I direct that no person at any time acting as Executor hereof shall be required to give bond for the faithful performance of his, her or its duties as such in any jurisdiction in which called upon to act.

ELEVENTH: No person at any time acting as Executor hereof shall be required to render annual or other periodic accounts unless requested to do so by an adult residuary legatee. Any account rendered by my Executor or by the personal representative of a deceased Executor, which is approved in writing by each adult, irrespective of whether any such person be also one of such Executors, shall be binding upon all persons then or thereafter interested in my estate and shall constitute a release and discharge to my Executor.

TWELFTH: Any person at any time acting as Executor is hereby authorized, acting in his or her own right as an individual, to become the purchaser at public or private sale of any asset of my estate or of any property held for a minor at the fair market value thereof as freely as though he or she were not then acting in such fiduciary capacity.

IN WITNESS WHEREOF, I have hereunto set my seal and have subscribed these presents and do publish and declare the same as and for my Last Will and Testament in the presence of the witnesses attesting the same at my request this 5th day of July, One Thousand Nine Hundred and Sixty-six.

ALBERT J. PARRENO (SEAL)

SUBSCRIBED, SEALED, PUBLISHED and
DECLARED by ALBERT J. PARRENO,

the Testator above named, as and for his Last Will and Testament, in our presence, and we, at his request, in his presence, and in the presence of one another, have hereunto subscribed our names as witnesses this 5th day of July, 1966.

| | | |
|---|---|---|
| David R. Lindskog | residing at | 300 East 71st Street<br>New York, N. Y. |
| Edward E. Kable | residing at | 109 West 75th St<br>New York, N. Y. |
| Alfred S. Goldfield | residing at | 315 W. 70 St.<br>New York, N. Y. |