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Legal battle over Miami bank allegedly controlled by Venezuela intensifies

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File photo of Venezuelan leader Nicolás Maduro. MATIAS DELACROIX AP Photo

The legal battle over the control of a Miami bank alleged to have been secretly run by the Venezuelan government is heating up, following the efforts of its original owner to take back the reins of the bank's Curaçao-based parent company. The original owner, Venezuelan-American businessman Juan Santaella, had previously sued members of Eastern National Bank's board of directors, including Gabina Rodríguez, who chaired the board between 2015 and 2021. The suit claims that she assumed control of ENB after she

was appointed by the Venezuela government in 2009 as the intervenor of the bank's parent companies, Venezuelan registered Corpofin and Curaçao registered Mercorp. The lawsuit filed in January in a South Florida federal court alleges that the small Miami bank has been under the control of Venezuelan leader Nicolas Maduro through Rodriguez, and that the Caracas socialist regime used it to evade the U.S. sanctions.

"Gabina Rodriguez, as an agent of the Maduro regime, exercises unchallenged control over the Eastern Board of Directors. Even though Gabina Rodriguez is no longer a member of the Board following the 2020 Consent Order, she (and thus the Maduro regime) remains in sole control of ENB due to the Venezuelan Government's appointment of Gabina Rodriguez as the receiver for Corpofin, which wholly owns Mercorp, which in turn owns more than 99% of ENB's shares," the lawsuit stated.

But Santaella gained control of Mercorp and replaced Rodriguez with Juan Jose Caso as the administrator of the Curacao-based holding company, sources close to the plaintiff told the Miami Herald.

The sources said that the change was approved in a Mercorp's shareholders meeting and Caso's name currently appears as the company's statutory director in the island's commercial register.

Santaella originally bought the Hialeah-headquartered bank in the 1980s, but lost control following the Venezuelan financial crisis of 1994, which led to the demise of several Venezuelan banks, including Bancor, a large bank belonging to Santaella. The Venezuelan government ended up taking over Bancor's and Eastern's parent company, Corpofin, and since then the small U.S. bank has been under state control.

Eastern National Bank has nearly \$260 million in assets and four branches in South Florida, including Miami, Hialeah and Doral.

In a written statement sent to the Miami Herald, Eastern's management said that there is no disputing that Mercorp N.V. is Eastern's majority shareholder. But the statement said that "there is now a dispute of who is in control of Mercorp and whether a purported recent change in control and management was authorized or done in compliance with the laws of the U.S., Curaçao and Venezuela."

"In response, the bank has been in communication with its federal regulators... for their input. Until the Bank receives clear guidance from its regulators, the Bank is at risk of violating US banking and sanctions laws and is thus constrained from taking any further action on these requests at this time," it said.

The bank had previously denied emphatically that it was under control of the Maduro regime, saying this was a lie spread by Santaella.

"This is patently untrue and ignores the reality that Eastern is a U.S. licensed financial institution operating for 53 years under the supervision and approval of U.S. regulatory agencies. Eastern obtained the required approvals and clearances from [U.S. regulators] to legally operate in the United States and continues to work to effectively serve the South Florida community," the bank said in a statement issued in August.

The U.S. government has leveled a series of sanctions against the Venezuelan regime and dozens of its leaders, accusing them of destroying Venezuelan democracy, being involved in numerous corruption schemes and having turned the country into a narco-trafficking state.

The sanctions by the Treasury Department's Office of Foreign Assets Control prohibit companies and citizens under U.S. jurisdiction from doing business with Venezuelan state officials and specified individuals and entities, unless they have special Treasury licenses.

In the documents presented in court, the defendants acknowledged that the bank's shareholders' composition is unique, but said that does not mean that it is under the control of the Caracas regime and emphasized that the bank obtained the necessary permission from Treasury to operate in the United States under the current ownership structure.

Santaella disagrees. In the lawsuit introduced earlier this year, he claims that Rodríguez's relationship with the Maduro regime is clearly outlined in the fact that the regime named her in 2009 as the recipient of Corpofin, granting her at the time total control of Mercorp.

That gave Rodriguez the authority to appoint herself as sole managing director of Mercorp, which in turn holds the majority block of shares in Eastern, and therefore has the votes — unless the voting rights are restricted — needed to elect members of Eastern's board of directors, the lawsuit claims.

Rodríguez has had a long career as a Venezuelan public employee for almost 30 years, working at the state-owned Banco Industrial de Venezuela in 1993, at the Comptroller General of the Republic from 1993-02, and at the Ministry of Transport and Communications.

The complaint claims that Eastern helped the regime maintain access to the international financial system after "all U.S. banks" terminated their correspondent banking relationships with Banco de Venezuela.

That decision later caused problems for the bank after the Comptroller of the Currency, an independent Treasury bureau, notified Eastern in 2018 that it had detected a series of deficiencies in anti-money-laundering practices and others related to bank secrecy rules related to operations involving Banco de Venezuela accounts.

In the notice, the bureau said it had identified 10 account relationships for which there was "insufficient due diligence information," the lawsuit says.

The Comptroller ordered Eastern's board, among other things, to appoint an enforcement committee made up of three directors, two of whom could not be employees, executives or shareholders of the bank

According to the lawsuit, the bank's directors failed to adopt the appropriate corrective measures, which was highlighted by the Comptroller's Office itself in another warning issued in 2020.



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