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Replying To A Wall Street Journal Editorial From Those Who Were Attacked And On Behalf Of Those Who Were Attacked.

The Wall Street Journal

New York, New York

19 May 2022

Biden's Strange Help for Cuba

Why aid the struggling anti-American regime in Havana now?

By The Editorial Board

Relevant Excerpts: *"The new policy allows U.S. financing for "independent" Cuban entrepreneurs, but no such thing exists. Reality isn't stopping Team Biden, which on May 10 issued a license—from the Office of Foreign Assets Control—authorizing a U.S. company to invest and provide financing to a Cuban company.... The license likely violates the Cuban Liberty and Democratic Solidarity Act of 1996, which prohibits the extension of credit to Cuba."*

On 10 May 2022, the Office of Foreign Assets Control (OFAC) issued a license for a United States-based entity, in this instance an LLC created specifically for the transaction, to deliver a direct equity investment in and provide direct financing to an officially-registered small business created, owned, and operated in the Republic of Cuba by a Republic of Cuba national. The license application was submitted on 10 June 2021.

The Wall Street Journal Editorial Board delivers two accusations.

- First, there are no *"independent"* entrepreneurs in the Republic of Cuba.
- Second, the license issued *"likely violates"* the Cuban Liberty and Democratic Solidarity Act of 1996 (known as *"Libertad Act"*)- and conveniently excludes precisely what is this *"likely violation."*

The first accusation is appalling, particularly having been delivered from a publication that celebrates entrepreneurs- and writes continually when these individuals encounter governmental headwinds- yet they persevere. The Wall Street Journal always applauds their perseverance.

The government of the Republic of Cuba is criticized for not trusting its 11.3 million citizens to make good decisions. Those who criticize the decision by the OFAC are engaging in the same distrust- the message is the self-employed and owners and managers of micro, small, and medium-size enterprises (MSMEs) cannot be trusted not to be victimized by the government of the Republic of Cuba; that their efforts to create, to maintain, and expand their nascent businesses are nothing but a sham, a *Potemkin Village* from which the government of the Republic of Cuba is the sole beneficiary. Are the 20,000+ Republic of Cuba nationals who have registered their properties with Airbnb dimwitted? Are the owners of paladars (restaurants) engaging in fraud? All these people are stupid? 11.3 million victims of the *Depleting Gene Pool Theory*? That is insulting.

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There are thousands of Republic of Cuba nationals who have, according to the Editorial Board of The Wall Street Journal, taken the time and have not given up or given in despite obstacles, to shift from being a one-person operation to employing five, ten, twenty, or one hundred employees to maintain and grow their business.. but these efforts are for nothing, they are wasted time.

Easy for the Editorial Board of The Wall Street Journal to pontificate from the comfort of their meeting room and disparage the courage, the fortitude, the brilliance of entrepreneurs in the Republic of Cuba who do not have high salaries, 401(k) plans, and the benefits that are derived from being employed by News Corp (2021 revenue US\$9.36 billion). How many of those on the Editorial Board of The Wall Street Journal have tried to create a business? Created a business? Managed a business?

The Editorial Board of The Wall Street Journal has defined entrepreneurs in the Republic of Cuba as frauds- whether they know it or not; acknowledge it or not. That is vulgar. Disrespectful.

Worse, the Editorial Board of The Wall Street Journal has defined entrepreneurs in the Republic of Cuba as stupid- dupes of their government and of themselves. Self-duped. Nice. So very nice.

The second accusation is equally appalling, but significantly not relevant to the license issued by the OFAC. The “*likely violation*” of the Libertad Act is presumably referencing the following provision within the Libertad Act, although uncertain because the Editorial Board was not specific because generalities are so much more easily weaponized:

“SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.
(a) Prohibition.--Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, a permanent resident alien, or a United States agency to any person for the purpose of financing transactions involving any confiscated property the claim to which is owned by a United States national as of the date of the enactment of this Act, except for financing by the United States national owning such claim for a transaction permitted under United States law.”

The Washington DC-based attorney, Robert L. Muse, who drafted the application for the OFAC license and drafted the Contingent Investment Contract is available to alleviate the Editorial Board’s confusion about the legal basis for the OFAC license’s equity investment and loan provisions and correct the Editorial Board’s misunderstanding of the Libertad Act provision inaccurately implied in relation to entrepreneurs in the Republic of Cuba. Why the Editorial Board did not reach out to Mr. Muse prior to publication of the editorial is obvious- the conversation would have invalidated the basis of the editorial message.

The Editorial Board of The Wall Street Journal is sending up a flare, an SOS, for a concern that does not exist- and they know it does not exist. Interestingly, they did not contact the owner of the LLC to directly ask any questions. Why? Reporters from other publications did without difficulty.

The privately-owned company in the Republic of Cuba which will be the recipient of the direct equity investment and direct financing is as it has been described- privately owned. The service-focused company is not using an asset upon which there is a certified claim.

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Rather than stage a written preemptive attack upon something new, the Editorial Board might have better served readers of The Wall Street Journal if they had waited until the equity investment was delivered; the financing was delivered. Then, evaluate the operational impact of what the OFAC licensed and what the parties did with that OFAC license.

And, this time, members of the Editorial Board will reach out and contact the principals for information prior to launching an attack upon what they know so painfully little about.