THE UNITED STATES VIRGIN ISLANDS
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

January 12, 2016

**By Electronic Mail and Hand Delivery**

Commissioner Roderick Moorehead
Virgin Islands Casino Control Commission
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Commissioner Henry Richardson
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Commissioner Violet Ann Golden
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*Re: The Virgin Islands Casino Control Commission's bank accounts*

Dear Commissioners Moorehead, Richardson and Golden:

The Attorney General's Office confirmed yesterday that the Virgin Islands Casino Control Commission ("VICCC") has bank and credit card accounts at Banco Popular. These accounts need to be established pursuant to applicable law governing accounts for the VICCC.

I know that these accounts have been in existence before your tenure as Commissioners, and so, the purpose of this letter is not to ascribe blame, or address any specific expenditure made by any Commissioner, but to inform you that the current VICCC accounts must be modified, immediately, and I will endeavor to work earnestly with the VICCC to establish new accounts.

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The current law, as passed by the legislature, is V.I.CODE ANN. tit. 32 § 514. This statute establishes the Casino Control Revolving Fund, which places limitations on who has the authority to disburse monies from that fund.

Specifically, the casino control revolving fund governs what monies shall be deposited into the fund and who may legally expend those monies. The statute is very clear and states as follows:

> **(a)** There is hereby created and established in the Virgin Islands Casino Control Commission a separate ***special revolving fund***, into which shall be ***deposited all license, registration, permit, fines, penalties, and other fees, all sums appropriated thereto by the Legislature of the Virgin Islands, and all donations, gifts and bequests.***
> **(b)** The Chairman of the Casino Control Commission shall maintain and provide for the administration of the special checking account.
> **(c)** ***All monies in the special checking account shall be disbursed by the Chairman of the Casino Control Commission and the Attorney General of Virgin Islands, exclusively for expenditures by the Casino Control Commission*** and the Department of Justice, Division of Gaming Enforcement respectively, as established under this chapter, for all operating costs, expenses associated with the investigation of applicants, organization of the Division of Gaming Enforcement, and for any other operating cost and expenses related thereto. Eighty percent of funds deposited in the special checking account must be allocated to the Casino Control Commission, and twenty percent to the Division of Gaming Enforcement.
> **(d)** Deleted.
> **(e)** ***The Chairman of the Commission and the Director of Division of Gaming Enforcement Commission may expend monies from the special checking account.*** The Chairman of the Commission shall submit to the Department of Finance by the 30th day of the month following the end of each quarter a report detailing the amount, nature, and the justification for each item of expenditure in the previous quarter. The report shall be accompanied by receipts and any other documentation required by the Department of Finance's rules and regulations or other laws of the Virgin Islands. An annual financial report of the fiscal year's expenditures from the special checking account shall be compiled by the Chairman of the Commission and submitted to the Legislature and the Department of Finance by the 30th of the month following the end of the fiscal year.
> **(f)** The Chairman of the Virgin Islands Casino Control Commission shall engage a certified public accountant to perform an independent annual audit of the activities of the special checking account and present a copy of the audit report to the Commissioner of Finance and the Legislature no later six months after completion of the annual audit. (emphasis added).

The statute also is clear in its intent, and we all must be mindful that the VICCC's funds belong to the People of the Virgin Islands, and therefore, we must ensure that any account that is established in the name of the VICCC is done in accordance with the applicable Virgin Islands law.

Section 514(c) requires that both the Chairman of the VICCC ***and*** the Attorney General to jointly disburse any money from the special checking account that is mandated by the statute. Those funds deposited in the special checking account include "all license, registration, permit, fines, penalties, and other fees, all sums appropriated thereto by the Legislature of the Virgin Islands, and all donations, gifts and bequests." 32 V.I.C. § 514(a). This has not occurred.[1]

As a matter of courtesy, I have informed the VICCC's legal counsel, Adriane Dudley, on this matter, and she is in complete agreement, including that the VICCC may not legally establish bank accounts through administrative rules or regulations, but must be granted specific authority by the Virgin Islands Legislature to do so.

No other law in the Virgin Islands allows for the VICCC to open any bank or credit card account without the authorization of the Attorney General, or in the name of any person, other than in the names of the Chairman of the VICCC ***and*** the Attorney General.

Therefore, I am informing you that I have ordered Banco Popular to suspend all of the credit card and bank accounts, in the name of the VICCC, immediately. Funds may be deposited into the accounts, but no funds may be disbursed until the VICCC chairperson and I are both signatories on the account.

To avoid overdraft fees from accruing on outstanding items, I will make myself available to visit a Banco Popular branch, to properly organize the VICCC's special checking account with the VICCC chairperson, so that we may serve as joint signatories on the special checking account, as contemplated by the Virgin Islands legislature at 32 V.I.C. § 514. I have already spoken to the local Vice President of Banco Popular about properly re-establishing the account.

Since the credit cards currently held by you are connected to the VICCC bank accounts, then I must inform you that all of the VICCC's credit cards are cancelled and new ones and will not authorized. Please properly dispose of the VICCC credit or debit cards that you possess.

[1] The only other fund established in title 32, chapter 21, is section 517, the Casino Revenue Fund. This fund includes "all revenues derived from the tax imposed pursuant to Title 32, sections 515 and 516(a)(1) Virgin Islands Code." 32 V.I.C. § 517 (a). This fund identifies specific entities who are entitled to disbursement.

Additionally, you are hereby directed not to make any expenditure without the proper approval until this account is properly established. No transactions shall be conducted until the special checking account is set up at Banco Popular.

Sincerely,

Claude Earl Walker

Claude Earl Walker, Esq.
Attorney General Designee

cc: Adriane J. Dudley, Esq., Legal Counsel, Virgin Islands Casino Control Commission
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