

SUMMONS

Civil Action – Original

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS DIVISION OF ST. CROIX

IN RE: GOVERNMENT OF THE VIRGIN ISLANDS, and ATTORNEY GENERAL CLAUDE E. WALKER, in his official capacity, Plaintiff v. VIOLET ANNE GOLDEN, CHAIRPERSON VIRGIN ISLANDS CASINO CONTROL COMMISSION, Defendants	5X-18-CV-324 MISC No. _____ /2018 ACTION FOR REMOVAL FROM OFFICE PURSUANT TO 32 V.I.C. § 406(G)
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THE GOVERNMENT OF THE VIRGIN ISLANDS:

TO: VIOLET ANNE GOLDEN

ADDRESS: 3005 Orange Grove
Christiansted, St. Croix, VI 00820

Within the time limited by law (see note below) you are required to appear before this Court and answer to a complaint filed against you in this action in case of your failure to appear or answer, judgment by default will be taken against you as demanded in the _____.

Witness my hand and seal of this Court this 7 day of Sept, 2018.

ESTRELLA H. GEORGE
CLERK OF THE COURT

By: [Signature]
CC II

Attorney for Plaintiff:
CLAUDE EARL WALKER, ESQ.
ATTORNEY GENERAL

NOTE: The defendant, if served personally, is required to file his/her answer of the other defenses with the Clerk of the Court, and to serve a copy thereof upon the Plaintiff's attorney within twenty (21) days after service of this summons, excluding the date of service. The defendant, if served by publication or by personal service outside of the jurisdiction, is required to file his/her answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the attorney for the plaintiff within thirty (30) days after the completion of the period of publication or personal service outside of the jurisdiction.

RETURN OF SERVICE

I HEREBY CERTIFY that I received this summons on the _____ day of _____, 20____, and that thereafter, on the _____ day of _____, 20____, I did serve the same on the above-named defendant, VIOLET ANNE GOLDEN, by showing VIOLET ANNE GOLDEN, this original and then delivering to _____ a copy of the complaint of the summons which were forwarded to me attached thereto.

MARSHAL

DEPUTY



Superior Court of the Virgin Islands Division of St. Croix



OFFICE OF THE CLERK
(340) 778-9750

Date: September 7, 2018

Plaintiff s/Attorney's name CLAUDE EARL WALKER, ESQ.

Address 3438 KRONPRINDSENS GADE

Address ST. THOMAS, VI 00802

DOCKETING LETTER AND NOTICE OF JUDGE ASSIGNMENT

Dear CLAUDE EARL WALKER, ESQ.

The Court is in receipt of your CIVIL / CRIMINAL / FAMILY / PROBATE filing, which was docketed on SEPTEMBER 7, 2018 and assigned Case Number SX-18-CV-324

The Judge / Magistrate Assigned to your case is the Honorable DOUGLAS A. BRADY

If there is a fee associated with your filing, such fee must be filed along with your petition/complaint, or within five (5) days thereafter. Failure to pay the required fee may result in your petition / complaint being dismissed for failure to prosecute.

If you have any questions or concerns, you may contact the Office of the Clerk of the Court at (340) 778-9750 (St. Croix) or 774-6680 (St. Thomas-St. John).

Sincerely,
Estrella H. George
Acting Clerk of the Court

BY: SHARISSE BASCOMBE 

Cc: VIOLET ANNE GOLDEN, CHAIRPERSON, Defendant
Case File

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DISTRICT OF ST. CROIX



GOVERNMENT OF THE VIRGIN ISLANDS
and ATTORNEY GENERAL CLAUDE E. WALKER,
in his official capacity,

Plaintiffs,

vs.

VIOLET ANNE GOLDEN, CHAIRPERSON
VIRGIN ISLANDS CASINO CONTROL
COMMISSION,

Defendant.

Case No.: SX-18-CV 324

Action for Removal
from Office Pursuant to
32 V.I.C. § 406(g)

COMPLAINT

COME NOW, Plaintiffs, GOVERNMENT OF THE VIRGIN ISLANDS and ATTORNEY GENERAL CLAUDE E. WALKER, in his official capacity, by and through undersigned counsel, and hereby file this Complaint seeking the removal of Violet Anne Golden from office as the Chairperson and member of the Virgin Islands Casino Control Commission. In support of their complaint, Plaintiffs state the following:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 4 V.I.C. § 76 and 32 V.I.C. § 406(g).

PARTIES

2. Plaintiff, Government of the Virgin Islands ("Government"), is the duly constituted governing entity of the unincorporated Territory of the United States Virgin Islands organized and

existing pursuant to the Revised Organic Act, 48 U.S.C. § 1541, et. seq., and has the right to bring suit.

3. Plaintiff Claude E. Walker, in his official capacity as the Attorney General of the Virgin Islands and as the legal representative of the Government of the Virgin Islands, brings this action for removal pursuant to his statutory authority set forth in 3 V.I.C. § 114 and 32 V.I.C. § 406(g).

4. Defendant, Violet Anne Golden (“Golden or Chairperson”), is the Chairperson for the Virgin Islands Casino Control Commission (“Commission”), and upon information and belief, is a resident of St. Croix. The Commission is headquartered at 3005 Orange Grove, Christiansted, USVI 00820.

FACTS

5. The Virgin Islands Casino and Resort Control Act of 1995 (“VICRCA”) established the Virgin Islands Casino Control Commission, which is an independent agency under the Executive Branch of the Government.

6. Commission members, including the Chairperson, are appointed by the Governor with the advice and consent of the Legislature. *See*, 32 V.I.C. § 406(d).

7. The Chairperson serves as the Chief Executive Officer of the Commission. *See*, 32 V.I.C. § 406(f).

8. According to the Virgin Islands Code (“Code”), members are to serve for a period of five years, and no member may serve beyond ten years. *See*, 32 V.I.C. § 406(c). Golden was first appointed to the Commission in 2009 and was reappointed to a second term in April 2014. Her term expires in April 2019.

9. The Commission is responsible for, among other things, collecting all license, taxes and registration fees under the VICRCA; hearing and deciding matters relating to license, registration, permit, and certificate applications; conducting hearings for civil violations of the VICRCA; levying and collecting penalties for violations of the VICRCA; promulgating regulations to carry out the policies of the VICRCA; regulating the operations of any casino or simulcasting facility; referring to the Division of Gaming Enforcement for investigation and prosecution violations of the VICRCA, and reviewing and ruling upon any complaints by a casino licensee. *See*, 32 V.I.C. § 415.

10. The Commission's budget is "approved annually by the Legislature of the Virgin Islands." 32 V.I.C. § 404.

11. Title 32 V.I.C. § 514 establishes the Casino Control Revolving Fund which is "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." 32 V.I.C. § 514.

12. "The Chairman of the Casino Control Commission shall maintain and provide for the administration of the special checking account." *Id.*

13. Title 32 V.I.C. § 517 establishes the Casino Revenue Fund in the Department of Finance into which all revenues derived from the tax imposed pursuant to 32 V.I.C. §§ 515 and 516(a)(1) are deposited. 10% of the funds are appropriated to the Casino Control Commission for its operation. 32 V.I.C. § 517(c). Finance disburses the funds from the Casino Revenue fund to the Commission quarterly and those funds are then deposited into the Casino Control Revolving Fund.

14. Title 32 V.I.C. § 406(g) provides that:

A Commissioner may be removed from office for misconduct in office, willful neglect of duty, or other conduct evidencing unfitness for this office, or for incompetence. A proceeding for removal may be instituted by the Attorney General in the Superior Court. . . . Each Commissioner or employee of the Commission shall be subject to the duty to appear and testify and to removal from his office, position or employment in accordance with the provisions of Title 3, chapter 25 of this Code.

15. Based on recent audit findings, Chairperson Violet Ann Golden must be removed from her position as the Chairperson and member of the Commission as her actions and/or inactions has shown that she is unfit for office or incompetent.

16. Pursuant to 3 V.I.C. § 1201, the Virgin Islands Inspector General (“IG”) is appointed by the Governor with the advice and consent of the Legislature.

17. The IG is responsible for, among other things, “conduct[ing] and supervis[ing] audits, inspections, and related investigations or programs and operations of the Government of the Virgin Islands,” as well as to “provide a means for keeping the Governor, the Legislature, and the judicial branch fully and currently informed about problems and deficiencies relating to the administration of government programs and operations and the necessity for and progress of corrective action.” 3 V.I.C. § 1203.

18. As a function of the IG’s duties, he is entitled to “have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable entity which relate to programs and operations to which the Office of the V.I. Inspector General has responsibilities. . . .” *Id.*

19. Upon the request of the Governor, the IG was tasked with performing an audit of the Virgin Islands Casino Control Commission. (See Exhibit A, at page 3).

20. On or about September 6, 2018, the IG issued its Audit [Report] of the Administrative Functions of the Virgin Islands Casino Control Commission covering the period fiscal years 2013 through 2016 (“Audit Report”). (See Exhibit A).

21. The conclusions of the audit found the Commission: “(i) did not have formal procedures for authorizing, processing, recording, reviewing, and reconciling financial transactions; (ii) allowed members to incur \$851,534 in credit card transactions and made \$808,229 in payments to the credit card issuer without any formal review or approval process in place; (iii) allowed the Chairperson to process \$1,062,860.00 in electronic fund transfers without another employee or Casino Commission member reviewing or authorizing the payments; (iv) allowed the Chairperson to process \$2,660,163.00 in check payments, reconcile bank statements and maintain sole custody of financial records; (v) did not submit required financial reports timely to [Department of] Finance and the Legislature; (vi) incurred operating expenditures totaling more than \$3,772,803.00, of which, \$1,315,635.00 was not supported with proper documentation; (vii) expended \$680,172.00 in travel and travel-related expenses without having established formal travel policies and procedures; (viii) ignored the Government-wide travel policy while it did not implement a formal travel policy of its own; (ix) did not provide supporting documentation for \$488,674.00 of travel and travel-related expenses; (x) did not implement internal procedures to ensure that travel expenses were properly controlled and accounted for; and, (xi) did not follow the procurement laws of the Government in obtaining professional services.”

22. The IG further reported that that the foregoing failures arose because the Commission did not “(1) develop internal policies and procedures; (ii) establish an internal control system to ensure, at a minimum, the separation of duties and adequate reviews; (iii) follow the requirements of the Code that requires the Casino Commission to submit financial reports and

accompanying receipts to the Legislature; (iv) establish a system of checks and balances by the Casino Commission members, rather than allowing the Chairperson to assume sole responsibility for processing payments and maintaining supporting documents; (v) follow the Government-wide travel regulations; (iv) require supporting documentation to justify travel expenses; and, (vii) adhere to the procurement policies of the Government, or to implement policies and procedures of its own.”

23. The audit revealed that the Commission lacked effective internal controls and the Chairperson performed all critical financial management functions without input from the other Commission members.

24. The Audit Report disclosed the gross mismanagement, lack of oversight and indiscriminate use and misuse of the credit card issued to the Chairperson. The Commission had no record of any approved policies for the use of credit cards; Commission members, who were assigned credit cards, were not aware of the existence of any credit card policies and procedures; credit card transactions did not require authorization or review and, in many instances only the Chairperson, without input from the other Commission Members, authorized and made credit card payments; Commission members did not have access to credit card account summaries and statements and were not permitted to review credit card transactions; and persons who were signatories on bank accounts were placed in the position of having to approve credit card payments without reviewing credit card statements or the validity of the expenses they were approving.

25. A vast majority of the credit card expenses were incurred by the Chairperson; the Chairperson made most of the credit card payments by electronic fund transfer without an internal review process in place; and the Chairperson, disregarding all internal controls and checks and balances, approved, paid and controlled the credit card records.

26. Title 32 V.I.C. § 514(e) provides that 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.”

27. The Audit Report found that the Chairperson, in violation of her statutory obligation, did not furnish quarterly reports to the Department of Finance in a timely fashion, and when those reports were submitted no supporting documentation was provided.

28. The Audit Report stated that operating expenditures were not supported with proper documentation; that the Chairperson improperly assumed the sole responsibility for processing payments and maintaining supporting documents; that the Chairperson was the only signatory on the “Master Account” in which licenses, registrations, permits, fines, penalties and fees collected are deposited; and that there was a lack of checks and balances by the Commission members.

29. In dereliction of her fiduciary duties and responsibilities, the Chairperson did not ensure that all employee overpayments are reimbursed. According to the Audit Report, from August 2015 through May 2016, the Commission paid new hires an advance on their salaries, yet, did not timely report these payments to the Department of Finance. As a result, when the employees were finally entered into the Enterprise Resource Planning (“ERP”) system, the Department of Finance generated the employees back pay, and the employees were overpaid more than \$50,000.00. To date, many employees have not reimbursed the Government in part, or in

full, for their overpayment and the reimbursement requested by the Commission from some employees is less than the advance payment made to the employee.

30. The Chairperson's gross mis-management of the Commission is also evidenced by the travel expenses incurred by the Commission from Fiscal Year 2013 to 2016. Based on the Audit Report, the Commission expended \$680,172.00 in travel expenses, despite the Commission not having formal travel policies and procedures in place, and in contravention of the Government-wide travel policy.

31. The Commission did not have a policy that required individuals to account for advance travel payments upon the completion of travel, did not implement internal procedures to ensure that travel expenses were properly controlled and accounted for, and Commission members and employees were not required to justify travel expenses with supporting documentation.

32. As documented in the Audit Report, the Chairperson incurred excessive and exorbitant travel expenses. In contravention of the Government-wide travel policy, the Chairperson purchased airline tickets for individuals who were not employees of the Commission; upgraded airline tickets from economy class to first class and business class; stayed at hotels which cost per night far exceeded the rate per night in the Government-wide travel policy; rented high-end vehicles rather than compact vehicles as required by the Government-wide travel policy and the Commission incurred or reimbursed contractors' expenses for rental car costs, excess luggage, lost cash, and alcohol contrary to government travel regulations.

33. The Commission failed to abide by or follow the procurement policies of the Government, did not implement its own procurement policies or follow best practices guidelines, and as a result payments were made to some contractors without a written contract; contracts were executed solely by the Chairperson; contract terms, rate of pay and scope of work were all decided

by the Chairperson; no procedure exists to ensure that goods and services were procured at competitive rates; some contracts did not have pre-determined contractual rates; contracts were not reviewed for legal sufficiency and the Chairperson solely reviewed the invoices submitted by contractors and processed contractors' payments.

34. On August 23, 2018, after receipt of the IG Preliminary Draft Report of the Casino Commission Audit, a majority of the Commission members, excluding the Chairperson, met and issued a Resolution in which they agreed to develop and implement policies to address the concerns raised in the Audit Report, comply with the recommendations, and assigned task leaders to ensure development and implementation of policies for efficient operation of the Commission. *See Appendix 1 to Exhibit A.*

35. As the Chairperson of the Commission, Defendant Golden was in a position of trust and loyalty and had a fiduciary responsibility to administer the various Commission accounts and credit cards in a prudent manner by ensuring appropriate use of funds, putting in place financial controls and policies, implementing checks and balances, and maintaining adequate supporting documentation to verify expenses.

36. The Chairperson is expected to comply with the law, maintain high standards in the performance of her duties, perform her administrative functions in such a manner as to promote and preserve public trust and confidence, and avoid conduct which appears inappropriate or questionable to the general public, including the appearance of impropriety.

37. The Chairperson's action or inaction as outlined above evidences a pattern of gross mismanagement, a breach of fiduciary duty, misconduct, willful neglect and incompetence, which shows that the Chairperson is unfit for office and should be immediately removed from office by this Court.

38. As a result of the Chairperson's actions, the public trust and confidence has been undermined to such an extent that removal, as a member of the Commission and its Chairperson, is warranted.

WHEREFORE, Plaintiffs Government of the Virgin Islands and Attorney General Claude Walker, in his official capacity, pray for judgment against Defendant Golden, request that the Court find sufficient cause to immediately relieve and thereafter subsequently remove the Defendant Golden from the position of Chairperson and member of the Casino Control Commission, pursuant to 32 V.I.C. § 406(g), and ask that the Court grant such further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED,

CLAUDE EARL WALKER, ESQ.
ATTORNEY GENERAL

Dated: September 7, 2018

By: _____


JOSEPH PONTEEN, ESQ.
CHIEF DEPUTY ATTORNEY GENERAL
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