

SUMMONS

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

GOVERNMENT OF THE VIRGIN ISLANDS,	)	CASE NO. ST-16-CV_____
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
BETTERROADS ASPHALT CORPORATION	)	
A/K/A BETTERROADS ASPHALT LLC,	)	
	)	
Defendant	)	

THE GOVERNMENT OF THE VIRGIN ISLANDS:

TO: Neil Carty, Resident Agent

ADDRESS: St. Thomas, Virgin Islands 00802

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 Complaint for Condemnation.

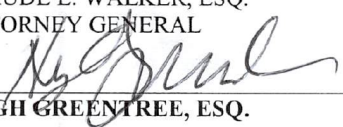
Witness my hand and seal of this Court this _____ day of _____, 2016.

ESTRELLA H. GEORGE
ACTING CLERK OF THE COURT

By: _____

Attorney for Plaintiff:

CLAUDE E. WALKER, ESQ.
ATTORNEY GENERAL

By: 

HUGH GREENTREE, ESQ.
ATTORNEY GENERAL

V.I. Department of Justice
Office of the Attorney General
34-38 Kronprindens Gade
GERS Bldg. 2nd FL
St. Thomas, VI 00802
Telephone: (340) 774-5666
Email: hugh.greentree@doj.vi.gov

RECEIVED
16 OCT -7 PM 5:10
SUPERIOR COURT

Summons

Government of the Virgin Islands v. Betterroads Asphalt Corp.

Page 2 of 2

NOTE: The defendant, **if served personally**, is required to file his answer of the other defenses with the Clerk of the Court, and to serve a copy thereof upon the Plaintiff's attorney within twenty (20) 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 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 _____, 2016, and that thereafter, on the _____ day of _____, 2016, I did serve the same on the above-named defendant, Betterroads Asphalt, LLC, by showing _____ this original and then delivering to a copy of the complaint of the summons which were forwarded to me attached thereto.

MARSHAL

DEPUTY

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

GOVERNMENT OF THE VIRGIN
ISLANDS,

Plaintiff,

v.

BETTERROADS ASPHALT CORPORATION
a/k/a BETTERROADS ASPHALT LLC,

Defendant.

CASE. NO. ST-16-CV-

ACTION FOR INJUNCTIVE RELIEF
AND DECLARATORY JUDGMENT

RECEIVED
16 OCT -7 PM 5:10
SUPERIOR COURT

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
PRELIMINARY INJUNCTION, AND DECLARATORY RELIEF**

COME NOW, Plaintiff, Government of the Virgin Islands, and the Virgin Islands Attorney General, by and through their undersigned counsel, and hereby move this Court pursuant to Rule 65 of the Federal Rules of Civil Procedure for a Temporary Restraining Order, and Preliminary Injunction restraining and enjoining Betterroads Asphalt Corporation and any subsidiaries or related entities from removing any property, assets or money from the U.S. Virgin Islands; from failing to provide information and notification as required by Title 24 V.I. Code Ann. § 472(d) to the Commissioner of the Virgin Islands Department of Labor, to Defendant's former Virgin Islands employees, and to the employees' labor unions. For the reasons set forth therein, it is respectfully requested that the relief sought be granted.

Respectfully Submitted,
CLAUDE E. WALKER, ESQ.
Attorney General

Dated: 10/7/2016

By: 
HUGH A. GREENTREE, ESQ.
Assistant Attorney General

GVI v. Better Roads Asphalt Corporation
Civil No. STX- 16 - _____
Motion for TRO & Prelim Injunction
Page 2

V.I. Department of Justice
34-38 Kronprindsens Gade
GERS Complex, 2nd Floor
St. Thomas, U.S.V.I. 00802
Tel: (340) 774-5666
Fax: (340) 776-3494
hugh.greentree@doj.vi.gov
V.I. Bar No. 778

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS**

**GOVERNMENT OF THE VIRGIN
ISLANDS,**

Plaintiff,

v.

**BETTERROADS ASPHALT CORPORATION
a/k/a BETTERROADS ASPHALT LLC,**

Defendant.

CASE. NO. ST-16-CV-

**ACTION FOR INJUNCTIVE RELIEF
AND DECLARATORY JUDGMENT**

**MEMORANDUM IN SUPPORT OF
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
PRELIMINARY INJUNCTION, AND DECLARATORY RELIEF**

COMES NOW Plaintiff, by and through its undersigned counsel, and hereby moves this Honorable Court pursuant to Rules 65(a) and 65(b) of the Federal Rules of Civil Procedure, as applicable by Rule 7 of the Superior Court Rules, for a Temporary Restraining Order and Preliminary Injunction restraining and enjoining Defendants from continuing its efforts to illegally terminate its employees in violation of Title 24 V.I.C. § 472(a)(1) the Virgin Islands Plant Closing Act ("VIPCA"). This action for a restraining order and injunction is being brought pursuant to 24 V.I.C. § 477. In support thereof, Plaintiff states the following:

I. FACTUAL BACKGROUND

Defendant Betterroads Asphalt Corporation ("Betterroads") is a Puerto Rico corporation that has been authorized to do business in the Virgin Islands since September 1981. Betterroads was engaged in the business of manufacturing and constructing public and private roads in the Virgin Islands. On information and belief, Betterroads employed approximately seventy-four (74) employees a majority of whom have been performing full-

time services for wages for the company for at least twelve consecutive months. Some of these employees are represented in their employment by a union.

On September 20, 2016 Commissioner Catherine A. Hendry (“Commissioner Hendry”) of the Virgin Islands Department of Labor (“VIDOL”) received an email from Ms. Santos, Legal Assistant to Wilfredo A. Geigel/Eugenio W.A. Geigel-Simounet. This email included as an attachment a letter dated August 30, 2016 from Jorge L. Diaz, President and Chief Executive Officer of Betterroads Asphalt, LLC wherein Mr. Diaz sought to inform Commissioner Hendry that Betterroads would be ceasing its operations in the Virgin Islands within the next ninety (90) days. The email and the letter indicated an effort to comply with the advance notification requirements of the Virgin Islands Plant Closing Act found at Title 24 V.I. Code Ann. §§ 471-478. A copy of this email and its attachment is attached as “Exhibit 1” and incorporated in its entirety by reference as if fully restated herein.

On September 21, 2016 Commissioner Hendry wrote a letter to Mr. Diaz in response to the September 20, 2016 email and the August 30, 2016 letter. Commissioner Hendry wrote that the email and the letter did not satisfy the advance notification requirements of the VIPCA. A copy of Commissioner Hendry’s letter is attached as “Exhibit 2” and incorporated in its entirety by reference as if fully restated herein.

VIDOL subsequently received a seniority report from Betterroads Human Resources Department identifying seventy- four (74) employees and stating the employee names, work locations, Social Security Numbers, and addresses. The seniority report did not include all of the information required by Title 24 V.I. Code Ann. § 472(d). For example, the seniority report did not include a disclosure of the amount of the severance

pay that was payable pursuant to Title 24 V.I. Code Ann. § 473. A copy of the seniority report is attached as “Exhibit 3” and incorporated in its entirety by reference as if fully restated herein.

On October 6, 2016 Commissioner Hendry received a letter from Attorney Eugenio Geigel-Simounet dated October 6, 2016 in which Commissioner Hendry was told that Betterroads’ circumstances had deteriorated greatly. The letter stated,

As a result of its man credit line having been frozen for the last two months, by the Bank, and now essentially closed, Betterroads has been unable to meet its obligations. This situation has simply imposed a burden to heavy for the company to bear. As a result, Betterroads has formally notified all of its employees of the conclusion of all USVI operations and termination of their employment.

A copy of this letter is attached as “Exhibit 4: and incorporated in its entirety by reference as if fully restated herein.

Based on information provided by Betterroads to the Virgin Islands Department of Labor and other information available to the Government of the Virgin Islands, Betterroads actually ceased it operations on Friday, September 30, 20156 and has not paid severance pay to its employees.

The Government is seeking the following relief in order to prevent further evasion of the protections provided by Title 24 V.I.C. § 471 *et seq.* to Betterroads’ employees and to the economy of the U.S. Virgin Islands as a whole:

- That the Court enter a Declaratory Judgment adjudging that the termination of business activities on September 30, 2016 constitutes a “plant closing” as defined by Title 24 V.I.C. § 471(11).
- That the Court enter a Declaratory Judgment adjudging that Betterroads failed to give the required 90 days’ advance notification of the plant closing to its employees, to their labor unions, and to the Virgin Islands Commissioner of the Department of Labor in violation of the Virgin Islands Plant Closing Law, Title 24 V.I.C. § 472(a)(1);

- That the Court enter an Order prohibiting Betterroads from removing any property, assets, or money on deposit in Virgin Islands banks from the U.S. Virgin Islands;
- That the Court enter an Order directing Betterroads to provide the Virgin Islands Department of Labor with all of the information required to be provided by Title 24 V.I. Code Ann. § 472(d).
- Award Government of the Virgin Islands reasonable attorney's fees and costs; and
- Such other and further relief as the Court may deem appropriate.

II. STANDARD AND ARGUMENT FOR TEMPORARY RESTRAINING ORDER

Federal Rule of Civil Procedure 65 governs preliminary injunctions and temporary restraining orders. The requirement for granting a temporary restraining order are well-established and are identical to the requirements for granting a preliminary injunction. To grant a preliminary injunction, the Superior Court must consider four factors: In deciding whether to grant a preliminary injunction, the Superior Court must: "(1) whether the movant has shown a reasonable probability of success on the merits; (2) whether the movant will be irreparably injured by denial of the relief; (3) whether granting preliminary relief will result in even greater harm to the nonmoving party; and (4) whether granting the preliminary relief will be in the public interest." *Tip Top Constr. Corp. v. Gov't of the Virgin Islands*, 60 V.I. 724, 731 (VI. 2014) *SBRMCOA, LLC v. Morehouse Real Estate Invs., LLC*, 2015 V.I. LEXIS 27, *7-8 (V.I. Super. Ct. 2015). The facts set forth above and the discussion below clearly shows that Plaintiff is entitled to immediate injunctive relief in order to protect the rights of Betterroads' affected employees as well as to protect the economy of the Virgin Islands from the consequences of coping with large numbers of suddenly unemployed workers.

III. DISCUSSION

A. REASONABLE PROBABILITY OF SUCCESS ON THE MERITS

The implicit purpose of the Plant Closing Act, Title 24 V.I.C. § 471 *et seq.* is to protect the employees in the territory by assuring them that “they are not left jobless overnight,” and allowing them “a reasonable period within which they may search for employment, and take advantage of any employment opportunities which may arise during that period.” *O'Neill v. Albert James Enters.*, 2004 V.I. LEXIS 14, 46 V.I. 59 (V.I. Terr. Ct. 2004); *Stanley v. St. Croix Basic Serv.*, 291 F. Supp. 2d 379 (D.V.I. 2003). The Act requires that the notice be given to the specified parties (be it the employee, their respective labor unions, or the Department of Labor) in a specified time (either thirty days or ten days prior to the employment loss) and in a specified manner (in writing and containing information specified in Title 24 V.I.C. § 472(d)). The Act also requires that severance be paid to employees who have been employed full-time over twelve consecutive months.

Based on the facts alleged in the Verified Complaint, Betterroads has not fully complied with the advance notification requirements of Title 24 V.I. Code Ann. § 472 and has not paid severance to its affected employees as required by Title 24 V.I. Code Ann. § 473. Based on the facts alleged in the Verified Complaint, Betterroads is in violation of the Virgin Islands Plant Closing Act.

B. IRREPARABLE HARM

The Virgin Islands Plant Closing Law requires advance notification of a mass layoff or a plant closing to affected employees, labor unions representing affected employees, and the Virgin Islands Department of Labor for reasons including:

a. To allow affected employees the opportunity to plan their finances in order to adapt to a potential period of unemployment.

b. To allow affected employees the opportunity the opportunity to begin looking for new work while still employed.

c. To allow affected employees the opportunity to seek assistance from their labor unions, from the Virgin Islands Department of Labor, and from other possible resources.

d. To allow labor unions representing affected employees the opportunity to plan responses and provide support to affected employees who are suffer employment loss.

e. To allow the Virgin Islands Department of Labor the opportunity to provide pre-employment loss assistance to affected employees through the Rapid Response Team operated by the Dislocated Worker Unit.

Regarding the proposed order requiring Betterroads to provide the VIDOL with the information indicated in Title 24 V.I. Code Ann. § 472(d), the Government cannot assist the affected employees in recovering their severance pay until the amount is computed and verified.

Regarding the proposed order prohibiting removal of property, assets, or money on deposit in the USVI from the Virgin Islands, Betterroads is a foreign corporation and without this order the company will be able to remove its assets from the jurisdiction and evade its duty to pay severance to the affected employees.

C. BALANCE OF HARM

Regarding the proposed order requiring Betterroads to provide the VIDOL with the information indicated in Title 24 V.I. Code Ann. § 472(d), the harm to Defendant is that it will need to focus time and attention gathering this information and transmitting it to the VIDOL. This harm is slight compared to the harm to the Government which will be hindered in its ability to assist the affected employees compute and collect the severance pay to which the affected employees are entitled to under Virgin Islands law.

Regarding the proposed order requiring Betterroads to pay severance pay to the affected employees, the harm to the Defendant is that it will lose use of the money used to pay the severance. This harm is slight compared to the harm suffered by the affected employees who have lost their jobs and have been denied their lawful severance pay.

Regarding the proposed order preventing removal of property and the proposed order suspending payments by the Government to Betterroads, the harm to the Defendant will be that it may lose the use of the property, assets, or money remaining in the USVI. This harm is slight compared to the harm suffered by the affected employees who have lost their jobs and have been denied their lawful severance pay.

D. PUBLIC INTEREST

It is clearly in the public interest for the Department of Labor and the Commissioner to receive information in order to be permitted to perform their statutorily mandated duties. It is clearly in the public interest for the affected employees to receive their severance pay. It is clearly not in the public interest to permit Defendants to remove their assets from the USVI in order to frustrate efforts to collect the severance pay owed to the affected employees.

IV. CONCLUSION

Based upon the facts, the law, and equitable considerations, Plaintiff is entitled to a Temporary Restraining Order and Preliminary Injunction to restrain and enjoin Defendant from failing to provide required information to the VIDOL, from failing to pay severance pay to the affected employees, from removing its remaining assets from the USVI, and from pursuing payments from the Government of the Virgin Islands while owing money to the affected employees – money that could be directed directly to the affected employees.

WHEREFORE Plaintiff respectfully moves this Honorable Court to issue a Temporary Restraining Order and Preliminary Injunction to restrain and enjoin Defendants from failing to provide the information to the VIDOL as required by Title 24 V.I. Code Ann. § 472(d); from failing to pay severance pay to the affected employees; from removing any assets or money from the U.S. Virgin Islands; and from receiving payments from the Government of the Virgin Islands.

DATED: October 7, 2016

RESPECTFULLY SUBMITTED,



HUGH A. GREENTREE, ESQ.

Assistant Attorney General
V.I. Department of Justice
34-38 Kronprindsens Gade
GERS Complex, 2nd Floor
St. Thomas, U.S.V.I. 00802
Tel: (340) 774-5666
Fax: (340) 776-3494
hugh.greentree@doj.vi.gov
V.I. Bar No. 778

Ariel Smith

From: Catherine Hendry <chendry@vidol.gov>
Sent: Friday, October 07, 2016 8:50 AM
To: Ariel Smith; Hugh Greentree
Cc: Nesha Christian-Hendrickson
Subject: FW: Betterroads Asphalt Corporation (USVI) - Plant Closing
Attachments: Letter to Commissioner Hendry from Jorge Diaz re plant closing.pdf

Importance: High

-----Original Message-----

From: Catherine Hendry
Sent: Tuesday, September 20, 2016 3:50 PM
To: 'Ariel Smith'
Subject: FW: Betterroads Asphalt Corporation (USVI) - Plant Closing
Importance: High

-----Original Message-----

From: sara@gs-lawoffices.com [mailto:sara@gs-lawoffices.com]
Sent: Tuesday, September 20, 2016 2:53 PM
To: Catherine Hendry
Cc: egeigel@gs-lawoffices.com
Subject: Betterroads Asphalt Corporation (USVI) - Plant Closing
Importance: High

Dear Commissioner Hendry:

Per your request, attached please find a letter from Mr. Jorge Diaz regarding the above mentioned matter.

Cordially,

Sara Y. Santos
Legal Assistant to Wilfredo A. Geigel/Eugenio W.A. Geigel-Simounet
5020 Anchor Way, 2nd Floor
Gallowsbay, VI 00820
(340)778-8069/(340)773-8524 (Fax)

CONFIDENTIALITY NOTICE:

INFORMATION IN THIS MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE RECIPIENT(S) NAMED ABOVE.

This electronic message transmission is sent by the Law Offices of Wilfredo A. Géigel. This message contains information that is confidential, privileged and exempt from disclosure under applicable law.

The information is intended only for the use of the individual(s) or entity(ies) to which it is addressed. Any unauthorized use or dissemination of this communication is strictly prohibited. If you are not the intended recipient or agent responsible for delivering this message to the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this message is prohibited.

If you have received this electronic transmission in error, please notify us immediately by telephone at (340) 778-8069 or notify the sender by return e-mail message and delete this message and all its attachments.

Thank you.

Please consider the environment before printing this e-mail.



August 30, 2016

Ms. Catherine A. Hendry, Esq.
Commissioner
Department of Labor of the VI
2353 Kronprindsens Gade
St. Thomas, VI 00802

Re: Betterroads, LLC

Dear Commissioner Hendry:

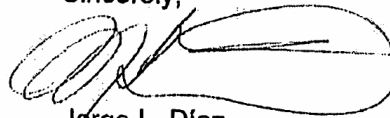
Please accept this advance notification of Betterroads, LLC, in compliance with a written declaration of the plant closing law 24 V.I.C. 471 et. seq.

After 20 years of unfailing service to improve and maintain the roadways of the territories of the Virgin Islands, Betterroads, LLC very sadly inform that due to a very serious and detrimental economic situation is force to close its doors within the next 90 days or after determination of its 2 final projects which are presently under terminal stages.

Together with this advance notification, all affected employees and the VI Workers Union which has shown interest in representing the company's employees will be given notice as well. Not having any other place of employment in the territory, no offer of employment can be made to any of the present employees. This notice of closing is given with much regrets.

If any further information is required, please let us know so we can comply with Rules and Regulations of your department.

Sincerely,



Jorge L. Díaz
President & CEO



PO BOX 21420, SAN JUAN, PR 00928-1420 TELS (787) 760-1094 / 764-1000 / 765-1234 FAX (787) 748-6720 / 758-7508 / 282-6408



Quality is not an accident, it is the aim of our people.



4401 Sion Farm
Christiansted, VI 00820-4245
(340)773-1994, Fax (340)713-3415

GOVERNMENT OF
THE UNITED STATES VIRGIN ISLANDS



PO Box 302608-Charlotte Amalie
St. Thomas, VI 00803-2608
(340)776-3700, Fax (340)715-5745

Office of the Commissioner

September 21, 2016

Jorge L. Diaz
Betterroads Asphalt, LLC.
P.O. Box 21420
San Juan, PR 00928-1420

Dear Mr. Diaz:

On September 20, 2016, a document titled "Plant Closure Notice dated August 30, 2016" signed by Mr. Jorge L. Diaz, President & CEO of Betterroads Asphalt, LLC, was emailed to my attention from Ms. Santos, Legal Assistant to Wilfredo A. Geigel/Eugenio W.A. Geigel-Simounet. The Plant Closure Notice states that it is "advance notification of Betterroads, LLC, in compliance with a written declaration of the plant closing law 24 V.I.C. 471 et. seq".

It is indeed unfortunate that Betterroads Asphalt, LLC will be discontinuing business and closing its doors. However, September 20, 2016 was the first date on which either myself or my Department were actually in receipt of the written declaration of advance notification of a plant closing by Betterroads. More importantly, the Plant Closure Notice is not in compliance with the Virgin Islands Plant Closure Act.

In particular, 24 V.I.C. §472(d)(1) provides that:

(1) The notification provided pursuant to this section must include:

(A) A statement of the number of employees whose employment will be terminated in connection with the reduction in force event or transfer or termination of operations of the establishment, the date or dates on which the reduction in force event or transfer or termination of operations and each termination of employment will occur;

(B) A statement of the reasons for the reduction in force event or transfer or termination of operations;

(C) A statement of any employment available to employees at any other establishment operated by the employer, and information regarding the benefits, pay and other terms and conditions of that employment and the location of the other establishment;

(D) A statement of any employee rights with respect to wages, severance pay, benefits, pension or other terms of employment as they relate to the termination, including, but not limited to, any rights based on a collective bargaining agreement or other existing employer policy;

"Labor Works...Let Labor Work For You."

The Virgin Islands Department of Labor is an Equal Opportunity Employer with Equal Opportunity Programs. Auxiliary aids and services are available upon request to individuals with disabilities.

EXHIBIT

2

PERGID-Bayonne, N.J.

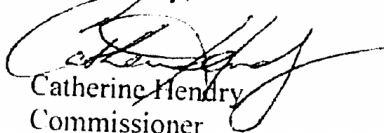
(E) A disclosure of the amount of the severance pay which is payable pursuant to the section 473.

(F) A statement of the employees' right to receive from the V.I. Department of Labor's program to assist dislocated workers pursuant to section 24 V.I.C. § 474(b) information, referral counseling, job training, public programs and benefits to assist the employees; and employee rights based on law.

Please be advised that your Plant Closure Notice does not comport with the requirements of §472 and Virgin Islands law requires that Betterroads give proper notice with the content information previously outlined in accordance with the Virgin Islands Plant Closing Act. Advance notification to employees and their respective labor unions must also comply with the Virgin Islands Plant Closing Act.

I thank you in advance for your prompt attention and cooperation in addressing this critical matter. Please feel free to contact me if you wish to discuss this matter further or if I can provide any further information.

Respectfully,



Catherine Hendry

Commissioner

Virgin Islands Department of Labor

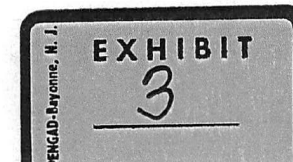
cc: Wilfredo A. Geigel, Esquire

Human Resources - Seniority Report (with

Company(ies): 17

Craft(s): 4,1,2,5,8,3

Co	Emp #	Last Name	First Name	PS	Hired	SSN	Address
17	171241	OLIVE	ANDREW	STT	09/12/84		3C- 1 Estate Mandahl St. Thomas VI 00802
	175515	SELKRIDGE	VINCENT	STT	04/10/00		Hidden Valley 394-128 St. Thomas VI 00802
	175549	ROBESNIO	JOSEPH	STT	01/02/06		P O Box 3326 St. Thomas VI 00803
	175557	JOSEPH	STEVE	STT	01/14/08		294-29 Annas Retreat St. Thomas VI 00802
	170558	MATHURIN	MICKEY	STT	08/08/14		1732 Estate Lovenlund Charlotte Vi 00802
	175608	COPEL	RICARDO	STX	08/24/15		368 Castle Burke Fredericksted, St Croix 00861
	175620	Jean Risseau	Patrice	STT	10/08/15		3 G Bovoni St Thomas VI 00802
	175621	Francis	George	STT	10/08/15		Tutu High Rise B/10 A/178 St. Thomas VI 00802
	175622	Quetel	Randy	STX	10/22/15		584 Monbijou Christiansted St Croix 00851
	155635	Smithen	Deray	STX	12/07/15		P O Box 3565 Kingshill St. Croix VI 00851
	175639	Caines	Kennedy	STX	02/02/16		P O Box 2916 Kingshill St Croix Vi 00851
	175640	Herbert	Sean	STX	02/02/16		P O Box 2809 Kingshill St Croix Vi 00851
	175517	HANSEN	KEITH	STT	12/18/00		173-314 Estate Tutu St. Thomas VI 00802
	175583	ISAAC	DENZIL	STT	01/26/15		2-40 Est. St. Joseph & Rosendhal St. Thomas VI 00802
	175604	JOSEPH	JEAN	STT	06/17/15		4A-A6 Bovoni St. Thomas VI 00802
	175607	SMITHEN	LIVINGSTON	STX	08/24/15		23 Mount Pleasant Fredericksted St. Croix VI 00840
	175618	AGUILERA	OSIRIS	STT	09/21/15		Estate Nadir St Thomas VI 00802
	175616	FRIAS	AURIO	STT	09/24/15		Hospital Line #4 St Thomas VI 00802
	175619	JN Baptiste	Joseph	STT	10/08/15		#4 -1- 3Est Fortuna St Thomas VI 00802
	175623	Abbott	Steve	STT	10/22/15		Altona 220-23 Apt #32 St Thomas VI 00802
	175627	Julien	Jean	STT	11/18/15		4605 Tutu Park Mall Street 133 PMB384 St Thomas Vi 00802
	175528	PHILIP	STEDROY	STT	04/09/01		P O Box 305311 St. Thomas Vi 00803



175546	EDWARDS	TERRY	STT	02/08/05	Altona 178-37 St. Thomas VI 00802
175558	STEVENS	GLENMORE	STT	01/28/08	P O Box 307846 St. Thomas VI 00803
175571	Daniel	Anika	STT	07/31/14	0-1-26 State Fortuna St. Thomas VI 00802
175525	TODMAN	DEVAUGHN	STT	03/19/01	394-378 Hidden Valley St. Thomas VI 00802
172069	LESPEARE	LEROY	STT	09/13/88	P O Box 303486 St. Thomas VI 00802
175573	Hutchinson	Hubert	STT	07/31/14	P O Box 7792 St. Thomas VI 00801
175591	STANISLAS	SHA	STX	04/15/15	125 Estate Dimond Fredericksted St. Croix VI 00840
175586	AUGUSTE	MERCKEY	STX	04/15/15	472 Mount Pleasant Fredereicksted St Croix VI 00840
175589	BURGOS MATOS	ALEXANDER	STX	04/15/15	RR -1 P O Box 9311 Kingshill St. Croix VI 00850
175585	MORRIS	GEORGE	STX	04/27/15	P O Box 6668 Sunny Isle Csted St Croix VI 00840
175597	CUENCAS	MIKE	STX	05/27/15	114G Estate Whim Fredericksted St. Croix VI 00840
175600	WARD	DENNISTON	STT	06/17/15	Bovoni Lot #69 St. Thomas VI 00802
175611	ABBOTT	SHIRWIN	STT	09/14/15	B Jerge Gade 1 C Apt #2 St. Thomas VI 00802
175615	CARELA	JUAN	STT	09/24/15	Hospital Ground 1348 St. Thomas VI 00802
175617	RAMIREZ DE LA ROSA	MIGUEL	STT	09/24/15	Frydenhoj #8 St Thomas VI 00802
175633	Burgos	Alex	STX	11/13/15	156 A Old Fredensberg Village Christiansted St. Croix Vi 00820
175630	Briscoe	John	STX	11/24/15	295 Estate Grove Fredericksted St Croix Vi 00840
175628	Fontaine	Gilles	STT	11/30/15	3G-19 Este Brookman St Thomas Vi 00802
175637	Huggins	Clive	STT	01/12/16	79-39 Solburg St. Thomas Vi 00802
175609	MORRIS	PHILPURT	STX	08/24/15	9300 Castle Coakley Christianted St. Croix VI 00850
175610	DE SHATLO	AARON	STT	09/14/15	Jade Gate Apt #5 St. Thomas Vi 00802
175565	FRANK	KELBERT	STT	08/02/13	P O Box 1241 St. Thomas VI 00804
173634	WILLIAMS	CLEMENT	STT	06/03/96	P O Box 301949 St. Thomas VI 00803
175560	SIMON	CLEAVE	STT	03/01/10	6534 Est Smith Bay St. Thomas VI 00802
175568	HARRIS-GIBSON	CARMINA	STT	10/28/13	173 B-1 Annas Retreat St. Thomas VI 00802
175567	ROPER	WENDELL	STT	10/01/13	394-130 Hidden Vialley St. Thomas VI 00802
171048	CARTY	NEIL	STT	11/09/81	P O Box 4506 St Thomas VI 00803
175562	JEFFERS	EASON	STT	06/13/13	8168 Crown Bay Marina St. Thomas VI 00802
175524	Perez-Durand	Luis	STT	09/19/15	P O Box 377, Gurabo PR 00778
175555	HUTCHINSON	HENRIETTA	STT	07/09/07	P O Box 7792 St. Thomas VI 00801
171818	TIRADO-CINTRON	MARCIA	STT	08/15/94	P O Box 305122 St. Thomas VI 00803

Total Co 17: 74
Grand Total: 74

LAW OFFICES
WILFREDO A. GEIGEL

WILFREDO A. GEIGEL
ADMITTED TO PRACTICE IN
U.S. VIRGIN ISLANDS AND
COMMONWEALTH OF PUERTO RICO

EUGENIO W.A. GEIGEL-SIMOUNET
ADMITTED TO PRACTICE IN
COMMONWEALTH OF PUERTO RICO

REPLY TO:

___ ST. CROIX OFFICE
___ PUERTO RICO OFFICE

October 6, 2016

Ms. Catherine A. Hendry, Esq.
Commissioner
Department of Labor of the VI
2353 Kronprindsens Gade
St. Thomas, VI 00802

Re: Betterroads, LLC

Dear Commissioner Hendry:

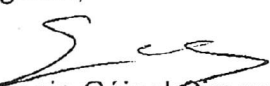
First of all please accept my apology in replying to you at this time. However due to a family medical emergency I have been out of my office and off-island for almost two weeks in the last month.

I am aware of your comments pertaining to Betterroads' plant closing notification. As I was preparing a response to your communication, and while dealing with my personal situation, Betterroads' existing circumstances have deteriorated greatly. As a result of its main credit line having been frozen for the last two months, by the Bank, and now essentially closed, Betterroads has been unable to meet its obligations. This situation has simply imposed a burden too heavy for the company to bear. As a result Betterroads has formally notified all of its employees of the conclusion of all USVI operations and termination of their employment.

Accordingly Betterroads would respectfully request that all necessary and available assistance be provided to all former employees by the Department of Labor, per 24 VIC 414 (b). Betterroads is currently endeavoring to have the bonding company make arrangements to take over all pending projects and bring them to culmination.

Should you have any further inquiries, do not hesitate to contact me.

Regards,


Eugenio Géigel-Simounet, Esq.



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS**

**GOVERNMENT OF THE VIRGIN
ISLANDS,**

Plaintiff,

v.

**BETTERROADS ASPHALT CORPORATION
a/k/a BETTERROADS ASPHALT LLC,**

Defendant.

CASE. NO. ST-16-CV-

**ACTION FOR INJUNCTIVE RELIEF
AND DECLARATORY JUDGMENT**

**ORDER GRANTING PLAINTIFF'S EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER**

THIS MATTER is before the Court on the Plaintiff's Motion for a Temporary Restraining. The Court has considered the Plaintiff's motion, the pleadings and other papers filed and has determined that Defendant has received sufficient notice of the application by Plaintiff and that under Title 5 V.I.C. § 1141 the Government is exempt from posting a bond.¹ The Court finds that Plaintiff has demonstrated that:

- (1) The Plaintiff is likely to prevail on the merits of its claim that the Betterroads Asphalt Corporation has violated Title 24 V.I.C. § 471 *et seq.*, the Virgin Islands Plant Closing Act.
- (2) Plaintiff will suffer irreparable harm if Defendant continue to violate and ignore the mandates of Title 24 V.I.C. § 471 *et seq.*;

¹ V.I. ANN. tit 5 § 1141(b) states as follows:

In any civil action in which the government of the Virgin Islands is a party, no bond, written undertaking, or security shall be required of the government of the Virgin Islands. Upon complying with other requirements, the government of the Virgin Islands has the same rights, remedies and benefits as if the bond, undertaking, or security had been given and approved.

In light of the statutory mandate, the Government is exempt from having to post a bond or cash as security for the issuance of a temporary restraining order.

(3) The injury to Plaintiff and the Public by the continued violation of Title 24 V.I.C. §

471 *et seq.* would outweigh any injury to Defendant;

(4) The public interest is best served by the immediate enforcement of Title 24 V.I.C. §

471 *et seq.*; and

Accordingly, it is hereby

ORDERED Plaintiff's motion is hereby GRANTED; and it is further

ORDERED that Betterroads Asphalt Corporation treat all of its former employees terminated on or before September 30, 2016 as affected employees pursuant to Title 24 V.I.C. § 471 (2); and it is further

ORDERED that Betterroads Asphalt Corporation is directed to provide information to the Virgin Islands Department of Labor and the Virgin Islands Department of Justice regarding the affected employees in the manner described in Title 24 V.I.C. § 472(d); and it is further

ORDERED that Betterroads Asphalt Corporation is prohibited from removing any property, assets, or money from the U.S. Virgin Islands; and it is further

ORDERED that any person or entity that violates this Order shall be found in contempt of this Court's Order; and it is further

ORDERED that a copy of this Order shall be served on Betterroads Asphalt Corporation.

ORDERED that a hearing on Plaintiffs' motion for preliminary injunction shall be held on the _____ day of _____ 2016, at _____ a.m/p.m, in court room _____; and it is further

Dated: _____

Judge
Superior Court of the Virgin Islands

Government v. Better Roads Asphalt Corporation

Civil No. STX-16 - _____

Order Granting Motion for Temporary Restraining Order and Preliminary Injunction

Page 3

ATTESTED:

By: _____

ESTRELLA H. GEORGE

Acting Clerk of the Superior Court

By: _____

Deputy Clerk

RECEIVED

16 OCT -7 PM 5:10

SUPERIOR COURT

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS**

**GOVERNMENT OF THE VIRGIN
ISLANDS,**

Plaintiff,

v.

**BETTERROADS ASPHALT CORPORATION
a/k/a BETTERROADS ASPHALT LLC,**

Defendant.

CASE. NO. ST-16-CV-

**ACTION FOR INJUNCTIVE RELIEF
AND DECLARATORY JUDGMENT**

COMPLAINT

COMES NOW PLAINTIFF, GOVERNMENT OF THE VIRGIN ISLANDS, (hereinafter "Government") by and through its undersigned counsel, and for its Complaint against Defendant Betterroads Asphalt, Corporation ("Betterroads") states the following:

1. This Court has jurisdiction pursuant to Title 4 V.I. Code Ann. §76 and Title 24 V.I. Code Ann. §§ 136 and 477.
2. This is an action to prevent evasion of the protections provided by the Virgin Islands Plant Closing Act, Title 24 V.I. Code Ann. §§ 471-476 ("VIPCA").
3. Plaintiff the Government of the Virgin Islands is the governing entity of the territory of the United States Virgin Islands and has the power to sue by Section 2 of the Revised Organic Act of 1954 and Title 3 V.I. Code Ann. § 114.
4. Defendant Betterroads is a Puerto Rico corporation first authorized to do business in the U.S. Virgin Islands in 1981 and that operates a paving company on both the islands of St. Croix and St. Thomas.
5. On information and belief, Betterroads employed Seventy-Four (74) employees.
6. On information and belief, Betterroads not all employed person have received their pay in last three pay periods.

7. On information and belief, some of Betteroads employees were members of a union.

8. The VIPCA codified at Title 24 V.I. Code Ann. § 472(a)(1) requires that, before making a plant closing, every employer shall give advance notification to any affected employees, their respective labor unions, and to the Commissioner of the Virgin Islands Department of Labor.

9. The VIPCA codified at Title 24 V.I. Code Ann. § 473(a)(1) requires that within one pay period of the termination, an employer making a plant closing will pay severance pay to every affected employee.

COUNT I

Failure to give ninety days' advance notice of plant closing

10. The Government restates and re-alleges paragraphs 1-8 of this Complaint as if fully set forth herein.

11. As described in Title 24 V.I. Code Ann. § 471(1) "advance notification" means a written declaration by an employer, in a form and manner prescribed by the Commissioner, that a plant closing, mass layoff or relocation will occur.

12. As described in Title 24 V.I. Code Ann. § 471(2) "affected employees" includes an employee who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing.

13. As described in Title 24 V.I. Code Ann. § 471(4) "employee" means an individual who at the point of termination had been performing full-time services for wages at a facility for the Employer for at least twelve consecutive months.

14. As described in Title 24 V.I. Code Ann. § 471(5) "employer" means an individual, corporation, or other private business entity, whether for profit or not for profit,

which owns or operates a facility, or as defined in a contract governing the transfer of ownership or controlling interest in the covered facility.

15. As described in Title 24 V.I. Code Ann. § 471(6) “employment loss” means an employment termination, other than a discharge for cause, voluntary departure, or retirement; permanent layoff; or a relocation in which the affected employee is not offered employment in the relocated business.

16. As described in Title 24 V.I. Code Ann. § 471(7) “facility” means a plant, factory, commercial business, institution or other place of employment located in the Virgin Islands which had ten (10) or more employees during any month during the six-month period prior to the date of plant closing.

17. As described in Title 24 V.I. Code Ann. § 471(11) “plant closing” means a permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment or facility.

18. As described in Title 24 V.I. Code Ann. § 471(13) “severance payment” means the pay an affected employee receives within one pay period after termination that is equal to one week’s pay for each year of service with the employer.

19. In the instance of employment loss associated with a plant closing involving an employer with fewer than one thousand employees, Title 24 V.I. Code Ann. § 472(a)(1) requires employers to give at least ninety days’ advance notification to affected employees, their respective labor unions, and the Virgin Islands Commissioner of the Department of Labor.

20. Title 24 V.I. Code Ann. § 472(d) describes the required contents of the advance notification and dates that the document must include:

- (A) A statement of the number of employees whose employment will be terminated in connection with the reduction in force event or transfer or termination of operations of the establishment, the date or dates on

which the reduction in force event or transfer or termination of operations and each termination of employment will occur;

- (B) A statement of the reasons for the reduction in force event or transfer or termination of operations;
- (C) A statement of any employment available to employees at any other establishment operated by the employer, and information regarding the benefits, pay and other terms and conditions of that employment and the location of the other establishment;
- (D) A statement of any employee rights with respect to wages, severance pay, benefits, pension or other terms of employment as they relate to the termination, including, but not limited to, any rights based on a collective bargaining agreement or other existing employer policy;
- (E) A disclosure of the amount of the severance pay which is payable pursuant to the section 473.
- (F) A statement of the employees' right to receive from the V.I. Department of Labor's program to assist dislocated workers pursuant to Title 24 V.I. Code Ann. § 474(b) information, referral counseling, job training, public programs and benefits to assist the employees; and employee rights based on law.

21. Title 24 V.I. Code Ann. § 476(a) provides that employers may subject to a fine of between \$100 and \$3,000 per affected employee.

22. Title 24 V.I. Code Ann. § 476(b) states that employers who violate the VIPCA are liable to each affected employee in an amount equal to the value of all the employee's benefits and other compensation for the three months prior to the plant closure.

23. Title 24 V.I. Code Ann. § 477 authorizes the Attorney General to bring an action in any court in the Virgin Islands to restrain violations of the VIPCA.

24. On September 20, 2016 the Department of Labor received an email message from a representative of Betterroads with the subject line: "Betterroads Asphalt Corporation (USVI) – Plant Closing " The email included as an attachment a letter dated August 30, 2016 that was signed by Mr. Jorge L. Diaz, President and Chief Executive Officer of Betterroads Asphalt, LLC. The email and the letter indicate an effort to comply with the advance

notification requirements of the Virgin Islands Plant Closing Act found at Title 24 V.I. Code Ann. §§ 471-478. A copy of this email and its attachment is attached as “Exhibit A” and is incorporated in its entirety by reference as if fully restated herein.

25. That in Diaz’ August 30, 2016 letter he states that he gave “advanced notice of the imminent closure of Betterroad...within the next 90 days.” (See Exhibit A). However, the 30 days is still beneath the 90 days requirement.

26. That the letter did not detail when Betterroads would be officially closed. (See Exhibit A).

27. That the September 20th email message also contained as an attachment, a memorandum dated September 1, 2016, titled “NOTICE TO ALL EMPLOYEES” that referenced that Betterroads was communicating to their employees that they gave notice of a plant closure to the Commissioner of Labor. The memorandum further explained that the company would be closing within 90 days. A copy of the memorandum is attached as “Exhibit B” and is incorporated in its entirety by reference as if fully restated herein.

28. That as of the present date, the required information described in Title 24 V.I. Code Ann. § 472(d) has not been received by the Commissioner or the Department of Justice.

29. The full-time employees terminated by Betterroads meet the VIPCA definition of “affected employee.”

30. By letter dated September 21, 2016, the Government, through Commissioner of Labor notified Betterroads that it failed to provide advance notification to the Commissioner containing all of the information specified by Title 24 V.I. Code Ann. § 472(d)(1) in accordance with the VIPCA. A copy of this letter is attached as “Exhibit C” and is incorporated in its entirety by reference as if fully restated herein.

31. Betterroads has violated the terms of the VIPCA by failing to provide advance notification to the Commissioner as required by Title 24 V.I. Code Ann. § 472(a).

Count II

Failure to compensate the employees with severance pay

32. Plaintiff restates and re-alleges paragraphs 1-32 of this Complaint as if fully set forth herein.

33. Under Virgin Islands Plant Closing Act, Title 24 V.I. Code Ann. § 473(a), if a plant closing occurs, the employer shall pay every affected employee a severance payment equal to one week's pay for every year of service with the employer and this payment shall be made no later than one pay period after the date of the employee's termination.

34. The Government of the Virgin Islands seeks information to establish an accurate amount of severance pay of the approximately seventy-four (74) affected employees.

35. Upon information and belief, Betterroads pays its employees on a weekly basis.

36. Based on the information provided by Betterroads to the Commissioner, Betterroads ceased business operations in the USVI and terminated the employment of the affected employees on Friday, September 30, 2016.

37. As of October 7, 2016 one pay period has transpired since Betterroads terminated the Terminated Employees.

38. As of October 7, 2016 Betterroads has not paid severance to the affected employees as required under the Title 24 V.I. Code Ann. § 473.

39. The Government is entitled to declaratory judgment stating that Betterroads has failed to pay its former employees severance payments in accordance with VIPCA.

40. The Government is entitled to declaratory judgment stating that Betterroads employees are entitled to severance payments of one week's pay for each year of employment with Betterroads as required by Title 24 V.I. Code Ann. § 473(a).

COUNT III

Injunctive Relief

41. The Government restates and re-alleges paragraphs 1-42 of this Complaint as if fully set forth herein.

42. The VIPCA is intended to mitigate the harm caused by large numbers of employees who suffer employment loss from a single employer during a short period of time.

43. That Betterroads be prohibited from transferring any and all assets out of the Territory of the U.S. Virgin Islands.

44. That any and all payments from the Government of the Virgin Islands to Betterroads be temporarily suspended until the conclusion of this matter.

45. The Virgin Islands Department of Labor provides resources and assistance to employees who have or are about to suffer employment loss to lessen the impact to these employees and to their communities.

46. The Virgin Islands Department of Labor, Division of Training, maintains a Dislocated Worker Unit that operates a Rapid Response Team to assist employees who are about to be laid off.

47. The VIPCA requires advance notification of a mass layoff or a plant closing to affected employees, labor unions representing affected employees, and the Virgin Islands Department of Labor for reasons including:

- a. Advance notification to affected employees allows them the opportunity to plan their finances in order to adapt to a potential period of unemployment.

b. Advance notification to affected employees allows them the opportunity to begin looking for new work while still employed.

c. Advance notification to affected employees allows them the opportunity to seek assistance from their labor unions, from the Virgin Islands Department of Labor, and from other possible resources.

d. Advance notification to labor unions representing affected employees allows the unions the opportunity to plan responses and provide support to affected employees who are suffer employment loss.

e. Advance notification to the Virgin Islands Department of Labor allows the Department to provide early employment loss assistance to affected employees through the Rapid Response Team operated by the Dislocated Worker Unit.

48. The loss of opportunities to the affected employees to receive a full measure of assistance from the VIDOL represents irreparable harm.

49. Injunctive relief is warranted in this instance to protect the rights of the Terminated Employees and the remaining employees of Betterroads.

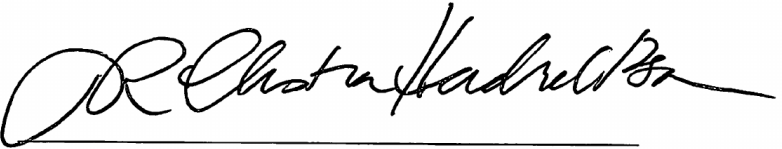
WHEREFORE, Government of the Virgin Islands request a temporary, preliminary, and permanent injunction and damages and declaratory judgment as follows:

- A. That the Court enter a Declaratory Judgment adjudging that the termination of business activities on September 30, 2016 constitutes a "plant closing" as defined by Title 24 V.I.C. § 471(11).
- B. That the Court enter a Declaratory Judgment adjudging that Betterroads failed to give the required 90 days' advance notification of the plant closing to its employees, to their labor unions, and to the Virgin Islands Commissioner of the Department of Labor in violation of the Virgin Islands Plant Closing Law, Title 24 V.I.C. § 472(a)(1);
- C. That the Court enter a Declaratory Judgment adjudging that Betterroads employees are entitled to a right of first refusal to purchase the Betterroads property as determined by Title 24 V.I.C § 475;

- D. That the Court enter an Order directing against Betteroads to pay each affected employee the mandated severance payments of one week's pay for each year of employment, in accordance with Title 24 V.I. Code Ann. § 473;
- E. That the Court enter an Order directing Betteroads to pay each affected employee their employee's benefits and other compensation for three months preceding the closure of the facility, in accordance with Title 24 V.I. Code Ann. § 476(b);
- F. That the Court enter an Order prohibiting Betteroads from removing any property, assets, or money on deposit in Virgin Islands banks from the U.S. Virgin Islands;
- G. That the Court enter an Order suspending any obligations or payments owed by the Government of the Virgin Islands to Betteroads;
- H. That the Court enter an Order directing Betteroads to provide the Virgin Islands Department of Labor with all of the information required to be provided by Title 24 V.I. Code Ann. § 472(d).
- I. Award Government of the Virgin Islands reasonable attorney's fees and costs;
and
- J. Such other and further relief as the Court may deem appropriate.

VERIFICATION

Pursuant to Rule 18 of the Rules of the Superior Court, I declare under the penalty of perjury that the foregoing is true and correct.

Dated: 10/7/16 
NESHA R. CHRISTIAN-HENDRICKSON, ESQ.
LEGAL COUNSEL DEPARTMENT OF LABOR

Respectfully Submitted,
CLAUDE E. WALKER, ESQ.
Attorney General

Dated: 10/7/2016 By: 
HUGH A. GREENTREE, ESQ.
Assistant Attorney General
Department of Justice
34-38 Kronprindens Gade
GERS Complex, 2nd floor
St. Thomas, Virgin Islands 00802

EXHIBIT A

Ariel Smith

From: Catherine Hendry <chendry@vidol.gov>
Sent: Friday, October 07, 2016 8:50 AM
To: Ariel Smith; Hugh Greentree
Cc: Nesha Christian-Hendrickson
Subject: FW: Betterroads Asphalt Corporation (USVI) - Plant Closing
Attachments: Letter to Commissioner Hendry from Jorge Diaz re plant closing.pdf

Importance: High

-----Original Message-----

From: Catherine Hendry
Sent: Tuesday, September 20, 2016 3:50 PM
To: 'Ariel Smith'
Subject: FW: Betterroads Asphalt Corporation (USVI) - Plant Closing
Importance: High

-----Original Message-----

From: sara@gs-lawoffices.com [mailto:sara@gs-lawoffices.com]
Sent: Tuesday, September 20, 2016 2:53 PM
To: Catherine Hendry
Cc: egeigel@gs-lawoffices.com
Subject: Betterroads Asphalt Corporation (USVI) - Plant Closing
Importance: High

Dear Commissioner Hendry:

Per your request, attached please find a letter from Mr. Jorge Diaz regarding the above mentioned matter.

Cordially,

Sara Y. Santos
Legal Assistant to Wilfredo A. Geigel/Eugenio W.A. Geigel-Simounet
5020 Anchor Way, 2nd Floor
Gallowsbay, VI 00820
(340)778-8069/(340)773-8524 (Fax)

CONFIDENTIALITY NOTICE:

INFORMATION IN THIS MESSAGE IS INTENDED ONLY OR THE PERSONAL AND CONFIDENTIAL USE OF THE RECIPIENT(S) NAMED ABOVE.

This electronic message transmission is sent by the Law Offices of Wilfredo A. Géigel. This message contains information that is confidential, privileged and exempt from disclosure under applicable law.

The information is intended only for the use of the individual(s) or

entity(ies) to which it is addressed. Any unauthorized use or dissemination of this communication is strictly prohibited. If you are not the intended recipient or agent responsible for delivering this message to the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this message is prohibited.

If you have received this electronic transmission in error, please notify us immediately by telephone at (340) 778-8069 or notify the sender by return e-mail message and delete this message and all its attachments.

Thank you.

Please consider the environment before printing this e-mail.



August 30, 2016

Ms. Catherine A. Hendry, Esq.
Commissioner
Department of Labor of the VI
2353 Kronprindsens Gade
St. Thomas, VI 00802

Re: Betterroads, LLC

Dear Commissioner Hendry:

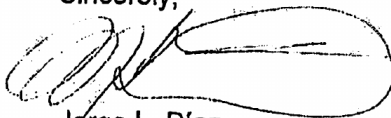
Please accept this advance notification of Betterroads, LLC, in compliance with a written declaration of the plant closing law 24 V.I.C. 471 et. seq.

After 20 years of unfailing service to improve and maintain the roadways of the territories of the Virgin Islands, Betterroads, LLC very sadly inform that due to a very serious and detrimental economic situation is force to close its doors within the next 90 days or after determination of its 2 final projects which are presently under terminal stages.

Together with this advance notification, all affected employees and the VI Workers Union which has shown interest in representing the company's employees will be given notice as well. Not having any other place of employment in the territory, no offer of employment can be made to any of the present employees. This notice of closing is given with much regrets.

If any further information is required, please let us know so we can comply with Rules and Regulations of your department.

Sincerely,



Jorge L. Díaz
President & CEO



Quality is not an accident, it is the aim of our people.

PO BOX 21420, SAN JUAN, PR 00928-1420 TELS (787) 760-1094 / 764-1000 / 765-1234 FAX (787) 748-6720 / 758-7508 / 282-6408

EXHIBIT B

August 30, 2016

Ms. Catherine A. Hendry, Esq.
Commissioner
Department of Labor of the VI
2353 Kronprindsens Gade
St. Thomas, VI 00802

Re: Betterroads, LLC

Dear Commissioner Hendry:

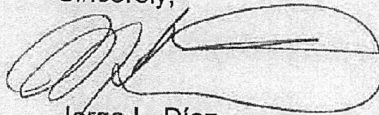
Please accept this advance notification of Betterroads, LLC, in compliance with a written declaration of the plant closing law 24 V.I.C. 471 et. seq.

After 20 years of unfailing service to improve and maintain the roadways of the territories of the Virgin Islands, Betterroads, LLC very sadly inform that due to a very serious and detrimental economic situation is force to close its doors within the next 90 days or after determination of its 2 final projects which are presently under terminal stages.

Together with this advance notification, all affected employees and the VI Workers Union which has shown interest in representing the company's employees will be given notice as well. Not having any other place of employment in the territory, no offer of employment can be made to any of the present employees. This notice of closing is given with much regrets.

If any further information is required, please let us know so we can comply with Rules and Regulations of your department.

Sincerely,



Jorge L. Díaz
President & CEO



PO BOX 21420, SAN JUAN, PR 00928-1420 TELS (787) 760-1094 / 764-1000 / 765-1234 FAX (787) 748-6720 / 758-7508 / 282-6408



Quality is not an accident, it is the aim of our people.

EXHIBIT C



4401 Sion Farm
Christiansted, VI 00820-4245
(340)773-1994, Fax (340)713-3415

GOVERNMENT OF
THE UNITED STATES VIRGIN ISLANDS



US VIRGIN ISLANDS
**DEPARTMENT
of LABOR**

PO Box 302608-Charlotte Amalie
St. Thomas, VI 00803-2608
(340)776-3700, Fax (340)715-5745

Office of the Commissioner

September 21, 2016

Jorge L. Diaz
Betterroads Asphalt, LLC.
P.O. Box 21420
San Juan, PR 00928-1420

Dear Mr. Diaz:

On September 20, 2016, a document titled "Plant Closure Notice dated August 30, 2016" signed by Mr. Jorge L. Diaz, President & CEO of Betterroads Asphalt, LLC, was emailed to my attention from Ms. Santos, Legal Assistant to Wilfredo A. Geigel/Eugenio W.A. Geigel-Simounet. The Plant Closure Notice states that it is "advance notification of Betterroads, LLC, in compliance with a written declaration of the plant closing law 24 V.I.C. 471 et. seq".

It is indeed unfortunate that Betterroads Asphalt, LLC will be discontinuing business and closing its doors. However, September 20, 2016 was the first date on which either myself or my Department were actually in receipt of the written declaration of advance notification of a plant closing by Betterroads. More importantly, the Plant Closure Notice is not in compliance with the Virgin Islands Plant Closure Act.

In particular, 24 V.I.C. §472(d)(1) provides that:

(I) The notification provided pursuant to this section must include:

(A) A statement of the number of employees whose employment will be terminated in connection with the reduction in force event or transfer or termination of operations of the establishment, the date or dates on which the reduction in force event or transfer or termination of operations and each termination of employment will occur;

(B) A statement of the reasons for the reduction in force event or transfer or termination of operations;

(C) A statement of any employment available to employees at any other establishment operated by the employer, and information regarding the benefits, pay and other terms and conditions of that employment and the location of the other establishment;

(D) A statement of any employee rights with respect to wages, severance pay, benefits, pension or other terms of employment as they relate to the termination, including, but not limited to, any rights based on a collective bargaining agreement or other existing employer policy;

"Labor Works...Let Labor Work For You."

The Virgin Islands Department of Labor is an Equal Opportunity Employer with Equal Opportunity Programs. Auxiliary aids and services are available upon request to individuals with disabilities.

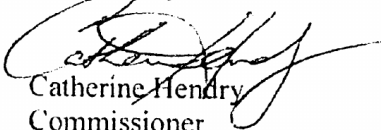
(E) A disclosure of the amount of the severance pay which is payable pursuant to the section 473.

(F) A statement of the employees' right to receive from the V.I. Department of Labor's program to assist dislocated workers pursuant to section 24 V.I.C. § 474(b) information, referral counseling, job training, public programs and benefits to assist the employees; and employee rights based on law.

Please be advised that your Plant Closure Notice does not comport with the requirements of §472 and Virgin Islands law requires that Betterroads give proper notice with the content information previously outlined in accordance with the Virgin Islands Plant Closing Act. Advance notification to employees and their respective labor unions must also comply with the Virgin Islands Plant Closing Act.

I thank you in advance for your prompt attention and cooperation in addressing this critical matter. Please feel free to contact me if you wish to discuss this matter further or if I can provide any further information.

Respectfully,



Catherine Hendry
Commissioner

Virgin Islands Department of Labor

cc: Wilfredo A. Geigel, Esquire

RECEIVED
16 OCT -7 PM 5:10
SUPERIOR COURT