

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

**GOVERNMENT OF THE VIRGIN
ISLANDS,**

Plaintiff,

v.

**SUGAR BAY CLUB AND RESORT
CORPORATION,**

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 Sugar Bay Club and Resort Corporation ("Sugar Bay") states the following:

1. This Court has jurisdiction pursuant to Title 4 V.I.C. §76 and Title 24 V.I.C. §§ 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.C. §§ 471-476.

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.C. § 114.

4. Defendant Sugar Bay is a Virgin Islands corporation that operates a hotel and resort facility located on the north east side of the island of St. Thomas.

5. Sugar Bay was a beneficiary of the tax incentive program administered by the Economic Development Authority for more than fifteen (15) years. During that period, Sugar Bay received generous tax exemptions from the Territory.

6. On information and belief, Sugar Bay employs more than One Hundred (100) employees.

7. On information and belief, some of Sugar Bay employees are members of a union.

8. The Virgin Islands Plant Closing Act codified at Title 24 V.I. C. § 472(a)(1) requires that, before making a mass layoff, 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 Virgin Islands Plant Closing Act also requires that severance payments be made to affected employees no later than one pay period after termination.

COUNT I

Failure to give thirty days' advance notice of layoff

10. The Government restates and re-alleges paragraphs 1-9 of this Complaint as if fully set forth herein.

11. As described in Title 24 V.I.C. § 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.

12. As described in Title 24 V.I.C. § 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.

13. As described in Title 24 V.I.C. § 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.

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

15. As described in Title 24 V.I.C. § 471(8) “mass layoff” means a reduction in force which is not the result of a plant closing and which results in the employment loss at a single site of employment during any thirty-day period for at least twenty-five employees.

16. As described in Title 24 V.I.C. § 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.

17. As described in Title 24 V.I.C. § 471(9) “partial closing” a permanent cessation of a discrete portion of the business conducted at a facility which results in the termination of a significant number of the employees of the facility which affects workers and communities in a manner similar to that of plant closings.

18. As described in Title 24 V.I.C. § 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 mass layoffs involving an employer with fewer than one thousand employees, Title 24 V.I.C. § 472(a)(1) requires employers to give at least thirty days’ advance notification to affected employees and their respective labor unions as well as ten days’ advance notification to the Virgin Islands Commissioner of the Department of Labor.

20. On January 11, 2016 the Department of Labor made a telephone call to Sugar Bay to discuss information that the Department received concerning the termination of Sugar Bay employees.

21. During the January 11, 2016 telephone call Sugar Bay informed the Department that Sugar Bay would be terminating its employees.

22. On January 12, 2016 Sugar Bay delivered a letter to the Department of Labor in which it named twenty-four employees to be terminated. A copy of this letter is attached as "Exhibit A" and incorporated in its entirety by reference as if fully restated herein.

23. On January 15, 2016 the Commissioner of Labor sent a letter to Sugar Bay describing the Virgin Islands Plant Closing Act, describing the Department's Rapid Response Team, and requesting additional information from Sugar Bay concerning the names, start dates, laid-off dates, and other information regarding the Terminated Employees. A copy of this letter is attached as "Exhibit B" and incorporated in its entirety by reference as if fully restated herein.

24. On January 19, 2016 Sugar Bay sent a list to the Department of Labor naming twenty-four employees who were terminated, providing additional information and stating that one employee had been terminated December 24, 2016; five employees had been terminated January 5, 2016; sixteen employees had been terminated January 8, 2016; and two employees had been terminated January 13, 2016. A redacted copy of this list is attached as "Exhibit C" and incorporated in its entirety by reference as if fully restated herein.

25. The list described in Paragraph No. 24 above had a "run date" of "1/19/2016."

26. Sugar Bay claims that it only terminated twenty-four employees during the thirty-day period beginning December 24, 2015 and ending January 23, 2016.

27. On information and belief, sometime in December 2015 or January 2016 Sugar Bay made a decision to terminate over forty of its employees, identified those employees, and staggered the termination dates for these employees in order to evade the advance notification and severance payment provisions of the Virgin Islands Plant Closing Act.

28. On information and belief, between the dates of December 24, 2015 and February 13, 2016, there was a thirty day period during which Sugar Bay decided to terminate twenty-five or more employees.

29. By a telephone call on February 9, 2016, Sugar Bay informed the Commissioner of the Virgin Islands Department of Labor that an additional twenty-three employees had been selected for termination.

30. Concierge service and room service for guests constituted discrete operating units of the business conducted by Sugar Bay.

31. Sugar Bay has ceased providing concierge service and room service for guests of the hotel and resort facility and terminated the employees responsible for providing these services.

32. Upon information and belief Sugar Bay has closed at least one restaurant on the property and discontinued other services and units.

33. On February 11, 2016 the Department of Labor conducted a rapid response at Sugar Bay.

34. While the Department was conducting the February 11, 2016 rapid response, Sugar Bay gave the Department a list naming twenty-three additional employees selected for termination, providing additional information and stating that five employees had been terminated February 9, 2016; thirteen employees had been terminated February 10, 2016; one employee had been terminated February 11, 2016; two employees had a termination date

described as “upon return from loa;” and two employees did not have termination dates specified. A redacted copy of this list is attached as “Exhibit D” and incorporated in its entirety by reference as if fully restated herein.

35. The list described in Paragraph No. 34 above had a “run date” of “2/2/2016.”

36. Sugar Bay made the decision to terminate the employees named in the list described in Paragraph No. 34 above on or before February 2, 2016.

37. On information and belief, the lists and information submitted by Sugar Bay to the Virgin Islands Department of Justice on January 19, 2016 and February 11, 2016 contained inaccurate information regarding the number of employees terminated, the dates employees were hired, the dates employees were terminated, and the amounts of severance pay payable to employees.

38. Sugar Bay, nonetheless, has admitted to have terminated at least forty-seven employees (“Terminated Employees”) during the sixty-four-day period beginning December 24, 2015 and ending February 26, 2016.

39. In order to evade the spirit, intent and requirements of the Plant Closing Act, Sugar Bay has purposefully and calculatingly structured the termination date of employees to avoid having to provide advance notice to employees and pay Terminated Employees severance payments as required by law.

40. Sugar Bay has violated the letter and spirit of the Plant Closing Act by failing to provide advance notice as required by law.

Count II

Failure to compensate the employees with severance pay

41. Plaintiff restates and re-alleges paragraphs 1-40 of this Complaint as if fully set forth herein.

42. Under Virgin Islands Plant Closing Act, Title 24 V.I.C. § 473(a), if a mass layoff 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.

43. Based on information provided by Sugar Bay to the Virgin Islands Department of Labor in the Dislocated Workers Notices submitted on January 19, 2016 and February 11, 2016, severance pay of approximately \$47,710.80 is payable to twenty-eight (28) Terminated Employees.

44. Sugar Bar has refused to pay severance to the Terminated Employees.

45. Many Terminated Employees who were eligible for severance pay were cooks, stewards, dishwashers, pantry workers, delivery workers, and laborers who earned \$10.50 or less per hour and are entitled to less than \$850.00 in severance.

46. More than one pay period has transpired since Sugar Bay terminated the Terminated Employees.

47. By letter dated March 8, 2016, the Government, through Commissioner of Labor notified Sugar Bay that it failed or refused to compensate all of the Terminated Employees with the applicable severance pay in accordance with the Virgin Islands Plant Closing Act. A copy of this letter is attached as "Exhibit E" and incorporated in its entirety by reference as if fully restated herein.

48. To date, Sugar Bay has failed and refused to compensate its former employees by making severance payments as required under the Virgin Islands Plant Closing Act.

49. The Government is entitled to declaratory judgment stating that Sugar Bay has failed and refused to pay its former employees severance payments in accordance with Virgin Islands Plant Closing Act.

50. The Government is entitled to declaratory judgment stating that Sugar Bay employees are entitled to severance payments of one week's pay for each year of employment with Sugar Bay.

COUNT III

Injunctive Relief

51. The Government restates and re-alleges paragraphs 1-50 of this Complaint as if fully set forth herein.

52. The Virgin Islands Plant Closing Act 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.

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

54. 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.

55. The Plant Closing Act 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.

56. By intentionally structuring the timing of employee terminations and by failing to report accurate information regarding the number of employees terminated, it is reasonable to believe that Sugar Bay intends to terminate additional employees.

57. By intentionally structuring the timing of employee terminations and by failing to report accurate information regarding the number of employees terminated, Sugar Bay is depriving the Terminated Employees and the additional employees that may be terminated of the opportunities created by the Plant Closing Act.

58. The loss of opportunities to the Terminated Employees and additional employees that may be terminated above represents irreparable harm.

59. The loss of the opportunities to the Department of Labor to provide early employment loss assistance to the Terminated Employees and additional employees that may be terminated represents irreparable harm.

60. Injunctive relief is warranted in this instance to protect the rights of the Terminated Employees and the remaining employees of Sugar Bay.

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 employees between December 24, 2015 and the present day by Sugar Bay Club and Resort Corporation constitute a mass layoff as defined by Title 24 V.I.C. § 471(8).
- B. That the Court enter a Declaratory Judgment adjudging that Sugar Bay Club and Resort Corporation failed to give the required 10 days' advance notification of the mass layoff or plant closing to the Virgin Islands Commissioner of the Department of Labor in violation of the Virgin Islands Plant Closing Act, Title 24 V.I.C. § 472(a)(1);
- C. That the Court enter a Declaratory Judgment adjudging that Sugar Bay Club and Resort Corporation failed to give its employees the required 30 days' advance notification of the mass layoff in violation of the Virgin Islands Plant Closing Act, Title 24 V.I.C. § 472(a)(1);
- D. That the Court enter a Declaratory Judgment adjudging that Sugar Bay employees are entitled to a right of first refusal to purchase the Sugar Bay property as determined by Title 24 V.I.C. § 475;
- E. That the Court enter an Order directing Sugar Bay Club and Resort Corporation to pay each affected employee the mandated severance payments of one week's pay for each year of employment, in accordance with 24 V.I.C. § 473;
- F. That the Court enter an Order directing Sugar Bay Club and Resort Corporation to pay each affected employee their employee's benefits and other compensation for three months preceding the closure of the facility, in accordance with 24 V.I.C. § 476(b);
- G. That the Court enter an Order prohibiting Sugar Bay Club and Resort Corporation from making any further terminations structured to evade the protections of the Virgin Islands Plant Closing Act, Title 24 V.I.C. § 471 et seq.;
- H. That the Court enter an Order prohibiting Sugar Bay Club and Resort Corporation from making any further terminations without first giving 10 days' notice to the Virgin Islands Department of Labor in the manner described by Title 24 V.I.C. § 472;
- I. That the Court enter an Order prohibiting Sugar Bay Club and Resort Corporation from making any further terminations without first giving 30 days' notice to employees to be terminated and to the employees' respective labor unions in the manner described by Title 24 V.I.C. § 472;
- J. Award Government of the Virgin Islands reasonable attorney's fees and costs; and
- K. 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: 3/11/16


KENDRA ROACH
ASSISTANT COMMISSIONER OF LABOR

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

Dated: 3/11/2016

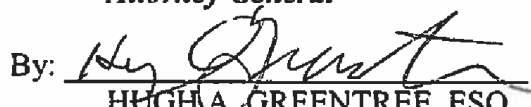
By: 
HUGH A. GREENTREE, ESQ.
Assistant Attorney General
Department of Justice
34-38 Kronprindens Gade
GERS Complex, 2nd floor
St. Thomas, Virgin Islands 00802

EXHIBIT A



January 12, 2016

Catherine Hendry, Esq.
 Commissioner
 U. S. Virgin Islands Department of Labor
 53A & 54AB Kronprindsens Gade
 P. O. Box 302608
 St. Thomas, VI 00803-2608

Re: Layoffs at Sugar Bay Club & Resort

Dear Commissioner Hendry:

This letter is to inform you that due to the recent economic conditions and projected occupancy rates, Sugar Bay made the difficult decision to lay off a number of employees. The following is the list of employees that were recently given layoff notices:

Name	Department	Position
Lykens Laboy	Accounting	Receiving
Winston Jarvis	Accounting	Driver
Lucianno Warrell	Accounting	Driver
Jose Romero	Accounting	Purchasing Manager
Jay Commissions	Accounting	Store Room Supervisor
Alson Potter	Stewarding	Overnight Steward
Jean Frank Octa	Stewarding	Overnight Steward
Jean Robert Brutus	Stewarding	Overnight Steward
Rahcem Chetram	Stewarding	Overnight Steward
Kwesi Adams	Stewarding	Overnight Steward
Georges Paul	Stewarding	Overnight Steward
Arthur Colmore	Food & Beverage	Asst. Restaurant Manager
Kendal Straker	Concierge	Concierge
Jenell Daniel	Concierge	Concierge
Kimmeiqua Mahoney	Concierge	Concierge
Anna Luara Mayes	Concierge	Manager
Leniqua Edwards	Concierge	Concierge
Alissa Lawernce	Food & Beverage	Room Service Attendant



Telford Lewis	Food & Beverage	Room Service Attendant
Khadijah Simms	Food & Beverage	Room Service Attendant
Cleve Waytt	Food & Beverage	Room Service Attendant
Michael Bethune	Food & Beverage	Sous Chef
Franscio Hughes	Housekeeping	Overnight Housekeeping
Guyto Nivorse	Food & Beverage	Overnight Steward

We will continue to keep the Department of Labor updated on the employment status at Sugar Bay. Please contact the undersigned should you have any further questions.

Sincerely,

/s/ Helen Kim

Helen Kim

cc: Beryl Todman via email btodman@vidol.gov

EXHIBIT B



4401 Sion Farm, Ste. 1
Christianssted, VI 00820-4245
(340)773-1994, Fax (340)773-0094

GOVERNMENT OF
THE UNITED STATES VIRGIN ISLANDS



THE VIRGIN ISLANDS
DEPARTMENT
OF **LABOR**

PO Box 302608-Charlotte Amalie
St. Thomas, VI 00803-2608
(340)776-3700, Fax (340)774-5908

Catherine A. Hendry, Esq. – Commissioner

January 15, 2016

VIA EMAIL: ccombs@ahracaribbean.com
hrr@sugarbayresortandspa.com

Carrie Combs
Human Resource Manager
6500 Estate Smith Bay
St. Thomas, VI 00802

Re: Notice of Sugar Bay Resort and Spa Layoff

Dear Ms. Combs:

I am in receipt of your letter of notice dated January 12, 2016 that Sugar Bay Resort and Spa laid off twenty four of their employees. In this time of financial hardship, such notices of business closing or mass lay-off are not taken lightly at the Virgin Islands Department of Labor. These notices are met with concern for the company and its employees as they begin to work towards the lengthy and cumbersome transition that accompanies such a notice. It is our aim to give as much assistance to all parties involved in an effort to make the transitions as trouble-free as possible.

America's Workforce Development System seeks to assist both employers and workers to manage this change and lessen the impact on workers and communities. In accordance with this, the Department of Labor, Division of Training, Dislocated Worker Unit is federally mandated to operate a Rapid Response Team.

Rapid Response was specifically designed as a service for companies facing plant closings or companies with a significant number of employees being laid off or terminated. Although Rapid Response is mainly geared towards companies with at least 50 employees being affected, the Virgin Islands have also instituted the Plant Closing Act, which supersedes Rapid Response in addressing compliance with a lower number of employees.

As our Rapid Response Team seeks to adequately assist the employees of Sugar Bay Resort and Spa, we are requesting that you provide us with the Names, Social Security Numbers, Start Date, Laid-off Date, and all information relative to the packages being offered to each of the employees. This information will aid us in the timely deliverance of our services to said employees.

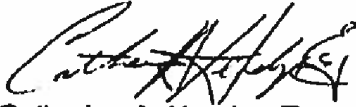
"Labor Works...Let Labor Work For You."

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.



Please find attached a copy of the Plant Closing Act, as stated in the Virgin Islands Code. For additional assistance please contact Prudence Tuitt-Edwards, Rapid Response Coordinator at 340-773-1994 ext. 2138.

Sincerely,



Catherine A. Hendry, Esq.
Commissioner

- c: Kendra Roach, Assistant Commissioner
Arah C. Lockhart, Director of Workforce Development
Gwen Steele, Labor Relations Specialist
Barbara Wheatley, Business & Special Service Coordinator
Prudence Tuitt, Rapid Response Coordinator, STX
Angela Curtis, HR Coordinator

EXHIBIT C

SSN/FEIN	Last, First MI	Hire Date	Termination Date	Retired	Last Paid 1/15/2016	To be paid/Severance paid 1/29/16	Vacation Paid 1/15/2016	Vacation Hours Paid	Lump Sum	Specified Period
	Adams, Kwesi	11/8/2015	1/8/2016	N	594.75	0.00				
	Bethune, Michael	8/4/2012	1/8/2016	N		3076.00	153.46	8.00 y		1/8/2016-2/5/15
	BRUTUS, JEAN ROBERT	6/22/2013	1/5/2016	N	1604.11	0.00	1131.52	136.00 y		
	Chetram, Rahsem	3/25/2015	1/5/2016	N	414.13	0.00				
	Collymore Arthur	5/28/2015	1/8/2016	N		1538.46				
	Comissiong, Jay	7/13/2015	1/5/2016	N	966.88	0.00				
	Daniel, Jenelle	11/13/2015	1/8/2016	N	640.00	0.00				
	Edwards, Leniqua R	10/29/2015	1/8/2016	N	701.25	0.00				1/8/15-1/22/15
	Hughes, Francisco	11/10/2015	12/24/2015	N			0.00			
	Jarvis, Winston	7/9/2015	1/8/2016	N	665.82	0.00				
	LABADY, LYKENS	3/31/2014	1/8/2016	N	664.56	0.00				
	Lawrence, Alissa	11/10/2015	1/13/2016	N	645.75	0.00				
	LEWIS JR, TELFORD	2/12/2015	1/13/2016	N	192.78	0.00				
	Manoney, Kimmiequa J	8/10/2015	1/8/2016	N	933.75	0.00				
	Mayes, Ana Laura	11/24/2014	1/8/2016	N	4230.76	1923.07	2307.69	96.00 y		1/8/15-1/22/15
	NIVROSE, GUYTO	12/14/2013	1/5/2016	N	1176.33	0.00	1131.52	136.00 y		
	OCTA, JEAN FRANCK	2/28/2015	1/5/2016	N	499.35	0.00				
	PAUL, GEORGES	6/16/2012	1/8/2016	N	522.60	0.00				
	POTTER, ALSON	7/21/2013	1/5/2016	N	1614.51	0.00	1131.52	136.00 y		
	Romero, Jose	12/16/2014	1/8/2016	N		1846.15	2215.38	96.00 y		1/8/15-1/22/15
	Simm, Khadijah	2/12/2015	1/8/2016	N	738.79	0.00				
	STRAKER, KENDALL	3/5/2014	1/8/2016	N	1367.31	0.00	228.43	16.00 y		
	WARRELL, LUCIANO	3/31/2014	1/8/2016	N	564.57	0.00				
	Wyatt, Cleve	7/25/2015	1/3/2016	N	664.26	0.00				



Report Total Records:

Report Total Records:

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EXHIBIT D

SSN

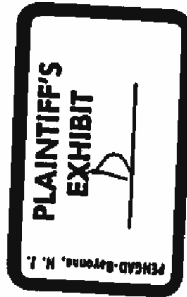
Employee

Rate/Salary

HIRE DATE
MMDDYYYY

Termination Date

SSN	Employee	Rate/Salary	HIRE DATE MMDDYYYY	Termination Date	Position Title	Retired	Last Paid	To Be paid Severance	Vacation Paid	Lump Sum	Specified Period
	Byden, Juwan	\$9.00	07/28/2015	2/11/2016	busser	N					
	Hazel, Daunette	\$16.83	5/15/2011	upon return from loa	i/b manager	N					
	Col. Kmon	\$9.00	9/15/2015	2/10/2016	Mini Bar Attendant	N					
	FAUSTIN, LOLENE	\$10.50	11/10/2009	2/9/2016	pantry	N					
	CHERY, JOLENE	\$10.50	07/09/2009	upon return from loa	pantry cook	N					
	HAPOLITE, BELICAY	\$10.50	07/01/2010	2/10/2016	pantry cook	N					
	CESAR, MAMOUNE	\$10.50	08/27/2010	2/10/2016	pantry cook	N					
	CASTELLANGLAUDE, MIRANNA	\$10.50	01/12/2014	2/9/2016	pantry cook	N					
	Paul Karlina	\$10.50	12/03/2014	2/10/2015	pantry cook	N					
	WATTS, RAMONITA	\$10.50	12/11/2014	2/9/2016	pantry cook	N					
	Wabster, Veronique	16.85	1/11/1997		Restaurant Supervisor	N		2452.97			2/10 3/10
	Archald, Paula	\$9.15	2/02/2014	2/10/2016	Room Service Server	N					
	Gerald, Devenique	\$9.00	9/15/2015	2/10/2016	Room Service Server	N					
	Kelly John	1057.5	1/5/2014		Sales Manager	N		2115.36			2/10-3/1/16
	COATY, JADIAH	\$5.00	12/13/2014	2/10/2016	Turndown Attendant	N					
	HOWARD, VALERIE A	\$9.00	12/13/2014	2/10/2016	Turndown Attendant	N					
	Gumbs, Amorelle	\$9.00	07/01/2015	2/10/2016	Turndown Attendant	N					
	Julius, Ann	\$9.00	11/20/2015	2/10/2016	Turndown Attendant	N					
	Hamilton, Petra	\$9.00	12/11/2015	2/10/2016	Turndown Attendant	N					
	Innes, Rena	11			Accounting Clerk	N					
	Harrison, Jeremiah	13			Accounting Clerk	N					
	Houston, Kamau	3	11/3/2015		Security Officer	N					
	Soodin, David	5	10/27/2015		Security Officer	N					



Layoff

Sugar Bay Resort and Spa (059125)

Report Total Records: 77

User: ccombs [P1]
Paylocity Corporation

Run Date: 2/2/2016 Run Time: 7:12 AM

EXHIBIT E



4401 Sion Farm, Ste. 1
Christiansted, VI 00820-4245
(340)773-1994, Fax (340)713-3415



PO Box 302608-Charlotte Amalie
St. Thomas, VI 00803-2608
(340)776-3700, Fax (340)774-5908

Office of the Commissioner



March 8, 2016

Carrie Combs
Human Resource Manager
6500 Estate Smith Bay
St. Thomas, VI 00802

RE: Sugar Bay Resort and Spa Layoffs

Dear Ms. Combs:

Pursuant to the Virgin Islands Department of Labor (VIDOL) contacting the Sugar Bay Resort & Spa (Sugarbay) on January 11, 2016 and its receipt of Sugarbay's letter dated January 12, 2016, VIDOL was notified that Sugarbay laid off a number of employees in the total amount of 24. (See attached Sugarbay Letter dated January 12, 2016). On January 15, 2016, VIDOL requested additional information on the laid off employees from Sugarbay. (See attached VIDOL letter). Sugarbay responded with their list of affected employees, which reflects that the 24 employees were laid off up until 1/13/2016. (See attached List dated January 19, 2016). In addition, on February 9, 2016 by phone call and Sugarbay's Dislocated Workers Notice received on February 11, 2016, Sugarbay laid off another 23 employees starting 2/9/2016. (See attached Dislocated Notice). In total Sugarbay has laid off 47 employees (24 employees' layoffs ending 1/13/2016 and 23 employees' layoffs starting 2/9/2016) within 27 days of each other.

Based on VIDOL's findings, Sugarbay did have a mass layoff under Title 24 Virgin Islands Code, Chapter 18- Plant Closings, §471 (8) which reads in part:

Mass layoff ... results in an employment loss at the single site of employment during any 30-day period for at least 25 employees.

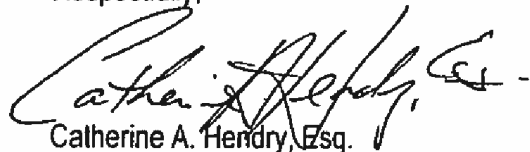
You have failed to compensate all your affected employees with the applicable severance pay in accordance with the PCA. 24 V.L.C. §473(a)(1) states as follows: "No later than one pay period of the termination, the employer shall pay every affected employee a severance payment equal to one week's pay for every year of service with the employer. Severance pay for service in months over a year must be prorated accordingly...."

Please be advised that failure to comply with the provisions of the PCA may result in fines being assessed in accordance with 24 V.L.C. §476 and further legal action. 24 V.I.C. §476(a) states as follows: "(a) Any employer who wilfully violates any provision of this chapter or any rule or regulation issued under this chapter is guilty of a misdemeanor and is subject to a fine of not less than \$100 and not more than \$3000 for every affected employee."

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

We would prefer an amicable resolution to this matter and trust Sugarbay will immediately comply with its statutory responsibilities. If Sugarbay continues to fail to comply with Virgin Islands law, VIDOL through the Office of the Attorney General will be forced to protect the rights of the displaced employees and exercise any other available remedies under the law. Sugarbay needs to pay its employees and comply with Virgin Islands law by **Wednesday, March 9, 2016**; otherwise, legal action will be taken. Your attention and cooperation in this matter is expected.

Respectfully,

A handwritten signature in black ink, appearing to read "Catherine A. Hendry, Esq.", with a stylized flourish at the end.

Catherine A. Hendry, Esq.

Commissioner

Enclosure(s)

cc: Helen Kim, In House Counsel- Sugar Bay Resort & Spa