

**"Sovereign immunity does not apply where government
is a lawbreaker or jurisdiction is the issue"**

November 21, 2014

Ms. Alecia Wells, Joint Board Chairwoman
Arturo Watlington, Jr., District Chairman
Angel Bolques, Assistant to Board
St. Thomas/St. John District Board of Elections
P.O. Box 6038, Crystal Gade
St. Thomas, VI 00801-6038

Mr. Adelbert M. Bryan, District Chairman
Caroline Fawkes, Supervisor
Terrell Alexandre, Assistant to Board
St. Croix District Board of Elections
P.O. Box 1499, Kingshill
St. Croix, Virgin Islands 00851

Re: Challenge and Complaint in Regards to the Conduct of Election Officials, Election Process and
Election Outcome in Relation to the 2014 General Election

Dear Board Members and Supervisor:

I submit this correspondence to you as a:

Candidate on (check one):

- ☒ St. Croix
☐ St. Thomas
☐ St. John

Voter on (check one):

- ☐ St. Croix
☐ St. Thomas
☐ St. John

As per V.I.C. 18, Chapter 23, §629(a), I hereby submit this notarized challenge and complaint within the seven-day time allotment following the November 15, 2014 certification of the General Election, as prescribed by law. This petition is not limited solely to a demand for a recount as I believe that there has been fraud and/or error committed by the misconduct of election officials and the canvassing or return of the votes cast, to include federal candidates, thereby subverting the 2014 election.

Accordingly, I require your written, individual rebuttal to me, specific to each claim, statement and averment made herein, using truth, fact, valid law and evidence to support any rebuttal within three days pursuant to V.I.C. 18, Chapter 23, §629(b) and (c).

You are hereby noticed that your failure to respond, as stipulated, and rebut, with particularity and specificity, anything with which you disagree in this letter, is your lawful, legal and binding agreement with and admission to the fact that everything in this letter is true, correct, legal, lawful, and fully binding upon you in any court in America or its territories, without your protest or objection, or that of those who represent you. See: *Connally v. General Construction Co.*, 269 U.S. 385, 391. Notification of legal responsibility is "the first essential of due process of law." Also, see: *U.S. v. Tweel*, 550 F. 2d. 297: **"Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading."**

Furthermore, on September 27, 2013, by her signature, the Supervisor of Elections Caroline Fawkes agreed that the USVI Election System would unconditionally comply with both the HAVA 402(a) administrative complaint procedures, as well as the Election Assistance Commission's (EAC) direct recommendation to remedy the total and longstanding failure of the Office to maintain a complete complaint file that includes, at a minimum, all complaints, responses, records of hearings and outcomes.

Therefore, as per Ms. Fawkes' good faith commitment on behalf of the entire U.S. Virgin Islands Election System, I expect the issues set forth in this document be fully addressed, heard and resolved to my satisfaction through the timely convening, quorum and decision of the Board.

I. You Swore an Oath

At the onset of your term you, as election officials, swore an Oath to support, obey and defend the U.S. Constitution and laws of the United States applicable to the Virgin Islands and the laws of the Virgin Islands. You did so without any mental reservation or purpose of evasion and that you would faithfully and impartially discharge your duties with fidelity, and with God as your witness.

The Oath is supernaturally binding. Therefore, the uncompromising expectation from the public is that you:

- (a) Uphold your oaths in the performance of your official duties and never violate them;
- (b) Uphold all constitutional and due process mandates and never violate them;
- (c) Uphold all rights guaranteed to Citizens and never violate them.

The first act that guarantees, protects and strengthens the constitutional entitlements and rights of the People is a fair election. When you act outside of these constitutional restrictions, meaning outside the scope of your limited delegated authority, you act unlawfully, perjure your Oath, commit fraud upon the People, and are personally liable for your actions.

Disregard and failure to abide by your oaths, or to operate in any manner contrary to the law and/or contrary to your fiduciary obligation to act in the best interests of the People, constitutes gross negligence and thereby poses serious symbolic and practical harm to the People by the potential installing of illegitimate government administration over their daily lives without their consent through subversion of free, fair and transparent election outcomes. **Fraud vitiates (invalidates) any action.**

II. Legal Precedent and Mandate

VI Supreme Court decision re: S. Ct. No. 2007-96 (page 20)

"The Board and all election officials must pay close attention to the laws as enacted by the Legislature. For it is their duty as public servants of the people of Virgin Islands to ensure that all elections are conducted lawfully."

V.I.C. 18, Chapter 23, §47

“The boards of elections, within their respective election districts, have jurisdiction over the registration of electors and the conduct of primaries and elections... to the end that the administration of the election process **shall be uniform throughout the Virgin Islands...**”

V.I.C. 18, Chapter 23, §47(5)

The boards shall “make and issue such rules, regulations and instructions, **not inconsistent with law**, as it may deem necessary for the guidance of election officers and other assistants, and electors;

V.I.C. 18, Chapter 23, §47(8)

The boards shall “**investigate election frauds, irregularities and violations** of this title, **and report all suspicious circumstances** to the Virgin Islands Department of Justice for possible prosecution;

V.I.C. 18, Chapter 20, §524

“The Joint Boards of Elections shall prescribe rules and regulations to achieve and **maintain the maximum degree of correctness, impartiality and efficiency** of the procedures of voting, counting, tabulating, and recording votes, by the electronic or voting systems and methods provided by law.”

V.I.C. 18, Chapter 27, §795 - **Felony**

“Whoever **willfully changes or causes to be changed** any official election documents, including ballots, tallies, and returns, **or attempts to do so**, shall be fined not more than \$ 1,000 or imprisoned not more than three years, or both.”

V.I.C. 18, Chapter 27, §797 - **Felony**

“Whoever, being an election official, **willfully permits or makes or attempts to make any false count of ballots or the election returns**, shall be fined not more than \$ 1,000 or imprisoned not more than three years, or both.”

V.I.C. 18, Chapter 27, §799 - **Felony**

“Whoever, being an election official, **willfully fails to perform any election duty or knowingly does any unauthorized act with the intent to affect the election or its results**, shall be fined not more than \$ 1,000 or imprisoned not more than three years, or both.”

III. The Help America Vote Act of 2002 (HAVA), Title III

1. Because federal candidates were on the ballot, you as elections officials were federally mandated to implement the use of the DS200 and AutoMark voting systems in U.S. Virgin Islands elections;

2. The territory certified to the federal government pursuant to Act 7334, §3, from December 28, 2011 forward, that we had complied with the federal mandate by defining what would be used as our uniform voting system. Only votes cast on said system would constitute a vote and count as a vote;

3. Procurement of the DS200 and AutoMark voting systems and the enactment of Act 7334, §3 not only satisfied the federal mandate, but further that voters:

(a) Be permitted to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;

(b) Be provided with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error);

(c) Are notified that they selected more than one candidate for a single office on the ballot;

(d) Are notified, before the ballot is cast and counted, of the effect of casting multiple votes for the office;

(e) Be provided with the opportunity to correct the ballot before the ballot is cast and counted;

(f) Cause the automatic generation of an independent and redundant physical/electronic record to be used in the event of an election challenge, recount or forensic audit.

IV. Claims and Charges

Joint Election Board Willful Negligence Unlawfully Suppresses and Disenfranchises Voters

1. On October 27, 2014, the Joint Board of Elections convened in the District of St. Croix and decided by majority vote to remove the use of the DS200 electronic voting system from approximately 26,000 voters under the pretense that voters who selected additional candidates beyond a straight-party ticket could potentially create an overvote and therefore a defective (spoiled) ballot. This “flawed logic” was thoroughly contradicted in writing not only by Dr. Tanjia Coverdale, the Lead Technician contracted by the Elections System, but by ES&S, the DS200 manufacturer, and the following well-established legal precedent.

The Joint Board decision was implemented in contravention of the ruling from *Melchior v. Todman*, 296 F.Supp. 900, 7 V.I. 583 (D.V.I.1968), where the prohibition of a voter to select a candidate outside of the straight-party ticket **“operated to deprive independent candidates for elective office of the equal protection guaranteed to them by this section [Fourteenth Amendment pursuant to the U.S. Constitution].”**

The *Melchior v. Todman* decision was again reaffirmed by the U.S. Court of Appeals for the Third Circuit - 821 F.2d 191 (1987) in its decision: “The district court correctly determined that the mismarked ballots should be counted as votes for those offices for which the voter's intent is clear.”

Further, “In any case of doubt or conflict, the marking of the ballot shall be deemed to be valid in such a way that wherever the intention of the voter appears, although the marking may be defective, the ballot shall be deemed to be valid and such intention given effect.”

Therefore, it is unconscionable and inexcusable that two (2) of the veteran, Joint Board of Election members, who as barred attorneys, are construed to possess or reasonably seek to obtain knowledge of established election laws and legal precedent in the formulation of their decisions, contributed to the October 27, 2014 majority vote to unlawfully deny thousands of voters access to the DS200 voting systems and its accompanying federally mandated voter entitlements, thereby constituting willful and abject negligence and perjury of their oaths, but furthermore to deny outright the constitutional Fourteenth Amendment entitlements when applied to candidates, voters, individual ballot selections and votes cast as it pertains to inherent equal value and equal protection.

Violations and Consequences: All mandates pursuant V.I.C. 18 and HAVA Title III, inclusive, as listed above.

2. The October 27, 2014 Joint Board, last-second decision to willfully and unlawfully switch from the DS200 to the paper ballot (meant to be used solely with the DS200):

(a) Denied voters the benefit of fair and reasonable advance notification, education and opportunity to allow the public to be informed and to reasonably adjust;

(b) Denied the benefit of, and thereby waste of, the monetary and time investment made into voter awareness, education and preparation to facilitate voter familiarity with the DS200 and Automark;

(c) Unnecessarily catalyzed a concerted ad hoc, word of mouth effort by the printed and radio broadcast media within the community informing voters to avoid casting their vote utilizing the party symbol and vote strictly for each individual candidate on a singular basis in order that their ballot will be counted correctly;

(d) Maximized the potential for voter confusion and ballot spoilage due to voter error;

(e) Coerced and confused voters by taking advantage of their blind trust and reliance on the authority of election officials who instructed voters to detour their ballots into the DS200 storage bin, thereby taking physical control of the ballots at the polls;

- (f) Caused the creation and implementation of a non-uniform and dual method of interpreting voter intent, sorting, tabulating and recording of ballots;
- (g) Caused ballots to be sorted into various subcategories, prior to electronic scanning and tabulation, based on how a voter chooses to mark their ballot (party symbol, by individual candidate, or include a write-in) as opposed to who the voter selected;
- (h) Permitted the illegal completion of the voting act by the casting of the vote by third-party proxy, on behalf of the voter, without providing reasonable and sufficient legal justification, notice and education nor by obtaining voter waiver of their rights or consent;
- (i) Denied voters the benefit of their voter intent to be electronically and objectively interpreted and then physically and electronically tabulated and recorded;
- (j) Exposed voter intent to subjective and manual interpretation (and reinterpretation), and the subsequent physical tabulation and recording by third parties;
- (k) Opened a variety of doors to allegations of clandestine ballot manipulation and election tampering through the prearranged rehearsal and placement/participation of internal operatives.

Violations and Consequences: All mandates pursuant V.I.C. 18 and HAVA Title III, inclusive, as listed above.

3. Said October 27, 2014 Joint Board, last-second decision to switch from the DS200 to the paper ballot (meant to be used solely with the DS200) willfully and unlawfully deprived the electorate of said federally mandated benefits pursuant to HAVA, Title III entitlements as listed in III (3)(a-f) above.

Violations and Consequences: All mandates pursuant V.I.C. 18 and HAVA Title III, inclusive, as listed above.

4. The November 14, 2014 VI Supreme Court decision in *Mapp v. Fawkes* affirms that the October 27, 2014 Joint Board decision to preclude voters from the federal entitlement to scan their own ballots, and thereby be fairly notified and provided the opportunity to correct their ballot, was in direct contravention to HAVA, Title III, violated local Act 7334, §3, had the effect of disenfranchising voters and was therefore illegal on its face. See **S. Ct. Civ. No. 2014-0073**

Violations and Consequences: All mandates pursuant V.I.C. 18 and HAVA Title III, inclusive, as listed above.

5. The implementation of Early Voting conducted between election districts between October 21st and 31st, 2014 was the product of an illegal measure passed by the 30th Legislature by way of an override of the Governor's veto of said measure on September 25, 2014.

Therefore the implementation of Early Voting occurred approximately forty (40) days in advance of the upcoming November 4, 2014 General Election.

Violations and Consequences: All mandates pursuant V.I.C. 18 and HAVA, inclusive, as listed above, to include contravention of Title 18, §6, which prohibits the enactment of amendments to Title 18 by the Legislature within six (6) months of a General Election, except by an order from a court of competent jurisdiction.

6. As a result of an October 24, 2014 VI Supreme Court ruling ordering the removal senatorial candidate Alecia “Chucky” Hansen from the ballot, early voting was suspended in the District of St. Croix. However, early voting continued until October 31st in the St. Thomas/St. John District. Thus, not only creating an uneven election policy between districts, but potentially providing an unfair advantage to territory-wide candidates in gubernatorial, delegate and senator-at-large races where one candidate may enjoy more popularity in one district as opposed to the other.

Violations and Consequences: All mandates pursuant V.I.C. 18 and HAVA Title III, inclusive, as listed above.

V. Other Relevant Claims and Charges

1. Other documented instances that contradict justification for conducting the November 18, 2014 run-off election as being legitimately based on independently verifiable results obtained from the preceding November 4, 2014 General Election include, but are not limited to:

- (a) The failure of the Supervisor of Elections to properly vet candidates to include Lt. Gubernatorial candidate Basil Ottley. The matter is pending adjudication before the VI Supreme Court at present.
- (b) After the conclusion of the November 4th General Election, the prolonged tally and delayed period(s) between public vote-count updates as issued by the Election System;
- (c) Conflicting and bizarre vote-count fluctuations, uneven updates and totals between districts;
- (d) The October 30, 2014 picture, publicized in print media, as taken by St. Thomas Mapp Campaign Manager of various individuals to include Arturo Watlington, Jr., Supervisor of Elections Caroline Fawkes and others, handling ballots after everyone had departed and vote counting was to have concluded for the day;
- (e) The arbitrary discontinuation of counting party symbol votes into the vote total by St. Thomas/St. John District Chair, Arturo Watlington, Jr., on November 10, 2014;
- (f) The November 10, 2014 report by St. Croix District Board Chairman, Adelbert Bryan, that police officers were absent from polling areas on a daily basis, that ballots were separated, examined, photographed and questioned by members of the public and candidates, that vote count process was conducted as though a recount, and that V.I.C. 18, §1, §47, §109, §194, §524, §542, §552, §556, §557, §584, §622, §624, §628, §629, §630, §661 and §665 were violated;
- (g) The Facebook admission by St. Croix Board of Elections member, Glen Webster on

November 13, 2014, that the act of scanning 1,500 ballots in place of voters disenfranchised them and was a criminal act;

(h) The publicizing by Arturo Watlington, Jr., that 30% of the ballots were spoiled in the November 4, 2014 General Election, and more than 30% in some cases;

(i) St. Croix Board members, Rupert Ross, Jr., and Raymond Williams, who were running for re-election and prohibited from participating in vote-count activity assisted in vote tabulation and subsequent certification;

(j) Final vote counts exceeded voter participation;

(k) Certification of the St. Croix election results was not the result of an official convening and quorum of the board in public view;

(l) Participating Board members in both districts illegally certified the November 4, 2014 election results as true and accurate, under penalty of perjury, and used them as the basis to conduct a run-off election.

Violations and Consequences: All mandates pursuant V.I.C. 18 and HAVA Title III, inclusive, as listed above.

VI. Conclusion and Demand

Because all of the foregoing willful and unlawful conduct did NOT achieve and maintain the slightest degree of “correctness, impartiality and efficiency” in the election process, but has instead created an environment for mass voter suppression and disenfranchisement, unnecessary election-related litigation, uneven election processes between districts, erratic and unreliable tabulation results, unfair advantages of some candidates over others, preclusion of an independent forensic audit record, loss of trust and confidence in the election system and its officials, the election results cannot only NOT be reliably and independently verified, but the willful failure to perform prescribed election duties and knowingly committing unauthorized acts by participating election officials, with the intent to affect the election or its results, severely compromised and affected outcomes for all political contests in all districts, I hereby demand:

(a) The General Election certification be immediately **decertified** as results of the 2014 General Election are not independently verifiable nor believable in any regard;

(b) All ballots used as the basis to derive vote all calculations be declared **null and void**;

(c) A **new election** be called to exclude involvement from any current board member, election person, staff or workers that participated in the process to date;

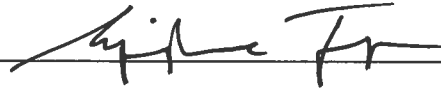
(d) An immediate and appropriate and thorough **investigation** is initiated and completed into

the allegations and evidence of extensive **fraud, corruption, error and mistake** subverting the 2014 election cycle and its outcomes;

(e) That appropriate **charges and prosecution** be brought against those responsible by objective and impartial authorities with jurisdiction over U.S. Virgin Islands election matters.

Anything short of a full investigation will assure the People of the U.S. Virgin Islands that their best interests are no longer a concern of their oath-sworn representatives, and that said representatives are complicit in the most flagrant fraud ever perpetrated on the People of the U.S. Virgin Islands.

All Rights Reserved (Sign in presence of Notary),

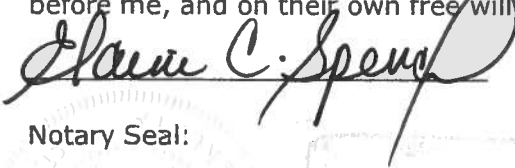
Signed: 

Printed Name: EPIPHANE JOSEPH

NOTARY STATEMENT

In the U.S. Virgin Islands.

I swear that on this 25 day of November 2014, the above-named Affiant(s) appeared before me, and on their own free will, signed this Constructive Notice and Demand.



My Commission Expires: March 30, 2015

Notary Seal:



NOV 25 2014 PM 2:04