ANDREW C. SIMPSON, P.C.
Law Offices

Andrew C. Simpson
2191 Church Street, Ste 5
Christiansted, St. Croix, VI 00820
asimpson@coralbrief.com

http://www.coralbrief.com

Emily Shoup
telephone: (340) 719-3900
eshoup@coralbrief.com

February 22, 2016

VIA HAND DELIVERY

Joseph Ponteen
Chief Deputy Attorney General
Office of the Attorney General
Department of Justice
6040 Castle Coakley
Christiansted, VI 00820

Re: *GVI v. VICCC*; Civ. No. SX-16-cv-025

Dear Attorney Ponteen:

Enclosed please your service copy of Answer to Amended Complaint in connection with the above-referenced matter.

Sincerely,

Luisa E. Rivera
Legal Assistant

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Attachment

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

GOVERNMENT OF THE VIRGIN ISLANDS AND THE VIRGIN ISLANDS ATTORNEY GENERAL, **PLAINTIFFS,** **V.** **VIRGIN ISLANDS CASINO CONTROL COMMISSION,** **DEFENDANT.**	**CIV. NO. SX-16-CV-025** **ACTION FOR TORT AND DAMAGES** **JURY TRIAL DEMANDED**

ANSWER TO AMENDED COMPLAINT

Now comes the Virgin Islands Casino Control Commission and, in answer to the complaint of the plaintiffs, respectfully avers:

1. Defendant admits the allegations of this paragraph of the complaint.

2. Defendant admits the allegations of this paragraph of the complaint.

3. Defendant admits the allegations of this paragraph of the complaint as stated. However, the Virgin Islands Attorney General does not have authority to sue in an official capacity and has no standing to bring this action in that capacity.

4. Defendant admits the allegations of this paragraph of the complaint.

5. Defendant admits the allegations of this paragraph of the complaint.

6. Defendant admits the allegations of this paragraph of the complaint.

7. Defendant admits the allegations of this paragraph of the complaint.

8. Defendant admits the allegations of this paragraph of the complaint; however, defendant further avers that the Director of the Division of Gaming

Enforcement is subject to removal by the Attorney General only upon notice and for cause, indicating the Legislature's intent that the Director shall have independence from the Attorney General in the performance of his duties.

9. Defendant denies the allegations of this paragraph of the complaint as stated and avers that the duties of the Division of Gaming Enforcement are fully set forth under 32 V.I.C. §§ 428 - 431.

10. Defendant admits the allegations of this paragraph of the complaint.

11. Defendant admits the allegations of this paragraph of the complaint.

12. Defendant denies the allegations of this paragraph of the complaint as stated. The quoted statutory language, rather than establishing "joint oversight" over the Casino Control Revolving Fund special checking account, specifies that the Chairman of the Casino Control Commission and the Attorney General shall disburse their allocated funds, "respectively," thereby demonstrating the Legislature's intent that the Casino Control Commission would not have control over the funds allocated to the Division of Gaming Enforcement and that the Attorney General would not have control over the funds allocated to the Casino Control Commission. Further evidence of this legislative intent is found in the fact that the account is "created and established in the Virgin Islands Casino Control Commission" alone (32 V.I.C. § 514(a)) and the Chairman of the VICCC – alone – is charged to "maintain and provide for the administration of the special checking account." 32 V.I.C. § 514(b). Further, the Chairman of the

VICCC – alone – is mandated to engage a certified public accountant to perform an independent annual audit of the special checking account and submit the audit report to the Commissioner of Finance and the Legislature – not to the Attorney General. 32 V.I.C. § 514(e).

13. Defendant denies the allegations of this paragraph of the complaint as stated. There is no requirement under the law that the Attorney General authorize an independent agency to open a bank account or credit card account; nor is there any requirement at law that the Chairman of the VICCC and the Attorney General both be signatories on any account of the VICCC.

14. Defendant presently lacks sufficient factual information to either admit or deny the allegations of this paragraph of the complaint and therefore denies same and puts plaintiffs to their proof.

15. Defendant presently lacks sufficient factual information to either admit or deny the allegations of this paragraph of the complaint and therefore denies same and puts plaintiffs to their proof. However, defendant admits that the Attorney General does not have signature authority over any VICCC account.

16. Defendant admits that the Attorney General wrote to the members of the VICCC as alleged in this paragraph of the complaint but denies that the Attorney General had any right to demand that he be made a joint signatory on any of the VICCC accounts.

17. Defendant admits that the Attorney General made the statements as alleged in this paragraph of the complaint but denies that the Attorney General had any right to demand that he be made a joint signatory on any of the VICCC accounts or to demand that he be given approval authority over all expenditures from the VICCC's accounts.

18. Defendant admits that the Attorney General issued the directives as alleged in this paragraph of the complaint but denies that the Attorney General had any authority to issue such directives to the VICCC or its members.

19. Defendant admits that the Attorney General communicated with Attorney Adrianne Dudley but denies that the Attorney General had any right to demand that he be made a joint signatory on any of the VICCC accounts.

20. Defendant admits that the Attorney General communicated with Banco Popular and requested that it suspend the VICCC's accounts until he was made a joint signatory on any of the VICCC accounts.

21. Defendant presently lacks sufficient factual information to either admit or deny the allegations of this paragraph of the complaint and therefore denies same and puts plaintiffs to their proof.

22. Defendant presently lacks sufficient factual information to either admit or deny the allegations of this paragraph of the complaint and therefore denies same and puts plaintiffs to their proof.

23. Defendant admits the allegations of this paragraph of the complaint.

24. Defendant admits the allegations of this paragraph of the complaint.

25. Defendant admits the allegations of this paragraph of the complaint.

26. Defendant presently lacks sufficient factual information to either admit or deny the allegations of this paragraph of the complaint and therefore denies same and puts plaintiffs to their proof.

27. Defendant denies the allegations of this paragraph of the complaint.

28. Defendant denies the allegations of this paragraph of the complaint as stated. Defendant admits that it will not allow the Attorney General to have signature authority over its accounts as he has no authority to make such a demand.

29. Defendant denies the allegations of this paragraph of the complaint.

30. Defendant denies the allegations of this paragraph of the complaint.

AFFIRMATIVE DEFENSES

1. The Attorney General lacks standing to bring this action.

2. This action is moot because Defendant has established a bank account that fully complies with the requirements of the law and allows the Attorney General to have signature authority over only those funds appropriated to the Division of Gaming Enforcement, as intended by the Legislature.

WHEREFORE, defendant submits that the plaintiffs are not entitled to the relief they seek and that this Court should enter judgment in defendant's favor, dismissing plaintiffs' complaint, with prejudice, and awarding defendant attorney's fees and costs as permitted by law.

Respectfully submitted,

ANDREW C. SIMPSON, P.C.
Attorneys for Defendant Kevin Brandt

Dated: February 22, 2016

By: ______________________________
Andrew C. Simpson (VI Bar No. 451)
2191 Church Street, Suite 5
Christiansted, VI 00820
(P) 340-719-3900

CERTIFICATE OF SERVICE

I certify that on February 22, 2016, I served the foregoing document via hand delivery upon:

Joseph Ponteen
Chief Deputy Attomey General
Office of the Attorney General
Department of Justice
6040 Castle Coakley
Christiansted, St. Croix,
U.S. Virgin Islands 00820

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