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VI Carnival Committee to File TRO Against Gov't if Bryan Fails to Respond by Dec. 15 on St. Thomas Carnival Impasse

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Package sent to Gov. Bryan including bylaw changes to allow for three additional board members on the V.I. Carnival Committee board, as recommended by Mr. Bryan. By. A V.I. Carnival Committee board member.

ST. THOMAS — In October, members of the V.I. Carnival Committee met at the V.I. Port Authority for a meeting via teleconference with Governor Albert Bryan, Dept. of Tourism Commissioner Joseph Boschulte, Ian Turnbull, Division of Festivals director, and Mr. Bryan's legal counsel, David Bornn, to discuss issues related to conflicts that arose following the creation of the Division of Festivals, a bill sponsored by Senators Myron Jackson and Janelle Sarauw that was [signed into law by Governor Kenneth Mapp before leaving office in January](#). Division of

Festivals Assistant Director for St. Thomas, Halvor Hart, joined the call during the closing minutes.

The bill sought to unify the territory's carnival and festivals under the Dept. of Tourism, and defund the V.I. Carnival Committee, which had operated carnival in St. Thomas for 67 years. The new law also defunds the Crucian Christmas Festival Committee and the St. John Festival Committee.

But, at least with the V.I. Carnival Committee, which operated St. Thomas's carnival, there was one major problem for the new Division of Festivals: The committee had filed and received trademarks from the U.S. Patents and Trademark Office for "V.I. Carnival" and "St. Thomas Carnival", which also includes beauty pageants, cultural activities, parades, J'ouvert and more. The documents are thorough in their description, and protects the V.I. Carnival Committee from infringements, including the use of the "V.I. Carnival" or "St. Thomas Carnival" trademarks, whether it be changed to "Carnival VI" or "Carnival St. Thomas", without the explicit permission and granting thereof from the V.I. Carnival Committee. In fact V.I. Carnival Committee board members contend that the trademark is so thorough that the Division of Festivals would not be able to use "V.I. Festival" or "St. Thomas Festival", because it is synonymous with carnival.

"At the end of the day three things can happen," said a board member who spoke with the Consortium Wednesday evening but requested anonymity to provide documents and speak freely on what has become a major conflict. "One, they can lease the names from us; 2) they can do a merger, or 3), if they intend to start carnival, they would have to start carnival afresh; have their own name like it would be the first carnival. They cannot continue without authority and permission because it's a trademark. The law is the law."

During the October meeting at the Port Authority, Mr. Bryan, according to this board member, had agreed that the V.I. Carnival Committee could move forward with carnival because the committee had done it for 67 years.

"He said he believes that we can work together. He asked for a merger of both entities. He asked for us to amend our bylaws. We have seven members in the executive board, he asked us to amend the bylaws to add three members of whom he was going to appoint to be on the board of directors. He asked that the proposal be sent to him by the 15th of November. The proposal was sent to him by the 15th of November, and we are now waiting for an answer; he has yet to answer. We even went ahead and created a memorandum of understanding. We also sent the amended bylaws," the V.I.C.C. board member said.

According to this board member, the three positions that were given for the three additional board members to be appointed by the governor, were marketing director, financial director, and ex officio, "because since the Legislature says that we have a problem with accountability and transparency, the board decided that the three appointed members by the governor would control the money," said the V.I.C.C. board member.

"Up to this day he (Governor Bryan) hasn't answered, and we're giving him until Dec. 15, and if it doesn't happen, we're filing a temporary restraining order in federal court, because what they don't understand is that the law is the law," this board member said.

The board had worked hard and diligent to secure the trademarks. "The trademark was filed for in 2003 and it was accepted in 2007. We had to prove to the U.S. Patent and Trademark Office by

creating items — cups, pens, hats and more — because there was a store in St. Thomas named Carnival and the Carnival Cruise Line. So we went a step ahead" by including the events as well.

During a Senate hearing earlier this week, V.I.C.C. Chairman Edgar Baker Phillips contended that the V.I.C.C. held rights to the carnival being performed in Post Office Square, and said the V.I.C.C. owns the water system and the power source in the Carnival Village. He said instead of the contention, the Department of Tourism's Division of Festival should be working with the V.I. Carnival Committee to put on the festivities. "I don't see why this bill was even created," Mr. Phillips said.

The board member who spoke to the Consortium Wednesday said all the Division of Festivals law did was defund the V.I. Carnival Committee, but it did not, and cannot, this board member emphasized, stop the board from existing and putting on V.I. Carnival.

"If the Carnival Committee gets grants and get money, we can fund our own carnival. All the bill did was defund the Carnival Committee; they stopped giving us money," this board member said. "V.I. Carnival Queen, V.I. Carnival Prince and Princess, Parades, J'ouvert, Boat Race — when you look at the trademark you will see that all of it is in the trademark and it can't be used. Right now they're using the name "Carnival Virgin Islands", it can't be used. "St. Thomas Carnival, Virgin Islands Carnival TM" can't be used.

The Division of Festivals was created based on senators' in the 32nd Legislature displeasure with the management of public funds used to put on carnival, and the V.I. Carnival Committee's clandestine attitude related to how the monies were being spent.

During the Senate hearing this week, Mr. Phillips accused the former V.I.C.C. leadership of shortchanging Kes, the world-renowned Soca artist from Trinidad with hits like "Hello" and "Savannah Grass". Mr. Hart, the former V.I. Carnival Committee executive director, who was at the hearing in his capacity as Division of Festival assistant director for St. Thomas, denied those claims, and said there was confusion with Kes's booking agent, flight tickets and per diem.

Senator Athneil Thomas, who worked with the V.I. Carnival Committee for two decades before becoming a lawmaker, stressed that the Division of Festivals and the V.I. Carnival Committee should work together. He agreed that the trademarks belong to the V.I.C.C., but he was not a proponent of the seeming deadlock brewing between the V.I.C.C. and the Dept. of Tourism's Division of Festivals.

Davidson Charlemagne, the chairman of the Crucian Christmas Festival Committee, told the Consortium Wednesday that the committee, like the V.I. Carnival Committee, has trademarks to the Crucian Christmas Festival, though, unlike the V.I.C.C., those trademarks were registered locally. Mr. Charlemagne said whether local or with the U.S. Patents and Trademark Office, the law should stand and that the Division of Festivals was utilizing the trademarks without permission. Mr. Charlemagne and his team, like the St. John Festival Committee and the V.I. Carnival Committee, were relegated by the new law, as the government took its funding and gave it to D.O.T.'s Division of Festivals.

For Mr. Boschulte, also present at the hearing, the Division of Festivals, he said, would continue with its preparations.

Mr. Jackson, a chief sponsor of the Division of Festivals bill, told the Consortium that while the V.I. Carnival Committee could continue holding its functions, "there is a new sheriff in town as it relates to the festival arts. And that new sheriff in town is the Virgin Islands Dept. of Tourism,

who has the broader perspective of getting people into the territory and making sure that the product is of a certain standard, and to make sure that the public funds entrusted to that department on behalf of the people of the Virgin Islands has accountability."

But it's not that simple. The trademarks "V.I. Carnival and "St. Thomas Carnival" are synonymous with the U.S. Virgin Islands and the territory's marketing efforts. The V.I.C.C. contends that it is still within its rights to put on carnival, as it had done so for 67 years and is still a legal entity with trademarks to all aspects of the carnival. Additionally, not having the rights to use the "V.I. Carnival" and "St. Thomas Carnival" trademarks represents a seachange in terms of capturing a unified message and the proper promotion of the festivities.

Mr. Jackson again stressed that the territory's festival arts belong to the people of the Virgin Islands, not the V.I. Carnival Committee. Asked about the major issue of the trademark held by the V.I. Carnival Committee, Mr. Jackson said, "Trademarks are federal, I am not a federal government entity."

The V.I.C.C. already said it is preparing a federal court challenge against the government if a response is not received by this weekend.

Mr. Jackson, however, held to his position. "They don't own the name Virgin Islands Carnival. They may be entrusted caretakers of it, but that belongs to the people of the Virgin Islands."

Challenged on his last statement, Mr. Jackson closed by saying, "Until a court of law rules differently in that regard, it will be my position that the Virgin Islands Carnival was a creation of Legislation and thus a nonprofit organization for 60 years trademarked it to use it to advance the festival arts in the territory, and that's understandable. But it is in care for the people of the Virgin Islands as far as I'm concerned."

During an interview with the Consortium in June, Governor Albert Bryan said he was "absolutely not" in support of the Division of Festivals law. ([Watch interview here. Jump to 55:00.](#))

"Just think about this, Ernice. Just quantify the dollar amount of all the volunteers that support carnival. If the government was (running carnival) you think they were going to work for free? I do not want to be the governor that ruins carnival. What we're doing is we're going back and we're looking at the funds and saying, 'Okay, what do we want out of these funds? What are the stipulations? The Senate expressed a concern that they don't get to see the books. Well, we're going to introduce something that says, listen, if our money consists of 40 percent or more of your budget, we need to see all your money. That's clear. If it is in the law there's no 'I'm not coming' (to face senators at hearings) and other requirements of what we'd like to see. But I really believe that carnival belongs in the hand of the people," Mr. Bryan said.

He added, "At the end of the day, right now we don't really do anything well... As a government I want to be able to do things well. We don't need to add on to all the things that are already not working. Let carnival stay (with the committee)... I had a fantastic carnival."

During the June interview, Mr. Bryan said his administration would be sending legislation to the Senate specific to leaving carnivals and festivals with the committees, but that never happened.

"If not, we'd do carnival. We have to follow the law," Mr. Bryan concluded.