

The Virgin Islands Consortium

Exclusive: Department Of Justice Investigating Whether Diageo USVI Breached Contract

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ST. CROIX -- Between the hours of 9:00 a.m. and 10:00 a.m. on Monday, Department of Licensing and Consumer Affairs, along with Department of Justice officials descended on the Gordon A. Finch Molasses Pier located on the south shore of this island and west of Tropical Shipping, to take samples from 12 tanks of what's supposed to be molasses used to produce rum at Diageo USVI's Captain Morgan Rum Distillery, a DOJ source with direct knowledge of the matter revealed to The Consortium, after the publication questioned officials on a tip it received from another source with inside knowledge of the probe.

DOJ and DLCA officials also took samples from two separate shipments at Diageo's rum distillery, located at the Renaissance Park development here. According to the DOJ source, who requested anonymity because of the nascent nature of the investigation, part of Diageo USVI's agreement with the Government of the Virgin Islands is that the GVI subsidizes the molasses imported to make the rum here. But the samples collected on all 14 containers did not appear to be molasses, which is [dark in color](#) and has a strong, distinct smell.

"It looks and smells like rum," the DOJ source said, adding that DOJ must first test the samples before accusing Diageo USVI of any wrongdoing or breach of contract. But if the breach could be far-reaching; and the DOJ source said it could be long the breach has existed.



Entrance to Gordon A. Finch

Molasses Pier. (Credit: VIC).

In 2008 the GVI subsidized Diageo's move to the island, totaling an estimated \$2.7 billion over 30 years. Some of the subsidies include: a new \$165 million distillery, ["market support payments"](#) to keep prices low for molasses, 35 percent of what Diageo spends on advertising, a 90 percent income tax break, exemption from property taxes, environmental mitigation supports, and 47.5 percent of all tax revenue collected on Captain Morgan rum. By one estimate, [Diageo's net cost to produce rum is zero](#), according to [Tax Foundation](#), a leading independent tax policy research organization. The 30-year agreement received Senate ratification on July 9, 2008, with a 10-5 vote.

But the rum-cover over funds are supposed to be for rum produced in the territory; and not imported from elsewhere and reshipped out as if the products were made here. "All hell could break loose," the DOJ source said, again stressing that the liquid substance must be first tested before any conclusions could be made.

As explained by the Tax Foundation, rum, like all spirits, falls under a federal excise tax of \$13.25 per proof-gallon. The federal tax revenue collected from rum produced in Puerto Rico, the U.S. Virgin Islands, or internationally is transferred to the governments of Puerto Rico and the U.S Virgin Islands. This transfer of revenue from the United States back to the location of production is called a "cover-over."

Puerto Rico and the U.S. Virgin Islands each receive all of the revenue collected from rum produced in their territory. The two countries split revenue from foreign produced rum, based generally on how much rum they produce relative to each other. By producing more rum, each territory has the ability to increase their share of the rum tax.

In August of this year, Governor Kenneth Mapp [sent a formal request](#) to the Office of Insular Affairs requesting the drawdown of over \$209 million for deposit into the Internal Revenue Matching Fund, a testament to the financial benefits of producing rum in the territory, which was increased once Diageo USVI was established.

“Approval of the advance based on the \$13.25 rate, will greatly assist the government in managing its cash flow and providing essential public services to the people of the Virgin Islands,” Mr. Mapp said.

According to the governor, the fiscal year 2016 advance request was based on an estimated incremental collection of \$213,325,000.00 on 16,100,000 proof gallons of alcoholic beverage produced in the US Virgin Islands by Cruzan VIRIL and Diageo USVI, and imported and sold in the United States. The rate provided to the territory on federal excise taxes collected on the rum is \$13.25 per proof gallon. The fiscal year 2014 adjustment is \$3,909,878.00 for a net advance remaining of \$209,415,122.00.

Feature Image: Diageo USVI, courtesy VI Consortium.