

The Virgin Islands Consortium

Judge Orders Sugar Bay To Stop Terminating Employees

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ST. THOMAS -- Judge Denise M. Francois of the Superior Court in the St. Thomas-St. John district, has granted Attorney General Claude Walker and the Government of the Virgin Islands a [temporary restraining order](#) against Sugar Bay Resort, which restrains the beleaguered hotel from terminating more employees -- [it has already laid off 44 in two months](#) -- before giving the Department of Labor (D.O.L.) and the employees ample notification, as set forth in Virgin Islands Code (V.I.C.).

The temporary restraining order against the resort follows the stripping of its Economic Development Commission (E.D.C.) [benefits](#) by Governor Kenneth Mapp, which the resort had relied on for 15 years to operate while employing over 100 workers. But in May,

2015, Mr. Mapp [pulled the company's E.D.C. benefits](#), along with that of the Windward Passage, stating that the companies had failed to meet their obligations. Mr. Mapp said there had been "tremendous violations of law" within the applications, and that it was the government's job to "police" the companies and make sure they were complying with the rules.

As a result, Sugar Bay has struggled to remain in business, and the firm has resorted to laying off a great portion of its workforce. The attorney general's concern, however, is not necessarily with Sugar Bay's inability to survive; but rather the manner in which it has been making employees redundant, which Mr. Walker contends attempts to skirt the Virgin Islands Plant Closing Act, so as to not give severance pay to redundant workers who had been employed at the resort for over 12 months.

"The government recently learned that Sugar Bay has commenced a program of layoffs which violates the essence of the Virgin Islands Plant Closing Act in that since December 24, 2015, forty-seven Sugar Bay employees have been laid off in a staggered manner designed to circumvent the purpose and intent of the Virgin Islands Plant Closing Act, and to conceal from the government the fact that Sugar Bay is facing serious financial challenges and is, in fact, in the process of engaging in employment actions which will result in serious employment loss," reads the government's [complaint](#). "It is believed that Sugar Bay is engaging in layoffs in such a manner as to avoid the responsibilities and expenses imposed by the Virgin Islands Plant Closing Act."

The complaint explains that Sugar Bay sent a dislocated workers notice to D.O.L. on January 19, 2016, along with the list of employees that were terminated. The list revealed that one employee was made redundant on December 24, 2015, five employees on January 5, 2016, sixteen employees on January 8, and two employees on January 13. Then, on February 11, 2016, the company provided D.O.L. with yet another dislocated workers notice list, which revealed that five employees were terminated on February 9, 2016, thirteen employees on February 10, 2016, one employee on February 11, 2016 and four employees on unspecified dates. The list was given to D.O.L. while the department was conducting a rapid response event at the hotel, according to the government's complaint.

D.O.J. alleges that in staggering the layoffs dates, thirty-three employees were scheduled so that the twenty-five employee measuring point specified in the Virgin Islands Plant Closing Act for "mass layoff" was never met.

The complaint further states that Sugar Bay has refused to pay \$47,710.80 that it owes to twenty-eight terminated workers, many of whom were cooks, dishwashers, pantry workers, delivery workers and laborers, who earned \$10.50 or less per hour and are entitled to less than \$850 severance pay.

"Based on the foregoing, the government believes that Sugar Bay is making a deliberate effort to avoid the notification and severance requirements of the Virgin Islands Plant Closing Act," reads the complaint. D.O.J. is seeking declaratory judgement that the termination of employees between December 24, 2015 and the present day by Sugar Bay constitute a mass layoff as defined by Virgin Islands Code; that Sugar Bay failed to give D.O.L. ten days advance notice of said mass layoff; that Sugar Bay failed to give employees the thirty days advance notice as required by V.I.C.; that Sugar Bay

employees are entitled to a right of first refusal to purchase the Sugar Bay property as determined by law; that the court enter an order directing Sugar Bay to pay each affected employee the mandated severance payments of one week's pay for each year of employment; and that Sugar Bay pays each affected employee their employee's benefits and other compensation for the three months preceding the closure of the facility.

A hearing for the government's preliminary injunction has been scheduled for Wednesday, March 23, at 9:30 a.m. in Courtroom 3 at the Alexander A. Farrelly Justice Center.

Feature Image: Sugar Bay Resort.

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