The Virgin Islands Consortium

Betteroads Asphalt Corp., Which Laid Off Over 70 Employees Without Severance, Ordered To Remain In Territory Until Matter Is Resolved

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Acting Attorney General Claude E. Walker.

ST. THOMAS -- Superior Court Judge Denise M. Francois at 5:57 p.m. on Friday granted the Virgin Islands Department of Justice a temporary restraining order against Betteroads Asphalt Corporation, a Puerto Rico firm that had been doing business in the territory from Sept. 1981, which recently laid off all 74 of its employees and was attempting to leave the territory without paying severance to these employees.

Judge Francois found that the Government of the Virgin Islands was likely to prevail on the merits of its claim that Betteroads had violated the Virgin Islands Plant Closing Act; that the government would suffer irreparable harm if Betteroads was allowed to leave the territory without meeting the obligations of the Act; and that the public's interest would be best serve by immediate enforcement of the law.

According to information provided in court documents, seen here, on September 20, 2016, Dept. of Labor Commissioner Catherine Hendry received an email from Sara Y. Santos, legal assistant to Alfredo A. Geigel and Eugenio W.A. Geigel-Simounet, which included an attachment letter dated August 30, 2016 from Jorge L. Diaz, president and chief executive officer of Betteroads, wherein Mr. Diaz sought to inform Ms. Hendry that Betteroads would be ceasing operations in the territory in 90 days.

According to the court documents, the email "indicated" an effort to comply with the Plant Closing Act, however following an email response from Ms. Hendry dated Sept. 21, 2016, informing the parties that the letter did not fully satisfy the V.I.P.C.A., Department of Labor subsequently received a seniority report from Betteroads human resources department, including the names, addresses and Social Security numbers of the 74 employees that were to be dismissed.

But the response did not include information about severance pay.

On October 6, Ms. Hendry received a letter from Attorney Geigel-Simounet, which stated that Betteroads's financial condition had greatly deteriorated, and that the firm's main line of credit had been frozen for over two months. The letter further stated that Betteroads had been unable to meet its obligations, and that, "this situation has simply imposed a burden too heavy for the company to bear."

"As a result," the letter added, "Betteroads has formally notified all of its employees of the conclusion of all USVI operations and termination of their employment."

According to the court documents, D.O.J. says based on the information provided by Betteroads to D.O.L., the firm actually ceased operations on September 30, 2016, and as of Friday had yet to pay its employees their severance in accordance with the V.I.P.C.A.

The Department of Justice, under the leadership of Attorney General Claude Walker, has fiercely pursued cases such as this one, where firms that no longer want to operate in the territory, or want to decrease employment, attempt to do so without paying their employees severance.

In March, Mr. Walker passionately chided the owners of the Sugar Bay Resort and Spa, declaring that D.O.J. would do all in its power to guarantee that Sugar Bay — the struggling resort that was stripped of its Economic Development Commission (E.D.C.) benefits last year, which was followed by the loss of its “Dreams Resorts” status — pay all that was owed to the over 40 employees who were terminated between December 24, 2015 and March, 2016.

“These workers have worked for Sugar Bay for many years, and they have helped Sugar Bay to become prosperous. So now that this hotel is looking to reduce its staff, it must comply with the law, specifically it must address the issue of severance that’s owed to these affected employees,” Mr. Walker said in March.

Judge Francois ordered Betteroads, which is based in St. Thomas, to provide information to D.O.L. and D.O.J. regarding affected employees; prohibited the firm from removing any assets or money from the U.S. Virgin Islands; and further ordered that any person or entity that violates the order shall be found in contempt of court.

A preliminary injunction hearing has been set for October 21.

Feature Image: Attorney General Claude Walker.