The Virgin Islands Consortium

How Mapp, Walker And Van Beverhoudt Damaged The Reputation Of The Dema Law Firm

Environment / **Published On November 18, 2016 10:35 AM /**

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"It's the old adage: Everybody is entitled to their own opinion, but you're not entitled to your own facts."

Those were the words of John K. Dema, who sat with this publication for an interview on Wednesday following a judge's repudiation of the Mapp administration, its Attorney General Claude Walker, and Inspector General Steven van Beverhoudt, in a 65-page long decision and order that dismantled an audit that Mr. van Beverdoudt conducted against the law firm. Mr. Van Beverhoudt's audit followed remarks made at a February 2015 press conference by Governor Kenneth Mapp, who accused the Dema Law Firm of overcharging the government by collecting more than it was due for a decade-long litigation involving four cases, in pursuit of damages to the South Shore of St. Croix.

Mr. Dema, who started practicing in the territory from 1972 and has had a stellar reputation, worked on environmental matters for the Government of the Virgin Islands during the Schneider, Turnbull and de Jongh administrations. The law firm's biggest job was the south shore cleanup, which it fought for ten years to have the red mud near the Diageo rum plant remediated. Dema teamed up with another law firm, and even loaned over $5 million of their own funds to the government to keep the litigation -- which was ultimately successful -- going, according to Mr. Dema.

"We worked for 45,000 hours for over ten years without a dime, hoping to get it at the end. When the government wins, we win," Mr. Dema said. "In addition to that, out of our pockets, we [and our partner firm] put up $5.4 million for the cost of the case and advanced the government, because the government in the contract says, 'We can't afford to do it. We don't have the money.'"

Red mud contamination before the Dema law firm's suit against four companies, to include HOVENSA. (The local government received a settlement of $40 million from

HOVENSA, according to John Dema.) Credit: Dema Law Firm

"So if we hadn't done it, it would have still looked like that," Mr. Dema pointed to an image of the red mud contamination that existed before his law firm won the case for the government, forcing the companies that contaminated the property to clean it up. "But then Walker and company say, 'Oh, well, we don't want to give you back the $5.4 million.' Well, the judge says that's absurd. You got the benefit, so pay the man back."

If they were unsuccessful, the two law firms would leave without any compensation; a risk some firms take when they believe they have enough evidence to be successful. Ten years later, the job is completed, and the Dema Law Firm attempts to collect its payment. Governor Kenneth Mapp takes office about the same time, and decides the compensation -- which wound up being $21.3 million to be split between two law firms for ten years and 45,000 hours of work, from a settlement valued at between $126.16 and $144.16 million -- was too much. Judge James T. Giles, the arbitrator selected by the Government of the Virgin Islands and the Dema Law Firm as a neutral arbitrator to oversee the case, said the firms could have received a bigger settlement.

And Judge Giles castigated the I.G. report for leading the public to believe that the government only received a settlement of $29.7 million, of which the Dema Law Firm took $17.9 million. During the case, Mr. van Beverhoudt admitted that that figure was wrong. He also pulled the report from the Virgin Islands Office of the Inspector General's website after Judge Giles invalidated the audit, dismissing the report as erroneous; concluded that Mr. van Beverhoudt violated professional standards; and that he failed to comply with the Council for Inspectors General on Integrity and Efficiency.

The audit was "issued without review of legal sufficiency. It was issued before binding arbitration occurred. It did not include an interview of John K. Dema, [the] contracting party. The Government of the Virgin Islands knew that the report was not an audit and that an erroneous report could be detrimental to the reputations of individuals of firms investigated in the report," said Judge Giles. The order added that "the inspector general's course of action may have undercut the desired appearance of independence and objective investigation."

Attempts to reach Mr. van Beverhoudt -- who will soon face the full Senate -- for comment were unsuccessful. Mr. van Beverhoudt was recently renominated by Mr. Mapp for a fifth, seven-year term.

The area of red mud contamination after the Dema Law Firm's victory against the four companies it battled for ten years and 45,000 hours. (Credit: Dema Law Firm)

"The only thing that was left to do was to pay," Mr. Dema said, referring to the governor, "and he wasn't up to that task." At the February 2015 press conference, Mr. Mapp went on the offensive, assailing Governor John P. de Jongh and decided to throw the Dema Firm in the mix without having a conversion with its owners. Mr. Mapp then ordered Mr. van Beverdoudt to conduct the audit into the Dema firm specific to the firm's South Shore environmental litigation.

In September 2015, Attorney General Claude Walker terminated the contract with the Dema Firm. The firm, before taking the matter to arbitration, which was clearly stated in the contract, asked to meet with Mr. Walker to resolve any questions he had, but Mr. Walker did not respond, according to Mr. Dema. The firm wrote another letter stating they'd be forced to go into arbitration if the matter could not be resolved, but Mr. Walker still did not respond -- forcing the firm to seek a demand for arbitration. Following the firm's last move, Mr. Walker responded by sending a letter that stated he did not believe the arbitration clause was valid.

The case then got into the court system. Mr. Dema said he knew that given the opportunity in front of an impartial judge, "we would have a good result, because we got a great result for the people of the Virgin Islands."

The government and Dema selected Judge Giles as the impartial arbitrator, but then the government decided it did not have the funds to pay Judge Giles's retainer fee. The Dema firm filed again in bankruptcy court with a motion to compel the government to pay. The government reversed course and decided to move forward.

Extortion?

"After we did that," says John T. Dema, a lawyer at the firm and son of John K. Dema, "the government had three of its assistant attorneys general to meet with our lawyers, and say if we didn't drop the arbitration, surrender all claims to the millions of dollars we hadn't been paid, and have him [John K. Dema] plead guilty to unspecified criminal charges, they were going to arrest him."

Abuse of power and damage to a venerable VI law firm

"All this have been extremely damaging to our business," Mr. T. Dema said speaking of the overall dispute. "Obviously we want to make sure that we don't continue to be hurt by our business, but this is the attorney general, the chief of the civil division and multiple assistant attorneys general."

He added: "One of the criminal lawyers who made that threat is now a judge (Renee Gumbs Carty), and then there's the inspector general of our territory that's supposed to be independent and objective. So these are people with extreme power that we are supposed to trust as residents of the Virgin Islands."

A.G. Walker responds

Mr. Walker told The Consortium late Wednesday that the case preceded his tenure, and argued that his decision to not pay what the government owed the Dema firm was based on the the I.G.'s then-ongoing audit of the firm. "When I took over in August 2015, I was presented with the bill... And I didn't even have the file, nobody could find the file to begin with. I had to pull together some files to find out why do we owe $8 million, when monies had already been paid," Mr. Walker said. "He had already received an amount in legal bills and expenses, and now there was another bill, so I had real concerns about paying this bill."

Asked whether he could have done more due diligence, specifically in meeting with the Dema firm to discuss the matter, as compared to sending letters and not responding to the firm's request for meetings, Mr. Walker said there were meetings, but the matter of arbitration complicated the discussions, as the Dema firm wanted to go through that process. Mr. Dema and T. Dema said the only reason the case went into arbitration was because the government did not want to pay.

Mr. Walker reiterated that the agreement and work happened before he took over at the Department of Justice, and that his mission was to collect as much money from the settlement as possible for the government. "All along the whole endeavor was about trying to recover as much as possible; it was about trying to deal with a situation where I had legitimate concerns," he said, stressing that he had no files to understand where the $8 million bill came from. "Upon that, there's an inspector general audit going on, then you had the governor who, before I took over as A.G., had a press conference [in February 2015] saying he questions the bill, so you've got to put all of that in context.

"If you were in my situation, you would have done the same thing," Mr. Walker told this reporter. "You would have said, 'Well, hold on, I can't just approve this.'"

Government House responds

In a statement issued to The Consortium on Wednesday, Government House said it stood by its decision to terminate its contract with the Dema firm, because documentation of the firm's work for the government was scarce.

"Based on the review of the contract and the dearth of documentation that the Government of the Virgin Islands had regarding payments to Attorney Dema, the government had legitimate basis for challenging the payment to Attorney Dema," reads the statement.

The damage is done

Mr. Dema and his son T. Dema, both spoke of the extensive damage that the Mapp administration, its attorney general and inspector general have caused. They said potential clients around the U.S. mainland have constantly pointed to The Consortium reports on the government's story that show up prominently in Google search queries, and the embarrassment that has followed.

"They attacked us as a firm based on nothing," Mr. T. Dema said.

Update: November 18, 2017

Mr. Dema told us this morning that he misstated when he said the chief of the criminal division was part of the meetings. On D.O.J.'s website, Quincy McRae is listed as the division's head. "That person was not in the meeting and we are unaware if they had any involvement."

The story has been amended to reflect the updated information.