The Virgin Islands Consortium

In Win For AG, Judge Denies Motion To Dismiss In Property Auction Fraud Arrests

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Acting Attorney General Claude E. Walker.

ST. THOMAS -- Superior Court Judge Michael Dunston on Tuesday denied a motion to dismiss by several St. Thomas defendants who were arrested in November, 2015, following allegations made by the Virgin Islands Department of Justice that the defendants had created a scheme to fraudulently obtain property through government auctions dating back to 2012-2013.

The arrests came as a result of a September 2014 Inspector General report, that found rampant fraud, noncompliance and manipulation of real property auctions conducted through the Office of the Lieutenant Governor, Tax Assessor's Division.

The four St. Thomas men are businessmen Paul Sabers and Ed McKenzie, former chief enforcement office for the Tax Assessor, Calford O. "Cappy" Charleswell, and Sylvester Warner of the Waste Management Authority.

"We allege that between 2012-2013, these four men were involved in a scheme to defraud the government of the Virgin Islands, while manipulating the public bidding process for the auction of real property due to delinquent property taxes," Attorney General Claude Walker said during a press conference in November, 2015, held at the D.O.J. St. Croix office in Castle Coakley.

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The men were charged with conspiracy, forgery, obtaining property by false pretenses, fraudulent claims upon the government, conversion of government property, grand larceny, embezzlement by public and private officers and embezzlement or falsification of public accounts.

"These arrests are the result of an extensive investigation conducted by the Office of the Virgin Islands Inspector General into the alleged fraudulent sale of real property at tax auctions conducted by the Lieutenant Governor's Office, Tax Assessor's Division," Mr. Walker added.

"The allegations are that between 2012 to 2013, these four men were involved in a scheme to defraud the government of the Virgin Islands as a result of manipulating the public bidding process for the sale of real properties auction for delinquent property taxes," he said.

According to the court documents, the defendants conspired with Calford Charleswell, who was employed with the Virgin Islands Office of the Lieutenant Governor, and others for the purpose of arranging the fraudulent auction and sale of property located at 97 Estate Frydenhoj, St. Thomas, at a false bid price that was substantially lower than the highest bid price. The D.O.J. also allege that the defendants knew each other and engaged in several conducts of criminal activity to help the enterprise accomplish its purpose.

According to the documents, Mr. Charleswell was the chief enforcement officer of the Lt. Governor's Office from July 1, 2012 to September 30, 2013, during which time he was responsible "for conducting tax sale auctions of real property and preparing certificates of purchase for properties sold" at the tax auctions." The documents further state that Mr. Charleswell abused his position by allowing individuals to take advantage of certain procedural changes made by officials at the Office of the Lieutenant Governor, and manipulate the bidding process in a scheme in which the highest bidder purposefully makes a substantially inflated high bid, then fails to post the 10 percent deposit so that the property would go to another bidder or individual for a substantially low price.

The above allegation is among several others that the Attorney General's Office has levied against the defendants, according to the court documents.

Judge Dunston denied the motion to dismiss that challenged the adequacy of the information provided by the D.O.J.

"Accepting the factual allegations as true, the Court finds that the language in the amended information tracks the language of the Virgin Islands Criminally Influenced and Corrupt Organizations Act (CICO) pattern requirement and is, therefore, sufficient," reads the document. "As a result, the facts alleged adequately apprise defendants of what they must be prepared to meet with respect to the CICO pattern requirement and invoke double jeopardy in the event subsequent actions are brought against defendants for similar offenses. Consequently, the Court finds the amended information sufficiently charged each element of the crime, namely, that defendants violated 14 V.I.C. § 605(d) by conspiring to violate 14 V.I.C. § 605(a) of CICO."

Judge Dunston also ordered that a time extension requested by the A.G.'s office be granted.