

The Virgin Islands Consortium

A.G. Files Suit Asking Supreme Court To Force Superior Court Into Action On 2016 Casino Control Commission Suit

VIC News / **Published On September 11, 2018 10:21 AM /**

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Following an Office of the Inspector General audit on the VI Casino Control Commission (V.I.C.C.C.), which alleged [a flabbergasting array of questionable actions by Violet Ann Golden](#), the commission's chairperson whom the audit casts as running the operations of the commission as if she were the sole authority, Attorney General Claude Walker [has filed a writ of mandamus action](#) in the Supreme Court that seeks to force the Superior Court to rule on a case the Department of Justice filed against the V.I.C.C.C. in 2016.

A writ of mandamus is a judicial remedy in the form of an order from a superior court to any government subordinate court, corporation, or public authority, to do (or forbear from doing) some specific act which that body is obliged under law to do (or refrain from doing) and which is in the nature of public duty.

In this case, the superior court is the territory's Supreme Court, and the subordinate court is the Superior Court of the Virgin Islands.

"The law and the underlying circumstances supports granting the writ of mandamus," argues the suit. "Currently the VICCC has been audited by the Virgin Islands Inspector General and the findings indicate that there has been rampant misuse and misappropriation of funds which directly relates to this case."

In the suit, the Department of Justice and Mr. Walker ask for what is described as a simple request: "The ordinary appeals process would not represent a practical avenue for obtaining comparable relief, since a failure to rule—by its very nature—'would preclude entry of an appealable final judgment' that is a prerequisite to an eventual direct appeal", reads a portion of the suit. "Only the Superior Court can bring this matter to final resolution."

Back in 2016, the Department of Justice ordered Banco Popular, the firm where V.I.C.C.C. has its accounts, to suspend all credit cards and bank accounts belonging to the commission until the attorney general, as per law, became a signatory on the accounts, according to [a letter dated January 2016](#) from Mr. Walker addressed to the V.I.C.C.C. commissioners.

But Ms. Golden pushed back, forcing the Department of Justice to [file suit](#) against V.I.C.C.C. seeking temporary restraining order, preliminary injunction and declaratory relief. The [motion was denied](#), the V.I.C.C.C. kept its accounts without the attorney general being a signatory, and the case has since been sitting in court as Judge Robert Molloy has not made a final ruling on it.

Monday's writ of mandamus action takes issue with the length of time it has taken Judge Molloy to rule on the matter.

"The Superior Court's lengthy delay in ruling is unreasonable and unjustified," reads the suit. "This court has held that a failure of a trial court to consider a litigant's motion papers in a timely manner gives rise to a clear and indisputable right to mandamus relief. See *In re Elliot*, 54 V.I. at 431.

"The delay is not attributable to any act or omission of the Government of the Virgin Islands and there are no other mitigating circumstances which justify or explain the delay, especially in this case where there was an evidentiary hearing on the merits. There is no indication when the Superior Court will issue a ruling. The petitioners have no other means to obtain relief. The Superior Court's failure to rule on the case for more than two years rises beyond "concern" and ordinary delay, to the level of "extraordinary circumstances" which evinces a clear and indisputable right to mandamus relief."

The O.I.G. audit report charges that Ms. Golden processed over \$1 million in electronic fund transfers without another employee or Casino Commission member reviewing or authorizing the payments. Ms. Golden also processed \$2.6 million in check payments

and maintained sole custody of financial records, the report says.

The commission also failed to fully provide supporting documents for its expenditures to justify expenses, and on many occasions it failed to provide requested financial statements, forcing the O.I.G. to obtain these documents from the companies where the expenses were incurred, according to the report.

In his 2016 letter to the commission, Mr. Walker said the accounts “must be modified immediately, and I will endeavor to work earnestly with the V.I.C.C.C. to establish new accounts.”

Citing Virgin Islands Code, Mr. Walker said moving forward the attorney general of the territory must be a signatory on the V.I.C.C.C. accounts. He cited VI Code Title 32, § 514, Section C, which reads, “All monies in the special checking account shall be disbursed by the chairman of the Casino Control Commission and the Attorney General of Virgin Islands, exclusively for expenditures by the Casino Control commission.”

Section A of the same Code chapter established that the commission shall create “a separate special revolving fund, into which shall be deposited all license, registration, permit fees, penalties, and other fees, all sums appropriated thereto by the Legislature of the Virgin Islands, and all donations, gifts and bequests.”

“The statute also is clear in its intent, and we all must be mindful that the V.I.C.C.C.’s funds belong to the People of the Virgin Islands, and therefore, we must ensure that any account that is established in the name of the V.I.C.C.C. is done in accordance with the applicable Virgin Islands law,” Mr. Walker wrote.

The A.G. stated that Section 5 14 (c) requires that both the chairman of the V.I.C.C.C. and the attorney general jointly disburse any money from the special checking account that is mandated by the statute.

“No other law in the Virgin Islands allows for the V.I.C.C.C. to open any bank or credit card account without the authorization of the attorney general, or in the name of any person, other than in the names of the chairman of the V.I.C.C.C. and the attorney general,” Mr. Walker wrote.

According to the 2016 letter, as part of the agreement with Banco Popular, funds would have been deposited into the accounts, but no funds would be disbursed until the V.I.C.C.C. chairperson and the attorney general were both signatories on the account. But that never happened.

“To avoid overdraft fees from accruing on outstanding items, I will make myself available to visit a Banco Popular branch, to properly organize the V.I.C.C.C.’s special checking account with the VICCC chairperson, so that we may serve as joint signatories on the special checking account, as contemplated by the Virgin Islands legislature at 32 V.I.C. § 514. I have already spoken to the local vice president of Banco Popular about properly re-establishing the account,” Mr. Walker wrote in 2016, adding, “Since the credit cards currently held by you are connected to the V.I.C.C.C. bank accounts, then I must inform you that all of the V.I.C.C.C.’s credit cards are cancelled and new ones and will not be authorized. Please properly dispose of the VICCC credit or debit cards that you possess.”

In the writ of mandamus filed Monday, the Department of Justice said, "It is clearly in the interest of the residents of the Virgin Islands for the Attorney General to be allowed to carry out his statutorily mandated duties. The Casino and Resort Control Act was established to raise revenue for the people of the Virgin Islands. As a source of revenue, the public has a vital interest in maintaining the integrity of casino gaming operations in St. Croix and ensuring that the enforcement responsibilities of the Attorney General are carried out pursuant to statute and without any restrictions.

"It is also in the interest of the public for the Government to properly manage public funds and ensure their proper use and allocation as intended by the Legislature of the Virgin Islands, especially where there is a deliberate and overt violation of the law."

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