

logo not found or type unknown

# Limetree Bay Files Amended Complaint Against Port Hamilton, Says Company Still Owes Huge Sums for Shared Services

Business / **Published On April 04, 2023 04:51 PM /**

Janeka Simon **April 04, 2023**

Image not found or type unknown



**The oil storage and refinery facility on St. Croix's south shore. By. V.I. CONSORTIUM**

As Port Hamilton Refining and Transportation (PHRT) contemplates the cost of the expensive cleanup of hazardous chemicals from the refinery on St. Croix's south shore, a lawsuit to the tune of millions of dollars is still looming.

Filed [last June](#) by Limetree Bay Terminals, now doing business as Ocean Point Terminals, the suit initially claimed that Port Hamilton was in breach of a short-term shared services agreement between the two entities, whereby Limetree/Ocean Point would provide certain services key to the operation of the refinery, for which Port Hamilton would remit payment. Port Hamilton, the

lawsuit alleged, began to fall behind on said payments, and by the time the agreement expired in March 2022, was in arrears. Between March and July, when the lawsuit was filed, those arrears continued to grow because the services from Ocean Point were still being provided to the refinery.

Last week, lawyers for Ocean Point filed an amended complaint, the second such amendment to the lawsuit, in which they allege that, despite payments totaling over \$4.7 million between February and July 2022, Port Hamilton had still not caught up with their arrears. This continued for months, Ocean Point alleges — unpaid invoices piling up while services continued to be provided — until in December of that year, Port Hamilton entered into a payment agreement for the outstanding debt, which by then had ballooned to approximately \$9 million.

The agreement would ostensibly address the outstanding amount, restore services that had previously been discontinued by Ocean Point due to Port Hamilton's non-payment, and pave the way for a longer-term shared services agreement to replace the one which expired in the first quarter of 2022.

The payment schedule agreed by Port Hamilton was an initial immediate \$3 million payment followed by weekly wire transfers of \$500,000, starting a week from when the agreement came into force on December 12, 2022. The parties were to have concluded negotiations on a longer-term agreement by Dec. 16th, 2022.

The plaintiffs allege that once again, Port Hamilton could not keep up with the payments they had agreed to, but in early January 2023 negotiated a second payment agreement in which the parties agreed to continue the weekly half-million dollar payments against the outstanding debt. They also agreed to a mechanism for future billing. Invoices from Ocean Point for administrative costs and services fees would be issued monthly for the previous month, and Port Hamilton would pay those with 10 and 15 days of receipt, respectively. Arrears arising from these invoices would accrue interest, both parties reportedly agreed.

This agreement fell by the wayside too, Ocean Point claims. Just 10 days after the second agreement was entered into on January 10th, Port Hamilton was sent an email advising them that they had fallen behind on the agreed payments. Ocean Point says that as it had last year, it extended the payment deadline, and offered to continue services if even a partial payment was made. After no response to their overtures, Ocean Point says it finally terminated the second payment and access agreement on February 13.

As soon as Ocean Point sent an email to that effect, they say Charles Chambers, one of Port Hamilton's principals responded with a \$600,000 counteroffer to the \$1 million that had been requested by Ocean Point as partial payment. Ocean Point says it declined the lowball offer, but still continues to provide services to the refinery to ensure safe operations. As such, the amounts owed continue to rise while Port Hamilton reportedly continues to ignore its obligations.

Ocean Point lawyers want a jury to award damages for breach of contract and unjust enrichment on the part of Port Hamilton, an order for Port Hamilton to repay the debt that is outstanding, and a foreclosure order on the construction lien Ocean Point had taken out against Port Hamilton's property last August after the lawsuit was initially filed. That lien is for just over \$2.1 million.

A day after Ocean Point's amended complaint was filed, Port Hamilton Refining and Transportation fired back. The construction lien was improperly placed, lawyers for PHRT argued, and Ocean Point's provided services were not of the type that allowed such a lien to be placed. As for the rest of the allegations and claims made by Ocean Point, Port Hamilton's attorneys denied them almost in their entirety, even the claim that the business is principally

located on St. Thomas.

Aside from agreeing that they had paid substantial amounts to Ocean Point, including the \$3 million as negotiated, Port Hamilton either rejected outright the oil storage company's assertions or said they did not have enough information to argue one way or another.

One point of contention that is sure to be hotly contested in any forthcoming trial is the true ownership structure of Port Hamilton Refining and Transportation. Ocean Point's lawsuit contends that it is a mere shell, wholly owned and controlled by Excel Construction & Maintenance VI Inc, and West Indies Petroleum Limited, and/or their principals – David Roberts and Charles Chambers respectively. As evidence, they point to an email chain in which Mr. Chambers participated from his West Indies Petroleum company account, discussing Port Hamilton business. One message sent on February 13, 2023 informed Ocean Point General Counsel Mark Chavez that money had been transferred to PHRT accounts, promising to remit \$1 million and asking that the services not be discontinued. Mr. Chavez promised to ensure that discontinuation proceedings did not proceed once Chambers could confirm that the money had indeed been remitted.

Port Hamilton denies the claim that it is a puppet of West Indies Petroleum/Chambers and Excel Construction/Roberts that has been severely undercapitalized by its parent companies, arguing that any signatures from Chambers and/or Roberts were executed on behalf of Port Hamilton only. Because the lawsuit lists all three entities – Port Hamilton, WIPL and Excel Construction – as co-defendants, the question of Port Hamilton's ownership structure could, when determined in court, impact how liability is calculated should Ocean Point prevail in its lawsuit.

Port Hamilton further claims that the services themselves were not up to par, overpriced, and improperly charged. "Port Hamilton... avers that some of the services provided by plaintiff were unacceptable; that some of the services were not for the benefit of Port Hamilton; and that plaintiff improperly attempted to charge Port Hamilton for services that plaintiff was actually providing to itself," the answer to the amended complaint reads, in part.

Port Hamilton also disputes the ownership of at least one of the facilities on site, arguing that Ocean Point does not have legal title to the power plant.

The refinery owner rejected Ocean Point's assertion that the almost \$5 million paid between February and July 2022 were remitted by either WIPL or Excel Construction, arguing that it was Port Hamilton alone which made any and all payments to Ocean Point under the terms of the services agreement. Port Hamilton also denied allegations that it almost immediately fell behind on its most recent payment agreement, despite Ocean Point including as exhibits correspondence in which said arrears is discussed and offers to pay are made by Mr. Chambers.

The bankruptcy sale of Limetree Bay Refinery to Port Hamilton Refining and Transportation was tinged with controversy from the beginning. Initially, the [winning bid](#) at auction came from an outfit called St. Croix Energy, but that was overturned in the face of an emergency application from West Indies Petroleum requesting the opportunity to place a late bid. Their failure to enter a bid by the deadline, they claimed, was because their CEO Charles Chambers had suffered an acute adverse health event. That claim was accepted by the court, and a bid of \$62 million — over three times that of St. Croix Energy's — was entered and selected as the [winning bid](#). Title of the refinery was passed to Port Hamilton, and they began efforts to restart which have thus far been hindered with safety and regulatory challenges.

