

IN THE SUPERIOR COURT OF VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

CARNIVAL CORPORATION,)
PRINCESS CRUISE LINES, LTD., and)
HOLLAND AMERICA LINE N.V.,)

Plaintiffs,)

v.)

DELIVER IT, INC.,)
PIRATES HARBOUR TOUR, INC., and)
STEVE VASATURO,)

Defendants.)

CIVIL NO.: ST-09-CV- 315

ACTION FOR DAMAGES AND
INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

2009 JUL 23 11:43

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF MOTION FOR ISSUANCE OF A
TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION**

Plaintiffs CARNIVAL CORPORATION (“CARNIVAL”), PRINCESS CRUISE LINES, LTD (“PCL”), and HOLLAND AMERICA LINE N.V. (“HAL”) (collectively, “Plaintiffs”), respectfully request this Court to enter a temporary restraining order and preliminary injunction against Defendants DELIVER IT, INC. (“DELIVER IT”), PIRATES HARBOUR TOUR, INC. (“PIRATES”), and STEVE VASATURO (“VASATURO”) (collectively, “Defendants”), pursuant to Fed. R. Civ. P. 65(b), in order to preserve the status quo between Plaintiffs and Defendants. In the event the Court does not enter a temporary restraining order, Plaintiffs respectfully request that the Court set an expeditious hearing on their request for a preliminary injunction.

I. INTRODUCTION AND BACKGROUND.

This matter involves serious claims against Defendants arising out of a fraudulent

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racketeering scheme in which they misappropriated, converted, and stole in excess of \$2,000,000, collectively, from Plaintiffs, which had been entrusted to DELIVER IT for the payment of the Virgin Islands Port Authority (“VIPA”).

As more fully set forth in the Verified Complaint in this matter, a copy of which is attached hereto as **Exhibit “A”** and incorporated herein by this reference, Plaintiffs are international passenger cruise ship operators whose vessels call at various ports throughout the world, including the Port of St. Thomas, United States Virgin Islands (“Port of St. Thomas”). Defendant, DELIVER IT, a Virgin Islands corporation owned and controlled by VASATURO, acted as a Port Agent (often called a “Ships Agent”) and, among other things, is in the business of providing or procuring various accommodations, services and materials for Plaintiffs’ vessels calling to the Port of St. Thomas.

PIRATES, also a Virgin Islands corporation owned and controlled by VASATURO, operated, and contracted with certain cruise ship operators (including Plaintiffs) to provide, water catamaran tours between three shopping areas in the Port of St. Thomas, catering specifically to Plaintiffs’ cruise ship passengers that were visiting the St. Thomas incidental to a cruise.

Beginning in approximately 2005, DELIVER IT became the exclusive Port Agent for Plaintiffs, in which capacity it acted, *inter alia*, as a liaison between Plaintiffs and VIPA, whose port and harbor facilities and services, such as, wharves, gangways, terminals, harbor pilots were used by Plaintiffs’ vessels. As it relates expressly to this action, DELIVER IT was responsible for receiving invoices from third-party providers, including VIPA, preparing its own invoices to Plaintiffs based on the third-party invoices and for its own account, and submitting the invoices for the combined

IT, via mail or wire, for the combined billings, expecting that DELIVER IT would, in turn, use Plaintiffs' monies to pay each of the third parties and to pay itself.¹

Beginning in about 2006, however, DELIVER IT and VASATURO began to hold monies entrusted to DELIVER IT by Plaintiffs that were intended as a pass through to pay VIPA, and delayed the payment of those monies to VIPA, thereby causing Plaintiffs to incur finance charges imposed by VIPA. Further, beginning in 2007, without the knowledge of Plaintiffs, VASATURO diverted to his personal use monies entrusted to DELIVER IT that were intended as a pass through to pay VIPA, and has not paid VIPA those monies. As a result, VIPA has sought payment directly from Plaintiffs of those sums already delivered against invoice to DELIVER IT. Based on VASATURO's misappropriations and diversion of funds entrusted by Plaintiffs to DELIVER IT, either (a) VIPA has not been paid and Plaintiffs remain indebted to VIPA, or, (b) Plaintiffs have paid VIPA directly the amounts due thereby resulting in Plaintiffs having paid twice for the same VIPA charges. In whole or in part, VASATURO and DELIVER IT caused the misappropriated and diverted sums to be used to provide operating capital and procure assets for PIRATES. The sum total of Plaintiffs' funds that have been misappropriated and diverted by Defendants in furtherance of their fraudulent scheme exceeds \$2,000,000, and Plaintiffs are informed and believe that Defendants presently are undertaking steps to divest themselves of any property and assets that may be used to satisfy their debts and obligations to Plaintiffs herein.

Accordingly, Plaintiffs are entitled to a temporary restraining order, preliminary injunction and permanent injunction against Defendants requiring Defendants to preserve all Plaintiffs' monies

¹ Plaintiffs entered into express written contracts with DELIVER IT outlining the terms and conditions of their

and assets procured with Plaintiffs' monies, and prohibiting and restraining the Defendants from disbursing, distributing or secreting Plaintiffs' monies and assets procured with Plaintiffs' monies, and prohibiting and restraining the Defendants from disbursing, distributing or secreting any monies or other assets, as there is an immediate danger that if Defendants are not so enjoined, Plaintiffs will suffer a significant and irreparable injury in that they will be unable to satisfy any judgment for money damages in this matter, to which they legally are entitled..

II. PLAINTIFFS ARE ENTITLED TO PRELIMINARY INJUNCTIVE RELIEF.

"A trial court may in its discretion grant or deny a temporary restraining order or preliminary injunction." *Kings Wharf Island Enterprises, Inc. v. Rehlaender*, 34 V.I. 23, 26 (Terr. Ct. 1996)(internal citation omitted). "The court must examine the following four factors: (1) the moving party must show a likelihood of success on the merits; (2) the moving party must produce evidence sufficient to convince the court that in the absence of the relief he will suffer irreparable injury; (3) that granting the relief will not result in greater harm to the non-moving party; and (4) that granting the relief will be in the public interest." *Id.* (citations omitted); *see also, Gladfelter v. Fairleigh Dickinson Univ.*, 25 V.I. 91, 96 (Terr. Ct. 1990). "Each factor must be present, but a strong showing of one factor may affect the necessary showing with regard to another." *Kings Wharf Island Enterprises, Inc.*, 34 V.I. at 26; *Everett v. Schneider*, 989 F. Supp. 720, 723 (D.V.I. 1997)("The strength of any single factor reduces the necessary showing with regard to the others"). "Although the four factors do not carry equal weight, petitioner must, at a minimum, demonstrate a reasonable probability of success on the merits and the potential result of irreparable injury." *Bach Enters. v.*

relationship, including the referenced billing and payment provisions, as more fully outlined in the Complaint.

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Frenchtown Civic Org., 1990 V.I. LEXIS 6 at *2 (Terr. Ct. 1990).

“Moreover, courts have broad discretion to evaluate irreparability of alleged harm and to make a determination regarding the propriety of injunctive relief. Thus, to show irreparable injury, it is not necessary to demonstrate that harm is inevitable or irreparable, rather the movant need only show significant threat of injury from impending action, that injury is imminent and that money damages would not fully repair the harm.” *Kings Wharf Island Enterprises, Inc.*, 34 V.I. at 26; *see also, West Indian Co. v. Government of Virgin Islands*, 812 F.2d 134, 135 (3d Cir. 1987)(“The grant or denial of a preliminary injunction is committed to the sound discretion of the district court, which must balance all of the relevant factors in making a decision”).

In the present matter, as discussed, below, all four factors weigh in favor of the imposition of injunctive relief: 1) Plaintiffs are likely to succeed on the merits of their Complaint; 2) Plaintiffs will suffer irreparable injury if injunctive relief is not granted; 3) Defendants will suffer no harm if injunctive relief is granted, except such harm that was “self-inflicted”; and 4) the public interest supports injunctive relief, as the perpetration of fraudulent criminal schemes against businesses operating in the Virgin Islands, particularly those principally responsible for tourism in the Territory, affects all Virgin Islands residents.

A. Success on the Merits

To establish a likelihood of success on the merits, Plaintiffs need only “demonstrate a reasonable probability of success, they need not show that they are certain to win. The probability of success need not be as high when Plaintiffs show that they would be more severely prejudiced by a denial of the injunction than the Defendants would be by its grant.” *Everett v. Schneider*, 989 F.

Supp. at 723.

Plaintiffs are likely to succeed on the merits because it is indisputable that Defendants have misappropriated Plaintiffs' funds – a fact effectively admitted by VASATURO, who concedes that he used monies remitted to DELIVER IT by Plaintiffs for payment of VIPA invoices, *inter alia*, to capitalize PIRATES. As such, not only did DELIVER IT breach its contractual agreements with Plaintiffs² and defraud them out of a significant amount of money, it did so with VASATURO's full knowledge and consent, and for the direct benefit of PIRATES. In so doing, DELIVER IT, VASATURO and PIRATES formed an association-in-fact to conduct passenger cruise ship related businesses, and for the purpose of defrauding Plaintiffs, VIPA and other vessel operators. This association-in-fact was an "enterprise" within the meaning of V.I. Code Ann. tit. 14, §604(h) and DELIVER IT, PIRATES and VASATURO conducted or participated, directly or indirectly, in the conduct of the enterprise's affairs through a "pattern of criminal activity" within the meaning of V.I. Code Ann. tit. 14, §604(j), in violation of V.I. Code Ann. tit. 14, §605(a).

In addition, a fiduciary relationship existed between each Plaintiff and Defendants, VASATURO and DELIVER IT, as each Plaintiff placed its trust in the faithful integrity of these Defendants, and these Defendants accepted this trust, in that, Plaintiffs entrusted and Defendants received large sums of Plaintiffs' monies for the purpose of these Defendants using the entrusted monies to discharge Plaintiffs' debts. As Plaintiffs' fiduciaries, VASATURO and DELIVER IT owed Plaintiffs the duties of good faith, trust, confidence, and candor, and the duty to exercise a high standard of care in handling Plaintiffs' monies, including ensuring that Plaintiffs' monies were used

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solely for the intended purpose of discharging Plaintiffs' debts. VASATURO and DELIVER IT breached their fiduciary duties by failing to discharge Plaintiffs' debts, and by instead diverting more than \$2,000,000 of Plaintiffs' monies to their own use.

Further, VASATURO, individually, and DELIVER IT and PIRATES acting through VASATURO, intentionally made false statements concerning material facts, in that, Defendants explicitly and continually represented that they would discharge Plaintiffs' debts to VIPA with Plaintiffs' monies, under circumstances where Defendants knew that they had no intention of using Plaintiffs' monies to discharge these debts, and in fact, did not deliver Plaintiffs' monies to VIPA. Defendants knew that these representations were false and intentionally failed to advise Plaintiffs that Defendants had not discharged these debts, but rather, had misappropriated and diverted the monies collected from Plaintiffs.

Moreover, their debts and obligations to Plaintiffs notwithstanding, Defendants are undertaking efforts improperly to divest themselves of properties and assets in order to surreptitiously insulate themselves from a judgment of damages against Defendants in this matter – in clear violation of the Uniform Fraudulent Conveyances Act, V.I. Code Ann. tit.28, § 201, et. seq. In this regard, Defendants, *inter alia*, are endeavoring to sell their assets and property for less than fair market value, including but not limited to the vessels owned and utilized by PIRATES, to prevent Plaintiffs from imposing liens against, or otherwise attaching, said property in this matter. Indeed, VASATURO publicly has announced his intention promptly to sell PIRATES' assets. See Daily News article dated March 20, 2009, attached as **Exhibit "A"**. Plaintiffs are entitled to preliminary and permanent injunctive relief against Defendants to prevent any such fraudulent

conveyances.

Accordingly, this Court should find that Plaintiffs have shown a likelihood of success on the merits of their Complaint and, furthermore, that the issuance of a temporary restraining is necessary to prevent irreparable harm.

B. Irreparable Harm

As more fully described herein and in Plaintiffs' Verified Complaint, Defendants have defrauded Plaintiffs out of more than \$2,000,000 and are undertaking steps to make themselves "judgment proof" by divesting themselves of property and assets that otherwise may be used to satisfy their obligations to Plaintiffs. The harm suffered by the Plaintiffs will be irreparable because Defendants are in no position to pay any meaningful money judgment. *See Berne Corp. v. Government of the Virgin Islands*, 262 F.Supp.2d 540, 570 (D.V.I. 2003), opinion modified, 276 F.Supp. 2d 435, aff'd, 105 Fed. Appx. 324 (3d Cir. 2004) ("[I]nability of the defendants to compensate the plaintiffs with money damages also satisfies the irreparable injury prong. As an element of irreparable harm, I look to the financial strength of the Government to determine whether or not the defendants would be able to compensate the plaintiffs with money damages.") (citations omitted). To the extent Defendants are not enjoined from such further fraudulent and illegal conduct, Plaintiffs will be precluded from the recovery to which they legally are entitled in this matter and, as such, will suffer irreparable harm. In any event, under the Virgin Islands "Criminally Influenced and Corrupt Organizations Act," V.I. Code Ann. tit. 14, § 600-614, under which Plaintiffs seek relief in Counts One and Two of the Verified Complaint, "no showing of special or irreparable injury shall have to be made" in order to obtain injunctive relief. *Id.* at § 607(b). Indeed, § 607(b) mandates the

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have to be made” in order to obtain injunctive relief. *Id.* at § 607(b). Indeed, § 607(b) mandates the issuance of a temporary restraining order or a preliminary injunction “upon a showing of immediate danger of significant injury including the possibility that any judgment for money damages might be difficult to execute” and “upon the execution of a proper bond against injury for an injunction improvidently granted.” Plaintiffs have clearly made the requisite showing of immediate danger of significant harm in this instance.

Furthermore, Plaintiffs have prepared and attached hereto as **Exhibit “B”**, for the Court’s consideration and approval, a proposed form bond/undertaking relative to the present request for injunctive relief. Upon the approval of same by the Court, Plaintiff immediately shall execute and post such bond/undertaking so that the injunction legally may be effectuated in accordance herewith.

C. Relative Harm to Defendants

The Defendants will suffer no harm if the temporary restraining order and/or injunction is issued. Furthermore, even assuming *arguendo* that Defendants might face financial difficulties as a result the injunctive relief sought herein, such financial difficulties are self-inflicted, and the direct result of the perpetration of Defendants’ concerted illegal scheme to defraud Plaintiffs and misappropriate their funds. Indeed, this purported “harm” should be discounted because Defendants plainly brought any such harm upon themselves through their illegal conduct. *See, e.g., Novartis Consumer Health, Inc. v. Johnson & Johnson-Merck Consumer Pharm. Co.*, 290 F.3d 578, 596 (3d Cir.2002) (noting that whatever harm an injunction would cause “may be discounted by the fact that the defendant brought that injury upon itself.”); *Pappan Enters., Inc. v. Hardee's Food Sys., Inc.*, 143 F.3d 800, 806 (3d Cir.1998) (“The self-inflicted nature of any harm suffered by [the party opposing

the injunction] also weighs in favor of granting preliminary injunctive relief.”). Accordingly, this Court should find that the negligible inconvenience to Defendants is substantially outweighed by the severe, irreparable harm that Plaintiffs would experience if they were precluded from recovery in this matter.

D. Injunctive Relief is in the Public Interest

The public interest will be served by this Court’s granting a temporary restraining order and/or preliminary injunction. Absent injunctive relief, Defendants will be able to continue their fraudulent and illegal scheme, which affects not only the Plaintiffs but other entities and individuals in the public, in general. Without question, to allow such a criminal venture to continue unabated, particularly one whose victims are the very cruise lines that, in large part, serve as the foundation for tourism in the Virgin Islands, would have a detrimental impact on the Territory’s economy going forward, as well as its reputation as a tourist destination. Given the fragile state of the economy at this time, the Virgin Islands cannot afford any further decline in tourism.

In addition, the public interest in preventing “white collar” criminal conduct, in general, weighs heavily in favor of granting injunctive relief. If Defendants are allowed to shelter the “booty” of their fraudulent, piratical operations, it will encourage the development of other such schemes against individuals and businesses in the Territory. Clearly, this cannot be tolerated. It is essential that such conduct be prevented and dealt with swiftly, particularly in light of the fallout from the fraudulent and criminal schemes perpetrated by the likes of Bernard Madoff and Allen Stanford, which already have had significant ramifications for many Virgin Islanders.

Accordingly, preliminary injunctive relief clearly is warranted and appropriate in this matter.

IV. CONCLUSION.

Based on the foregoing reasons, Plaintiffs respectfully request this Court to impose a temporary restraining order and preliminary injunction pursuant to V. I. Code Ann. tit. 14, § 607(b) and Fed. R. Civ. P. 65(b), in order to preserve the status quo between Plaintiffs and Defendants, and to enjoin Defendants from divesting themselves of property and assets that otherwise may be used to satisfy their obligations to Plaintiffs including property belonging to Plaintiffs, or otherwise violating the provisions of V.I. Code Ann. tit.28, § 201, et seq., and grant such further and other relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

DATED: July 28, 2009

By: 

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CERTIFICATE OF SERVICE

It is hereby certified that on this the 28th day of July, 2009, a true and exact copy of the foregoing **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION** was served, via U.S. Mail, postage prepaid, to:

Michael Sheesley, Esq.
Kevin F. D'Amour, P.C.
PO Box 10829
St. Thomas, VI 00801

Juanes Thomas

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EXHIBIT "A"

Contract troubles end St. Thomas pirate tours

By ALDETH LEWIN
Daily News Staff

ST. THOMAS — On Wednesday, Pirates Harbour Tour Inc. ceased operations after less than one year in business.

Pirates Harbour Tour owner Steve Vasaturo said he decided to close the business after multiple cruise lines canceled their contracts with the tour operation. He is not allowed to sell tickets to the tour on board his boats, so the business is completely dependent on the contracts he holds with the cruise ships.

Carnival, Holland America and Princess ships — all of which are owned by Carnival Cruise Lines — canceled their contracts with Pirates Harbour Tour on Monday and Tuesday, he said. While he still had contracts with Celebrity and Royal Caribbean, they would not be enough to sustain the company's profitability, Vasaturo said.

Vasaturo said there was no reason given for why the contracts were terminated, but he thinks it has to do with his other company, Deliver It Inc., which until March 1 was the cruise ship agent for the Carnival Cruise Lines.

Vasaturo is the president of Deliver It, which ran into some problems with Carnival Cruise Lines and the V.I. Port Authority last fall.

Until November, the ships would pay their docking fees — based on the tonnage of the ship and per passenger head taxes — to Deliver It and the agent would then pass the money along to the Port Authority. During that time, the four Carnival-owned cruise lines — Holland America, Cunard, Carnival and Princess — racked up a \$1.9 million outstanding balance, \$2.1 million once finance charges were added, according to the Port Authority. To stop the late fees from accumulating, in November the cruise lines in question began paying the Port Authority directly, cutting out the ships' agent altogether.

"Even though they're not saying anything about that, an intelligent person must see that there is a connec-



Daily News File Photo

Pirates Harbour Tour employees Jason Fahie, left, and Jae Knight greet passengers on the Queen Anne's Revenge during a harbor tour last month.

tion," Vasaturo said about the cruise lines canceling contracts with Pirates Harbour Tour.

In the past few months the Port Authority and the cruise lines have been reviewing their accounting and invoices in an attempt to get a handle on who owes what to whom.

Port Authority board chairman Cassan Panham said the matter is nearing resolution, but could not provide any more details about the status of the situation.

Vasaturo said that the Port Authority and the cruise lines requested certain information from him, which he forwarded, but he has not heard anything else from the Port Authority regarding the issue.

Losing the cruise ship contracts is the latest in a string of setbacks and obstacles for Pirates Harbour Tour.

The company has faced numerous challenges since its inception last year, including many battles with taxi drivers who argue that the tour is actually a water taxi service and cuts into their revenues.

In August, the 27th Legislature overrode Gov. John DeJongh Jr.'s veto of legislation barring water taxis,

water tours and watercraft that can travel on both land and sea from getting Economic Development Commission tax benefits. Proponents of the legislation said tax benefits would give such businesses an advantage over land-based taxis.

Vasaturo maintains that his business is not a water taxi service and that it did not transport people from one place to another on demand. The tour costs \$10 and features entertainment and education about the real pirates of the Caribbean aboard specially designed flat-topped catamarans.

After a sting operation in February, the V.I. Taxicab Commission and Department of Licensing and Consumer Affairs issued a total of \$3,000 in citations to the company for operating outside the scope of its business license.

DLCA Commissioner Kenrick Robertson said the company is licensed to carry prepaid tour passengers from the cruise lines but is not licensed to solicit ticket sales or allow passengers to purchase tickets on board. In the sting operation, plainclothes enforcement officers from the Taxicab Commission found that peo-

ple were allowed to board a vessel without prepaid tickets and pay cash for their tour.

Pirates Harbour Tour is contesting the fines and a hearing will be scheduled soon, Robertson said.

When he started the business, Vasaturo said he had three goals: to help merchants have access to all cruise ship passengers, to give visitors a new and unique way to see the St. Thomas harbor and to partner with the cruise lines to offer a tour that would serve hundreds of their guests.

"If my crystal ball had been working a little better, I would have done things a lot differently," he said.

Starting the business was a big risk, he said, and he lost a lot. Nevertheless, he is proud of what he did accomplish, and hopes that someone else takes up the mantle and continues what he started.

"It's something St. Thomas needs," Vasaturo said.

The company employed 17 people, all of whom were let go Wednesday.

Vasaturo said he is not sure what will happen next. He has already received several inquiries from people interested in purchasing either the boats or the whole business. He has four boats that are in operation and one that is waiting for engines to be installed.

"From its inception I had the best intentions for St. Thomas, the cruise lines and the merchants," Vasaturo said. "That was my goal, that and providing a quality of service that would be Disneyesque, and I think I did that."

The shuttering of Pirates Harbour Tour comes on the heels news that Atlantis Submarine is shutting down operations May 31. Atlantis has been operating its submarines in St. Thomas for 20 years, but high overhead costs and a tough economic climate have put the submarine portion of the company, which also offers catamaran tours, out of business.

— Contact reporter Aldeth Lewin at 774-8772 ext. 311 or e-mail alewin@dailynews.vi.

Water distribution woes force some government offices to close early

By FIONA STOKES
Daily News Staff

ST. CROIX — Several businesses and government agencies were forced to close their doors just after noon on Thursday because of water distribution and plumbing problems.

On St. Croix, V.I. Water and Power Authority spokeswoman Cassandra Dunn said workers in

Legislature and the Frederiksted offices of the Tax Assessor and Tax Collector Office to close early on Thursday, but the affected areas are expected to return to normal operations today.

"Most of these copper lines have been in place since the early 1970s and having a lifespan of about 40 years, they are coming to the end of their time and are weakening," she said. "Luckily many people had cisterns as a backup on the actual cur-

because of damaged lines that began causing problems on Wednesday. He said workers tried to correct the problem by using a sewer snake to but it did not solve the problem. On Thursday, after the problem arose again, Legislature staff received assistance from the V.I. Waste Management Authority and Fire Service to flush out the lines.

"We are hoping the problems do not reoccur but we have also been doing some work on the

EXHIBIT "B"

**IN THE SUPERIOR COURT OF VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

CARNIVAL CORPORATION,)
PRINCESS CRUISE LINES, LTD., and)
HOLLAND AMERICA LINE N.V.)

Plaintiffs,)

v.)

DELIVER IT, INC.,)
PIRATES HARBOUR TOUR, INC., and)
STEVE VASATURO,)

Defendants.)

CIVIL NO.: ST-09-CV- 315

ACTION FOR DAMAGES AND
INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

BOND OR UNDERTAKING FOR ATTACHMENT/INJUNCTIVE RELIEF

WHEREAS, Plaintiffs CARNIVAL CORPORATION (“CARNIVAL”), PRINCESS CRUISE LINES, LTD (“PCL”), and HOLLAND AMERICA LINE N.V.(“HAL”) (collectively, “Plaintiffs”) have commenced the above-captioned civil action in the Superior Court of the Virgin Islands against Defendants DELIVER IT, INC. (“DELIVER IT”), PIRATES HARBOUR TOUR, INC. (“PIRATES”), and STEVE VASATURO (“VASATURO”) (collectively, “Defendants”), upon numerous claims, including but not limited to the breach of contract(s) for the direct payment of money, fraud, conversion, violation of 14 V.I.C. 600, et seq., claiming that there is due to Plaintiffs from Defendants, the sum of not less than \$2,000,000.00, together with interest, costs, and attorneys’ fees; and

WHEREAS, Plaintiffs have applied for an attachment against the property of Defendants as security for the satisfaction of any judgment that may be recovered by Plaintiffs herein;

WHEREAS, Plaintiffs have applied for the issuance of a temporary restraining order and a preliminary injunction against Defendants to prevent them from, *inter alia*, disbursing, secreting, distributing or conveying Plaintiffs’ monies or assets procured with Plaintiffs’

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monies;

NOW, THEREFORE, WE, Plaintiffs, as principals, and _____, as surety, in consideration of the premises and the issuing of said attachment and injunctive relief, do, jointly and severally, undertake, in the sum of Two Million Dollars (\$2,000,000.00) and promise to the effect that the said Plaintiffs, will pay all costs that may be adjudged to the said Defendants, and all damages that Defendants may sustain by reason of the issuance of a writ attachment, temporary restraining order and/or preliminary injunction in this case if the same be issued wrongfully or without sufficient cause, not exceeding the sum of Two Million Dollars (\$2,000,000.00).

SIGNATURES ON FOLLOWING PAGE

In Witness Whereof, we have hereunto set our hands this _____ day of _____, 2009.

CARNIVAL CORPORATION

By:
As Principal

STATE OF FLORIDA)
) ss.:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of July, 2009, by _____ of Carnival Corporation.

(Officer before whom acknowledgment is taken)

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PRINCESS CRUISE LINES, LTD.

By:
As Principal

STATE OF FLORIDA _____)
_____) ss.:
COUNTY OF MIAMI-DADE _____)

The foregoing instrument was acknowledged before me this _____ day of July, 2009, by _____ of Princess Cruise Lines, Ltd.

(Officer before whom acknowledgment is taken)

HOLLAND AMERICA LINES N.V.

By:
As Principal

STATE OF FLORIDA _____)
_____) ss.:
COUNTY OF MIAMI-DADE _____)

The foregoing instrument was acknowledged before me this _____ day of July, 2009, by _____ of Holland America Lines N.V.

(Officer before whom acknowledgment is taken.)

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

CARNIVAL CORPORATION,
PRINCESS CRUISE LINES, LTD. and
HOLLAND AMERICA LINE N.V.,

Plaintiffs,

vs.

DELIVER IT, INC.,
PIRATES HARBOUR TOUR, INC., and
STEVE VASATURO,

Defendants.

CIVIL JURY NO.:
ST-09-CV-0000315

ACTION FOR DAMAGES
AND INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

ORDER

This matter came before this Court on Plaintiffs CARNIVAL CORPORATION, PRINCESS CRUISE LINES, LTD., and HOLLAND AMERICA LINES N.V.'s motion for temporary restraining order and preliminary injunction.¹

Before ruling on the motion, memorandum of law, affidavits and proposed orders filed by the Plaintiffs, the Court needs responses regarding the following:

1. Was Fed. R. Civ. P. 65 complied with?
2. In 2006 when it was contended that DELIVER IT delayed in paying the invoices owed to VIPA and thus incurring finance charging was anything done at that time? If so what?
3. Is there anything in the moving papers for a TRO other than the bald assertion in the memorandum of law at the top of page 6 that would substantiate the contention that VASATURO conceded that he used monies remitted to DELIVER IT by Plaintiffs for payment of VIPA invoices, *inter alia* to capitalize PIRATES/HARBOUR TOUR, INC.? (When was VASATURO's admission made? To Whom? Where?)
4. Whether this matter is being pursued criminally under local the Criminal Influence and Corrupt Organization Act?

¹ When the verified complaint was filed in this matter, the case was assigned to Honorable Michael Dunston, however after the motion for temporary restraining order and preliminary injunction was filed on or after July 28, 2009, Judge Dunston recused himself and the matter was reassigned to the undersigned on July 31, 2009.

5. Absence strict compliance with Criminal Influence and Corrupt Organizations Act ("CICO"), why is a TRO remedy unavailable since there is an adequate remedy at law, to wit: money judgment?
6. Does any of the assets sought to be enjoined from being divested or sold by Defendants have security interests placed on them? And if money is owed to the secured parties, can a TRO enjoin the secured parties from seeking foreclosure and/or attachment of the secured assets?
7. Since Plaintiffs have to prove their claim by the preponderance of the evidence for civil remedies under CICO, why don't the Plaintiffs know whether DELIVER IT paid VIPA or not or whether VIPA has been paid twice?
8. Why isn't there any affidavit or supporting documents from VIPA indicating the period in which Plaintiffs did not pay and if Plaintiffs are current now, when they become current?
9. Did DELIVER IT, INC. ever give Plaintiffs receipts reflecting its payment to VIPA? If not, why was this not required?
10. Did Plaintiffs at all times make untimely payments of moneys due to VIPA to DELIVER IT which would have yielded finance charges?
11. When did the Plaintiffs contracts with Defendant(s) expire?
12. Did the Plaintiffs terminate their contracts with Defendant(s) before the expiration? If so when and what was the reason given?
13. Was there a written agreement or contract between the various plaintiffs and defendants, if so, please submit the document(s).
14. According to the 2009 Island Telephone Directory, DELIVER IT, INC.'s telephone number is 776-8660, however, when that number is called, it is the business of ST. THOMAS CARGO AND SHIP SERVICES. According to Ms. Tracy Bryan, Office Manager, DELIVER IT is no longer in business. If DELIVER IT, INC. is no longer in business, is the request for injunctive relief relief an act of futility?

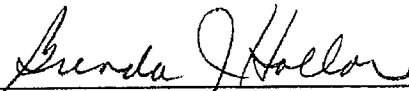
Accordingly, it is

ORDERED, that this matter shall come on for **HEARING** on the motion for temporary restraining order and preliminary injunction on **THURSDAY, AUGUST 6, 2009** at **9:30 a.m.**, **COURTROOM NO. I**; and it is further

ORDERED, that the parties shall be prepared to address the foregoing inquiries and any other matters that would bear upon either the granting or denying of the Plaintiffs relief sought; and it is further

ORDERED, that a copy of this mater shall be directed to counsel of record for the Plaintiffs and served on STEVE VASATURO, Individually at 407A-3 Hospital Ground or 129-31 Subbase, St. Thomas, Virgin Islands, Steve Vasaturo o/b/o DELIVER IT, INC. c/o Steve Vasaturo, 407A-3 Hospital Ground, St. Thomas Virgin Islands or 129-31 Subbase, St. Thomas, Virgin Islands or c/o Cheryl Toner, 407A-3 Hospital Ground, St. Thomas, Virgin Islands or c/o Dave McDermott, 19-2-30 Estate Smith Bay, St. Thomas, Virgin Islands and Steve Vasaturo o/b/o PIRATE HARBOUR TOURS, INC. at 407A-3 Hospital Ground OR 129-31 Subbase, St. Thomas, Virgin Islands and directed to Michael Sheesley, Esq. and Kevin F. D'Amour, P.C.

Dated: August 4, 2009


BRENDA J. HOLLAR, Administrative Judge
Superior Court of the Virgin Islands

ATTEST:
VENETIA H. VELAZQUEZ, ESQ.
CLERK OF THE COURT


ROSALIE GRIFFITH
COURT CLERK SUPERVISOR 814, 2009