

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

VIRGIN ISLANDS UNITY DAY GROUP, INC.	)	
	)	
Plaintiff,	)	CIVIL NO. 08-047
	)	
v.	)	ACTION FOR VIOLATION OF
	)	42 U.S.C. § 1983; VIOLATION
GOVERNMENT OF THE VIRGIN ISLANDS,	)	OF REVISED ORGANIC ACT;
ROY MARTIN, in his official capacity as,	)	SPECIFIC PERFORMANCE;
Tax Assessor,	)	TEMPORARY AND
	)	PERMANENT INJUNCTIVE
Defendants.	)	RELIEF
	)	

---

**DEFENDANTS' ANSWER & DEFENSES TO COMPLAINT**

Defendants Government of the Virgin Islands and Roy Martin, in his official capacity as Tax Assessor, by and through their undersigned counsel, hereby answer the First Amended Complaint filed in the above-styled action as follows:

1. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 1.
2. Defendants deny that territorial officers and employees have committed any illegal or unauthorized acts. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 2.
3. Defendants deny the allegations set forth in paragraph 3.
4. Defendants deny the allegations set forth in paragraph 4.
5. Defendants deny the allegations set forth in paragraph 5.
6. Defendants deny the allegations set forth in paragraph 6.
7. Defendants deny the allegations set forth in paragraph 7.
8. Defendants admit the allegation set forth in paragraph 8.

*UDG v. GVI*, Civil No. 08-47  
Answer to 1<sup>st</sup> Amended Complaint  
Page 2 of 5

9. Defendants admit that Defendant Roy Martin was the prior Tax Assessor for the Virgin Islands and that following his resignation Bernadette Williams was appointed to the position of Acting Tax Assessor and the Tax Assessor is responsible for the assessment of real property taxes. Defendants deny the remaining allegations set forth in paragraph 9.

9(sic). Defendants deny the allegations set forth in paragraph 9.

10. Defendants state that if this Court had jurisdiction over this matter, this judicial district would have been the proper venue.

### **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

11. On September 11, 2009, the District Court held that the Berne Settlement Agreement cannot be enforced against the Government of the Virgin Islands. As a result, Defendants deny the allegations set forth in paragraph 11.

12. On September 11, 2009, the District Court held that the Berne Settlement Agreement cannot be enforced against the Government of the Virgin Islands. As a result, Defendants deny the allegations set forth in paragraph 12.

13. Defendants admit that on March 10, 2008, Governor deJongh signed into law Act No. 6991. Defendants further state that Act No. 6991 speaks for itself.

### **FIRST CAUSE OF ACTION (Violation of 42 U.S.C. § 1983 – Denial of Substantive Due Process)**

14. Defendants adopt and reallege by reference their answers to paragraphs 1 through 13 as though fully set forth herein.

15. Defendants deny the allegations set forth in paragraph 15 a-g.

16. Defendants deny the allegations set forth in paragraph 16.

17. Defendants deny the allegations set forth in paragraph 17.

18. Defendants deny the allegations set forth in paragraph 18.

UDG v. GVI, Civil No. 08-47  
Answer to 1<sup>st</sup> Amended Complaint  
Page 3 of 5

19. Defendants deny the allegations set forth in paragraph 19.

**SECOND CAUSE OF ACTION  
(Violation of 42 U.S.C. § 1983 – Denial of Procedural Due Process)**

20. Defendants adopt and reallege by reference their answers to paragraphs 1 through 19 as though fully set forth herein.

21. Defendants deny the allegations set forth in paragraph 21.

22. Defendants deny the allegations set forth in paragraph 22.

23. Defendants deny the allegations set forth in paragraph 23.

24. Defendants deny the allegations set forth in paragraph 24.

25. Defendants deny the allegations set forth in paragraph 25.

**THIRD CAUSE OF ACTION  
(Violation of 42 U.S.C. § 1983 – Denial of Equal Protection)**

26. Defendants adopt and reallege by reference their answers to paragraphs 1 through 25 as though fully set forth herein.

27. Defendants deny the allegations set forth in paragraph 27.

28. Defendants deny the allegations set forth in paragraph 28.

29. Defendants deny the allegations set forth in paragraph 29.

30. Defendants deny the allegations set forth in paragraph 30.

**FOURTH CAUSE OF ACTION  
(Temporary and Permanent Injunctive Relief)**

31. Defendants adopt and reallege by reference their answers to paragraphs 1 through 30 as though fully set forth herein.

32. Defendants deny the allegations set forth in paragraph 32.

33. Defendants deny the allegations set forth in paragraph 33 a-e.

*UDG v. GVI*, Civil No. 08-47  
Answer to 1<sup>st</sup> Amended Complaint  
Page 4 of 5

**DEFENSES AND AFFIRMATIVE DEFENSES**

1. The First Amended Complaint fails to state a cause of action upon which relief may be granted.
2. This Court lacks subject matter jurisdiction.
3. Plaintiff and its members have failed to exhaust their administrative remedies prior to commencing this lawsuit.
4. Plaintiff's claims are barred by the Tax Injunction Act.
5. Plaintiff's claims are barred by the principles of comity or federalism.
6. Plaintiff is barred from bringing this claim in the district court under one or more abstention doctrines.
7. At all times pertinent to this action, the acts of the Government of the Virgin Islands' officials, agent or employee were done in compliance with the laws of the Virgin Islands and federal law, to the extent any federal law is applicable to this lawsuit.
8. Some or all of Plaintiff's claim are barred by the doctrine of mootness.
9. Plaintiff lacks standing to bring this action against Defendants.
10. Some or all of Plaintiff's claims are barred by the doctrines of res judicata, collateral estoppel or issue preclusion.
11. Plaintiff claims are barred by the doctrine of inherent or sovereign immunity or Eleventh Amendment immunity.

WHEREFORE, for the foregoing reasons, Defendants pray that this Honorable Court

- (a) dismiss Plaintiff's First Amended Complaint with prejudice;

UDG v. GVI, Civil No. 08-47  
Answer to 1<sup>st</sup> Amended Complaint  
Page 5 of 5

- (b) award Defendants cost and attorney's fees associated with this litigation;  
  
and
- (c) award Defendants any other relief deemed appropriate.

RESPECTFULLY SUBMITTED,

VINCENT F. FRAZER, ESQ.  
ATTORNEY GENERAL

Dated: April 26, 2009

BY: /s/ Carol Thomas-Jacobs  
CAROL THOMAS-JACOBS, ESQ.  
ASSISTANT ATTORNEY GENERAL  
Office of the Attorney General  
Department of Justice  
34-38 Kronprindsens Gade  
GERS Building, 2<sup>nd</sup> Floor  
St. Thomas, VI 00802

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

James M. Derr, Esq.  
Law Offices of James M. Derr  
P.O. Box 664  
St. Thomas, VI 00804

/s/ Carol Thomas-Jacobs