

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

**VFI KR SPE I LLC and VARILEASE
FINANCE, INC.**

Plaintiffs,

V.

**VIRGIN ISLANDS GOVERNMENT
HOSPITALS AND HEALTH FACILITIES
CORPORATION and GOVERNOR JUAN F.
LUIS HOSPITAL AND MEDICAL CENTER,**

Defendants.

Case No. 1:26-mc-0027

ORDER

THIS MATTER comes before the Court on a Praecipe filed by Plaintiffs seeking to execute on a Judgment issued by the U.S. District Court for the Eastern District of Michigan. The record reflects that Plaintiffs obtained a Judgment in said court awarding them, *inter alia*, the amount of \$6,357,600.00 plus costs and fees. Plaintiffs now seek to execute on that Judgment and request that the Clerk of Court for the District Court of the Virgin Islands “instruct the Marshal to seize all funds in Banco Popular de Puerto Account Nos. [numbers intentionally omitted] (which are Defendants’ bank accounts), and all of Defendants’ other pledged/liened assets as set forth in Composite Exhibit 1.” (Dkt. No. 2 - Praecipe at 2.) Before issuing a praecipe, the Court must be satisfied that a judgment creditor is permitted to execute on the assets of a judgment debtor.

The listed defendants in this matter are the Virgin Islands Government Hospitals and Health Facilities Corporation (“VIGHHFC”) and the Governor Juan F. Luis Hospital and Medical Center (“JFL Hospital”). The VIGHHFC is an entity created under Virgin Islands law and is designated as “a body corporate and politic constituting a public benefit corporation

of the Government of the Virgin Islands.” 19 V.I.C. § 243(a).¹ The VIGHHFC has jurisdiction over and manages and operates several healthcare facilities in the U.S. Virgin Islands including the JFL Hospital. *See id.* at §§ 244(e), 245(c), 246(d).

The VIGHHFC has the power to “sue and be sued *subject to the limitations and requirements of existing law applicable to the Government of the Virgin Islands.*” *Id.* at § 244(a) (emphasis added). Significant for purposes of the instant matter, Virgin Islands law expressly exempts all property of the VIGHHFC, including funds, “from judicial process of every kind, including, without limitation, attachment, levy, execution and sale by virtue of an execution, and no judgment shall be a lien or charge against the [VIGHHFC’s] property or funds. *Id.* at § 245b.²

¹ It appears that the Eastern District of Michigan exercised jurisdiction over the underlying matter based on diversity of citizenship among plaintiffs and defendants. *See* 28 U.S.C. § 1332. It is settled law in the Third Circuit that the Government of the Virgin Islands is not a “citizen” for purposes of diversity jurisdiction. *See Brown v. Francis*, 75 F.3d 860, 865 (3d Cir. 1996) (holding that “it follows that a Territory of the United States, which is considered a state pursuant to § 1332(d) . . . cannot be considered a citizen for purposes of establishing diversity of citizenship jurisdiction.”). It is, however, unsettled in the Third Circuit whether the VIGHHFC can be considered an alter ego of the Government of the Virgin Islands and therefore, a federal court would not be able to use the “citizenship” of that entity to establish diversity jurisdiction. *See e.g., Doolin v. Kasin*, 424 Fed. Appx. 106 (3d Cir. 2011); *see also Hibberts v. Smith*, Civil No. 2022-58, Dkt. No. 112 (D.V.I.) (order allowing the parties to conduct jurisdictional discovery on the unsettled issue as to whether the VIGHHFC is an alter ego of the Government of the Virgin Islands. But because case later settled, the Court did not rule on whether the VIGHHFC was an alter ego of the Government of the Virgin Islands).

Although matters concerning subject matter jurisdiction can be raised by the Court *sua sponte* and at any time, the Court is of the opinion that this issue, which is highly fact specific, would be better resolved in an adversarial matter. *See e.g. W. Indian Co. v. Yacht Haven USVI, LLC*, Case No. 3:20-cv-0011, 2022 U.S. Dist. LEXIS 41629 (D.V.I. Mar. 9, 2022) (finding that WICO, after applying the factors set forth in *Fitchik v. New Jersey Transit Rail Operations*, 873 F.2d 655, 659 (3d Cir. 1989), was not an alter ego of the Government of the Virgin and was a “citizen” for purposes of diversity jurisdiction). Since the Defendants have yet to enter an appearance in this case, the Court will not address this matter at this time.

² Section 245b provides in full:

(a) All property of the corporation, including funds, shall be exempt from judicial process of every kind, including, without limitation, attachment, levy, execution and sale by virtue of an execution, and no judgment shall be a lien or charge against the corporation's property or funds; Provided That, the provisions of this subsection shall not apply to or limit the right of obligees of the corporation to foreclose or otherwise enforce any mortgage or other security

In this matter, Plaintiffs seek to execute on a judgment obtained in another federal district court by seizing the assets of “VIGHHFC.” In consideration of the statutes cited above, it is unclear under what authority Plaintiffs rely on to seek the requested relief. The Court, therefore, will allow Plaintiffs the opportunity to inform the Court of the legal authority that allows them to execute on the assets of the VIGHHFC. Accordingly, it is hereby

ORDERED that, notwithstanding the Judgment issued by the Eastern District of Michigan, Plaintiffs shall, by no later than November 13, 2026, file a brief, with citation to the appropriate legal authorities, notifying the Court of the legal basis that allows them to execute on the assets of the VIGHHFC.

Dated: October 29, 2026

s/ Robert A. Molloy
ROBERT A. MOLLOY
Chief Judge

of the corporation or to pursue any remedies for the enforcement of any lien or pledge given by the corporation upon its revenues, or to the right of the Federal Government to pursue any rights conferred upon it by federal law, any contract, or the provisions of this chapter.

(b) The property of the corporation acquired or held for its corporate purposes is declared to be public property used for essential public and governmental purposes, and such property and the corporation are exempt from all taxes and special assessments of the Virgin Islands or of any taxing authority or body thereof.