

DARREN K. INDYKE
DARREN K. INDYKE, PLLC
301 East 66th Street
New York, New York 10065

March 9, 2012

VIA EMAIL

Mr. Bart Wolterman
Mr. Rex Wolterman
Virgin Islands Gunitite Pools
25 America-Anchorage Condos
St. Thomas, USVI 00802

Re: Little St. James Island

Gentlemen:

After more than a years' time and nearly \$400,000 of payments to your firm, both the Flagpole Pool and the Main Pool are in at least as shoddy condition as they were in before you shook down my clients for even more money to correct the defects in your work. There are obvious bulges, and unacceptable discoloration and uneven color throughout the surfaces of both pools. Your failure to properly perform your obligations, repeated attempts to mislead and deceive Mr. Epstein and L.S.J., LLC (collectively, "LSJ") and holding them up for additional moneys at the last minute will have serious consequences.

The extent of your misconduct during the course of this project has been nothing less than outrageous. You specifically advised Mr. Epstein that it was ill-advised to correct your defective work by re-coating the pools, and boldly attempted to extract more money from LSJ by telling Mr. Epstein that the only way to properly do the job is to tile the entire pool, threatening to walk from the job if you were not allowed to do this. Then, without any explanation, you contradicted your original advice insisting that re-coating the pool was the proper way to correct your defective work and once again threatened to walk if LSJ did not accede to your contradictory advice. Moreover, Bart has now admitted to Brice Gordon, that you never previously used the color which has been so poorly applied twice to the Flagpole Pool and now to the Main Pool, although you never mentioned your complete unfamiliarity with this color when LSJ hired your firm.

Among numerous other instances of your shocking misconduct were your absurd attempt to blame the shoddy pool color on ultra-pure water, your disavowing all knowledge of the maintenance program that you, yourselves, suggested, and your handing over supervision of your project to a person qualified only as a pool cleaner. You improperly disclaimed responsibility for design issues, falsely asserting that LSJ's representatives changed the drawings, and promising to provide evidence of such changes, which you obviously did not and could not produce. You installed heaters in rooms in which the heaters could not function, though you specified and helped design the very rooms in which you installed the heaters, leaving LSJ to bear the unnecessary cost and expense of having

constructed these rooms. These and other numerous performance failures and acts of misconduct made the pools unusable for six months. Moreover, although by the end of 2011, you had received payment of over \$350,000 for work which you had then acknowledged was defective and incomplete, in January 2012 you nevertheless filed a lien on LSJ's property for less than 10% of that amount in respect of your admittedly defective and incomplete work.

The cost to correct the defects in your performance, the unnecessary cost to construct heater rooms improperly specified by you, LSJ's inability to use its pools for six months, your numerous false statements and threats, and your improper filing of a lien on LSJ's property knowing full well that the job was incomplete, will all provide ample grounds for legal action against you. Be advised that LSJ will seek to recover actual damages for your misconduct, plus punitive damages in order to prevent you from continuing to ply your well worn techniques on local Virgin Islanders and Arizonans less able to stand up for their rights. To that end, we intend to seek out other persons who have been similarly injured by you and your firm. Photographs documenting the defects in both the Flagpole Pool and the Main Pool are being compiled. These photographs are to be included in advertisements in appropriate publications in the Virgin Islands and Arizona for purposes of contacting your other victims and compiling a history and pattern of your similar misconduct. It is intended to use this information, together with evidence of your specific misconduct against my clients, in support of LSJ's claims against you, including, without limitation, claims for punitive damages, and potentially in bringing a class action suit against you.

LSJ has tried to be fair with you, only to be threatened, bullied and lied to in return. After paying you an exorbitant sum, they now find themselves with two pools that quite frankly are an embarrassment. You and your firm must be held accountable for such misconduct and should not be permitted to inflict similar harm on others in the future.

This letter is without prejudice to the rights and claims of LSJ against Bart Wolterman, Rex Wolterman, Virgin Islands Gunite Pools and their affiliates, all of which rights and claims are hereby expressly reserved.

Sincerely,



Darren K. Indyke
General Counsel to LSJ