

To: GAR

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CC: GVL, Government of Liberia

Date: 26<sup>th</sup> March 2021

**Subject: Aggrieved former employees of GVL vs GVL**

Dear Mr. Gotz,

We, SDI and Milieudefensie, have for the past one year, been monitoring a complaint of constructive dismissal and unfair labour practices filed by several members of Butaw Community against Golden Veroleum Liberia (GVL). The Complaint filed on February 18, 2020, essentially alleged that in May 2015, complainants were accused by GVL of participating in a protest led by aggrieved citizens of Butaw; and that they were arrested, brutalized and incarcerated for a year without trial during which time one of the detainees died in prison. The Complainants further alleged that since their release from prison, they have made all good faith efforts to return to their respective assignments and places of work but have been denied access and disallowed entrance into their assigned places of work, although they have not been served and have never received from GVL any notice of termination of their contracts of employment.

Additionally, Complainants alleged that from the time of their release from prison up to the time of the filing of their complaint, they have made good faith efforts to resolve the matter through dialogue with GVL, to avoid unnecessary exposure. Complainant's efforts to have GVL sit with them to resolve the confusion about their status took a legal turn when they requested their lawyer, Heritage Partners and Associates, Inc., (HPA) to invite GVL for a conference to amicably resolve the dispute. Accordingly, HPA, by letter dated 14<sup>th</sup> January 2020, invited GVL to a conference on January 29, 2020 for a discussion with the aggrieved employees.

On February 4, 2020, GVL's External Lawyers had a meeting with HPA and promised to revert within a week but did not do so until the subject complaint was filed fourteen days later. As human rights institutions and members of a Community Oil Palm Working Group, we are interested in following this case to its logical conclusion, with the hope that all parties will be accorded equal and fair process during the investigation. However, the process could not commence until October 2020 owing to the outbreak of COVID-19. We have observed that since the inception of the investigation into the complaint, GVL has made repeated excuses for their absences. This appears to be solely intended to frustrate the ends of justice and to further burden the already aggrieved employees. It is interesting to note that there have been seven (7) notices of assignment for hearing into the case without much progress. In this connection, we wish to summarize our specific observations for each of the scheduled hearings:

1. On October 22, 2020, pursuant to a notice of assignment scheduling a conference with the parties, Complainants were present along with their Lawyer. However, GVL failed to appear. We understood from the Labour Commissioner that GVL Lawyers have requested continuance through an email owing to the fact that they could not make it to the hearing in Greenville due to bad road condition;
2. On November 3, 2020, following the issuance of another notice of assignment for the continuation of the conference hearing on the said day, the Complainants were present along with their lawyers and GVL Lawyers were also present. At that sitting, GVL Lawyers requested, and the hearing officer granted one month of continuance to allow the parties to explore the possibility of resolving the issue amicably. In this connection, the hearing officer ordered all parties to appear for continuation of the conference on December 3, 2020.
3. On December 3, 2020, pursuant to the order/mandate of the Hearing Officer for the parties to appear on the said day, and a regular notice of assignment issued and served on all parties, GVL Lawyers once again failed to appear, but rather filed a written request for continuance of the case on December 11, 2020. Consequently, the proceeding for December 3, was not held, despite the presence of the complainant along with their lawyer.
4. On December 11, the date requested by GVL Lawyers, the Complainants appeared and were informed that no notice of assignment had been superintended by GVL, irrespective of its request for a continuation of the conference from December 3 to December 11. GVL Lawyer, however, appeared at the Labour Commissioner's office, hours after the scheduled hearing only to inform the Labour Hearing Officer that its Counsels would not be able to honor assignments in said case until Mid-February 2021. Notwithstanding, the Hearing Officer denied the oral application and ordered issued an assignment for the hearing of the matter on December 15, 2020.
5. On December 15, 2020, at the call of the case, The Complainants were once again present along with their lawyers, while GVL lawyers were absent. The Complainants by and through their lawyers, therefore, requested and the Hearing Officer Granted Complainant's application to rule the matter to full investigation, since no amicable solution had resulted from all previous scheduled conferences. Thereafter, on the same said day, having neglected to honor and attend the schedule hearing on the day, time and place, GVL once again requested that the matter be continued to January 15, 2021, but took no action to effect the issuance of the regular notice of assignment for the requested reschedule date. Subsequently, complainants requested for the issuance and service of another notice of Assignment, which was issued for a hearing on February 16, 2021.
6. On February 16, 2021 Complainants were once again present along with their lawyer, and GVL was represented by its Labour Relation Officer who filed a written application for a continuance of the matter to a subsequent date. The request was denied, and the matter was ordered proceeded with. The matter was however adjourned for the day and a notice of assignment issued and served on the parties for continuation on the subsequent day, same being February 17, 2021.
7. On February 17, 2021, at the call of the case, GVL was not present. However, the Complainant along with their lawyer were present. The Complainant Counsel then prayed the Hearing Officer to enter a judgment by default against GVL. In the face of the application for default judgment, GVL Labour Relation Officer entered the hearing and filed a written motion, requesting the recusal of the hearing officer. The Hearing Officer

then entertained a response from the complainant counsel and thereafter denied the motion to recuse, while granting Complainants' Motion for default judgment. The hearing was adjourned for continuation on the 18<sup>th</sup> of February 2021 in order for the Complainants to perfect their judgment by default.

8. On February 18, 2021, at the call of the case, the Hearing Officer on his own, rescinded his ruling granting the motion for default. He also reversed his decision denying GVL's motion for him to recuse himself and ordered that said motion be reassigned for hearing. Thereafter, he adjourned the day's sitting and assigned the motion to recuse for February 22, 2021.
9. On February 22, 2021, at the call of the case, The Complainants were present together with their lawyer, while GVL appeared through its external lawyer. Instead of arguing the Motion to Recuse, which was assigned for the day, GVL Lawyer alleged off the record that his client was never served the complaint. He further insisted that he cannot proceed with hearing of the case until such time that GVL can be duly served the Complaint and respond to same. We observed that GVL Counsel's assertion on this day is contrary to the fact, as the previous lawyers appeared on November 3, 2020 with a copy of the complaint. The action of GVL's lawyer stalled the entire hearing process for nearly two hours. The matter was later proceeded with, as both sides argued the Motion to recuse and said motion was denied. The next hearing is now pending the issuance of another notice of assignment.

At the moment, the case has been ruled to full investigation, pending the issuance of a regular notice of assignment. We are constrained to, however draw your attention to the dilatory tactics being employed by your investee GVL to frustrate the ends of justice and to deny members of the indigenous community their right to be heard as well as a fair and fast trial. Also the actions of your investee have caused disproportionate costs and resources for the complainants and their lawyers, including those for travelling to Greenville.

Given that you have significant management and other control over GVL, including the obligation for GVL to adhere to your social and environmental policy. We request your timely intervention to promote, protect, and ensure the rights of indigenous/customary communities and GVL workers.

Best Regards,



Danielle van Oijen, Milieudedefensie, the Netherlands  
Nora Bowier, Sustainable Development Institute, Liberia