

The Virgin Islands Consortium

BIR Attempting To Collect Taxes On \$405 Million From Firms Involved In Prosser-Innovative Bankruptcies

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Ernice Gilbert **July 22, 2015**



ST. CROIX -- Following a *VI Consortium* [report in January](#) that laid bare the earnings of companies that profited when Jeffery Prosser, the former owner of then-Innovative Communications Corporation (ICC), lost the company in bankruptcy to Rural Telephone Finance Cooperative (RTFC) in 2008, the Virgin Islands Bureau of Internal Revenue (BIR) is now attempting to collect the owed taxes, which totals \$150 million to \$175 million -- well over the territory's current budget deficit lingering at \$90 million to \$100 million.

These companies failed to pay taxes on some \$405 million earned during the bankruptcy proceedings.

The Consortium reviewed one of the documents that BIR sent to its debtors in June 2015, addressed to RTFC. The document states that RTFC, from 1996 to 2005, owes the Government of the Virgin Islands over \$90 million in taxes, falling in line with *The Consortium's* January report, although taxes RTFC owes date back to 1990. The taxes were accrued on interest payments Innovative Communications Corporation (ICC) and its subsidiaries made to RTFC.

Court documents obtained by *The Consortium in January* revealed the names and earnings of the companies and persons involved in the bankruptcy process, with parties receiving payments ranging from \$500,000 to \$312 million. These companies also received letters from BIR similar to what was addressed RTFC. They are:

- Rural Telephone Finance Cooperative – \$312 million
- Vinson & Elkins – \$28 million
- Greenlight – \$27.5 million
- Alvarez and Marsal – \$17 million
- Fox Rothschild – \$8 million
- Stan Springel – \$2.5 million
- Christies Auction House – \$1.5 million
- James P. Carroll – \$500,000

RTFC is a firm that provides loans to telephone companies. Innovative and RTFC had a longstanding relationship dating back to 1999. The \$312 million RTFC received from Innovative from 1999 to 2007 was accrued on interest.

According to court documents, James P. Carroll, the Chapter 7 trustee of ICC, was paid for selling Prosser's assets. A percentage of the sales would go directly to Carroll every time assets were sold; the Fox Rothschild law firm provided legal services to the bankruptcy estates of Prosser; RTFC paid New York-based Greenlight to become its partner in the lawsuits against Prosser.

Christies Auction House, also based in New York, was hired to sell the property of the estates, including furniture, jewelry and other items. Stan Springel was the Chapter 11 trustee; Vinson & Elkins provided legal services to Springel, and Alvarez & Marsal was the consulting/accounting firm hired by Springel to perform accounting work on the bankruptcies.

Court documents show that the parties were paid a combined total of more than \$405 million issued in U.S. Virgin Islands checks from either VITELCO or ICC. Local gross receipt taxes are at 5 percent, while corporate income tax at this level would be 35 percent with a 10 percent surcharge.

Without accounting for interest and other taxes, the government's coffers could gain \$175 million if the owed taxes are paid. Even if there were to be a settlement between the government and the parties involved, where half of the monies owed the government were to be paid, the government would still be due \$87.5 million.

Two whistle blowers filed suit with the Virgin Islands Bureau of Internal Revenue (BIR) and the Internal Revenue Service (IRS) against the companies on June 10, 2013 -- over two years ago -- however, although the BIR has been moving on the case, it has been

slow in taking action against the parties involved. The government agency, following *The Consortium's* report, has upped its efforts to collect the much-needed funds.

In regards to the IRS, its interests are with issues of failure to file and non-payment of taxes.

Government Budget Deficits

Former Governor John P. de Jongh, Jr., in June of 2014, proposed legislation that would authorize the V.I. Public Finance Authority to issue more than \$100 million in new bond debt to aid in plugging a-then \$30 million budget shortfall, pay utility bills and fix roads, among other pressing initiatives.

These budget issues, which have been ongoing before 2011, ballooned after HOVENSA's closure in early 2012. The effects of the closure have been felt throughout the territory, as other businesses linked to the refinery, either directly or indirectly, also shuttered.

That, coupled with the high prices of fuel only exacerbated the problem, as families were forced to cut back on leisure spending, causing other sectors of the economy to also feel the pinch.

On July 5, 2011, de Jongh signed the Virgin Islands Economic Stability Act of 2011, which cut the salaries of all government employees by 8 percent. The bill was the 29th Legislature's response to threats made by de Jongh to layoff 600 government employees in order to close a \$17.4 million budget shortfall for Fiscal Year 2011.

The 8 percent salary cut was restored two years after it was initiated, in line with a clause in the legislation. According to the law, the pay cut was to be fully restored by July 2013.

The territory's financial problems further swelled when the Governor Kenneth Mapp administration took hold in January, with Mapp making known during his first State of the Territory Address that the islands financial condition was in dire straits.

"Our government is nearing the brink of financial collapse," Mapp bluntly stated. "Our ability to deliver basic essential services to our communities is diminishing more and more each day."

The complete breakdown of payments received by the firms and persons involved in the Prosser-Innovative bankruptcy cases can be seen [here](#). ICC interest payments to RTFC are [here](#), and other related documents can be viewed [here](#), [here](#) and [here](#).

Innovative is now owned by RTFC after the company gained ownership of the local telecommunications giant during the bankruptcy bidding process in 2008, which RTFC won. RTFC was the main financial backer of Innovative, providing a stream of cash to the business for its other companies that were spread across the Caribbean, including firms in Guadeloupe, Martinique, St. Marten and the BVI, as well as in Belize and France.