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Vivot Group Files for Bankruptcy Amid Financial Crisis, Lender Lawsuit

USVI construction giant faces over \$56 million in debts following unpaid dues from Limetree Bay Services bankruptcy, and a lawsuit from lender Touchmark National Bank

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The Vivot Group of Companies, known for full-services commercial construction in the U.S. Virgin Islands, has filed for bankruptcy, according to court documents seen by the Consortium.?

Jean Patrick Vivot, president of the group of companies, is asking the court for joint administration of the bankruptcies, filed individually by each of the 10 companies in the group – Vivot Equipment Corporation, Eleven Construction, PSI Tire Supply, Axis Development, TTA Logistics, Valdez Industrial Group, Caribbean Crane & Rigging, Vivot Industries Virgin Islands, Abacus International and Vivot Equipment. According to the filing, the group owns almost \$64

million worth of equipment, tools and vehicles (based on costs at the time of purchase), and an additional \$19 million in real property. The Vivot Group collectively owes just over \$56 million in secured debt, according to the filing. The group's main creditor is Touchmark National Bank, a financial institution based in Georgia, which Vivot reportedly owes a collective \$31 million. The Group also owes a reported \$13.5 million in unpaid taxes.

According to Mr. Vivot's declaration, it was the [Limetree Bay Services bankruptcy in 2021](#) that triggered his company's current financial distress. When Limetree went under, he says that the Vivot Group was owed approximately \$14.5 million. "Limetree's liquidating bankruptcy, and its subsequent failure to pay the Limetree Receivables in full, caused the Vivot Group to endure significant financial and operational strain," Mr. Vivot told the court. Given the size of Vivot's debts, "after discussions with the Debtors' secured lenders, it became clear to the Vivot Group that a consensual out-of-court restructuring of its debt would not be feasible," Mr. Vivot's declaration continued.?

However, it appears that mere discussions may not have been the proximate cause for Vivot's decision to file for bankruptcy. A lawsuit filed in early April by Touchmark National Bank, the Vivot Group's largest creditor, asks the court to appoint a receiver for the group, claiming that not only did Vivot fail to pay sums owed, but also improperly shifted around assets designated as loan collateral. In some instances, Touchmark claims that equipment used as collateral for the loans was leased out to third parties without the bank's consent.

According to Touchmark, the dispute stems from nine loans taken by companies in the Vivot Group between 2016 and 2019. Under the terms of the agreements, other companies in the group guaranteed the loans, "pledging in favor of Touchmark all assets" of the guarantor companies as collateral, according to Touchmark's lawsuit. In November of 2023, a spreadsheet provided to the bank showed that some of the assets used as collateral for the loans had been moved out of St. Croix to elsewhere in the territory, Puerto Rico, and the mainland. The movement, and the leasing out of the equipment to third parties, "have put the collateral at imminent danger of loss of value," Touchmark claims. Additionally, with the equipment scattered, Vivot has "inhibited the Bank's ability to locate and liquidate the subject collateral." Further, the bank claims that Vivot violated the loan agreements by allowing several tax liens placed on property held by the group and used as collateral for the loans.

Touchmark has lodged 95 complaints against the companies within the Vivot Group, as well as Mr. Vivot himself. The bank asked the court to enter judgment against the defendants, to appoint a receiver to maintain the collateral, and to liquidate the collateral if the Vivot debtors are unable to pay what they owe.

However, with Monday's bankruptcy filing, Touchmark's attempts to recover their funds have been placed on hold. A Chapter 11 bankruptcy is one in which the bankrupt organization attempts to reorganize its business to pay creditors over time and keep the corporation as a going concern. As "debtors-in-possession", the Vivot Group has asked the bankruptcy court to allow it to continue to use its cash on hand to pay for operating expenses.

?For now, it does not appear that the group is in imminent danger of shuttering its operations, however industry stakeholders are sure to be watching closely as one of St. Croix's largest supplier of construction services attempts to work itself out of this financial quandary.