

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Application for Assignment of Stations	)	FCC File No. BALH-20060302ACP
WSTX(AM) and WSTX-FM, Christiansted,	)	
U.S. Virgin Islands from	)	
Family Broadcasting, Inc., Assignor, to	)	
Caledonia Communications Corporation,	)	
Assignee	)	
	)	
and	)	
	)	
Order to Show Cause Why the Licenses for	)	EB Docket No. 01-39
Stations WSTX(AM) and WSTX-FM,	)	
Christiansted, U.S. Virgin Islands, Should Not		
Be Revoked		

**I. INTRODUCTION**

The parties submit this application (“**Application**”) to request Federal Communications Commission (“**FCC**” or “**Commission**”) consent to assign the licenses for full-power commercial radio stations WSTX(AM) (Facility ID No. 20589) and WSTX-FM (Facility ID No. 20601), Christiansted, U.S. Virgin Islands (collectively, the “**Stations**”), from Family Broadcasting, Inc., Debtor-in-Possession (“**Family**”) to Caledonia Communication Corporation (“**Caledonia**”). Family is currently a debtor-in-possession in a Chapter 11 bankruptcy proceeding in the U.S. Virgin Islands.<sup>1</sup> Accordingly, as further set forth below, the parties respectfully request the Commission to grant this Application under the Commission’s *Second Thursday Doctrine* and to stay the pending revocation proceeding pursuant to which the Commission has proposed to revoke the Station licenses from Family.<sup>2</sup>

Pursuant to the Commission’s policy regarding the *Second Thursday* doctrine, assignment of the Stations to Caledonia is in the public interest. First, grant of the Application will protect the financial interests of Family’s innocent creditors without enabling Family, or entities with an ownership interest in Family to obtain any financial benefit from the proposed assignment.

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<sup>1</sup> See In Re Family Broadcasting, Inc., Case No. 1-05-00004-BM (Bankr. D. V.I.).

<sup>2</sup> See Initial Decision on Remand of Chief Administrative Law Judge Richard L. Sippel, FCC 05D-01 (ALJ rel. May 13, 2005). The parties have also filed in the pending revocation proceeding, EB Docket No. 01-39, a request for stay to enable the Commission to review the instant Application under the *Second Thursday* doctrine.

Second, grant of the Application will ensure that the Stations continue to serve the United States Virgin Islands. If the Station licenses are revoked, the Stations are likely to remain dark for several years, at minimum. Finally, grant of the Application is consistent with the Commission's policy of promoting localism in radio broadcasting because the proposed assignee is owned by two local Virgin Island residents who significantly contribute to the social and cultural life of the Virgin Islands.

## II. BACKGROUND

### A. Commission Proceedings

On February 13, 2001, the Commission released an Order to Show Cause and Notice of Opportunity for Hearing ("**Show Cause Order**") to commence a proceeding to determine whether the Station licenses held by Family should be revoked.<sup>3</sup> In the Show Cause Order, the Commission alleged that Family, under the ownership and control of Mr. G. Luz A. James, violated certain Commission rules and policies in its operation of the Stations. Subsequently, on March 13, 2001, Family filed an application seeking Commission consent to transfer control of Family from Mr. James to his four children ("**Transfer Application**").<sup>4</sup> On August 3, 2001, Administrative Law Judge Richard L. Sippel (the "**ALJ**") issued a summary decision ("**Summary Decision**") denying the transfer of control application and revoking the Station licenses.<sup>5</sup> Based on an Admission of Facts and Genuineness of Documents submitted by Family, the ALJ held in the Summary Decision that "Family [was] not qualified to remain a Commission licensee and that its licenses should be revoked."<sup>6</sup> The ALJ also dismissed Family's transfer of control application because, according to the ALJ, there was "a lack of sufficient evidence" that the proposed transferees, Mr. James' children, "will be independent of their parents' control or influence."<sup>7</sup>

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<sup>3</sup> Family Broadcasting, Inc., Order to Show Cause and Notice of Opportunity for Hearing, 16 FCC Rcd 4330 (2001) ("**Show Cause Order**"). On March 15, 2001, Family filed a petition for reconsideration of the Show Cause Order asking that the order be set aside, and on June 15, 2001 Administrative Law Judge Sippel dismissed the petition on procedural grounds. Family Broadcasting, Inc., Order, FCC 01-188, released June 15, 2001 (dismissing petition for reconsideration of the Show Cause Order filed by Family).

<sup>4</sup> See FCC File No. BTC-20010315AAJ.

<sup>5</sup> Family Broadcasting Inc., Summary Decision of Administrative Law Judge Richard L. Sippel, 6 FCC Rcd 15619, ¶ 4 (ALJ 2001) (noting that Family "cooperated fully in responding to an extensive set of requests for admissions").

<sup>6</sup> Id. at ¶ 34.

<sup>7</sup> Id. at ¶ 40. Citing the pending assignment application, Family argued that the ALJ should refrain from revoking Family's licenses based on three exceptions to the Commission's

On August 28, 2001, Family filed with the Commission exceptions to the Summary Decision. Specifically, Family challenged both the ALJ's revocation of the Station licenses and dismissal of the Transfer Application. On March 22, 2002, the Commission upheld the ALJ's revocation of the Station Licenses but nevertheless remanded the proceeding back to the ALJ to further consider whether the Transfer Application should be dismissed.<sup>8</sup> Holding that summary judgment was not warranted, the Commission found a genuine issue of material fact as to whether Family would continue to be controlled by Mr. James if ownership of Family was transferred to his children.<sup>9</sup> Specifically, the Commission held that a transfer of control of Family should be considered despite the pending revocation proceeding provided that Family could demonstrate that the individuals responsible for Family's violations of the Commission's rules would not benefit from the transfer of control. According to the Commission,

[i]n circumstances ensuring the future lawful operation of these stations in the public interest at the sole discretion of persons having no responsibility for the licensee's previous violations and lack of candor and in a manner that does not improperly benefit any individual responsible for Family's previous performance, there could be a basis to find that the proposed transfer of control would serve the public interest despite the usual prohibition against a transfer by a licensee involved in a revocation proceeding.<sup>10</sup>

Prior to the commencement of the ALJ's hearing on remand to address the Transfer Application, Family filed, on February 24, 2003, a Petition for Extraordinary Relief requesting the ALJ to suspend the revocation proceeding to permit Family to file and prosecute an application ("**Assignment Application**") seeking Commission consent to assign the Station

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general policy prohibiting the target of a revocation proceeding from selling or assigning a broadcast station license: (1) the Minority Distress Sale Policy; (2) the *Second Thursday Doctrine*; and (3) the holding in Petroleum v. Nashby Corporation, 10 F.C.C. Rcd 6029 (Rev. Bd. 1995), where renewal was granted upon the condition that the disqualified wrongdoer would transfer his stock to an unrelated person. Id. at ¶¶ 35 – 38. Raising doubts about the independence of the proposed transferees, the children of Mr. James, the ALJ rejected Family's arguments. The ALJ held that Family's proffered exceptions to the Commission's general rule against transferring control of broadcast licenses subject to revocation proceedings do not apply where the proposed transfer, in fact, does not constitute a de facto transfer of control. Id. at ¶ 40. The ALJ further noted that the *Second Thursday* doctrine was not applicable because, at the time, Family was not a debtor in a pending bankruptcy proceeding as required by the doctrine. Id. at ¶ 39.

<sup>8</sup> Family Broadcasting, Inc., Memorandum Opinion and Order and Hearing Designation Order, 17 FCC Rcd 6180 (2002).

<sup>9</sup> Id. at ¶ 29.

<sup>10</sup> Id. at ¶ 33.

licenses to Caledonia under the Commission's minority distress sale policy.<sup>11</sup> The ALJ granted the Petition, noting that the Commission's Enforcement Bureau favored "holding the hearing in abeyance to permit Commission review of the transaction and a possible grant of authority to make the assignments."<sup>12</sup> Family subsequently filed the Assignment Application on March 13, 2003, requesting consent to assign the Stations to Caledonia for 75% of their value consistent with the Commission's minority distress sale policy.<sup>13</sup> Explaining that the "distress sale policy is not to be rigidly applied," the Audio Division ("**Division**") dismissed the Assignment Application by letter decision on October 27, 2003.<sup>14</sup> According to the Division, Family failed to demonstrate that "the public interest would be served by permitting it . . . to receive money from the sale of [the Stations]." On November 20, 2003, Family filed with the Commission an application for review of the Division's letter decision. On January 17, 2006, Family and Caledonia withdrew the application for review in preparation for Family's filing of the instant Application. The Commission dismissed Family's application for review on February 6, 2006.<sup>15</sup>

The ALJ continued to hold the revocation proceeding in abeyance at the request of Family while Family's application for review of the Division's dismissal of the Assignment Application was pending. On March 16, 2004, the ALJ resumed consideration of the Transfer Application on remand from the Commission. Subsequently, on May 12, 2005, the ALJ issued an Initial Decision on Remand ("**Initial Decision**") in which the ALJ dismissed the Transfer Application and revoked the Station licenses.<sup>16</sup> The ALJ concluded that the proposed transferees, Mr. James' children, were not capable of operating the Stations independent of Mr. James and thus that transfer of control of Family to the children would not result in a change in *de facto* control of Family warranting dismissal of the Station revocation.<sup>17</sup> On June 9, 2005, Family filed exceptions to the Initial Decision and the Enforcement Bureau ("**Bureau**") filed a reply to Family's exceptions on June 22, 2005. The Commission has not yet acted on Family's exceptions.

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<sup>11</sup> Family Broadcasting, Inc., Order, FCC 03M-09, EB Docket No. 01-39 (ALJ rel. Feb. 26, 2003) (granting Family's Feb. 24 Petition for Extraordinary Relief).

<sup>12</sup> Id. at 1.

<sup>13</sup> FCC File No. BALH-20030304AAW.

<sup>14</sup> Letter from Peter H. Doyle, Chief, Audio Division, Media Bureau, to Daniel A. Huber, Esq., Counsel for Family, dated Oct. 27, 2003.

<sup>15</sup> Family Broadcasting, Inc., Order, DA 06-291 (AD rel. Feb. 6, 2006) (dismissing at Family's request the application for review filed by Family on November 20, 2003 of assignment applications FCC File Nos. BALH-20030304AAW/BAL-20030304AAX).

<sup>16</sup> Family Broadcasting, Inc., Initial Decision on Remand of Chief Administrative Law Judge Richard L. Sippel, FCC 05D-01, EB Docket No. 01-39 (ALJ rel. May 13, 2005).

<sup>17</sup> Id. at ¶¶ 54-60.

## B. Bankruptcy Proceeding

Family initially filed for Chapter 11 bankruptcy protection on April 13, 2005 in the United States Bankruptcy Court for the District of St. Croix (“**Court**”)<sup>18</sup> and subsequently filed a *pro forma* assignment application on May 13, 2005 seeking Commission consent to assign the Station licenses to Family as debtor-in-possession.<sup>19</sup> Family’s *pro forma* assignment application was granted on February 13, 2006.<sup>20</sup>

On December 21, 2005, Family filed its First Amended Plan of Reorganization (“**First Amended Plan**”) with the Court.<sup>21</sup> Family filed a Second Amended Plan of Reorganization (“**Second Amended Plan**”) on May 15, 2006.<sup>22</sup> Subsequently, on May 17, 2006, Family filed a Third Amended Plan of Reorganization (“**Third Amended Plan**”).<sup>23</sup> The Third Amended Plan

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<sup>18</sup> In re Family Broadcasting, Inc., Case No. 1-05-0004-BM (Bankr. D. V.I.).

<sup>19</sup> FCC File No. BAL-20050513ABQ. See Broadcast Applications, Public Notice, Report No. 25989 (rel. May 20, 2005).

<sup>20</sup> FCC File No. BAL-20050513ABQ. See Broadcast Applications, Public Notice, Report No. 46174 (rel. February 16, 2006).

<sup>21</sup> First Amended Plan of Reorganization Filed by Family Broadcasting, Inc. and First Amended Disclosure Statement to Accompany Plan (“**Disclosure Statement**”), filed Dec. 21, 2005 (Case No. 1-05-0004 BM), In re Family Broadcasting, Inc. (Bankr. D. V.I.). On September 21, 2005, Family submitted its First Plan of Reorganization (“**First Plan**”), pursuant to which Family sought to assume the asset purchase agreement under which Family had agreed to assign the Stations to Caledonia upon FCC approval and the TBA under which Caledonia would operate the Stations pending Commission consideration of the instant Application. See Plan of Reorganization Filed by Family Broadcasting, Inc. and Disclosure Statement to Accompany Plan, filed Sept. 21, 2005 (Case No. 1-05-0004 BM), In re Family Broadcasting, Inc. (Bankr. D. V.I.). The Court required Family to amend and refile the First Plan to provide formal notice to Family’s creditors of Family’s proposed sale of the Stations to Caledonia. See Order of Court, issued Nov. 21, 2005 (Case No. 1-05-0004 BM), In re Family Broadcasting, Inc. (Bankr. D. V.I.).

<sup>22</sup> Second Amended Plan of Reorganization Filed by Family Broadcasting, Inc. and Second Amended Disclosure Statement to Accompany Plan, filed May 15, 2006 (Case No. 1-05-0004 BM), In re Family Broadcasting, Inc. (Bankr. D. V.I.).

<sup>23</sup> Third Amended Plan of Reorganization Filed by Family Broadcasting, Inc. and Third Amended Disclosure Statement to Accompany Plan, filed May 17, 2006 (Case No. 1-05-0004 BM), In re Family Broadcasting, Inc. (Bankr. D. V.I.). The Applicants provided the Commission with a description of the Second Amended Plan and the Third Amended Plan in their June 19, 2006 response to a letter inquiry from the Commission dated May 18, 2006. On August 21, 2006, the Applicants made a filing under Section 1.65 of the Commission’s rules notifying the Commission that the Court had issued an order confirming the Third Amended Plan on July 19, 2006. On October 19, 2006, the Applicants provided a further update regarding the bankruptcy proceeding in a filing pursuant to Section 1.65 of the Commission’s rules.

was granted by the Court on December 12, 2006.<sup>24</sup> The Third Amended Plan calls for Family to sell to Caledonia upon Commission approval all tangible and intangible assets related to the Stations. The Third Amended Plan also calls for Caledonia to operate the Stations pursuant to a time brokerage agreement (“*TBA*”) during the pendency of the Commission’s consideration of the instant Application. The purchase price paid by Caledonia for the Stations (and 100% of the net proceeds from Caledonia’s operation of the Stations under the TBA during the pendency of the Commission’s review of the instant Application) are required to be distributed to Family’s creditors by a disbursing agent under the supervision of the Court following the date on which Commission approval of the instant Application becomes final.

No portion of the purchase price is to be retained by Family, any Family stockholder, any family member of Mr. James, or any business associate of Mr. James (other than the administrative claims of Family’s professional advisors, such as Family’s bankruptcy counsel). Therefore, consistent with the Commission’s *Second Thursday* doctrine, which is further discussed below, no party with an ownership interest in Family will benefit in any way from the proposed assignment of the Stations to Caledonia or have an interest in, or control over, the Stations following consummation of the Plan.

#### **C. Involuntary Transfer of Control Due to the Death of Mr. James**

Mr. Gerald Luz A. James passed away on September 17, 2006. In its filing of October 19, 2006 pursuant to Section 1.65 of the Commission’s rules, the parties notified the Commission of Mr. James’s death. On April 12, 2007, an involuntary transfer of control application was filed with the Commission seeking to transfer control of Family to Barbara James-Petersen, who was appointed as the Administrator of the Estate of Mr. James by the Superior Court of the Virgin Islands.<sup>25</sup> This application remains pending before the Commission.

#### **D. Description of Assignee**

The proposed assignee, Caledonia, is a corporation organized under the laws of the U.S. Virgin Islands. Kevin Rames, who controls Caledonia, owns and votes 75.5% of the issued and outstanding shares of Caledonia common stock and serves as Caledonia’s President and Chairman of Caledonia’s board of directors. Although born in New York, Mr. Rames is a fifth generation Virgin Islands resident. He is a practicing attorney and successful entrepreneur with interests in real estate and a ferry company in the Virgin Islands. He currently is developing a Virgin Islands resort, which will include a hotel, casino, golf course, retail space, and residential homes. Mr. Rames is a former president of the St. Croix Chamber of Commerce and is the

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<sup>24</sup> See In re Family Broadcasting, Inc., Case No. 1-05-0004 BM (D. V.I.), Order of Court, entered Dec. 12, 2006.

<sup>25</sup> See FCC File No. BTC-20070412ABW.

President and Chairman of the Beacon Schools of the Virgin Islands Inc., an IRS 501(c)(3) after school program and safe haven that has served the education needs of thousands of children throughout the Territory during his ten-year tenure. Janis Rames, Mr. Rames's wife, serves as Caledonia's Vice President and Treasurer and as a Director. Arielle Rames, daughter of Mr. and Mrs. Rames, serves as a Director on Caledonia's board of directors. The address for Mr. Rames, Mrs. Rames, and Ms. Rames is 2111 Company Street, Suite 3, Christiansted, St. Croix, Virgin Islands, 00820, and all three are U.S. citizens.

Jonathan Cohen owns and votes 24.5% of the issued and outstanding shares of Caledonia common stock. Mr. Cohen, a U.S. citizen, is the owner and operator of three Virgin Island commercial radio stations. He is the President, Director, and sole shareholder of Radio 95, Inc., licensee of WJKC(FM), Christiansted, V.I. (Facility ID No. 54468); JKC Communications of the Virgin Islands, Inc., licensee of WVIQ(FM), Christiansted, V.I. (Facility ID No. 74457); and Clara Communications Corporation, licensee of WMNG(FM), Christiansted, V.I. (Facility ID No. 81515). Mr. Cohen's address is 5020 Anchor Way, Christiansted, St. Croix, Virgin Islands, 00820.

As the single-majority shareholder and an officer and director of Caledonia, Mr. Rames holds an attributable interest in Caledonia. Mrs. Rames and Ms. Rames also hold attributable interests in Caledonia as officers and/or directors. As a minority shareholder in a company with a single-majority shareholder, Mr. Cohen will not hold an attributable interest in Caledonia. In addition, no other individual or entity holds an attributable interest in Caledonia.

On April 12, 2005, Caledonia and Family entered into an Asset Purchase Agreement and a Time Brokerage Agreement. Copies of both agreements are attached to the instant Application as Exhibits 4 and 14, respectively.

### **III. GRANT OF THE APPLICATION IS CONSISTENT WITH AND SUPPORTED BY THE *SECOND THURSDAY* DOCTRINE AND OTHER PUBLIC INTEREST CONSIDERATIONS**

Grant of the instant Application is in the public interest under the Commission's longstanding *Second Thursday* doctrine, which is intended to protect the innocent creditors of a malfeasant broadcast licensee that causes the Commission to revoke its broadcast station licenses. In *Second Thursday Corp.*, the Commission established the principle that a licensee may be permitted to assign a broadcast station license even if the license is the subject of a pending revocation proceeding,<sup>26</sup> provided that (i) the licensee is in bankruptcy and (ii) the

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<sup>26</sup> *LaRose v. FCC*, 494 F.2d 1145, 1148 (D.C. Cir. 1974). In *LaRose*, as in the present case, the Commission denied an assignment application for failure to satisfy the *Second Thursday* doctrine and effectively revoked the underlying station license. In each case, the applicants refiled their assignment application while an appeal of the revocation was pending and after conforming the assignment application to the Commission's *Second Thursday* policy. The

assignment is part of a station sale that is for the benefit of the licensee's innocent creditors and that does not significantly benefit the licensee or any malfeisor with an attributable interest in the licensee.<sup>27</sup>

The United States Court of Appeals for the District of Columbia ("**D.C. Circuit**"), which has expressly endorsed the *Second Thursday* doctrine, explained that the doctrine is intended to "accommodate[] the policies of the federal bankruptcy law with those of the Communications Act."<sup>28</sup> According to the D.C. Circuit, the doctrine "requires an *ad hoc* balancing of the possible injury to regulatory authority that might flow from wrongdoers' realization of benefits against the public interest in innocent creditors' recovery from the sale and assignment of the license to a qualified party."<sup>29</sup> The D.C. Circuit explained that, consistent with the "public interest in protecting innocent creditors, the Commission will approve the sale and assignment of [a] bankrupt's license" when the assignment does not undermine the Commission's responsibility to ensure that broadcast stations are operated in conformance with the Communications Act.<sup>30</sup>

As demonstrated herein, both of the *Second Thursday* doctrine requirements are fully satisfied by the instant Application thereby obviating the need for the Commission to undertake any type of *ad hoc* balancing of possible regulatory harms caused by application of the *Second Thursday* doctrine to the instant Application. First, Family currently is in the midst of a Chapter 11 bankruptcy proceeding under the direct supervision of the Court. Second, neither Family, nor any entity with an ownership interest in Family, stand to benefit from the proposed assignment in any way. Family and its principals will not hold any ownership interest in, or control over, the Stations following the consummation of the proposed assignment and none of the debt that will

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D.C. Circuit held in LaRose that the Commission abused its discretion by refusing to consider the newly filed assignment application.

<sup>27</sup> Second Thursday Corp., Memorandum Opinion and Order, 22 F.C.C. 2d 515, reconsideration granted, 25 FCC 2d 112 (1970); see also LaRose at 1148 (holding that despite the general rule that an assignment application will not be granted "during the pendency of a hearing involving the character qualifications of a licensee, the Commission will permit such upon a showing that alleged wrongdoers will derive no benefit, either directly or indirectly, from the sale or will derive only a minor benefit which is outweighed by the equities in favor of innocent creditors").

<sup>28</sup> LaRose, at 1147 n.2.

<sup>29</sup> Id. at 1149; see also Second Thursday, 25 FCC 2d 1122, at ¶ 7 (holding that "the public interest considerations favoring a grant [of the assignment] outweigh any unfavorable considerations").

<sup>30</sup> Id. at 1148.



be repaid as a result of the proposed sale of the Stations is personally guaranteed by the malfeasors.<sup>31</sup>

In addition to not causing any regulatory harms, grant of the Application is consistent with the public interest for several additional reasons. First, absent assignment of the Station licenses for value, Family's creditors are likely to receive no significant compensation in Family's bankruptcy proceeding—a result that the *Second Thursday* doctrine was intended to prevent. Other than the Station licenses, Family holds very few assets of any substantial value from which Family's creditors can be repaid. By contrast, upon Commission approval of the instant Application, Family's innocent creditors will be repaid in full by Caledonia. Importantly, Family's two largest creditors are the Internal Revenue Service and the Virgin Islands Bureau of Internal Revenue. The D.C. Circuit previously noted that the government has a special interest in assuring that it is repaid outstanding tax liabilities.<sup>32</sup>

Second, unless the Commission approves the assignment of the Station licenses to a qualified assignee under the *Second Thursday* doctrine, the Stations will go dark for several years, at minimum, and the AM station may never resume operation. The Commission has previously held that assuring the continued operation of a station is a public interest benefit that supports assignment under the *Second Thursday* doctrine of a station subject to a revocation proceeding.<sup>33</sup>

If the Station licenses are revoked, WSTX-FM's allotment will become an unlicensed allotment in the Commission's FM Table of Allotments subject to auction during the

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<sup>31</sup> See New South Broadcasting, Inc., Order, 8 F.C.C. Rcd. 1272, ¶ 2 (1993) (granting assignment of a broadcast station license under the *Second Thursday* doctrine to the station's general manager and three percent owner because he was not the malfeasor and the malfeasor would receive "only an incidental benefit from the elimination of his potential liability through the bankruptcy"); Shell Broadcasting Inc., Order, 38 FCC 2d. 929, ¶ 11 (1973) (holding that the indirect benefit to the malfeasor licensee of the discharge of personally guaranteed debt equivalent to approximately 8% of the purchase price of the station was "outweighed by the equities in favor of innocent creditors").

<sup>32</sup> See LaRose 494 F.2d 1145, 1150 n. 5 (noting that one of the innocent creditors is the federal government). Under the Plan, initial payments to Family's class one creditors, which includes the Internal Revenue Service and the Virgin Islands Bureau of Internal Revenue, will commence immediately upon the approval of the Plan by the Court and continue during the pendency of the Commission's review of the instant Application.

<sup>33</sup> Second Thursday Corp., 22 FCC 2d 515 at ¶ 13 (noting that "the resumption of broadcast service ... [is a] favorable public interest consideration[] which support[s] a grant" of a *Second Thursday* assignment application).

Commission's next FM auction. The next FM auction is not likely to occur for some time<sup>34</sup> and the permittee will have until three years after the close of the auction to commence operations of the new FM station in Christiansted.<sup>35</sup> The outlook for WSTX(AM) resuming service is even bleaker. Upon revocation of WSTX(AM)'s license, the AM allotment effectively will disappear thereby enabling other AM stations operating on adjacent channels to seek Commission consent to modify their operating parameters to fill the spectrum "hole" left by WSTX(AM)'s disappearance. Even if, once adjacent stations have modified their operating parameters, sufficient space remains to license a new AM station to replace WSTX(AM), such a station license is required by Commission rules to be assigned in the context of an AM filing window. Due to the backlog of new station and major modification applications caused by the unanticipated popularity of the most recent AM filing window, it is unclear when the next AM filing window will occur.

By contrast, Caledonia is prepared to continue operation of the Stations uninterrupted and, further, to invest substantial sums to improve the Stations' facilities upon Commission grant of the Application. Caledonia is an ideal licensee for the Stations. Organized under the laws of the U.S. Virgin Islands, Caledonia is a minority-controlled small business.<sup>36</sup> Further, Caledonia is owned entirely by U.S. Virgin Island residents. Caledonia will continue the news/talk format that has characterized WSTX(AM) for a generation, with programming that focuses on the social, political, economic, and spiritual issues of particular concern to the people of the U.S. Virgin Islands. The music interludes on WSTX(AM) are primarily the "Kaiso" or "Calypso" music native to the Eastern Caribbean, along with the "Quelbe" music that is the indigenous folk music of St. Croix. WSTX-FM will continue its "all reggae" format, which focuses on the positive lyrics of the "roots music" subgenre of reggae, with an emphasis on the exposition of locally grown talent. Thus, Caledonia's ownership of the Stations supports several of the Commission's policy objectives with respect to broadcast station ownership—encouraging minority ownership of broadcast stations, promoting control of broadcast stations by small businesses, and increasing local ownership and control of broadcast stations.<sup>37</sup>

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<sup>34</sup> The last FM auction closed on March 26, 2007. See Auction of FM Broadcast Construction Permits Closes, Public Notice, DA 07-1437, Report No. AUC-07-70-F (rel. April 2, 2007). No further FM auctions are currently scheduled.

<sup>35</sup> See 47 C.F.R. §73.3598 (a).

<sup>36</sup> Kevin A. Rames, Esq. is an African-American with Afro-Caribbean roots who has practiced law and managed his various business ventures exclusively in the Virgin Islands since 1985. Caledonia was organized for the sole purpose of operating the Stations.

<sup>37</sup> See 47 USC § 257(b) (directing the Commission to promote policies favoring diversity of media voices and economic competition); Promoting Diversification of Ownership in the Broadcasting Services et al., MB Docket Nos. 07-294 et al., Report and Order and Third Further Notice of Proposed Rulemaking, FCC 07-217 (rel. March 5, 2008) (taking several steps to increase participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses); Broadcast Localism, Notice of Inquiry, MB

#### IV. CONCLUSION

For the reasons set forth herein, the parties respectfully request the Commission to grant the instant Application and dismiss the pending revocation proceeding as moot. Grant of the Application is fully consistent with and supported by the Commission's *Second Thursday* doctrine and further supported by additional public interest considerations.

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Docket No. 04-233, FCC 04-129 (rel. July 1, 2004) ("As with competition and diversity, localism has been a cornerstone of broadcast regulation for decades."); Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting, Policy Statement, 92 FCC 849, 856 (1982) (reaffirming the commitment to diversifying media ownership as expressed in the 1978 Policy Statement and initiating new programs to increase the representation of minorities in media ownership).