

# JOEL H. HOLT, ESQ. P.C.

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February 27, 2013

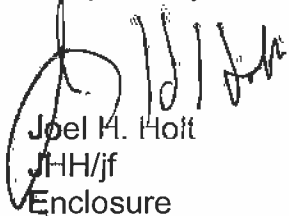
Honorable Douglas A. Brady  
Judge, Superior Court  
Superior Court of the Virgin Islands  
Kingshill, St. Croix  
USVI 00820

**Re: *Hamed v Yusuf et al*, STX Civ. No. 12-CV-370**

Dear Judge Brady:

Attached is a courtesy copy of the Motion to File the Plaintiff's Proposed Findings of Fact and Conclusions of Law under Seal with Exhibit A, along with a disc in Word to assist the Court.

Respectfully,



Joel H. Holt  
JH/jf  
Enclosure

Cc: All counsel of record (without enclosures)

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

<b>MOHAMMAD HAMED</b> by His Authorized Agent <b>WALEED HAMED</b> ,	)	
	)	
<i>Plaintiff</i> ,	)	<b>CIVIL NO. SX-12-CV- 370</b>
v.	)	
	)	<b>ACTION FOR DAMAGES</b>
<b>FATHI YUSUF and UNITED CORPORATION</b> ,	)	<b>INJUNCTIVE AND</b>
	)	<b>DECLARATORY RELIEF</b>
<i>Defendants</i>	)	
	)	<b>JURY TRIAL DEMANDED</b>

**MOTION TO FILE PLAINTIFF’S PROPOSED FINDINGS OF FACT AND  
CONCLUSIONS OF LAW UNDER SEAL**

Attached hereto as Exhibit A is a sealed copy of the Plaintiff’s Proposed Findings of Fact and Conclusions of Law. In this regard, the Court requested simultaneous filings from the parties, but the parties have been unable to agree on when the filings should be made, as the plaintiff is ready to file while the defendant is seeking additional time to file. Because of the importance of this issue, the plaintiff has decided to file his submission now, but respectfully requests the Court keep it under seal until the defendant has filed its post hearing submission. A proposed order is attached.

Several additional comments are in order:

- 1) References to the plaintiff’s hearing exhibits are to “PEx \_\_” and references to the defendants’ hearing exhibits are to “DEX\_\_”
- 2) References to the hearing transcript are to “1/25 Tr, p\_\_” or “1/31 Tr, p\_\_.”
- 3) It is respectfully submitted that the hearing converts the TRO motion into a preliminary injunction (PI) hearing, as requested by the defendant on September 28, 2012, mooted that motion.

- 4) The TRO/PI hearing also mooted several other motions, including (1) the defendants' two motions to strike Waleed Hamed's declarations, as he testified at the hearing and (2) the defendants' motion to file a sur-reply to the plaintiff's TRO reply.

The proposed findings set forth the facts the plaintiff believes were established at the hearings. The proposed conclusions of law set forth the applicable law that the plaintiff believes should be applied to the facts established at the hearing.

In closing, the failure of Fathi Yusuf to testify at the hearings to explain his own sworn statements (as well as the statements made by his counsel) that a 50/50 partnership exists with Mohammad Hamed in the Plaza Extra Supermarkets demonstrates that there really is no dispute as to this issue.

As for the need for a preliminary injunction, there are two facts that particularly demonstrate the need for relief to protect the partnership's management and keep its assets in place. First, United's President, Maher Yusuf, tried to deceive this Court as to the expenditure of the \$2.7 million diverted from Plaza Extra's bank account by falsely testifying that these funds were used to purchase property on St. Croix in United's name, when he knew that in fact they had been used to invest in a mattress company (not United) outside of the Virgin Islands. That deliberate attempt to mislead this Court is exactly the type of conduct that is also taking place inside the partnership, which needs to be stopped.

Second, demonstrating their arrogance in the treating Plaza Extra's partnership funds as their own, the defendants removed another \$112,383.32 after the hearings

(PEX 30) without Hamed's consent, despite the fact that they knew the prior removal of such funds was one of the reasons for seeking injunctive relief from this Court.

In summary, it is respectfully requested that the preliminary injunctive relief sought be granted.

**Dated:** February 27, 2013

  
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**Joel H. Holt, Esq.**  
*Counsel for Plaintiff*  
Law Offices of Joel H. Holt  
2132 Company Street,  
Christiansted, VI 00820

**Carl J. Hartmann III, Esq.**  
*Co-Counsel for Plaintiff*  
5000 Estate Coakley Bay,  
Christiansted, VI 00820

### CERTIFICATE OF SERVICE

I hereby certify that on this 27<sup>th</sup> day of February, 2013, I served a copy of the foregoing motion (without the attachment that will served when the defendants file their submission) by hand on:

Nizar A. DeWood  
The DeWood Law Firm  
2006 Eastern Suburb, Suite 101  
Christiansted, VI 00820

And by email ([jdiruzzo@fuerstlaw.com](mailto:jdiruzzo@fuerstlaw.com)) and mail to:

Joseph A. DiRuzzo, III  
Christopher David, Esq.  
Fuerst Ittleman David & Joseph, PL  
1001 Brickell Bay Drive, 32<sup>nd</sup>. Fl.  
Miami, FL 33131

  
\_\_\_\_\_  
**Joel H. Holt**

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

<b>MOHAMMAD HAMED</b> By His Authorized Agent <b>WALEED HAMED.</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>CIVIL NO. SX-12-CV- 370</b>
<b>v.</b>	)	
	)	
<b>FATHI YUSUF and UNITED CORPORATION,</b>	)	<b>ACTION FOR DAMAGES</b>
	)	<b>INJUNCTIVE AND</b>
	)	<b>DECLARATORY RELIEF</b>
<b>Defendants.</b>	)	<b>JURY TRIAL DEMANDED</b>
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**ORDER**

This matter is before the Court on plaintiff's motion to file Plaintiff's Proposed findings of Fact and Conclusions of Law Under Seal, attached as Exhibit A. Upon consideration of the matters before the Court, the motion is **GRANTED**. The document shall be unsealed when the defendants have filed their post-hearing submission, which shall be filed no later than March 4, 2013.

**Dated:** February \_\_\_\_\_, 2013

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**Hon. DOUGLAS BRADY**  
Judge, Superior Court

**Attested By:** VENETIA VELAZQUEZ  
Clerk of Court

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**By:** Deputy Clerk

**Dist.**  
**cc:** Joel H. Holt  
Nizar A. DeWood  
Joseph A. DiRuzzo, III