

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

MOHAMMAD HAMED By His)	
Authorized Agent WALEED HAMED,)	
)	CIVIL NO. SX-12-CV-370
Plaintiff,)	
)	ACTION FOR DAMAGES
vs.)	INJUNCTIVE AND DECLARATORY
)	RELIEF.
FATHI YUSUF AND UNITED)	
CORPORATION,)	(JURY)
)	
_____ Defendants.)	

ORDER DENYING BOND MODIFICATION

THIS MATTER is before the court on “Defendants’ Emergency Motion for Reconsideration of Preliminary Injunction Order and for Stay of Same Pending Posting of Adequate Bond,” filed May 9, 2013 and Plaintiff’s Opposition thereto filed on May 16, 2013.

By their Motion, Defendants seek (1) the scheduling of a bond hearing to determine a legally sufficient security to be posted by Plaintiff or, alternatively, the adoption of Defendants’ proposed bond figure of \$80 million; (2) an order directing Plaintiff to post the security bond with the Clerk of the Court in an interest bearing account until entry of final judgment; (3) an order staying the preliminary injunction order pending Plaintiff’s posting of the amended security; and (4) any additional relief deemed just under the circumstances.

The Court’s Order granting injunctive relief came after two days of evidentiary hearings, including legal arguments (January 25, 2013 and January 31, 2013) and extensive briefing on the facts and legal issues. No evidence was presented at the evidentiary hearing, or thereafter, relative to the costs and damages Defendants would sustain if it were to be determined that injunctive relief had been entered wrongfully. Even now, Defendants proffer no case law to the effect that a second and separate hearing on the setting of security bond is required or appropriate.

Defendants have admitted in this action that Plaintiff is entitled to 50% of the profits of the three Plaza Extra Supermarket stores. Evidence adduced at the hearing shows that profits from the operations of those stores since at least 2003 has been deposited into investment accounts now frozen in connection with the pending tax evasion prosecution in Federal Court with a current balance in those accounts in excess of \$43 million. On these bases, the Court determined that a cash bond in the amount of \$25,000.00, together with the additional security of Plaintiff’s interest in the

“profits” accounts constituted a bond sufficient to pay costs and damages that might be sustained by Defendants if found to have been wrongfully enjoined. On the basis of the foregoing, it is hereby

ORDERED that Defendants’ request for the scheduling of a bond hearing to determine legally sufficient security is DENIED. It is further

ORDERED that Defendants’ request that the posted security bond be held in an interest-bearing account is GRANTED, and Plaintiff shall take such steps as are required to make arrangements with the Clerk of the Court for deposit of the bond proceeds into an interest bearing account and to provide notice of such deposit to Defendants. It is further

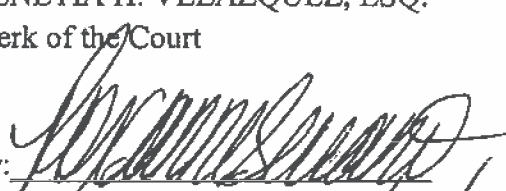
ORDERED that Defendants’ request for a stay of the preliminary injunction Order pending posting of amended security is DENIED.

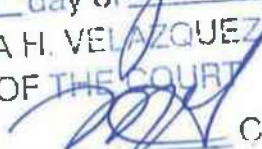
ORDERED that a copy of this Order be served on the Parties, **FORTHWITH**.

DATED: May 31, 2013.


DOUGLAS A. BRADY, JUDGE

A T T E S T:
VENETIA H. VELAZQUEZ, ESQ.
Clerk of the Court

By: 
Court Clerk Supervisor
5/31/13

CERTIFIED TO BE A TRUE COPY
This 6th day of June 2013
VENETIA H. VELAZQUEZ, ESQ.
CLERK OF THE COURT
By:  Court Clerk

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

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Plaintiff,)	
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vs.)	INJUNCTIVE AND DECLARATORY
)	RELIEF.
FATHI YUSUF AND UNITED)	
CORPORATION,)	(JURY)
)	
<u>Defendant.</u>)	

ORDER

THIS MATTER is before the Court on “Defendants’ Emergency Motion to Stay Preliminary Injunction Order,” filed on May 9, 2013, and Plaintiff’s Opposition thereto filed on May 16, 2013. Also before the Court is “Defendants’ Motion to Clarify Scope of Preliminary Injunction as to United’s Financial Statements & Unrestricted Access to United’s Financial Systems,” filed on May 16, 2013, and Plaintiff’s Opposition thereto which was filed on May 20, 2013.

Defendants’ Emergency Motion to Stay alleges that the Court’s Order “drastically changes the *status quo* and threatens the very existence of Plaza Extra Supermarkets, and at the same time compromises United Corporation as a *de jure* entity.” Although unsupported by any evidence, Defendants allege “an untenable situation which will eventually cause the stores to grind to a halt...” Yet, this Court’s Order entered on April 25, 2013 specifically required that the *status quo* of the business operations be maintained:

“ORDERED that the operations of the three Plaza Extra Supermarkets continue as they have throughout the years prior to the commencement of this litigation...”

Defendants’ subsequent Motion to Clarify seeks an order to provide guidance to “deadlocked management” concerning compliance with the Court’s Order. Plaintiff’s Opposition concurs with the substance of Defendants’ proposed order. In light of the foregoing, it is hereby

Order

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ORDERED that Defendants' Emergency Motion to Stay Preliminary Injunction Order is DENIED. It is further

ORDERED that Defendants' Motion to Clarify Scope of Preliminary Injunction as to United's Financial Statements & Unrestricted Access to United's Financial Systems is GRANTED;

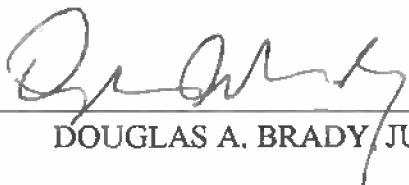
ORDERED that Defendant United Corporation shall provide revised financial statements for the three Plaza Extra Supermarket stores only within 30 days of the date of this Order;

ORDERED that said financial statements for the three Plaza Extra Supermarket stores shall be used for internal purposes only, and may not be disseminated to any third parties (excepting legal, accounting and tax advisors of the Parties) without the written consent of the other Party; and

ORDERED that only mutual access of all sensitive financial data, records and financial statements shall be permitted according to a process to be determined by the Parties. Finally, it is

ORDERED that a copy of this Order be served on the Parties, FORTHWITH.

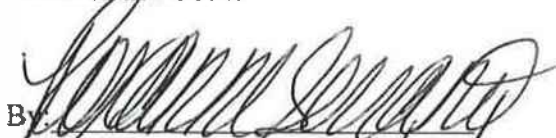
DATED: May 31, 2013.


DOUGLAS A. BRADY/JUDGE

A T T E S T:

VENETIA H. VELAZQUEZ, ESQ.

Clerk of the Court


By _____
Court Clerk Supervisor
5/31/13

CERTIFIED TO BE A TRUE COPY
This 31 day of June 2013
VENETIA H. VELAZQUEZ, ESQ.
CLERK OF THE COURT

By  Court Clerk

