

S. Ct. Civ. No. 2013-0040

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**In the Supreme Court of the Virgin Islands**

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**FATHI YUSUF and UNITED CORPORATION,**  
Appellants/Defendants,

v.

**MOHAMMAD HAMED, by his**  
authorized agent, **WALEED HAMED,**  
Appellee/Plaintiff.

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**ON APPEAL FROM THE SUPERIOR COURT OF THE VIRGIN  
ISLANDS, DIVISION OF ST. CROIX  
Super. Ct. No. 370/2012 (STX)  
HON. DOUGLAS BRADY, PRESIDING**

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**JOINT APPENDIX VOLUME III**

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IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

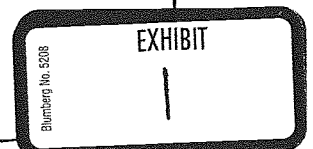
AHMAD IDHEILEH,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 156/1997
	)	
UNITED CORPORATION and	)	
FATHI YUSUF, Individually,	)	
	)	
Defendants.	)	

THE ORAL DEPOSITION OF FATHI YUSUF

was taken on the 2nd day of February 2000, at the Offices of Caribbean Scribes, 2132 Company St., Ste. 3, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 1:05 p.m. and 4:05 p.m. pursuant to Notice and Federal Rules of Civil Procedure.

Reported by:

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COPY



**A-P-P-E-A-R-A-N-C-E-S**

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**Also Present:**

Ahmad Idheileh

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FATHI YUSUF,

Called as a witness, having been first duly sworn,

Testified on his oath as follows:

DIRECT EXAMINATION

BY MR. ADAMS:

Q. Good afternoon, Mr. Yusuf.

A. Good afternoon, sir.

Q. As you are aware, we are here today to take your deposition in the matter of Ahmad Idheileh v. United Corporation and yourself.

A. Yes.

Q. In that light, sir, I would like to ask you a few questions. And maybe to begin, if we could get a little background history on your relationship with Mr. Idheileh.

When did you and Mr. Idheileh first meet, if you can recall?

A. We met, I don't know, about twenty, twenty-five years ago. I don't remember exactly.

Q. And at that time what was the relationship like before you entered into the business venture?

A. Just like an ordinary Arab, just like we came a little bit earlier before. That's all.

Q. So you would say it was a very amicable and friendly relationship?

A. At the first maybe five or ten years, it was no

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1 friendly in there. It was just an Arab who's on St. Croix.

2 Q. Uh-huh.

3 A. Walking from house to house, meet him in the  
4 road, I say hello, he meet me in the road. Some occasion we  
5 have met some parties or something. Just an ordinary Arab,  
6 just like a person not what you call a close friend.

7 Q. Did there ever come a time that the relationship  
8 became a much more friendly and amicable one?

9 A. Oh, yes. I think after the first ten years we  
10 get to know each other more and more, and we become a person  
11 that I respect, but is not my type of friend. I don't go  
12 beach with him. I don't go dance. We don't go to casino.  
13 We don't go no mosque together. It's just a person I  
14 respect. I make sure I respect him if he walk into my  
15 premises.

16 Q. Did there come a time during those early years  
17 that Mr. Idheileh returned to Jordan, and he -- well, first  
18 let me rephrase the question.

19 Are you aware of Mr. Idheileh's business  
20 venture into Sea-Mart?

21 A. If I knew?

22 Q. Of his business relationship with Sea-Mart.

23 A. Yes, I'm aware of it, yes.

24 Q. Did there come a time that he left Sea-Mart?

25 A. Yes.

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1 Q. And did there come a time that Mr. Idheileh, upon  
2 leaving Sea-Mart, was returning to Jordan?

3 A. Repeat the question please.

4 Q. Was there a time, upon his leaving Sea-Mart, that  
5 he was returning home to Jordan?

6 A. Yeah. That's my understanding from him.

7 Q. Did he, at that time, ask you to or give you a  
8 Power of Attorney to settle all of his matters with Sea-Mart,  
9 collect his partnership interest?

10 A. Well, the gentleman, as I told you, he was an  
11 ordinary Arab and we getting closer and closer and closer.

12 In 1986 I needed money.

13 Q. Uh-huh.

14 A. When I opened up Plaza Extra, I was short of  
15 money. I ask him if he will lend me some money. He said,  
16 Why not? I'll get it for you tomorrow. I don't remember the  
17 amount of money it was, but in the thousands. I honestly  
18 don't remember exactly. He have give me the money, I asked  
19 him if he need a check from me as a collateral. He said, No,  
20 I trust you. If you want more, I get you more. I get the  
21 money from him because I was short of capital in 1986.

22 And he was coming very often to the store,  
23 sometime with his wife to shop. His wife would stay in the  
24 store shopping, and he come up to my office and we start to  
25 chat. And the man at that time was looking for me very

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1 decent. He speaks to me nothing but out of what the Qurán  
2 says, and I'm a person who like to hear these stories, God  
3 says this, God says that.

4 So in -- but when he used to come to my office  
5 when I have Plaza Extra in Sion Farm, Mr. Idheileh was aware  
6 very, very well that I have more people with me, such as  
7 Mr. Mohammed Hamed and his son Wally.

8 Q. But before -- before we get to that, was --

9 A. No, no, because I'm afraid I might forget what  
10 I'm going to say.

11 Q. But --

12 A. Let me please tell you, you ask me my relation  
13 with Mr. --

14 Q. Okay.

15 A. I am at this moment very happy to explain myself.

16 Q. Okay.

17 A. I promise Mr. Idheileh that I will pay him as  
18 soon as I get the money, --

19 Q. Did he --

20 A. -- his loan to me.

21 Q. But did he ask you for a repayment?

22 A. No. I promise him within as soon as the store  
23 open, we have excess cash, he'll be the first one to get  
24 paid.

25 Q. Okay.

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FATEH YUSUF -- DIRECT

1           A.    I personally own 50 percent of Plaza Extra in  
2 1986.  I own United Shopping Plaza.  I'm a member of  
3 United Corporation, who owns United Shopping Plaza.  I build  
4 that store, I was struggling for a loan.  The whole island  
5 know what I went through.  I said I'm going to build this  
6 building no matter what, and hold the supermarket for my  
7 personal use.

8                        It took me three years.  I give an offer to  
9 two nephew of mine and my brother-in-law, Mr. Hamed, if they  
10 would like to join me in building up this store together, and  
11 we should not have any problem, if I finish build up the  
12 building, we should have no problem whatsoever to go to the  
13 bank and the bank will grant us the loan to operate the  
14 supermarket.  Okay?

15                       During construction -- I'm going to go a  
16 little bit back to tell you what is my background.  During  
17 construction, I was struggling for loan.  And at that time  
18 Banco Popular, I remember, came into the Virgin Islands and  
19 took over the majority of interest of First National  
20 Citibank.  They buy all their customers, and they was very  
21 hungry to do business in the island because they have  
22 expenses to face and they like to issue loan as fast as  
23 possible to cover their expenses.

24                       Excuse me.  Can I have water please if you  
25 don't mind?

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1 MS. VAZZANA: Sure.

2 A. I have a problem getting a loan. Finally, I been  
3 promised verbally from Nova Scotia in the past, and when my  
4 steel came in, the way the steel came in unfabricated, they  
5 deny me any loan.

6 THE REPORTER: Unfabricated?

7 THE WITNESS: Unfabricated. It's raw steel.

8 At that time I don't have no money to buy  
9 fabricated steel, so I went to the mill in Houston and I  
10 bought unfabricated steel. And when the bank comes in, when  
11 the steel comes in and the bank sees it, they says, How you  
12 want me to loan money against this steel? How you going to  
13 put it up? You have no experience.

14 I explain to them how I would put it up. They  
15 say, Show me your plan. I show them my plan. Granted the  
16 man who did the plan with me at that time is with the chief  
17 building permit at Public Work. He just give me a plan with  
18 not too much specification, because I have no intention to  
19 give it on bid. My intention is I don't have enough money, I  
20 will put this building together.

21 So what I have is a plan approved by Public  
22 Works with not too much specification on it, and the bank  
23 saw, asked me how could I build the building? I explain to  
24 them and they say, We don't do business that way. They say,  
25 I'm sorry. That's all I have.

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1                   So I left Nova Scotia, struggling, left them  
2 not to get a loan, but did not close my account. I struggle  
3 all over looking to get a loan. I went to all local banks at  
4 that time, and everybody says, I'm sorry, we can't help you.  
5 So I find it is a golden opportunity for me to go to Banco  
6 Popular.

7                   So I went to the manager there, I explained to  
8 him my story what Scotia did to me and so he say, I will come  
9 to the site.

10                  When he come to the site where I'm building,  
11 he says, How you going to put this building together?  
12 Where's your plan? I show it to him. It's almost zero, the  
13 specification. Just numbers for me, columns, but the column  
14 doesn't say what thick, what wide. It just give me the  
15 height.

16                  So the bank, he says, Mr. Yusuf, I'm sorry.  
17 We don't do business that way. We have to have somebody  
18 professional plan with full specification. I could see your  
19 plan approved, I could see the steel here, but it's -- you  
20 don't have the proper material or record to take to my board  
21 of director to approve a loan in the millions.

22                  So I understood. My answer to that gentleman  
23 was, unfortunate because of my financial situation, I have to  
24 choose this route. But I promise you, as a man, I will put  
25 that building together. The man told me at that time, I

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1 don't see how you going to put it up. I say, Don't worry,  
2 man. I'll put it together.

3 He promised me at that time, Mr. Yusuf, I  
4 promise you if you are able to put this steel, turn it into a  
5 shopping center, as soon as you finish, come. I will give  
6 you all the money you need for the supermarket. I says,  
7 Thank you very much, sir.

8 I know I was at fault. I was not prepared,  
9 you know. I don't have nothing saleable to a bank. So I  
10 rely on my brother for financing, a brother of mine who's in  
11 Kuwait.

12 And go back a little bit, before I was looking  
13 for financing, my brother was asking me if he could join me  
14 as partner. I said no, I really want to put something for my  
15 children to secure their future and see if the bank give me,  
16 fine. I'm sure I could get it.

17 After I fail, I called my brother, I said, Are  
18 you still interested? He said yes. He did it for two  
19 reason. He did it to help me as a brother because he don't  
20 want to see me go bankrupt. And at the same time he want to  
21 make sure that he maybe could make some money.

22 Q. Uh-huh.

23 A. And my brother, we knows each other very well.  
24 He have a lot of confidence in me. He say if I will do  
25 something, I'll do it. Then my brother start to send me

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1 money.

2 Because of my ignorant in expertise, I  
3 underestimate to my brother. I told him, Oh, I think I could  
4 put this building for a million-and-a-half. The  
5 million-and-a-half run out, so my brother says, Hey, you told  
6 me that amount you'll have a shopping center, and I see  
7 you're too far out.

8 I say, Brother, all I could tell you is all  
9 your money and my money is going into the building. If I  
10 underestimating, this is nothing but a matter of ignorance.  
11 It's not a matter of trust. He say, I know you, you don't  
12 keep my money.

13 So what we did with my brother, I was supposed  
14 to do 60 percent for me, 40 percent for my brother. As the  
15 number I gave him used, he says, Look, I enter with you to  
16 give me forty and you sixty. I will give you more money if  
17 you would give me 50 percent.

18 Q. So that's how you ended up with 50 percent.

19 A. I would give you -- I will, if you would give me  
20 50/50, I'll send you more money to finish the building.

21 I say, Look, man. Your children and my  
22 children are the same. You's my brother. I'm not going  
23 to -- you'll get fifty, right? I told him that on the phone.

24 He send. His money finish. I asked him for  
25 the last 300,000. I could finish the shopping center with

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1 the last 300,000. My brother denied he don't have any more  
2 money to give me. I should go and look somewhere else.

3 I know my brother have, but my brother, with  
4 respect to him, a man don't like to go with tough decision,  
5 so he deny me that he have any more money. And I was  
6 struggling going to the bank to get some loan. But at the  
7 same time, really, I don't want to mortgage a whole shopping  
8 center with five-and-a-half acre for about three hundred  
9 thousand dollars. I don't want to hook myself.

10 So while I was building, Sunshine Supermarket  
11 opened. Okay? And it happened that somebody part owner on  
12 Sunshine spread the word around or mention some word how much  
13 they sold as their grand opening. So I have two nephew, one  
14 my brother's side and one from my sister's side, and I have  
15 my brother-in-law is Mr. Mohammed Hamed. I know the three of  
16 them have money, and I know and they know that I don't have  
17 the money.

18 They says, Uncle, I don't think we should stay  
19 in the furniture business. I think we should open up a  
20 supermarket. I says, Well, if you want, you guys bring me  
21 the money, I finish the building and I can assure you that a  
22 loan will come.

23 So I have a brother, Sam, I remember he gave  
24 me I don't remember exactly, 245,000. My daughter -- my  
25 sister son, the one who was translating this morning, think

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1 he gave me about 275,000, and to be 25 percent each,  
2 25 percent for my sister son, 25 percent for my brother son,  
3 25 percent for me.

4 But before I continue, I'm going to -- I would  
5 like to go back a little bit more to clear something. When I  
6 was in the financial difficulty, when I was in financial  
7 difficulty, my brother-in-law, he knew. I shouldn't -- he  
8 start to bring me money. Okay? He own a grocery, Mohammed  
9 Hamed, while I was building, and he have some cash. He knew  
10 I'm tight.

11 He start to bring me money. Bring me I think  
12 5,000, 10,000. I took it. After that I say, Look, we  
13 family, we want to stay family. I can't take no money from  
14 you because I don't see how I could pay you back. So he  
15 insisted, Take the money. If you can afford to, maybe pay  
16 me. And if you can't, forget about it. Okay. He kept  
17 giving me. I tell him, Under this condition I will take it.  
18 I will take it.

19 He kept giving me until \$200,000. Every  
20 dollar he make profit, he give it to me. He win the lottery  
21 twice, he gave it to me. All right? That time the man have  
22 a little grocery, they call Estate Carlton Grocery. Very  
23 small, less than 1,000 square foot, but he was a very hard  
24 worker with his children. And it was, you know, just like a  
25 convenience mom-and-pop stores. He was covering expenses and

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1                   But I was confident in myself. I have, when I  
2 determine something, I have strong determination and I'm not  
3 afraid to work. So as I hit the bank and says, Hey, you got  
4 away with the building, how I know you going to make it in  
5 supermarket? You have no experience in the supermarket. How  
6 could you make it?

7                   I say, Look, man, you promised me. And then  
8 look, my friend, I'm not trying to learn how to drive. I am  
9 a driver. I'm a retailer. If you move me from clothing,  
10 shoes, furniture to supermarket, it will take me no time to  
11 learn, because the retailing business is already in my blood,  
12 just like a driver. He drive a small standard car or a small  
13 pickup, it wouldn't take him no too long to drive a trailer  
14 tractor, because he know the basic of the traffic, where to  
15 stop, where to yield, where to speed, which gear to change.

16                   And I told him, trying to convince the bank  
17 manager, Don't worry, man. I could be like a driver  
18 switching from driving a pickup, I could drive a trailer load  
19 easy in two weeks. It's completely different to somebody  
20 that never knows how to drive. You want to bring him from  
21 never knows how to drive, it could be, never being in a car,  
22 and you may want him to drive a trailer. I'm not that type  
23 of person.

24                   This is one of the ways I was convincing the  
25 bank manager. Unfortunate at that time, I was talking to the

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1 man and he look at me, he underestimate. It came to an  
2 extent, I tell him, Look, sir. I respect your profession.  
3 You're the bank manager. I respect that. And I want you to  
4 respect my profession. I'm a retailer. Everybody have a way  
5 of making a living. Oh, I been denied.

6 Then, but when I been denied, I have to tell  
7 my partner what's going on. I been entrusted to handle the  
8 job perfect, and I am obligated to report to my partner to  
9 anything that happened. I told my nephews and I told my  
10 partner, Hey, I can't get a loan, but I'm not giving up.

11 So two, three days later my two nephews split,  
12 say, We don't want to be with you no more, and we want our  
13 money. I say I don't have no money to pay you. The money's  
14 there, but if you want to leave because I default, you free  
15 to leave.

16 How we going to get paid?

17 I says, Shopping center is 50 percent owned by  
18 you uncle and 50 percent by me. I have to feed my children  
19 first, and whatever left over, I'll be more than happy to  
20 give it to you. Okay. What do you want us -- what do you  
21 want to pay us for rent of our money?

22 We come to an agreement, I pay them 12 percent  
23 on their money, and 150,000 default because I don't fulfill  
24 my commitment. I accepted that. We wait until my partner,  
25 which is my brother, came. He's an older man. And we came

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1 up to Mr. Mohammed Hamed, I say, You want to follow them? He  
2 say, Yeah, I will follow them, but do you have any money to  
3 give? I say, Look, Mr. Hamed, you know I don't have no  
4 money. It's in the building, and I put down payment in the  
5 refrigeration. But if you want to follow them, if you don't  
6 feel I'm doing the best I can, if you want to follow them,  
7 you're free to follow them. I'll pay you the same penalty,  
8 75,000. I will give you 12 percent on your 400,000.

9 He says, Hey. If you don't have no money,  
10 it's no use for me to split. I'm going to stay with you.  
11 All right. I say, Okay. You want to stay with me, fine. I  
12 am with you, I am willing to mortgage whatever the  
13 corporation own. Corporation owned by me and my wife at that  
14 time.

15 Q. Uh-huh.

16 A. And my partner only put in \$400,000. That's all  
17 he put in, and he will own the supermarket. I have no  
18 problem. I told my partner, Look, I'll take you under one  
19 condition. We will work on this, and I'm obligated to be  
20 your partner as long as you want me to be your partner until  
21 we lose \$800,000. If I lose 400,000 to match your 400,000, I  
22 have all the right to tell you, Hey, we split, and I don't  
23 owe you nothing.

24 They say, Mr. Yusuf, we knows each other. I  
25 trust you. I keep going. Okay. Now, I told him about the

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1 two partner left, Mr. Hamed. You know, these two guys, they  
2 left, my two nephew, they was your partner and my partner. I  
3 give you a choice. If you pay penalty with me and pay the  
4 interest with me, whatever they left is for me and you. But  
5 if I must pay them the one-fifty penalty and pay them  
6 12 percent, then Plaza Extra Supermarket will stay  
7 three-quarter for Yusuf and only one-quarter for you.

8 He says, Do whatever you think is right. I  
9 tell him, You want my advice? I be honest with you. You  
10 better off take 50 percent. So he took the 50 percent.

11 Q. Not to cut you short, Mr. Yusuf, but we have to  
12 play with time, and I appreciate the history as far as  
13 Plaza Extra St. Croix and United Corporation, but I want to  
14 focus primarily right now on your relationship with  
15 Mr. Idheileh.

16 There came a time that the two of you entered  
17 into talks about Plaza Extra on St. Thomas?

18 A. May I interrupt you, sir? I cannot build a roof  
19 before a foundation. The problem is you ask me who I am,  
20 where I come from. I am explaining myself. I want to show  
21 to you and the court that Mohammed Hamed is way before  
22 Plaza Extra was opened with me, he was my partner. And  
23 Mr. Idheileh, he himself knows, because the money he lend me  
24 when I open up Plaza Extra, he was getting paid from Wally.

25 I'm a person, if I run a business, I want to

Cheryl L. Haase

1 stay clean. You know what I mean, clean? I'm the final  
2 decision man. I don't give that to anybody. Excuse me. But  
3 when it come to money, I don't touch.

4 When I open up Plaza Extra Supermarket, who  
5 was in charge of the money at that time is Wally Hamed. When  
6 this gentleman, Mr. Idheileh, lend me his money as a friend,  
7 I have never signed for him. Who paid him? I never pay him  
8 back. My partner's son is the one who pay him back. And he  
9 knew, because he come to my office once or twice a week. And  
10 he's not the only one knew. Every single Arab in the Virgin  
11 Islands knew that Mr. Mohammed Hamed is my partner, way  
12 before Plaza Extra was opened.

13 Now, should I ask him or continue?

14 MS. VAZZANA: He's ready to give you a next  
15 question.

16 Q. (Mr. Adams) My question to you, sir, is there  
17 came a point in time that you and Idheileh started to, or  
18 started to have some discussions about Plaza Extra on  
19 St. Thomas, is that correct?

20 A. Repeat the question please.

21 Q. There came a point in time that you and  
22 plaintiff, Mr. Idheileh, entered into negotiation about a  
23 partnership, entering into a partnership with Plaza Extra on  
24 St. Thomas, is that correct?

25 A. I can answer that if I could explain it.

Cheryl L. Haase

FATHI YUSUF -- DIRECT

1 Q. But first --

2 A. I'll answer it if I'm allowed to explain it.

3 Q. Okay. But not too long, please.

4 A. See, when I owned United Shopping Plaza, that  
5 building is absolutely for me and my family. And I was  
6 occupying a small office in that shopping center.

7 Oh, I'm -- let me go back a little bit. The  
8 reason why I was in that office, because my supermarket was  
9 burned down. Otherwise, I will never be out of Plaza Extra.  
10 And I was doing my work in a small office in United Shopping  
11 Plaza. I used to go, you know, all my books, my record, have  
12 a desk, coffee machine, make my rent invoices. I do what I  
13 have to do.

14 I see Mr. Idheileh come knock on my door, Come  
15 on in. Shake hand, I offer him coffee. I don't remember  
16 whether he took it or not. I say, I tell him, What can I do  
17 for you? How come you're back? I understand that you sold  
18 Sea-Mart not to come back to the Virgin Islands. Your  
19 intention was to sell Sea-Mart and go home. I could see you  
20 here now.

21 He say, Yes, things is tough back home and I  
22 decided to come back. I say, Well, what are you planning to  
23 do? It's a friendly discussion. He say, I would like to be  
24 your partner in St. Thomas too. I says, You know, I don't  
25 have the final word. I will check with my partner,

Cheryl L. Haase

FATHI YUSUF -- DIRECT

1 Mr. Hamed.

2 And he were telling me that he's the man was  
3 running Sea-Mart, he's this and he's that and he's that and  
4 he's that. And I want to make a comment on this. There is  
5 no one in the Virgin Islands can put words together more than  
6 this man, and I could -- excuse me --

7 Q. Mr. Yusuf --

8 A. -- I could swear that 90 percent of what he says  
9 is false. I get to know him.

10 Q. Mr. Yusuf --

11 A. Excuse me. Let me -- now, when he say I want a  
12 partner, I have confidence in this man could run a business  
13 based on what he told me.

14 Q. Okay. Well, Mr. Yusuf -- Mr. Yusuf, --

15 A. Uh-huh.

16 Q. -- outside of that, did the two of you reach to  
17 an agreement where there will be a partnership?

18 A. After I consult with my partner.

19 Q. Okay. Now, did there come a point in time that a  
20 Joint Venture Agreement was signed?

21 A. Yes.

22 Q. And who were the signatories to that Joint  
23 Venture Agreement?

24 A. I honestly, I haven't looked at it for a long  
25 time. If you will show it to me --

Cheryl L. Haase

FATHI YUSUF -- DIRECT

1 MR. ADAMS: Let the record indicate I'm  
2 showing Mr. Yusuf a copy of the Joint Venture Agreement.

3 A. I sees Mr. Idheileh and myself and Notary Public,  
4 and I believe it's a witness underneath. I don't know.

5 Q. (Mr. Adams) Now --

6 A. Notary Public someplace else, and the same  
7 witness, and my signature repeated again on a different page.  
8 My son. Yeah, my son is the president of United Corporation.

9 Q. Now, sir, the Joint Venture Agreement is between  
10 whom?

11 A. Between -- if you have to look at it this way, --

12 Q. No, no, I'm looking --

13 A. -- between me, my partner and him.

14 Q. No, Mr. Yusuf. Let us look at the Joint Venture  
15 Agreement that was signed.

16 A. Yeah, I seen it. United Corporation.

17 Q. Thank you.

18 A. But I want you please to be aware that my  
19 partner's with me since 1984, and up to now his name is not  
20 in my corporation. And that -- excuse me -- and that prove  
21 my honesty. Because if I was not honest, my brother-in-law  
22 will not let me control his 50 percent. And I know very  
23 well, my wife knows, my children knows, that whatever  
24 Plaza Extra owns in assets, in receivable or payable, we have  
25 a 50 percent partner.

Cheryl L. Haase

1 But due to my honesty --

2 Q. Now --

3 A. Excuse me. I want to clear who I am.

4 -- my partner, he have never have it in  
5 writing from me.

6 Q. Mr. Yusuf --

7 MS. VAZZANA: Okay. The question was the  
8 question was simple: Who it says the Joint Venture Agreement  
9 is between.

10 THE WITNESS: Actually, between  
11 United Corporation and Mr. Ahmad Idheileh.

12 Q. (Mr. Adams) Is there anywhere in that Joint  
13 Venture Agreement does the name Mr. Mohammed Hamed --

14 MS. VAZZANA: Hamed.

15 Q. -- appear anywhere in that joint venture?

16 A. No.

17 Q. Is United Corporation the owner of Plaza Extra  
18 St. Croix?

19 A. Yes.

20 Q. Is Mr. Hamed an officer of United Corporation?

21 A. Who?

22 Q. Mohammed Hamed.

23 A. No, he's not an officer.

24 Q. He's not an officer of United Corporation?

25 A. No.

Cheryl L. Haase

1 Q. Is he a member of the Board of Directors of  
2 United Corporation?

3 A. No.

4 Q. Is he a shareholder in United Corporation?

5 A. No.

6 Q. So as far as this Joint Venture Agreement is  
7 concerned, --

8 A. Uh-huh.

9 Q. -- it was a Joint Venture Agreement between  
10 United Corporation and Mr. Ahmad Idheileh?

11 A. Oh, you can put it how you want to put it. My  
12 understanding and Mr. Idheileh understanding --

13 Q. Sorry --

14 A. Wait a minute. We have to go to the fact. You  
15 looking to find facts, and I am telling you the fact. The  
16 venture agreement can no way be done without the approval of  
17 Mr. Mohammed Hamed. And Mr. Idheileh knew when he come to  
18 me, I tell him I cannot give you an answer, but I promise you  
19 I will convince my partner.

20 And I was successful in convincing my partner  
21 to accept him as an additional partner.

22 Q. Now, if that is the case, sir --

23 A. This is the case.

24 Q. If that was the case, sir, then why was not  
25 there -- why does Mr. Hamed's name not appear on the Joint

*Cheryl L. Haase*

1 Venture Agreement?

2 A. Because he's not in the -- Mohammed is not with  
3 me, in the past anyhow, nine years ago. Where he going to  
4 come from with no base? Can you put roof without foundation?  
5 You's an attorney. Answer my question.

6 MS. VAZZANA: He doesn't have to answer your  
7 question.

8 A. There's a confidence between me and my partner,  
9 my family. There is a very, very, very high confidence.

10 Q. (Mr. Adams) Mr. Yusuf, granted that may be the  
11 case.

12 A. But see, the main point, sir, Mr. Idheileh could  
13 no way get in without Mr. Mohammed Hamed approval.

14 Q. Then I again ask you, Mr. Yusuf, is Mr. Hamed  
15 either an officer, director or shareholder of  
16 United Corporation?

17 A. Who, Hamed?

18 Q. Hamed.

19 A. No, he's not.

20 Q. Thank you, sir.

21 Pursuant to the Joint Venture Agreement, if we  
22 can look at Paragraph 1?

23 A. Yeah, I see it.

24 Q. Mr. Idheileh agreed to invest \$750,000 in the  
25 supermarket, is that correct?

Cheryl L. Haase



1 A. That's correct.

2 Q. Pursuant to Paragraph 2, he would then receive  
3 33 percent of the net profits and share in 33 percent of the  
4 net loss, is that correct?

5 A. That's correct.

6 Q. Is there anywhere in this Joint Venture  
7 Agreement, sir, that indicate what United Corporation's  
8 investment into this Joint Venture Agreement would be?

9 A. The investment is the --

10 Q. In terms of --

11 A. -- collateral, --

12 Q. In terms of --

13 A. -- whatever loan is necessary.

14 Q. Is that stated in the Joint Venture Agreement?

15 A. The collateral of whatever money needed to run  
16 that supermarket.

17 Q. Sir, is that stated in the Joint Venture  
18 Agreement?

19 A. I think so. I don't know.

20 (To Attorney Vazzana:) Says that?

21 MS. VAZZANA: No.

22 THE WITNESS: Well, we have to -- it does say  
23 someplace.

24 No, we get a loan. Put together a \$5 million  
25 loan just because you have a clean shirt and clean pants?

Cheryl L. Haase

1 Q. My point is, sir --

2 A. Just on the basis of --

3 Allow me to read this, because it's  
4 understood.

5 Q. Sir, I will give you a couple minutes so that you  
6 will be able to read the document so you can refresh your  
7 memory.

8 (Short recess taken.)

9 MS. VAZZANA: Let's get back on the record  
10 with the answer to that question.

11 Do you want to read that last question,  
12 Cheryl?

13 THE REPORTER: "Sir, is that stated in the  
14 Joint Venture Agreement?"

15 A. Ask me the question again please.

16 Q. (Mr. Adams) Sir, does the Joint Venture  
17 Agreement mention what the initial investment of  
18 United Corporation would be?

19 A. Oh. I permit to explain?

20 Q. No, no. Is it mentioned in --

21 A. I don't know. I don't know. I see you laughing.  
22 Supermarket need \$8 million, not 750,000.

23 Q. Sir. Sir, again, the Joint Venture Agreement  
24 states that Mr. Idheileh's initial investment would be  
25 \$750,000?

Cheryl L. Haase

1 A. Yeah.

2 Q. Is there anywhere in that Joint Venture Agreement  
3 or anywhere does it mentions what the initial investment of  
4 United Corporation --

5 A. The initial investment was our collateral.

6 MS. VAZZANA: Hold on. He wants you to look  
7 at the paper and say yes or no, is there anything in the  
8 paper that says that?

9 A. No.

10 Q. (Mr. Adams) Okay. The Joint Venture Agreement  
11 stated Mr. Idheileh will receive 33 percent of the profit and  
12 pay 33 percent of the net loss.

13 A. Uh-huh.

14 Q. Does the Joint Venture Agreement state what the  
15 percentage of net profits and loss for United Corporation  
16 would be?

17 A. No. That particular supermarket --

18 Q. Does the joint venture --

19 A. Excuse me. You want to talk to me or to my  
20 cousin? You talking to me, you need the truth from me.

21 Q. Mr. Yusuf --

22 A. This contract mean St. Thomas store, St. Thomas  
23 Plaza Extra store.

24 Q. That's what we're talking about, sir.

25 A. That's it.

Cheryl L. Haase

1 Q. Does the Joint Venture Agreement --

2 A. Uh-huh.

3 Q. -- which you entered into with Mr. Idheileh --

4 A. Yeah.

5 Q. -- state what the net profit or percentage net  
6 profit or loss would be for United Corporation?

7 A. Oh, no. Nobody could have printed that.

8 Q. But yet it states Mr. Idheileh will receive  
9 33 percent of the net profit and 33 percent of the net loss,  
10 does it not?

11 A. Yeah. But this contract is made to run  
12 Plaza Extra in St. Thomas.

13 Q. Yes, sir. I agree that's the only thing that  
14 we're concerned about.

15 A. This is the intention of this contract.

16 MS. VAZZANA: Right.

17 Q. (Mr. Adams) Agreed.

18 A. And he's entitled of 33 of the profit of that  
19 business, and he is responsible for 33 percent of that loss.

20 Q. And that is what is stated in the agreement.

21 A. Yeah.

22 Q. But my question to you, sir, does the agreement  
23 state what the percentage profit or the percentage loss for  
24 United Corporation would be?

25 A. Yeah, it's matching him.

*Cheryl L. Haase*

1 Q. Is it stated in this document?

2 A. No, no. In this it says 66 percent.

3 Q. Can you show that to me?

4 A. Someplace in there it's 66 percent, it say. And  
5 if it doesn't say, everything is a hundred percent.

6 Everything is a hundred percent. Thirty-three percent is a  
7 third. Even if it isn't mentioned, if he's responsible for  
8 33 percent of the loss --

9 Q. Mr. Yusuf --

10 A. Excuse me. Let me finish. I have a turn to  
11 talk.

12 -- and he is entitled to 33 percent of the  
13 profit, --

14 MS. VAZZANA: Okay.

15 A. -- 33 percent of what?

16 Of 100 percent. So if it not mentioned here,  
17 I don't know if it mentioned. You could read it and see.

18 MS. VAZZANA: No, it doesn't say.

19 THE WITNESS: Yeah. But it automatically  
20 applies.

21 MS. VAZZANA: That's all you need to say, it  
22 doesn't say it but --

23 THE WITNESS: It automatically applied.

24 MR. ADAMS: I lost my train of thought. One  
25 minute please.

Cheryl L. Haase

FATHI YUSUF -- DIRECT

1 Q. Mr. Yusuf, can you state for the record, since  
2 you were a party to this agreement and since this is an  
3 agreement that was entered into between you, as a negotiator  
4 for United Corporation, and Mr. Idheileh, can you state why  
5 the initial investment for United Corporation was not  
6 included in this agreement?

7 A. No, we couldn't include it because we --  
8 United Corporation have an assets and have reputation and  
9 already dealt with lending institute. We was not determining  
10 exactly, exactly how much Plaza Extra in St. Thomas is going  
11 to cost us.

12 Q. Now --

13 A. Excuse me.

14 Q. Now --

15 A. I told the gentleman, Pay the seven-fifty and I  
16 will get whatever loan necessary to keep that store  
17 operating.

18 Q. Now, Mr. Yusuf, was that statement that you told  
19 to Mr. Idheileh included in the Joint Venture Agreement?

20 A. It's understood, but it's not included maybe.

21 Q. Now, you stated that it was understood that  
22 66 percent would be United Corporation's share?

23 A. For me and my partner.

24 Q. United Corporation's share?

25 A. And that meant --

*Cheryl L. Haase*

FATHI YUSUF -- DIRECT

1 Q. Now --

2 A. -- and that meant with the 100 percent knowledge  
3 of Mr. Ahmed Idheileh.

4 Q. Now, sir, was that assumption, or as you state,  
5 that's not included in this agreement, is it?

6 A. But it meant to.

7 Q. It was meant to, but it is not included.

8 A. It meant to. That's what count. This is just a  
9 piece of paper. Trust me.

10 Q. Thank you very much, sir.

11 A. It is a piece of paper to show an agreement.

12 Q. Thank you very much, sir.

13 A. But it is not in detail.

14 Q. Thank you very much.

15 Mr. Yusuf, did there come a point, or a point  
16 in time that Mr. Idheileh started to pay down on his  
17 investment?

18 A. Excuse me?

19 Q. Did there come a point in time that Mr. Idheileh  
20 started to pay down on his investment?

21 A. Yeah, he paid. He paid me two payment, I think.

22 MR. ADAMS: I have one of these that's  
23 missing. I apologize. I'll have to get a copy for you.

24 MS. VAZZANA: Oh, our production to you? Our  
25 production of documents?

Cheryl L. Haase

1 MR. ADAMS: No. These are just -- my client  
2 just gave them to me.

3 MS. VAZZANA: We need to see them before you  
4 show it to him.

5 MR. ADAMS: Yeah.

6 And I will show first to your attorney and  
7 then to you, sir, a copy of a bank receipt, deposit receipt  
8 dated December 2nd, 1992 in the amount of \$52,960.

9 MS. VAZZANA: Do you want to mark that first  
10 before you ask the question?

11 (Deposition Exhibit No. 1 was  
12 marked for identification.)

13 Q. (Mr. Adams) Now, before I ask you a question on  
14 the exhibit, Mr. Yusuf, at the time that you started  
15 construction of Plaza Extra on St. Thomas, --

16 A. Uh-huh.

17 Q. -- was there an account open at any banking  
18 institution for Plaza Extra St. Thomas on St. Thomas?

19 A. Well, it was opened, but I don't remember when.

20 Q. But would you say was the account opened during  
21 the time or at the time you entered into the agreement with  
22 Mr. Ahmad Idheileh?

23 A. Yeah, it was an account opened, but it --  
24 signature was on it.

25 Q. Now, I show you what has been marked as plaintiff

Cheryl L. Haase



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1 Exhibit No. 1, and ask if you recognize that document?

2 A. I've seen it. It's a CoreStates deposit slip of  
3 \$52,960 dated September 2nd, 1992.

4 Q. Now, do you recall if that represents the first  
5 payment given to you by Mr. Idheileh?

6 A. I don't remember.

7 Q. Okay. And to whose account was this money  
8 deposited?

9 A. Excuse me, sir?

10 Q. To whose account was this money deposited?

11 A. I don't remember whose account. The reason I say  
12 I don't remember, because we have several accounts.

13 Q. Okay. Sir, if you can look at the deposit slip.

14 A. Oh, look at it closer? Okay.

15 It was deposited into United Corporation.

16 Q. And sir, it could be that this money may  
17 represent money that was paid to you by Mr. Idheileh?

18 A. What I remember, sir, is Mr. Idheileh transfer  
19 some money to me from Cayman Island, about four hundred and  
20 change. That's, to my recollection, that's his first  
21 payment.

22 Q. Okay. Okay. Going to have marked as Plaintiff's  
23 Exhibit No. 2 another deposit slip.

24 A. Uh-huh.

25 Q. In the amount of --

Cheryl L. Haase

1 A. 29,000.

2 Q. -- \$29,900, December 9, 1992, with the same I  
3 think CoreStates Bank to the account of United Corporation.

4 (Deposition Exhibit No. 2 was  
5 marked for identification.)

6 Q. (Mr. Adams) Does that reflect or refresh your  
7 memory as to whether or not it represents a payment that was  
8 made to you by Mr. Idheileh?

9 A. I already answered that question, sir. I told  
10 you the first payment, as far as I'm concerned, to the best  
11 of my ability and knowledge, I received it through a cable  
12 from Cayman Islands. That's all I remember.

13 Q. Okay. Now, you said you also stated you recall  
14 that it was two payments. That you -- you believe that  
15 Mr. Idheileh paid you in two payments?

16 A. I don't even recall he pay me these payments. I  
17 don't recall. I told you what I recall.

18 Q. Okay. Sir, I will show you what we will mark as  
19 Plaintiff's Exhibit No. 3.

20 (Deposition Exhibit No. 3 was  
21 marked for identification.)

22 A. Excuse me. Let me look at it.

23 Yeah, that's the one I remember.

24 Q. (Mr. Adams) Okay. Sir, so do you recall that  
25 payment?

Cheryl L. Haase

1 A. Yeah, I recall that.

2 Q. Where was that payment deposited, sir?

3 A. I have no idea. Let me see. It have to be in  
4 one of our accounts.

5 Q. Would it be fair to say, sir, that you deposited  
6 it into a Prudential-Bache account?

7 Would it be fair to say it may have been  
8 deposited into a Prudential-Bache account?

9 A. I don't know. Could be.

10 Q. Do you recall at any time, sir, receiving payment  
11 in the amount of \$164,845.27 from Mr. --

12 A. I don't recall all this. All I recall, sir, is I  
13 received \$750,000 from Mr. Ahmed Idheileh. That's all I  
14 could put my life into. No more, no less.

15 Q. Now, do you recall, sir, whether that payment of  
16 \$164,000 was deposited into United Corporation's account?

17 A. I have no idea.

18 Q. I will show you what we'll mark as Plaintiff's  
19 Exhibit No. 4.

20 (Deposition Exhibit No. 4 was  
21 marked for identification.)

22 A. This is into Prudential-Bache.

23 Q. (Mr. Adams) Would that represent payment from  
24 Mr. Idheileh?

25 A. Could be.

Cheryl L. Haase

1 Q. Let me show you what will be marked as  
2 Plaintiff's Exhibit No. 5.

3 (Deposition Exhibit No. 5 was  
4 marked for identification.)

5 Q. (Mr. Adams) Do you recognize those checks, sir?

6 A. Yes.

7 Q. Do those two checks represent the total that was  
8 included in Plaintiff's Exhibit No. 4?

9 A. Whatever they give, whatever this is -- yes.  
10 Yes.

11 Q. Now, looking at Plaintiff's Exhibit No. 4, --

12 A. Uh-huh.

13 Q. -- in whose name is the account?

14 A. United Corporation.

15 Q. And what is the purpose of that account at  
16 Prudential-Bache?

17 A. Stocks.

18 Q. At the time that you entered into the agreement  
19 with Mr. Idheileh, did you at any time indicate to him that  
20 his investments would be placed in the stock market?

21 A. He pays me --

22 Q. Sir, it's either a yes or no answer.

23 A. I don't recall. I maybe told him that. I maybe  
24 told him that. Maybe yes, maybe no. He didn't give me the  
25 money to walk with it in the street. I'm free to put it

*Cheryl L. Haase*

FATHI YUSUF -- DIRECT

1 anywhere, but I'm responsible for it.

2 Q. Mr. Yusuf, pursuant to the Joint Venture  
3 Agreement --

4 A. Uh-huh.

5 Q. -- that you entered into with Mr. Idheileh, --

6 A. Yes.

7 Q. -- would you consider him to be a partner?

8 A. Yes.

9 Q. And as a partner, will he not have to be informed  
10 as to the income or the investments of the partnership?

11 A. He was a partner.

12 Q. Yes or no, sir?

13 A. Excuse me. He was an active partner.

14 Q. Yes or no, sir? Will he not have to be informed  
15 about the investments of the partnership?

16 A. It was not, if it's anything that was not  
17 invested for me and him.

18 Q. Yes or no, sir. Would, as a full partner, would  
19 he not have to be informed?

20 A. He was not my partner at that time in actual  
21 work. He was my partner in paper. He was my partner on  
22 paper until we finish Plaza Extra St. Thomas.

23 Q. Sir, this Joint Venture Agreement --

24 A. Uh-huh.

25 Q. -- was signed prior to construction at Plaza

Cheryl L. Haase

FATHI YUSUF -- DIRECT

1 Extra St. Thomas, was it not, sir?

2 A. I think it's -- let me look at the date.

3 Q. Is it before?

4 A. I think it was during, during construction.

5 See, I want you please to be aware I was not  
6 responsible for the construction. The landlord --

7 Q. We're not talking about that, sir.

8 MS. VAZZANA: He just asked you the date.

9 A. I'll tell you. Hold on.

10 Ninety-two, about close to a year earlier  
11 before the store opened.

12 Q. So it was during -- during the, would you say it  
13 was during the construction period that you entered into this  
14 agreement with Mr. Idheileh?

15 A. Yes.

16 Q. And at that time, pursuant to this agreement, was  
17 he a partner with United Corporation in Plaza Extra  
18 St. Thomas?

19 A. Yes.

20 Q. As a partner, was he not entitled to know about  
21 the investments of the partnership?

22 A. The money he gave --

23 Q. Yes or no, sir? Was he not entitled to know  
24 about the investments of the partnership and where the  
25 investments went?

Cheryl L. Haase

FATHI YUSUF -- DIRECT

1           A.    It was not an investment for me and him.  It was  
2 a down payment until the store opened.

3           Q.    Sir, I would direct your attention once again to  
4 Paragraph 1 on Page 1 of the Joint Venture Agreement.

5           A.    Yeah.

6           Q.    Can you read that for me, sir?

7           A.    Idheileh agrees to invest 750,000 in the  
8 supermarket.  This investment shall be paid to United at  
9 least thirty days before the opening of the supermarket.  
10 Interest shall not be earned or paid on this investment in  
11 the supermarket at any time.

12          Q.    Okay.  Now, based on what you just read, --

13          A.    Uh-huh.

14          Q.    -- does this document state that Mr. Idheileh's  
15 \$750,000 was a down payment, or an investment into the  
16 supermarket?

17          A.    Investment into the supermarket, and all the  
18 investment he's exposed to.

19          Q.    Okay.  Now, I ask you once again, once he paid  
20 his investment into the supermarket, into Plaza Extra, once  
21 he paid you his investment, was he not entitled to know where  
22 the money went?

23          A.    No, he's not entitled to know, because it's  
24 not he going to say.  He know very well --

25          Q.    No, sir.

Cheryl L. Haase

FATHI YUSUF -- DIRECT

1 A. -- his money is safe.

2 And this is not the only egg I have, my  
3 friend.

4 Q. My question to you, sir --

5 So let me get back to Plaintiff's Exhibit  
6 No. 4. Did you, to the best of your recollection, ever tell  
7 Mr. Idheileh that his money was going to be invested into  
8 Prudential-Bache?

9 A. Maybe I told him that. I could have. We could  
10 have discussed it at the time.

11 Q. Was that discussed prior to the signing of this  
12 agreement?

13 A. It could be. It could be. He gave me that money  
14 conditioned to be a partner in the supermarket. I did not  
15 receive that money under no any other condition what to do  
16 with it.

17 Q. Okay. Then let me ask you this question, sir:  
18 Then you're stating that once he paid his investment to  
19 you, --

20 A. Uh-huh.

21 Q. -- he had no further say as to how that money was  
22 to be used?

23 A. If it's the supermarket, I don't make a move  
24 without consulting with my partner.

25 Q. No, that's not my question, sir. My question to

Cheryl L. Haase



FATHI YUSUF -- DIRECT

1 you is that after he paid his \$750,000, --

2 A. Uh-huh.

3 Q. -- is it your position that he had nothing  
4 further to say about that money, or how it was to be used?

5 A. Sure he have to -- he have entitled to know where  
6 his money went.

7 Q. That's what I've been asking, sir.

8 A. Uh-huh.

9 Q. That was just --

10 A. I wouldn't deny that, no.

11 Q. Then, again, to the best of your recollection,  
12 was he aware that his \$750,000 was going to be used in the  
13 stock market?

14 A. Maybe we discussed it, you know. It was not done  
15 secretly. I mean we were friend. We could have discussed  
16 it.

17 Q. Was it a part -- was it a part of your agreement  
18 in your agreement at the time that you were negotiating, was  
19 it discussed at that point?

20 A. The agreement?

21 Q. Was it discussed at that point what his \$750,000  
22 was to be used for?

23 A. I'm not sure. I'm sure maybe we discussed it.  
24 Maybe we discussed. I cannot answer this yes or no, because  
25 if I do something, I don't do anything in hiding.

Cheryl L. Haase

FATHI YUSUF -- DIRECT

1 Q. Now, sir, did there come a time that -- or did  
2 you secure any type of financing to assist with the  
3 construction of Plaza Extra St. Thomas?

4 A. Yeah, I secured financing I think in June.

5 Q. And do you recall what the amount -- the amount  
6 of that financing was?

7 A. I think it was about -- I'm not too sure exactly.  
8 Could be five or five-and-a-half million.

9 Q. Okay, sir --

10 A. But around that neighborhood.

11 Q. And that loan was made out to whom?

12 A. To United Corporation.

13 Q. Was that loan made prior to or after the joint --  
14 the signing of the joint venture?

15 A. After.

16 Q. After the signing of the joint venture?

17 A. Yes, sir.

18 Q. Did you consult with Mr. Idheileh about the  
19 securing of this loan?

20 A. Repeat the question please.

21 Q. Did you consult with Mr. Idheileh about the  
22 securing of this loan.

23 A. The sharing of that loan?

24 Q. The securing. Did you consult with him that  
25 United Corporation would receive this loan for --

*Cheryl L. Haase*

1 A. Yeah.

2 Q. -- Plaza Extra St. Thomas?

3 A. Yeah, he's aware of that.

4 Q. Was that United Corporation's initial investment  
5 into Plaza Extra St. Thomas?

6 A. Yes.

7 Q. And --

8 A. And go back a little bit. I think we have a lot  
9 more investment before the loan. I think we invested maybe a  
10 million dollars before we get the loan, you know.

11 Q. Okay. Now --

12 A. At least, I would say at least a million dollars  
13 before we get the loan.

14 Q. Was Mr. Idheileh aware of that?

15 A. Excuse me?

16 Q. Was Mr. Idheileh, as a partner in the joint  
17 venture, aware of that investment?

18 A. Yeah, he's aware.

19 Q. Now, once you secured the loan, was the loan used  
20 to pay -- to assist in the payment for inventory as well as  
21 equipment and merchandise for the store?

22 A. Yes.

23 Q. Was any of that money used or placed into the  
24 Prudential-Bache account?

25 A. Maybe. Because maybe I lend St. Thomas store all

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1 of my money. See, the deal between me and Mr. Idheileh is he  
2 put seven-fifty, and I secure the necessary loan, and we run  
3 the store and all of us pays the interest. Now, way before I  
4 get the loan, I already pay three-fifty to the landlord to  
5 give me additional 10,000 square foot free of rent, and this  
6 has got to be before June. And I put deposit on all the  
7 necessary equipment way before I get the loan.

8 Naturally, I must have spent a lot more than  
9 seven-fifty, so if I send a two thousand two, thousand four,  
10 I don't remember. He was aware of all the books.

11 Q. Now, is this --

12 A. Excuse me now. And any excess of the seven-fifty  
13 I know in St. Thomas owes Mr. Idheileh to go in seven-fifty,  
14 but I'm entitled to get back anything that I invested before  
15 the loan anything in excess of the seven-fifty.

16 Q. Now, was there any written agreement to that  
17 effect?

18 A. We have no written. We have understanding, but  
19 no written agreement.

20 Q. No written agreement to that effect?

21 A. No.

22 Q. Is there any documentation to show your initial  
23 investment?

24 Let me ask for point of clarification, was it  
25 your personal investment or United Corporation's?

Cheryl L. Haase

FATHI YUSUF -- DIRECT

1           A.    United Corporation investment in my behalf and my  
2 partner behalf.

3           Q.    No, sir. I'm asking was the money that you state  
4 that may have been initially invested somewhere in the  
5 neighborhood of a million dollars, --

6           A.    Maybe more.

7           Q.    -- maybe more, was that money invested by you  
8 personally or was it invested by United Corporation?

9           A.    By United Corporation.

10          Q.    Was there any agreement between  
11 United Corporation and Mr. Idheileh that there would be some  
12 sort of repayment for that money?

13          A.    There's no such an agreement, no.

14          Q.    Okay, sir. Now, I direct your attention to your  
15 affidavit. You state that on Paragraph No. 10 --

16          A.    Uh-huh.

17          Q.    -- on Paragraph No. 10, and I would have that  
18 marked as 6, under the Joint Venture Agreement Mr. Idheileh  
19 was responsible, among others, hiring all employees, writing  
20 all checks, counting all money, general supervision of all  
21 employees and stocking the store?

22                         (Deposition Exhibit No. 6 was  
23                         marked for identification.)

24          A.    Yes.

25          Q.    (Mr. Adams) Did there come a time that

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1 Mr. Idheileh's responsibility as far as stated in Paragraph  
2 10 was taken away from him?

3 A. Never.

4 Q. Did there come a time that Mr. Wally Hamed was  
5 given the authority to hire all employees?

6 A. It could have been. It could be we discussed  
7 with everybody approval.

8 Q. And when you say everybody's approval, who are  
9 you talking about?

10 A. Mr. Idheileh, myself and Wally.

11 Q. Did there come a time that the general  
12 supervision of all the employees shifted from Mr. Idheileh to  
13 Mr. Wally Hamed?

14 A. Mr. Idheileh was highly, highly respected during  
15 our partnership. We have never take any authority from him  
16 without his approval.

17 Q. Now, did there come a time that you indicated to  
18 Mr. Idheileh that Wally was a partner in the St. Thomas  
19 store?

20 A. Repeat the question please.

21 Q. Did there come a time that you indicated to  
22 Mr. Idheileh that Wally was going to be a partner in the  
23 St. Thomas store?

24 A. Wally father partner in Plaza Extra since 1984.  
25 Mr. Idheileh, I swear to that, he's aware of that

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1 100 percent. I don't have to tell him because he's already  
2 aware of that.

3 Q. But is that stated in the Joint Venture  
4 Agreement?

5 A. Excuse me?

6 Q. Is that stated in the Joint --

7 A. I could no way signed this with Mr. Idheileh  
8 without Wally and his father approval. I already stated  
9 that.

10 Q. And again, I'm going to ask you, sir, --

11 A. Sure, no problem.

12 Q. -- does Wally's name or his father appear on that  
13 Joint Venture Agreement?

14 A. No, sir.

15 MS. VAZZANA: Objection. Asked and answered  
16 about twenty minutes ago.

17 (Discussion held off the record.)

18 (Deposition Exhibit No. 7 was  
19 marked for identification.)

20 MR. ADAMS: Okay. Back on the record.

21 Q. Sir, did you -- did Mr. Idheileh agree to Wally's  
22 presence in Plaza Extra St. Thomas?

23 A. Yes, sir.

24 Q. He agreed?

25 A. Yes, sir.

Cheryl L. Haase

1 Q. And what was Wally's responsibilities? What was  
2 his duties?

3 A. It wasn't no -- it was no specific responsibility  
4 to any one of us. We was working together as a team.  
5 Wherever you could fit, go.

6 Q. So you did not tell Wally or give Wally any  
7 indication as to what he would or would not be responsible  
8 for in Plaza Extra St. Thomas?

9 A. Sir, we do not operate like a big, big  
10 corporation, you know. We operate as a friend. If he can  
11 off-load the trailer and he feel good, he will off-load it.  
12 And if he's tired and sleepy, he can go and sleep. That's no  
13 problem.

14 Q. Now, did there come a time that your relationship  
15 with Mr. Idheileh started to deteriorate?

16 A. Yes.

17 Q. And what was the basis for that deterioration?

18 A. Taking me to court after I'd already paid him off  
19 for his shares. But never before that.

20 Q. No, I'm talking about during the time that you  
21 were in joint venture together.

22 A. No, no, no. We always was working very friendly  
23 to the best interest of the store.

24 Q. So there was no point during that time that you  
25 would say that there were disagreements between you and

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1 Mr. Idheileh?

2 A. Yeah, we have our disagreements, but it wasn't  
3 disagreement in what to do things. It's about he say his  
4 idea, I say my idea, I go along with this or he oppose it  
5 just like any other partners.

6 Q. Did there come a time that you indicated to him  
7 that the store was losing money?

8 A. Excuse me, sir?

9 Q. Did there come a point in time that you indicated  
10 to Mr. Idheileh that the store was losing money?

11 A. I didn't understand it. Slowly please.

12 Q. I forgot.

13 Did there come a point in time that you  
14 indicated to Mr. Idheileh that the store was losing money?

15 A. Oh, yes, several time.

16 Q. Did you show him any proof that the store was  
17 losing money?

18 A. Several time.

19 Q. And what was that proof?

20 A. Proof at that time, sir, that Mr. Idheileh was  
21 the manager and he was in charge of the money. From the time  
22 the store opened until the time Mr. Idheileh left, I have not  
23 touched Plaza Extra money. And he aware of the sale. Our  
24 sale from the time we open up, we open up, I think -- I don't  
25 remember the numbers really -- but I know we end up with

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1 235,000 a week. Now, Mr. Idheileh used to ask me questions,  
2 Business bad, and now is the middle of the season.

3 Q. I don't understand. I didn't understand that.

4 A. Business is bad.

5 Q. Uh-huh.

6 A. And now is the middle of the season.

7 Q. Uh-huh.

8 A. We're not aware of what season is, but we been  
9 told in St. Thomas, because none of us ever lived in  
10 St. Thomas before 1993, but we understand from everybody the  
11 season in St. Thomas I think is October 15 till May 15.

12 Q. Uh-huh.

13 A. And it happened that Plaza Extra opened up  
14 October 28th, so we opened right in the middle of the season.

15 Q. Uh-huh.

16 A. And we all we was wondering, What can we do? Our  
17 sale went down every week. It's going down, going down,  
18 going down until the time he left, if I recall, I believe  
19 it's around 235,000 in sale per week.

20 Q. So now you're stating -- let me, because I'm  
21 trying to understand what you said -- that you first started  
22 out with sales of how much?

23 A. He's the one to answer the sale. He was in  
24 charge of all the numbers.

25 Q. Did you -- was he your accountant?

Cheryl L. Haase

1           A.    No, he was my partner, and he was in charge of  
2 the money part of it.

3           Q.    Where in the Joint Venture Agreement will it  
4 state that he was in charge of the money?

5           A.    He choose to accept that, because we was there in  
6 St. Thomas a partner, we have a lot of money invested, and we  
7 was, myself and Wally, was giving Mr. Idheileh a hand.

8           Q.    Okay. So Mr. Idheileh was responsible for  
9 keeping the books then?

10          A.    Yes.

11          Q.    So if Mr. Idheileh was responsible for keeping  
12 the books, then how could you reach to the assumption that  
13 the store was losing money?

14          A.    Sir, he keep the books, but the numbers of sale  
15 is known to all of us every single night. We clear our  
16 system every Sunday.

17          Q.    Uh-huh.

18          A.    Supermarket industries, they don't look at days,  
19 a daily sale, because it goes up and down during the week.  
20 They normally go on a full week. And my recollection, our  
21 sale was getting shorter and shorter and shorter, two  
22 thirty-five. Now, we all know this is the sale.

23                    Now, Mr. Idheileh used to come to me over and  
24 over, and we always said that the store is losing money.

25          Q.    Now, would that be --

Cheryl L. Haase

1 A. Excuse me. I want to finish.

2 Mr. Idheileh asked me many time, Show me how  
3 we losing money. I happened to know this not by accident. I  
4 know this from experience.

5 Q. Now, sir, would it be unusual for a store that  
6 just opened to go through a period like this?

7 A. No, this is normal.

8 Q. So it's normal.

9 A. Yeah. May I?

10 Q. So now what you're saying, it's normal --

11 A. May I explain this? Supermarket is a habit, sir.  
12 Supermarket shopping is a habit. The customer know the store  
13 almost -- almost as much as the owner. And it's not easy for  
14 me to come in between Cost-U-Less, Pueblo and Kmart and  
15 switch the people habit from their to me. They don't know  
16 where the salt is, they don't know where the oil is, they  
17 don't know where the bread is.

18 It takes time, time and effort on our part to  
19 advertise, to sell very cheap, to be very kind to the  
20 customer, to bring them to become the store customer slowly.

21 Q. So, Mr. Yusuf, you will say that it was not  
22 unusual.

23 A. No, it's normal.

24 Q. So it's normal.

25 A. Yeah.

Cheryl L. Haase

1 Q. Okay. Thank you, sir.

2 Did there come a time that the dispute between  
3 you, or the disagreements between you and Mr. Idheileh had to  
4 be resolved before a panel of wise men?

5 A. Yeah.

6 Q. Did you state to them at that time that the store  
7 was losing money?

8 A. Yes.

9 Q. Did Mr. Idheileh, prior to that, or on that  
10 evening, inform you that he wanted to get out of the  
11 business?

12 A. May I comment on this?

13 Q. Yes or no, sir. Did he tell you he wanted to get  
14 out of the business?

15 A. Yes.

16 Q. Did he state why?

17 A. He hates Wally. He hate Wally. And I used to  
18 beg him, Tell me what's wrong with Wally? Wally's working  
19 for you, he's not charging you for anything. He's a young  
20 man. Why? I was asking him the question, Why?

21 Q. Now, was there a resolution reached after that  
22 meeting?

23 A. Which meeting, sir?

24 Q. With the panel of wise men at Sea-Mart?

25 A. No, you see --

*Cheryl L. Haase*

1 Q. Did the panel of wise men come up with a  
2 resolution?

3 A. Let me answer what caused us to be there. I  
4 think this is very, very important. It's what caused us to  
5 be in front of the wise men. I want to be permitted to  
6 explain it.

7 You see, Mr. Idheileh, he asked me my opinion,  
8 how much I think the supermarket in St. Croix -- I mean  
9 Plaza Extra in St. Thomas will do business. I give him,  
10 honest to God, to the best of my ability, an estimate. And I  
11 say, We'll push the work. Hopefully we'll do more.

12 But Mr. Idheileh, you know, when I'm in  
13 St. Croix, we're talking about St. Thomas, I can't guarantee  
14 you anything. So we went, while we already committed to the  
15 lease, the man has become my partner, Cost-U-Less came in.  
16 None of us was aware of Cost-U-Less is coming into  
17 St. Thomas. None. It came in all of a sudden. In no time  
18 he open up. And the people was very, very crowded there.  
19 And the store existing there next door, almost next door to  
20 Cost-U-Less, which is Pueblo, since the sixties in  
21 St. Thomas, I understand from Mr. Idheileh that Pueblo's not  
22 doing any good. Cost-U-Less is taking all the business. I  
23 says, Well, we'll see what we can do. We're going to try to  
24 see how we can face this guy.

25 And before the store opened, the man hated

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1 Wally. Hated Wally. I investigated very toughly, very hard  
2 to find why, to show me why, until one day he tell me he's  
3 not my partner in the paper. I say, Oh, Wally be your  
4 friend. If you don't want him because he's not in the paper,  
5 I will make Wally leave.

6 Q. Did there come a time that Wally left the store?

7 A. He left, yes.

8 Excuse me. I begged the man, Mr. Idheileh, I  
9 begged him many time not to kick Wally out just because he's  
10 not in the paper. Come on, Mr. Idheileh, he's our partner.  
11 He say, I don't want him.

12 Q. But --

13 A. Excuse me.

14 Q. But I mean let's move on, Mr. Yusuf.

15 A. But I'm moving on. I'm explaining how I could  
16 reach the wise men.

17 Q. Talking about --

18 A. Excuse me. No, no, no. When the gentleman tell  
19 me, I don't wanted Wally because he's not in the contract, I  
20 want to cut it short, be peaceful with the man. I tell Wally  
21 go. But I told Mr. Idheileh, Wally leave, according to our  
22 agreement I'm not supposed to work for you for nothing. If  
23 Wally leave, Wally is my right hand. If he leave, I will  
24 leave.

25 Q. Now --

Cheryl L. Haase

1 A. Excuse me. Now, we left.

2 Q. Mr. --

3 MS. VAZZANA: I'll give you the opportunity to  
4 explain that --

5 THE WITNESS: Okay.

6 MS. VAZZANA: -- but you got to wait for me.

7 Q. (Mr. Adams) Now, Mr. Yusuf, did you suggest to  
8 or tell Mr. Idheileh that Wally would oversee all the books  
9 as a representative of Plaza Extra?

10 A. Sir --

11 Q. Yes or no?

12 A. No.

13 Q. Did there come a time that Waheed, Wally's  
14 brother, moved over to St. Thomas?

15 A. Yes.

16 Q. And what was Waheed's responsibility?

17 THE REPORTER: Waheed? How do you spell that?

18 THE WITNESS: Willy. We call him Willy.

19 MS. VAZZANA: W-A-H-E-E-D.

20 Q. (Mr. Adams) What was Waheed's responsibility?

21 A. Waheed, his responsibility, sir, was a front-end  
22 manager. The front-end manager duty is make sure that the  
23 cashier is running smooth; any void, he issue the void; he  
24 make sure that the bagger go to the parking lot and come  
25 back. It's front-end supervisor.

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1 Q. Okay. Did there come a point in time that  
2 Plaza Extra St. Croix started to place orders for Plaza Extra  
3 St. Thomas without Mr. Idheileh's consent?

4 A. No. No, to -- no, with explanation if you want  
5 it.

6 There was no Plaza Extra St. Croix. At the  
7 time that we opened St. Thomas Plaza Extra, Plaza Extra  
8 St. Croix was not existing. It was under fire and we were  
9 rebuilding it to reopen it.

10 Q. Okay. Sir, now, let's get back to the Joint  
11 Venture Agreement for a moment.

12 In the Joint Venture Agreement it states that  
13 Mr. Idheileh would receive a fee or a salary of \$25,000 per  
14 year.

15 A. That's right.

16 Q. Did he receive that money?

17 A. No.

18 Q. Why not?

19 A. Why not? When we signed that agreement, we come  
20 to an agreement, I was fully aware that the store was away  
21 about a year from the opening. Eight, nine months, could be  
22 a year. And the man have a family, he have responsibility,  
23 and at that time I figure out he should be compensated. You  
24 can't go and establish a business if he waiting for a  
25 business to open, and this kind of man cannot go and work for

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1 five dollars an hour. We have to pay him to compensate him,  
2 until the store is open, half of his salary. And that's why  
3 I even offered it to him.

4 But unfortunate, after we sign the agreement,  
5 the man says, Mr. Yusuf, when we open up Plaza Extra, you  
6 know, we all going to be busy and tired. I don't remember if  
7 he told me I want to take my children and wife home, or I  
8 want to go and see my family for a week or two weeks. I  
9 said, I have no use for you. If you wish to go home, back  
10 home, I wish you good luck. You know? That he can prepare  
11 himself back when the store is open.

12 But what I learned, unfortunate, that he went  
13 and instead of taking care of the wife back home and the  
14 children, what I heard from friends, that he divorced that  
15 lady and he met another lady. And he did not come back to  
16 St. Thomas, to St. Croix or St. Thomas for the -- for four  
17 months.

18 So how you expect me to pay somebody, he was  
19 not working, he was not even engaged in the business?

20 Q. Now -- now -- now, Mr. Yusuf?

21 A. Yes, sir.

22 Q. The contract, the agreement states that from the  
23 date of signing of this agreement to the date the supermarket  
24 opens, United will pay to Idheileh a fee of \$25,000 per year.

25 A. Yeah.

Cheryl L. Haase

1 Q. Okay? Upon his return to St. Thomas, was he paid  
2 that?

3 A. No. And I could explain more, beside he was not  
4 in the area, you see, I put all my time with no pay. I  
5 bought all the equipment, negotiation with the landlord. He  
6 could see everything that the store needed, I was working in  
7 St. Croix, me and Wally concluded the loan package, and not  
8 only two of us. My son, I have to send him from St. Croix to  
9 put a mezzanine of 8,400 square feet. My son did not charge  
10 a penny.

11 So it was known at any given time we have any  
12 misunderstanding, he know very well he don't deserve it. He  
13 never ask for it. Because if he asked for it, then he have  
14 to end up paying my son.

15 Q. No, my question to you, sir, my question to  
16 you --

17 A. Yes, sir.

18 Q. -- was upon his return to St. Thomas and his  
19 involvement with the store on St. Thomas, was he paid?

20 A. I don't recall, honestly. Because his name I  
21 believe was on the account. I honestly don't recall.

22 Q. Do you recall whether he signed for his own  
23 paycheck?

24 A. He was authorized to do it.

25 Q. Did you at any time sign his paycheck?

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1 A. Yeah, I did sign it. Several time.

2 Q. Now, there came a point that there was a meeting  
3 on St. Thomas with you, Mr. Abdel Suid, Ali and Mahmud  
4 Idheileh, Mr. Ahmad Idheileh, and I think there was someone  
5 else. I can't recall.

6 A. Sam Yusuf.

7 Q. Sam Yusuf.

8 What was the purpose of that meeting?

9 A. The purpose of that meeting, sir, is the man just  
10 don't want to work with us. He just simply don't want to  
11 work with us. And we trying to find out how can we separate  
12 from each other respectfully and peacefully.

13 Q. Now, did you at any time tell Mr. Idheileh or  
14 threaten Mr. Idheileh that you would destroy him?

15 A. Sir, I am not that type of person but sometime if  
16 I ever say that, it will be in answer to a threat from him.  
17 I will never start the badness. Never.

18 Q. Did there, at any time, did you at any time tell  
19 suppliers that -- let me strike that.

20 Did you at any time tell the employees that  
21 Mr. Idheileh was no longer in charge of the store and that he  
22 did not have any authority within the store?

23 A. I don't think I will ever do that. I don't think  
24 I would ever say that. I don't think so. Maybe I said it  
25 after he left, after he sold.

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1 Q. Did you at any time inform suppliers that  
2 Mr. Idheileh did not have any authority to sign on behalf of  
3 Plaza Extra St. Thomas for merchandise?

4 A. Never.

5 Q. Now, getting back to the meeting at Plaza Extra,  
6 what was the agreement that was reached?

7 A. The agreement was reached that the man, because  
8 the store was losing money, he was -- he don't see that the  
9 store could be turned around, even though we was always  
10 encouraging him to be patient. I could tell you very highly  
11 about me, I'm positive of that. Just be patient,  
12 Mr. Idheileh. We working on the store to turn it around. We  
13 were not expecting Cost-U-Less to open up, and just be  
14 patient.

15 And the man just insisted he want to go out.  
16 And I didn't even have money to pay him.

17 Q. And was it agreed that Mr. Idheileh would sell  
18 his shares to Mr. Abdel Suid?

19 A. Sir, no.

20 Q. So it was not agreed that Mr. Idheileh would sell  
21 his share to Mr. Suid?

22 A. No, sir. May I clear this point? Mr. Suid is a  
23 very religious person. Very, very religious person. And he  
24 will never have his name as an owner or part owner in any  
25 business whatsoever that sells liquor and pork. And -- but I

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1 recall that this gentleman, Mr. Idheileh, keep saying he  
2 don't want to be with us, he don't want to be with us, he  
3 don't want to be with us.

4           They came to a conclusion, and I keep saying I  
5 don't need to buy him, I don't need to buy a losing business,  
6 because I know the business is losing. I pay one-third of  
7 the loss, better than 50 percent of the loss. And then they  
8 suggested if we can live together, why didn't he go and let  
9 Mr. Suid take -- look after Mr. Idheileh's interest? They  
10 asked me if I have any objection. I told them I have no  
11 objection. If he want to leave, leave somebody in charge of  
12 his interest, I don't have no objection.

13           Q. So it was agreed then that Mr. Suid would have,  
14 or that -- excuse me, let me rephrase the question.

15           It was agreed then Mr. Idheileh's interest  
16 would have transferred to Mr. Suid?

17           A. Not transferred, sir. The man was no way you  
18 could put any liquor store in his name. He's very religious.

19           Q. So your -- then you will say that Mr. Suid in his  
20 deposition was inaccurate when he said that?

21           MS. VAZZANA: Can we have an off-the-record  
22 quickly?

23           (Discussion held off the record.)

24           MR. ADAMS: Back on the record.

25           Q. So but there was some agreement that Mr. Suid

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FATHI YUSUF -- DIRECT

1 would have --

2 A. Yeah.

3 Q. -- on paper?

4 A. No, it was not on paper, no.

5 Q. Okay.

6 A. It was not on paper. It was hopefully we could  
7 come to an agreement. It's one of the ideas that is being  
8 offered to me. I don't want to buy him out. He can either  
9 wait until we turn the store around, or we sell it.

10 Q. Okay. Who is Joe Jaber?

11 A. Joe Jaber is a friend of ours. He's in the real  
12 estate business and he lives on St. Croix.

13 Q. Did you at any time send Mr. Jaber to buy  
14 Mr. Idheileh's shares, to purchase Mr. Idheileh's shares in  
15 Plaza Extra?

16 A. No, I have never sent him personally.

17 Q. Do you know if Mr. Jaber went and approached  
18 Mr. Idheileh about selling his shares in Plaza Extra?

19 A. Yes, I'm aware of that.

20 Q. Did Mr. Jaber inform you he was going to do that  
21 before he went, or was there any discussion?

22 A. It could a be. It could a be.

23 Q. So you're saying there have been discussions?

24 A. It could be.

25 MR. ADAMS: No further questions at this time.

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CROSS-EXAMINATION

1  
2 BY MS. VAZZANA:

3 Q. Okay. I have just a few for clarification,  
4 Mr. Yusuf.

5 Mr. Yusuf, as part of your relationship with  
6 Mr. Idheileh, did you have any involvement in his getting out  
7 of Sea-Mart?

8 A. Yes.

9 Q. What was your role?

10 A. What I know is, as I stated in the past,  
11 Mr. Idheileh is a number one putting words together. And he  
12 used to go to me, you know, as a friend to the store and he  
13 was a partner I think with four people in Sea-Mart, and he  
14 keep coming to me and complaining about Mr. Naem Suid and  
15 tell me what's going on in Sea-Mart, as a friendly  
16 discussion. And he keep telling me, I afraid one of these  
17 days I shoot that guy, or that guy shoot me.

18 So Mr. Idheileh language have moved me to  
19 interfere, because both of them is my friend. You know, I  
20 have business to run. I really don't have no time to know  
21 people news, but my interest was since he was going to be  
22 telling me all the time, I said no, no, no, I don't want to  
23 see no bloodshed. If I go, I'm going to find a solution for  
24 the partnership. Some of the partner left already, and he  
25 was left I think with Mr. Suid, the owner, the one who took

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1 it, and him. They put me as a referee.

2 See, back home our custom, if they put you as  
3 a referee, of course they evaluate the person who they want  
4 to put and that referee will say two things. Either he take  
5 the responsibility to enforce it, or he say I'm only going to  
6 say my opinion, and it's up to you guys to approve it or not.

7 So I did not want to enforce anything. I  
8 went, everybody tell me his story. So finally took us a  
9 meeting about three, four hours.

10 Finally they sold. Mr. Idheileh used to tell  
11 me over and over and over, he have to get out of that  
12 business because Kwart is coming in Williams Delight. You  
13 know? But that doesn't bother me. This is an economic  
14 issue. I'm not interfering with somebody because of an  
15 economic issue, because he don't want to lose money in  
16 Sea-Mart. I interfere in the issue because I see a bloodshed  
17 issue based on his statement.

18 I went in there, I said, Look, gentlemen, you  
19 get together friendly, leave friendly. Okay? Finally  
20 Mr. Naem Suid sold his share to the owner, Hassan Rahman, and  
21 this gentleman, Mr. Idheileh, sold his share to Hassan  
22 Rahman. And when they did the sale, none of us look at any  
23 book whatsoever. It just, you look at the store, everybody  
24 says his story, I went around and look at the store to see if  
25 somebody, when they come up with this story, when they say

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1 come and see what we have, so it's my duty to take a look  
2 that I could. Finally, we get them together to settle  
3 friendly, and they left. They left.

4                   Unfortunately, the buyer went bankrupt. And I  
5 understand I was told, I can't guarantee that, that the owner  
6 who bought Sea-Mart still owes him money, \$40,000. That's  
7 what I was told. But I can't sign to it.

8           Q.   Well --

9           A.   With our case, it was the same thing. The man is  
10 leaving. Now, when we used to negotiate with each other, I  
11 used to tell Mr. Idheileh, Look, do me a favor. What you did  
12 in Sea-Mart, you're not going to do it in Plaza.

13           Q.   What do you mean by that?

14           A.   I don't want you out. I want you to stay with me  
15 to help me, to help me in this. At least, then if I lose  
16 50 percent, I will only lose 33. Why should I lose  
17 17 percent more? Because if we making money, not even United  
18 States can move this gentleman out of that store, because he  
19 have the right.

20                   And this man will, I'm saying plain, he's very  
21 intelligent. He is not going to -- he is not going to accept  
22 an apple and leave. If he know there's a juice in Plaza  
23 Extra, that man is not leaving.

24                   But I bought it, I bought it because I respect  
25 him, and I respect his two brothers. And I was able to

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1 convince my partner's son, Look, we got \$6 million in this  
2 store. This man, we come to an agreement --

3 Q. We're talking about Sea-Mart.

4 A. Okay.

5 Q. So in Sea-Mart, when you negotiated that  
6 transaction that Mr. Idheileh would be able to be out of  
7 Sea-Mart, --

8 A. Yes.

9 Q. -- was that based upon the books or just on a  
10 hand shake?

11 A. There was no book whatsoever. Based on their  
12 conversation.

13 Q. Okay. Okay. You were asked by Attorney Adams,  
14 when it says United Corporation in this Joint Venture  
15 Agreement, in talking about Plaza Extra, talking about the  
16 supermarket on St. Thomas, who owned or who was partners in  
17 United Corporation Plaza Extra at the time before you entered  
18 into that Joint Venture Agreement?

19 A. It's always, since 1984, Mohammed Hamed.

20 Q. Okay. So when it says United Corporation --

21 A. It's really meant me and Mr. Mohammed Hamed.

22 Q. Okay.

23 A. Mr. Idheileh is well aware of that.

24 Q. Okay. Well, we're talking now Plaza Extra  
25 St. Thomas. Who was responsible for hiring employees?

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1 A. See, really, we left all the hiring to him.

2 Q. And who set the wages?

3 A. I advise him. He was thinking of giving big  
4 money. I say, Mr. Idheileh, you going to end up with about  
5 150, 160 employees. Do not give anybody whatsoever above the  
6 minimum. Don't. Because if you do, you's in big trouble. I  
7 told him plain, what put Grand Union out of business is the  
8 high wages. I advise him.

9 But he did all the hiring. What I do is, a  
10 good employee, I give them overtime. They end up making like  
11 7.75 an hour. This is our policy. I don't wish to discuss  
12 it.

13 Anyhow, but I advise him and I explained to  
14 him, You'll put yourself in big trouble if you start to put  
15 seven and eight dollars an hour.

16 Q. What was Mr. Idheileh's position at Plaza  
17 St. Thomas?

18 A. Mr. Idheileh position was the general manager of  
19 Plaza Extra St. Thomas.

20 Q. And did he have a special office in Plaza Extra?

21 A. Yes, he have a special office.

22 Q. Did anybody else?

23 A. No, he have a special office and a special  
24 secretary. No one else have a private office that where you  
25 have to knock the door to enter except Mr. Ahmed Idheileh.

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1 Q. Who kept the books?

2 A. Excuse me?

3 Q. Who kept the books at Plaza Extra St. Thomas?

4 A. Mr. Idheileh kept the cash part of it, but my  
5 policy is if you have a partner, do not lock anything. If  
6 you work with a book, leave your book on the table. Don't  
7 let your partner become suspicious of you.

8 So if I'm holding the book or you holding the  
9 book, it really doesn't matter because the other partner have  
10 100 percent access to it.

11 Q. Who was in charge of cash at night, counting the  
12 cash at night?

13 A. Excuse me?

14 Q. Who was in charge of counting the cash at night?

15 A. Who was in charge of counting? The system of the  
16 cash is customer dispense the money to the cashier, the  
17 cashiers -- excuse me. I want to start.

18 The cashier would have certain amount of money  
19 daily, fifty dollars, sixty dollars. She signs for that.  
20 When she takes it, she have a void form, she go to her cash  
21 register. Whatever she sell, she close her cash. After she  
22 finish, she close her cash register, and she have to go and  
23 check it with the receiving supervisor. Not work supervisor,  
24 the people that receive the money.

25 And that cashier, if she's short, she'll be

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1 penalized, and if she's over she'll be penalized. She have  
2 to come up within reasonable. We all are human being, we all  
3 make mistakes. If she does it very often, she will be write  
4 up and gone.

5 Now, that money, somebody receive it from the  
6 cashier, put it individual envelope, and goes up to his  
7 department where it goes into the two guys that work under  
8 his immediate supervision. Because if some money short, I'm  
9 not going and check with the guys. I'm going to check with  
10 the guy who's in charge.

11 So the policy with us, if something goes wrong  
12 downstairs, we must know the very second day. But even  
13 though sometimes our relation was hot and cold, we have never  
14 mistrust each other. You know, we have never questioned his  
15 honesty money-wise.

16 Q. Okay. In the operation of Plaza St. Thomas, did  
17 you provide a personal guaranty to any vendors?

18 A. I might have, yes.

19 Q. Did Mr. Idheileh?

20 A. No.

21 Q. Did you sign the loan for the bank loan that you  
22 received?

23 A. Yes, I did sign and I put my property.

24 Q. Did Mr. Idheileh sign the loan?

25 A. No.

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1 Q. Did he put up any property?

2 A. No.

3 Q. You were describing earlier when Attorney Adams  
4 was asking you about how you arrived at the meeting of wise  
5 men at Sea-Mart, when you were giving your explanation of  
6 what led up to that --

7 A. Yes, I will glad, be glad to say that, because  
8 this gentleman, I know him for many years, and he been  
9 playing washing my brain for twenty years, until I get to  
10 live with him. He's telling me, I hate Wally. I just don't  
11 want Wally. You see, I always try to investigate, What's  
12 wrong with Wally, Mr. Ahmad? He's our partner. The man is  
13 not lazy. He don't even get paid.

14 Until I find what he driving at. The man was  
15 building a case. I wasn't aware of it. He says, Hey, he's  
16 not in the agreement with us, and I want him out. I beg him  
17 that without Wally I can't work. He say, No, he have to  
18 leave. I told Wally, Wally, buy a ticket for me and you.  
19 The agreement with Mr. Idheileh is to run the store. Here's  
20 the store. You want to drop us to the airport or you want us  
21 to ask Willy to drop us to the airport? He say, No, I will  
22 drop you to the airport.

23 He himself take us in his car to the airport,  
24 and he said, When can we meet? I said, At your convenience.  
25 Now, we suggested January 1st would be a proper date. Nobody

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1 working, and we'll meet January 1st. And we shake hands,  
2 bye-bye, bye-bye. So when we left, three days later he call  
3 me and he says, Mr. Yusuf, we don't have no frozen food. I  
4 say, Mr. Idheileh, you know where we get the frozen food  
5 from. Go to the folder, find Walkkoch, and place your order.

6 MS. VAZZANA: That's Walkkoch,  
7 W-A-L-T-K-O-C-H.

8 (Discussion held off the record.)

9 A. So I tell him, Go ahead and place an order. I  
10 have nothing to do with it. You don't want me in the store,  
11 you handle your own work. He place the order, and I think  
12 the second day or the third day a phone call I receive from  
13 Walkkoch Company. They want to talk to me. He tell me, Your  
14 partner place an order. We'd like to discuss it with you.

15 The reason why he called me, I want to make  
16 the point clear, that Walkkoch Company, they sell to me  
17 freight is included in the product, CIF. It's not FOB. The  
18 responsibility, he deliver it to the dock in St. Thomas or  
19 St. Croix. The freight is not my responsibility. So  
20 whenever we place an order, it's always the order is too much  
21 or too small, Mr. Walkkoch, his office normally call us for  
22 adjustment. They normally get the adjustment from me or from  
23 Wally.

24 So when he asked to talk to me, I tell him --  
25 he said, What you doing in St. Croix? I say, We get into

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1 disagreement with my partner, and I'm no longer in the store.  
2 And I am not going to adjust your order. You know, I told  
3 him the story, The man kick Wally, and I have to leave.

4                   So he says -- and I told him, You could go  
5 ahead and ship. The store have, to my knowledge, at least  
6 \$7 million investment. Your shipment is only 40,000. Go  
7 ahead and ship. But I have nothing to do with it as a  
8 person. He says, Okay.

9                   Now, I would like to make it clear again that  
10 Walkkoch does not represent more than one percent of  
11 Plaza Extra supply item. Plaza Extra, I -- we're not talking  
12 to the major supplier. If I mean to hurt Plaza Extra, which  
13 is no way I'll do that because if I hurt Plaza Extra, I'll  
14 hurt myself, I did not tell Coca-Cola not to ship. I did not  
15 tell the milk people and bread people. And we have a major  
16 supplier who give us 60 percent of what the store need  
17 weekly. If I want to block Plaza Extra, I would have called  
18 that supplier, who I guaranty my store loan with two property  
19 of mine. Mr. Idheileh have nothing to do with it. I  
20 guarantee 150-acre and 109-acre as a guarantee to back up  
21 Plaza Extra, and still I did not tell them not to ship.

22                   And Mr. Idheileh, if he was a capable manager,  
23 he could have substituted what he want from Walkkoch from our  
24 major supplier, because they sell the same product. He  
25 maybe -- he maybe sell it for three to five percent higher.

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1 It was not a major issue. And I don't create it, neither.

2 Q. Okay. At the meeting at Sea-Mart, who called  
3 that meeting?

4 A. I believe he called for it. Because when  
5 Sea-Mart -- by the way, when he took us to the airport, me  
6 and Wally, we start to talk, and he start to complain. I  
7 said, Why you complaining, Mr. Ahmed? All this it's you  
8 create. You don't want us in the store, we'll leave. You're  
9 the manager.

10 Then we set a date that he could see whoever  
11 he want. I'm willing to go any place any time for a meeting.  
12 He say, How about January 1st? I say it's fine with me.  
13 Then a week later he call me and says, Mr. Yusuf, if we don't  
14 have that meeting earlier, we're going to lose Plaza Extra.  
15 The store is getting hurt.

16 I says, Mr. Idheileh, it's up to you. You  
17 want to bring the meeting earlier, it's fine with me. And he  
18 says, How about December 25th? I say, I have no objection to  
19 see these people. I'm willing to come.

20 When we went to Sea-Mart, he says his story, I  
21 said mine. They have never find me wrong. The only thing  
22 that they -- one of the two guys -- is about twenty, twenty  
23 people of the whole panel, but the referee was I think three  
24 to five, they say, Buy him out. I say, No, no, no. He buy  
25 me out if he want. I am in no position to buy this man out.

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1 I'm in no position to buy a losing business. I'm begging  
2 Mr. Idheileh, Be patient. We will turn the store around. If  
3 he don't want to wait, what can I do?

4 Then Mr. Mohammed Hamed was there, he did not  
5 say one single word. And we have about twenty people, and  
6 Mr. Mohammed Hamed there just because he's involved, he's a  
7 partner. And I know I do this in good faith with  
8 Mr. Idheileh, not to trick Mr. Idheileh. And I kept  
9 complaining to Mr. Idheileh, I can't buy you out. First, the  
10 store is losing money. Second, I have no money. I can't  
11 give you the milk money or the bread money, because I want to  
12 replace the inventory.

13 Finally Mr. Suid voluntarily --

14 Q. No, no. We're talking about Sea-Mart.

15 A. Oh, okay.

16 Q. At that meeting --

17 A. Yes.

18 Q. -- of the wise men at Sea-Mart, did you demand  
19 that Mr. Idheileh provide \$200,000 more of money?

20 A. Excuse me?

21 Q. Did you make Mr. Idheileh give more money if he  
22 wanted to get that store operating?

23 A. We never need money. I have never say that. We  
24 never needed money.

25 Q. Did Mr. Idheileh ever demand to see the books at

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1 that meeting?

2 A. Excuse me?

3 Q. Did Mr. Idheileh demand to see the books of the  
4 business?

5 A. He didn't demand, but he asked, and I show it to  
6 him. And I left it many time on my desk. Up to now I don't  
7 have lockers. I don't believe in that. If I use a locker  
8 for my partner, I'm a thief. I leave my door open. Let my  
9 partner have the opportunity to go through my record any  
10 time, that's my philosophy, if I want to live with my  
11 partner. And this is my philosophy.

12 Q. That was your philosophy while Mr. Idheileh was  
13 there as well?

14 A. Same philosophy, and will never change. He might  
15 think what happened to me with him, it might end up being a  
16 lesson to me, but because of the nature of the human being, I  
17 am ten times stronger to what he did to us. I'm not going to  
18 change my habit.

19 Q. During that meeting of wise men, were you  
20 threatening Mr. Yusuf to lose all his investment -- I mean  
21 Mr. Idheileh to lose all of his investment?

22 A. I may be, but again, I would like to explain  
23 myself again. I never, ever -- every Arab in St. Croix  
24 especially will say, testify, I've never, ever put my  
25 position in an aggressive position. I will never do that.

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1 If the man tell me, Well, hey, I'm going to make you lose  
2 \$6 million, you know, I say, No, no, no, no, make me lose \$6  
3 million dollars? No, no. You put seven-fifty, and if you  
4 owe me, I'll follow you for my difference, because you are  
5 entitled to one-third of the profit and you are responsible  
6 for one-third of the loss.

7 I could have answered something like that, but  
8 based on a position from him. Believe me, I don't start  
9 badness with people. But as a human being, I never panic. I  
10 will never panic, I never coward, but my hand is short. I  
11 don't bother people, but after all, I have all the right to  
12 defend my interest.

13 Q. At the conclusion of the Sea-Mart meeting, did  
14 you shake hands and go back to work out together to make a  
15 profit? At the end of the Sea-Mart meeting did you shake  
16 hands?

17 A. Yeah. The people was suggested that all of what  
18 we say will never work. We can't find a buyer, I will never  
19 buy him, he'll never buy me. The best solution is go back  
20 and work together and upgrade the store, and then if we was  
21 able to operate the store, the store can be marketed. It  
22 will have a value.

23 And they advised Mr. Idheileh to have me have  
24 the final word, after consultation. I know I'm not in an  
25 army, I'm dealing with a partner. An army you give orders.

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1 With a partner you sit down and discuss things, and exactly  
2 what I was doing with Mr. Idheileh; sit down and discuss  
3 things. I was not pushing orders. That's not my style.

4 How can I live with him in peace if I keep  
5 harassing him? I want to live with him in peace.

6 Q. Did there come a time when you decided to try to  
7 go find a buyer for Plaza Extra St. Thomas?

8 A. We always, everybody knows there's a buyer. One  
9 time Pueblo come, Pueblo president walk into my store and I  
10 offer him the store. I told him plain out, I told him I come  
11 to St. Thomas to make money, but it seems to me I'm not  
12 making no money. I came up with that statement because I  
13 cannot fool a chairman, a president over a company that's  
14 fifty-two stores. From the time he look at my store, he  
15 could see. He could grade my store to what level it is.

16 So I have no choice but to come to the man  
17 with the truth, because money does not concern me. What  
18 concern me, if you find me a liar. And I'm not going to lie  
19 to the president of Pueblo. I told him perfect, everything.  
20 I told him, Why didn't you buy me out? I think if I was you,  
21 you will buy me out, you will rent Four Winds to a furniture  
22 store, and you will eliminate competition.

23 The man was drinking coffee with me. The man  
24 laugh, watch me and laugh, and says, We'll buy you out later.  
25 We'll buy you out later. His intention to me is when it goes

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1 to the marshal, he'll pick it up. And he left. I tell him,  
2 Sir, I remember mentioning the man name, I says, Look, you  
3 see how my pants is dropping off and my shirt is coming out  
4 of my pants? I promise you as a man, I either put you to  
5 break even in both island, or make you lose money. I know  
6 you underestimate me now. Fine.

7 Because he, as a businessman, as the president  
8 of a company, to tell me I buy you out later is an insult to  
9 me. That means you want to buy me from the marshal. He  
10 knows the store is not doing any good, and it's nothing  
11 hidden.

12 Two thirty-five, his initial, he's the one in  
13 charge. At that time so much stores open up at one time,  
14 Cost-U-Less beat the price, Pueblo have to beat the price,  
15 Kmart. We was operating 26, 27 percent. And from now until  
16 a hundred years I can prove the store have to have, even up  
17 to now with the loan paid, I have to have 275,000 per week to  
18 break even.

19 Q. About a week after the meeting at Sea-Mart, did  
20 you give an interview to the Daily News --

21 A. Yes.

22 Q. -- saying you were looking for a buyer?

23 A. Yes.

24 Q. I want to mark this as Defendant's 1 --

25 Defendant's A, since he's marking his with numbers.

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1 (Deposition Exhibit No. A was  
2 marked for identification.)

3 Q. (Ms. Vazzana) Okay. Mr. Yusuf, in that  
4 interview did you explain that the store wasn't making money?

5 A. The store wasn't making money at all, not even  
6 near what we expecting. And I know the cost of it because we  
7 were never expecting Cost-U-Less to open. Otherwise I would  
8 never go with the investment to start with. But I already  
9 bought my equipment, I already signed the lease, and all of a  
10 sudden Cost-U-Less came, boom, and open up. And when you get  
11 into a fight, natural, any time you give up, you admitting  
12 you losing. In life, you have to keep fighting, fighting,  
13 fighting, fighting until you win.

14 And thanks God, now I am one hundred percent  
15 winner. But this is my effort and my blood.

16 Q. And was this article printed in the Daily News  
17 while you were still partners with Mr. Idheileh?

18 A. Excuse me?

19 Q. Was this article printed in the Daily News while  
20 you were still partners with Mr. Idheileh?

21 A. No, this is way after he left.

22 Q. No, it's about a week after the Sea-Mart meeting.

23 A. This is in '95.

24 Q. Right. It was December '94 when the --

25 A. Yeah, it's way after he left. He left '93. We

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FATHI YUSUF -- CROSS

1 open --

2 Q. Right, you opened in '94, October.

3 A. Ninety-three, I think we opened in '93, I  
4 believe. To the best of my recollection, October 28th, 1993.  
5 And Mr. Idheileh, he left before April -- exact date, I don't  
6 remember -- of '94. And this article, even eight months  
7 later, my intention was to sell. I'm stuck in St. Thomas. I  
8 just want to get out.

9 My offer to Pueblo, by the way, take the  
10 improvement. I want to get out. The man won't take it.  
11 Okay. United Corporation, you know, signed that loan and  
12 that loan have to be paid. Otherwise, I lose my shopping  
13 center and the house. Mr. Idheileh's exposure was only  
14 seven-fifty. My exposure is a lot more than seven-fifty.  
15 Tutu Park can sue me for the 25 years of rent. I'm stuck. I  
16 have to fight. I told my people, Run. Run around the clock.  
17 You get sleepy, go upstairs and sleep, hour, two hours, wash  
18 your face and go down and work.

19 But thanks God, we was able to turn the store  
20 around. But we put a lot of effort. And I explained to  
21 Mr. Idheileh, Please, I beg you to be patient. The man  
22 wouldn't be patient. What can I do?

23 Q. So was there a time after the Sea-Mart meeting  
24 when you had to get together with another group of Arab men  
25 to resolve your dispute between you and Mr. Idheileh?

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FATHI YUSUF -- CROSS

1           A.     Okay. You see, when I bought from the gentleman,  
2 we make the deal. I find an honest, honorable person to give  
3 me the money to encourage me to go for the deal. I did. Two  
4 hundred down, and 400,000 to be paid one hundred annually.  
5 We signs it. I don't know anybody in St. Thomas.  
6 Mr. Idheileh don't know anybody in St. Thomas. The one that  
7 is St. Thomas resident is Mr. Suid. He say, I will have my  
8 lawyer draw the contract.

9                     Okay. We signs it and it happened Mr. Suid  
10 guaranty that I will pay on time. And after he get  
11 Mr. Suid's guarantee, he insist he must have my nephew and my  
12 older brother guaranty also, because he was not confident we  
13 will ever make it to pay him back. And then Mr. Suid told  
14 Mr. Idheileh, This man, if he sign to something, he's  
15 honorable. Don't go too far. He say no.. He tell him I  
16 signs it, he say it's not enough. I want his older brother  
17 to be responsible. Just to show you how this man was so sure  
18 we going to fail. Okay?

19                     Then the man still is our friend, I was his  
20 partner, even he is no longer our partner, but he was in the  
21 store very frequent. He says, I want to look for a smaller  
22 business. I say, It's up to you.

23                     Finally, he find a business a little bit above  
24 Plaza Extra, a gas station on the part of the Skyline, I  
25 don't know, you know where it is. He say, I find a business

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1 for sale, and the man wanted so much, and I offer him so  
2 much. I don't remember the numbers but, Mr. Yusuf, I believe  
3 I want to take that place. You have any objection? I told  
4 him no. I told him our agreement is if you ever leave the  
5 partnership, you're not allowed to work in supermarket.

6 I put that clause because I didn't want to  
7 create a capital to the gentleman, plant experience in his  
8 chest, and in the future become my competitor. So I puts it.  
9 But since the man left, he left with a loss, clear like the  
10 sun, he want to go into another business, I have no  
11 objection.

12 He say, Would you object I sell grocery? I  
13 say no. He say, Mr. Yusuf, I'll be short a hundred thousand  
14 dollar. That's my biggest problem. I say, It's a good deal.  
15 Go for it, and I will give you the \$100,000. I'll find ways  
16 and means to raise the hundred thousand and give you.

17 That's to prove he did not sell under threat,  
18 because we're still friend. Okay? Then -- and he kept going  
19 about five or six times a day to the store. All right? One  
20 day he was in St. Thomas, and it happened he bought three  
21 cars for us for our person, and it happened he get to know  
22 the people for Avis. I wanted to buy a car for my daughter.  
23 We went to St. Croix as a friend, not enemy. You can't work  
24 with your enemy. If he wasn't a friend, up to that minute  
25 you can't work with him.

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FATHI YUSUF -- CROSS

1                   Then he asked me when can I give him the  
2 \$100,000? I said, Mr. Idheileh, come on. You asking me  
3 for -- you say you'll be short of a hundred thousand dollars.  
4 I'm going to squeeze myself, raise the money just to let you  
5 run your business, but now you and the man did not come to an  
6 agreement. I don't feel obligated to give you what I promise  
7 you.

8                   He say, No, I want my money to put in a  
9 savings account. I say, You better wait until you do. Then  
10 we spoke with a little bit rough voice. Then the man went  
11 and he get all the Arab community into my brother-in-law  
12 house, and he said his story, and I say my story what is the  
13 100,000, what it is.

14                   And we both accept the condition of the panel,  
15 of the judgment. I told them why I offer him the hundred  
16 before its due date. And he says no, he's entitled to it.  
17 It's his money. Anyhow, the panel rule against me and says,  
18 Look, the man sell it to you.

19                   Now, during that meeting there was no threat,  
20 nothing whatsoever. Just about the \$100,000. They said,  
21 Mr. Yusuf, I think you should give the man the hundred  
22 thousand dollars, you know? I smile. I accept their ruling.  
23 It's a condition before we -- as soon as we meet. Then I  
24 say, No problem. I have to pay 100,000 within six months  
25 anyhow. You guys rule against me to pay it now. I don't

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FATHI YUSUF -- CROSS

1 mind. He come and stand up and say, No, no, no, no, not from  
2 the first payment. The one hundred have to be from the last  
3 payment. I say, No, you got to be crazy.

4 The panel tell him, Mr. Idheileh, look, we are  
5 pushing the man. He don't have to give you the 100,000 now.  
6 You want him to give you a hundred now and six months later  
7 and it's from the last payment? And then he said, I won't  
8 accept it. I know what he want to do. I tell the man let  
9 him do whatever he want. It's a free country.

10 Then a week later my brother-in-law come and  
11 say, Man, pay the man his money. I say, No way I will pay  
12 him, based on the panel, not four days later. Then I think  
13 about ten days later, my brother-in-law say, Here, the man  
14 accept it. Give him the hundred thousand dollars. I say  
15 fine.

16 When the man bought three cars when he was in  
17 charge of St. Thomas, he bought a car and register it in his  
18 name. He move it to St. Croix, that cost you \$7,000. I owe  
19 the man a hundred, well, the panel rule for. I deduct my  
20 7,000 for the car, and here is a check for ninety-three.  
21 Give it to him, and I finish.

22 Q. Was there a time when Mr. Sharmouj came to you to  
23 ask that you pay Mr. Idheileh early?

24 A. Mr. Sharmouj, after the meeting in my  
25 brother-in-law house, I recall at least once he come to my

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FATHI YUSUF -- CROSS

1 office at least once, but it could be twice or three times,  
2 asking me that we making money now, he knows the whole store,  
3 and the man keep bugging him for his money. We want you to  
4 give the money in advance before the due date. I say, No  
5 way, man, we're finished with him. You already press me for  
6 the hundred. I accept the ruling. I did it. I don't owe  
7 the man anything else. He have to sit tight until the due  
8 date.

9 Then his brother came to me and I explain  
10 myself. They understand. Then my brother-in-law came, you  
11 know? And each time I go from St. Thomas to St. Croix, there  
12 is someone waiting for me, want Mr. Idheileh 300,000.

13 I tell Wally, Wally, come on. We don't need  
14 this. We have money. Let the man have his money earlier and  
15 let the man go. I told Mr. Idheileh finally, after I  
16 convince Wally, I'm a person who respect my partner. I don't  
17 make a single serious move until I get my partner approval.  
18 He says, We'll pay him.

19 Then I pay the \$100,000, I tell him, Look, you  
20 want the money early. Go to St. Maarten, sign for it in  
21 St. Maarten, and when you come back, and my nephew tell me to  
22 give it to you, I will be more than happy to give it to you,  
23 but I'm going to tell my nephew the story.

24 He went, he sign for the hundred thousand, and  
25 when he come, that money, I told Wally, Do not give it to

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FATHI YUSUF -- CROSS

1 your brother, to your uncle. Wally uncle is the same, my  
2 brother-in-law, because Wally mother and my wife are sisters.

3 Do not give the money to your uncle unless you  
4 have at least one of his brother present, and I need  
5 witnesses. So they gave it to him. Where they give the  
6 money, in which house, I have nothing to do with that. Maybe  
7 they told me, but it wasn't concern me. And I have thought,  
8 I told him hopefully later things come better, I'll just give  
9 him the rest.

10 Then I start to receive more and more pressure  
11 for the last two. I told Wally, Man, come on. If he go back  
12 St. Maarten again, let him go and sign in St. Maarten. When  
13 he come, I give it to him. I gave this gentleman two, three  
14 hundred thousand at least two years before the due date.

15 Did you think I don't know the value of the  
16 money? I could have put a saving account and make eight,  
17 nine thousand dollars annually, but I am not a troublemaker.  
18 I want to avoid people keep coming to me and say, Pay the man  
19 his money.

20 Q. At the time the last money was paid, did  
21 Mr. Idheileh ever make any complaints that he was owed more  
22 money than that?

23 A. That --

24 Q. That he was owed more money?

25 A. Up to the last payment, I have never heard a word

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FATHI YUSUF -- CROSS

1 from Mr. Ahmad Idheileh, or through him through anybody else  
2 that he have a bad deal or he needed more money. Never. And  
3 if he asked for it, I won't give it to him, because he's not  
4 entitled.

5 MS. VAZZANA: Okay. No further questions.

6 REDIRECT EXAMINATION

7 BY MR. ADAMS:

8 Q. Hopefully, these will be the last ones.

9 (Discussion held off the record.)

10 Q. (Mr. Adams) Mr. Yusuf, --

11 A. Yes.

12 Q. -- you stated that, again, that the store was  
13 losing money.

14 Now, my question to you, did you look at the  
15 daily receipts or the cash deposits to make that  
16 determination?

17 A. I get the information -- the information from  
18 Mr. Idheileh, how much we sold last week, how much we sold  
19 the week before.

20 Q. So that would be the daily receipts?

21 A. Daily information.

22 Q. Okay. Do you recall Mr. Idheileh requesting,  
23 through Attorney Watts, that he see or inspect the books?

24 A. Let me explain this for you.

25 Q. Did you sir, yes or no?

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FATHI YUSUF -- REDIRECT

1 A. What you say? Give me the question.

2 Q. Did you receive a request from Mr. Idheileh  
3 through Attorney Fred Watts that he inspect the books?

4 A. Yes, I did receive a letter.

5 Q. And I'd like to show you what is marked as  
6 number -- show you what will be marked as Plaintiff's  
7 Exhibit 8.

8 (Deposition Exhibit No. 8 was  
9 marked for identification.)

10 Q. (Mr. Adams) Do you recognize that letter, sir?

11 A. Yes.

12 Q. Is that the letter you received from Attorney  
13 Watts?

14 A. Maybe. If it's addressed to me, I have no proof  
15 to say no.

16 Q. Did you comply with Mr. Attorney Watts' request  
17 as far as having the books?

18 A. I would like to answer that with explanation  
19 please.

20 Q. Well, first, sir, did you comply with the request  
21 to have the books audited?

22 A. No, I did not.

23 Q. If we were to request an audit of those books or  
24 to see those books for that period of time, would those books  
25 be made available?

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FATHI YUSUF -- REDIRECT

1           A.    No, I -- a lot of our record, unfortunate, been  
2 disappearing from the time Mr. Idheileh was our partner. We  
3 left, and when this gentleman left, left in good faith, we  
4 never thought anything going to go like that.

5           Q.    So Mr. Yusuf, are you stating for the record that  
6 during the time that Mr. Idheileh was partner with the  
7 business that the books started to disappear?

8           A.    Some information that we can't find, we just  
9 simply can't find it.

10          Q.    And what information would that be?

11          A.    Any information. Sometime you go for an item,  
12 and if we know it's in that period of time, we become  
13 suspicious that Mr. Idheileh either took it or destroyed it.

14          Q.    So are you now at this point in time suggesting  
15 that --

16          A.    Suggesting?

17          Q.    -- suggesting that Mr. Idheileh was involved in  
18 some sort of illegal activity within the store?

19          A.    I have reason to believe.

20          Q.    Yes or no, sir?

21          A.    Yes.

22          Q.    For the record, you're stating that?

23          A.    Yes.

24          Q.    Did you have an audit of the books done at the  
25 time Mr. Idheileh left the store?

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FATHI YUSUF -- REDIRECT

1 A. No.

2 Q. If you had that suspicion, sir, why did you not  
3 request an audit?

4 THE WITNESS: (To Attorney Vazzana:) Now I can  
5 explain, right?

6 MS. VAZZANA: Uh-huh.

7 A. When we have this argument with Mr. Idheileh all  
8 the time, because he created it, one day he says I'm going to  
9 my lawyer. You're free to go. He went to his lawyer, of  
10 course what he have is the joint, a partner agreement, right.  
11 He show it to his lawyer, explain to him what is this  
12 agreement all about, and his lawyer have wrote me this  
13 letter.

14 I told Mr. Idheileh, Mr. Idheileh, I have  
15 received a letter from your lawyer. Now, we're only opening  
16 for a week or two weeks, I don't remember exactly, but I'll  
17 be more than happy to show to your lawyer, under one  
18 condition. We're friend. I would love to remain friend.  
19 Under one condition: If I can't prove everything I state,  
20 which is in front of the Book, go through it if you want, I  
21 will just leave Plaza Extra. I will be very shameful to come  
22 back to it. You could keep it. But if I can prove every  
23 penny is there, I'm going to bring a CPA, I will charge you  
24 whatever the CPA cost.

25 Mr. Idheileh answer, Come on, Mr. Yusuf.

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FATHI YUSUF -- REDIRECT

1 We're friend. I don't mean that. I'm sorry, I made a  
2 mistake.

3 And in proof to what I said, he have never  
4 have such complaint in front of the two wise committees. We  
5 never mistrust each other. But this now, after when I see he  
6 taking into court, the man was building a case against me  
7 without I'm aware of it. He was just simply building a case  
8 against me.

9 Q. Mr. Yusuf, do you recall Mr. Suid's deposition?

10 A. Yeah, I recall that he was deposition, yes.

11 Q. One minute. I'm trying to find it.

12 There's a part in here, he was talking  
13 about -- I forgot to mark where he was asked about opening  
14 the books.

15 (Discussion held off the record.)

16 MR. ADAMS: Back on the record.

17 Q. Now, Mr. Yusuf, do you recall Mr. Suid's -- or I  
18 will direct your attention to Mr. Suid's deposition.

19 A. Yes.

20 Q. And the question was asked of him: But  
21 Mr. Idheileh did not agree that the store was losing money?  
22 Mr. Suid answered, I do not recall, but I know he was in  
23 disagreement with that, because I think he had asked for to  
24 open the books, or he hired a lawyer or something. So I'm  
25 sure he was in disagreement with that, yes.

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## CERTIFICATE

## C-E-R-T-I-F-I-C-A-T-E

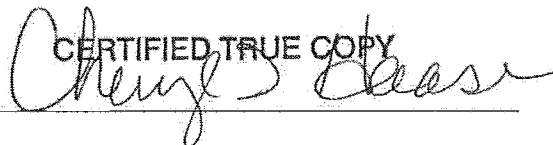
1  
2 I, CHERYL L. HAASE, a Registered Professional Reporter  
3 and Notary Public for the U.S. Virgin Islands, Christiansted,  
4 St. Croix, do hereby certify that the above and named  
5 witness, Fathi Yusuf, was first duly sworn to testify  
6 the truth; that said witness did thereupon testify as  
7 is set forth; that the answers of said witness to the  
8 oral interrogatories propounded by counsel were taken  
9 by me in Stenotype and thereafter reduced to typewriting  
10 under my personal direction and supervision.

11 I further certify that the facts stated in the  
12 caption hereto are true; and that all of the proceedings  
13 in the course of the hearing of said deposition are  
14 correctly and accurately set forth herein.

15 I further certify that I am not counsel, attorney or  
16 relative of either party, nor financially or otherwise  
17 interested in the event of this suit.

18 IN WITNESS WHEREOF, I have hereunto set my hand as  
19 such Certified Court Reporter on this the 4th day of  
20 February, 2000, at Christiansted, St. Croix,  
21 United States Virgin Islands.

22 CERTIFIED TRUE COPY

23 

24 Cheryl L. Haase, RPR

25  
Cheryl L. Haase  
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IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

AHMAD IDHEILEH,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 156/1997
	)	
UNITED CORPORATION and	)	
FATHI YUSUF, Individually,	)	
	)	
Defendants.	)	

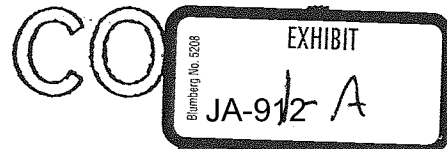
THE ORAL DEPOSITION OF FATHI YUSUF

was taken on the 2nd day of February 2000, at the Offices of Caribbean Scribes, 2132 Company St., Ste. 3, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 1:05 p.m. and 4:05 p.m. pursuant to Notice and Federal Rules of Civil Procedure.

Reported by:

Cheryl L. Haase  
Registered Professional Reporter  
Caribbean Scribes, Inc.  
2132 Company Street, Suite 3  
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FATHI YUSUF -- DIRECT

1           A.    I personally own 50 percent of Plaza Extra in  
2 1986. I own United Shopping Plaza. I'm a member of  
3 United Corporation, who owns United Shopping Plaza. I build  
4 that store, I was struggling for a loan. The whole island  
5 know what I went through. I said I'm going to build this  
6 building no matter what, and hold the supermarket for my  
7 personal use.

8                    It took me three years. I give an offer to  
9 two nephew of mine and my brother-in-law, Mr. Hamed, if they  
10 would like to join me in building up this store together, and  
11 we should not have any problem, if I finish build up the  
12 building, we should have no problem whatsoever to go to the  
13 bank and the bank will grant us the loan to operate the  
14 supermarket. Okay?

15                   During construction -- I'm going to go a  
16 little bit back to tell you what is my background. During  
17 construction, I was struggling for loan. And at that time  
18 Banco Popular, I remember, came into the Virgin Islands and  
19 took over the majority of interest of First National  
20 Citibank. They buy all their customers, and they was very  
21 hungry to do business in the island because they have  
22 expenses to face and they like to issue loan as fast as  
23 possible to cover their expenses.

24                   Excuse me. Can I have water please if you  
25 don't mind?

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JA-913

FATHI YUSUF -- DIRECT

1 So I left Nova Scotia, struggling, left them  
2 not to get a loan, but did not close my account. I struggle  
3 all over looking to get a loan. I went to all local banks at  
4 that time, and everybody says, I'm sorry, we can't help you.  
5 So I find it is a golden opportunity for me to go to Banco  
6 Popular.

7 So I went to the manager there, I explained to  
8 him my story what Scotia did to me and so he say, I will come  
9 to the site.

10 When he come to the site where I'm building,  
11 he says, How you going to put this building together?  
12 Where's your plan? I show it to him. It's almost zero, the  
13 specification. Just numbers for me, columns, but the column  
14 doesn't say what thick, what wide. It just give me the  
15 height.

16 So the bank, he says, Mr. Yusuf, I'm sorry.  
17 We don't do business that way. We have to have somebody  
18 professional plan with full specification. I could see your  
19 plan approved, I could see the steel here, but it's -- you  
20 don't have the proper material or record to take to my board  
21 of director to approve a loan in the millions.

22 So I understood. My answer to that gentleman  
23 was, unfortunate because of my financial situation, I have to  
24 choose this route. But I promise you, as a man, I will put  
25 that building together. The man told me at that time, I

FATHI YUSUF -- DIRECT

1 he gave me about 275,000, and to be 25 percent each,  
2 25 percent for my sister son, 25 percent for my brother son,  
3 25 percent for me.

4 But before I continue, I'm going to -- I would  
5 like to go back a little bit more to clear something. When I  
6 was in the financial difficulty, when I was in financial  
7 difficulty, my brother-in-law, he knew. I shouldn't -- he  
8 start to bring me money. Okay? He own a grocery, Mohammed  
9 Hamed, while I was building, and he have some cash. He knew  
10 I'm tight.

11 He start to bring me money. Bring me I think  
12 5,000, 10,000. I took it. After that I say, Look, we  
13 family, we want to stay family. I can't take no money from  
14 you because I don't see how I could pay you back. So he  
15 insisted, Take the money. If you can afford to, maybe pay  
16 me. And if you can't, forget about it. Okay. He kept  
17 giving me. I tell him, Under this condition I will take it.  
18 I will take it.

19 He kept giving me until \$200,000. Every  
20 dollar he make profit, he give it to me. He win the lottery  
21 twice, he gave it to me. All right? That time the man have  
22 a little grocery, they call Estate Carlton Grocery. Very  
23 small, less than 1,000 square foot, but he was a very hard  
24 worker with his children. And it was, you know, just like a  
25 convenience mom-and-pop stores. He was covering expenses and

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JA-915

FATHI YUSUF -- DIRECT

1 saving money.

2 I say, Brother-in-law, you want to be a  
3 partner too? He said, Why not? You know, as a family, we  
4 sit down. Says, How much more can you raise? Say, I could  
5 raise 200,000 more. I said, Okay. Sell your grocery. I'll  
6 take the two hundred, four hundred. You will become  
7 25 percent partner.

8 So we end up I'm 25 percent, my two nephew 25  
9 each, and my brother-in-law, Mohammed Hamed, 25 percent. I  
10 don't recall the year, could be '83 or '84, but at least  
11 thanks God in the year that Sunshine Supermarket opened,  
12 because his supermarket is the one who carries these two  
13 young men and my brother to go into the supermarket with me.  
14 So I have their money, I finish the building.

15 We call the refrigeration manufacturer, not to  
16 waste time. We book an order for our refrigeration, and we  
17 committed to it. And from their money I have paid \$100,000  
18 deposit on the equipment. I was so sure the gentleman at  
19 Banco Popular, he promised me, you know. Everything were  
20 look to go me encouraging. And especially at that time I'm  
21 sure anybody in St. Croix in the past twenty, thirty years,  
22 he knew that that building will never go up. Only maybe six  
23 people in St. Croix at that time says I might be able to put  
24 it up. But 99.9 of St. Croix resident, they were looking at  
25 me as a fool.

1 man and he look at me, he underestimate. It came to an  
2 extent, I tell him, Look, sir. I respect your profession.  
3 You're the bank manager. I respect that. And I want you to  
4 respect my profession. I'm a retailer. Everybody have a way  
5 of making a living. Oh, I been denied.

6 Then, but when I been denied, I have to tell  
7 my partner what's going on. I been entrusted to handle the  
8 job perfect, and I am obligated to report to my partner to  
9 anything that happened. I told my nephews and I told my  
10 partner, Hey, I can't get a loan, but I'm not giving up.

11 So two, three days later my two nephews split,  
12 say, We don't want to be with you no more, and we want our  
13 money. I say I don't have no money to pay you. The money's  
14 there, but if you want to leave because I default, you free  
15 to leave.

16 How we going to get paid?

17 I says, Shopping center is 50 percent owned by  
18 you uncle and 50 percent by me. I have to feed my children  
19 first, and whatever left over, I'll be more than happy to  
20 give it to you. Okay. What do you want us -- what do you  
21 want to pay us for rent of our money?

22 We come to an agreement, I pay them 12 percent  
23 on their money, and 150,000 default because I don't fulfill  
24 my commitment. I accepted that. We wait until my partner,  
25 which is my brother, came. He's an older man. And we came

1 up to Mr. Mohammed Hamed, I say, You want to follow them? He  
2 say, Yeah, I will follow them, but do you have any money to  
3 give? I say, Look, Mr. Hamed, you know I don't have no  
4 money. It's in the building, and I put down payment in the  
5 refrigeration. But if you want to follow them, if you don't  
6 feel I'm doing the best I can, if you want to follow them,  
7 you're free to follow them. I'll pay you the same penalty,  
8 75,000. I will give you 12 percent on your 400,000.

9 He says, Hey. If you don't have no money,  
10 it's no use for me to split. I'm going to stay with you.  
11 All right. I say, Okay. You want to stay with me, fine. I  
12 am with you, I am willing to mortgage whatever the  
13 corporation own. Corporation owned by me and my wife at that  
14 time.

15 Q. Uh-huh.

16 A. And my partner only put in \$400,000. That's all  
17 he put in, and he will own the supermarket. I have no  
18 problem. I told my partner, Look, I'll take you under one  
19 condition. We will work on this, and I'm obligated to be  
20 your partner as long as you want me to be your partner until  
21 we lose \$800,000. If I lose 400,000 to match your 400,000, I  
22 have all the right to tell you, Hey, we split, and I don't  
23 owe you nothing.

24 They say, Mr. Yusuf, we knows each other. I  
25 trust you. I keep going. Okay. Now, I told him about the

1 two partner left, Mr. Hamed. You know, these two guys, they  
2 left, my two nephew, they was your partner and my partner. I  
3 give you a choice. If you pay penalty with me and pay the  
4 interest with me, whatever they left is for me and you. But  
5 if I must pay them the one-fifty penalty and pay them  
6 12 percent, then Plaza Extra Supermarket will stay  
7 three-quarter for Yusuf and only one-quarter for you.

8 He says, Do whatever you think is right. I  
9 tell him, You want my advice? I be honest with you. You  
10 better off take 50 percent. So he took the 50 percent.

←  
↑

11 Q. Not to cut you short, Mr. Yusuf, but we have to  
12 play with time, and I appreciate the history as far as  
13 Plaza Extra St. Croix and United Corporation, but I want to  
14 focus primarily right now on your relationship with  
15 Mr. Idheileh.

16 There came a time that the two of you entered  
17 into talks about Plaza Extra on St. Thomas?

18 A. May I interrupt you, sir? I cannot build a roof  
19 before a foundation. The problem is you ask me who I am,  
20 where I come from. I am explaining myself. I want to show  
21 to you and the court that Mohammed Hamed is way before  
22 Plaza Extra was opened with me, he was my partner. And  
23 Mr. Idheileh, he himself knows, because the money he lend me  
24 when I open up Plaza Extra, he was getting paid from Wally.

25 I'm a person, if I run a business, I want to

FATHI YUSUF -- DIRECT

1 stay clean. You know what I mean, clean? I'm the final  
2 decision man. I don't give that to anybody. Excuse me. But  
3 when it come to money, I don't touch.

4 When I open up Plaza Extra Supermarket, who  
5 was in charge of the money at that time is Wally Hamed. When  
6 this gentleman, Mr. Idheileh, lend me his money as a friend,  
7 I have never signed for him. Who paid him? I never pay him  
8 back. My partner's son is the one who pay him back. And he  
9 knew, because he come to my office once or twice a week. And  
10 he's not the only one knew. Every single Arab in the Virgin  
11 Islands knew that Mr. Mohammed Hamed is my partner, way  
12 before Plaza Extra was opened.

13 Now, should I ask him or continue?

14 MS. VAZZANA: He's ready to give you a next  
15 question.

16 Q. (Mr. Adams) My question to you, sir, is there  
17 came a point in time that you and Idheileh started to, or  
18 started to have some discussions about Plaza Extra on  
19 St. Thomas, is that correct?

20 A. Repeat the question please.

21 Q. There came a point in time that you and  
22 plaintiff, Mr. Idheileh, entered into negotiation about a  
23 partnership, entering into a partnership with Plaza Extra on  
24 St. Thomas, is that correct?

25 A. I can answer that if I could explain it.

Cheryl L. Haase

JA-920



1 MR. ADAMS: Let the record indicate I'm  
2 showing Mr. Yusuf a copy of the Joint Venture Agreement.

3 A. I sees Mr. Idheileh and myself and Notary Public,  
4 and I believe it's a witness underneath. I don't know.

5 Q. (Mr. Adams) Now --

6 A. Notary Public someplace else, and the same  
7 witness, and my signature repeated again on a different page.  
8 My son. Yeah, my son is the president of United Corporation.

9 Q. Now, sir, the Joint Venture Agreement is between  
10 whom?

11 A. Between -- if you have to look at it this way, --

12 Q. No, no, I'm looking --

13 A. -- between me, my partner and him.

14 Q. No, Mr. Yusuf. Let us look at the Joint Venture  
15 Agreement that was signed.

16 A. Yeah, I seen it. United Corporation.

17 Q. Thank you.

18 A. But I want you please to be aware that my  
19 partner's with me since 1984, and up to now his name is not  
20 in my corporation. And that -- excuse me -- and that prove  
21 my honesty. Because if I was not honest, my brother-in-law  
22 will not let me control his 50 percent. And I know very  
23 well, my wife knows, my children knows, that whatever  
24 Plaza Extra owns in assets, in receivable or payable, we have  
25 a 50 percent partner.

Cheryl L. Haase

1 But due to my honesty --

2 Q. Now --

3 A. Excuse me. I want to clear who I am.

4 -- my partner, he have never have it in  
5 writing from me.

6 Q. Mr. Yusuf --

7 MS. VAZZANA: Okay. The question was the  
8 question was simple: Who it says the Joint Venture Agreement  
9 is between.

10 THE WITNESS: Actually, between  
11 United Corporation and Mr. Ahmad Idheileh.

12 Q. (Mr. Adams) Is there anywhere in that Joint  
13 Venture Agreement does the name Mr. Mohammed Hamed --

14 MS. VAZZANA: Hamed.

15 Q. -- appear anywhere in that joint venture?

16 A. No.

17 Q. Is United Corporation the owner of Plaza Extra  
18 St. Croix?

19 A. Yes.

20 Q. Is Mr. Hamed an officer of United Corporation?

21 A. Who?

22 Q. Mohammed Hamed.

23 A. No, he's not an officer.

24 Q. He's not an officer of United Corporation?

25 A. No.

Cheryl L. Haase

1 convince my partner's son, Look, we got \$6 million in this  
2 store. This man, we come to an agreement --

3 Q. We're talking about Sea-Mart.

4 A. Okay.

5 Q. So in Sea-Mart, when you negotiated that  
6 transaction that Mr. Idheileh would be able to be out of  
7 Sea-Mart, --

8 A. Yes.

9 Q. -- was that based upon the books or just on a  
10 hand shake?

11 A. There was no book whatsoever. Based on their  
12 conversation.

13 Q. Okay. Okay. You were asked by Attorney Adams,  
14 when it says United Corporation in this Joint Venture  
15 Agreement, in talking about Plaza Extra, talking about the  
16 supermarket on St. Thomas, who owned or who was partners in  
17 United Corporation Plaza Extra at the time before you entered  
18 into that Joint Venture Agreement?

19 A. It's always, since 1984, Mohammed Hamed.

20 Q. Okay. So when it says United Corporation --

21 A. It's really meant me and Mr. Mohammed Hamed.

22 Q. Okay.

23 A. Mr. Idheileh is well aware of that.

24 Q. Okay. Well, we're talking now Plaza Extra  
25 St. Thomas. Who was responsible for hiring employees?

Cheryl L. Haase  
(340) 773-8161

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

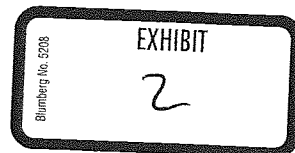
MOHAMMAD HAMED,	)	CIVIL NO. 1:12-CV-099
	)	
Plaintiff	)	MEMORANDUM OF LAW IN SUPPORT
	)	OF DEFENDANTS' <u>RENEWED</u> MOTION TO
Vs.	)	DISMISS, AND IN THE ALTERNATIVE FOR
	)	A MORE DEFINITE STATEMENT, AND
	)	TO STRIKE EXHIBITS "B" through "D"
	)	OF THE AMENDED COMPLAINT PURSUANT
FATHI YUSUF and	)	TO RULES 12(b)(6), 12(e), and 12(f) OF THE
UNITED CORPORATION	)	FEDERAL RULES OF CIVIL PROCEDURE
	)	
Defendants.	)	
_____	)	

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' RENEWED MOTION TO DISMISS, MOTION FOR A MORE DEFINITE STATEMENT, AND MOTION TO STRIKE EXHIBITS "B" THROUGH "D" OF THE AMENDED COMPLAINT**

**I. INTRODUCTION**

On September 18<sup>th</sup>, 2012, Plaintiff Mohammed Hamed ("Hamed") filed a complaint ("Original Complaint") against Defendants United Corporation ("United") and Fathi Yusuf ("Yusuf") alleging for the first time in 26 years the existence of a "partnership" with Defendant Yusuf, referring to it as the "Hamed & Yusuf" partnership. *Complaint* ¶3 [DOCKET ENTRY #1, attachment 3]. On October 19<sup>th</sup>, 2012, Plaintiff Mohammed Hamed filed an Amended Complaint in this action alleging that a "50/50 Partnership was created to create, fund, and operate this new grocery supermarket business, which they named Plaza Extra Supermarket." *Amended Complaint* ¶9 [DOCKET ENTRY #15].

With the Amended Complaint still failing to plead sufficient facts alleging the scope, nature, and extent of the partnership Plaintiff Hamed alleges to have with Defendant Yusuf,



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Defendants now respectfully again move to dismiss the Amended Complaint for failure to state a cause of action upon which relief can be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In the alternative, Defendants also move for a more definite statement under Fed. R. Civ. Proc. 12(e) as the Amended Complaint impermissibly and vaguely defines the existence of a "50/50 partnership." *Amended Complaint* ¶9 [DOCKET ENTRY #15]. The Amended Complaint fails to specify the nature, ownership, and scope of this alleged partnership, and why Defendant United is named as a party to this suit. Further, as Plaintiff Hamed through his agent and son Waleed Hamed have already conceded before the District Court of the Virgin Islands and the U.S. Attorney's Office for the last seven (7) years that the business arrangement between Plaintiff Hamed and Defendant Yusuf is a contractual joint venture, Plaintiff Hamed is estopped from now asserting a partnership under the equitable doctrines of Judicial and Quasi Estoppel, Issue Preclusion, and laches. As such, dismissal of the Amended Complaint is warranted. In the alternative Plaintiff should be ordered to provide Defendants with a more definite statement as to the formation, scope and nature of the alleged partnership to enable Defendants to properly respond to allegations of the Amended Complaint.

Last but not least, Defendants move to strike Exhibits "B", "C" and "D" under Fed. R. Civ. Proc. Rule 12(f). The Amended Complaint incorporates unsigned documents that were produced during private settlement discussions. An Order striking these exhibits is warranted in light of Plaintiff's intentional failure to attach numerous other proposed confidential unsigned settlement agreements where none mention the word "partnership." Plaintiff simply cannot cherry pick two emails and an unsigned proposed settlement agreement when Plaintiff has for 26 years denied the existence of a partnership, and when his Plaintiff's son and agent Waleed Hamed

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represented to the District Court of the Virgin Islands, and the U.S. Attorney's Office that no partnership ever existed between his father Plaintiff Hamed and Defendant Yusuf, but instead only a joint venture agreement granting Plaintiff Hamed fifty percent (50%) of the profits of the operations of the Plaza Extra Supermarkets.

## II. FACTS

On January 15<sup>th</sup>, 1979, Defendant United Corporation ("United") was organized and incorporated in the Virgin Islands. Since 1979, Defendant United has always been wholly owned by Defendant Yusuf and his family in various shares. **Exhibit A: Yusuf Affidavit** ¶3. In 1983, Defendant United completed the construction of a shopping mall on land parcels 4-C & 4-D of Estate Sion Farm; these parcels have always been owned by Defendant United in fee simple absolute, and remain so to this date. The shopping mall was named United Shopping Plaza ("Shopping Plaza"). Further, Defendant United acquired the trademark "Plaza Extra" and has since utilized the trademark name in all of its supermarket operations. **Exhibit A: Yusuf Affidavit** ¶ 7. Since 1986, Defendant United has continually used that trademark and never transferred or otherwise permitted anyone to have any kind of interest in the "Plaza Extra" trademark. **Exhibit A: Yusuf Affidavit** ¶ 7.

In 1986, due to financial constraints, Defendant Yusuf and Plaintiff Hamed entered into an oral joint venture agreement. The agreement called for Plaintiff Hamed to receive fifty percent (50%) of the net profits of the operations of the Plaza Extra supermarkets in exchange for a loan of \$225,000 and \$175,000 cash payment. The loan was repaid in full, and Plaintiff Hamed received 50% of the net profits thereafter. At no point did Plaintiff Hamed ever acquire a

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shareholder interest in Defendant United. Nothing in the Amended Complaint or any of the exhibits attached thereto demonstrate any shareholder interest by Plaintiff Hamed in Defendant United. Since its inception, Defendant United has always maintained separate bank accounts to collect rents and other incomes unrelated to its supermarket operations. At no point did Plaintiff Hamed ever receive any rental proceeds or other profits from United's other operations. **Exhibit A: Yusuf Affidavit ¶ 7. Original Complaint ¶14 [DOCKET ENTRY # 15].** Nothing in the Amended Complaint alleges that Plaintiff Hamed is entitled to any proceeds other than from the operations of the Plaza Extra supermarkets. As such, the parties contemplated only a 50/50 split of the profits of the Plaza Extra Supermarket stores.

**A. Plaza Extra Tutu Park St. Thomas Store ("Plaza Extra – St. Thomas")**

In October 1993, Defendant United expanded its supermarket operations by opening another Plaza Extra Store in Tutu Park Mall, St. Thomas. **Exhibit A: Affidavit of Yusuf, ¶8.** United's treasurer Defendant Yusuf negotiated and signed the leased premises for the Plaza Extra – St. Thomas store and was the only party to guarantee its lease. **Exhibit A: Affidavit of Yusuf, ¶8.** Nothing in the Amended Complaint alleges that Plaintiff Hamed ever shared in the risk of losses or obligations under the Plaza Extra St. Thomas store lease, nor that Plaintiff Hamed ever co-signed, or was a surety regarding any obligations of Defendant United. In sum, both the original complaint and the Amended Complaint fail to allege any facts concerning Plaintiff's risk of loss in any "partnership" Plaintiff Hamed alleges to have with Defendant Yusuf.

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**B. The Alleged “Hamed & Yusuf Partnership”**

Plaintiff, in his original Complaint, and for the first time in 26 years, alleges that he is a partner in a partnership called the “Yusuf & Hamed partnership.” *Original Complaint* ¶3 [DOCKET ENTRY #1, attachment 3]. The original Complaint, without specificity, alleges that the parties created the “Hamed & Yusuf partnership” and “used a corporate form in mid-1986 for tax purposes.” This allegation has now changed in the Amended Complaint, which completely removes any reference to Defendant United being used “for tax reporting purposes” but instead alleges that Defendant Yusuf offered Defendant United to report the tax obligations of the alleged partnership through Defendant United. *Amended Complaint* ¶8 [DOCKET ENTRY # 15].

The Amended Complaint fails to attach a single legal document, resolution, decision, memorandum of minutes, tax returns or schedules, or other communications showing the existence of a partnership of the magnitude that Plaintiff Hamed alleges - despite Plaintiff’s contention that he has been a partner for over 26 years. Indeed, during seven (7) years of court proceedings in the criminal matter of *U.S. v. United, 05-cr15*, Plaintiff’s agent Waleed Hamed, as well as his brother Waheed Hamed through his attorneys have always declared to the District Court of the Virgin Islands, and the U.S. Attorney’s Office that the relationship between their father Plaintiff Hamed and Defendant Yusuf is a “joint venture” entitling Plaintiff Hamed to fifty percent (50%) of the net profits of United’s operations of the Plaza Extra Supermarket stores.

**C. Exhibits B & C of the Amended Complaint: The Confidential Proposed Settlement Letters**

The Amended Complaint annexes five exhibits - “A” through “D” - in support of whatever alleged partnership that may exist between Plaintiff Hamed and Defendant Yusuf:



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- 1) **Exhibit A:** a 10 page transcript of a 1997 Oral Deposition of Defendant Yusuf in the case of *Idheileh v. United Corporation*, STT-156-CV-1997,
- 2) **Exhibit B:** an Email from DeWood Law Firm to Waleed Hamed;
- 3) **Exhibit C:** an unsigned Proposed Dissolution Agreement from DeWood Law Firm to Waleed Hamed.
- 4) **Exhibit D:** Letter from Fathi Yusuf to Mohammed Hamed concerning increased rent.
- 5) **Exhibit E:** Warranty Deed to Plot No. 9 Estate Grange and Plot No. 70 Estate Grange

The Amended Complaint fails to advise the court that Exhibits “B” through “D” were communications regarding attempts to privately settle a serious and costly dispute between the parties. Additionally, none of the foregoing exhibits show that either party has ever adopted the position that a partnership called the “Hamed & Yusuf partnership” ever existed. That position was rejected by both Defendants and Plaintiff, and as such neither party ever signed the proposed dissolution agreement attached as Exhibit “C” to the Amended Complaint. [DOCKET ENTRY # 15, attachment 3]. Further, the Amended Complaint fails to point to a single communication where Plaintiff Hamed accepted any terms of the unsigned dissolution agreement. The Amended Complaint fails to attach copies of numerous other Proposed Settlement Agreements circulated between the parties in June and August of 2012. These unsigned proposed agreements, as with the single proposed dissolution agreement, were designed to resolve the parties’ substantial differences, and to address Plaintiff’s agent Waleed Hamed’s threat to prevent Defendant United from filing its tax returns in the criminal matter. **Exhibit A:** *Affidavit of Fathi Yusuf*.

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Defendants again renew their Motion pursuant to Fed. R. Civ. Proc. 12(b)(6) to dismiss Plaintiff's Amended Complaint. In the alternative, the Court should grant Defendants' Motion for a More Definite Statement pursuant to Rule 12(e) as the Amended Complaint fails to specify the facts necessary to establish the scope, intent, and nature of the partnership it alleges. Finally, Plaintiff's attempt to use an unsigned and rejected proposal to settle the parties' differences short of litigation should be stricken as an exhibit pursuant to Fed. R. Civ. Pro. 12(f). Based on the arguments stated below, this Motion should be granted.

### III. ARGUMENT

#### A. **Plaintiff's Amended Complaint Fails to State a Claim Entitling Plaintiff To Relief Pursuant to 26 VIC § 75 because no "Partnership" Exists Between Plaintiff Hamed and Defendant Yusuf.**

##### i. **The Standard of Review for Rule 12(b)(6) Motions.**

When considering a Rule 12(b)(6) motion to dismiss for failure to state a claim upon which relief can be granted, a court must accept all well-pleaded allegations as true and view them in the light most favorable to the plaintiff. *Evancho v. Fisher*, 423 F.3d 347, 350 (3d Cir. 2005). To survive a motion to dismiss based on Rule 12(b)(6), Plaintiff's complaint must set forth "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is plausible if it "pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) (citing *Twombly*, 550 U.S. at 556). "The plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant has acted unlawfully." *Id.* (citing *Twombly*, 550 U.S. at 556). "A pleading that

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offers '**labels and conclusions**' or 'a formulaic recitation of the elements of a cause of action will not do.' Nor does a complaint suffice if it tenders 'naked assertion[s]' devoid of 'further factual enhancement.' ” *Id.* (quoting *Twombly*, 550 U.S. at 555, 557) (Emphasis Supplied).

In deciding a motion to dismiss, the Court **should consider** the allegations in the complaint, exhibits attached to the complaint and **matters of public record**. See *Pension Benefit Guar. Corp. v. White Consol. Indus., Inc.*, 998 F.2d 1192, 1196 (3d Cir.1993) (Emphasis Supplied). The Court may also consider “undisputedly authentic” documents where the plaintiff’s claims are based on the documents and the defendant has attached a copy of the document to the motion to dismiss. *Id.* The court need **not** assume that the plaintiff can prove facts that were not alleged in the complaint, see *City of Pittsburgh v. West Penn Power Co.*, 147 F.3d 256, 263 (3d Cir.1998), nor credit a complaint’s “bald assertions” or “legal conclusions.” *Morse v. Lower Merion Sch. Dist.*, 132 F.3d 902, 906 (3d Cir.1997).

As will be demonstrated, Plaintiff’s Amended Complaint makes only a bald assertion of a “50/50 partnership” and fails to define the requisite elements of an alleged oral or implied “partnership.”

**i. Background: The V.I. Uniform Partnership Act (VIUPA)**

Under the VIUPA a partnership is defined as “an association of two or more persons to carry on as co-owners a business for profit formed under **section 22** of this chapter, predecessor law, or comparable law of another jurisdiction.” 26 VIC § 2 (Emphasis Supplied). The Uniform Partnership Act (“UPA”) has been adopted by numerous states, and interpreted amply by those jurisdictions’ state and federal courts. To determine if a partnership exists, there must be “**clear, mutual assent** on the part of two or more persons” to form a partnership. *In Re Jackson*, 28 B.R.

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559, 562-63 (Bankr. E.D.Pa.1983) (Emphasis Supplied). There is no requirement that the partnership agreement be in writing, and may be made orally, or it may be found to exist from all of the attending circumstances. *See Ruth v. Crane*, 392 F.Supp. 724, 733 (E.D.Pa.1975). An established pattern of profit and loss sharing may support a finding of a partnership, but is **not conclusive**. *See Canfield v. Canfield*, 4 Pa. D. & C.3d 110, 113 (Pa.Com.Pl.1977) (Emphasis supplied). Further, intent to form a partnership may also be found through a partnership tax return. *Leprino Foods Co. v. Gress Poultry, Inc.*, 379 F.Supp.2d 650 (2005).

The determination of whether a partnership exists is a question of fact concerning the intent of the parties. The burden of proof to show a partnership is on the one **alleging** the partnership. *Falkner v. Falkner*, 24 Mich. App. 633 (1970); *Fletcher v. Fletcher*, 197 Mich. 68 (1917). However, the burden is stricter **when relatives<sup>1</sup> are the alleged partners**. *Falkner, supra*; *Lobato v. Paulino*, 304 Mich. 668 (1943). The UPA provides some guidelines for determining the existence of a partnership. In *Barnes v. Barnes*, 355 Mich. 458, 461 (1959), the court held “at the present time no test is conclusive, though in modern law the factor of the intent of the parties, gauged by the legal effect of their agreement, bulks large.” *Id.*

Further, the elements of a partnership include a voluntary association of two or more people with legal capacity in order to carry on, via co-ownership, a business for profit. Co-ownership of the business requires more than merely joint ownership of the property and is usually evidenced by **joint control** and the **sharing of profits and losses**; another indicia of co-ownership is **mutual agency**. *Id.*

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<sup>1</sup> The Hamed family and the Yusuf family are related by marriage.

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**ii. Hamed's Amended Complaint Alleges an Oral/Implied "Partnership" that Even if it Exists, Cannot Provide Plaintiff with the Relief Requested.**

Plaintiff allege in his original Complaint that in 1986 an oral partnership called "Hamed and Yusuf partnership" was formed. *Original Complaint*, ¶3 [DOCKET ENTRY #1, attachment 3]. This bare allegation, repeated in different words in the Amended Complaint, still fails to specifically plead how that alleged partnership was formed. Further, it erroneously alleges that the "Hamed & Yusuf partnership" was formed to operate the Plaza Extra supermarket store in Estate Sion Farm only. This is factually impossible. This alleged "partnership" could not have existed in mid-1986 to operate the Plaza Extra Supermarket stores because United has been the owner of the United Shopping Plaza since 1983. Defendant Yusuf is only a minority shareholder of United, and does not directly own any of the Plaza Extra supermarkets. Only Defendant United owns and operates the Plaza Extra Supermarkets. The Amended Complaint fails to allege that crucial legal and factual distinction, and fails to allege if this alleged "partnership" ever acquired any shares of Defendant United. To this date, Plaintiff seems incapable of asserting any claim against Defendant United. As such, nothing in the Amended Complaint establishes any claim for relief against Defendant United.

The Amended Complaint further fails to allege the ownership interest of Defendant United in the operations of the Plaza Extra Supermarkets. The Amended Complaint, suddenly drops any mention of Defendant United as being formed "as a tax reporting entity" as it did in ¶5 of the original complaint, and now alleges that Defendant Yusuf used United Corporation as a tax reporting service for the partnership between Plaintiff Hamed and Defendant Yusuf. This absurd representation that a partnership needs a corporation to report taxes is a novel one, and unheard of. Plaintiff's Amended Complaint conveniently omits when Defendant United was incorporated,

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who the shareholders are, and the fact that Defendant United existed seven (7) years before Yusuf and Hamed met in mid-1986 to discuss any business agreements. Intentionally omitted from Plaintiff's complaints is the fact that Plaintiff Hamed is not even entitled to any of the rent proceeds United collects exclusively for the benefit of its shareholders. Clearly, Plaintiff Hamed cannot be a "50/50" partner when he has never been entitled to any rent profits of Defendant United, and where Defendant United had always exclusive right to all rents from its management and operations of the United Shopping Plaza.

Even if the Amended Complaint sufficiently alleges that a "Hamed & Yusuf partnership" exists, the only relief Mohammed Hamed would be entitled to is a fifty percent (50%) share of Defendant Yusuf's 7.5% ownership of Defendant United's outstanding stocks. However, this is not what Plaintiff Hamed contemplates in his Amended Complaint. Instead, Plaintiff Hamed ambiguously alleges a massive legal partnership with dubious and unspecific claims to properties and assets that are unsupported by specific facts. Simply stated, and as a matter of public record, Defendant Yusuf never did business as (d/b/a) Plaza Extra Supermarket, and never owned outright all of the shares of Defendant United Corporation. The Amended Complaint, like the original complaint, fails to annex a single legal document, tax return, informational return, etc., to demonstrate the existence of the alleged "Hamed & Yusuf" partnership.

**iii. No Joint Control and Joint Management**

Hamed's sole job at the Plaza Extra Supermarket in Sion Farm was that of a warehouse supervisor. Plaintiff ceased working for United in 1996, and moved overseas. **Exhibit B: Affidavit of Maher Yusuf** at ¶ 13. Hamed has never participated in a single management decision, nor ever

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risked any losses in the so called alleged “partnership” that Hamed now alleges to exist. **Exhibit A: Affidavit of Yusuf** at ¶ 6.

In sum, United Shopping Plaza, which is situated on approximately 6 acres in Estate Sion Farm, has always been owned in fee simple absolute, operated, and managed by Defendant United as far back as 1983: more than three (3) years before Plaintiff’s alleged “Partnership” existed. **Exhibit B: Affidavit of Maher Yusuf** at ¶ 6.

Paragraph 12 of the Amended Complaint alleges that “the partnership between Hamed and Yusuf subsequently expanded to two other supermarket locations, one in the west end to St. Croix, and one in St. Thomas.” This again is incorrect for the following reasons:

- a. Only Defendant United has ever operated and carried the trademark name “Plaza Extra.” The Complaint does **not** allege there is a partnership between Hamed and United. It only refers to Hamed and Yusuf.
- b. Yusuf is only a minority shareholder of United. United is owned in various shares by numerous members of the Yusuf family.<sup>2</sup> The Complaint fails to allege that United ever transferred any of its shares to this newly alleged “Hamed & Yusuf Partnership.”
- c. The Complaint fails to allege that Plaza Extra Supermarket in Tutu Park was leased by United, with Yusuf personally guaranteeing all lease obligations.
- d. The Complaint fails to allege that Hamed ever signed a single lease or guaranteed a single contractual or monetary obligation for Defendant United, including the lease agreement with the landlord/owners of the Tutu Park Mall location.

### ¶13 of the Amended Complaint

Paragraph 13 alleges “that the three Plaza Extra supermarkets have been managed jointly by the Partnership” – however, there is no mention of what duties and decisions Hamed undertook, or what obligations Plaintiff guaranteed jointly with either United or Yusuf as a

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<sup>2</sup> See *supra* at footnote 5.

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purported partner. Without more ¶13 fails to describe what central management duties Hamed engaged in, executed, and implemented. Without joint management and risk of loss to a partner the complaint fails to properly allege the requisites of a “partnership.”

#### **¶16 of the Amended Complaint**

In ¶16 of the Amended Complaint, Plaintiff asserts that “the bank accounts for the three Plaza Extra supermarkets have always been accessible equally to Hamed and Yusuf, with the parties agreeing that one family member from each of the Hamed and Yusuf families will sign each check written on these bank accounts.” This representation is ambiguous as to lead the court to believe that a partnership existed requiring the parties to equally access the accounts. **Equal access to accounts does not translate to equal ownership of the accounts.** The Amended Complaint fails to allege that anyone else but United is the owner of these bank accounts.

Paragraph 9 of the Complaint alleges that “United has always had separate accounting records and separate bank accounts for its shopping center and business operations that were unrelated to the Plaza Extra supermarkets.” This clearly demonstrates Plaintiff’s lack of any ownership interest in Defendant United since even the Amended Complaint admits that United had separate bank accounts unrelated to the Plaza Extra supermarkets that are for the sole benefit of United’s shareholders.

Paragraph 20 of the Complaint alleges that “from time to time, Mohammed Hamed and Yusuf have used these profits distributed solely from these supermarkets accounts to buy other businesses and real property, always then owning these jointly held assets, regardless of the form of ownership, on a 50/50 basis.” Incredibly, the Complaint fails to state the name of a single business that the parties purchased and operated jointly. Though the parties have formed



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corporations for various purposes, the parties never acquired nor invested in any **other** businesses jointly as partners, but rather as shareholders in specific corporations formed for specific purposes. Further, the Amended Complaint fails to state whether those alleged businesses are the assets of the so called entity called "Hamed & Yusuf partnership" or the assets of other corporate entities. Plaintiff fails to allege what business the so called "Hamed & Yusuf partnership" purchased, from whom and when these businesses were purchased. Again, the Amended Complaint fails to allege with the required specificity what joint assets and businesses were purchased under the alleged "Hamed & Yusuf partnership."

Last but not least, nothing in the Amended Complaint alleges when Plaintiff Hamed appointed Waleed Hamed as his agent. This omission is convenient for the Plaintiff because it demonstrates clearly the fact Hamed was no longer associated with United since 1996. **Exhibit A: Yusuf Affidavit.** Even assuming there is a valid Power of Attorney to Waheed Hamed, the Amended Complaint fails to allege the scope and details of that power of attorney. The Amended Complaint further fails to allege what central management duties Waleed Hamed undertook on behalf of his father Mohammed Hamed. Failure to allege these necessary facts is fatal to Plaintiff's alleged partnership.

**C. Judicial Estoppel and Quasi Estoppel Precludes Hamed from Asserting the Existence of a Partnership.**

Even if the facts were to support the existence of an oral partnership, the doctrine of Judicial and Quasi Estoppel precludes Hamed from now asserting the existence of a "partnership" that Plaintiff has actively denied for the last twenty six (26) years. Plaintiff cannot produce a single signed document showing he is a partner with Yusuf, other than a deposition transcript

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where the term “partner” is used to refer to the joint venture agreement Plaintiff Hamed entered into with Defendant Yusuf . For the last seven (7) years, Plaintiff through his agent Waleed Hamed, represented to the Government that no “partnership” existed between Plaintiff Hamed and Defendant Yusuf in the case of *U.S. v. United*. In short, even if a “partnership” is found, Plaintiff is estopped from asserting this newly contrived entity called the “Hamed & Yusuf partnership” to ensure equity and avoid grave injustice and prejudice to defendants United and Yusuf. The doctrine of judicial estoppel and quasi-estoppel are implicitly permitted under 26 V.I.C. §2(a), which states “Unless displaced by particular provisions of this chapter, the principles of law and **equity supplement** this chapter.”

**i. Judicial Estoppel: Background**

The doctrine of judicial estoppel precludes a party from contradicting its previous position where there has been no change in the law, simply because its interests have changed. *See New Hampshire v. Maine*, 532 U.S. 742 (2001). The doctrine’s purpose is principally “to protect the integrity of the judicial process by prohibiting parties from deliberately changing positions according to the exigencies of the moment.” *New Hampshire*, 532 U.S. at 749. The government is no exception. *See McCarron v. FDIC*, 111 F.3d 1089 (3d Cir. 1996).

“Judicial estoppel prevents a party from ‘playing fast and loose with the courts,’” *Scarano v. Central R. Co.*, 203 F.2d 510, 513 (3d Cir. 1953) (internal citation omitted). In *New Hampshire*, the Supreme Court cited to three non-exhaustive factors indicating whether to apply judicial estoppel:

First, a party’s later position must be ‘clearly inconsistent’ with its earlier position. Second, courts regularly inquire whether the party has succeeded in persuading a court to accept that party’s earlier position, so that judicial acceptance of an inconsistent position would create ‘the perception that either the first or the second

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court was misled,' ... A third consideration is whether the party seeking to assert an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped.

*Id.* at 750, 751. Moreover, the court noted that it cannot apply one party's inconsistent positions without "undermining the integrity of the judicial process." *Id.* at 755.

The Third Circuit has "consistently held that judicial estoppel precludes a party from assuming a position in a legal proceeding inconsistent with one previously asserted" and emphasizes that such a practice is "an evil the courts should not tolerate." *Gov't of Virgin Islands v. Paniagua*, 922 F.2d 178 (3d Cir. 1990); *Delgrosso v. Spang*, 903 F.2d 234, 241 (3d Cir. 1990). Such that, "a party should not be allowed to gain an advantage on one theory, and then seek an inconsistent advantage by pursuing an incompatible theory." *Krystal Cadillac-Oldsmobile GMC Truck, Inc. v. Gen. Motors Corp.*, 337 F.3d 314, 319-20 (3d Cir. 2003). The test is whether a party has taken "(1) irreconcilably inconsistent positions; (2) adopted . . . in bad faith; and (3) a showing that . . . estoppel . . . addresses the harm and . . . no lesser sanction [is] sufficient." *G-I Holdings, Inc. v. Reliance Ins. Co.*, 586 F.3d 247, 262 (3d Cir. 2009).

The doctrine of estoppel springs from equitable principles and the equities in the case, and the doctrine is invoked to prevent injustice, as well as promote the ends of justice. It is invoked in the interests of justice, morality, and common fairness. **The doctrine also stands for the basic precepts of common honesty, clear fairness, and good conscience.** *Omega Indus., Inc. v. Raffaele*, 894 F. Supp. 1425 (D. Nev. 1995). Estoppel is an equitable remedy that the courts may invoke to prevent a party from benefiting from **its misconduct**; it is designed to prevent one party from suffering gross wrong at the hands of another party who has brought about the

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condition. The doctrine of estoppel is designed to prevent injustice by not permitting a party to repudiate a course of action on which another party has relied to his or her detriment. *Id.*

**ii. Hamed's Misconduct, Individually, and by his "Authorized Agent Waleed Hamed, Precludes him from Asserting a Partnership.**

The following factual outline sets clearly Plaintiff's misconduct and the necessity of avoiding injustice by invoking judicial and quasi-estoppel:

- a. Plaintiff worked as a warehouse supervisor at the Plaza Extra – Estate Sion Farm store only from 1986 to 1996, when Plaintiff retired and moved to live in Jordan. Plaintiff's The Amended Complaint fails to allege anything concerning Hamed's joint management duties, if any exist.
- b. Plaintiff never filed or signed a single partnership tax return, partnership information return, statement of partnership, or any other document purporting the existence of any type of partnership. Absent from the Complaint is any reference whatsoever to a single return or document Plaintiff has ever filed with any government agency showing the existence of a "partnership."
- c. Plaintiff through his agent Waleed Hamed repeatedly represented for the last seven (7) years to the Government and this Court that no partnership ever existed, thereby severely prejudicing Defendants' legal position with the Government in the criminal case. **Exhibit A: Yusuf Affidavit ¶ 7.**
- d. In the criminal case, the Criminal Defendants have always truthfully represented with the consent of each defense counsel representing agent Waleed Hamed and Waheed Hamed to the Government that United has always been owned completely by the Yusuf family, and has only granted Mohammed Hamed a limited interest in the profits of the operations of United. See **Exhibit B: Affidavit of Maher Yusuf.**
- e. Mohammed Hamed never intervened for the last seven (7) years in the case of *U.S. v United Corporation* to assert the existence of a partnership. Plaintiff is thus precluded under the doctrine of issue preclusion from asserting this issue in the current proceedings. The Amended Complaint fails to allege what measures or actions Plaintiff undertook to assert a partnership interest in the criminal case.
- f. United and Yusuf have to their great detriment during the last 26 years relied on the representations of Hamed to the public and to the IRS and VIBIR the true nature of

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their agreement, mainly that their relationship is one of a contractual joint venture and not a partnership. As such, United has always operated as a *de jure* corporation, and filed its returns as a corporation. **Exhibit B: Affidavit of Maher Yusuf** .

- g. To permit Plaintiff to now declare a “partnership” would mean substantial tax consequences to United and Yusuf, for which they cannot possibly amend and correct.<sup>3</sup>

The conclusion is simple: if Plaintiff was a partner he should have said so 26 years ago. Plaintiff cannot now seek declaratory relief as a partner just because it now suits him financially. As such, Plaintiff must be estopped pursuant to the doctrines of Judicial Estoppel and Quasi-Estoppel from asserting a partnership even if the court were to conclude that an oral or implied “partnership” did exist.

**iii. The Doctrine of Unclean Hands Precludes Assertion of any Partnership by Plaintiff Hamed.**

Similar to its Judicial and Quasi Estoppel cousins, the doctrine of unclean hands is applicable here. This doctrine is designed to preclude a party acting in bad faith from using the judicial system to further its ends. “The unclean hands doctrine derives from the equitable maxim that ‘he who comes into equity must come with clean hands.’” *Ellenburg v. Brockway, Inc.*, 763 F.2d 1091, 1097 (9th Cir.1985). “This maxim ‘closes the doors of a court of equity to one tainted with inequity or bad faith relative to the matter in which he seeks relief, however improper may have been the behavior of the defendant.’” *Id.*, citing *Precision Inst. Mfg. Co. v. Automotive Maintenance Mach. Co.*, 324 U.S. 806, 814 (1945).

Application of the unclean hands doctrine is left to the broad discretion of the trial court. *Precision Instrument, supra; Washington Capitols Basketball Club, Inc. v. Barry*, 419 F.2d 472, 478 (9th Cir.1969). This doctrine will bar a party from receiving an equitable remedy where

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<sup>3</sup> See I.R.C. § 6511 (establishing statute of limitations to file amended income tax returns).

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that party has acted in **bad faith** (*Wells Fargo & Company v. Stagecoach Properties, Inc.*, 685 F.2d 302, 308 (9th Cir.1982)) with respect to the subject matter of its claims. *Fuddrucker, Inc. v. Doc's B.R. Others, Inc.*, 826 F.2d 837, 847 (9th Cir.1987) (Emphasis Supplied), citing, *CIBA-GEIGY Corp. v. Bolar Pharmaceutical*, 747 F.2d 844, 855 (3d Cir.1984). The party asserting this doctrine has the burden of proving its application. *See e.g. Conan Properties, Inc. v. Conans Pizza, Inc.*, 752 F.2d 145, 150 (5th Cir.1985).

Hamed through his agent Waleed Hamed has repeatedly represented to every government agency through years of tax returns and through their attorneys that Plaintiff was never a partner with either Yusuf or United. Reincorporating the facts outlined in in the Judicial and Quasi Estoppel arguments, it is submitted that Plaintiff's actions amount to bad faith as contemplated under the doctrine of "unclean hands." As such, Plaintiff's assertion that a partnership exists must be denied.

**D. The Statute of Frauds Precludes Any of Plaintiff's Implied or Express Claims for Interest in Real Property Owned by Defendant United.**

The Statute of Frauds clearly bars any of Plaintiff's implied claims of interest in any real property owned by Defendant United. As early as 1979, United has purchased and acquired in fee simple absolute five of the six acres of the land where the United Shopping Plaza currently situates. In 1992, United acquired an additional acre of land. Not a single allegation in the Amended Complaint shows any transfer of United's property to Mohammed Hamed, or any other entity. Moreover, a mere allegation of an oral partnership cannot circumvent the clear reach of the Statute of Frauds to real estate transactions and title to property.

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**E. Plaintiff is Precluded from Asserting a Partnership Under the Doctrine of Issue Preclusion.**

The doctrine of issue preclusion derives from the simple principle that “later courts should honor the first actual decision of a matter that has been actually litigated.” This doctrine ensures that “once an issue is actually and necessarily determined by a court of competent jurisdiction, that determination is conclusive in subsequent suits based on a different cause of action involving a party to the prior litigation,” *Montana v. United States*, 440 U.S. 147, 153 (1979). The prerequisites for the application of issue preclusion are satisfied when: i) the issue sought to be precluded is the same as that involved in the prior action; ii) that issue was actually litigated; iii) it was determined by a final and valid judgment; and iv) the determination was essential to the prior judgment.” See *In re Graham*, 973 F.2d 1089, 1097 (3d Cir.1992) (quoting *In re Braen*, 900 F.2d 621, 628-29 n. 5 (3d Cir.1979). Complete identity of parties in the two suits is **not** required for the application of issue preclusion.

**i. The Issue Sought to be Precluded is the Same as that Involved in the Prior Action**

Hamed was not a party to the criminal case. However, Hamed’s business status and relationship with Yusuf was raised repeatedly in the criminal case and affirmatively declared to be not be a “partnership” but a joint venture agreement. There, Plaintiff’s agent Waleed Hamed made binding representations that the business agreement with Defendant Yusuf is only a joint venture giving Hamed only an interest in the net profits of Defendant United’s Plaza Extra supermarket operations. As such, the parties in the criminal case were able to resolve the criminal proceedings because the business relationship between Hamed and Yusuf was declared to be a contract, and not a partnership.

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**ii. The Issue was Actually Litigated**

The status of the parties was litigated and resolved by Plaintiff's agent Waleed Hamed in the criminal case. There, Hamed's agent specifically asserted that no partnership existed, and consented to the plea agreement entered into between United and the Government because the entity was declared to be a non-partnership. As such, Hamed is precluded under the "offensive non-mutual collateral estoppel" from now asserting a partnership his agent denied to have ever existed. *See Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 326 (1979) (where the court concluded that "a litigant who was not a party to a prior judgment may nevertheless use that judgment 'offensively' to prevent a defendant from re-litigating issues resolved in the earlier proceeding" subject to an overriding fairness determination by the trial judge. Here, Yusuf is seeking to preclude Hamed from now asserting an issue that has already been adjudicated in the criminal case – by way of stipulation and admission of Hamed's agent through his attorneys, over a seven (7) year period – that no partnership existed between the parties, and that Hamed's interest is only a limited (50%) interest in the net profits of the Plaza Extra supermarket operations. As such, Plaintiff Hamed is now precluded from asserting the existence of a partnership that he denied to have ever existed. Additionally, the declaration by Plaintiff's agent Waleed Hamed that no partnership existed between Hamed and the Defendants was necessary for the resolution of the criminal case.

**F. The Amended Complaint Requires a More Define Statement**

"If a pleading . . . is so vague or ambiguous that the responding party cannot reasonably be required to frame a responsive pleading, the responding party may move for a more definite



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statement.” *Bacon v. Mandell*, 2012 U.S. Dist. LEXIS 132231 (D.N.J. Sept. 14, 2012). *See also Wood & Locker, Inc. v. Doran & Assocs.*, 708 F. Supp. 684, 691 (W.D. Pa. 1989) (“The basis for granting such a motion is unintelligibility, not lack of detail.”).

On its face, the Amended Complaint is fatally defective for two primary reasons: it (1) defines the allegations “attributable to” Mohammad Hamed and Fathi Yusuf as “acts done either directly by the Plaintiff or indirectly through his family members acting as [his respective] authorized agent” and (2) “collectively” refers to Mohammad Hamed as “Hamed” regardless of whether such collective reference, as defined in the Amended Complaint, relates to acts allegedly done “directly” by Mohammad Hamed or indirectly, i.e., “through his family members acting as his authorized agent.” (Amended Complaint ¶2). Such convoluted pleading leaves Defendants – and the Court – guessing about the allegations asserted in the Amended Complaint.

By way of example, pursuant to the definitions of “Hamed” employed in the Amended Complaint, it is entirely unclear whether the allegation that “Hamed and Yusuf formed a partnership” (Amended Complaint ¶ 5) alleges that Mohammad Hamed and Fathi Yusuf formed a partnership; or one of Mohammad Hamed’s undisclosed family members acting as Mohammad Hamed’s authorized agent and Fathi Yusuf formed a partnership; or whether any number of undisclosed “family members acting as [an] authorized agent” for Mohammad Hamed and Defendant Yusuf formed a partnership. Each of those interpretations is possible under the current version of the Amended Complaint. Similarly, it is entirely unclear whether the allegation that “the three Plaza Extra supermarkets have been managed jointly by Hamed and Yusuf” (Amended Complaint ¶ 7) alleges that Mohammad Hamed and Defendant Fathi Yusuf jointly managed the supermarkets; or one of Mohammad Hamed’s family members acting as Mohammad Hamed’s

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authorized agent and Fathi Yusuf jointly managed the supermarkets; or whether any number of undisclosed “family members acting as [an] authorized agent” for Mohammad Hamed and Defendant Fathi Yusuf, jointly managed the supermarkets. The vast majority, if not all, of the material allegations in the Amended Complaint are equally unintelligible and cannot reasonably serve as a basis upon which relief can be granted, and otherwise allow Defendants to reasonably frame any defensive pleadings and papers. Accordingly, requiring Plaintiff Hamed to replead is appropriate under the circumstances.

**G. Striking The Factual Allegations and Exhibits**

Motions to strike pleadings are governed by Federal Rule of Civil Procedure 12(f), which allows the court, “upon motion made by a party . . . or upon the court's own initiative at any time . . . [to strike] from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” However, “even where the challenged material is redundant, immaterial, impertinent, or scandalous, a motion to strike should not be granted unless the presence of the surplusage will prejudice the adverse party.” *Symbol Techs., Inc. v. Aruba Networks, Inc.*, 609 F. Supp. 2d 353, 359 (D. Del. 2009). But it is beyond quibble that communications in furtherance of settlement discussions are inadmissible under Fed. R. Evid. 408. Indeed, the Third Circuit has approved the 10<sup>th</sup> Circuit’s holding that even “if application of Rule 408 exclusion [is] doubtful, [the] better practice is to exclude evidence of compromise negotiations.” *Affiliated Mfrs. v. Aluminum Co. of Am.*, 56 F.3d 521, 528 (3d Cir. 1995) citing *Bradbury v. Phillips Petroleum Co.*, 815 F.2d 1356, 1364 (10th Cir. 1987).

Moreover, courts within the Third Circuit have found that motions to strike references to settlement negotiations are appropriate when they found factual allegations to be inadmissible

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under Rule 408 and thus immaterial. *See, e.g., Ciolli v. Iravani*, 625 F. Supp. 2d 276, 284-89 (E.D. Pa. 2009); *Bergman v. Jefferson-Pilot Life Ins. Co.*, 2003 U.S. Dist. LEXIS 23689, 2003 WL 23142155, at \*1 (E.D. Pa. Dec. 30, 2003); *Scott v. Twp. of Bristol*, 1991 U.S. Dist. LEXIS 3303, 1991 WL 40354, at \*5 (E.D. Pa. Mar. 20, 1991); *Agnew v. Aydin Corp.*, 1988 U.S. Dist. LEXIS 9911, 1988 WL 92872, at \*4 (E.D. Pa. Sept. 6, 1988).

Here, Hamed has cherry-picked selective documents exchanged between Hamed and Yusuf during settlement discussions. Because Rule 408 militates in favor of excluding the contents of the settlement discussions and the documents produced in relation to the settlement discussions, the Defendants would be prejudiced if the product of the settlement discussions were used against them. To that end, because the Third Circuit's decision in *Affiliated Mfrs* dictates that Rule 408 requires the exclusion of the by-product of the parties' settlement discussion, the only way to effectuate Rule 408's intent and purpose is to utilize Rule 12(f) to strike the offending exhibits and references in the Complaint. *Accord Ciolli, supra* at 289. Accordingly, this Court should require Hamed to replead the Complaint to remove all of the offending material and, in turn, then allow the Defendants to file a responsive pleading. This is especially warranted in light of Plaintiff Hamed's agent, Waleed Hamed's representation to the District Court and the U.S. Attorney's Office concerning the true nature of the business arrangement between Plaintiff Hamed and Defendant Yusuf as one of a joint venture agreement, and not a partnership.

#### IV. CONCLUSION

For the reasons stated above, this Court should grant Defendant's motion to dismiss; and in the alternative order Plaintiff to replead with specificity the scope, nature, and extent of the alleged partnership between Plaintiff Hamed and Defendant Yusuf as to enable Defendants to

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respond to Plaintiff's Amended Complaint. Further, the Court should strike the exhibits and factual allegations produced by the parties' settlement discussions.

Wherefore, it is respectfully requested that the Court grant this Motion.

Date: November 5, 2012

**RESPECTFULLY SUBMITTED,**

**THE DEWOOD LAW FIRM**  
Counsel for Defendants Fathi Yusuf  
And United Corporation

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### CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Defendants' Memorandum of Law in Support of Motion to Dismiss in Support thereof was served on the Plaintiff Mohammed Hamed through his counsel on the below date via ECF.

Date: October 9, 2012

Joel Holt, Esq.  
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/s/ Nizar A. DeWood, Esq.  
Nizar A. DeWood, Esq.

# EXHIBIT

A

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

MOHAMMAD HAMED By His Authorized	:	
Agent WALEED HAMED,	:	
	:	
Plaintiff,	:	CASE # 1:12-CV-99
	:	
vs.	:	
	:	
FATHI YUSUF & UNITED CORPORATION,	:	
	:	
Defendants.	:	
_____	:	

AFFIDAVIT OF FATHI YUSUF

I, Fathi Yusuf, duly sworn, hereby state as follows:

1. My name is Fathi Yusuf.
2. I am a resident of St. Croix, U.S.V.I., and I am the Registered Agent the treasurer and secretary of United Corporation, as such I have personal knowledge of the facts set forth in this affidavit.
3. United Corporation is a corporation formed on January 15<sup>th</sup>, 1979 under the laws of the United States Virgin Islands by filing the Articles of Incorporation with the Office of the Lt. Governor on St. Croix. United Corporation belongs to various members of the Yusuf family, consistent with the percentages of ownership set forth at page 11 of the Plea Agreement entered in the action styled *UNITED STATES OF AMERICA and GOVERNMENT OF THE VIRGIN ISLANDS v. FATHI YUSUF MOHAMAD YUSUF, WALEED MOHAMMAD HAMED, WAHEED MOHAMMAD, MAHER FATHI YUSUF, NEJEH FATHI YUSUF, ISAM YUSUF and UNITED CORPORATION*, Case No. 2005-15F/B (the "Federal Court Criminal Action"), which is pending in this Court. No one in my family has ever transferred a single share of stock to anyone outside the Yusuf family.
4. At no point in time has Mohammad Hamed, or any individuals (collectively or individually) of the Hamed family been a shareholder of United Corporation.
5. United Corporation alone owns the land located at 4C, 4D, and 4H Estate Sion Farm, St. Croix. United finished building United Shopping Plaza sometime in 1983.

EXHIBIT A

6. Each of Mohammad Hamed's sons (Waheed Hamed, Waleed Hamed, Mufeed Hamed, and Hisham Hamed) has worked at United Corporation's three supermarkets ("the Plaza Extra Stores"), or at any one or combination of them, but only in the capacity of an employee. Plaintiff Mohammad Hamed likewise has occasionally worked at the Plaza Extra Stores in the sole capacity of an employee, and has never worked in any management capacity at any of the Plaza Extra Stores.

7. United Corporation is the owner of the trademark name "Plaza Extra." United Corporation has never transferred or given permission to anyone else to use that name.

8. In late 2011, I confronted employee Waleed Hamed about substantial financial irregularities that I found in documents provided by the U.S. Government in the Federal Court Criminal Action. For example, I discovered that Waleed Hamed declared more than \$7,587,483 in stock and bond purchases in 1994, when his sole salary as an employee of United Corporation has never exceeded \$75,000 during the 1990s. To my knowledge, Waleed had no other income at that time.

9. I also discovered that Waleed Hamed had reported \$408,572 in stocks and bonds on his 1993 U.S. Tax Return (Form 1040), although, again, his sole salary as an employee of United Corporation has never exceeded \$75,000 during the 1990s and, to my knowledge, Waleed had no other income at that time.

10. I now understand that, on or about December 3, 2009, the U.S. Government in the Federal Court Criminal Action took the position that Waleed Hamed and his brother, Waheed Hamed, had each "skimmed" money from United Corporation. I attach as Exhibit 1 hereto the subject communication.

11. Subsequently, Mohammed Hamed and I tried to privately settle our differences regarding the subject financial irregularities. I am not a lawyer, have never studied law, and I do not know the legal definitions of the terms "partner" or "partnership." I now understand that, until filing this action, Mohammed Hamed never declared himself to be my formal or legal partner in 26 years. Similarly, his son, Waleed Hamed, never advised the U.S. Government about any partnership in the Federal Court Criminal Action.

12. During my private settlement negotiations with Mohammed Hamed, Waleed Hamed, apparently acting for his father, for the first time sought to interject the word "partnership" in any proposed settlement agreements. The terms "partner" and "partnership" are commonly used in my native Arab culture to refer to a friend or companion. Waleed Hamed, who is a defendant in the Federal Court Criminal Action and signed the Plea Agreement in that action, also threatened United Corporation by refusing to allow United to file its tax returns as required by the Plea agreement. Therefore, to appease Waleed Hamed's request and threat, I asked my attorney to provide Mohammed Hamed during the private settlement negotiations with a proposed dissolution agreement using the word "partnership."



13. Although our private settlement negotiations lasted from approximately January 2012 to June 29 2012, no settlement agreement was reached because, once my attorneys realized the Hameds' true intent in seeking to interject the term "partnership" into the negotiations, we simply could not agree on the fact that any Hamed family member, including Mohammed Hamed, was actually ever a true partner with me or United Corporation.

14. Between June 29<sup>th</sup>, 2012 and August 2, 2012, I held three meetings with Mohammed Hamed, through his agent Waleed Hamed, and our criminal defense team in the Federal Court Criminal Action.

15. During those three days of settlement talks, we revised numerous draft proposed plea agreements. None of them contained the terms "partner" or "partnership." In contrast to Plaintiff Mohammed Hamed, I could not and cannot use the words "partner" or "partnership" as relating to Mohammed Hamed in any legal or formal document, based on my view that doing so would be a lie and a dishonest misrepresentation to the U.S. Government and the public.

16. I also advised Mohammed Hamed's defense attorneys that they have always represented to the U.S. Government that we do not have a partnership, that Mohammed Hamed never filed a single partnership return or public partnership declaration, and that he has been retired as an employee from United Corporation since 1996.

17. Every accountant that United Corporation has ever hired has always filed U.S. Corporate Tax Returns (Form 1120) – and no partnership returns. United Corporation has never filed any local, state or federal partnership statements; never filed with the Office of the Lt. Governor any Statement of Partnership Authority; never acquired any property, interest or asset in the name of "United Corporation Partnership" or any such other or similar name containing the word "Partnership"; and never filed or caused to be filed any local, state or federal tax return indicating that it is a partnership. In addition, as the Registered Agent of United Corporation, I have never acquired property on behalf of United Corporation by way of "Fathi Yusuf, as a partner of United Corporation, a partnership formed under the law of the U.S. Virgin Islands," or any such other or similar term containing the words "partner" or "partnership"; and no property has ever been conveyed to me as a "partner" in United Corporation.

18. The Plaza Extra Stores are running as usual, with no unusual operating problems. The dispute with Mohammed Hamed has not affected the operations of United's Plaza Extra Stores, and United Corporation does not have any plans to cease the stores' normal and regular operation.

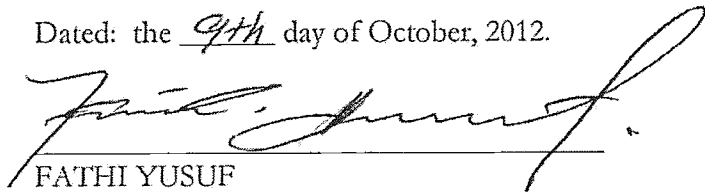
19. The central allegations in the Complaint in this action and the motion for a temporary restraining order are not true. Similarly, the alleged fear concerning "the continued operation" of the Plaza Extra Stores in the motion for a temporary restraining order is

completely unfounded, as United Corporation has not considered any operational changes, including layoffs or closures, that would impact the stores' future operations in any meaningful way.

20. I have never entered into or executed with Mohammed Hamed, or any member of the Hamed family, a written or memorialized partnership agreement.

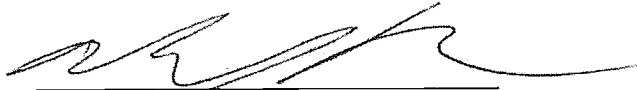
Further affiant sayeth naught.

Dated: the 9th day of October, 2012.

  
FATHI YUSUF

TERRITORY OF THE UNITED STATES VIRGIN ISLANDS     )  
DIVISION OF ST. CROIX   )

Sworn and subscribed to before me this 9th day of October, 2012.

  
Notary Public

My commission expires: 07/14/15

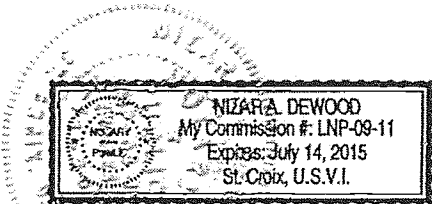


EXHIBIT 1  
(Affidavit of Fathi Yusuf)

From: Daly, Mark F. (TAX) [mailto:Mark.F.Daly@usdoj.gov]  
Sent: Thu 12/3/2009 4:27 PM  
To: Gordon Rhea  
Cc: Lombardi, Kevin C. (TAX); Hendrickson, Lori A. (TAX)  
Subject: RE: Plea

Gordon

I do not think that \$7 million is an appropriate floor. Your tax calculations were not based on the evidence but on an unexplained cost of goods sold theory. Further, your proposal did not take into account the tax loss from the money skimmed by Wallie and Willie. Finally, you're asking the VIBIT to include all fines and interest in the settlement. That was not contemplated in our proposal and should raise the total tax loss. An appropriate an floor is the tax loss, which we calculated at \$22,451,190. SA your numbers lack any foundation in the evidence, we cannot accept those numbers.

Mark

Mark F. Daly  
Trial Attorney  
Northern Criminal Enforcement Section  
Tax Division  
United States Department of Justice  
Tel: (202) 616-2245  
Fax: (202) 616-1786  
mark.f.daly@usdoj.gov

# EXHIBIT

B

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

<b>MOHAMMAD HAMED,</b>	)	CIVIL NO. 1:12-CV-99
	)	
Plaintiff	)	
Vs.	)	<b>AFFIDAVIT OF MAHER YUSUF, as President of DEFENDANT UNITED CORPORATION</b>
	)	
<b>FATHI YUSUF UNITED CORPORATION</b>	)	
	)	
Defendants	)	
_____	)	

I Maher Yusuf, an adult of sound mind and body, hereby under oath attest:

1. I am a resident of St. Croix , the U.S. Virgin Islands.
2. I am the President of United Corporation (“United”), a duly organized Virgin Islands Corporation, in good standing and is authorized to conduct business in the Virgin Islands.
3. United was incorporated in 1979 by my father Fathi Yusuf. United is now owned in various shares among the various members of the Yusuf Family.
4. United has always been organized, maintained, and owned by the Yusuf Family.
5. As President of United, and after inspecting all of the records of United, including a review of all filings with the United’s counsel, I attest that there has never been a transfer of a single share of United outside the Yusuf family, nor has anyone ever invested in the equity of United.
6. In addition to its Plaza Extra supermarket operations, United has owned in fee simple absolute all of United Shopping Plaza since 1979. It has always owned the property, having never transferred any interest in the property (directly or indirectly) to anyone.
7. United has always managed its tenants, collected rents, and other benefits from its rental real property operations.
8. United never shared any rental real property proceeds with Mohammed Hamed or anyone in the Hamed family. Mohammed Hamed has never attested to any interest in the United Shopping Plaza.

9. In 2003, United Corporation was indicted in the case of *United States, et al., v. United Corporation, et al.*, docket no. 1:05-cr-15 (D.V.I.) (“the criminal case”). In all proceedings concerning the criminal case, I have always appeared for United as its President during all court proceedings. At no time did Waleed Hamed and Waheed Hamed ever declare that their father Mohammed Hamed is a partner with or in United.
10. The U.S. Justice Department has always received representations from each criminal defense attorney for the Hameds that the business arrangement is one of a business agreement.
11. As United’s president, I can attest that Mohammed Hamed has never requested a K-1 Partnership schedule, or ever declared this to be a partnership to a single governmental or taxing agency. Mohammed Hamed never filed a U.S. Partnership Tax Return on behalf of United.
12. Waleed Hamed has always declared to the U.S. Government in the criminal case that the business arrangement between United and Mohammed Hamed is a business agreement, where Mohammed Hamed would receive only fifty percent (50%) of any net profits of the operations of one of Plaza Extra supermarkets. Mohammed Hamed does not have a partnership, equity, or any other interest with United.
13. Mohammed Hamed stopped working as a warehouse supervisor in the late 1990s, and has never participated in any managerial decisions at United and its Plaza Extra stores.
14. United has never filed partnership statements with the Office of the Lt. Governor of the Virgin Islands. Similarly, the Hamed family has never demanded that such a statement be filed.
15. United has never filed a Statement of Partnership Authority with the Office of the Lt. Governor. Similarly, the Hamed family has never demanded that such a statement be filed.
16. United has never acquired property in the name of “United Corporation Partnership.”
17. Most importantly, United has always charged rent for the use of part of its retail premises by the Plaza Extra Supermarket operations on Sion Farm, St. Croix. Mohammed Hamed has always understood that United would charge for the use of its retail space, and would deduct the value of such rent in arriving at the net profits of the Plaza Extra Supermarkets.

18. The Hamed family was never entitled, and never received any part of the proceeds of the real estate rental income. The Hamed family and Mohammed Hamed neither dealt with the Tenants, nor made any decisions to lease the property to anyone.
19. In late 2011, substantial evidence of financial irregularities was revealed when United received a “Hard Drive” with scanned copies of voluminous records that were in the possession of the Federal Bureau of Investigation (“FBI”). These irregularities included substantial defalcation of monies by Waleed Hamed, the son and designated agent of Mohammed Hamed. Waleed Hamed has always been an employee-manager of the Plaza Extra Supermarket in Sion Farm.
20. In late March, 2012, the Hameds began to take an aggressive and hostile position, including threatening to preclude United from filing their U.S. Corporate Tax Returns as required by plea agreement in criminal case.
21. Waleed Hamed threatened United that he would declare this to be a “partnership” and that he would not honor the relationship that had been in place for years. Additionally, Waleed Hamed threatened not to agree to the filing of the U.S. Corporate Tax Returns (1120s) that were agreed with the Justice Department as memorialized in the plea agreement in the criminal case.
22. Mohammed Hamed through Waleed Hamed decided to declare the relation a “partnership.” Mohammed Hamed through Waleed Hamed demanded that settlement talks or agreement must use the word “partnership” and that they would not agree to honor the long-standing relationship.
23. In January of 2012, United instructed Attorney Nizar DeWood to prepare proposed settlement agreements with the word “partnership” as suggested by the Hameds. Those letters contained terms that Mohammed Hamed wanted in any proposed settlement agreement. Both Mohammed Hamed and the Hamed family know that Mohammed Hamed has never been partner in United, that United has never filed a single Partnership Return, and all of the criminal defendants have always represented to the U.S. Government that they are not partners.
24. From January through June 2012, United sought to resolve the dispute with the Hameds, but unfortunately could not reach a settlement agreement with Mohammed Hamed.
25. Between June 29<sup>th</sup> and August 3<sup>rd</sup>, 2012, additional settlement sessions were held between the parties. Numerous drafts of agreements were drafted and circulated. None of these proposed agreements ever mentioned the word partnership.



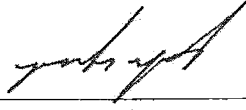
Hamed v. Yusuf; Case No. 1:12-cv-99  
 Affidavit of Maher Yusuf as President of United  
 Page 4 of 4

26. None of the parties to the settlement discussions ever signed a single proposed settlement agreement. United would not agree to any settlement agreement that reflected that United is in any way a “partnership” because that would be inconsistent with the decades of representations made to third-parties and is factually incorrect.

27. The agreements that were circulated back and forth between Mohammed Hamed and United were intended to be part of the confidential settlement sessions.

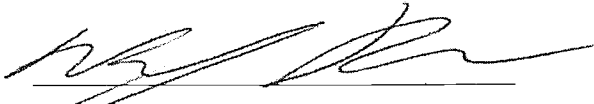
I attest that the above is true to the best of my knowledge.

Date: Oct. 9, 2012

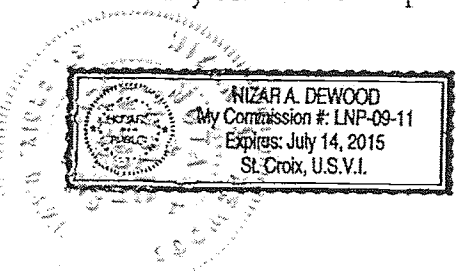
  
 \_\_\_\_\_  
 UNITED CORPORATION  
 By: Maher Yusuf, President

TERRITORY OF THE U.S. VIRGIN ISLANDS      )  
   )  
 DIVISION OF ST. CROIX    )

Sworn and subscribed to before me this 9<sup>th</sup> day of October, 2012.

  
 \_\_\_\_\_  
 Notary Public

My commission expires: 07/14/15



IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

MOHAMMAD HAMED

Plaintiff,

v.

UNITED CORPORATION

FATHI YUSUF

Defendants.

)  
) CIVIL NO. SX-12-CV-370  
)  
)  
) ACTION FOR DAMAGES, et al.  
)  
) DEFENDANTS' REPLY  
) TO PLAINTIFF'S OPPOSITION  
) TO DEFENDANTS' RULE 12  
) MOTION  
)

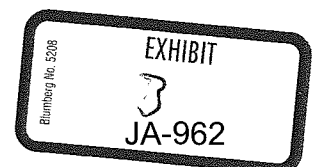
DEFENDANTS' REPLY TO PLAINTIFF'S OPPOSITION TO  
DEFENDANTS' RULE 12 MOTION

COME NOW Defendants United Corporation and Fathi Yusuf, through their undersigned counsel and respectfully file this Reply to Plaintiff's Response in Opposition to Defendants' Motion to Dismiss. For the reasons stated below, and reincorporating fully the arguments set out in Defendants' Rule 12 Motion to Dismiss Plaintiff's Amended Complaint, it is respectfully requested that the court grant Defendants' Motion to Dismiss.

I. INTRODUCTION

Plaintiff's Opposition to Defendants' Rule 12 Motion to Dismiss can be reduced to the following three arguments:

1. Because the parties agreed to split the profits "50/50" the court must find a partnership between the parties; that there is no such thing as a contractual "joint venture" and use



of such term is a matter of semantics. Accordingly, Plaintiff argues that the Virgin Islands Uniform Partnership Act ("VIUPA") governs every scenario where the parties agree to divide profits equally, entitling Plaintiff to the various reliefs available to a partner, as opposed to relief under contract law.

2. The Plaintiff need not plead any facts concerning the parties' intent, prior dealings, Plaintiff's representations to the Virgin Islands and United States government agencies, through his agent, that no partnership ever existed; or the fact that Plaintiff has failed to ever file a single partnership return, or a single document demonstrating the existence of a partnership. Rather, Plaintiff contends, the court only need to look at a portion of a transcript from a prior deposition to summarily conclude that Defendant Yusuf meant the word "partner" to be a partner of a general partnership under the VIUPA, and not an association or relationship between two persons to carry-on an objective, such as a contractual joint venture.
3. Plaintiff then argues that the court should disregard at this point any judicial and equitable bars against the Plaintiff because they are merely defenses and cannot be asserted in a Rule 12(b)(6) Motion. This despite the fact that these equitable bars are essential in determining whether or not a "partnership" could be found to exist at this stage.

**I. Equal Distribution of Profits, solely, does not make a Partnership.**

Plaintiff argues first that because Defendants admit to an agreement with the Plaintiff to equally share the profits from the operations of the Plaza Extra Stores, the court must automatically conclude that a partnership exists between Plaintiff and Defendants. Plaintiff cites 26 VIC §22(4), which provides:

parties for the last 26 years, as long as there is a division of profits equally, there must be a partnership - even if the parties never intended for a partnership to exist, and even if the Plaintiff has always denied the existence of a partnership.

As such, Plaintiff wants the court to ignore the parties' understanding, prior dealings, equitable principles, and the parties' contractual intent because a "joint venture" is and will always be a partnership. Because nothing in the opposition supports this sweeping conclusion, the court should grant Defendant's Motion to Dismiss.

**II. The Amended Complaint still fails to plead a proper "partnership" and the scope of the alleged partnership.**

Plaintiff argues that the Amended Complaint sufficiently pleads the existence of a partnership. Plaintiff's Opposition re-incorporates ¶¶ 5 through 22 of the Amended Complaint to demonstrate a properly pled Amended Complaint. Therefore, each of the foregoing paragraphs of the Amended Complaint are addressed separately below.

**¶5. In the 1970's, Mohammad Hamed opened and operated a successful grocery business on St. Croix.**

This allegation is irrelevant. Whether Mohammed Hamed operated a successful grocery business on St. Croix or not is irrelevant to whether a partnership exists between the parties.

**¶6. In the early 1980's, Yusuf began to build a shopping center at Sion Farm, St. Croix, which he hoped would include a supermarket, even though he had never operated a grocery business before.**

This allegation supports the fact that Defendant Yusuf and his family, through Defendant United Corporation, have always maintained separate ownership of the shopping center at Sion Farm. It is irrelevant as to the issue of what partnership, if ever, existed between the parties, and the nature and scope of the alleged partnership, which Plaintiff concedes is only to operate a grocery business called Plaza Extra Supermarket.

**¶7. During the construction of that shopping center, Yusuf continually ran out of money and was unable to get any loans from any banks. As such, he sought help from Mohammed Hamed, which Mohammed Hamed agreed to provide.**

This allegation again is irrelevant as to what partnership existed between the parties, and the nature of the partnership.

**¶8. Mohammad Hamed provided funds to complete the construction of the shopping center. In addition, when more funds were needed to create and open the supermarket, Mohammad Hamed sold his grocery store and contributed all of his life savings to the supermarket project in addition to the funds previously provided for the shopping center construction, devoting his full time and energy to getting the supermarket open as well.**

This general assertion is belied directly by the fact that United Corporation has always owned the United Shopping Plaza ("Plaza") where the parties agreed to operate the Plaza Extra Supermarkets. All rental proceeds from the Plaza have always gone to Defendant United, which is owned completely by the Yusuf family. Not one penny from the rental proceeds has ever gone to Plaintiff Hamed. Therefore, on the one hand, Plaintiff pleads that he contributed to the construction of United Shopping Plaza, and on the other hand, Plaintiff concedes that he has never had any interest in the ownership of the United

Shopping Plaza as shown by Plaintiff's admission that there has always been a separation of accounts concerning the non-business operations of Defendant United.

Therefore, the Amended Complaint fails to make clear the nature and scope of this alleged partnership: Is it a partnership that concerns only the operations of the Plaza Extra supermarkets or is it a partnership that encompasses other assets? Therefore, even if the court concludes a *prima facie* showing of a partnership at this point, Plaintiff still fails to advise the Defendants as to the nature assets and liabilities of this partnership. This in turn deprives Defendants from understanding the alleged scope of this partnership, the alleged assets this partnership has, and what tax implications this sudden assertion of partnership creates for the Defendants.

**¶9. During this time period, Mohammad Hamed and Yusuf agreed to enter into a 50/50 partnership (hereinafter referred to as the "Partnership") to create, fund and operate this new grocery supermarket business, which they named Plaza Extra Supermarket. It was located in the shopping center.**

Here, Plaintiff readily admits that the "50/50 partnership" was only for the purpose of operating a new grocery supermarket business called "Plaza Extra Supermarket." However, in ¶8, Plaintiff makes the contrary assertion that he has impliedly some interest in the real property known as United Shopping Plaza. Again, Plaintiff fails to plead with specificity the assets of this partnership. Again, this in turn makes it next to impossible for the Defendants to understand what "partnership" Plaintiff alleges to have with Defendant Yusuf. If the only assets of the partnership are

the operations of the Plaza Extra stores, the Amended Complaint has failed to clearly state so. The Defendants cannot be expected to defend against an ill-defined alleged partnership. Defendant Yusuf has always been truthful and honest about his status as a percentage shareholder of Defendant United Corporation. The remaining shares of Defendant United are owned by Defendant Yusuf's children. This is demonstrated by the parties history of tax returns, government filings, and representations to the District Court of the Virgin Islands, and the U.S. Attorneys' Office. Plaintiff Hamed has never objected to Defendants' representation as to their status, and complete ownership of Defendant United.

**¶ 10. As both Mohammed Hamed and Yusuf agreed to contribute their time and their personal funds to create this Partnership, both risked the loss of their significant initial investments. Moreover, they both agreed that going forward each partner was responsible for 50% of all losses, and was entitled to 50% of all profits from the supermarket business' operations. Indeed, defendants have admitted that the profits of the grocery business were shared with plaintiff – in pleadings filed in this case.**

Plaintiff fails to allege a single fact showing any risk of loss by Plaintiff Hamed. Plaintiff fails to attach a single exhibit showing any risk of loss assumed by the Plaintiff. Despite the clear Affidavit of Fathi Yusuf concerning Plaintiff Hamed's failure to carry any risk of loss during the 26 year relationship both parties had, Plaintiff cannot allege a single contract, obligation, or loan that Plaintiff Hamed ever risked other than the initial investment Plaintiff invested in the joint venture.

For example, Defendant Yusuf personally and solely guaranteed the lease of the

Plaza Extra Store in St. Thomas, V.I., and personally guaranteed the substantial loans taken from various banks for the benefit of Defendant United. Both the risk of loss and sharing of profits are critical components of any partnership. It is precisely why 26 VIC §22(4) states that splitting of profit is only prima facie evidence and not conclusive proof of a partnership.

**¶11. When the supermarket at Sion Farm opened in 1986, Mohammad Hamed used his experience and contacts in the grocery business to get the store stocked and open successfully.**

This factual allegation is irrelevant to the formation of a partnership. The fact is that Plaintiff Hamed was employed as a warehouse clerk for Defendant United until 1998, and was compensated accordingly. Nothing in this allegation states how, where, and why Plaintiff's experience in the grocery business has ever benefitted Defendants in any way. As demonstrated in the Defendants' Motion to Dismiss, it is telling that Plaintiff Hamed has always been employed as a warehouse clerk, and never had any supervisory managerial responsibilities.

**¶12. The Partnership between Hamed and Yusuf subsequently expanded to two other supermarket locations, one in the west end of St. Croix (both built and initially stocked from the profits of the Partnership) and one in St. Thomas (also both built and initially stocked from the profits of the Partnership). Both of these supermarkets were also operated under the name Plaza Extra. The Partners generally refer to these three stores as Plaza Extra East (Sion Farm, St. Croix), Plaza Extra West (Plesson/Grove, St. Croix) and Plaza Extra St. Thomas (Tutu Park, St. Thomas). These supermarkets have grown in size, currently employing in excess of 600 employees in the three stores.**

The growth of a business neither supports the existence of a partnership, nor the intent of the parties as to the operations of the three stores.



¶13. At all times relative hereto, the three Plaza Extra supermarkets have been managed jointly by the Partnership, with each Partner having an active role in the operations of the three stores either through their direct actions or through the actions of their authorized agents. In this regard, each Partner always has had a designated family member in a top managerial position in each store, acting as each Partner's representative and agent. The designated managers from each Partner's family jointly manage the respective stores together.

None of the allegations here demonstrate the nature, scope, and risk and profit sharing between Mr. Yusuf and Mohammed Hamed. Thus, the Amended Complaint, like the original one, still cannot allege a single managerial decision made by Plaintiff Hamed in the 26 year history of this alleged partnership.

¶14. The Partnership has always had separate, segregated books and accounts for each of the three Plaza Extra Supermarkets, and kept a detailed accounting open to both partners for the expenses and profits of the Partnership wholly separate from the unrelated business operations of United in its operation of the United shopping center located at Sion Farm St. Croix.

Plaintiff admits here that Defendant United has always kept separate accounts for its "unrelated" business operations of the United Shopping center. Clearly, Plaintiff admits that he has no interest in the United Shopping Center, and that Defendant United is the owner of United Shopping Center. Therefore, this points to an agreement to operate the Plaza Extra Supermarkets, rather than a partnership.

¶ 15. As part of his Partnership activities Yusuf made the decision that the reporting of all accounting and other filings for these Partnership operations to the Government would be done by United, such as all tax filings and similar matters -- he provided the services of United as part of his partnership contribution, to which Mohammad Hamed did not object.

This assertion fails to allege why a partnership would utilize a corporation simply for filing taxes. As pointed out in the Motion to Dismiss, Defendant United has existed for seven (7) years prior to Plaintiff's joint venture agreement with Defendant United regarding the operations of the Plaza Extra Supermarkets. Defendant United has always owned in fee simple various real properties before it ever entered into a joint venture agreement with Plaintiff to only operate the Plaza Extra Supermarkets.

This is amply demonstrated by the fact that Plaintiff never filed a single partnership tax return throughout the existence of this alleged partnership. Instead, Plaintiff now seeks to link his failure to ever declare partnership taxes, and his 26 years of misrepresentation to the Government of the Virgin Islands, the U.S. Attorney's Office, and the District Court of the Virgin Islands to the fact that he simply agreed to allow Defendant Yusuf to utilize Defendant United as a tax reporting entity.

It is precisely why the Amended Complaint, like the original one, remains deficient, and must be dismissed for failure to establish the scope and nature of Plaintiff's alleged partnership.

**¶16. The bank accounts for the three Plaza Extra supermarkets were created for the benefit of, and have always been accessible to (and transacted on) equally by the partners, Mohammad Hamed and Yusuf, with the Partners agreeing that — to maintain management control — Yusuf and Hamed (or one family member from each of the Hamed and Yusuf families as their agents) would sign each check written on these supermarket bank accounts. . . .**

Plaintiff fails to allege any facts showing that a "partnership" owns these bank accounts. To date, these accounts remain the property of Defendant United. There is no disagreement that Mr. Hamed is entitled to fifty percent (50%) of the profits of the operations of Plaza Extra Store. This is what Plaintiff Hamed, through his agent, has represented to everyone for the last 26 years, including representations in prior proceedings before the District Court of the Virgin Islands and the U.S. Attorney's Office. The issue here again is not whether Plaintiff Hamed is entitled to 50% of the profits. He is. The issue is whether Plaintiff Hamed can come to the court after 26 years and declare a partnership the parties never intended. As such, the Amended Complaint should be dismissed for failure to properly plead the existence of well-defined partnership with accurate allegations of assets and liabilities.

**¶17. United has always had completely separate accounting records and separate bank accounts for its operations of the "non-supermarket" shopping center and business operations that were unrelated to the three Plaza Extra supermarket stores. Neither Mohammad Hamed nor his agents have access to these separate "non- supermarket" United bank accounts used by United for its shopping center and other businesses unrelated to the three Plaza Extra supermarkets.**

Plaintiff concedes there is a separation between the accounts for the operation of the Plaza Extra supermarkets and the "non-supermarket" shopping center. This clearly again points to the fact that Defendant United has an agreement with Plaintiff and not a partnership: Why else would there be specially segregated United Corporation bank accounts that Plaintiff Hamed has no control or interest in if this is a partnership? The Amended Complaint does not properly allege the reason for these separate accounts, which is mainly because the parties have a joint

agreement to operate only the Plaza Extra Supermarkets, and not a general partnership under the VIUPA.

**¶18. At all times relative hereto, the Partnership profits from the Plaza Extra stores have always been held in the identified "supermarket" banking and brokerage accounts completely separate from the profits of United's other unrelated businesses, even though the banking and brokerage accounts holding the profits from the Partnership are in accounts solely used by the Partnership and kept for the Partnership by United in segregated United accounts.**

The allegations of ¶18 reconfirms the fact that United Corporation has accounts wholly separate from the operating accounts for the Plaza Extra Supermarkets. Nothing in the Amended Complaint specifies what ownership interest and access rights Plaintiff Hamed has in which account. Instead, the Amended Complaint makes sweeping vague allegations of joint-ownership, and then contradicts itself by confirming that there are separate accounts Defendant United controls for purposes of the non-grocery business operations. These accounts belong solely to Defendant United and its shareholders because Defendant United has operations other than the Plaza Extra supermarket businesses.

**¶19. At all times relative hereto, for more than 25 years, Mohammad Hamed and Yusuf have equally shared all the profits distributed by United to the Partnership – from the operation of the three Plaza supermarkets – and been responsible for all losses. Except for the recent unauthorized removal of funds described herein, for 25 years, all such distributions from the supermarket accounts have been split 50/50 between the Partners.**

The Amended Complaint fails to allege when and Plaintiff Hamed was ever responsible for any losses, loans, and any other obligations for United Corporation. Again, not a single factual allegation is alleged in this supposed 26 year old

partnership where Plaintiff Hamed has ever taken out a loan, signed a contract, or risked any loss on behalf of Defendant United. The risk of loss is an essential component of a partnership. The Amended Complaint could not cite a single fact because the record is clear that Plaintiff Hamed never risked any loss, other than his initial investment. For that investment, Plaintiff Hamed received handsome returns of 50% of the profits of the operations of the Plaza Extra supermarket. Plaintiff still cannot allege a single fact showing Plaintiff Hamed risking any personal loss in this alleged partnership.


**¶20. The partners also agreed that all stores would employ and would rely on joint decisions of themselves (or their respective family members from each family assigned to each store), so that management would be by a working consensus of the two Partners directly or through their designated agents, all of whom are family members.**

The employment of various members of the Yusuf and Hamed families is not indicative of a partnership. Nothing in ¶20 alleges what and when any management decisions were ever made by Plaintiff Hamed or any of his children.

**¶21. From time to time, Mohammad Hamed and Yusuf have used these profits, distributed solely from these "supermarket accounts" to buy other businesses and real property -- always then owning these jointly held assets, regardless of the form of ownership, on a 50/50 basis. ...[identifying several such assets]**

The allegations of ¶21 fail to state whether the alleged "assets and businesses" are properties of the alleged partnership, or that such assets are jointly held separately by the parties in separate legal entities. To date, Defendants remain uncertain what "other businesses" Plaintiff's purported partnership owns other than the Plaza Extra supermarket

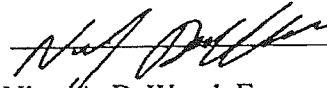
By:

  
\_\_\_\_\_  
Nizar A. DeWood, Esq.  
2006 Eastern Suburb, Suite 102  
Christiansted, V.I. 00820  
t. 340.773.3444  
f. 888.398.8428

**CERTIFICATE OF SERVICE**

**IT IS HEREBY CERTIFIED** that a true copy of Defendant's Reply to Plaintiff's Opposition to Defendants' Rule 12 Motion to Dismiss was served on the Plaintiff via his counsel at the below address and date on this 13<sup>th</sup> day of December, 2012.

Joe Holt, Esq. 2132 Company St. Suite 2 Christiansted VI 00820	CARL J. HARTMANN III Attorney-at-Law 5000 Estate Coakley Bay, L-6 Christiansted, VI 00820
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\_\_\_\_\_  
Nizar A. DeWood, Esq.



## II. JURISDICTION, VENUE, & DEMAND FOR JURY TRIAL

2. This Court has personal jurisdiction, subject matter jurisdiction, and the amount in controversy is satisfied, pursuant to 4 VIC §76.

3. Venue is proper in the District of St. Croix because all of the parties are residents of the District of St. Croix, U.S. Virgin Islands, and the cause(s) of action arose in said District, pursuant to 4 VIC § 78.

4. A trial by jury is demanded pursuant to 4 VIC § 80.

## III. THE PARTIES

5. Plaintiff United Corporation is a duly organized Virgin Islands Corporation since January of 1979, and is authorized to conduct business in the Virgin Islands. Plaintiff is *sui juris*.

6. Plaintiff is owned completely in various shares by Fathi Yusuf, Fawzia Yusuf, Maher Yusuf, Nejah Yusuf, Zayed Yusuf, and Yusuf Yusuf, hereinafter collectively referred to as the "Yusuf Family".

7. Defendant Waleed Hamed is a natural person and is a resident of the U.S. Virgin Islands. Defendant Hamed is *sui juris*. At all times relevant to this action, Defendant Hamed has been an employee and agent of Plaintiff United.

8. Defendants John Doe 1 to 10, upon information, are employees, family, friends, and agents of Defendant Hamed who have participated and/or assisted defendant Waleed Hamed with the defalcation, conversion, and concealment of substantial assets that are the sole property of Plaintiff United. John Does 1 to 10 are natural persons and are each *sui juris*.



#### IV. FACTS

9. Plaintiff United was organized and authorized to conduct business in the U.S. Virgin Islands on January 15<sup>th</sup>, 1979 by its then shareholders Fathi Yusuf and his family. Plaintiff United has always been owned wholly in various percentage shares by the various members of the Yusuf family.

10. The Corporate officers of Plaintiff United have always been members of the Yusuf family.

11. Sometime in 1986, Plaintiff United, through its shareholder and then President, Fathi Yusuf, entered into an oral agreement, whereby Plaintiff United and Defendant Hamed's father, Mohammed Hamed, agreed to operate a grocery store business.

12. As a result of this oral agreement, Plaintiff United agreed to rent a portion of its real property, United Shopping Plaza, to this supermarket joint venture.

13. United Shopping Plaza is located on the Island of St. Croix, U.S. Virgin Islands.

14. In 1986, the joint venture resulted in the first supermarket store being opened. United began using the trade name "Plaza Extra" and the first supermarket in this joint venture was named Plaza Extra Supermarket. Since 1986, two additional stores opened in the U.S. Virgin Islands; the second in Tutu Park, St. Thomas; the third in Grove Place, St. Croix.

15. In 1986, Plaintiff United hired Waleed Hamed as an employee, and assigned him managerial duties at the Plaza Extra supermarket located in Sion Farm, St. Croix, U.S. Virgin Islands. Defendant Hamed managed and collected significant cash and other assets on behalf of Plaintiff United during the course of his employment.

16. In 2003, Plaintiff United, its shareholders Fathi Yusuf, Maher Yusuf, and Defendant Hamed, and the Defendant's brother Waheed Hamed were indicted in the case of *U.S. v United Corporation*, case no. 15-cr-2005 (D.V.I.).

17. During nine years of criminal proceedings, the U.S. Department of Justice and federal law enforcement (collectively the "U.S. Government"), gathered *significant financial documents*, including but not limited to tax returns, financial ledgers, accounting records, and various other documents concerning the parties herein. Prior to the release of the documents in October of 2011 to Plaintiff United, none of the officers of Plaintiff United had any actual or constructive knowledge of Defendant Hamed's conduct.

**Defendant's Acquisition of Substantial Securities through Defalcation of Plaintiff's Assets**

18. During a search of the documents and files delivered by the U.S. Government, Plaintiff United reviewed documents comprising tax returns for Defendant Hamed. An examination of Defendant Hamed's tax returns revealed the following significant assets:

- a. Tax Year 1992 (Stocks & Investments) .....\$ 408,572.00
- b. Tax Year 1993 (Stocks & Investments) .....\$7,587,483.00

19. The detailed stock acquisitions, which were listed meticulously by date of acquisition, price and number of shares purchased, could only have been acquired by Defendant Hamed through his unlawful access to monies and other properties belonging to Plaintiff United. Defendant Hamed never held any other employment since 1986, other than through his employment with Plaintiff United.

20. Defendant Hamed also never had any other significant source of income, business operations, investments, etc., prior to or during his employment tenure with Plaintiff United.

21. The income tax returns for the years 1992 and 1993 reflect substantial assets that upon information and belief derived from the unlawful conversion and unauthorized access to funds and monies belonging to Plaintiff United. Plaintiff United never provided Defendant Hamed remuneration of more than \$35,000 for a yearly salary.

22. In 1993, Defendant Hamed's personal income tax return showed a loss of \$394,382.00. Plaintiff United, through its Treasurer, inquired of Defendant Hamed where he obtained the money in 1992 to sustain a personal loss of \$394,000 in his equity portfolio.

23. Defendant Hamed replied that the significant stocks listed in the schedules attached to his joint tax return was that of "Hamdan Diamond" – an unrelated corporation - that the Certified Public Accountant that had prepared Defendant Hamed's 1993 income tax return had made a "mistake" and that Defendant Hamed "would get to the bottom of it."

24. To date, Defendant Hamed has offered no evidence of the "mistake" he claimed was attributed to the Certified Public Accountant.

25. Further, upon information, such losses were unlikely to be a "mistake" because Defendant Hamed "carried forward" those losses on his personal income tax returns through 1999.

26. An examination of Defendant Hamed's personal tax returns revealed that Defendant Hamed's stock purchases between 1991 and 1996 totaled more than \$7 Million.

27. In October of 2011, a review of the U.S. Government records and files further revealed the following defalcation of funds:

- a. Loans totaling \$430,500.00, approved by Defendant Hamed, presumably repaid to Defendant Hamed.
- b. Payments made with respect to the construction of Defendant Hamed's home amounting to \$481,000.00.

c. Six checks totaling \$135,000, drawn on the operating account of Plaintiff United's Plaza Extra supermarket, and made payable to "Waleed Hamed" personally.

28. To this date, Defendant Hamed refuses to explain and account for any of the aforementioned funds.

## **V. CAUSES OF ACTION**

### **FIRST CAUSE OF ACTION BREACH OF FIDUCIARY DUTIES**

29. Plaintiff incorporates paragraphs 1 through 28 inclusive as if fully set forth verbatim herein.

30. As an agent and employee of Plaintiff United, a corporate entity, Defendant Hamed owes fiduciary duties to the entity. Included in the fiduciary duty is the duty of loyalty. Not only is it Defendant Waleed Hamed's duty to properly manage the business affairs of the Plaza Extra Supermarket stores for the benefit of Plaintiff United, he is not permitted to place himself in a position where it would be for his own benefit to violate the duty.

31. Defendant Waleed Hamed has breached the following duties (the list of duties violated by Defendant Hamed, below is not intended to be an exhaustive or exclusive list):

- a. Duty of Loyalty
- b. Duty of good faith and candor;
- c. Duty to manage the day-to-day operations of Plaintiff United's Plaza Extra supermarket for the benefit of United;
- d. Duty of full disclosure of all matters affecting his employer Plaintiff United;

- e. Duty to refrain from self-dealing, and/or general prohibition against the fiduciary using his relationship to benefit his personal interest; and
- f. Duty to manage any funds, assets, and/or property belonging to Plaintiff United by virtue of its operation of the Plaza Extra Supermarket stores in accordance with applicable laws.

**SECOND CAUSE OF ACTION  
CONSTRUCTIVE TRUST/RECOUPMENT**

32. Plaintiff incorporates paragraphs 1 through 31 as if fully set forth verbatim herein.
33. As an agent and employee of Plaintiff United, Defendant Hamed owes numerous fiduciary duties to Plaintiff United and its shareholders. Not only is it Defendant Hamed's duty to properly manage the business affairs of the Plaza Extra Supermarket stores for the benefit of Plaintiff United, but Defendant Hamed also is not permitted to place himself in a position where it would be for his own benefit to violate the duty.
34. Defendant Hamed has engaged in systemic misappropriation of substantial and valuable assets of Plaintiff United causing substantial injury to Plaintiff United. As a result, Plaintiff United has sustained significant financial injury.
35. As such, a constructive trust should be imposed to gather and account for all assets misappropriated by Defendant Hamed that belongs to Plaintiff United.

**THIRD CAUSE OF ACTION  
CONVERSION**

36. Plaintiff re-incorporates paragraphs 1 through 35 inclusive as if fully set forth verbatim herein.

37. Defendant Waleed Hamed has knowingly converted substantial funds and assets belonging to Plaintiff United. Plaintiff never consented or agreed to Defendant Hamed's unauthorized use of its funds and assets. As such, Defendant Hamed is liable for conversion.

**FOURTH CAUSE OF ACTION  
BREACH OF CONTRACT**

38. Plaintiff incorporates paragraphs 1 through 37 inclusive as if fully set forth verbatim herein.

39. Defendant was an at-will employee of Plaintiff United.

40. As an at-will employee of Plaintiff United, Defendant Hamed had a contractual duty to act in good faith, and to properly manage the business affairs of the Plaza Extra Supermarket stores for the benefit of Plaintiff United.

41. Defendant Hamed has breached his contractual duties to Plaintiff United, causing Plaintiff substantial economic and financial harm. As a result, Defendant Hamed is liable to Plaintiff for breach of contract.

**SIXTH CAUSE OF ACTION  
ACCOUNTING**

42. Plaintiff incorporates paragraphs 1 through 41 inclusive as if fully set forth verbatim herein.

43. As agent and employee of Plaintiff United, Defendant Hamed was under full contractual obligation and other fiduciary duties to perform his functions as a manager with competence, integrity, and honesty to Plaintiff United Corporation and its shareholders. Defendant Hamed was not permitted to place himself in a position where it would be for his own benefit to violate the duty.

44. Defendant Hamed has breached his employment contractual agreement with Plaintiff United by mismanaging, misappropriating, and converting funds, monies, and other valuables to his personal use. As a result, Plaintiff United has sustained substantial financial damages.

45. As such, Plaintiff United is entitled a full accounting of all monies, funds, and assets unlawfully appropriated by Defendant Hamed.

## **VI. RELIEF REQUESTED**

Wherefore, Plaintiff United Corporation, and its shareholders, respectfully pray for the following relief:

- a. Actual and compensatory damages to be determined at trial.
- b. Punitive damages for the intentional defalcation of funds and damages caused to Plaintiff United Corporation.
- c. A complete accounting and constructive trust of all funds, assets, opportunities, and other valuables converted and or misappropriated by Defendant Hamed.
- d. Costs of all professional fees that may be required for the audit and investigation of this matter.
- e. A return of all documents, including but not limited to electronically stored information, belonging to Plaintiff United in the possession (both actual and constructive) of Defendant Hamed.
- f. A Restraining Order precluding Defendant Hamed from:
  - i. Physically returning, or attempting to return, to any of the Plaza Extra supermarket stores;

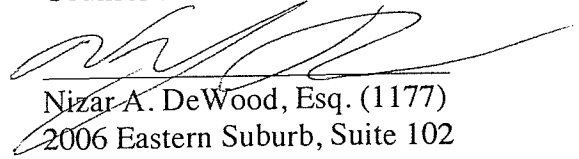
- ii. Accessing, or attempting to access, any bank accounts belonging to United Corporation for any purpose;
- iii. Contacting, or attempting to contact, any employee of Plaintiff United concerning the operations and management of the Plaza Extra Supermarkets;
- iv. Preclude Defendant Hamed from contacting any business associates of Plaintiff United;
- v. Preclude Defendant Hamed from representing to third-parties that he is an employee of Plaza Extra;
- vi. Accessing, or attempting to access, any of Plaintiff United's, including but not limited to the Plaza Extra Supermarkets, books, records, and information regarding as to location or manner of storage;
- vii. Attorneys fees, court costs, and any other relief the court deems equitable.

Date: January 8, 2013

Respectfully Submitted,

DeWood Law Firm  
Counsel for Plaintiff United

By:



Nizar A. DeWood, Esq. (1177)  
2006 Eastern Suburb, Suite 102  
Christiansted, V.I. 00820  
t. (340) 773-3444  
f. (888) 398-8428



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

MOHAMMAD HAMED By His Authorized  
Agent WALEED HAMED

Plaintiff,

v.

FATHI YUSUF AND UNITED CORPORATION

Defendant.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

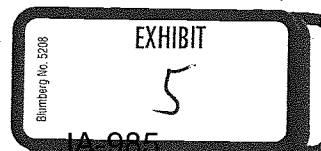
AFFIDAVIT OF MOHAMMAD HAMED

Mohammed Hamed, duly sworn, hereby avers as follows:


1. I am an adult resident of St. Croix and am personally knowledgeable about each fact set forth in this affidavit.
2. In the 1980's, I entered into a partnership with Fahti Yusuf in the 1980's to operate a supermarket known as Plaza Extra, located in the United Shopping Center located on the east end of St. Croix. The partnership has since expanded to tow other locations in the Virgin Islands, operating the Plaza Extra supermarket on the west end of St. Croix at Estate Plessen (Grove Place) and the Plaza Extra supermarket on St. Thomas located at the Tutu Park Mall.
3. Since the formation of this partnership, I have always shared equally with Fathi Yusuf in the 50/50 distribution of profits by the partnership.
4. I have given my son, Waleed Hamed, a power of attorney to act on my behalf in all aspects of the Plaza partnership business I have with Fathi Yusuf.
5. I have reviewed the affidavit signed by my son, Waleed Hamed, in support of the request for a temporary restraining order filed in this case. All of the statements contained in his affidavit are true and correct to the best of my knowledge.

Dated: September 17 , 2012

  
Mohammad Hamed



SWORN AND SUBSCRIBED TO BEFORE  
ME THIS 17th DAY OF September, 2012

  
\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
NOTARY PUBLIC  
JERRI FARRANTE  
Commission Exp: August 26, 2015  
NP 078-11

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

MOHAMMAD HAMED By His Authorized )  
Agent WALEED HAMED )

Plaintiff, )

v. )

FATHI YUSUF AND UNITED CORPORATION )

Defendant. )

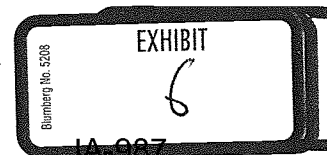
CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

**AFFIDAVIT OF WALEED HAMED A/K/A WALLY HAMED**

Waleed Hamed, a/k/a Wally Hamed, duly sworn, hereby avers as follows:

1. I am an adult resident of St. Croix and am personally knowledgeable about each fact set forth in this affidavit.
2. I am also known by most people as Wally Hamed.
3. My father, Mohammad Hamed, entered into a partnership with Fathi Yusuf in the 1980's to operate a supermarket known as Plaza Extra, located in the United Shopping Center located on the east end of St. Croix.
4. The partnership has since expanded to two other locations in the Virgin Islands, operating the Plaza Extra supermarket on the west end of St. Croix at Estate Plessen (Grove Place) and the Plaza Extra supermarket on St. Thomas located at the Tutu Park Mall.
5. My father has given me a power of attorney to act on his behalf in all aspects of the Plaza partnership business he has with Fathi Yusuf.
6. The partnership between Hamed and Yusuf currently operates the same three Plaza supermarket locations, currently employing in excess of 600 employees in the three stores.
7. Since its formation, the three Plaza Extra supermarkets have been managed jointly by my father with Fathi Yusuf, operating as a partnership with separate accounting records and separate bank accounts for each of the three stores, even though the partnership utilized the corporate entity of United Corporation ("United") for the reporting of tax obligations.



8. United owns additional assets other than the three Plaza supermarkets that my father does not have an interest in.
9. The bank accounts for the three Plaza Extra supermarkets, placed in the name of United, have always been accessible equally to my father and Fathi Yusuf, with the parties agreeing in 2010 that one family member from each of the Hamed and Yusuf families will sign each check written on these bank accounts. The current bank accounts for each of the three Plaza stores are:

**St. Thomas Plaza Extra Store:**

Operating Acct:	04xxxxxxxxxx	Bank of Nova Scotia (BNS)
Payroll Acct:	04xxxxxxxxxx	Bank of Nova Scotia (BNS)
Telecheck Acct:	04xxxxxxx	Bank of Nova Scotia (BNS)
Credit Card Acct:	1xxxxxxx	Banco Popular

**St. Croix Plaza Extra – WEST**

Operating Acct:	19xxxxxx	Banco Popular
Credit Card Acct:	19xxxxxx	Banco Popular
TeleCheck Acct:	05xxxxxxxxxx	Bank of Nova Scotia (BNS)

**St. Croix Plaza Extra – EAST**

Operating Acct:	19xxxxxx	Banco Popular
Credit Card Acct:	19xxxxxx	Banco Popular
Telecheck Acct:	58xxxxxxxxxx	Bank of Nova Scotia (BNS)

10. The accounts for United's shopping center operations and business operations that are unrelated to the three Plaza Extra supermarket stores are maintained separately by Fathi Yusuf and United. My father does not have access to these separate bank accounts used by United for its shopping center and other businesses unrelated to the three Plaza Extra supermarkets.
11. At all times relative hereto, the Hamed and Yusuf partnership profits from the Plaza Extra stores have always been held in banking and brokerage accounts completely separate from the profits of United's other unrelated businesses, even though the banking and brokerage accounts holding the profits from the Hamed and Yusuf partnership are in United's name as well. The current brokerage accounts holding these profits, well in excess of several million dollars, are:

**Popular Securities**

PSx-xxxx22

PSx-xxxx63

PSx-xxxx60  
PSx-xxxx79  
PSx-xxxx01  
PSx-xxxx10  
PSx-xxxx28  
PSx-xxxx36

Merrill Lynch  
14X-XXXXX

12. At all times relative hereto, my father and Fathi Yusuf have equally shared the profits distributed from the three Plaza supermarkets.
13. In this regard, my father and Fathi Yusuf have also maintained records of all withdrawals from the partnership account to each of them (and their respective family members), to make sure there would always be an equal (50/50) amount of these withdrawals for each partner's family members.
14. Fathi Yusuf has repeatedly confirmed the existence of this partnership between himself and my father, including statements made under oath. See Exhibit A.
15. On February 10, 2012, Fathi Yusuf's attorney, Nizar DeWood ("DeWood"), informed me, as the agent for my father, that Fathi Yusuf wanted to dissolve the partnership, which he again mentioned in a follow up letter. See Group Exhibit B The letter stated that Mr. Yusuf was ready to proceed with dissolving the partnership, describing the partnership assets to be divided as follows:

As it stands, the partnership has three major assets: Plaza Extra - West (Grove Place, including the real property), Plaza Extra - East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas).

The letter then discussed each partner getting their own store from the partnership.

16. DeWood then sent a proposed partnership dissolution agreement on behalf of Fathi Yusuf on March 13, 2012, to me, regarding Yusuf's request to dissolve the partnership. That document (See Exhibit C) then went on to state in part as follows:

WHEREAS, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

WHEREAS, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

.....  
WHEREAS, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership;

WHEREAS, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

That document then described the partnership assets as follows:

Section 1.1: Assets of the Partnership

1. PLAZA EXTRA EAST- Estate Sion Farm. St. Croix
2. PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)
3. PLAZA EXTRA - Tutu Park. St. Thomas

17. All interested parties subsequently met on numerous occasions to try to address the division of the partnership assets, including the three Plaza Extra Stores and the partnership profits held in the various bank and brokerage accounts. However, to date no agreement has been reached regarding the division of these partnership assets.
18. As these discussions progressed, Fathi Yusuf began to engage in, and continues to engage in, numerous acts in breach of his obligations as a partner in his partnership with Hamed. These acts are clearly designed to undermine the partnership's operations, jeopardizing their continued success and existence. These acts include but are not limited to the following acts:
  - a) Threatening to terminate the Hamed family employees in the three Plaza Extra stores;
  - b) Attempting to discredit the operations of these three stores by making defamatory statements about Hamed and his family members to third parties, including suppliers for the three stores, which are completely untrue;
  - c) Attempting to unilaterally change how the stores have operated by threatening to impose new and unreasonable restrictions on the operations of these three stores, all of which are aimed at undermining Hamed's partnership interest in the three stores.
  - d) Threatening to close down the Plaza Supermarkets;
  - e) Threatening the Hamed family members working in the Plaza supermarkets with physical harm, trying to intimidate them into leaving the stores;
  - f) Unilaterally canceling orders placed with vendors and not ordering new inventory for the three Plaza supermarkets;

- g) Giving false information to third parties, including suppliers of the three Plaza Supermarkets, regarding its future operations, jeopardizing the good will of the Three Plaza supermarkets; and
  - h) Spending funds from the bank accounts of the three Plaza supermarkets to support his other personal business interests unrelated to the three Plaza supermarkets.
19. Finally, on or about August 20, 2012, Fathi Yusuf indicated he wanted to withdraw \$2.7 million from the partnership, which my father (through me) refused to agree to. See Exhibit D. Thereafter, Yusuf unilaterally and wrongfully converted \$2.7 million from the Plaza Extra supermarket accounts used to operate the partnership's three stores, placing the funds in a separate United account controlled only by him. Said conversion was a willful and wanton breach of the partnership agreement between my father and Mr. Yusuf. See Exhibit E.
20. Despite repeated demands, Fathi Yusuf has not returned these funds to the Plaza Extra bank accounts from which they were withdrawn.
21. If the partnership's operations are not secured immediately, the continued operation of the three Plaza stores will be in jeopardy, as well as the continued employment of its 600 plus employees, resulting in irreparable harm to these partnership assets.
22. Indeed, Plaza is in serious jeopardy of losing customers to other stores, losing employees due to moral problems, losing supplies, and otherwise losing its goodwill, which it has built up over past 25 years.
23. The Hamed family has operated this partnership for over 25 years and wants to continue these businesses into the future for its current family members.
24. Yusuf has extensive investments overseas, so that he can easily remove these significant assets beyond the jurisdiction of this Court if the relief sought is not granted, as he has done with other profits received by him over the past 25 years.

Dated: September 18, 2012

  
\_\_\_\_\_  
Waleed Hamed a/k/a Wally Hamed

SWORN AND SUBSCRIBED TO BEFORE  
ME THIS 18<sup>th</sup> DAY OF September, 2012

  
\_\_\_\_\_  
NOTARY PUBLIC

NOTARY PUBLIC  
JERRI FARRANTE  
Commission Exp: August 26, 2015  
NP 078-11

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

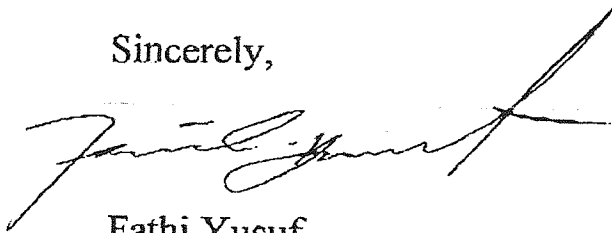
January 12, 2012

Mr. Mohamed Hamed,

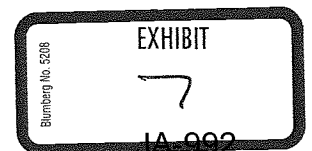
During the month of September 2009, I had a discussion with your son Wally, and within two days I repeat the same request while you were present that United Corporation would like to have its location back. Unfortunately, up to now, I have not seen that you give up the keys.

Therefore as of January 1, 2012 the rent will be \$200,000.00 per month, only for the coming three months. If you do not give up the keys before the three months, it will be \$250,000.00 per month until further notice.

Sincerely,



Fathi Yusuf





UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

January 13, 2012

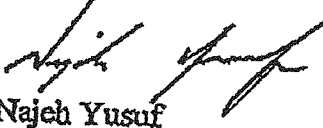
Mr. Mohamed Hamed,

Based on my father's phone call this morning, yesterday's letter (Jan 12, 2012) should read as follows; "During the month of September 2010 (not 2009)... I had a discussion with your son Wally, and within two days I repeat the same request while you were present that United Corporation would like to have its location back. Unfortunately, up to now, I have not seen that you give up the keys".

"Therefore as of January 1, 2012 the rent will be \$200,000.00 per month, only for the coming three months. If you do not give up the keys before the three months, it will be \$250,000.00 per month until further notice".

I am sorry for the error, he was hurrying to catch a plane.

Sincerely,

  
Najeh Yusuf  
for Fathi Yusuf

CC: Wally Hamed

United Corporation  
4-C & 4-D Estate Sion Farm  
P.O. Box 763  
Christiansted, VI 00820

Date: January 19, 2012

**\*\*VIA CERTIFIED MAIL -- RETURN RECEIPT REQUESTED\*\***

Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, V.I. 00820

Re: - NOTICE & CONFIRMATION OF INCREASED RENT FOR PLAZA EXTRA - SION FARM - FOR THE PERIOD OF JANUARY 1, 2012 THROUGH JUNE 30, 2012.  
- NOTICE OF LEASE TERMINATION FOR PLAZA EXTRA - SION FARM AS OF JUNE 30<sup>TH</sup>, 2012.

Dear Mr. Hamed,

This notice is to confirm the increased rent for the above referenced premises. As you will know, I have given both you and your son Waleed Hamed oral notice in September 2010 to vacate the premises. At that time, I have advised you that the rent will increase to Two Hundred Thousand Dollars (\$200,000.00) per month for each of the first three months of January, February, and March, 2012. Thereafter, the rent shall increase to Two Hundred & Fifty Thousand Dollars (\$250,000.00) each month commencing April 1, 2012 through June 30<sup>th</sup>, 2012. The last date for this lease is June 30<sup>th</sup>, 2012. There will be no additional extensions of tenancy to Plaza Extra -- Sion Farm.

An orderly inspection will be done to evaluate the condition of the premises. Kindly, advise as to when you are available to conduct an inspection, and to inventory all fixtures and improvements that will remain on the premises. Should you have any concerns regarding this notice, or any other matters concerning this lease, please ensure that same be made in writing,

and delivered by way of certified mail, return receipt requested to the address above. Thank you  
for your prompt attention in this matter.

Sincerely,

United Corporation

By: 

Fathi Yusuf, CEO

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

April 4, 2012

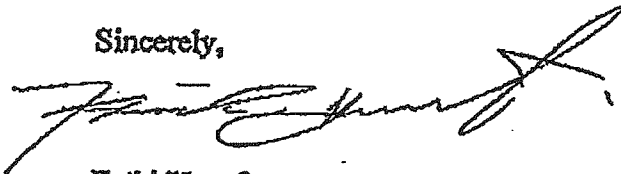
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00820

Re: Notice of Increased Rent commencing April 1, 2012

Mr. Mohamed Hamed,

Please note that according to my letter dated January 19, 2012 the rent of Plaza Extra East starting April 1, 2012 has now increased to \$250,000.00 per month. Please forward me the rent due from January 1, 2012 through April 1, 2012 for a total of \$850,000.00 immediately. If I do not receive this amount by the end of April 2012, I will add interest at a rate of 12% starting May 1, 2012. This will be my last notice to you of back rent due.

Sincerely,



Fathi Yusuf

CC: Wally Hamed

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

May 4, 2012

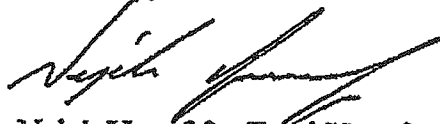
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of May 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through April 1, 2012	Balance Due	\$850,000.00
ADD: 1% interest on outstanding Balance		\$ 8,500.00
	Amount Due	<u>\$858,500.00</u>
May 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due May 1, 2012	<u>\$1,108,500.00</u>

Please forward a check immediately.

Sincerely,



Najeh Yusuf for Fathi Yusuf

CC: Wally Hamed

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

June 1, 2012

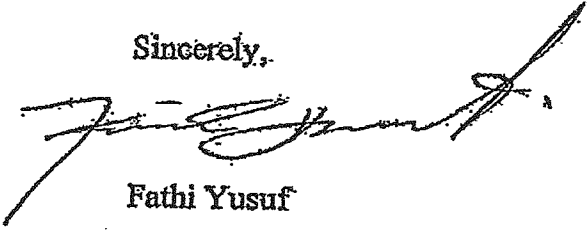
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

Statement of Rent due for Plaza Extra – East as of June 1, 2012

Rent due for Plaza Extra – East, January 1, 2012 through May 1, 2012	Balance Due	\$1,108,500.00
ADD: 1% interest on outstanding Balance		\$ 11,085.00
	Amount Due	\$1,119,585.00
June 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due June 1, 2012	<u>\$1,369,585.00</u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

CC: Wally Hamed

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

July 1, 2012

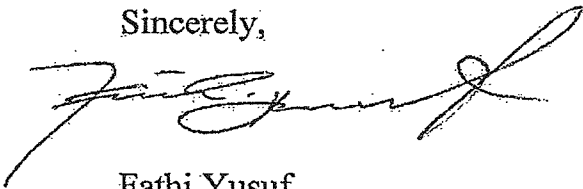
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of July 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through June 1, 2012	Balance Due	\$1,369,585.00
ADD: 1% interest on outstanding Balance		<u>\$ 13,695.85</u>
	Amount Due	\$1,383,280.85
July 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due July 1, 2012	<u><b>\$1,633,280.85</b></u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

CC: Wally Hamed

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

August 1, 2012

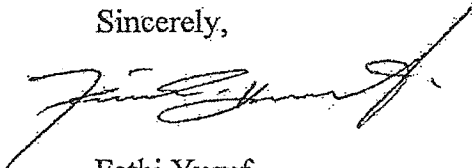
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of August 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through July 31, 2012	Balance Due	\$1,633,280.85
ADD: 1% interest on outstanding Balance		<u>\$ 16,332.81</u>
	Amount Due	\$1,649,613.66
August 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due August 1, 2012	<u>\$1,899,613.66</u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

CC: Wally Hamed



UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

September 1, 2012

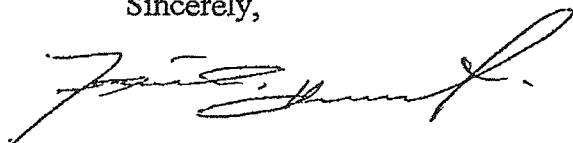
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of September 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through Aug. 31, 2012	Balance Due	\$1,899,613.66
ADD: 1% interest on outstanding Balance		<u>\$ 18,996.14</u>
	Amount Due	\$1,918,609.80
September 2012 Rent currently due:		<u>\$250,000.00</u>
Total Balance due September 1, 2012		<u><b>\$2,168,609.80</b></u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

October 1, 2012

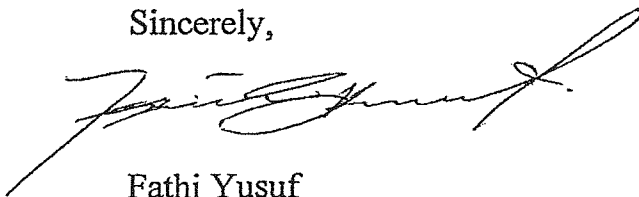
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of October 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through Sept. 30, 2012	Balance Due	\$2,168,609.80
ADD: 1% interest on outstanding Balance		<u>\$ 21,686.10</u>
	Amount Due	<u>\$2,190,295.90</u>
October 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due October 1, 2012	<u>\$2,440,295.90</u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

November 1, 2012

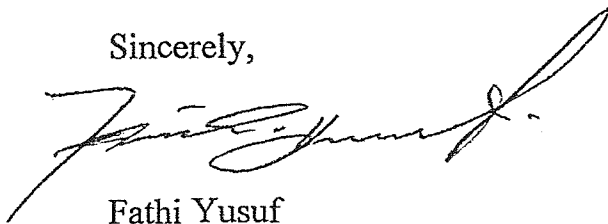
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of November 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through Oct. 31, 2012	Balance Due	\$2,440,295.90
ADD: 1% interest on outstanding Balance		\$ 24,402.96
	Amount Due	<u>\$2,464,698.86</u>
November 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due November 1, 2012	<u>\$2,714,698.86</u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

UNITED CORPORATION

4C & 4D Sion Farm  
St. Croix, USVI 00821  
Phone (340) 778-6240

December 1, 2012

Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

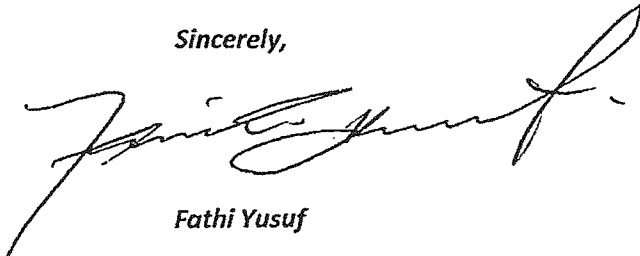
Statement of Rent due for Plaza Extra – East as of December 1, 2012

Rent due for Plaza Extra – East

January 1, 2012 through November 30, 2012	Balance Due	\$2,714,698.86
ADD: 1% interest on outstanding Balance		\$ <u>27,146.99</u>
	Amount Due	\$2,741,845.85
December 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due December 1, 2012	\$2,991,845.85

Please forward a check immediately.

Sincerely,



Fathi Yusuf

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

January 1, 2013

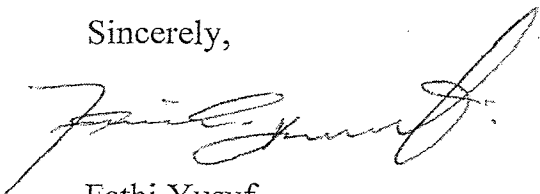
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of January 1, 2013**

Rent due for Plaza Extra – East, January 1, 2012 through Dec. 31, 2012	Balance Due	\$2,991,845.85
ADD: 1% interest on outstanding Balance		<u>\$ 29,918.46</u>
	Amount Due	\$ 3,021,764.31
January 2013 Rent currently due:		<u>\$ 250,000.00</u>
	Total Balance due January 1, 2013	<u><b>\$ 3,271,764.31</b></u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

Rent

**United Corporation dba Plaza Extra**

**Tutu Park Store Sales:**

1-1-2004 to 12-31-2004	32,323,902.88
Less: 1-1-2004 to 5-4-2004	<u>-10,849,029.02</u>
Sales 5-5-2004 to 12-31-2004	<u><u>21,474,873.86</u></u>

**Tutu Park Store:**

Paid Rent, Water, & Property Tax	263,577.53
Paid 1.5% Overage	<u>71,914.23</u>
5-5-2004 to 12-31-2004	335,491.76
1-1-2005 to 12-31-2005	515,361.54
1-1-2006 to 12-31-2006	590,533.60
1-1-2007 to 4-1-2007	255,699.33
4-2-2007 to 12-3-2007	468,689.55
1-3-2008 to 12-5-2008	540,180.12
1-5-2009 to 12-10-2009	529,799.66
1-6-2010 to 12-3-2010	527,565.40
1-1-2011 to 12-31-2011	<u>541,175.61</u>

Rent, etc. 5-5-2004 to 12-31-2011	4,304,496.57
Parking Lot Cleaning	<u>126,000.00</u>
Total Amount Paid	4,430,496.57 a

**Tutu Park Store Sales:**

5-5-2004 to 12-31-2011	261,474,323.91
Portion of Sales - Rented building	<u>217,895,269.93</u> b
Portion of Sales - Area built by Plaza	43,579,053.98

Total Paid as a % of Sales (Rented Bldg.) = a/b 2.0333147073%

**Sion Farm Sales:**

Sion Farm Sales 5-5-2004 to 12-31-2011	273,884,222.70
Less: R/X	<u>-7,874,897.13</u>
	266,009,325.57

Calculated Rent as a % of Sales Sion Farm \$ 5,408,806.74



# PLAZA EXTRA ST. THOMAS

## Store Sales

JA-1007

Start Date: 5/5/2004      End Date: 12/31/2011

Departments	Sales	%	Open Dept	Cost of Sales	Gross Margin	Items	Avg Price	Avg Order	Customers
GROCERY	\$67,957,416.58	25.99%	\$5,086,369.33	671,322,425.36	%29.230	1,927	\$2.35	5.62	5,150,625
MEAT	\$19,883,275.28	7.60%	\$2,761,087.99	\$907,458.67	%	82	\$1.35	11.97	1,228,089
PRODUCE	\$36,813,345.19	14.08%	\$1,626,346.78	\$1,399,428.25	%	92	\$1.30	7.81	3,617,073
DAIRY	\$30,279,295.92	11.58%	\$478,376.70	818,817,078.12	%(5.908)	1,612	\$2.85	3.39	3,132,495
FROZEN FOOD	\$11,243,995.42	4.30%	\$332,373.49	\$5,229,011.67	%	51	\$4.27	2.17	1,211,009
SEAFOOD	\$2,660,656.29	1.02%	\$326,795.12	\$174,074.09	%	81	\$1.32	8.82	228,482
DELI	\$1,225,248.72	0.47%	\$209,976.25	\$26,748.55	%	81	\$1.14	3.85	277,949
BAKERY	\$5,862,285.49	2.24%	\$338,956.66	\$136,282.33	%	92	\$1.06	3.98	1,389,669
BREAD/MILK	\$5,277,473.87	2.02%	\$349,875.43	\$3,862,680.89	%	20	\$2.78	1.43	1,332,327
LIQUOR	\$6,171,636.90	2.36%	\$393,324.36	\$3,865,140.15	%	31	\$9.86	2.00	313,241
BEER/WINE	\$4,589,647.47	1.76%	\$365,551.22	\$2,923,218.76	%	28	\$7.58	1.53	394,856
TOBACCO	\$1,789,767.40	0.68%	\$135,661.43	\$1,037,755.96	%	34	\$6.23	1.45	197,968
NON-FOOD	\$16,351,119.95	6.25%	\$2,411,101.01	\$7,381,599.79	%	40	\$3.06	2.68	1,996,323
GENERAL MERCHANDISE	\$634,435.77	0.24%	\$28,566.98	\$268,994.96	%	53	\$3.46	1.42	129,157
HBA	\$2,670,634.68	1.02%	\$60,958.85	\$1,369,015.74	%	46	\$4.37	1.58	386,238
NOT USED	\$1,173.86	0.00%	\$0.00	\$697.42	%	41	\$8.76	1.03	130

Start Date: 5/5/2004

End Date: 12/31/2011

Departments	Sales	%	Sales		Cost of Sales	Gross Margin	Items	Avg Price	Avg Order	Customers
			Open Dept	Sales						
HOT DELI	\$2,571,991.02	0.98%	\$1,116,693.15	\$309.87	%	57	515,860.05	\$4.99	1.27	405,579
VALUE PACK F/S	\$22,653,413.69	8.66%	\$1,413,136.72	\$11,449,940.59	%	43	,006,846.11	\$7.53	2.03	1,479,390
VALUE PACK NON F/S	\$8,065,744.60	3.08%	\$203,280.98	\$5,036,901.76	%	35	583,440.81	\$13.82	1.50	389,152
WIC	\$10,298,613.60	3.94%	\$43,326.66	\$6,041,565.81	%	41	,068,726.83	\$2.53	3.69	1,103,143
PERKY'S PIZZA	\$676,831.03	0.26%	\$26,441.94	\$147.22	%	96	441,356.00	\$1.53	1.66	265,906
INDIAN FOOD	\$938,212.96	0.36%	\$0.00	\$431,183.80	%	54	261,068.50	\$3.59	3.04	85,895
VP-FROZEN	\$2,237,265.54	0.86%	\$0.00	\$793,042.89	%	65	214,430.75	\$10.43	1.57	136,553
VP-DAIRY	\$503,317.50	0.19%	\$0.00	\$279,143.79	%	45	62,199.00	\$8.09	1.21	51,225
A New Department	\$117,525.18	0.04%	\$0.00	\$0.00	%	100	16,175.67	\$7.27	1.49	10,891

Total Sales: \$261,474,323.91 100.00% \$17,708,201.05 \$542,753,846.44 ; 455,839.23 \$2.33 13.72 8,196,865

Tax A: \$0.00  
 Tax B: \$0.00  
 Tax C: \$0.00  
 Tax D: \$0.00  
 Total Tax: \$0.00  
 Total: \$261,474,323.91



# PLAZA EXTRA Store Sales

Start Date: 5/5/2004      End Date: 12/31/2011

Departments	Sales	%	Open Dept Sales	Cost of Sales	Gross Margin	Items	Avg Price	Avg Order	Customers
GROCERY	\$77,540,325.72	28.31%	\$4,806,798.08	\$41,043,964.22	43.57%	1,760,700.68	\$2.30	\$15.65	4,956,147
MEAT	\$22,761,154.20	8.31%	\$1,179,843.69	\$1,230,369.19	89.38%	1,386,379.45	\$2.19	\$16.82	1,353,040
PRODUCE	\$28,379,889.93	10.36%	\$2,943,367.73	\$64,991,623.13	-155.51%	1,871,107.18	\$1.36	\$9.52	2,980,801
DAIRY	\$29,542,512.11	10.79%	\$273,103.80	\$4,762,566.27	49.56%	1,140,260.44	\$3.23	\$10.64	2,775,806
FROZEN FOOD	\$12,078,722.66	4.41%	\$261,739.66	\$6,266,457.92	46.97%	835,067.75	\$4.26	\$9.03	1,337,864
SEAFOOD	\$2,421,797.17	0.88%	\$1,035,669.05	\$420,156.79	69.69%	602,705.42	\$4.02	\$13.36	181,235
DELI	\$1,773,285.42	0.65%	\$416,881.84	\$5,767.35	99.57%	260,751.42	\$1.41	\$5.35	331,206
BAKERY	\$2,662,685.92	0.97%	\$1,316,401.22	\$134,539.22	90.01%	155,401.45	\$2.30	\$3.51	757,905
BREAD/MILK	\$5,421,454.27	1.98%	\$238,710.51	\$4,177,357.29	19.40%	864,906.08	\$2.91	\$4.10	1,321,329
LIQUOR	\$6,952,529.45	2.54%	\$296,242.04	\$4,492,928.94	32.50%	702,191.25	\$9.90	\$19.28	360,642
BEER/WINE	\$7,422,912.78	2.71%	\$69,488.95	\$5,455,196.79	25.81%	627,692.88	\$11.83	\$19.66	377,633
TOBACCO	\$2,845,895.93	1.04%	\$33,406.17	\$2,005,365.13	28.70%	363,991.45	\$7.82	\$12.27	231,920
NON-FOOD	\$22,926,850.00	8.37%	\$2,129,456.93	\$19,201,091.34	1800.62%	826,615.04	\$3.36	\$9.22	2,487,383
GENERAL MERCHANDISE	\$264,597.39	0.10%	\$36,233.96	\$106,810.92	53.23%	68,306.50	\$3.87	\$5.11	51,826
HBA	\$4,172,337.02	1.52%	\$54,178.02	\$2,130,102.56	48.28%	826,418.08	\$5.05	\$8.42	495,289
RX	\$7,874,897.13	2.88%	\$7,874,321.54	\$328.19	42.98%	380,308.01	\$20.71	\$33.85	232,656
HOT DELI	\$1,785,689.41	0.65%	\$844,832.86	\$122.00	99.99%	922,656.51	\$1.94	\$5.18	344,873
VALUE PACK	\$20,760,953.14	7.58%	\$63,110.08	\$12,713,898.15	38.57%	551,704.67	\$8.14	\$15.65	1,326,211

Start Date: 5/5/2004 End Date: 12/31/2011

Departments	Sales	%	Open Dept Sales	Cost of Sales	Gross Margin	Items	Avg Price	Avg Order	Customers
CAKES	\$166,996.53	0.06%	\$0.00	\$10,126.10	93.94%	10,516.95	\$15.88	\$16.85	9,911
PERKYS PIZZA	\$2,083,272.73	0.76%	\$1.06	\$13,724.12	99.34%	1,117,209.57	\$1.86	\$3.18	654,206
VALUE PACK NON FOOD	\$5,539,945.84	2.02%	\$25.98	\$3,274,002.15	40.90%	447,872.00	\$12.37	\$17.52	316,228
CHRISTMAS	\$14,755.86	0.01%	\$0.00	\$1,611.35	89.08%	4,496.67	\$3.28	\$7.79	1,894
SPRING	\$5,009.57	0.00%	\$0.00	\$2,670.32	46.70%	2,080.00	\$2.41	\$2.96	1,695
VALENTINE	\$4,071.84	0.00%	\$0.00	\$1,431.67	64.84%	851.00	\$4.78	\$7.08	575
SUMMER	\$1,393.85	0.00%	\$0.00	\$657.69	52.82%	277.00	\$5.03	\$8.30	168
OLD STUFF	\$292.28	0.00%	\$0.00	\$103.07	64.74%	126.00	\$2.32	\$2.52	116
EASTER	\$149.68	0.00%	\$0.00	\$73.85	50.66%	75.00	\$2.00	\$3.40	44
DOLLAR DAYS	\$845.30	0.00%	\$0.00	\$284.70	66.32%	398.00	\$2.12	\$2.44	346
FROZEN VALUE PK	\$6,580,217.34	2.40%	\$0.00	\$3,660,361.55	44.37%	549,764.30	\$11.97	\$17.71	371,584
ANIMAL FEED	\$6,187.07	0.00%	\$0.00	\$3,965.32	35.91%	457.00	\$13.54	\$14.22	435
FRITO LAY	\$10,446.58	0.00%	\$0.00	\$4,963.25	52.49%	2,032.00	\$5.14	\$6.24	1,675
DAIRY VALUE PK	\$1,517,686.38	0.55%	\$0.00	\$924,137.84	39.11%	190,391.00	\$7.97	\$9.30	163,187
SEAFOOD VALUE PK	\$131,056.04	0.05%	\$3.99	\$16,486.79	87.42%	7,497.00	\$17.48	\$23.66	5,539
W/CABLE	\$132,444.88	0.05%	\$0.00	\$78,500.04	40.65%	6,068.00	\$21.83	\$47.32	2,799
HBA VALUE PK	\$67,249.99	0.02%	\$0.00	\$36,825.13	45.24%	5,207.00	\$12.92	\$14.75	4,558
VIDEO	\$33,709.73	0.01%	\$0.00	\$7,122.09	78.87%	2,537.00	\$13.29	\$18.00	1,873
<b>Total Sales:</b>	<b>\$273,884,221.14</b>	<b>100.00%</b>	<b>33,873,817.15</b>	<b>187,175,792.42</b>		<b>495,019.76</b>	<b>\$2.81</b>	<b>\$33.73</b>	<b>8,120,300</b>

Tax A: \$1.56  
 Tax B: \$0.00  
 Tax C: \$0.00

Start Date: 5/5/2004

End Date: 12/31/2011

Departments	Sales	%	Open Dept Sales	Cost of Sales	Gross Margin	Items	Avg Price	Avg Order	Customers
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Tax D: \$0.00  
 Total Tax: \$1.56

Total: \$273,884,222.70

Printed: 9/22/2011 4:47:55 PM

Tutu Park, Ltd.

Tenant Payment List

04/01/2007 To 09/22/2011

Transaction Date	Account #	Tenant Name	Payment Description	Check #	Total Payment Amount	
08/05/2009	1000	Plaza Extra	Water	17651	2,707.40	
08/31/2009	1000	Plaza Extra	Sept. rent	17674	30,359.38	
08/31/2009	1000	Plaza Extra	Water	17675	3,266.97	
10/02/2009	1000	Plaza Extra	Oct. rent	32126	3,150.74	
10/02/2009	1000	Plaza Extra	Oct. rent	32125	30,359.38	
11/02/2009	1000	Plaza Extra	Nov. rent	32279	30,359.38	
11/02/2009	1000	Plaza Extra	water	32278	2,132.80	
11/09/2009	1000	Plaza Extra	Payment from Plaza Ext	32306	138,554.98	
12/10/2009	1000	Plaza Extra	Dec. rent	32438	30,359.38	529,799.66 ✓
01/06/2010	1000	Plaza Extra	Jan. rent	17772	30,359.38	
02/03/2010	1000	Plaza Extra	Feb rent	32735	30,359.38	
02/03/2010	1000	Plaza Extra	Water bill	32736	3,238.29	
03/08/2010	1000	Plaza Extra	water	32885	2,648.16	
03/08/2010	1000	Plaza Extra	Mar. rent	32865	30,359.38	
04/06/2010	1000	Plaza Extra	Apr. rent	33001	30,359.38	
04/06/2010	1000	Plaza Extra	water	33002	2,610.31	
05/06/2010	1000	Plaza Extra	May rent	33139	30,359.38	
05/06/2010	1000	Plaza Extra	water	33151	4,291.70	
06/02/2010	1000	Plaza Extra	June rent	33276	30,359.38	
06/02/2010	1000	Plaza Extra	Water bill	33277	3,282.99	
07/01/2010	1000	Plaza Extra	July rent	33440	30,359.38	
07/01/2010	1000	Plaza Extra	water	33441	2,725.07	
08/02/2010	1000	Plaza Extra	Water bill	33561	2,555.10	
08/02/2010	1000	Plaza Extra	Water bill	33560	2,642.19	
08/02/2010	1000	Plaza Extra	Water bill	33563	2,103.09	
08/02/2010	1000	Plaza Extra	Aug. rent	33562	30,659.76	
09/02/2010	1000	Plaza Extra	Sept. rent	33702	30,059.00	
09/02/2010	1000	Plaza Extra	Water bill	33704	2,417.93	
09/28/2010	1000	Plaza Extra	Oct. rent	33866	30,359.38	
09/28/2010	1000	Plaza Extra	Water	33864	2,014.59	
11/03/2010	1000	Plaza Extra	Nov. rent	30905	30,359.38	
11/03/2010	1000	Plaza Extra	Payment from Plaza Ext	30904	2,252.61	
11/29/2010	1000	Plaza Extra	'09 - '10 Overage Paym	31029	128,554.70	
12/03/2010	1000	Plaza Extra	Dec. rent	31069	30,359.38	
12/03/2010	1000	Plaza Extra	water	31068	1,916.11	527,565.40 ✓
01/04/2011	1000	Plaza Extra	Jan. rent	31217	30,359.38	
01/04/2011	1000	Plaza Extra	water	31208	2,880.54	
02/01/2011	1000	Plaza Extra	water	31364	2,053.80	
02/01/2011	1000	Plaza Extra	Feb. rent	31365	30,359.38	
02/28/2011	1000	Plaza Extra	Mar. rent	31502	30,359.38	
02/28/2011	1000	Plaza Extra	water	31503	2,331.55	
03/08/2011	1000	Plaza Extra	2006 Real Estate Tax	31523	12,242.90	
03/30/2011	1000	Plaza Extra	April rent	31653	30,359.38	
03/30/2011	1000	Plaza Extra	Water bill	31654	2,015.33	
05/04/2011	1000	Plaza Extra	May rent	31818	30,359.38	
05/05/2011	1000	Plaza Extra	Water bill	31817	2,767.38	
05/21/2011	1000	Plaza Extra	Utilittes	31973	2,604.76	
05/21/2011	1000	Plaza Extra	June rent	31972	30,359.38	
07/04/2011	1000	Plaza Extra	water	34098	2,715.02	
07/04/2011	1000	Plaza Extra	July rent	34099	30,359.38	
08/02/2011	1000	Plaza Extra	Aug. rent	34235	30,359.38	
08/02/2011	1000	Plaza Extra	Aug. water	34234	2,708.55	
08/11/2011	1000	Plaza Extra	2008 Real Estate Tax	34311	11,630.76	
08/28/2011	1000	Plaza Extra	2007 Real Estate Tax	34341	12,242.90	
09/01/2011	1000	Plaza Extra	Water bill	34405	2,691.39	
09/01/2011	1000	Plaza Extra	Sept. rent	34408	30,359.38	332,119.30

559,175.6

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Tutu Park, Ltd.

Tenant Payment List

04/01/2007 To 09/22/2011

Transaction Date	Account #	Tenant Name	Payment Description	Check #	Total Payment Amount	
08/05/2009	1000	Plaza Extra	Water	17651	2,707.40	
08/31/2009	1000	Plaza Extra	Sept. rent	17674	30,359.38	
08/31/2009	1000	Plaza Extra	Water	17675	3,266.97	
10/02/2009	1000	Plaza Extra	Oct. rent	32126	3,150.74	
10/02/2009	1000	Plaza Extra	Oct. rent	32125	30,359.38	
11/02/2009	1000	Plaza Extra	Nov. rent	32279	30,359.38	
11/02/2009	1000	Plaza Extra	water	32278	2,132.80	
11/09/2009	1000	Plaza Extra	Payment from Plaza Ext	32306	138,554.98	
12/10/2009	1000	Plaza Extra	Dec. rent	32438	30,359.38	529,799.66 ✓
01/06/2010	1000	Plaza Extra	Jan. rent	17772	30,359.38	
02/03/2010	1000	Plaza Extra	Feb rent	32735	30,359.38	
02/03/2010	1000	Plaza Extra	Water bill	32736	3,238.29	
03/08/2010	1000	Plaza Extra	water	32885	2,648.16	
03/08/2010	1000	Plaza Extra	Mar. rent	32865	30,359.38	
04/06/2010	1000	Plaza Extra	Apr. rent	33001	30,359.38	
04/06/2010	1000	Plaza Extra	water	33002	2,610.31	
05/06/2010	1000	Plaza Extra	May rent	33139	30,359.38	
05/06/2010	1000	Plaza Extra	water	33151	4,291.70	
06/02/2010	1000	Plaza Extra	June rent	33276	30,359.38	
06/02/2010	1000	Plaza Extra	Water bill	33277	3,282.99	
07/01/2010	1000	Plaza Extra	July rent	33440	30,359.38	
07/01/2010	1000	Plaza Extra	water	33441	2,725.07	
08/02/2010	1000	Plaza Extra	Water bill	33561	2,555.10	
08/02/2010	1000	Plaza Extra	Water bill	33560	2,642.19	
08/02/2010	1000	Plaza Extra	Water bill	33563	2,103.09	
08/02/2010	1000	Plaza Extra	Aug. rent	33562	30,659.76	
09/02/2010	1000	Plaza Extra	Sept. rent	33702	30,059.00	
09/02/2010	1000	Plaza Extra	Water bill	33704	2,417.93	
09/28/2010	1000	Plaza Extra	Oct. rent	33866	30,359.38	
09/28/2010	1000	Plaza Extra	Water	33864	2,014.59	
11/03/2010	1000	Plaza Extra	Nov. rent	30905	30,359.38	
11/03/2010	1000	Plaza Extra	Payment from Plaza Ext	30904	2,252.61	
11/29/2010	1000	Plaza Extra	'09 - '10 Overage Paym	31029	128,554.70	
12/03/2010	1000	Plaza Extra	Dec. rent	31069	30,359.38	
12/03/2010	1000	Plaza Extra	water	31068	1,916.11	527,565.40 ✓
01/04/2011	1000	Plaza Extra	Jan. rent	31217	30,359.38	
01/04/2011	1000	Plaza Extra	water	31208	2,880.54	
02/01/2011	1000	Plaza Extra	water	31364	2,053.80	
02/01/2011	1000	Plaza Extra	Feb. rent	31365	30,359.38	
02/28/2011	1000	Plaza Extra	Mar. rent	31502	30,359.38	
02/28/2011	1000	Plaza Extra	water	31503	2,331.55	
03/08/2011	1000	Plaza Extra	2006 Real Estate Tax	31523	12,242.90	
03/30/2011	1000	Plaza Extra	April rent	31653	30,359.38	
03/30/2011	1000	Plaza Extra	Water bill	31654	2,015.33	
05/04/2011	1000	Plaza Extra	May rent	31818	30,359.38	
05/05/2011	1000	Plaza Extra	Water bill	31817	2,767.38	
05/21/2011	1000	Plaza Extra	Utilittes	31973	2,604.76	
05/21/2011	1000	Plaza Extra	June rent	31972	30,359.38	
07/04/2011	1000	Plaza Extra	water	34098	2,715.02	
07/04/2011	1000	Plaza Extra	July rent	34099	30,359.38	
08/02/2011	1000	Plaza Extra	Aug. rent	34235	30,359.38	
08/02/2011	1000	Plaza Extra	Aug. water	34234	2,708.55	
08/11/2011	1000	Plaza Extra	2008 Real Estate Tax	34311	11,630.76	
08/28/2011	1000	Plaza Extra	2007 Real Estate Tax	34341	12,242.90	
09/01/2011	1000	Plaza Extra	Water bill	34405	2,691.39	
09/01/2011	1000	Plaza Extra	Sept. rent	34408	30,359.38	332,119.30

559,175.6

Occupant: Master Occupant: PLAZA EXTRA From 1/1/2007 to 12/31/2007

Master Occupant ID PLZAXX  
 Address ID:  
 Bidgid  
 LeaseID  
 Income Category: ALL  
 Receipt Type Id ALL  
 Rcpt Descriptor ALL

Balance Forward: 86,979.59  
 Charges (Debit) 213,506.75  
 Receipts (Credit) -255,699.33  
 Prepaid: 0.00  
 Net 44,787.01  
 Security Deposit 0.00

Cat Date	BatchID	Bidgid	Lease ID	Sr	Description	Charges (Debit)	Receipts (Credit)	RcptDesc	Balance	Inv
RNT 1/1/2007	00001216	000001	PLZAX	CH	Balance Forward:		0.00		86,979.59	
WAT 1/11/2007	00001228	000001	PLZAX	CR	ADTOCHRG 6RT1/31/2007	30,359.38			117,338.97	
RNT 1/11/2007	00001228	000001	PLZAX	CR	Receipt	0.00	-2,023.53	CHK BNS5502	115,315.44	
WAT 1/25/2007	00001238	000001	PLZAX	CH	WATER 01/07	0.00	-30,359.38	CHK BNS5501	84,956.06	
RNT 2/1/2007	00001243	000001	PLZAX	CH	AUTOCHRG 6T2/28/2007	2,352.64	0.00		87,308.70	
RNT 2/1/2007	00001245	000001	PLZAX	CR	Receipt	30,359.38			117,668.08	
WAT 2/1/2007	00001245	000001	PLZAX	CR	Receipt	0.00	-30,359.38	CHK BNS5645	87,308.70	
WAT 2/21/2007	00001266	000001	PLZAX	CH	WATER 02/07	1,536.81	0.00		84,956.06	
TAX 2/21/2007	00001267	000001	PLZAX	NC	TAX ADJ 1998	0.00	-4,660.87		81,832.00	
TAX 2/21/2007	00001267	000001	PLZAX	NC	TAX ADJ 1999	0.00	-3,649.55		78,182.45	
TAX 2/21/2007	00001267	000001	PLZAX	NC	TAX ADJ 2000	0.00	-3,649.55		74,532.90	
TAX 2/21/2007	00001267	000001	PLZAX	NC	TAX ADJ 2001	0.00	-3,649.55		70,883.35	
TAX 2/21/2007	00001267	000001	PLZAX	NC	TAX ADJ 2002	0.00	-3,402.12		67,481.23	
TAX 2/21/2007	00001267	000001	PLZAX	NC	TAX ADJ 2003	0.00	-1,841.51		65,639.72	
TAX 2/21/2007	00001267	000001	PLZAX	NC	TAX ADJ 2004	0.00	-1,924.89		63,714.83	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	12,094.05	-14,142.23		49,572.60	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	12,094.05	0.00		61,666.65	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	12,643.78	0.00		73,760.70	
TAX 2/22/2007	00001268	000001	PLZAX	CR	Receipt	0.00	0.00		86,404.48	
TAX 2/22/2007	00001268	000001	PLZAX	CR	Receipt	0.00	-5,207.47	CHK BNS5783	81,197.01	
TAX 2/22/2007	00001268	000001	PLZAX	CR	Receipt	0.00	-15,111.31	CHK BNS5783	66,085.70	
TAX 2/22/2007	00001268	000001	PLZAX	CR	Receipt	0.00	-13,550.70	CHK BNS5783	52,535.00	
TAX 2/22/2007	00001268	000001	PLZAX	CR	Receipt	0.00	-14,166.31	CHK BNS5783	38,368.69	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	4,660.87	0.00		43,029.56	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	3,649.55	0.00		46,679.11	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	3,649.55	0.00		50,328.66	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	3,649.55	0.00		53,978.21	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	3,402.12	0.00		57,380.33	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	1,841.51	0.00		59,221.84	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	1,924.89	0.00		61,146.73	
TAX 2/22/2007	00001268	000001	PLZAX	CH	CreditApply	14,142.23	0.00		75,288.96	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-12,094.05		63,194.91	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-4,092.38		59,102.53	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-8,001.67		51,100.86	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-8,208.65		42,892.21	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-4,435.13		38,457.08	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-4,660.87		33,796.21	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-3,649.55		30,146.66	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-3,464.77		26,681.89	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-184.78		26,497.11	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-3,649.55		22,847.56	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-3,402.12		19,445.44	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-1,841.51		17,603.93	
TAX 2/22/2007	00001268	000001	PLZAX	NC	CreditApply	0.00	-1,924.89		15,679.04	
RNT 3/1/2007	00001270	000001	PLZAX	CH	AUTOCHRG 6T3/31/2007	30,359.38	-14,142.23		1,536.81	
							0.00		31,896.19	

RNT 3/2/2007 00001277 000001 PLZAX CR Receipt  
 WAT 3/21/2007 00001277 000001 PLZAX CR Receipt  
 TAX 3/28/2007 00001291 000001 PLZAX CH WATER 03/07  
 RNT 4/1/2007 00001302 000001 PLZAX CH 2005 tax  
 RNT 4/1/2007 00001303 000001 PLZAX CH AUTOCHRG 07/4/30/2007

0.00	0.00	1,536.81
0.00	-30,359.38	0.00
2,186.21	-1,536.81	2,186.21
12,241.42	0.00	14,427.63
30,359.38	0.00	44,787.01
-----		
213,506.75	-255,699.33	

Occupant: Master Occupant: PLAZA EXTRA

From 1/1/2006 to 12/31/2006

Master Occupant ID PLZAX  
 Address Id:  
 BldgId  
 LeaseID  
 Income Category: All  
 Receipt Type Id All  
 Rcpt Descriptor All

Balance Forward: 2,580.59  
 Charges (Debit) 688,696.39  
 Receipts (Credit) -604,297.39  
 Prepaid: 0.00  
 Net 86,979.59  
 Security Deposit 0.00

Cat Date	BatchID	BldgId	Lease ID	Sr Description	Charges (Debit)	Receipts (Credit)	Rcpt	RcptDesc	Balance Invc
RNT 1/1/2006	00000811	000001	PLZAX	Balance Forward:					2,580.59
RNT 1/3/2006	00000813	000001	PLZAX	CH AUTOCHRG @T1/31/2006	30,359.38	0.00		bns3613	32,939.97
WAT 1/3/2006	00000813	000001	PLZAX	CR Receipt	0.00	-30,359.38		bns3607	2,580.59
WAT 1/24/2006	00000829	000001	PLZAX	CH WATER 01/06	1,955.45	0.00			0.00
RNT 1/31/2006	00000837	000001	PLZAX	CR Receipt	0.00	-30,359.38		bns3761	1,955.45
WAT 1/31/2006	00000835	000001	PLZAX	CH AUTOCHRG @T2/28/2006	30,359.38	0.00		bns3749	-28,403.93
WAT 2/22/2006	00000858	000001	PLZAX	CH water 02/06	2,584.42	0.00			0.00
RNT 3/1/2006	00000863	000001	PLZAX	CH AUTOCHRG @T3/31/2006	30,359.38	0.00		BNS3909	32,943.80
RNT 3/2/2006	00000883	000001	PLZAX	CR Receipt	0.00	-2,584.42		BNS3881	2,584.42
WAT 3/2/2006	00000883	000001	PLZAX	CR Receipt	0.00	-2,584.42			0.00
WAT 3/20/2006	00000902	000001	PLZAX	CH WATER 03/06	2,508.00	0.00			2,508.00
WAT 3/30/2006	00000913	000001	PLZAX	CR Receipt	0.00	-2,508.00		BNS4012	0.00
RNT 4/1/2006	00000910	000001	PLZAX	CH AUTOCHRG @T4/30/2006	30,359.38	0.00			30,359.38
RNT 4/3/2006	00000914	000001	PLZAX	CR Receipt	0.00	-30,359.38		bns4046	0.00
WAT 4/25/2006	00000939	000001	PLZAX	CH WATER 04/06	2,323.90	0.00			2,323.90
RNT 5/1/2006	00000942	000001	PLZAX	CH AUTOCHRG @T5/31/2006	30,359.38	0.00			32,683.28
RNT 5/2/2006	00000949	000001	PLZAX	CR Receipt	0.00	-30,359.38		bns4165	2,323.90
WAT 5/4/2006	00000953	000001	PLZAX	CR Receipt	0.00	-2,323.90		bns4166	0.00
WAT 5/19/2006	00000968	000001	PLZAX	CH WATER 05/06	1,434.65	0.00			1,434.65
RNT 6/1/2006	00000977	000001	PLZAX	CH AUTOCHRG @T6/30/2006	30,359.38	0.00			31,794.03
WAT 6/2/2006	00000985	000001	PLZAX	CR Receipt	0.00	-1,434.65		BNS4296	30,359.38
RNT 6/2/2006	00000985	000001	PLZAX	CR Receipt	0.00	-30,359.38		BNS4320	0.00
WAT 6/20/2006	00001004	000001	PLZAX	CH WATER 06/06	1,821.93	0.00			1,821.93
TAX 6/21/2006	00001008	000001	PLZAX	CH 2002 BILLING/CREDIT	12,094.05	0.00			13,915.98
TAX 6/21/2006	00001009	000001	PLZAX	CH 2003 TAX BILLING/CREDIT	12,094.05	0.00			26,010.03
TAX 6/21/2006	00001010	000001	PLZAX	CH 2004 TAX BILLING/CREDIT	12,643.78	0.00			38,653.81
RNT 7/1/2006	00001016	000001	PLZAX	CH AUTOCHRG @T7/31/2006	30,359.38	0.00			69,013.19
WAT 7/5/2006	00001020	000001	PLZAX	CR Receipt	0.00	-1,821.93		bns4450	67,191.26
RNT 7/5/2006	00001020	000001	PLZAX	CR Receipt	0.00	-30,359.38		bns4451	36,831.88
WAT 7/22/2006	00001030	000001	PLZAX	CH WATER 07/06	2,253.57	0.00			39,085.45
RNT 8/1/2006	00001034	000001	PLZAX	CH AUTOCHRG @T8/31/2006	30,359.38	0.00			69,444.83
WAT 8/1/2006	00001039	000001	PLZAX	CR Receipt	0.00	-2,253.57		BNS4573	67,191.26
RNT 8/1/2006	00001039	000001	PLZAX	CR Receipt	0.00	-30,359.38		BNS4583	36,831.88
TAX 8/17/2006	00001047	000001	PLZAX	CR Receipt	0.00	-12,094.05		bns4661	24,737.83
TAX 8/17/2006	00001047	000001	PLZAX	CR Receipt	0.00	-12,094.05		bns4661	12,643.78
TAX 8/17/2006	00001049	000001	PLZAX	CR Receipt	0.00	-12,643.78		bns4661	0.00
WAT 8/21/2006	00001049	000001	PLZAX	CH WATER 08/06	2,092.56	0.00			2,092.56
WAT 8/28/2006	00001063	000001	PLZAX	CR Receipt	0.00	-2,092.56		bns4706	0.00
RNT 9/1/2006	00001068	000001	PLZAX	CH AUTOCHRG @T9/30/2006	30,359.38	0.00			30,359.38
RNT 9/5/2006	00001087	000001	PLZAX	CR Receipt	0.00	-30,359.38		bns4748	0.00
WAT 9/28/2006	00001092	000001	PLZAX	CH WATER 09/06	2,612.57	0.00			2,612.57
RNT 10/1/2006	00001100	000001	PLZAX	CH AUTOCHRG @T10/31/2006	30,359.38	0.00			32,971.95
RNT 10/5/2006	00001100	000001	PLZAX	CR Receipt	0.00	-30,359.38		bop4896	2,612.57
WAT 10/5/2006	00001100	000001	PLZAX	CR Receipt	0.00	-2,612.57		bop4897	0.00
WAT 10/20/2006	00001113	000001	PLZAX	CH WATER 10/06	2,228.23	0.00			2,228.23



Table with columns: WPT, RNT, TAX, PLZAX, CR, Receipt, Amount, Code, Amount, Code, Amount. Includes rows for dates 10/25/2006 to 12/29/2006 and various charges like RNT, TAX, PLZAX, CR, Receipt, CH, CH WATER, CH AUTOCHRG, NC rev tax, CH land tax, CR Receipt, CH OVERAGE, CH water.

less \$4,683.39 for 121 Days  
of Property Taxes.

of 2004  
less \$4,683.39 for 121 Days  
98,162.79

590,533.60

less \$4,683.39 for 121 Days

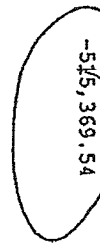
Occupant: Master Occupant: PLAZA EXTRA From 1/1/2005 to 12/31/2005

Master Occupant ID PLZAX  
 Address Id:  
 Bldgid  
 LeaseID  
 Income Category: All  
 Receipt Type Id All  
 Rcpt Descriptor All

Balance Forward: 2,625.05  
 Charges (Debit) 515,325.08  
 Receipts (Credit) -515,369.54  
 Prepaid: 0.00  
 Net 2,580.59  
 Security Deposit 0.00

Cat Date	BatchID	Bldgid	Lease ID	Dr Description	Charges (Debit)	Receipts (Credit)	RcptDesc	Balance Invc
				Balance Forward:				2,625.05
RNT 1/1/2005	00000506	000001	PLZAX	CH AUTOCHRG @T1/31/2005	30,359.38	0.00	BNS1933	32,984.43
WAT 1/5/2005	00000513	000001	PLZAX	CR Receipt	0.00	-2,625.05		30,359.38
RNT 1/5/2005	00000513	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS1934	0.00
WAT 1/7/2005	00000514	000001	PLZAX	CH @I WAT 12/16 READ	1,568.26	0.00		1,568.26
RNT 2/1/2005	00000531	000001	PLZAX	CH AUTOCHRG @T2/28/2005	30,359.38	0.00		31,927.64
RNT 2/7/2005	00000535	000001	PLZAX	CR Receipt	0.00	-30,359.38		1,568.26
WAT 2/7/2005	00000535	000001	PLZAX	CR Receipt	0.00	-1,568.26	bn22042	0.00
WAT 2/21/2005	00000544	000001	PLZAX	CH @I WAT-1/19/05read	3,447.47	0.00		3,447.47
RNT 3/1/2005	00000545	000001	PLZAX	CH AUTOCHRG @T3/31/2005	30,359.38	0.00		33,806.85
RNT 3/3/2005	00000553	000001	PLZAX	CR Receipt	0.00	-30,359.38	ns22157	3,447.47
WAT 3/18/2005	00000564	000001	PLZAX	CH @I WAT-2/18	1,110.53	0.00		3,447.47
WAT 3/21/2005	00000566	000001	PLZAX	CR Receipt	0.00	-1,110.53	BNS2251	4,558.00
RNT 4/1/2005	00000572	000001	PLZAX	CR Receipt	0.00	-3,447.47		1,110.53
RNT 4/4/2005	00000574	000001	PLZAX	CH AUTOCHRG @T4/30/2005	30,359.38	0.00		30,359.38
WAT 4/7/2005	00000578	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS2311	0.00
WAT 4/18/2005	00000585	000001	PLZAX	CH @I WAT-3/18 Read	1,981.77	0.00		1,981.77
RNT 5/1/2005	00000593	000001	PLZAX	CR Receipt	0.00	-1,981.77	bn2365	0.00
WAT 5/1/2005	00000594	000001	PLZAX	CH AUTOCHRG @T5/31/2005	30,359.38	0.00		30,359.38
RNT 5/2/2005	00000595	000001	PLZAX	CR Receipt	0.00	-2,455.02		32,814.40
WAT 5/10/2005	00000601	000001	PLZAX	CR Receipt	0.00	-30,359.38	bn22433	2,455.02
WAT 6/1/2005	00000603	000001	PLZAX	CH 05/18 reading	1,871.98	0.00		1,871.98
RNT 6/1/2005	00000610	000001	PLZAX	CR Receipt	0.00	-2,455.02	bn22467	0.00
WAT 6/2/2005	00000613	000001	PLZAX	CH AUTOCHRG @T6/30/2005	30,359.38	0.00		32,231.36
RNT 6/2/2005	00000613	000001	PLZAX	CR Receipt	0.00	-1,871.98	bn2260	30,359.38
WAT 6/23/2005	00000627	000001	PLZAX	CH @06/20 READING	2,416.84	0.00		0.00
RNT 7/1/2005	00000633	000001	PLZAX	CH AUTOCHRG @T7/31/2005	30,359.38	0.00		2,416.84
WAT 7/5/2005	00000643	000001	PLZAX	CR Receipt	0.00	-2,416.84	bn2746	32,776.22
RNT 7/5/2005	00000643	000001	PLZAX	CR Receipt	0.00	-30,359.38	bn2748	30,359.38
WAT 7/26/2005	00000662	000001	PLZAX	CH 07/18/05 reading	1,941.29	0.00		1,941.29
RNT 8/1/2005	00000664	000001	PLZAX	CR Receipt	0.00	-1,941.29	bn2876	0.00
RNT 8/2/2005	00000670	000001	PLZAX	CH AUTOCHRG @T8/31/2005	30,359.38	0.00		32,300.67
WAT 8/2/2005	00000670	000001	PLZAX	CR Receipt	0.00	-30,359.38	bn2287	1,941.29
RNT 9/1/2005	00000692	000001	PLZAX	CR Receipt	0.00	-1,941.29		0.00
WAT 9/2/2005	00000693	000001	PLZAX	CH AUTOCHRG @T9/30/2005	30,359.38	0.00		30,359.38
RNT 9/6/2005	00000695	000001	PLZAX	CR reading 08/18/05	2,120.42	0.00		32,479.80
WAT 9/6/2005	00000696	000001	PLZAX	CR Receipt	0.00	-30,359.38	bn3047	2,120.42
RNT 9/23/2005	00000708	000001	PLZAX	CR Receipt	0.00	-2,120.42	BNS3056	0.00
RNT 10/1/2005	00000711	000001	PLZAX	CH water 09/19/05	2,202.96	0.00		2,202.96
WAT 10/4/2005	00000714	000001	PLZAX	CH AUTOCHRG @T10/31/2005	30,359.38	0.00		2,202.96
RNT 10/4/2005	00000714	000001	PLZAX	CR Receipt	0.00	-2,202.96	bn3166	32,562.34
WAT 10/22/2005	00000734	000001	PLZAX	CH WATER 10/14/05	2,652.99	0.00		30,359.38
RNT 10/31/2005	00000747	000001	PLZAX	CR Receipt	0.00	-30,359.38	bn3304	0.00
WAT 11/1/2005	00000741	000001	PLZAX	CH AUTOCHRG @T11/30/2005	30,359.38	0.00		-27,706.39
WAT 11/22/2005	00000762	000001	PLZAX	CH water 11/15/05	2,221.57	0.00		-30,359.38
								2,221.57

WAT 11/22/2005	00000764	000001	PLZAX	NC reverse wat 11/15	0.00	-2,221.57		0.00
WAT 11/22/2005	00000767	000001	PLZAX	CH COR wat 11/15	2,243.03	0.00		2,243.03
WAT 11/30/2005	00000774	000001	PLZAX	CH CreditApply	2,221.57	0.00	bns3439	4,464.60
WAT 11/30/2005	00000774	000001	PLZAX	CR Receipt	0.00	-2,243.03		2,221.57
WAT 11/30/2005	00000774	000001	PLZAX	NC CreditApply	0.00	-2,221.57		0.00
RMT 11/30/2005	00000774	000001	PLZAX	CR Receipt	0.00	-30,359.38	bns461	0.00
RMT 12/1/2005	00000770	000001	PLZAX	CH AUTOCHRG 012/31/2005	30,359.38	0.00		0.00
OVE 12/12/2005	00000789	000001	PLZAX	CH PLAZA OVERAGE	117,976.23	0.00		117,976.23
OVE 12/12/2005	00000790	000001	PLZAX	CR Receipt	0.00	-117,976.23		0.00
WAT 12/28/2005	00000803	000001	PLZAX	CH water 12/05	2,580.59	0.00	BNS3505	2,580.59
					515,325.08	-515,369.54		



Occupant: Master Occupant: PLAZA EXTRA

From 1/1/2004 to 12/31/2004

TUTTA

Master Occupant ID: PLAZAX  
Address Id:  
BldgId  
LeaseID  
Income Category: ALL  
Receipt Type Id: ALL  
Rcpt Descriptor: ALL

Balance Forward: 3,595.05  
Charges (Debit) 503,365.02  
Receipts (Credit) -504,335.02  
Prepaid: 0.00  
Net 2,625.05  
Security Deposit 0.00

Cat Date	BatchID	BldgId	Lease ID	Sr Description	Charges (Debit)	Receipts (Credit)	RcptDesc	Balance Invc
RNT 1/1/2004	00000304	000001	PLZAX	Balance Forward:				3,595.05
WAT 1/9/2004	00000310	000001	PLZAX	CH AUTOCHRG @T1/31/2004	30,359.38	0.00	BNS1276	33,954.43 006329
WAT 1/14/2004	00000317	000001	PLZAX	CR Receipt	2,622.35	0.00	BNS5571	36,576.78 006329
RNT 1/14/2004	00000317	000001	PLZAX	CR Receipt	0.00	-3,166.05	BNS5570	33,410.73 006005
RNT 2/1/2004	00000324	000001	PLZAX	CH AUTOCHRG @T2/29/2004	0.00	-30,359.38		3,051.35 006329
WAT 2/4/2004	00000331	000001	PLZAX	CH @I WAT-1/15	30,359.38	0.00		33,410.73 006494
RNT 2/5/2004	00000332	000001	PLZAX	CR Receipt	2,431.94	0.00	BNS1050	35,842.67 006494
WAT 2/5/2004	00000332	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS1049	5,483.29 006494
WAT 3/1/2004	00000343	000001	PLZAX	CH AUTOCHRG @T3/31/2004	0.00	-2,622.35		2,860.94 006329
WAT 3/5/2004	00000351	000001	PLZAX	CR Receipt	30,359.38	0.00		33,220.32 006676
RNT 3/10/2004	00000351	000001	PLZAX	CR Receipt	0.00	-2,431.94	BNS1170	36,235.13 006676
RNT 3/10/2004	00000359	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS1171	33,803.19 006494
OTH 3/23/2004	00000360	000001	PLZAX	NC to zero old charge	3,014.81	0.00		3,443.81 006676
OTH 3/23/2004	00000360	000001	PLZAX	CH CreditApply	0.00	-429.00		3,014.81 006676
RNT 4/1/2004	00000363	000001	PLZAX	NC CreditApply	429.00	0.00		3,443.81 006676
WAT 4/6/2004	00000368	000001	PLZAX	CH AUTOCHRG @T4/30/2004	0.00	-30,359.38		3,014.81 006676
RNT 4/13/2004	00000372	000001	PLZAX	CR Receipt	30,359.38	0.00	BNS1277	35,891.29 006676
RNT 5/1/2004	00000378	000001	PLZAX	CR Receipt	2,517.10	0.00		32,876.48 006676
WAT 5/5/2004	00000380	000001	PLZAX	CH AUTOCHRG @T5/31/2004	0.00	-30,359.38	BNS1394	32,876.48 006676
WAT 5/5/2004	00000380	000001	PLZAX	CR Receipt	30,359.38	0.00	BNS1393	2,517.10 006676
WAT 5/6/2004	00000381	000001	PLZAX	CR Receipt	0.00	-2,517.10		0.00 006676
RNT 6/1/2004	00000391	000001	PLZAX	CH AUTOCHRG @T6/30/2004	2,681.37	0.00	BNS21497	2,681.37 006676
WAT 6/8/2004	00000394	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS21496	33,040.75 006676
WAT 6/9/2004	00000397	000001	PLZAX	CH @I WAT 5/21 READING	0.00	-2,681.37		0.00 006676
RNT 7/1/2004	00000406	000001	PLZAX	CH AUTOCHRG @T7/31/2004	3,191.00	0.00		3,191.00 006676
WAT 7/13/2004	00000410	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS1616	3,191.00 006676
WAT 7/14/2004	00000412	000001	PLZAX	CR Receipt	0.00	-3,191.00	BNS1615	0.00 006676
WAT 8/1/2004	00000423	000001	PLZAX	CH @I WAT6/17read	2,460.22	0.00		2,460.22 006676
RNT 8/12/2004	00000426	000001	PLZAX	CH AUTOCHRG @T8/31/2004	30,359.38	0.00	BNS1745	32,819.60 006676
WAT 8/12/2004	00000427	000001	PLZAX	CR @I WAT-7/15 Reading	3,413.95	0.00		36,233.55 006676
RNT 9/1/2004	00000427	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS1745	5,874.17 006676
WAT 9/2/2004	00000441	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS1852	3,413.95 006676
WAT 9/2/2004	00000441	000001	PLZAX	CR Receipt	0.00	-2,460.22	BNS1744	3,413.95 006676
WAT 9/8/2004	00000445	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS1851	3,413.95 006676
RNT 10/1/2004	00000455	000001	PLZAX	CH @I WAT-8/18 READING	1,904.24	0.00		1,904.24 006676
RNT 10/5/2004	00000460	000001	PLZAX	CH AUTOCHRG @T10/31/2004	30,359.38	0.00	BNS0700	32,263.62 006676
WAT 10/8/2004	00000466	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS0699	1,904.24 006676
RNT 11/1/2004	00000473	000001	PLZAX	CH @WAT-9/21Read	2,519.84	0.00		0.00 006676
WAT 11/2/2004	00000477	000001	PLZAX	CH AUTOCHRG @T11/30/2004	30,359.38	0.00	BNS0819	32,879.22 006848
WAT 11/8/2004	00000479	000001	PLZAX	CR Receipt	0.00	-30,359.38	BNS0818	2,519.84 006848

WAT 11/15/2004 00000476 000001  
 RNT 12/1/2004 00000484 000001  
 WAT 12/3/2004 00000489 000001  
 RNT 12/3/2004 00000489 000001  
 OVE 12/6/2004 00000494 000001  
 OVE 12/8/2004 00000495 000001  
 WAT 12/14/2004 00000499 000001

PLZAX CH GI WAT-10/19 reading  
 PLZAX CH AUTOCHRG @T12/31/2004  
 PLZAX CR Receipt  
 PLZAX CR Receipt  
 PLZAX CH GI OVE 2004  
 PLZAX CR Receipt  
 PLZAX CH GI WAT-11/23 Read

1,906.92 0.00  
 30,359.38 0.00  
 0.00 -1,906.92  
 0.00 -30,359.38  
 107,334.67 0.00  
 0.00 0.00  
 2,625.05 -107,334.67  
 0.00 0.00  
 503,365.02 -504,335.02

ENS0907  
 BNS 907  
 BNS0928  
 1,906.92 006848  
 32,266.30 006848  
 30,359.38 006848  
 0.00 006848  
 107,334.67 006848  
 0.00 006848  
 2,625.05 006848

Receipts

WAT = water bill  
 OVE = Overage payment for water billing  
 WAT = water

May, 5, 1994

UNITED CORPORATION D/B/A PLAZA EXTRA  
UNITED SHOPPING PLAZA

Check Number: 64866  
Check Date: Feb 7, 2012

Check Amount: \$5,408,806.74  
Discount Taken      Amount Paid

Item to be Paid - Description  
Rent - Sion farm

5,408,806.74

UNITED CORPORATION D/B/A  
PLAZA EXTRA  
4C & 4D ESTATE SION FARM  
CHRISTIANSTED, VI 00821  
(340) 778-6240 (340) 719-1870

BANCO POPULAR DE PUERTO RICO  
101-667/216

64866

DATE  
Feb 7, 2012

AMOUNT

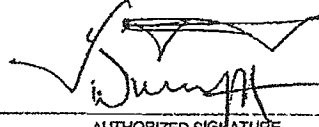
\$ \*\*\*\$5,408,806.74

Five Million Four Hundred Eight Thousand Eight Hundred Six and 74/100 Dollars

PAY  
TO THE  
ORDER  
OF:

UNITED SHOPPING PLAZA  
P.O. BOX 763 C'STED  
ST.C ROIX, VI 00821

VOID AFTER 90 DAYS

  
AUTHORIZED SIGNATURE

Memo: PLAZA EXTRA (SION FARM) RENT

UNITED CORPORATION D/B/A PLAZA EXTRA

64866

EXHIBIT  
9

**From:** Nizar DeWood <dewoodlaw@gmail.com>  
**To:** Wally Hamed <wallyhstx@yahoo.com>  
**Sent:** Friday, February 10, 2012 10:58 AM  
**Subject:** Powers of Attorney - Dissolution of Partnership

Hello Wally,

I wish to confirm our discussions in the following two matters: 1) Power of Attorneys to verify and audit financial information currently in dispute, 2) Partnership Dissolution.

**I. Power of Attorney**

As agreed between you and Mr. Yusuf, the Power of Attorney will be required for each of you, your father, brothers, wife, and adult children. This power of attorney will be limited to obtaining any and all information regarding bank and investment accounts that may have been opened, closed, used for wire transfers, and opened on behalf of other third parties. The banks that will be covered will include the Virgin Islands, St. Maarten, New York, and the Middle East. Any and all information obtained will be held in confidence by my office, and will be used for the sole purpose of financial verification.

**II. Dissolution of Partnership (Yusuf & Hamed)**

I will be sending a formal notice of partnership dissolution notice, with a list of to-dos that will be required to complete an orderly dissolution. See attached email. I understand that you and Mr. Yusuf are still discussing various terms and aspects of the dissolution. I will await the final decision made.

Your mailing address to address all originals will be:

**Mohammad Hamed**

**Walid Hamed**

**PO 763**

**Christiansted, VI 00821**

Thank you.

Nizar A. DeWood, Esq.

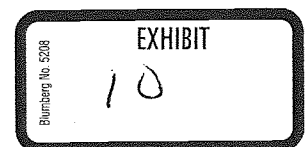
The DeWood Law Firm

3070 Kronprindsens Gade, Suite 208

St. Thomas, V.I. 00802

T. (340) 774-0405

F. (888) 398-8428



JA-1023

THE DEWOOD LAW FIRM

3070 Kronprindsens Gade, Suite 208  
St. Thomas, V.I. 00802  
T. (340) 774-0405  
F. (888) 398-8428  
info@dewood-law.com

Mohammad Hamed  
c/o Walid Hamed  
PO Box 763  
Christiansted, V.I. 00821

VIA EMAIL ONLY

Re: Dissolution of Partnership  
Yusuf & Hamed

Dear Mr. Hamed,

This letter is to confirm the parties' desire to dissolve the above referenced partnership. Partnership dissolution will involve appropriate planning to properly account for each of the partner's interest in the partnership, and a well-executed agreement memorializing the understanding of the parties.

As it stands, the partnership has three major assets: Plaza Extra – West (Grove Place, including the real property), Plaza Extra – East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas). I have been advised that there are ongoing discussions between you, as your father's fully authorized agent, and Mr. Yusuf regarding which of the stores each partner will retain upon dissolution. Accordingly, I will await the final decision that you and Mr. Yusuf may reach.

Additionally, as Mr. Yusuf has indicated, he remains resolute about the rental terms of the Plaza Extra – East. Unless the parties arrive at a different understanding, I will assume that Mr. Yusuf will not agree to continue the lease beyond June 30<sup>th</sup>, 2012 on that property.

I look forward to hearing from you. Thank you.

Sincerely,

  
Nizar A. DeWood, Esq.

cc: Fathi Yusuf



JA-1024



From: "Nizar DeWood" <dewoodlaw@gmail.com>  
Date: March 13, 2012 12:41:36 PM EDT  
To: "Wally Hamed" <wallyhstx@yahoo.com>  
Subject: Partnership dissolution agreement

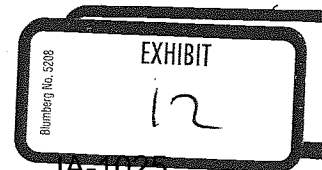
Salam Wally,

Please find the attached proposed Partnership Dissolution Agreement. I look forward to hearing from you at your earliest convenience. ↙

Thank you.

Nizar A. DeWood, Esq.

The DeWood Law Firm  
3070 Kronprindsens Gade, Suite 208  
St. Thomas, V.I. 00802  
T. (340) 774-0405  
F. (888) 398-8428



JA-1025

**PROPOSED PARTNERSHIP  
DISSOLUTION AGREEMENT**

**THIS AGREEMENT**, dated this \_\_\_\_ day of March 2012, is by and between **FATHI YUSUF** and **MOHAMMAD HAMED** (collectively called "Partners"), formerly partners of a partnership known informally as *Yusuf & Hamed* (the "Partnership").

**WHEREAS**, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

**WHEREAS**, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

**WHEREAS**, serious dispute and disagreement between the partners relating to financial matters of the partnership, resulting in the partners unable to continue as partners; and

**WHEREAS**, Fathi Yusuf (the "Withdrawing Partner") has withdrawn from the Partnership by written notice dated February, 2012, for withdrawal as of February 10<sup>th</sup>, 2012 (the "Withdrawal Notice"); and

**WHEREAS**, the Partners desire to dissolve the partnership by way of liquidation and distribution of its assets, unless each partner submits in writing a buyout offer for each of the three major assets constituting the partnership, as herein shown in Section 1 of this agreement; and

**WHEREAS**, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership; and

**WHEREAS**, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants, promises, and conditions contained herein, the parties agree as follows:

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## SECTION 1. ASSETS SUBJECT TO LIQUIDATION

The Partners agree that the following three on-going businesses constitute the assets of the Partnership.

### Section 1.1: Assets of the Partnership

1. PLAZA EXTRA EAST- Estate Sion Farm, St. Croix
2. PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)
3. PLAZA EXTRA – Tutu Park, St. Thomas

### Section 1.2. Dissolution of Partnership.

The Partnership shall be dissolved effective as of the date specified in the Withdrawal Notice, and the business of the Partnership shall cease effective February 10<sup>th</sup>, 2012. Any continuing operation shall be for the sole purpose of winding down the partnership. The parties agree that the Withdrawal Notice is effective to dissolve the Partnership and is not a breach of the partnership relationship. The parties agree to the following buyouts of the assets listed in Section 1.1.

### Section 1.3 FIRST PARTNERSHIP ASSET: Plaza Extra East – Sion Farm, St. Croix

Partner Fathi Yusuf (“Partner Yusuf”) has orally terminated the lease agreement for Plaza Extra East in September 2010. A written confirmatory termination letter was mailed on January 20<sup>th</sup>, 2012. Partner Yusuf shall make the following buy-out offer:

1. Acquire the assets & fixtures - \$250,000 (50% of Partner Hamed’s interest)
2. Acquire Inventory based on cost (50% of Partner Hamed’s Interest).
3. The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.

Should the foregoing terms of the buyout offer set forth in paragraphs 1 to 3 above is rejected, the assets, fixtures, and inventory of Plaza Extra – East shall be liquidated and the

premises turned over to Partner Yusuf immediately. Partner Yusuf, by virtue of his ownership of the premises, will hereby enforce the new rental rate of \$200,000 per month commencing January 31, 2012 until March 31<sup>st</sup>, 2012. Thereafter, the monthly rental rate shall increase to \$250,000 per month until June 30<sup>th</sup>, 2012. After such date, the tenancy shall terminate forthwith without further notice. Failure to vacate the premises by June 30<sup>th</sup>, 2012 shall result in an action for unlawful detainer be filed in the Superior Court of the Virgin Islands.

**Section 1.4 SECOND PARTNERSHIP ASSET: Plaza Extra West – Grove Place, St. Croix**

Partner Yusuf hereby makes the following buy-out offer:

1. Acquire the assets & fixtures - \$375,000 (50% of Partner Hamed's interest).
2. Acquire Inventory based on cost (50% of Partner Hamed's Interest).
3. Acquire Lease for the premises for a term of 20 years, with an option to terminate lease subject to a SIX (6) months written notice. Rent is hereby offered for \$24,000 a month. Property tax assessments shall be paid in half by each partner.
4. The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.
5. All inventory, improvements, and fixtures will be transferred by a Bill of Sale, with the applicable UCC-4 Bulk Transfer notices according to the terms set out in Exhibit B of this Agreement at the time of closing.

**Section 1.5**

**THIRD PARTNERSHIP ASSET: Plaza Extra – Tutu Park, St. Thomas**

**1.5.1** Unless Partner Hamed makes a written offer for the purchase of Plaza Extra – Tutu Park, St. Thomas, said business shall be liquidated with its assets, inventory, and fixtures sold at fair market value. The lease for this asset shall expire on October 27<sup>th</sup>, 2018, and is in the name of United Corporation only. Should Partner Hamed wishes to make an offer for the purchase of Partner Yusuf's partnership interest in Plaza Extra Tutu Park, St. Thomas, Partner Hamed shall do so in writing within 14 days.

1.5.2 Should Partner Hamed refuse to offer to purchase said asset, Partner Yusuf hereby makes the following written offer of purchase:

- i) Partner Hamed's fifty (50%) interest in Inventory at actual cost plus freight and insurance to be determined at time of closing.
- ii) Equipment and fixture at \$250,000 (50% interest of Partner Hamed).
- iii) The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.
- iv) Partner Yusuf agrees to pay \$1,000,000 a year to Partner Hamed until the expiration of the lease on October 27<sup>th</sup>, 2018 for a total lease amount of \$6,500,000. Partner Yusuf will also assume all obligations under the lease currently existing in the name of United Corporation, and guaranteed personally by Partner Yusuf.

1.5.3 Rejection of Offer: Should Partner Hamed reject the terms of the offer provided in section 1.5.2, Partner Hamed may acquire the Plaza Extra – Tutu Park, St. Thomas within 14 days of date of this agreement on the same aforementioned terms.

SECTION 2.0

PARTNERSHIP CONTRIBUTIONS

The parties agree to address the following outstanding partner and partnership obligations

	<u>Description of Partnership Obligation</u>	<u>Agreed Upon Course of Action to Resolve Dispute</u>
1.	Rent (for the period of May 5 <sup>th</sup> , 2004 to Dec. 31 <sup>st</sup> , 2011). Partnership Yusuf & Hamed owe rent arrears of \$5,408,806.74 to Partner Yusuf as owner and landlord of the property upon which Plaza Extra East is located.	The parties agree that said amount was paid on February 13 <sup>th</sup> , 2012 by way of check drawn on the account of United Corporation. Accordingly, the rental arrears for the period of (May 5 <sup>th</sup> , 2004 to Dec. 31 <sup>st</sup> , 2011) are now satisfied.
2.	Other Outstanding Rent (Pre 2004). The partners shall discuss and calculate the rent owing to Partner Yusuf for an approximate period of 10 years, for the 10 years prior to May 5 <sup>th</sup> , 2004.	The rental term and rent amount due will be determined upon the return of the partnership records from the U.S. Government.

SECTION 3.0

OTHER FINANCIAL DISPUTES

The parties acknowledge that serious financial disputes have arisen between the parties. Specifically, Partner Yusuf desires a full accounting of certain disputes with Partner Hamed and his agent Waleed Hamed and Waheed Hamed, and all of their spouses, children, assigns, and agents.

The parties agree that the following items of financial disputes will be negotiated, investigated, and resolved in good faith by the parties.

	<u>Description of Financial Dispute</u>	<u>Agreed Upon Course of Action to Resolve Dispute</u>
1.	<p>Partner Yusuf alleges that Two Million Dollars (\$2,000,000) was transferred from Banque Francaise Commerciale in St. Maarten to Arab Bank, Ltd., specifically to an Arab Bank Branch in the West Bank, Palestine. Partner Hamed disputes this allegation. Partner Yusuf's allegation arises out of facts obtained during a criminal investigation by the Federal Bureau of Investigation that concludes there was a transfer of \$2,000,000 to the benefit of Partner Hamed.</p> <p>Partner Yusuf desires full accounting and verification of all financial discrepancies, and irregularities currently existing, or that may arise during the dissolution of the partnership.</p> <p>The parties hereby agree to negotiate and resolve this matter fully and in good faith.</p>	<p>1) Partner Hamed agrees to execute a special power of attorney authorizing the DeWood Law Firm, its attorney, agents, and assigns, to obtain <u>ALL</u> bank account information for any bank account that may have been opened, including but not limited to the following banks:</p> <ol style="list-style-type: none"> <li>1. Arab Bank, Ltd (Worldwide branches)</li> <li>2. Banque Francaise Commerciale in St. Maarten.</li> <li>3. Cairo-Amman Bank (worldwide branches)</li> <li>4. Bank of Nova Scotia (worldwide branches)</li> <li>5. Merrill Lynch Investments</li> <li>6. First Bank (formerly known as VI Community Bank)</li> <li>7. Any other Bank either party determines to be relevant for purpose of inquiry, investigation, and full accounting.</li> </ol>

**2. Notice to Withdraw.** Partners agree to give actual notice of the dissolution of the Partnership to all creditors who have extended credit to the Partnership prior to dissolution

3. Determination and Distribution of Capital Account. The Partnership will cause to be prepared financial statements as of the date specified in the Withdrawal Notice, including a balance sheet specifying the assets, liabilities, and equity accounts, and an income statement for the portion of the year then ended. The financial statements will also detail all accounts payable and accounts receivable of the Partnership. The cost of obtaining such financial statements shall be borne by the Partnership, and the expense of preparation of such financial statements shall be reflected in income or loss as of the date specified in the Withdrawal Notice.

The capital account of the Withdrawing Partner will include the Withdrawing Partner's actual equity account plus the Withdrawing Partner's share of income or minus the Withdrawing Partner's share of loss according to the Sharing Ratio as of the date of the financial statements. The parties agree that these financial statements will conclusively reflect the accounts of the Partnership. The capital account of the Withdrawing Partner shall be distributed to the Withdrawing Partner in cash within 30 days following the date specified in the Withdrawal Notice.

5. Loans. The Partnership has no loans outstanding other than Accounts Payable with inventory suppliers.

6. Ledgers and Files. The Partnership shall, at the Partnership's expense, copy all ledgers and files of the Partnership for the Withdrawing Partner's use upon the reasonable written request by the Withdrawing Partner which specifies the ledgers and files and is delivered to the Partnership at least 10 days before the date specified in the Withdrawal Notice.

7. Full Disclosure and Access to Records. All parties agree to fully disclose all facts which relate to the operation of the Partnership and warrant and represent that all material facts concerning the financial condition and operation of the Partnership have been fully disclosed to each other. All parties shall have full access to the books and records of the Partnership, including client files, for purposes of verifying information furnished under this Agreement until this Agreement.

8. Assets and Liabilities of the Partnership. Upon payment of the amounts due to the Withdrawing Partner hereunder, all assets and liabilities of the Partnership as they exist on the financial statements dated as of the date specified in the Withdrawal Notice shall belong to the remaining Partners, and the Withdrawing Partner shall claim no right, title, or interest therein.



00 00

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

\_\_\_\_\_  
Fathi Yusuf, Partner

\_\_\_\_\_  
Mohammad Hamed, Partner

UNITED CORPORATION  
d/b/a PLAZA EXTRA SUPERMARKET  
4C & 4D Sion Farm  
Christiansted, VI 00820

BY HAND DELIVERY

*Received by  
8/16/2012*

Date: August 15, 2012

Mohammed Hamed  
By and through Waleed Hamed  
Plaza Extra Supermarket  
Sion Farm Store  
Christiansted, V.I. 00820

Re: Notice of Withdrawal

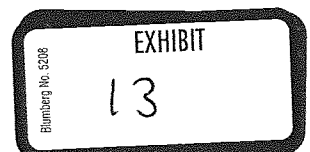
Dear Mr. Hamed,

The amount of \$2,784,706.25 will be withdrawn from United's operating account effective August 15<sup>th</sup>, 2012. This amount equals the proceeds you previously withdrew through your agent Waleed Hamed. To ensure full accuracy, attached are the receipts you requested during mediation demonstrating the \$1,095,381.75 of withdrawals. The below itemized amounts are not in dispute.

Past Confirmed Withdrawals .....	\$1,600,000.00
Additional Withdrawals per the attached requested receipts .....	\$1,095,381.75
Fifty percent (50%) of St. Maarten Bank Account .....	\$44,355.50
Fifty percent (50%) of Cairo Amman Bank .....	\$44,696.00

Should you have any concerns about these amounts, please provide the basis for your concerns in writing. Thank you.

Yours  
*Fathi Yusuf*  
Fathi Yusuf



JA-1034

**Waleed Hamed  
Plaza Extra  
4C 4D Estate Sion Farm  
Christiansted, VI 00821**

**BY HAND DELIVERY**

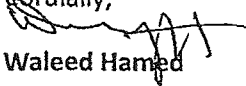
Date: Thursday, August 16, 2012

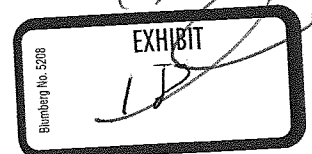
**Fathi Yusuf  
Plaza Extra Supermarket  
4605 TuTu Park Mall Ste 200  
St. Thomas, VI 00805**

Dear Mr. Yusuf:

In response to your August 15th letter re "Notice of Withdrawal", these figures have not been agreed to. Indeed, there were no attachments as indicated and there are numerous other funds that have to be included in any such calculations before any disbursements can be made. For example, all withdrawal receipts have to be reviewed before any withdrawals are paid, no mention or indication of the amounts that the Yusuf family has previously withdrawn, By way of another example, the \$800,000 plus due the Hamed family for the sale of the condo property in St. Thomas would have to be included. In short, while these are just a few examples, no withdrawals will be issued until a full accounting is done and agreed to in writing.

Cordially,

  
Waleed Hamed



JA-1035

**UNITED CORPORATION**

4-C & 4-D Estate Sion Farm

P.O. Box 763

Christiansted, VI 00820

Date: August 22, 2012

HAND DELIVERY

Mohammed Hamed

By Waleed Hamed

Dear Mohammed Hamed,

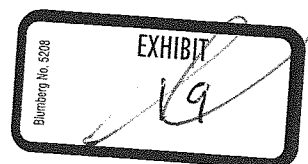
Re: Set-Off

Your response letter, through your agent Waleed Hamed, does not deny the validity of any of the amounts stated as owing and outstanding to United Corporation. Your letter requests that an accounting be done for other matters, which is a separate issue. Please reduce to writing those other matters you contend are owed, and provide the supporting documentation.

Accordingly, the amount requested will be withdrawn.

Thank you.

Cordially,  
  
for Fathi Yusuf



JA-1036

U.S. EVIDENCE  
mikefyusuf@yahoo.com  
nejeh27@earthlink.net

Fathi Yusuf  
Plaza Extra Supermarket  
4605 TuTu Park Mall Ste 200  
St Thomas, VI 00805

Saturday, August 25, 2012

Dear Mr. Yusuf:

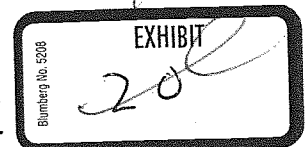
Your suggestion that the Hamed family agreed to your calculations of any sums due you is incorrect. The Hamed family disputes those calculations and insists on a full accounting.

Moreover, any unilateral withdrawal of funds by you would violate the Court's Order currently in place. It would also violate the agreement between our families. If you attempt to take any funds as threatened, we will instruct our counsel to advise the District Court Judge of this violation of its Order, as well as to take any other appropriate action he deems appropriate .

Cordially,  
Waleed Hamed

W. M. Hamed

**Confidentiality Notice:** The information contained in and transmitted with this communication is strictly confidential, is intended only for the use of the intended recipient. If you are not the intended recipient, you are hereby notified that any use of the information contained in or transmitted with the communication or dissemination, distribution, or copying of this communication is strictly prohibited by law. If you have received this communication in error, immediately return this communication to the sender and delete the original message and any copy of it in your possession.



JA-1037

UNITED CORPORATION DIBENA PLAZA ESTIVA ALBUQUERQUE, N.M. 87102 CHRISTIANSTEDT USM 0000-01001	1154
	10-10000010
United Corporation	DATE 8/15 <sup>th</sup> /2012
Ten million Seven Hundred Eighty-Six Thousand Seven Hundred Sixty-Five and 25/100 Dollars	\$ 2,784,966.25
Scotiabank THE BANK OF AMERICA NETWORK	



# PLAZA EXTRA

U. S. VIRGIN ISLANDS

PHONE: 340-775-5646 FAX 340-775-5766

4605 Tutu Park Mall STE 200 St. Thomas, USVI 00802-1736

November 2, 2012

Re: Controllers /Accountants

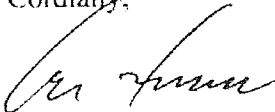
Nejeh Yusuf,

First, I see that Margie is still employed by Plaza Extra at the St Thomas Location. According to her, she will be working by the hour at \$30 per hour. I am not aware of that and who approved it. I sure did not approve it, will not approve it and will not pay her. Her salary must be approved and discusses by us.

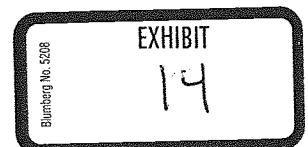
Second, I noticed that we have Ayman K. Al Khaled who works in the St Croix Store as a controller at a Rate of \$1,800 per week. This is the first time in the history of Plaza Extra that a controller gets anything more the \$52k a year. Why are **you** paying him this kind of money without our authorization? Or is it because he is your cousin. We will not approve any more payment to him at that rate.

Third, I also see the John F. Gaffney is also employed by Plaza Extra as a controller for St. Croix stores. I do not know at what capacity and why A Salary of \$2,000 a week. Once again in the history of Plaza Extra we have never paid anyone controller that kind of money. Why now and why \$2,000 week. We will not approve any more payment to him.

Cordially,



Waheed Hamed  
For Mohammad Hamed



JA-1039

Checks Drawn in 29 Days by F. Yusuf from Segregated "Grocery Operations Accounts" Paid to Fuerst Ittleman as Attorney Fees from October 19 to November 16, 2012

Total = \$143,333.21

11/16/2012 \$99,254.45

10/19/2012 \$29,011.50

10/19/2012 \$15,067.26

4195  
BANCOS POPULAR DE PUERTO RICO  
101-2072116

UNITED CORPORATION  
DBA PLAZA EXTRA  
(340) 719-1870  
PO BOX 3849  
ST CROIX, VI 00851

DATE: Nov 16, 2012  
AMOUNT: \$ 99,254.45

Ninety-Nine Thousand Two Hundred Fifty-Four and 45/100 Dollars  
FUERST ITTLEMAN DAVID & JOSEPH, PL  
1001 BRICKELL BAY DRIVE  
32ND FLOOR  
MIAMI, FL 33131

MEMO: *Fuerst Ittleman*

AUTHORIZED SIGNATURE: *Fuerst Ittleman*

3977  
BANCOS POPULAR DE PUERTO RICO  
101-2072116

UNITED CORPORATION  
DBA PLAZA EXTRA  
(340) 719-1870  
PO BOX 3849  
ST CROIX, VI 00851

DATE: Oct 19, 2012  
AMOUNT: \$ 29,011.50

Twenty-Nine Thousand Eleven and 50/100 Dollars  
FUERST ITTLEMAN DAVID & JOSEPH, PL  
1001 BRICKELL BAY DRIVE  
32ND FLOOR  
MIAMI, FL 33131

MEMO: *Fuerst Ittleman*

AUTHORIZED SIGNATURE: *Fuerst Ittleman*

3879  
BANCOS POPULAR DE PUERTO RICO  
101-2072116

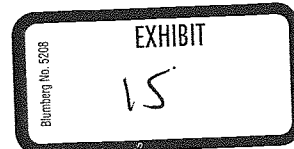
UNITED CORPORATION  
DBA PLAZA EXTRA  
(340) 719-1870  
PO BOX 3849  
ST CROIX, VI 00851

DATE: Oct 19, 2012  
AMOUNT: \$ 15,067.26

Fifteen Thousand Sixty-Seven and 26/100 Dollars  
FUERST ITTLEMAN DAVID & JOSEPH, PL  
1001 BRICKELL BAY DRIVE  
32ND FLOOR  
MIAMI, FL 33131

MEMO: *Fuerst Ittleman*

AUTHORIZED SIGNATURE: *Fuerst Ittleman*

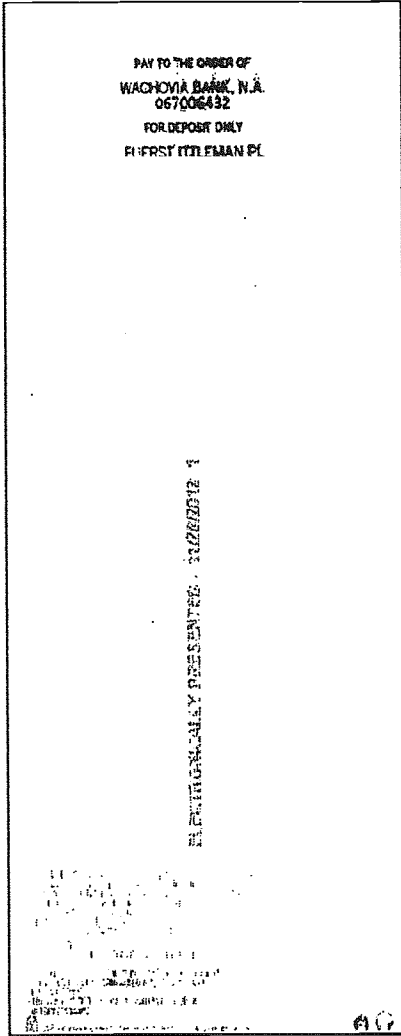


JA-1040



# CHECK 4195

**Dated:** Friday, November 16, 2012  
**Amount:** \$99,254.45  
**Cleared:** Sunday, November 25, 2012  
**Depository:** Fuerst Ittleman PL  
**Account:** Wachovia Bank N.A.



**4195**  
CHECK NUMBER

**BAICO POPULAR DE PUERTO RICO**  
101-857216

**DATE**  
Nov 16, 2012

**AMOUNT**  
\$ 99,254.45

**UNITED CORPORATION**  
PRA PLAZA EXTRA  
(340) 719-1870  
PO BOX 3049  
ST CROIX, VI 00851

**Ninety-Nine Thousand Two Hundred Fifty-Four and 45/100 Dollars**  
**FUERST ITTLEMAN DAVID & JOSEPH, PL**  
**1001 BRICKELL BAY DRIVE**  
**32ND FLOOR**  
**MIAMI, FL 33131**

**PAY TO THE ORDER OF:**

**MEMO:**

**AUTHORIZED SIGNATURE**

# CHECK 3977

**Dated:** Friday, October 19, 2012  
**Amount:** \$99,254.45  
**Cleared:** Sunday, October 28, 2012  
**Depository:** Fuerst Ittleman PL  
**Account:** Wachovia Bank N.A.

ELECTRONICALLY PRESENTED - #0282811

PAY TO THE ORDER OF  
WACHOVIA BANK, N.A.  
057005432  
FOR DEPOSIT ONLY  
FUERST ITTLEMAN PL

**3977**  
RESERVED

**BANCO POPULAR DE PUERTO RICO**  
101-667216

**UNITED CORPORATION**  
DBA PLAZA EXTRA  
(340) 719-1870  
PO BOX 3649  
ST CROIX, VI 00851

**DATE** Oct 19, 2012  
**AMOUNT** \$ 29,011.50

**PAY TO THE ORDER OF:** Twenty-Nine Thousand Eleven and 50/100 Dollars  
FUERST ITTLEMAN DAVID & JOSEPH, PL  
1001 BRICKELL BAY DRIVE  
32ND FLOOR  
MIAMI, FL 33131

**Memo:**

*[Signature]*  
AUTHORIZED SIGNATURE

# CHECK 3979

PAGE 4 of 4

**Dated:** Friday, October 19, 2012  
**Amount:** \$15,067.26  
**Cleared:** Sunday, October 28, 2012  
**Depository:** Fuerst Ittleman PL  
**Account:** Wachovia Bank N.A.

ELECTRONICALLY PRESENTED - 07/28/2012 1

PAY TO THE ORDER OF  
WACHOVIA BANK, N.A.  
067006432  
FOR DEPOSIT ONLY  
FUERST ITTLEMAN PL

**3979**  
CHECK NUMBER

**BANCO POPULAR DE PUERTO RICO**  
701-6671210

**DATE**  
Oct 19, 2012

**AMOUNT**  
\$ \$15,067.26

**UNITED CORPORATION**  
DIBA PLAZA EXTRA  
(340) 719-1870  
PO BOX 3619  
ST CROIX, VI 00851

**Fifteen Thousand Sixty-Seven and 26/100 Dollars**  
**FUERST ITTLEMAN DAVID & JOSEPH, PL**  
**1001 BRICKELL BAY DRIVE**  
**32ND FLOOR**  
**MIAMI, FL 33131**

**PAY TO THE ORDER OF:**

**AUTHORIZED SIGNATURE**

**Memo:**

Details on Back

Security Features Included

SMOCK & MOOREHEAD

Check Number: 66664  
Check Date: Jan 3, 2013

Check Amount: \$3,395.00

Item to be Paid - Description

Discount Taken      Amount Paid

36598      3,395.00

**UNITED CORPORATION D/B/A  
PLAZA EXTRA**  
4C & 4D ESTATE SION FARM  
CHRISTIANSTED, VI 00821  
(340) 778-6240 (340) 719-1870

**BANCO POPULAR DE PUERTO RICO**  
101-667/216

**66664**  
CHECK ARMOR

DATE  
Jan 3, 2013

AMOUNT  
\$ \*\*\*\*\*\$3,395.00

Three Thousand Three Hundred Ninety-Five and 00/100 Dollars

PAY  
TO THE  
ORDER  
OF:      **SMOCK & MOOREHEAD**  
          **P.O. BOX 1498**  
          **ST. THOMAS, VI 804**

VOID AFTER 90 DAYS

Memo: CR.NO. 2003-147

*[Handwritten Signature]*  
AUTHORIZED SIGNATURE

UNITED CORPORATION D/B/A PLAZA EXTRA

66664



**NOTICE OF PAYMENT OF PURCHASE PRICE AND  
AUTHORIZATION TO RELEASE STOCK CERTIFICATES**

To: Robert L. King, Esq.

Pursuant to that certain agreement of Sale of Stock dated June 15, 2000 by and between Hisham Hamed and Najah Yusef, as sellers, and Hakima Salem, as buyer, concerning the sellers' 1,000 shares of Y & S Corporation, a United States Virgin Islands corporation, the undersigned hereby gives you formal written notice that the purchase price has been paid in full on a timely basis and that you are authorized and directed to release the shares of stock that have been endorsed by the sellers to the buyer.

Buyer hereby authorizes and directs you to forward the endorsed shares of stock as well as the corporate minute book to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SELLERS

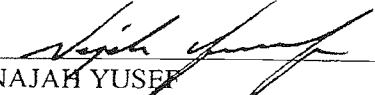
BUYER

\_\_\_\_\_  
HISHAM HAMED

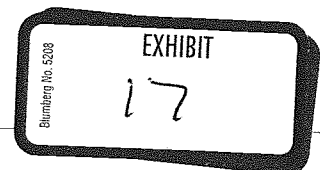
\_\_\_\_\_  
HAKIMA SALEM

Date: \_\_\_\_\_

Date: \_\_\_\_\_

  
\_\_\_\_\_  
NAJAH YUSEF

Date: Feb. 06, 2012



Dorothia  
Jordan Fund 75,000.-Dinar

1,500,000.00  
105,932.00

Fathi YUSUF  
From Jordan " "  
Balance for Fathi YUSUF

1,605,932.00  
← 617,000.00 ✓  
← 105,932.00 ✓  
80,034.00.-

802,966.00

2

1,605,932.00

802,966.00

Bumilang No. 5008

EXHIBIT

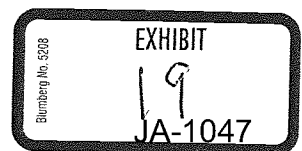
12

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

<b>MOHAMMAD HAMED,</b>	)	CIVIL NO. 1:12-CV-99
	)	
Plaintiff	)	
Vs.	)	<b>AFFIDAVIT OF MAHER YUSUF, as President</b>
	)	<b>of DEFENDANT UNITED CORPORATION</b>
<b>FATHI YUSUF</b>	)	
<b>UNITED CORPORATION</b>	)	
	)	
Defendants	)	
_____	)	

I Maher Yusuf, an adult of sound mind and body, hereby under oath attest:

1. I am a resident of St. Croix , the U.S. Virgin Islands.
2. I am the President of United Corporation (“United”), a duly organized Virgin Islands Corporation, in good standing and is authorized to conduct business in the Virgin Islands.
3. United was incorporated in 1979 by my father Fathi Yusuf. United is now owned in various shares among the various members of the Yusuf Family.
4. United has always been organized, maintained, and owned by the Yusuf Family.
5. As President of United, and after inspecting all of the records of United, including a review of all filings with the United’s counsel, I attest that there has never been a transfer of a single share of United outside the Yusuf family, nor has anyone ever invested in the equity of United.
6. In addition to its Plaza Extra supermarket operations, United has owned in fee simple absolute all of United Shopping Plaza since 1979. It has always owned the property, having never transferred any interest in the property (directly or indirectly) to anyone.
7. United has always managed its tenants, collected rents, and other benefits from its rental real property operations.
8. United never shared any rental real property proceeds with Mohammed Hamed or anyone in the Hamed family. Mohammed Hamed has never attested to any interest in the United Shopping Plaza.



9. In 2003, United Corporation was indicted in the case of *United States, et al., v. United Corporation, et al.*, docket no. 1:05-cr-15 (D.V.I.) (“the criminal case”). In all proceedings concerning the criminal case, I have always appeared for United as its President during all court proceedings. At no time did Waleed Hamed and Waheed Hamed ever declare that their father Mohammed Hamed is a partner with or in United.
10. The U.S. Justice Department has always received representations from each criminal defense attorney for the Hameds that the business arrangement is one of a business agreement.
11. As United’s president, I can attest that Mohammed Hamed has never requested a K-1 Partnership schedule, or ever declared this to be a partnership to a single governmental or taxing agency. Mohammed Hamed never filed a U.S. Partnership Tax Return on behalf of United.
12. Waleed Hamed has always declared to the U.S. Government in the criminal case that the business arrangement between United and Mohammed Hamed is a business agreement, where Mohammed Hamed would receive only fifty percent (50%) of any net profits of the operations of one of Plaza Extra supermarkets. Mohammed Hamed does not have a partnership, equity, or any other interest with United.
13. Mohammed Hamed stopped working as a warehouse supervisor in the late 1990s, and has never participated in any managerial decisions at United and its Plaza Extra stores.
14. United has never filed partnership statements with the Office of the Lt. Governor of the Virgin Islands. Similarly, the Hamed family has never demanded that such a statement be filed.
15. United has never filed a Statement of Partnership Authority with the Office of the Lt. Governor. Similarly, the Hamed family has never demanded that such a statement be filed.
16. United has never acquired property in the name of “United Corporation Partnership.”
17. Most importantly, United has always charged rent for the use of part of its retail premises by the Plaza Extra Supermarket operations on Sion Farm, St. Croix. Mohammed Hamed has always understood that United would charge for the use of its retail space, and would deduct the value of such rent in arriving at the net profits of the Plaza Extra Supermarkets.



18. The Hamed family was never entitled, and never received any part of the proceeds of the real estate rental income. The Hamed family and Mohammed Hamed neither dealt with the Tenants, nor made any decisions to lease the property to anyone.
19. In late 2011, substantial evidence of financial irregularities was revealed when United received a "Hard Drive" with scanned copies of voluminous records that were in the possession of the Federal Bureau of Investigation ("FBI"). These irregularities included substantial defalcation of monies by Waleed Hamed, the son and designated agent of Mohammed Hamed. Waleed Hamed has always been an employee-manager of the Plaza Extra Supermarket in Sion Farm.
20. In late March, 2012, the Hameds began to take an aggressive and hostile position, including threatening to preclude United from filing their U.S. Corporate Tax Returns as required by plea agreement in criminal case.
21. Waleed Hamed threatened United that he would declare this to be a "partnership" and that he would not honor the relationship that had been in place for years. Additionally, Waleed Hamed threatened not to agree to the filing of the U.S. Corporate Tax Returns (1120s) that were agreed with the Justice Department as memorialized in the plea agreement in the criminal case.
22. Mohammed Hamed through Waleed Hamed decided to declare the relation a "partnership." Mohammed Hamed through Waleed Hamed demanded that settlement talks or agreement must use the word "partnership" and that they would not agree to honor the long-standing relationship.
23. In January of 2012, United instructed Attorney Nizar DeWood to prepare proposed settlement agreements with the word "partnership" as suggested by the Hameds. Those letters contained terms that Mohammed Hamed wanted in any proposed settlement agreement. Both Mohammed Hamed and the Hamed family know that Mohammed Hamed has never been partner in United, that United has never filed a single Partnership Return, and all of the criminal defendants have always represented to the U.S. Government that they are not partners.
24. From January through June 2012, United sought to resolve the dispute with the Hameds, but unfortunately could not reach a settlement agreement with Mohammed Hamed.
25. Between June 29<sup>th</sup> and August 3<sup>rd</sup>, 2012, additional settlement sessions were held between the parties. Numerous drafts of agreements were drafted and circulated. None of these proposed agreements ever mentioned the word partnership.

Hamed v. Yusuf; Case No. 1:12-cv-99  
Affidavit of Maher Yusuf as President of United  
Page 4 of 4

26. None of the parties to the settlement discussions ever signed a single proposed settlement agreement. United would not agree to any settlement agreement that reflected that United is in any way a "partnership" because that would be inconsistent with the decades of representations made to third-parties and is factually incorrect.

27. The agreements that were circulated back and forth between Mohammed Hamed and United were intended to be part of the confidential settlement sessions.

I attest that the above is true to the best of my knowledge.

Date: Oct. 9, 2012

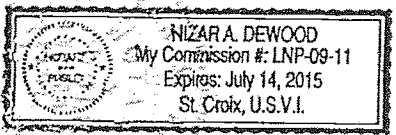
*Maher Yusuf*  
UNITED CORPORATION  
By: Maher Yusuf, President

TERRITORY OF THE U.S. VIRGIN ISLANDS )  
  )  
DIVISION OF ST. CROIX )

Sworn and subscribed to before me this 9<sup>th</sup> day of October, 2012.

*Nizara Dewood*  
Notary Public

My commission expires: 07/14/15



UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

February 1, 2013

Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of February 1, 2013**

Rent due for Plaza Extra – East, January 1, 2012 through Jan. 31, 2013	Balance Due	\$3,271,764.31
ADD: 1% interest on outstanding Balance		<u>\$ 32,717.64</u>
	Amount Due	\$ 3,304,481.95
February 2013 Rent currently due:		<u>\$ 250,000.00</u>
	Total Balance due February 1, 2013	<u>\$ 3,554,481.95</u>

Please forward a check immediately.

Sincerely,



FOR → Fathi Yusuf



JA-1051

#56082  
1939084  
United Corporation, Inc.  
069732

**GENERAL WARRANTY DEED**

INDENTURE, made as of this 21<sup>st</sup> day of June, 2012 by and between **Frederik Side, Inc.**, a Virgin Islands Corporation, of 4960 South 27<sup>th</sup> Street, Milwaukee, WI 53221, hereinafter referred to as **Grantor**, and **United Corporation, Inc.**, a Virgin Islands Corporation, of 4-C & 4-D Estate Sion Farm P.O. Box 763 Christiansted, VI 00820; hereinafter referred to as **Grantee**;

**WITNESSETH:**

FOR THE SUM OF TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION paid by Grantee and received by Grantor, the receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell and convey unto Grantee, its heirs, successors and assigns forever, the following described real property and improvements thereon (Property) situated in St. Croix, United States Virgin Islands, more particularly described as:

**Remainder Plot No. 51, (4.05 U.S. Acres) Estate Hannah's Rest, West End Quarter, O.L.G. Drawing No. 5862, dated June 4<sup>th</sup>, 2007.**

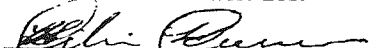
**TOGETHER WITH** all the tenements, hereditaments, and appurtenances thereunto belonging.

**SUBJECT TO** all applicable rights of way, easements, conditions, covenants, agreements and restrictions of public record; all zoning, building, environmental and other laws, regulations and ordinances affecting the use or occupancy of the Property;

**TO HAVE AND TO HOLD** the property hereinabove described unto Grantee, its successors and assigns, in fee simple forever.

Grantor covenants and warrants that it is lawfully seized of said premises and has a good right to convey the same; that said premises are free from any and all liens and encumbrances, except as herein stated; that Grantee shall quietly enjoy said premises, and Grantor further covenants that he will warrant and defend the title to said premises against the lawful claims of any and all persons whomsoever.

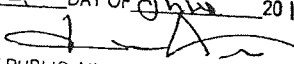
**IN WITNESS WHEREOF**, this Deed has been duly executed as of the day and year first above written. **IN WITNESS:**

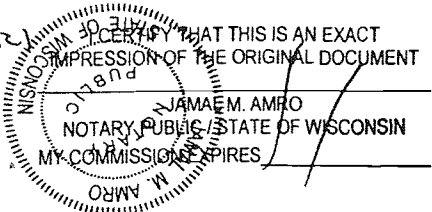
  
HILMI HASSAN, President  
for Fredrick Side, Inc.

Witness Name: Jana A. Amro  
Address: 6001 S. 27th St

  
MUMEN MUSEITEF, Secretary/Treasurer  
for Fredrick Side, Inc.

Doc# 2012002549  
Book: 1311  
Pages: 128  
Filed & Recorded  
07/06/2012 12:51:51 PM  
ALTHEA PERNO  
RECORDER OF DEEDS  
ST. CROIX  
RECORDING FEE \$ 512.00  
PER COPY FEE \$ 4.00  
DEEDS STAMP \$ 12,500.00  
Recorder  
*Althea Perno*

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS 21<sup>st</sup> DAY OF June 2012  
  
NOTARY PUBLIC, MILWAUKEE COUNTY, WI  
MY COMMISSION EXPIRES 11/29/2013


  
I CERTIFY THAT THIS IS AN EXACT  
IMPRESSION OF THE ORIGINAL DOCUMENT  
JAMAE M. AMRO  
NOTARY PUBLIC, STATE OF WISCONSIN  
MY COMMISSION EXPIRES \_\_\_\_\_

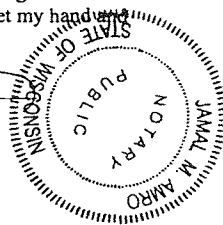
PLAINTIFF'S  
EXHIBIT  
23

**CORPORATE ACKNOWLEDGMENT**

STATE OF WISCONSIN )  
COUNTY OF MILW ) SS:

On this 21<sup>st</sup> day of June, 2012, before me, the undersigned officer, personally appeared **HILMI HASSAN** who acknowledged himself to be the **President** of Fredrick Side, Inc., a U.S. Virgin Islands corporation, and that he as such **president** being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as president. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

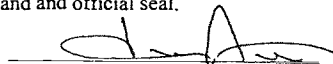
  
NOTARY PUBLIC

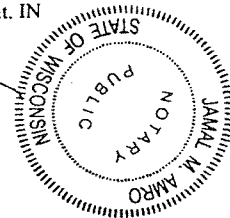


**ACKNOWLEDGMENT**

STATE OF WISCONSIN )  
COUNTY OF MILW ) SS:

On this 21<sup>st</sup> day of June, 2012, before me, the undersigned officer, personally appeared Hilmi Hassan Mann Hassan who acknowledged himself to be the **witness** to this signed General Warranty Deed, and having executed the foregoing instrument for the purposes therein contained by signing his name as witness to the execution of this instrument. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
NOTARY PUBLIC



Doc# 2012002549

Book: 1311

Pages: 128

Filed & Recorded

07/06/2012 12:51PM

ALTHEA PEDRO

RECORDER OF DEEDS

ST CROIX

RECORDING FEE

PER PAGE FEE

DEED DOC STAMP

*Althea Pedro*


Recorder

\$ 512.00  
\$ 4.00  
\$ 12,500.00

Warranty Deed  
Remainder Plot No. 51 Hannah's Rest  
Grantor: Fredrick Side, Inc. Grantee: United Corporation  
Page 3 of 3

**CERTIFICATE OF VALUE**

IT IS HEREBY CERTIFIED that the value of the property described in the foregoing instrument for recording and stamp purposes does not exceed Five Hundred Thousand Dollars (\$500,000.00). The 2009 real property tax assessment is \$83,300.

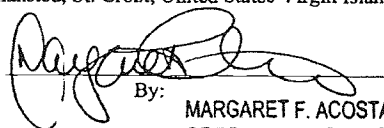
By:   
HILMI HASSAN, President  
for Fredrick Side, Inc.

**CERTIFICATE OF THE PUBLIC SURVEYOR**

IT IS HEREBY CERTIFIED that, according to the records in the Office of the Public Surveyor, Christiansted, St. Croix, United States Virgin Islands, and the property described in the foregoing instrument has not undergone any change in respect to boundary and area.

Office of the Public Surveyor, Christiansted, St. Croix, United States Virgin Islands.

DATED: JUN 29 2012

  
By: MARGARET F. ACOSTA  
SPECIAL ASSISTANT

Fee \$550



GOVERNMENT OF  
THE UNITED STATES VIRGIN ISLANDS

**OFFICE OF THE LIEUTENANT GOVERNOR  
DIVISION OF REAL PROPERTY TAX**

1105 King Street • Christiansted, Virgin Islands 00820 • 340.773.6449 • Fax 340.773.0330  
18 Kongens Gade • Charlotte Amalie, Virgin Islands 00802 • 340.774.2991 • Fax 340.774.6953

**REAL PROPERTY TAX CLEARANCE LETTER**

TO: Office of the Recorder of Deeds

FROM: Office of the Tax Collector

In accordance with Title 28, Section 121, as amended, this shall certify that there are no outstanding Real Property Tax obligations for the following:

PARCEL NUMBER	4-09200-0203-00
LEGAL DESCRIPTION	51 HANNAHS REST
OWNER'S NAME	FREDERIK SIDE INC

Taxes have been researched up to and including 2009.

CERTIFIED TRUE AND CORRECT BY

Valencio Jackson  
Tax Collector

  
SIGNATURE

May 25, 2012  
DATE

*[Faint, illegible text, possibly a stamp or bleed-through from the reverse side of the page]*

REPUBLIC OF THE VIRGIN ISLANDS  
DISTRICT OF ST CROIX

I, ALTHEA A. PEDRO, Recorder of said district, do hereby certify that the foregoing instrument contains a true and complete copy of General Warranty Deed as same appears of record or on the file in P.C. 1311 Page 128 No. 2012002549 of the records of St. Croix District, Virgin Islands. Given under my hand and seal this 29th day of January, 2013.

ALTHEA A. PEDRO, RECORDER

*Althea A. Pedro*

FEE: \$ 13.00



# 35695  
att. to estate  
189-4879 069698

WARRANTY DEED

INDENTURE made this 18th day of May, 2012, by and between Robert L. Merwin, Co-Trustee of the M.K. Armstrong Trust u/d/t dated May 12, 1969 as amended by First Amendment dated December 30, 1972, hereinafter referred to as "Grantor", and United Corporation, a U.S. Virgin Islands corporation of P.O. 763, Christiansted, VI 00821, hereinafter referred to as "Grantee".

WITNESSETH that in consideration of Ten Dollars (\$10.00) and other good and valuable consideration to him in hand paid, receipt of which is hereby acknowledged, Grantor does hereby grant and convey unto Grantee, its successors and assigns, the following described real property situated in St. Croix, U.S. Virgin Islands, to wit:

Rem. Matr. Plot No. 9 Estate Grange, Company Quarter, consisting of 80.7119 U.S. acres, more or less, as more fully shown on OLG Drawing No. A9-80-C012 dated May 15, 2012; and

Road Plot No. 70 Estate Grange, Company Quarter, consisting of 10.298 U.S. acres, more or less, as more fully shown on OLG Drawing No. A9-80-C012 dated May 15, 2012; and

Together with all of Grantor's right, if any, to the easements and water rights reserved in that certain Deed dated April 20, 1995 on No. 1 Estate Hermon Hill, recorded on November 6, 1995 at PC 558, page 215, Doc. No. 5810 (the Covenants and Warranties in the last paragraph of this deed do not apply to these easements and water rights)

\$ 1,712.00  
\$ 4.00  
\$ 51,000.00  
RECORDING FEE  
PER PAGE FEE  
DEED DOC STAMP

TOGETHER with all the tenements, hereditaments, buildings, and appurtenances thereunto belonging.

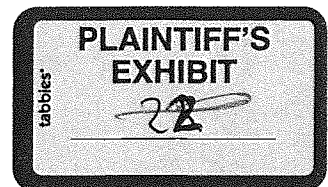
SUBJECT, HOWEVER, to the following (the "Permitted Exceptions"):

- a) The standard exclusions from coverage set forth in an ALTA owner's policy - 6-17-06;
- b) The lien of all taxes, special assessments or reassessments, which are not shown as existing liens by the records in the Office of the Tax Assessor for St. Croix, Virgin Islands, nor any taxes or bills for the year 2010 or thereafter, not yet submitted, due or payable;
- c) Any lien which may heretofore or hereafter attach pursuant to the provisions of Title 19, §1538 of the Virgin Islands Code, with regard to municipal sewer charges, not yet due and payable, as may be applicable;

Doc# 2012002041  
Book: 1308  
Pages: 87  
Filed & Recorded  
05/25/2012 2:40PM  
ALTHEA PEDRO  
REORDER OF DEEDS  
ST. CROIX

Arthur B. Pedro  
Recorder

87



23

Warranty Deed

Robert L. Merwin, Co-Trustee of the M.K. Armstrong Trust u/d/t dated May 12, 1969 as amended by First Amendment dated December 30, 1972, to United Corporation

Page 2

d) Virgin Islands Zoning, Coastal Zone Management, Conservation, or Building laws and regulations, ordinances or common law applicable or relating to the use and occupancy of the premises;

e) Title to any filled in land, littoral rights, riparian rights, or other rights not shown in the public records;

TO HAVE AND TO HOLD the said described real property unto **United Corporation**, its successors and assigns, in fee simple forever.

GRANTOR COVENANTS AND WARRANTIES that he is lawfully seised of said premises in fee simple and has good right to convey same; that Grantee shall quietly enjoy said premises; that the premises are free from encumbrances except as herein provided; that Grantor will execute or procure any further necessary assurances of title to said premises; and that Grantor will forever warrant and defend the title in said premises. The Trustee, for himself, his heirs, representatives, successors and assigns states that he is the lawful Co-Trustee of the M.K. Armstrong Trust u/d/t dated May 12, 1969 as amended by First Amendment dated December 30, 1972 and, as such, has the power to convey as aforesaid. The Trustee further covenants that he has in all respects made this conveyance pursuant to the authority granted by the Trust; provided, however, that Grantor has executed this Trustee's Deed in his capacity as Trustee of the Trust and that the liability of the Grantor under this covenant and general warranty shall be limited to the assets of the Trust.

WITNESSES:

M.K. Armstrong Trust  
u/d/t dated May 12, 1969  
as amended by First Amendment  
dated December 30, 1972

Rebecca Merwin  
[Signature]

R. L. Merwin  
Robert L. Merwin, Co-Trustee  
Dated: 5/18/2012

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Warranty Deed  
Robert L. Merwin, Co-Trustee of the M.K. Armstrong Trust u/d/t dated May 12, 1969 as amended by  
First Amendment dated December 30, 1972, to United Corporation  
Page 3

**ACKNOWLEDGMENT**

TERRITORY OF THE VIRGIN ISLANDS )  
JUDICIAL DIVISION OF ST. CROIX ) SS:

The foregoing instrument was acknowledged before me this 04 day of May, 2012 by Robert L. Merwin, Co-Trustee M.K. Armstrong Trust u/d/t dated May 12, 1969 as amended by First Amendment dated December 30, 1972.

GERALD T GRONER  
Notary Public  
St. Croix, U.S. Virgin Islands  
LNP-022-11  
My Commission Expires November 10, 2018

*[Signature]*  
Notary Public  
Name: \_\_\_\_\_  
Notary No. \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

**CERTIFICATE OF VALUE**

IT IS HEREBY CERTIFIED that the value of the property described in the foregoing deed, for recording and transfer stamp tax purposes, does not exceed the sum of \$ 1,700,000.00. The 2009 property tax assessment of the property is \$969,549.10 by allocation.

*[Signature]*  
Robert L Merwin, Trustee

**CERTIFICATE OF PUBLIC SURVEYOR**

IT IS HEREBY CERTIFIED that, according to the records in the office of the Public Surveyor, the property described in the foregoing Warranty Deed has undergone no changes with respect to boundary and area.

DATE: MAY 24 2012  
FEES: \$940<sup>00</sup>

*[Signature]*  
SURVEY & DEEDS SECTION  
MARGARET F. ACOSTA  
SPECIAL ASSISTANT

Doc# 2012002041  
Book: 1308  
Pages: 37  
Filed & Recorded  
05/25/2012 2:48PM  
ALTHEA PEDRO  
RECORDER OF DEEDS  
ST CROIX  
RECORDING FEE \$ 1,712.00  
PER PAGE FEE \$ 4.00  
DEED DOC STAMP \$ 51,000.00  
*Althea Pedro*  
Recorder



GOVERNMENT OF  
THE UNITED STATES VIRGIN ISLANDS

**OFFICE OF THE LIEUTENANT GOVERNOR  
DIVISION OF REAL PROPERTY TAX**

1105 King Street • Christiansted, Virgin Islands 00820 • 340.773.6449 • Fax 340.773.0330  
18 Kongens Gade • Charlotte Amalie, Virgin Islands 00802 • 340.774.2991 • Fax 340.774.6953

**REAL PROPERTY TAX CLEARANCE LETTER**

**TO:** Office of the Recorder of Deeds

**FROM:** Office of the Tax Collector

In accordance with Title 28, Section 121, as amended, this shall certify that there are no outstanding Real Property Tax obligations for the following:

PARCEL NUMBER	2-06800-0204-00
LEGAL DESCRIPTION	REM ESTATE GRANGE
OWNER'S NAME	ARMSTRONG, MALCOLM & OTHERS

Taxes have been researched up to and including 2009.

CERTIFIED TRUE AND CORRECT BY

Valencio Jackson  
Tax Collector

May 22, 2012  
DATE

*[Faint, illegible handwritten notes and signatures]*

90

TERMINITY OF THE VIRGIN ISLANDS  
DISTRICT OF ST. CROIX

I, ALTHEA A. PEDRO, Recorder of said district, do hereby certify that the foregoing instrument contains a true and complete copy of Warranty Deed as same appears of record or on the file in P.C. 1308 Page 87 No. 2012002041 of the records of St. Croix District, Virgin Islands. Given under my hand and seal this 29th day of January, 2013.

ALTHEA A. PEDRO, RECORDER

*Althea A. Pedro*

FEE: \$ 13.00

070243

#95  
1/16/12  
105550

WARRANTY DEED

This Deed is executed on December 17, 2012, between EG Properties, Inc., a U.S. Virgin Islands corporation ("Grantor") and United Corporation, a U.S. Virgin Islands Corporation, of PO Box 763, Christiansted, VI 00821 ("Grantee"). (Grantor and Grantee shall include their respective representatives, successors and assigns when the context requires or permits.)

In consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby sells, grants and conveys unto Grantee the following described real property ("Property") situated in St. Croix, U. S. Virgin Islands:

Plot No. 3-A of Estate Enfield Green, consisting of 0.067 U.S. acre, more or less, Prince Quarter, and

Plot No. 3-B of Estate Enfield Green, consisting of 0.784 U.S. acre, more or less, Prince Quarter, both as shown on OLG Drawing No. 3173-004, dated June 16, 1975, revised March 16, 1987; and

Plot No. 4 of Estate Enfield Green, consisting of 125.995 U.S. acres, more or less, Prince Quarter, as shown on OLG Drawing No. 2650, dated August 27, 1969, revised February 25, 2000;

TOGETHER WITH all the tenements, hereditaments and appurtenances thereunto in anywise belonging.

SUBJECT TO all easements, right of ways, conditions, covenants, agreements, and restrictions of public record; all zoning, building, environmental and other laws and regulations affecting the use or occupancy of the Property; matters disclosed by an accurate survey of the Property; and all real property and ad valorem taxes for the year 2011 and all years thereafter and for all years for which the Government of the Virgin Islands issues any revised or supplemental tax bills (collectively "Permitted Exceptions").

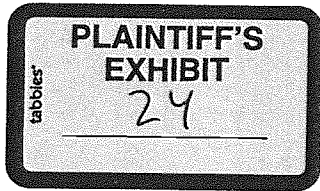
TO HAVE AND TO HOLD the Property unto Grantee, United Corporation, its successors and assigns, in fee simple forever.

Grantor further covenants that Grantor is lawfully seized of the Property and has full right to convey the Property; that the Property is free and clear of all liens and encumbrances except the Permitted Exceptions; that Grantee shall quietly enjoy the Property; and Grantor shall forever warrant and defend the right and title to the Property to Grantee against the lawful claims of all persons, except for claims arising under or by virtue of the Permitted Exceptions.

Doc# 2012004581  
Book: 386  
Pages: 15  
Filed & Recorded  
12/27/2012 2:41PM  
ALTHEA A. PEDRO  
RECORDER OF DEEDS  
ST. CROIX  
RECORDING FEE  
PER PAGE FEE  
DEED DOC STAMP 2.5  
\$2.00  
\$1.00  
\$13.00

*Althea A. Pedro*  
Recorder

15




IN WITNESS WHEREOF, this Deed has been duly executed by Grantor the day and year first above written.

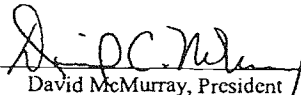
Dated: December 17, 2012.


Grantor:

Attest:

EG Properties, Inc.

By:   
Bernadette Daniel, Secretary

By:   
David McMurray, President

  
Witness

  
Witness

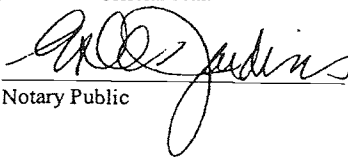
ACKNOWLEDGMENT

TERRITORY OF THE VIRGIN ISLANDS }  
DISTRICT OF ST. CROIX }

The foregoing Warranty Deed was acknowledged before me on December 17, 2012, by **David McMurray, President of EG Properties, Inc.**, a U.S. Virgin Islands corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

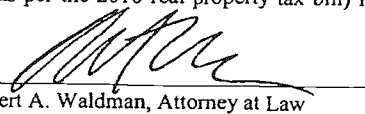
**EILEEN DES JARDINS**  
Notary Public #NP-114-11  
My Commission Expires: 12/14/15  
St. Croix, U.S. Virgin Islands

  
Notary Public

CERTIFICATE OF VALUE

It is hereby certified that the value of the Property described in the foregoing Warranty Deed does not exceed the sum of **Five Hundred Thousand Dollars (\$500,000.00)**.

The tax-assessed value of the Property (as per the 2010 real property tax bill) is \$534,500.00.

  
Robert A. Waldman, Attorney at Law

16


CERTIFICATE OF PUBLIC SURVEYOR

It is hereby certified that according to the records in the Public Surveyor's Office, the Property described in the foregoing Warranty Deed, has undergone no changes with regard to boundary and area.

Dated: DEC 24 2012

Fee: \$1,315<sup>00</sup>

Office of the Public Surveyor

By:   
for: Wayne D. Callwood  
Public Surveyor

Doc# 2012004581  
Book: 1336  
Pages: 15  
Filed & Recorded  
12/27/2012 2:41PM  
ALTERA A. PEDRO  
RECORDER OF DEEDS  
ST CROIX  
RECORDING FEE \$ 512.00  
PER PAGE FEE \$ 1.00  
DEED DOC STAMP 2.5 \$ 13,363.88  
*Alter A. Pedro*  
Recorder





GOVERNMENT OF  
THE UNITED STATES VIRGIN ISLANDS

**OFFICE OF THE LIEUTENANT GOVERNOR  
DIVISION OF REAL PROPERTY TAX**

1105 King Street • Christianssted, Virgin Islands 00820 • 340.773.6449 • Fax 340.773.0330  
18 Kongens Gade • Charlotte Amalie, Virgin Islands 00802 • 340.774.2991 • Fax 340.774.6953

**REAL PROPERTY TAX CLEARANCE LETTER**

**TO:** Office of the Recorder of Deeds

**FROM:** Office of the Tax Collector

In accordance with Title 28, Section 121, as amended, this shall certify that there are no outstanding Real Property Tax obligations for the following:

PARCEL NUMBER	4-09500-0103-00
LEGAL DESCRIPTION	3-A,3-B & 4 ENFIELD GREEN
OWNER'S NAME	EG PROPERTIES INC

Taxes have been researched up to and including 2010.

CERTIFIED TRUE AND CORRECT BY

Valencio Jackson  
Tax Collector

  
SIGNATURE

December 10, 2012  
DATE

18

COMMONWEALTH OF THE VIRGIN ISLANDS  
DISTRICT OF ST. CROIX

I, ALTHEA A. PEDRO, Recorder of said district, do hereby certify that the foregoing instrument contains a true and complete copy of Warranty Deed as same appears of record or on the file in P.O. 1326 Page 15 No. 201204587 of the records of St. Croix District, Virgin Islands. Given under my hand and seal this 24th day of January, 2013.

ALTHEA A. PEDRO, RECORDER

*Althea A. Pedro*

FEE: \$ 13.00

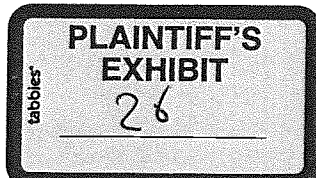
ENV# CEBBCXGVBBZVNS\_BB BBB  
 POPULAR SECURITIES  
 209 MUNOZ RIVERA AVE  
 POPULAR CENTER - 12TH FLOOR  
 SAN JUAN, PR 00918



01000015

UNITED CORP D/B/A PLAZA EXTRA  
 CHRISTIANSTED  
 PO BOX 763  
 CHRISTIANSTED VI 00821

STATEMENT FOR THE PERIOD DECEMBER 1, 2012 TO DECEMBER 31, 2012

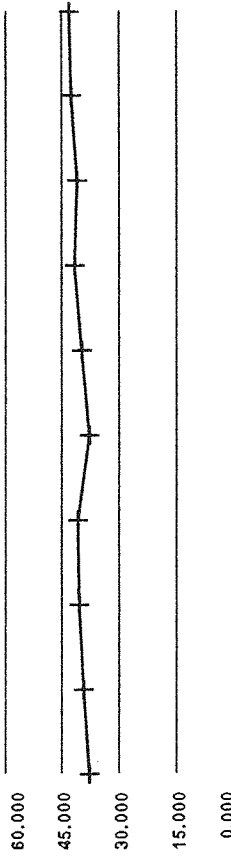


**SUMMARY OF ACCOUNTS**

TOTAL VALUE OF YOUR PORTFOLIOS **\$43,069,015.83**  
 as of December 31, 2012

*Note: This summary is provided for your convenience and information only. Total Value of Your Portfolios is the sum of the Total Value for all accounts listed, including insurance and annuities assets held away. Please refer to your account statements for more detailed information and definitions. Changes in address and registration may affect accounts included in the summary.*

**CHANGE IN VALUE OF YOUR PORTFOLIOS**  
 \$ millions



Change In Value Of Your Portfolios information can be found in Miscellaneous Footnotes at the end of this statement.

**ACCOUNTS INCLUDED**

Account Number	Prior Period Value as of 12/01/12	Current Period Value as of 12/31/12
<b>GENERAL INVESTMENT ACCOUNTS</b>		
UNITED CORPORATION D/B/A PLAZA EXTRA - Corporation	\$2,731.85	\$2,731.87
UNITED CORPORATION D/B/A PLAZA EXTRA - Corporation	\$7,148,327.18	\$7,307,526.68

JA-1067



**ACCOUNTS INCLUDED > GENERAL INVESTMENT ACCOUNTS** *continued*

<i>Account Number</i>	<i>Prior Period Value as of 12/01/12</i>	<i>Current Period Value as of 12/31/12</i>
UNITED CORPORATION D/B/A PLAZA EXTRA - Corporation	\$10,366,367.34	\$10,293,483.36
UNITED CORPORATION D/B/A PLAZA EXTRA - Corporation	\$10,536,682.39	\$10,349,583.20
UNITED CORPORATION D/B/A PLAZA EXTRA - Corporation	\$4,142,870.17	\$4,179,505.50
UNITED CORPORATION D/B/A PLAZA EXTRA - Corporation	\$4,069,709.33	\$4,137,531.67
UNITED CORPORATION D/B/A PLAZA EXTRA - Corporation	\$2,597,384.65	\$2,640,168.80
UNITED CORPORATION D/B/A PLAZA EXTRA - Corporation	\$4,019,179.15	\$4,158,484.75
<b>TOTAL GENERAL INVESTMENT ACCOUNTS</b>	<b>\$42,883,252.06</b>	<b>\$43,069,015.83</b>

**TOTAL PORTFOLIO VALUE** **\$42,883,252.06** **\$43,069,015.83**



UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 503358  
ST THOMAS, USVI 00805

11114

181-605/216

DATE 11-9-2001

PAY  
TO THE  
ORDER OF

Fathi Yusuf

\$ 20,000.00

Twenty Thousand and 00/100

DOLLARS



**Scotiabank**  
THE BANK OF NOVA SCOTIA  
CHARLOTTE AMALFI  
BY THE BANK, LESS WITHHOLDING TAXES

FOR

personal

*Fathi Yusuf*

THIS CHECK IS VOID UNLESS IT IS SIGNED BY THE ISSUING OFFICE

NOV 12 2001

*Fathi Yusuf*

PLAINTIFF'S  
EXHIBIT  
27  
JA 1069

UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 603358  
ST THOMAS, USVI 00805

12187

101-605/216

DATE 10-09-02

PAY  
TO THE  
ORDER OF

Fathi YUSUF

\$ 50,000.00

Fifty Thousand

00/100

DOLLARS



**Scotiabank**  
THE BANK OF NOVA SCOTIA  
CHARENTE ASSURIE  
ST THOMAS, U.S. VIRGIN ISLANDS

FOR House Construction

*[Handwritten Signature]*

Handwritten scribble or signature





12813

101-605/216

**UNITED CORPORATION**  
**D/B/A PLAZA EXTRA**  
PO BOX 503358  
ST THOMAS, USVI 00005

DATE 10/3/02

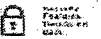
PAY  
TO THE  
ORDER OF

*Fatou Yusuf*

\$ 50,000.00

*Fifty thousand dollars* <sup>00</sup>/<sub>100</sub>

DOLLARS



**Scotiabank**   
THE BANK OF NOVA SCOTIA  
CHARLOTTE BRIDGE  
ST. THOMAS, U.S. VIRGIN ISLANDS

*Fatou Yusuf*  
SLV NP

FOR

*(Sky/ai)*

01481424 8/16/02 30

UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 503958  
ST THOMAS, USVI 00806

30445-002 **50**  
THE BANK OF NOVA SCOTIA  
TUTU PARK  
ST THOMAS, U.S. V.I.

13356

101-605/216

DEC 24 2002

DATE 12-23-02

PAY  
TO THE  
ORDER OF

*Fathi Yusuf*

\$ 25,000.00

*Twenty five thousand **50** dollars*

30445-002

*00/100*

DOLLARS



**Scotiabank**   
THE BANK OF NOVA SCOTIA  
CHARLOTTE AMALIE  
ST. THOMAS U.S. VIRGIN ISLANDS

FOR Personal

*Fathi Yusuf*

Handwritten scribbles or marks in the top right corner.

UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 503356  
ST THOMAS, VI 00805

14922

101-605/216

DATE 9-15-03

PAY  
TO THE  
ORDER OF

Fathi Kyraf

\$ 25,000.00

Twenty Five Thousand and <sup>00</sup>/<sub>100</sub>

DOLLARS



**Scotiabank**  
THE BANK OF NOVA SCOTIA  
CHARENTI, ANGLIS  
ST THOMAS, U.S. VIRGIN ISLANDS

*[Handwritten Signature]*

FOR

Distribution

SEP 15 2003  
46

*[Handwritten Signature]*  
For Deposit only to  
Acct

910

UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 503358  
ST THOMAS, VI 00805

15943

DATE August 20<sup>th</sup> 2007 101-605216

PAY TO THE ORDER OF

Fathi Yusuf  
Twenty Five Thousand

\$ 25,000.00  
DOLLARS

Scotiabank  
THE BANK OF NOVA SCOTIA  
CHARLOTTE AMNE  
ST. THOMAS, U.S. VIRGIN ISLANDS

FOR personal

Fathi Yusuf

15921

UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 503358  
ST THOMAS, VI 00805

DATE July 27<sup>th</sup> 2007 101-605216

PAY TO THE ORDER OF

Fathi Yusuf  
Twenty Five Thousand

\$ 25,000.00  
DOLLARS

Scotiabank  
THE BANK OF NOVA SCOTIA  
CHARLOTTE AMNE  
ST. THOMAS, U.S. VIRGIN ISLANDS

FOR personal

Fathi Yusuf

15819

UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 503358  
ST THOMAS, VI 00805

101-605/216

DATE 6-18-04

PAY TO THE ORDER OF Fathi Yusuf \$ 25,000.00  
Twenty Five Thousand Dollars /100 DOLLARS

Scotiabank  
THE BANK OF NOVA SCOTIA  
CHARLOTTE AMALIE  
ST THOMAS, U.S. VIRGIN ISLANDS

*[Signature]*

FOR \_\_\_\_\_

15765

UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 503358  
ST THOMAS, VI 00805

101-605/216

DATE 5-20-2004

PAY TO THE ORDER OF Fathi Yusuf \$ 25,000.00  
Twenty Five Thousand And 00/100 DOLLARS

Scotiabank  
THE BANK OF NOVA SCOTIA  
CHARLOTTE AMALIE  
ST THOMAS, U.S. VIRGIN ISLANDS

*[Signature]*

FOR Personal

15891

101-9357216

DATE 7-19-2004

\$14,000.00

DOLLARS



UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 50358  
ST THOMAS, VI 00805

PAY TO THE ORDER OF Fathi Yusef  
Fourteen Thousand and 00/100

Scotiabank  
THE BANK OF NOVA SCOTIA  
CHARTERED BANK  
BY THE BANK OF NOVA SCOTIA

*[Handwritten signature]*

FOR DEPOSIT ONLY

7/11  
UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 503358  
ST THOMAS, VI 00805

15975

101-605/216

DATE 2 30 04

PAY TO THE ORDER OF

*Fatki Yusuf*

\$ 25,000.00

*Twenty Five Thousand Dollars*

DOLLARS

Scotiabank  
THE BANK OF NOVA SCOTIA  
CHARLOTTE, VIRGINIA  
ST THOMAS, U.S. VIRGIN ISLANDS

FOR

*personal*

*Fatki Yusuf*

UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 503358  
ST THOMAS, VI 00805

16009

101-605/216

DATE Sept 20 2007

PAY TO THE ORDER OF

*Fatki Yusuf*

\$ 25,000.00

*Twenty Five Thousand*

DOLLARS

Scotiabank  
THE BANK OF NOVA SCOTIA  
CHARLOTTE, VIRGINIA  
ST THOMAS, U.S. VIRGIN ISLANDS

FOR

*personal*

*Fatki Yusuf*



UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 502358  
ST THOMAS, VI 00806

16026

101-605216

PAY TO THE ORDER OF

*For Mrs. Persell*

\$ 25,000.00

DATE

*4-24-04*

*Twenty five thousand dollars*

*per* DOLLARS

Scotiabank  
THE BANK OF NOVA SCOTIA  
400 GERRARD AVENUE  
ST. THOMAS, ONTARIO N5P 1W5

FOR

*Persell*

*[Signature]*

UNITED CORPORATION  
D/B/A PLAZA EXTRA  
PO BOX 502358  
ST THOMAS, VI 00806

16039

101-605216

PAY TO THE ORDER OF

*For Mr. V. S. P.*

\$ 10,000.00

DATE

*10-26-03*

*Ten thousand and 00/100*

DOLLARS

Scotiabank  
THE BANK OF NOVA SCOTIA  
400 GERRARD AVENUE  
ST. THOMAS, ONTARIO N5P 1W5

FOR

*Persell*

*[Signature]*