

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

MOHAMMAD HAMED,

Plaintiff,

v.

FATHI YUSUF,

Defendant.

Case No.:2014-SX-CV- ____

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

COMPLAINT

Comes now Plaintiff, Mohammad Hamed, who files this Complaint against Fathi Yusuf alleging as follows:

1. This Court has jurisdiction over this matter pursuant to Title 4 V.I.C. §76(a).
2. Plaintiff, Mohammad Hamed ("Hamed") is a resident of St. Croix, United States Virgin Islands.
3. Defendant Fathi Yusuf ("Yusuf") is a resident of the St. Croix, United States Virgin Islands.
4. All acts and events described herein occurred within the Territory of the U.S. Virgin Islands.
5. Mohammad Hamed and Fathi Yusuf have been partners in Plaza Extra Supermarkets from 1986 to the present.
6. As part of that partnership the partners removed funds from the partnership and used them to invest in certain property on St. Thomas, in Estate Dorothea, using Y&S Corporation, Inc. as the vehicle for their investment.
7. Yusuf and Hamed agreed to liquidate the Estate Dorothea property.

8. After Hamed provided the necessary Y&S corporation document to allow the sale, Yusuf informed Hamed that the sale had occurred and handwrote a document showing that the Dorothea property was liquidated for \$1,500,0000, noting further that Hamed was owed \$802,955 as a result of this transaction and related offsets. **Exhibit 1.**
9. Fathi Yusuf received the funds and owes the funds to Hamed -- which Yusuf has admitted under oath. **Exhibit 2** (Deposition Testimony of Fathi Yusuf, April 2, 2014 at 99-105.)
10. Hamed is owed the \$802,955 and despite demands and Yusuf's agreement that it is owed to Hamed -- Hamed has not received the funds.

COUNT ONE: DEBT

11. Plaintiffs hereby incorporate the averments in the preceding paragraphs herein.
12. Defendant owes a debt to Plaintiff as a result of this transaction totaling \$802,955 plus prejudgment interest from the date the funds were made available to Yusuf.
13. Despite repeated demands, the funds have not been paid for the debt owing, so that Yusuf is liable to Hamed for this debt.
14. Plaintiff is injured in the deprivation of the funds and interest thereon.

COUNT II CONVERSION

15. Plaintiff hereby incorporates the averments in the preceding paragraphs herein.
16. Yusuf has converted the funds belonging to Hamed, treating them as his own.
17. As such, Yusuf is liable to Hamed for the conversion of the \$802,955.

18. Such willful misconduct constitutes conversion of these funds for which Yusuf is liable to Hamed.


19. Such willful and wanton conduct, amounting to theft of these funds, warrants an award of punitive damages as well.

WHEREFORE, Plaintiff seeks the following relief from this Court as follows:

- 1) An award of compensatory damages against the Defendant in the amount of \$802,955;
- 2) An award of prejudgment interest at the statutory rate of 9%;
- 3) An award of punitive damages against Defendant as determined by the trier of fact;
- 4) An award of attorney's fees and costs against Defendant; and
- 5) Any other relief the Court deems appropriate as warranted by the facts and the applicable law.

A TRIAL BY JURY IS DEMANDED AS TO ALL ISSUES TRIABLE BY A JURY

Dated: July 7, 2014



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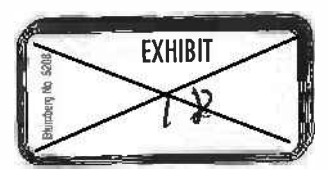
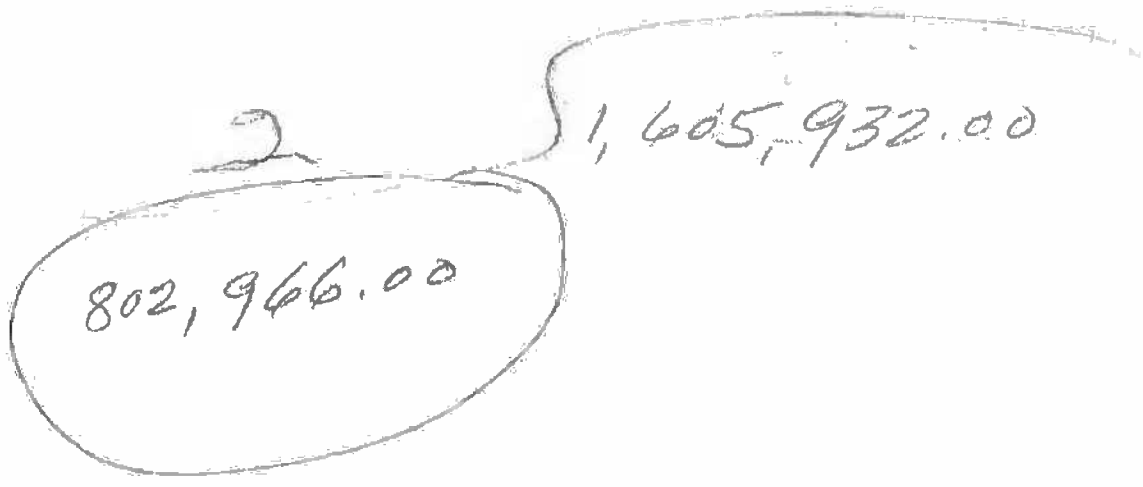
Dorothia
Jordan Fund 75,000 - Dinar

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



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

MOHAMMED HAMED by His Authorized)
Agent WALEED HAMED,)
)
Plaintiff/Counterclaim Defendant,)
)
vs.) Case No. SX-12-CV-370
)
FATHI YUSUF and UNITED CORPORATION,)
)
Defendants/Counterclaimants,)
)
vs.)
)
WALEED HAMED, WAHEED HAMED, MUFEED)
HAMED, HISHAM HAMED, and PLESSEN)
ENTERPRISES, INC.,)
)
Additional Counterclaim Defendants.)

THE VIDEOTAPED ORAL DEPOSITION OF FATHI YUSUF

was taken on the 2nd day of April, 2014, at the Law Offices
of Adam Hoover, 2006 Eastern Suburb, Christiansted,
St. Croix, U.S. Virgin Islands, between the hours of
9:17 a.m. and 4:16 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
Christiansted, St. Croix U.S.V.I.
(340) 773-8161

FATHI YUSUF -- DIRECT

1 **THE VIDEOGRAPHER:** Please swear the witness.

2 **THE REPORTER:** Raise your right hand, please.

3 **THE WITNESS:** Stand up.

4 **THE REPORTER:** No. You're fine.

5 **FATHI YUSUF,**

6 Called as a witness, having been first duly sworn,

7 Testified on his oath as follows:

8 **DIRECT EXAMINATION**

9 **BY MR. HOLT:**

10 **Q.** Can you state your name for the record, please?

11 **A.** My name, Fathi, F-A-T-H-I; last name, Yusuf,
12 Y-U-S-U-F.

13 ~~**Q.** And can you tell me where you reside?~~

14 ~~**A.** Where do I live?~~

15 ~~**Q.** Yep.~~

16 ~~**A.** 92C La Grande Princesse in Christiansted,
17 St. Croix.~~

18 ~~**Q.** Are you married?~~

19 ~~**A.** Yes.~~

20 ~~**Q.** And what's your wife's name?~~

21 ~~**A.** F-A-W-Z-I-A, same last name.~~

22 ~~**Q.** And are you involved with a company called
23 United Corporation?~~

24 ~~**A.** Yes, I do. I am.~~

25 ~~**Q.** And first of all, can you tell me what ownership~~

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

3 **Q. (Mr. Holt)** All right. All right. Showing you
4 Exhibit No. 12, can you tell me if you recognize that? Do
5 you recognize that document --

6 **A.** Yes, it's my handwriting.

7 **Q.** And at the top it has "Dorothia" written, is that
8 correct?

9 **A.** Yes.

10 **Q.** Can you tell me, what -- what -- what what does
11 this transaction mean?

12 **A.** The transaction that we bought -- we was in
13 partnership with a third person, that we own 50 percent of
14 the Dorothia real estate -- a real estate in Dorothia, and
15 the other partner owned the other 50 percent.

16 Finally, I come to this decision to sell it
17 to my partner. He bought it at one-and-a-half million, and
18 this number below, it was an idea to Mr. Hamed what would
19 I -- I am counted for, up to the time I give it to him. I
20 tell him what it is. By example, Jordan Fund, 75,000, it's
21 a checking account. This, I'm going to reclaim it back.
22 Because at that time I did it, I did it in the most honest
23 way, and we end up transferring property to myself. That
24 transfer the property cost me money, well, I have to put
25 that money out of my own pocket, even though the obligation

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1 was on both of us.

2 And then I'm going to use whatever it cost me
3 to transfer that property into my name, at the expense of
4 both of us, even though we missing three, four property that
5 he never transferred it to me. It's still in his name. He
6 said no, but I can claim, I can prove, still in his name.

7 **Q.** Okay. So now the first line, Dorothisia,
8 1.5 million, those were the funds that you received when the
9 other partner bought you out or paid you off?

10 **A.** Excuse me, sir?

11 **Q.** The first line, the 1.5 million on that line?

12 **A.** Yeah, this is a fund I received -- I received from
13 Dorothisia.

14 **Q.** And is that actually technically YNH Investments,
15 Inc.? Is that --

16 **A.** Yes.

17 **Q.** Okay. And -- and so those were funds that you
18 received from them, is that correct?

19 **A.** I received for our half, but I kept it. I'm not
20 stealing it. We're going to account for it.

21 **Q.** Okay.

22 **A.** This is yours, this is mine.

23 Excuse me. I going back a little bit towards
24 the 251,000. That wasn't Mr. Hamed money. Mr. Hamed, I
25 were giving him \$150,000 to the batch plant, and I have

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1 proof I deposited it for him in St. Thomas. And up to now,
2 he denying that money. That money, I give him \$150,000 to
3 deliver to the batch plant, and he claim that the batch
4 plant is ours.

5 It's not ours. We put it just not to let the
6 town fight together.

7 **Q.** Okay. I am going to ask you about the batch
8 plant, but --

9 **A.** Oh, whenever you want.

10 **Q.** -- I want to try to stick on this document?

11 **A.** Yeah. But I want to show you why these people, I
12 believe they owe me a lot of money.

13 **Q.** I understand.

14 **A.** Why should I pay them? Let's sit down and say,
15 What is yours and what is mine.

16 **Q.** No problem. Let me go down this list.

17 Dorothia is -- the 1.5 million were -- were
18 monies paid that belonged to you and -- and Mr. Hamed?

19 **A.** Yes.

20 **Q.** And then the Jordan fund, it says 75,000 dinar. I
21 take it that, converted, that's 105,932 U.S. dollars?

22 **A.** Right.

23 **Q.** Okay. and those are funds that are to be split
24 between you and Mr. Hamed, as well?

25 **A.** I explained to you, sir.

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1 **Q.** Yeah.

2 **A.** The 105 is by mistake. I end up transferring from
3 his -- the property was mine and his.

4 **Q.** Right.

5 **A.** And I choose for some reason to put it in his
6 name, because I trusted him.

7 **Q.** Right.

8 **A.** Now, when we decide to leave, we have to shake
9 hands forever. I'm not looking back anymore. I need my
10 half back, Mr. Mohammad.

11 **Q.** What is -- what is that plot number, the -- the
12 one you're talking about?

13 **A.** Several. We have -- we have properties, too much.
14 We have 1,200 or two -- 1,200 acre right here in the Virgin
15 Islands.

16 **Q.** Okay.

17 **A.** Were owned between both of us.

18 **Q.** All right. So then the next line comes down and
19 it says, 617,000 for Fathi Yusuf.

20 **A.** No. Yeah, this is -- I -- I don't know why I
21 should give him that. This is my half. I went and bought
22 the property with it.

23 **Q.** Okay. So you --

24 **A.** After I give him notice, I don't want to work with
25 you no more.

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1 **Q.** So we -- tell you what, let's get to the bottom.
2 At the bottom of this calculation is \$802,966.

3 Do you see that?

4 **A.** Sir, it's a lot of -- this 8,200 (sic) I owe him
5 on account.

6 **Q.** Okay.

7 **A.** We sit down, he give what I owe him to the
8 accountant, I give what I believe he owe me to the
9 accountant, and let's (indicating).

10 **Q.** Okay.

11 **A.** Let's, what do you call it, reconcile the account,
12 and who owe who, we'll settle. I'm not running away.

13 **Q.** Okay. So one of the items that you owe them for,
14 I understand there are items back and forth, but one of the
15 items you owe him is the 802,960 --

16 **A.** Not 802, sir. I told you I already spent 105, or
17 most of it, in a property where both of us is responsible to
18 spend that money.

19 **Q.** Okay. So you would take the 105 off of this 802?

20 **A.** I might -- well, the others -- yeah, this -- that
21 should go off.

22 **MR. HARTMANN:** Half.

23 **Q.** **(Mr. Holt)** Half of that should go off?

24 **A.** Yeah, but I -- sir, thanks God, I -- I -- you
25 know, I'm not speaking Arabic, not even one word up to now.

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1 Okay? They all English. I'm talking to you in plain
2 English. Let's sit down and give this to an accountant and
3 what is yours is yours, what is mine is mine. I have a
4 check of 536,405, begging Mr. Wally to give me an answer for
5 this check. This is written to your father, drawn on your
6 account. Can you tell me what is this for?

7 **Q.** Okay.

8 **A.** All I'm getting, I'll get to the bottom of it.
9 When this gentleman is going to reach the bottom?

10 **Q.** All right. So the sale of -- the money in
11 Dorothia was 1.5 million, to be split between the two of
12 you.

13 **A.** Yes, sir.

14 **Q.** Okay. And then you did some more accounting to
15 come up with the fact --

16 **A.** Yeah, this will go, and we'll go through every
17 little thing, right? Whatever is his is his, whatever is
18 mine is mine.

19 **Q.** Okay.

20 **A.** I'm not denying anything.

21 **Q.** All right. And on that pile, is 802,966 is --

22 **A.** Yes, yes, but all of it is not his.

23 **Q.** All of this is not his.

24 **A.** Because there's an accountant. Some of it, I told
25 you, by example, the bank statement.

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1 **Q.** Which is another -- another item.

2 **A.** Definitely this was an expense. I brought that
3 money out.

4 **Q.** Okay. So you start with the 1.5 million, which is
5 50/50, and then you start adding --

6 **A.** One million and a half is absolutely 50/50. I'm
7 not hiding anything.

8 **Q.** Okay. And when did you get that money?

9 **A.** I get that money, I don't have a date. But I get
10 that money maybe, I can guarantee you, it's not three years.
11 It's less than three years. I sold this property many, many
12 years ago.

13 **Q.** Okay. So you got this money, would it be fair to
14 say you got it in 2012?

15 **A.** I don't know when.

16 **Q.** Okay.

17 **A.** I don't remember.

18 **Q.** Well, this lawsuit was filed in August of 2012.
19 Did you get the money before this lawsuit was filed?

20 **MR. HODGES:** September 2012.

21 **A.** Maybe. Look at the date. Go to the owner and
22 look at the date, or go to the public recorder office.
23 That's something that can be resolved.

24 **Q.** **(Mr. Holt)** Okay.

25 **A.** I don't remember.