

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

MOHAMMAD HAMED, by his)
 authorized agent **WALEED HAMED**,)
)
Plaintiff/Counterclaim Defendant,)
)
 vs.)
)
FATHI YUSUF and)
UNITED CORPORATION,)
)
Defendants/Counterclaimants,)
)
 vs.)
)
WALEED HAMED, WAHEED)
HAMED, MUFEED HAMED,)
HISHAM HAMED,)
 and **PLESSEN ENTERPRISES, INC.,**)
)
Counterclaim Defendants.)
)

CIVIL NO. SX-12-CV-370

**ACTION FOR DAMAGES
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

**NOTICE OF SUPPLEMENTAL EXHIBIT TO
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
AS TO THE EXISTENCE OF A PARTNERSHIP**

In an effort to try to take one issue off this Court's agenda, counsel sent a second letter to one critical entity, Associated Grocers, who has refused to recognize the existence of the partnership despite the representations of United's counsel that this is allegedly a non-issue. **See Exhibit 1.**¹ Attached as **Exhibit 2** is the response received from Associated Grocers, dated July 14, 2014, regarding AG's refusal again to acknowledge the Partnership's ownership of the stock and membership, absent an actual Court Order. AG's counsel wrote:

¹ The first exchange with this entity was previously submitted to the Court in June before Defendants refused to sign the stipulation that there is a partnership.

As I told you before, unless and until there is a Court Order entered and signed by a Judge with proper authority, Associated Grocers of Florida, Inc. cannot and will not take a position as to who may be the owner of company stock held when same is subject to a dispute in the Courts in the US Virgin Islands.

I have reviewed the Stipulation [as to the existence of a partnership by defendants] and Deposition Transcript provided to my office and same were insufficient for my client to take a position.

I have advised my client to maintain the status quo as to any shares of stock held in Associated Grocers of Florida, Inc. until such time that the parties obtain the appropriate certified Court Order. . . .

Thus, contrary to Defendants' suggestions, an order is needed from this Court regarding the existence of the partnership for the reasons previously noted.

Dated: July 23, 2014



Joel H. Holt, Esq.

Counsel for Mohammad Hamed
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com

Carl J. Hartmann III, Esq.

Counsel for Waheed Hamed
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Telephone: (340) 719-8941
Email: carl@carlhartmann.com

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of July, 2014, I served a copy of the foregoing Motion by email, as agreed by the parties, on:

Nizar A. DeWood

The DeWood Law Firm
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820
dewoodlaw@gmail.com

Gregory H. Hodges

Law House, 10000 Frederiksberg Gade

P.O. Box 756

ST.Thomas,VI 00802

ghodges@dtflaw.com

Mark W. Eckard

Eckard, P.C.

P.O. Box 24849

Christiansted, VI 00824

Email: mark@markeckard.com

Jeffrey B. C. Moorhead

1132 King Street

Christiansted, VI 00820

email : jeffreymlaw @yahoo.com

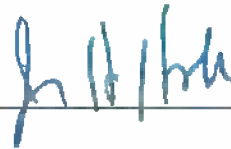


EXHIBIT A

JOEL H. HOLT, ESQ. P.C.

2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

Tele. (340) 773-8709
Fax (340) 773-8677
E-mail: holtvi@aol.com

July 10, 2014

Barry T. Shelvin
Shelvin & Atkins
1100 Kane Concourse, Suite 400
Bay Harbor Islands, FL 33154

Re: Plaza Extra Supermarkets and United Corporation

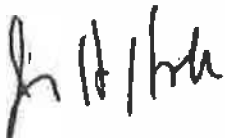
Dear Attorney Shelvin:

On June 4, 2014, you sent me a letter with the email below. After receipt of that letter, I sent a stipulation to United's counsel (who also represents Fathi Yusuf, a copy of which is attached, that was subsequently filed (unsigned) with the Court. In response, United and Mr. Yusuf responded to the Court, a copy of which is also attached), stating in part to the Court that "the existence of the partnership is not disputed."

Can you review the attachments to let me know if that satisfies your concerns so that the AG Grocer stock can be placed in the name of the partnership. If you have any further questions, I am glad to discuss them or I am sure counsel for United/Yusuf would be glad to do so as well (their contact info is on the attached pleading).

Can you please get back to me at your earliest convenience.

Cordially,



Joel H. Holt
JHH/jf
Enclosure

Cc: Greg Hodges, Counsel for United Corporation and Fathi Yusuf
George Dudley, Counsel for United Corporation and Fathi Yusuf
Nizar Dewood, Counsel for United Corporation and Fathi Yusuf
Waleed "Wally" Hamed (pursuant to his POA for his father, Mohammad Hamed)



JOEL H. HOLT, ESQ. P.C.

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Tele. (340) 773-8709
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June 10, 2014

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

Gregory H. Hodges
VI Bar No. 174
Law House, 10000 Frederiksberg Gade
P.O. Box 756
ST. Thomas, VI 00802


Via Email

Re: Partnership Stipulation

Dear Counsel:

Please let me know if the attached stipulation is acceptable. If so, please sign and return and I will withdraw the pending motion for partial summary judgment. Thank you.

Cordially,


Joel H. Holt
JH/jf
Enclosure

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

MOHAMMAD HAMED, by his
authorized agent **WALEED HAMED**,

Plaintiff/Counterclaim Defendant,

vs.

**FATHI YUSUF and
UNITED CORPORATION,**

Defendants/Counterclaimants,

vs.

**WALEED HAMED, WAHEED
HAMED, MUFEED HAMED,
HISHAM HAMED,
and PLESSEN ENTERPRISES, INC.,**

Counterclaim Defendants.

CIVIL NO. SX-12-CV-370

**ACTION FOR DAMAGES,
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

STIPULATION

Come now the parties by their respective counsel and hereby stipulate that there is a partnership between Fathi Yusuf and Mohammad Hamed that operates the three Plaza Extra Supermarkets, which partnership owns all funds in the bank accounts for these three stores, including but not limited to the Popular Securities Account and the Merrill Lynch accounts (currently frozen by the TRO in the pending criminal case), as well as the inventory and equipment in all three stores, the tradename "Plaza Extra" and the stock in Associated Grocers, along with any and all other assets owned by these three stores.

Dated: June 10, 2014

By the Plaintiff:

Joel H. Holt, Esq., VI BAR No. 6
Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christianssted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709
Fax: (340) 773-8677

Carl J. Hartmann III, Esq.
Counsel for Waheed Hamed
5000 Estate Coakley Bay, L-6
Christianssted, VI 00820
(340) 719-8941
carl@carlhartmann.com

Dated: June ____, 2014

By the Defendants:

Nizar A. DeWood
Counsel for Defendants
The DeWood Law Firm
2006 Eastern Suburb, Suite 101
Christianssted, VI 00820

Gregory H. Hodges
Counsel for Defendants
Law House, 10000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00802
ghodges@dtflaw.com

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

MOHAMMAD HAMED, by his)
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Plaintiff/Counterclaim Defendant,)

vs.)

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

vs.)

WALEED HAMED, WAHEED HAMED,)
MUFEEED HAMED, HISHAM HAMED, and)
PLESSEN ENTERPRISES,)

Additional Counterclaim Defendants.)

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

JURY TRIAL DEMANDED

**RESPONSE TO NOTICE OF DEFENDANTS' NON-RESPONSE RE REQUEST
TO STIPULATE TO EXISTENCE OF PARTNERSHIP**

Defendants/counterclaimants Fathi Yusuf ("Yusuf") and United Corporation ("United") (collectively, the "Defendants"), respectfully submit that this Court should ignore the "Notice of Defendants' Non-Response Re Request to Stipulate to Existence of Partnership" (the "Notice") because Plaintiff's Motion for Partial Summary Judgment Regarding the Existence of the Partnership was completely unnecessary, as is the proposed stipulation.¹ In Defendants' Opposition to the Motion for Partial Summary Judgment, after pointing out their concession of the partnership contained in pleadings filed with this Court, Defendants stated:

Since April 7, 2014, there is no longer any controversy that there was a partnership between Yusuf and Hamed to carry on as co-owners the business of the Plaza Extra Stores. This position was also stated by counsel for Defendants on the record at the telephonic hearing on May 29, 2014.

¹ Obviously, the proposed stipulation goes far beyond the mere stipulation as to the existence of a partnership.

See Opposition at p. 3, ¶ 6. Accordingly, the statement in the Notice that “Apparently Defendants want the benefit of being able to move past the issue of dissolving their business relationship with Plaintiff without admitting there is a partnership” makes absolutely no sense.

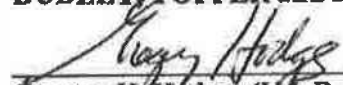
In the Notice, Hamed quotes from a single page (89) of Yusuf’s 229 page deposition transcript suggesting he is waffling on the existence of the partnership. Hamed conveniently ignores the extensive testimony from that deposition where Yusuf repeatedly acknowledges the existence of the partnership. See Exhibit 1 at p. 19, 24-6, 52-5, and 71.

Accordingly, because the existence of a partnership is not disputed, this Court should not waste its valuable time performing the completely unnecessary task of deciding an undisputed issue.

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: July 2, 2014

By:


Gregory H. Hodges (V.I. Bar No. 174)
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4405
Telefax: (340) 715-4400
E-mail: ghodges@dtflaw.com

and

Nizar A. DeWood, Esq. (V.I. Bar No. 1177)
The DeWood Law Firm
2006 Eastern Suburbs, Suite 101
Christiansted, VI 00830
Telephone: (340) 773-3444
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Email: info@dewood-law.com

Attorneys for Fathi Yusuf and United Corporation

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade
P.O. Box 766

St Thomas, U.S. V.I. 00804-0756
(340) 774-4422

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of July 2014, I caused the foregoing Response To Notice Of Defendants' Non-Response Re Request To Stipulate To Existence Of Partnership to be served upon the following via e-mail:

Joel H. Holt, Esq.
Law Offices of Joel H. Holt
2132 Company Street
Christiansted, V.I. 00820
Email: holtvi@aol.com

Carl Hartmann, III, Esq.
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Michelle Barb

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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

EXHIBIT

1

FATHI YUSUF -- DIRECT

1 Q. First of all, Item No. 2, My brother-in-law,
2 Mohammad Hamed, and I have been full partners in the
3 Plaza Extra Supermarket since 1984, while we were obtaining
4 financing and constructing the store, which finally opened
5 in 1986.

6 Is that true?

7 A. Yes.

8 Q. No. 3, Mohammad -- Mohammad Hamed and I decided to
9 open a St. Thomas Plaza Extra store, and used our own
10 capital and later obtained financing to make the store ready
11 for opening.

12 Is that true?

13 A. That's true.

14 Q. No. 4, Mohammad Hamed gave his eldest son, Waleed
15 a/k/a Wally, power of attorney to manage his interest for
16 the family.

17 Is that true?

18 A. Hold on to No. 4, please.

19 Yes, it -- I would say yes, but my
20 understanding really of that time, the man give a power of
21 attorney to his son.

22 Q. Okay.

23 A. I said here to -- to manage his affair? That's
24 fine.

25 Q. You had no problem with that?

FATHI YUSUF -- DIRECT

1 **A.** Go ahead, sir.

2 **Q.** All right. Going just on that same document, Item
3 No. 41. And that's a short one, it says, The Hameds and I
4 were able to turn the store around by the last part of 1994.

5 Is that correct?

6 **A.** Yes.

7 (Deposition Exhibit No. 3 was
8 marked for identification.)

9 **Q.** **(Mr. Holt)** All right. Showing you Exhibit No. 3,
10 these are interrogatories filed in the same case in
11 St. Thomas. If you look over on the last page, can you tell
12 me, or second-to-last page, if that's your signature?

13 **A.** I see two signature. I see my son on top, and my
14 signature below.

15 **Q.** Okay. And those are signed under oath, is that
16 correct?

17 **A.** Yes.

18 **Q.** Okay. Looking at this document, can you go to
19 Interrogatory No. 2, which is on Page 4, and it has a
20 sentence in it that says, Without waiving said objection,
21 Mohammad Hamed?

22 **MR. HODGES:** Hold on. Hold on.

23 **Q.** **(Mr. Holt)** See No. 2?

24 **A.** Yeah, I see No. 2. Yes, sir.

25 **Q.** **(Mr. Holt)** It says, Without waiving said

FATHI YUSUF -- DIRECT

1 objection, Mohammad Hamed is a partner in Plaza Extra
2 Supermarkets, and has been since the mid-1980s, is that
3 correct?

4 **A.** Yes.

5 **Q.** And then over on Item No. 3, Interrogatory No. 3,
6 on the next page, it says, Notwithstanding said objection,
7 Waleed Hamed has been working for Plaza Extra on and off
8 since 1986.

9 Is that correct?

10 **A.** Yes.

11 **Q.** Next sentence, From the time he worked at the
12 St. Thomas Plaza Extra during the period of plaintiff's
13 joint venture with United, which is the only relevant issue,
14 he was a partner with general management duties, is that
15 correct?

16 **A.** He's -- excuse me. Give me chance to let me read
17 it, please.

18 **Q.** Sure.

19 **A.** He was general manager, sir, by the way, where?
20 Wally was general manager where?

21 **Q.** I'm just reading the answer. It says he was --
22 says, At the time he worked at the St. Thomas Plaza Extra
23 during the period of plaintiff's joint venture with United,
24 which is the only relevant issue, he was a partner with
25 general management duties.

FATHI YUSUF -- DIRECT

1 So I guess that would be the St. Thomas
2 store?

3 **A.** Well, we weren't there, really. We weren't there
4 for less than a month, I believe. We just helping out
5 somebody, our partner, the one we -- we have a joint venture
6 with, and he was supposed to do a one-third, one-third,
7 one-third income or loss. It's fine. And we went there to
8 help him. None of us was getting salaries. And that is, I
9 think, a month to six weeks, no more.

10 Wally were never in charge for Plaza Extra
11 St. Thomas. He, yes, one of the management. I used to give
12 him a lot of duty, a lot of responsibility.

13 **Q.** Okay. And then, so he wasn't a partner with the
14 general management duties. He was just a manager.

15 **A.** He's not a partner.

16 **Q.** Okay.

17 **A.** He's never a partner. Wally never a partner.
18 Wally was employed as a manager. His father was my
19 associate with a deal that I'll give him 50 percent of the
20 profit of Plaza Extra store, whether it's one store or 300
21 store.

22 **Q.** Okay. And then looking over at Item No. 4, and
23 the only difference between 3 and 4 is instead of saying
24 Waleed Hamed, it says Waheed Hamed. And my question was,
25 was Waheed Hamed a partner with general management duties?

FATHI YUSUF -- DIRECT

1 **Q.** You agree, though, that Mr. Mohammad Hamed is your
2 partner to the extent that he is sharing in 50 percent of
3 the net profits of the three Plaza Extra stores.

4 **A.** He's my partner, sir, under a lot of conditions. ✓
5 There is a uniform law of a partnership, and there is
6 individual agreement. If you want to call it in the -- in
7 the category of partners, you may call it, but there is an
8 agreement and commitment attached to that. It's not there
9 is a loan at 20-percent interest, there is a loan at
10 8-percent interest, and there is a loan, a friendship, at no
11 interest at all, but we all call them loan. Isn't it?

12 I have, with this gentleman, a shake-hand
13 commitment, and I live up to it up to now, just to show you
14 how clean I am and how decent I am, this man never have my ✓
15 signature as a partner, but I have never deny him as a
16 partner in the profit. But there is a lot of condition, he
17 have to live up to it.

18 **Q.** Okay. I'll get to the conditions in a second.

19 **A.** Okay.

20 **Q.** So you haven't denied that he's a partner in
21 50 percent of the net profits in the three stores?

22 **A.** Yes. ✓

23 **Q.** And you've also agreed that he owns 50 percent of
24 the inventory and equipment in the stores, the three stores,
25 correct? ✓

FATHI YUSUF -- DIRECT

1 A. Yes.

2 Q. Okay. And that would include 50-percent interest
3 in the net profits of any bank accounts, payables,
4 receivables?

5 A. Whatever is belong to Plaza is for me and him.

6 Q. Okay. Now, you mentioned some conditions. What
7 conditions are there?

8 Are there some other conditions to this
9 partnership agreement?

10 A. No. The condition is, I have the final word.
11 It's I am obligated to consult with him, if I see it's
12 important for me to consult. I was suppose to be, after
13 1993, I was supposed to have an office within the
14 supermarket free of charge. I was -- he was supposed to,
15 the Plaza Extra was supposed to pay all the gross receipt
16 from January 1st, 1994 up to present, and it was covering in
17 the building, the entire building of United Shopping Plaza.

18 My duty was, is to go and commit the same
19 thing we ensure, to bring money to Mr. Hamed an extent,
20 which cost him nothing. It cost me personal guarantee, and
21 it costing me everything I own except my children and my
22 wife.

23 Q. Okay. And so I'm going to go back in reverse
24 order a little bit.

25 A. Yes.

FATHI YUSUF -- DIRECT

1 Q. When you say one of the conditions was -- was he
2 agreed to cover United, you're talking about insurance
3 coverage, is that what you're talking about?

4 A. No, including the insurance.

5 Q. Okay. So the Plaza Extra stores would pay for
6 insurance on the whole shopping center?

7 A. Yes.

8 Q. And the Plaza Extra Supermarket would pay the
9 gross receipts, not just on the grocery store profits, but
10 on the rent?

11 A. Yes.

12 Q. Okay.

13 A. Excuse me. One more item. The United Shopping
14 Plaza was using the entire shopping center value
15 depreciation to offset any income tax, which that, in
16 return, it will give you greater saving than the insurance
17 and the gross receipt.

18 Q. So there's a tradeoff you're giving them --

19 A. It's a tradeoff, yes.

20 Q. You're giving them depreciation; they're paying
21 gross receipts and insurance?

22 A. Yes. Yes, sir.

23 Q. Okay. And then you said that something about an
24 office that --

25 A. No, I have -- you see, I have an office in the --

FATHI YUSUF -- DIRECT

1 for our shopping center manager, within the supermarket.
2 It's on the second floor. And by the way, I'm not charging
3 for the second floor.

4 Q. Okay. And then you also said that one of the
5 conditions was that you would have the final word, but that
6 you --

7 A. Excuse me.

8 Q. You said that one of the conditions was that you
9 would have the final word, --

10 A. Oh, yes.

11 Q. -- but that you did have an obligation to consult
12 with him?

13 A. An absolute obligation, yes.

14 Q. Okay. All right.

15 Now, I want to go back to this -- to this
16 deposition, because this ties a little bit into it.

17 A. Yeah, okay.

18 Q. Okay. It says, I see Mr. Idheileh come knock on
19 my door, come on in, shake hand, I offer him coffee. I -- I
20 don't remember whether he took it or not.

21 MR. HODGES: Pardon me. What page are you
22 reading from?

23 THE WITNESS: This is --

24 MR. HOLT: Page 21, the top, about halfway
25 down, which says, I see Mr. Idheileh come knock on my door.

FATHI YUSUF -- DIRECT

1 **A.** Yes.

2 **Q.** Is that true?

3 **A.** Yes, sir.

4 **Q.** Okay. The partnership was formed for the purpose
5 of operating supermarkets in the district of St. Croix and
6 St. Thomas.

7 Is that true?

8 **A.** Yes, sir. It's true.

9 **Q.** Okay. And then the next one says, where, A
10 serious dispute and disagreement between the partners --

11 **A.** Where -- where are you reading, sir?

12 **Q.** The third one down where, A serious dispute
13 between the partners related to financial matters resulting
14 in the partners being unable to continue.

15 Do you see that one? That's the third one
16 down?

17 **THE WITNESS:** Which one? Which one? Right
18 here?

19 **MR. HODGES:** Yeah.

20 **A.** Yeah, whatever it is.

21 **Q.** **(Mr. Holt)** Okay. What -- what were the disputes
22 and disagreements?

23 **A.** What dispute?

24 **Q.** It says, Serious disputes and disagreements have
25 arisen between the partners.

EXHIBIT B

SHEVLIN & ATKINS

ATTORNEYS AT LAW

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BARRY T. SHEVLIN
ANDREW S. ATKINS*
THEODORE D'APUZZO
MICHAEL S. GREENBERG

July 14, 2014

*ADMITTED IN FL AND GA

VIA U.S. MAIL

Joel H. Holt, Esq.
2132 Company Street
Christiansted, St. Croix
US Virgin Islands 00820

**Re: Associated Grocers of Florida, Inc. adv. Plaza Extra Supermarkets
and United Corporation (Yosuf)**

Dear Mr. Holt:

I am in receipt of your July 10, 2014 letter and have discussed the contents of same with my client. As I told you before, unless and until there is a Court Order entered and signed by a Judge with proper authority, Associated Grocers of Florida, Inc. cannot and will not take a position as to who may be the owner of company stock held when same is subject to a dispute in the Courts in the US Virgin Islands.

I have reviewed the Stipulation and Deposition Transcript provided to my office and same were insufficient for my client to take a position.

I have advised my client to maintain the status quo as to any shares of stock held in Associated Grocers of Florida, Inc. until such time that the parties obtain the appropriate certified Court Order designating what entity owns what portion of the stock currently held by my client. Absent same, my client cannot and will not make a determination that may expose it to potential liability.

Yours very truly,

SHEVLIN & ATKINS
Attorneys at Law

By:


Barry T. Shevlin, Esq.

