

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

MOHAMMAD HAMED; ET AL
Plaintiff)
Vs.)
FATHI YUSUF; ET AL Defendant)

CASE NO. SX-13-CV-370
ACTION FOR: DAMAGES; ET AL

NOTICE
OF
ENTRY OF JUDGMENT/ORDER

TO: JOEL H. HOLT, ESQ.; CARL HARTMANN III, Esquire
NIZAR A. DEWOOD, ESQ.; GREGORY H. HODGES, Esquire
MARK W. ECKARD, ESQ.; JEFFREY B.C. MOORHEAD, Esquire

Please take notice that on AUGUST 28, 2014 Order was entered by this Court in the above-entitled matter.

Dated: August 29, 2014

ESTRELLA H. GEORGE (ACTING)

Clerk of the Superior Court



By: IRIS D. CINTRON

COURT CLERK II

deny Defendants' Motion re Wensel-Bailey and order the parties to confer and jointly select a master from the list of proposed masters included below.

It is a well-recognized inherent power of the Court to appoint a judicial master in resolving certain complex matters. *See Prudential Ins. Co. of America v. U.S. Gypsum Co.* 991 F.2d 1080, 1084 (3d. Cir 1993). The Federal Rules of Civil Procedure directly address the appointment of a masters as follows: "Unless a statute provides otherwise, a court may appoint a master only to: (A) perform duties consented to by the parties..." FED. R. CIV. P. 53(a)(1), applicable per Super. Ct. R. 7.

The master must be a neutral party, free from any "relationships to the parties...or court..." FED. R. CIV. P. 53(a)(2). "Before appointing a master, the court must give the parties notice and an opportunity to be heard. Any party may suggest candidates for appointment." FED. R. CIV. P. 53(b)(1).

In this case, the parties have consented to have a master appointed to perform certain duties regarding the wind-up of the Hamed-Yusuf Partnership. The parties have presented their respective candidates for master: Plaintiff proposes David Ridgway; and Defendants propose Joyce Wensel-Bailey.

The Court has determined not to select either of these candidates, and presents to the parties several potential masters who have indicated a willingness to accept an appointment to serve as special master in this case to oversee the winding up of the Hamed-Yusuf Partnership. The parties will have the opportunity to confer and agree to the appointment of one of the potential masters from the list below. Within 14 days of entry of this Order, the parties shall stipulate to the selection of master and advise the Court in writing. If the parties fail to reach an agreement, each party shall

separately indicate its choice of master from the list below in order of preference. The Court will consider the parties' submissions and *sua sponte* appoint a master from the list below.

The Court finds that each the following three individuals is qualified to serve as master and each has indicated a willingness to serve as such:

- 1) Hon. James S. Carroll
- 2) Attorney Ellen G. Donovan
- 3) Hon. Edgar D. Ross

Upon the parties stipulation to a master (or in the event of the parties' failure to agree, their separate filings of preferences), the Court will enter an appropriate Order appointing the master, whose services will promptly commence with a review of selected documentation from the Court's files of the case. While the master's review is ongoing, the Court will present the parties with a proposed wind-up plan for the Partnership and solicit comments, objections and recommendations. After considering the parties' filings, the Court will adopt the final wind-up plan to be overseen by the master.

The master will be compensated at an appropriate rate (which may be jointly proposed by the parties) and interim payments for services will be made on a monthly basis or as the master and the parties otherwise agree.

In consideration of the foregoing, it is hereby

ORDERED that Defendants' Motion to Appoint a Master for Judicial Supervision of Partnership Winding Up is GRANTED, in part. It is further

ORDERED that Plaintiff's Motion for Appointment of David Ridgway as Master for Winding Up is DENIED. It is further

ORDERED that Defendants' Motion for Appointment of Joyce Wensel-Bailey, C.P.A. as Master for Winding Up is DENIED. It is further

ORDERED that the parties shall confer and shall jointly select a master from the list provided above and advise the Court of their mutual selection within 14 days following entry of this Order. It is further

ORDERED that in the event that the parties are unable to mutually agree on the appointment of a master, each party shall separately advise the Court in writing of its selections for master from the list above, in order of preference.

DATED: August 28, 2014.



DOUGLAS A. BRADY
Judge of the Superior Court

ATTEST:

ESTRELLA GEORGE
Acting Clerk of the Court

By: 

Court Clerk Supervisor