

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

MOHAMMAD HAMED , by his authorized agent WALEED HAMED ,)	
)	
<i>Plaintiff/Counterclaim Defendant</i> ,)	
)	
vs.)	CIVIL NO. SX-12-CV-370
)	
FATHI YUSUF and UNITED CORPORATION ,)	
)	
<i>Defendants/Counterclaimants</i> ,)	
)	
vs.)	ACTION FOR DAMAGES INJUNCTIVE RELIEF AND DECLARATORY RELIEF
)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC. ,)	
)	JURY TRIAL DEMANDED
)	
<i>Counterclaim Defendants.</i>)	
)	

**MOTION TO SHOW CAUSE
AS TO ACCESS TO STORE INFORMATION
AND COMMUNICATIONS WITH EMPLOYEES/STAFF/VENDORS**

Twice before Hamed has moved this Court to prevent the Yusufs from acting as though they are 'in charge' of the Plaza Extra stores and are the gatekeepers to the staff and information. *Twice before the Court has issued Orders specifically requiring the Yusufs to stop such interference.* They are once again interfering with access to store information and the ability to obtain information from staff. The Court's April 3, 2014 order *specifically* stated that all information and data are to be fully open to both Hamed and his representatives. See, e.g., Order of April 3, 2014, at 3 (emphasis added):

Defendants' [Yusuf's] attempted compliance with their obligation to provide mutual access to financial information by supplying a backup copy containing last month's accounting records is *patently inadequate*.

Defendants shall provide real-time access to Plaintiff (and representatives) to current data and records, including the Sage50 accounting system.

Despite this unequivocal order, United, Fathi Yusuf and their joint counsel have stated and are enforcing a policy that they "take the position that Waleed is not a partner and is in no position to demand access or information" despite the prior order requiring such access for both Mr. Hamed "and representatives." See Greg Hodges' email of October 24, 2014, discussed in detail below.

Mohammad Hamed and Wally Hamed, as his father's authorized agent in this suit and as his agent under powers of attorney, wish to:

1. Enter the Plaza Extra stores to gather information relevant to both the operations of the stores and to provide responses to the Master;
2. Ask for and receive any information, reports or data from store employees, staff or accountants that he wishes, and
3. Communicate freely with such employees and with store vendors.

Thus, Hamed seeks an Order of the Court to prevent not only the Yusufs and United from interfering with such access and requests -- but also to stop their counsel, Greg Hodges, from interdicting communications or **placing either himself or the Yusufs as gatekeepers between Hamed and such access or requests.**

As just the most recent example, attached is a request for information from Hamed to the Plaza Comptroller, John Gaffney, for certain *VERY BASIC* accounting information necessary for the discussions with the Master. **Exhibit A**, see also email from Hartmann to DeWood. **Exhibit B**.

From: wallyhstx@yahoo.com
Date: Thu, 23 Oct 2014 20:13:48
To: John Gaffney<johngaffney@tampabay.rr.com>
Cc: Maher Yusuf<Mikefyusuf@yahoo.com>; <mike@plazaextra.com>; Yusuf Yusuf<ysquare_88@yahoo.com>; Nejah Yusuf<nejeh27@earthlink.net>;

<fathiyusuf@yahoo.com>; Willie Hamed<willieh24@earthlink.net>; Mafi Hamed<mafimhamed@yahoo.com>; Hisham Hamed<shawnhamed@live.com>
Subject: Plaza Extra

Mr Gaffney,

Pursuant to the specific directions of The Master I am assembling information for immediate submission to the Court. Please send me this by end of day tomorrow:

1. The most recent inventory for all three stores
2. The most recent list of equipment for all three stores
3. The most recent list of fixtures attributable to all three stores.

If you do not have a current printout of the inventories, please do a run from Sage50 ASAP. Thank You, Wally Hamed

Instead of Gaffney simply responding as requested, the parties then went through a protracted series of emails in which Hodges states that Wally Hamed "lacks authority" to ask for such information, that Hamed can make no direct requests to the controller -- the Hameds must go through Greg Hodges and he (Hodges) should provide and has provided¹ whatever was needed. **Exhibit C.**

From: Gregory H. Hodges [mailto:ghodges@dtflaw.com]

Sent: Friday, October 24, 2014 11:33 AM

To: Carl@hartmann.attorney

Cc: holtvi@aol.com; Nizar DeWood, Esq. (ndewood@dewood-law.com)

Subject: RE: Wally's Access to the Stores and Information

Carl, Why was I omitted from your email below? As we have repeatedly stated, **neither Waleed Hamed nor his brothers can serve as Mohammad Hamed's agent in the winding up process.** In any event, Judge Ross gave no general or specific directions that **Waleed go around to the stores demanding information and cooperation immediately. Under the current circumstances, this would clearly be a bad idea.** What Judge Ross directed was for the attorneys to get together regarding what constitutes the Plaza Extra Stores' inventory of assets and balance sheet and attempt to agree. If they cannot agree, the disputed areas should be noted for Judge Ross to address. We agreed and Judge Ross directed that this information would be submitted within 14 days or by 10/31/14. To that end, I have already asked John Gaffney to compile the most current information available. I will provide it to you and Joel upon receipt, perhaps later today or early next week.

¹ Attorney Hodges later writes that he has supplied all possible information -- but also states that an external company did a full inventory which Mr. Gaffney apparently 'did not keep' and the Hameds should go ask the company in Puerto Rico for it. He also states that there is no additional inventory information in computer systems -- but does not know how POS systems works. And in any case, *this is not a discussion Hamed should have to have with Hodges.* Hamed should be able to collect store information himself the same as the Yusufs can -- without intervention of opposing counsel.

If Mohammad Hamed needs other information to comply with the directives of Judge Ross, you or Joel should ask me. The tone of your email and directives from Waleed like the one below only make an already tense situation worse. Please help avoid unnecessary conflict by having **communications like this go through counsel.** Gregory H. Hodges

and **Exhibit D:**

From: Gregory H. Hodges **Sent:** Friday, October 24, 2014 2:06 PM
To: Edgar A. Ross
Cc: holtvi@aol.com; Nizar DeWood; 'Carl@hartmann.attorney'
Subject: RE: Wally's Access to the Stores and Information

. . . **While we may take the position that Waleed is not a partner and is in no position to demand access or information,** we are nevertheless providing the information he has asked for and more (e.g. the updated balance sheet) because it is the information we agreed to share when we last spoke on the 17th. Given the hostilities in this case, I submit that we should explore any ways that reduce the prospect of further conflict. One of those ways is to **avoid needless direct communications like the one from Waleed below.** That information request should have come from Carl or Joel to me and I would have cordially responded that it will be provided shortly. If you plan to weigh in on this issue, please suggest to Joel and Carl that if they need information to respond to your directives, they should ask me. If I don't respond with the alacrity they expect, they obviously know how to complain to you. This is a much more sensible process than **having Waleed make demands that we submit he has no authority to make.** Regards, Gregory H. Hodges

This is, like the whole payroll fiasco, just more contempt as to this Court's orders. The Court is asked to pause and consider the impudence of counsel in making these three statements about a 50% owner of the stores:

1. In asking for the inventory from the controller, Hamed was "mak[ing] demands that we submit he has no authority to make."
2. In asking for simple, *utterly basic* accounting reports, he was involved in "needless direct communications."
3. Hodges "take[s] the position that Waleed is not a partner and is in no position to demand access or information," despite the prior order opening such access to Mr. Hamed "and representatives."

In addition, the Yusufs have again told employees, accounting staff and vendors that they, not the Hameds are "in charge" and the Hameds are not to be listened to.

This also prevents free access to information and directions. See *Declaration of Mafi Hamed. Exhibit E.*

We are back to square one -- to the bad times before the Court's two prior orders. Therefore, the Court is asked to make this clear to the Yusufs (again) and the staff -- that Yusuf and his counsel have no greater right than Hamed to:

1. Be physically present in any store at any time,
2. Require staff to provide any information or assistance requested, and
3. Do so without the permission or "gatekeeping" of Yusuf or his lawyer.

The Hameds wish to talk to staff and request information on a direct, interactive basis from the controller who has the information. They also wish to have direct, confidential discussions with him and other staff. (This is the controller paid 100% from Plaza store funds -- he is not paid by United despite the fact that he identifies himself as "United's Controller" in his recent Declaration in support of the Yusufs.) After a year and a half, Yusuf finally conceded Hamed owns 50% of the stores -- and Hamed should have equal access to those stores in preparations for winding up.

Dated: October 28, 2014



Joel H. Holt, Esq.
Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709
Fax: (340) 773-8677

Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of October, 2014, I served a copy of the foregoing by email, as agreed by the parties, on: _____

Hon. Edgar Ross
Special Master
edgarrossjudge@hotmail.com

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

Greg Hodges
Law House, 1000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00802
ghodges@dtflaw.com

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Jeffrey B. C. Moorhead
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1132 King Street, Suite 3
Christiansted, VI 00820
jeffreylaw@yahoo.com



EXHIBIT A

From: wallyhstx@yahoo.com
Date: Thu, 23 Oct 2014 20:13:48
To: John Gaffney<johngaffney@tampabay.rr.com>
Reply-To: wallyhstx@yahoo.com
Cc: Maher Yusuf<Mikefyusuf@yahoo.com>; <mike@plazaextra.com>; Yusuf Yusuf<ysquare_88@yahoo.com>; NejeH Yusuf<nejeh27@earthlink.net>; <fathiyusuf@yahoo.com>; Willie Hamed<willieh24@earthlink.net>; Mafi Hamed<mafimhamed@yahoo.com>; Hisham Hamed<shawnhamed@live.com>
Subject: Plaza Extra



Mr Gaffney;

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3. The most recent list of fixtures attributable to all three stores.

If you do not have a current printout of the inventories, please do a run from Sage50 ASAP.

Thank You
Wally Hamed
Sent via BlackBerry by AT&T

EXHIBIT B

From: Carl Hartmann [mailto:carl@carlhartmann.com]
Sent: Thursday, October 23, 2014 5:35 PM
To: Nizar DeWood
Cc: Wally Hamed(BB); holtvi@aol.com
Subject: Wally's Access to the Stores and Information



Nizar:

See the email below. As per Judge Ross' directions as to next steps pertaining to inventories and such, Wally Hamed will be in all of the stores over the next couple of weeks -- and he (and/or his brothers at his request) as agent for his father, will be asking for detailed information from the controller and staff.

Please make sure that Mr. Gaffney and accounting staff are informed of the fact that his cooperation is ***required*** and that no one -- and I mean no one -- is to impede or ignore Wally's access, questions and requests.

Moreover, Wally will be discussing with vendors matters such delays in shipping and payment -- as well as any comments or statements made to them by staff or managers with regard to Plaza. This too is for his report to the Master and will not be impeded in any manner.

Carl

-----Original Message-----

From: wallyhstx@yahoo.com
Date: Thu, 23 Oct 2014 20:13:48
To: John Gaffney<johngaffney@tampabay.rr.com>
Reply-To: wallyhstx@yahoo.com
Cc: Maher Yusuf<Mikefyusuf@yahoo.com>; <mike@plazaextra.com>; Yusuf Yusuf<ysquare_88@yahoo.com>; Nejah Yusuf<nejeh27@earthlink.net>; <fathiyusuf@yahoo.com>; Willie Hamed<willieh24@earthlink.net>; Mafi Hamed<mafimhamed@yahoo.com>; Hisham Hamed<shawnhamed@live.com>
Subject: Plaza Extra

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If you do not have a current printout of the inventories, please do a run from Sage50 ASAP.

Thank You

Wally Hamed

Sent via BlackBerry by AT&T

EXHIBIT C

From: Gregory H. Hodges [mailto:ghodges@dtflaw.com]
Sent: Friday, October 24, 2014 11:33 AM
To: Carl@hartmann.attorney
Cc: holtvi@aol.com; Nizar DeWood, Esq. (ndewood@dewood-law.com)
Subject: RE: Wally's Access to the Stores and Information



Carl,
Why was I omitted from your email below?

As we have repeatedly stated, neither Waleed Hamed nor his brothers can serve as Mohammad Hamed's agent in the winding up process. In any event, Judge Ross gave no general or specific directions that Waleed go around to the stores demanding information and cooperation immediately. Under the current circumstances, this would clearly be a bad idea. What Judge Ross directed was for the attorneys to get together regarding what constitutes the Plaza Extra Stores' inventory of assets and balance sheet and attempt to agree. If they cannot agree, the disputed areas should be noted for Judge Ross to address. We agreed and Judge Ross directed that this information would be submitted within 14 days or by 10/31/14. To that end, I have already asked John Gaffney to compile the most current information available. I will provide it to you and Joel upon receipt, perhaps later today or early next week.

If Mohammad Hamed needs other information to comply with the directives of Judge Ross, you or Joel should ask me. The tone of your email and directives from Waleed like the one below only make an already tense situation worse. Please help avoid unnecessary conflict by having communications like this go through counsel.

Gregory H. Hodges

EXHIBIT D

From: Gregory H. Hodges [mailto:ghodges@dtflaw.com]
Sent: Friday, October 24, 2014 2:06 PM
To: Edgar A. Ross
Cc: holtvi@aol.com; Nizar DeWood; 'Carl@hartmann.attorney'
Subject: RE: Wally's Access to the Stores and Information



Judge Ross,
Given your already over crowded plate, this is what I call piling on.

Please read my email below and Carl's non-responsive replies. No one is attempting to deny Carl or Joel the information they need to respond to your directives. In fact, as my email indicates, I expect to provide them information John Gaffney has compiled or is compiling this afternoon (the inventory and lists sought by Waleed in the initial email below) or early next week (the updated balance sheet). Keep in mind, Mr. Gaffney, from whom Waleed "requests" information within 24 hours, is the same person the Hameds have personally attacked for years. You have seen the most recent attack in a filing served by Carl on you at 12:16 today.

While we may take the position that Waleed is not a partner and is in no position to demand access or information, we are nevertheless providing the information he has asked for and more (e.g. the updated balance sheet) because it is the information we agreed to share when we last spoke on the 17th. Given the hostilities in this case, I submit that we should explore any ways that reduce the prospect of further conflict. One of those ways is to avoid needless direct communications like the one from Waleed below. That information request should have come from Carl or Joel to me and I would have cordially responded that it will be provided shortly. If you plan to weigh in on this issue, please suggest to Joel and Carl that if they need information to respond to your directives, they should ask me. If I don't respond with the alacrity they expect, they obviously know how to complain to you. This is a much more sensible process than having Waleed make demands that we submit he has no authority to make.
Regards,

Gregory H. Hodges
Dudley, Topper and Feuerzeig, LLP
Law House, 1000 Frederiksberg Gade
St. Thomas, VI 00802
Direct: (340) 715-4405
Fax: (340) 715-4400
Web: www.DTFLaw.com

Member
LexMundi
World Ready

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strictly prohibited. If you have received this communication in error, please notify the sender immediately by e-mail or telephone and delete the original message immediately. Thank you.

From: Carl Hartmann [<mailto:carl@carlhartmann.com>]
Sent: Friday, October 24, 2014 12:52 PM
To: Edgar A. Ross
Cc: Gregory H. Hodges; holtvi@aol.com; Nizar DeWood
Subject: FW: Wally's Access to the Stores and Information

Judge Ross:

As long as these things are going to be discussed with Mr. Yusuf – perhaps you could add this to the list. Wally Hamed is attempting to collect inventory information to respond to your order.

There seems to be some disagreement as to whether he will be allowed into the stores to do so – or can ask the staff and Comptroller for records and data.

I know this seems like a minor squabble too – but it is important to the little folks who are just trying to get the information together as quickly as possible.

Thank you,

Carl Hartmann

From: Carl Hartmann [<mailto:carl@carlhartmann.com>]
Sent: Friday, October 24, 2014 11:55 AM
To: 'Gregory H. Hodges'; 'Carl@hartmann.attorney'
Cc: 'holtvi@aol.com'; 'Nizar DeWood, Esq.'; 'Japinga, KIM'
Subject: RE: Wally's Access to the Stores and Information

Greg:

I'm counsel in this case and under the PI you have no superior or unilateral right to direct Gaffney – nor prevent Wally from getting information that I need to respond to Judge Ross' directions regarding inventory/fixtures, etc. He was quite clear as to what information we had to consider and submit.

Unless or until the PI is lifted this is not a unilateral operation. If you have told Gaffney or any Plaza staff not to provide the information directed you have better reverse that right now.

And I write to Nizar about issues regarding Gaffney as I always have. Partly historical – and partly because he gets things done. And I do consider writing to his “going through counsel”.

Carl

From: Gregory H. Hodges [<mailto:ghodges@dtflaw.com>]
Sent: Friday, October 24, 2014 11:38 AM
To: 'Carl@hartmann.attorney'
Cc: holtvi@aol.com; Nizar DeWood, Esq.; Japinga, KiM
Subject: RE: Wally's Access to the Stores and Information

Joel,
Do you agree with Carl's uncharacteristically succinct response?

Gregory H. Hodges
Dudley, Topper and Feuerzeig, LLP
Law House, 1000 Frederiksberg Gade
St. Thomas, VI 00802
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From: Carl Hartmann [<mailto:carl@carlhartmann.com>]
Sent: Friday, October 24, 2014 11:35 AM
To: Gregory H. Hodges
Cc: holtvi@aol.com; Nizar DeWood, Esq.; Japinga, KiM
Subject: RE: Wally's Access to the Stores and Information

Opps. Forgot to reply to all. .

Nonsense.

From: Gregory H. Hodges [<mailto:ghodges@dtflaw.com>]
Sent: Friday, October 24, 2014 11:33 AM
To: Carl@hartmann.attorney

Cc: holtvi@aol.com; Nizar DeWood, Esq. (ndewood@dewood-law.com)

Subject: RE: Wally's Access to the Stores and Information

Carl,

Why was I omitted from your email below?

As we have repeatedly stated, neither Waleed Hamed nor his brothers can serve as Mohammad Hamed's agent in the winding up process. In any event, Judge Ross gave no general or specific directions that Waleed go around to the stores demanding information and cooperation immediately. Under the current circumstances, this would clearly be a bad idea. What Judge Ross directed was for the attorneys to get together regarding what constitutes the Plaza Extra Stores' inventory of assets and balance sheet and attempt to agree. If they cannot agree, the disputed areas should be noted for Judge Ross to address. We agreed and Judge Ross directed that this information would be submitted within 14 days or by 10/31/14. To that end, I have already asked John Gaffney to compile the most current information available. I will provide it to you and Joel upon receipt, perhaps later today or early next week.

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From: Nizar DeWood, Esq. [<mailto:dewoodlaw@gmail.com>]

Sent: Friday, October 24, 2014 6:38 AM

To: Carl@hartmann.attorney

Cc: 'Wally Hamed(BB)'; holtvi@aol.com; Gregory H. Hodges
Subject: RE: Wally's Access to the Stores and Information

Carl,

I don't understand your request. Who is not cooperating with Wally and Why?

From: Carl Hartmann [<mailto:carl@carlhartmann.com>]
Sent: Thursday, October 23, 2014 5:35 PM
To: Nizar DeWood
Cc: Wally Hamed(BB); holtvi@aol.com
Subject: Wally's Access to the Stores and Information

Nizar:

See the email below. As per Judge Ross' directions as to next steps pertaining to inventories and such, Wally Hamed will be in all of the stores over the next couple of weeks -- and he (and/or his brothers at his request) as agent for his father, will be asking for detailed information from the controller and staff.

Please make sure that Mr. Gaffney and accounting staff are informed of the fact that his cooperation is **required** and that no one -- and I mean no one -- is to impede or ignore Wally's access, questions and requests.

Moreover, Wally will be discussing with vendors matters such delays in shipping and payment -- as well as any comments or statements made to them by staff or managers with regard to Plaza. This too is for his report to the Master and will not be impeded in any manner.

Carl

-----Original Message-----

From: wallyhstx@yahoo.com
Date: Thu, 23 Oct 2014 20:13:48
To: John Gaffney<johngaffney@tampabay.rr.com>
Reply-To: wallyhstx@yahoo.com
Cc: Maher Yusuf<Mikefyusuf@yahoo.com>; <mike@plazaextra.com>; Yusuf Yusuf<ysquare_88@yahoo.com>; Nejah Yusuf<nejeh27@earthlink.net>; <fathiyusuf@yahoo.com>; Willie Hamed<willieh24@earthlink.net>; Mafi Hamed<mafimhamed@yahoo.com>; Hisham Hamed<shawnhamed@live.com>
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Thank You

Wally Hamed

Sent via BlackBerry by AT&T

EXHIBIT E

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

DECLARATION OF MUFEED HAMED

I, Mufeed ("Mafi") Hamed, declare, pursuant to 28 U.S.C. Section 1746, as follows:

1. I have personal knowledge of the facts set forth herein.

2. I am a manager for the Plaza East store and all of the following have greatly increased in the past two to three months.

3. The Yusufs have told employees, accounting staff and vendors that they, not the Hameds are the stores' owners and the Hameds are not to be listened to, were merely managers and would be gone soon -- for example:

A. Accounting staff personnel will not provide me with information or do things at my request due to these instructions, and instead inform me that I must go through Yusuf Yusuf.

B. Yusuf Yusuf has accused employees of 'siding' with the Hameds and threatened them that: "Once the Hameds leave, I am going to clean house" and "you all will see who has to leave from here."

C. When employees were paid in cash, they were told it was because I would not sign their paychecks and were shown single signor checks with a Yusuf name and told "the Hameds will not pay you but we will." This prevents me from obtaining free access to information and impedes my ability to give regular management directions.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 28, 2014



MUFEEB HAMED

DATED: _____, ____ 2014,

DOUGLAS A. BRADY, JUDGE

A T T E S T:

ESTRELLA GEORGE
Acting Clerk of the Court

By: _____
Court Clerk Supervisor