



St. Croix Avis



Plaza Extra separated

STX's largest grocery chain no longer affiliated; owners to bid on St. Thomas store

BRITNEY KNIGHT

ST. CROIX — A longstanding court battle surrounding the ownership of the territory's iconic supermarket chain Plaza Extra has resulted in a ruling by the Superior Court that virtually separates St. Croix's east and west stores, as well as establishing separate owners.

Christiansted's Plaza Extra East, and Frederiksted's Plaza Extra West, were divided in accor-

dance with the court order handed down March 5 by former judge Edgar Ross, who was appointed as "judicial master."

Court documents identify the plaintiffs as Fathi Yusuf and United Corporation and defendant Mohammed Hamed, whose authorized agent is listed as Waleed Hamed. Other members of the Hamed family and a corporation identified as Plessen Enter-

prises, Inc. also are named in court documents as defendants.

Both sides have filed lawsuits and counter claims against each other dating back to 2013, according to court documents.

The March 5 court order has brought at least one resolution, noted in court documents as the "Final Wind up Plan" or division of Plaza Extra West and Plaza Extra East, once owned by the Hamed and Yusuf families, who operated the two St. Croix locations, including the Plaza Extra in Estate Tutu on St. Thomas as far back as 1986.

Ross' order states "Hamed has lawfully and rightfully assumed full and sole ownership and control and may continue to operate Plaza Extra West without any further involvement of any other person or entity, using the trade name "Plaza Extra West."

In light of that ruling, Waleed Hamed, in a notice that includes Ross' order and issued to all doing business with his company, noted that effective 12:01 a.m., Monday "the business known as Plaza Extra West will be operated by KAC357, Inc., a Hamed company, which will do business as Plaza Extra West."

The Avis reached out to attorneys for both Yusuf and Hamed.

"The Hamed family will own the Plaza West store and Mr. Yusuf's family will own the East store," Joel Holt, the attorney for the Hamed family said in an interview Saturday with The Avis.

Both Nizar Dewood, an attorney for Yusuf, and Holt said their clients will have the right to appeal the Superior Court's ruling once the case has been completely resolved as there are matters still pending.

Holt, when asked whether the court's ruling could affect business, said it should not.

"I don't think the customers should notice a change because they have always run the two stores," he said. "They're just separating who runs each one."

Both parties also had applied for the right to bid on each other's store — in Christiansted and Frederiksted prior to the ruling, according to Holt.

Holt said the case is not completely resolved, as there is still the matter of the St. Thomas store and various claims relating to business expenditures.

The matter regarding ownership of that store will be addressed next week by Ross.

According to Holt each side — Hamed and Yusuf — will bid to buy out the other's stake in the St.

Thomas store and the party with the highest offer will assume ownership of that store. Barring last-minute changes, it means that one family could end up with two stores and the other with one.

As part of the March 5 ruling, the court required Hamed to purchase from the Hamed-Yusuf Partnership, also known as the Plaza Extra Partnership, inventory at the Frederiksted store for one half of the landed cost and the equipment at its depreciated value, as mutually determined by the partners.

The court document also notes that "upon payment for the inventory and upon payment or auction and distribution on the proceeds for the equipment, Hamed will assume full ownership and may continue to operate the Plaza Extra West store independent of Fathi Yusuf, his sons or United Corporation."

Once Hamed has fully met and satisfied the aforementioned he will "lawfully have sole right, title, interest, ownership and control of Plaza Extra West to the exclusion of all other persons and entities that may have previously been involved in the operation of Plaza Extra West," according to the ruling.

Hamed also will have the right to operate the business under KAC357, Inc., a duly formed and existing Virgin Islands corporation using the trade name "Plaza Extra West."

The court order also noted it is necessary that all governmental agencies, individuals and companies doing business with Plaza Extra West act with "all deliberate speed to recognize, document and act in accordance with the directives of the Wind Up Order and this Order."

Ross' ruling comes one week after the VI Supreme Court, on Feb. 27, dismissed appeals by both Yusuf and Hamed, relative to earlier resolutions in the ongoing civil suit. The higher court's ruling allowed for the "Final Wind Up Plan" to go forward.

The Supreme Court's decision was handed down in response to a Jan. 5 appeal by Yusuf, objecting to Superior Court decisions.

One of those decisions, according to court documents was a July 22, 2014 opinion denying a motion to nullify various resolutions passed by the Board of Directors of appellant Plessen Enterprises, Inc. and denying a request to appoint a receiver for that corpo-

ration.

Yusuf also appealed a Dec. 5, 2014, opinion denying his motion for reconsideration of that earlier decision.

Further, on Jan. 28, he filed another notice of appeal, this time appealing a Jan. 9 Superior Court order adopting the "Final Wind Up Plan" relative to dissolving the partnership between him and Hamed to operate the three Plaza Extra stores territory-wide.

On Feb. 9, Hamed filed a notice of cross-appeal with the Supreme Court. He said in court documents he believed it lacked jurisdiction over Yusuf's appeals, but that he also wished to preserve his right to challenge other aspects of the "Final Wind Up Plan" in the event the higher court concludes it does, in fact, have jurisdiction.

The Supreme Court's associate justices ruled that it did not have jurisdiction citing the pending matters in the case still before the Superior Court.

The Hameds and Yusufs have run the Plaza stores since 1986 and in 2003, members of their families were charged in U.S. District Court in connection with tax evasion, to which a plea agreement was entered in 2011.

According to court documents, in light of the criminal proceedings, a federal receiver was appointed to oversee the profits — listed as \$43 million — from the Plaza Extra stores.

Further, the documents state, United Corporation, the company under which the trio of stores operated, subsequently entered a guilty plea to tax evasion that resulted in the charges against the individual members of both families being dismissed.

Based on information contained in the court documents, it was around the time of the plea agreement in 2011 that the partnership between the families began to fray.

Yusuf would later inform Muhammad Hamed, Waleed Hamed's father, of his intention to end their business relationship, sending a proposed "Dissolution of Partnership" agreement to the older Hamed on March 12, 2012, and initiating unsuccessful settlement negotiations, according to court documents.

The VI Superior Court in April 2013 issued the preliminary injunction that required both families to continue joint management of the stores.

PLAZA EXTRA WEST

#14 Estate Plessey
Frederiksted, VI 00840

TO: ALL PERSONS DOING BUSINESS WITH PLAZA EXTRA WEST

PLEASE TAKE NOTICE THAT, effective March 9, 2015 at 12:01 a.m., the business known as Plaza Extra West will be operated by KAC357, Inc., a Hamed company, which will do business as *Plaza Extra West*.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the attached order of the Judicial Master appointed by the Superior Court of the Virgin Islands:

All persons, entities and governmental agencies are hereby directed to recognize KAC357 as the operator of Plaza Extra West through KAC357, Inc. and to assist in this transition to the fullest extent permitted by law and regulation with all matters related to preparation and issuance of documentation necessary to reflect KAC357's operation of Plaza Extra West.