

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

UNITED CORPORATION,

Plaintiff,

v.

**PLAZA EXTRA PARTNERSHIP and
MOHAMMAD HAMED,**

Defendants.

Case No.:SX-2015-cv-10

**ACTION FOR EVICTION
AND UNLAWFUL DETAINER**

**MOTION AND MEMORANDUM TO DISMISS CASE AND
REQUEST FOR ATTORNEY'S FEES**

This eviction action arose over United Corporation attempting to regain possession of the Plaza East store. Possession of that store has now been transferred to Fathi Yusuf the owner of United (see **Exhibit 1**), who is now operating the store as part of United Corporation. Thus, this case can be dismissed with prejudice.

As Defendant Mohammad Hamed had previously pointed out the futility of this action, which has now come to pass as expected, he is entitled to attorney's fees as the prevailing party under 5 V.I.C. §541. As such, it is respectfully submitted that an award of fees be granted. As required by the rules, attached is the affidavit of counsel setting forth the fees charged (and now paid) in defending this action. See **Exhibit 2**.

As such, it is respectfully requested that this case be dismissed with prejudice and fees be awarded to Defendant Mohammad Hamed as requested. A proposed Order is attached.

Dated: March 12, 2015



Joel H. Holt, Esq.

Counsel for Defendant Hamed

Law Offices of Joel H. Holt

2132 Company Street,

Christiansted, VI 00820

Email: holtvi@aol.com


Tele: (340) 773-8709

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

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of March, 2015, I hand delivered and emailed the foregoing to:

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

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be 'Nizar A. DeWood'.

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

15 MAR -6 PA 39

MOHAMMED HAMED, by his authorized agent)
WALEED HAMED,)

Plaintiff/Counterclaim Defendant,)

v.)

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

v.)

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

Counterclaim Defendants.)

Case No. SX-12-CV-370

Action for Damages,
Injunctive Relief and
Declaratory Relief

**MASTER'S ORDER REGARDING TRANSFER OF OWNERSHIP OF
PLAZA EXTRA EAST**

WHEREAS, on September 18, 2014, the undersigned, Honorable Edgar D. Ross (the "Master"), was appointed by the Court to serve as Judicial Master in the above-captioned civil action to direct and oversee the winding up of the Hamed-Yusuf Partnership *also known as* the Plaza Extra Partnership (the "Appointment Order"), a copy of which is attached as Exhibit 1;

WHEREAS, on January 7, 2015, the Court issued its Order Adopting Final Wind Up Plan ("Wind Up Order") providing for the transfer of the business known as Plaza Extra East:

Plaza Extra East

Yusuf will purchase from the Partnership the following elements of the existing business operation known as Plaza Extra East: inventory at one half of the landed cost and the equipment at its depreciated value, as mutually determined by the Partners. . . . **Upon payment for the inventory, and upon payment (or auction and distribution of the proceeds) for the equipment, Yusuf will assume full ownership and control and may continue to operate Plaza Extra East without any further involvement of Hamed, Hamed's sons, and free and clear of any claims or interests of Hamed;**



WHEREAS, Yusuf has fully complied with and satisfied the foregoing directive of the Wind Up Order such that as of 12:01 AM on March 9, 2015, Yusuf will lawfully ¹⁵ have sole right title, interest, ownership and control of the business known as Plaza Extra East to the exclusion of all other persons and entities that may have previously been involved in the operation of Plaza Extra East;

WHEREAS, the parties have also stipulated that this business can operate using the trade name "Plaza Extra East";

WHEREAS, the Court and Master have been informed that Yusuf's rights, privileges and powers regarding Plaza Extra East will be exercised by United Corporation, a duly formed and existing Virgin Islands corporation, using the trade name "Plaza Extra East";

WHEREAS, Plaza Extra East is authorized by the United States Department of Agriculture ("USDA") to accept and transact payments through the USDA Supplemental Nutrition Assistance Program ("SNAP");

WHEREAS, Plaza Extra East is a SNAP superstore, does substantial SNAP transactions and is located in an area of high SNAP participant need;

WHEREAS, Plaza Extra East participates in the Virgin Islands Department of Health Special Supplemental Nutrition Program for Women, Infants, and Children ("WIC") and accepts WIC checks and WIC Cash Value Checks;

WHEREAS, Plaza Extra East is located in an impoverished rural area and significant hardship would ensue to the communities surrounding Plaza Extra East in the event that Plaza Extra East was unable to serve the public and/or accept and transact SNAP payments, WIC checks and WIC Cash Value Checks;

WHEREAS, Plaza Extra East employs a significant number of St. Croix residents who depend on their jobs at Plaza Extra East for their livelihoods and to support their families;

WHEREAS, it is essential that ownership, control and operation of ¹⁵Plaza Extra East be transferred in a smooth and efficient manner in order to prevent cessation of services to ^{7/11/15 5 04:30}the communities surrounding Plaza Extra East and prevent employment interruption; and

WHEREAS, it is therefore necessary that all governmental agencies, persons and businesses doing business with Plaza Extra East act with all deliberate speed to recognize, document and act in accordance with the directives of the Wind Up Order and this Order.

NOW THEREFORE, THE MASTER HERBY DECLARES AS FOLLOWS:

Recognition of Fathi Yusuf's Full and Sole Ownership of Plaza Extra East

1. Yusuf has lawfully and rightfully assumed full and sole ownership and control and may continue to operate Plaza Extra East without any further involvement of any other person or entity, using the trade name "Plaza Extra East."

2. All persons, entities and governmental agencies are hereby directed to recognize Fathi Yusuf as the operator of Plaza East through United Corporation 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 United Corporation's operation of Plaza Extra East.

Further Information

3. Any and all persons having questions or concerns regarding this Order shall contact **Gregory Hodges, Esquire, at 340.774.4422**, who shall, upon receipt of any questions or concerns regarding this Order, (i) forthwith inform the Master of all such questions or concerns and (ii) respond to all such questions or concerns as directed by the Master.

Dated:

March 4, 2015
EDR

By:

Edgar D. Ross
HONORABLE EDGAR D. ROSS
Judicial Master

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

15 MAR -6 P 4:39

MOHAMMED HAMED by his authorized agent)
WALEED HAMED,)
Plaintiff/Counterclaim Defendant,)
v.)
FATHI YUSUF and UNITED CORPORATON,)
Defendants/Counterclaimants)
v.)
WALEED HAMED, WAHEED HAMED,)
MUFEEED HAMED, HISHAM HAMED, and)
PLESSEN ENTERPRISES, INC.)
Counterclaim Defendants.)

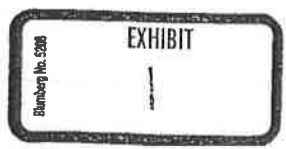
CIVIL NO. SX-12-CV-370
ACTION FOR DAMAGES, etc.

ORDER APPOINTING MASTER

THIS MATTER is before the Court on Plaintiff/Counterclaim Defendant and Defendant/Counterclaimants' Stipulation Regarding Appointment of Master ("Stipulation"), filed September 10, 2014 and the same Parties' Joint Notice re Suggested Compensation of Master ("Notice"), filed September 17, 2014.

By Order dated August 28, 2014, the Parties were ordered to confer and jointly select a Master acceptable to both. By the Stipulation and the Notice, the Parties have agreed to the appointment of the Honorable Edgar D. Ross to serve as Master, to be compensated for services at the rate of \$400.00 per hour, which is acceptable to the Master. In light of the foregoing, it is hereby

ORDERED that the Honorable Edgar D. Ross is appointed to serve as judicial Master in this action, to direct and oversee the winding up of the Hamed-Yusuf Partnership. It is further



15 MAR -6 PM 3:39

ORDERED that the Master's duties will commence forthwith with a review of such portions of the Court's file as are deemed necessary and helpful to provide background information relative to the Partnership, its businesses, assets and operations; and the scope and structure of the winding up process, which review shall include the previously filed submissions of the Parties presenting their respective plans for winding up the Partnership. It is further

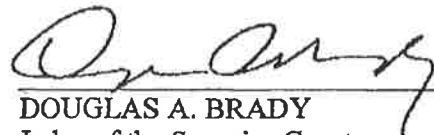
ORDERED that the Master will be compensated at the rate of \$400.00 per hour according to a monthly payment schedule and process to be agreed between the Master and the Liquidating Partner (to be named) (or, prior to the designation of the Liquidating Partner, between the Master and the Parties, through counsel). It is further

ORDERED that in conjunction with the Master's review, the Court will present to the Parties a proposed plan for the winding up of the Partnership in advance of the status conference scheduled by this Order, and will solicit comments, objections and recommendations. It is further

ORDERED that this matter will come on for telephonic status conference on Tuesday, October 7, 2014 at 11:30 a.m. with the Master in attendance. The parties are directed to attend the conference by calling (559) 546-1200 and entering access code 920025025. It is further

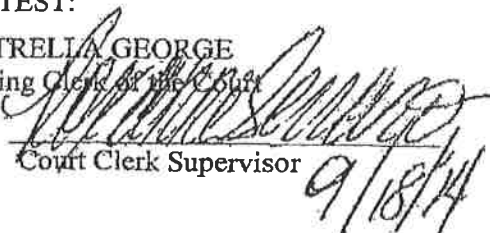
ORDERED that upon consideration of the Parties' presentations, the Court will adopt the final plan for winding up the Partnership to be overseen by the Master.

DATED: September 18, 2014


DOUGLAS A. BRADY
Judge of the Superior Court

ATTEST:

ESTRELLA GEORGE
Acting Clerk of the Court

By: 
Court Clerk Supervisor

CERTIFIED TO BE A TRUE COPY
This 18th day of Sept 2014

CLERK OF THE COURT
By:  Court Clerk

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

UNITED CORPORATION,

Plaintiff,

v.

**PLAZA EXTRA PARTNERSHIP and
MOHAMMAD HAMED,**

Defendants.

Case No.:SX-2015-cv-10

**ACTION FOR EVICTION
AND UNLAWFUL DETAINER**

DECLARATION OF JOEL H. HOLT

I, Joel H. Holt, 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 counsel for Mohammad Hamed in this case.
3. I was engaged by Mohammad Hamed to defend this case filed against him and agreed to represent him for \$600 per hour.
4. Attached is a breakdown of the hours I charged to defend this case, with the total cost being \$16,950.00.
5. The time expended to defend this case was necessary, as an eviction from the premises prior to the liquidation plan taking place would have been disastrous for the partnership and Hamed.
6. These fees were reasonable under the circumstances, as noted by the voluminous filings before this Court.
7. My client has now in fact paid this bill in full.
8. There was another lawyer who also was retained to work on this case, Carl Hartmann, but his fees (which were also billed and are now paid) are not being submitted to simplify this request.

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

Dated: March 12, 2015



Joel H. Holt



	United v. Plaza Extra Partnership/Hamed Civil No. 15-CV-10 Eviction Matter	
01/23/2015	Receipt of new eviction complaint/review of eviction law/emails to client.	1.25
01/25/2015	Draft answer to eviction complaint/full review of statutes and opinions re eviction and FED actions/review filed for information to use including liquidation order and Jan 19, 2012, termination notice.	2.00
01/27/2015	Finish answer to eviction complaint/ set up draft of motion to dismiss.	1.50
01/28/2015	First draft of motion to dismiss and declarations in support thereof.	6.50
01/30/2015	Second draft of motion to dismiss and declarations in support thereof.	4.50
02/01/2015	Final draft of motion to dismiss eviction complaint, revise answer and declarations/revise and finalize motion to disqualify	6.00
02/03/2015	Prep for eviction hearing and attend court for hearing/draft stip to dismiss/further work on opposition to motion to stay/draft declaration for Wally to sign/emails with Nizar.	6.50
	Total Hours: 28.25 hrs x \$600 hrs	\$16,950.00

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

UNITED CORPORATION,

Plaintiff,

v.

**PLAZA EXTRA PARTNERSHIP and
MOHAMMAD HAMED,**

Defendants.

Case No.:SX-2015-cv-10

**ACTION FOR EVICTION
AND UNLAWFUL DETAINER**

ORDER

This matter is before the Court on the Defendant Mohammad Hamed's Motion to Dismiss Case and a Request for Attorney's Fees. Upon consideration of the matters before the Court and being otherwise advised of the premises, it is hereby

ORDERED

That this matter is hereby Dismissed With Prejudice and the Defendant, Mohammad Hamed is awarded \$ _____ , as reimbursement for attorney's fees

SO ORDERED THIS _____ DAY OF MARCH, 2015

Dated:

HON. JESSICA GALLIVAN
Magistrate Judge

ESTRELLA GEORGE, ACTING
Clerk of Court

By: _____
Clerk

Dist: Joel H. Holt
Carl J. Hartmann
Nizar A. DeWood