

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

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

**RESPONSE TO PLAINTIFF'S NOTICE OF OBJECTION TO LIQUIDATING
PARTNERS' BI-MONTHLY REPORTS**

Defendant/counterclaimant Fathi Yusuf ("Yusuf"), through his undersigned counsel, respectfully submits this Response to the "Notice of Objection to Liquidating Partner's Bi-Monthly Reports" filed by plaintiff/counterclaim defendant Mohammad Hamed ("Hamed") on August 18, 2015 (the "Objection"). For the reasons set forth below, Yusuf submits that the Objection should be overruled.

In the very first sentence of the Objection, Hamed misrepresents that Yusuf admitted on page 5 of his third bi-monthly report "that he had not previously provided the required bi-monthly accounting." Yusuf admitted no such thing. As further explained in Yusuf's Opposition to Hamed's Motion To Clarify Order of Liquidation, the required bi-monthly accountings were timely provided on March 30, 2015, June 1, 2015, and July 31, 2015. In his second and third bi-monthly reports, Yusuf conceded only that he had not timely provided the reconciliation of actual expenditures against projected expenditures set forth in Exhibit A to the Plan. Hamed's unsupported claim that the Liquidating Partner only delivered accounting

information in “one large ‘document dump’” simply is untrue as reflected by the actual bi-monthly reports filed with the Court. Along with and prior to each bi-monthly report, the Liquidating Partner provided Hamed with all of the financial information described in those reports and required by the Court’s Order Adopting Final Wind Up Plan. While the second and third bi-monthly reports acknowledged that the reconciliation of actual expenditures against projected expenses set forth in Exhibit A to the Plan was not provided until the third bi-monthly report, Hamed has not even attempted to argue that this prejudiced him or his accountants in any way.

At page 2 of the Objection, Hamed claims that the “Liquidating Partner allocated the purchase cost of two new condensers for the Plaza East store to himself, as they were purchased after the value of the stores equipment had been agreed to. However, he failed to allocate the cost of shipping and installation of these condensers to himself.” Yusuf disputes that he allocated the purchase cost of these condensers to himself. Rather, it is Yusuf’s position that the cost of the condensers as well as the shipping and installation costs should be borne entirely by the Partnership. Yusuf agrees, however, that this item will be one of the matters addressed in the “claims portion” of the liquidation process.

Hamed next claims that in the third bi-monthly report the Liquidating Partner fails to identify “a Merrill-Lynch account that has in excess of \$300,000 in it, all of which came from Plaza Extra funds.” By email dated February 20, 2015, counsel for Hamed sent an email to the undersigned inquiring whether Yusuf “established a list of partnership assets unrelated to the three stores as required by § 4 on page 8 of the January 7th Order? For example, one Merrill-Lynch account was identified in the initial plan and a second one has surfaced (why not move both now?), which need to be identified along with any other such items[.]” He further stated

that “we need to address the small parcel in STT in United’s name (I think it is Parcel 2 Remainder Estate Charlotte Amalie – next to Ft. Mylner property) that needs to be transferred to Plessen now as previously agreed to.” The undersigned promptly responded as follows:

(2) No list has been established yet. Please identify the Merrill Lynch accounts you reference, particularly since I see none mentioned in either “initial plan,” and any other non-Plaza Extra Stores Partnership assets your client contends should be on the list;

* * *

(5) I do not believe the referenced parcel needs to be addressed now in connection with the disposition of the stores. I expect this parcel will likely be part of the disputed claims/accountings between the partners. Please inform me about the previous agreement you allude to.

See redacted email exchange of February 20, 2015 attached as **Exhibit 1**. Counsel for Hamed never bothered identifying the Merrill Lynch accounts. Furthermore, each of the bi-monthly reports filed to date include the following language: “To date, no non-Plaza Extra Stores Partnership Assets requiring liquidation have been identified by or to the Liquidating Partner.” See first bi-monthly report at p. 2, second bi-monthly at p. 3, and third bi-monthly report at p. 3. (“To date, no Partnership Assets requiring liquidation beyond those described above have been identified by or to the Liquidating Partner.”) (footnote omitted). At no time has Hamed provided the Liquidating Partner with any information establishing that a Merrill Lynch account in the name of a third party actually represents Partnership Assets. Hamed certainly does not explain why he only raised the prospect of such account 18 days after the filing of the third bi-monthly report.¹

Lastly, the Objection misrepresents that the third bi-monthly report “identifies a specific parcel of land in St. Thomas as partnership property” See Objection at p. 2. The third bi-

¹ The Objection was filed on August 18, 2015, 18 days after the filing of the third bi-monthly and months after the filing of the previous two bi-monthly reports. Accordingly, the Objection is clearly untimely pursuant to LRCi 7.1.

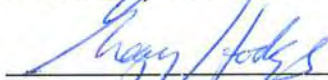
monthly report does no such thing. As clearly reflected in that report, there is a one half acre parcel titled in the name of Plessen Enterprises, Inc. and subject to a \$330,000 mortgage from Plessen to United Corporation. While the report does suggest that title should be transferred to Yusuf because, as he explained in his deposition, a portion of which is attached as Exhibit 1 to the Objection, Hamed had given Yusuf his word that he would convey such parcel to Yusuf. In any event, this disputed parcel will become a part of the "claims portion" of the liquidation process.

For all of the foregoing reasons, Yusuf respectfully requests this Court to overrule the Objection and to provide such further relief as is just and proper under the circumstances.

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: September 3, 2015

By:


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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of September, 2015, I caused the foregoing **Response To Plaintiff's Notice Of Objection To Liquidating Partners' Bi-Monthly Reports** to be served upon the following via e-mail:

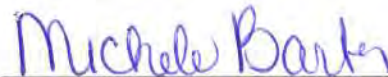
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Gregory H. Hodges

From: Gregory H. Hodges
Sent: Friday, February 20, 2015 1:49 PM
To: 'Joel Holt'; dewoodlaw@gmail.com; Charlotte Perrell
Cc: carl@carlhartmann.com; kimjapinga@gmail.com; edgarrossjudge@hotmail.com
Subject: RE: Plaza
Attachments: Re: Dema Firm hourly bill in UNITED v TUTU

Joel,
Responding to the correspondingly numbered items below:

- [REDACTED]
- 2) No list has been established yet. Please identify the Merrill Lynch accounts you reference, particularly since I see none mentioned in either "initial plan," and any other non-Plaza Extra Stores Partnership assets your client contends should be on the list;
- [REDACTED]
- attached covering email);
- 5) I do not believe the referenced parcel needs to be addressed now in connection with the disposition of the stores. I expect this parcel will likely be part of the disputed claims/accountings between the partners. Please inform me about the previous agreement you allude to.

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From: Joel Holt [<mailto:holtvi@aol.com>]
Sent: Friday, February 20, 2015 9:34 AM
To: Gregory H. Hodges; dewoodlaw@gmail.com; Charlotte Perrell
Cc: carl@carlhartmann.com; kimjapinga@gmail.com; edgarrossjudge@hotmail.com
Subject: Plaza



I am reviewing your proposed stip and will get back to you. Several points still need to be discussed re the final winding up in the meantime, which I presume the Liquidating Partner is working on, as follows:

[REDACTED]

2) Has Yusuf established a list of partnership assets unrelated to the three stores as required by Section 4 on page 8 of the January 7th Order? For example, one Merrill-Lynch account was identified in the initial plan and a second one has surfaced (why not move both now?), which need to be identified along with any other such items

[REDACTED]

[REDACTED]

5) We need to address the small parcel in STT in United's name (I think it is Pacel 2 Remainder Estate Charlotte Amalie-next to Ft. Milner property) that needs to be transferred to Plessen now as previously agreed to.

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