

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

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

**LIQUIDATING PARTNER'S FOURTH BI-MONTHLY REPORT**

Pursuant to this Court's "Final Wind Up Plan Of The Plaza Extra Partnership" entered on January 9, 2015 (the "Plan"), defendant/counterclaimant Fathi Yusuf ("Yusuf"), as the Liquidating Partner<sup>1</sup>, respectfully submits this fourth bi-monthly report of the status of wind up efforts, as required by § 5 of the Plan.

Pursuant to the Court's "Order Adopting Final Wind Up Plan" dated January 7, 2015 and entered on January 9, 2015 (the "Wind Up Order"), the Court adopted the Plan. An Order entered on January 27, 2015 approving a stipulation of the parties provided, among other things, that the effective date of the Plan "shall be changed from ten (10) days following the date of the ... [Wind Up] Order to January 30, 2015."

On February 25, 2015, the Claims Reserve Account ("CRA") and the Liquidating Expense Account ("LEA") were established at Banco Popular de Puerto Rico. No disbursements have been made from the CRA or LEA without the approval of the Master. The

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<sup>1</sup> Capitalized terms not otherwise defined in this report shall have the meaning provided for in the Plan.

Liquidating Partner has provided the Master and Hamed with copies of bank statements, ledgers, and reconciliations reflecting the inflows/outflows concerning these accounts from inception through August 31, 2015. Copies of the bank statements, ledgers, and reconciliations reflecting the inflows/outflows of the other bank accounts used jointly by the Partners in the operation of the three stores from May 1, 2015 through August 31, 2015 have also been provided to the Master and Hamed.<sup>2</sup>

On March 5, 2015, the Master issued his "Master's Order Regarding Transfer of Ownership of Plaza Extra West." On March 6, 2015, the Master issued his "Master's Order Regarding Transfer of Ownership of Plaza Extra East." An accounting reconciling the difference in the inventory and equipment values involved in the transfer of Plaza Extra East and Plaza Extra West has occurred resulting in the payment of \$1,211,267.01 to Yusuf in July 2015.

The closed auction for Plaza Extra Tutu Park took place on April 30, 2015, pursuant to the Master's Order dated April 28, 2015. On April 30, 2015, the Master issued his "Master's Order Regarding Transfer Of Ownership Of Plaza Extra Tutu Park" (the "April 30 Master's Order"), pursuant to which that store was transferred to Hamed's designee, KAC357, Inc., for the price of \$4,050,000 plus \$220,000 in fees attributable to the Tutu Park Litigation

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<sup>2</sup> These accounts used by all three stores remained open as an operational necessity with the consent of the Partners and the Master. Since these accounts were joint signatory accounts signed by representatives of both Partners, Hamed had uninterrupted, unfettered access to monitor these accounts. All checks drawn on these accounts have been signed by a representative of both Partners. All of these accounts, except one account at Scotiabank, were closed effective July 10, 2015 with all of the funds from those accounts transferred to the CRA. The one account was left open with a balance of \$1,000 for a few additional days because of pending document requests related to the 2014 Department of Justice review and Scotiabank needed an account to charge. After deducting fees, the \$895 balance in the account has been transferred to the CRA.

(collectively, the “Tutu Park Purchase Price”), which has been paid.<sup>3</sup> Pursuant to the express provisions of the Wind Up Order (p.5), § 8(2) of the Plan, and the April 30 Master’s Order (p.2), Hamed was obligated to obtain releases of the Partnership and Yusuf from any further leasehold obligations to Tutu Park, Ltd. when he assumed sole ownership and control of the Tutu Park store premises as of May 1, 2015. Despite repeated demands, Hamed has failed to provide the required releases to date thereby bringing into question the validity of the transfer of the Tutu Park store. The Liquidating Partner is working to resolve this issue and related issues involving claims presented by Tutu Park, Ltd. last month concerning property taxes for the years 2012, 2013, and 2014.<sup>4</sup>

The 2014 tax return for the Partnership was filed on July 14, 2015. A copy has been provided to the Master and Hamed.

As provided in the Plan, effective April 14, 2015, the stock of Associated Grocers of Florida, Inc. (“AG”) has been divided evenly between Hamed and Yusuf, as reflected in a letter from counsel for AG dated April 10, 2015. Any cash refunds attributable to such stock with respect to the Plaza Extra Stores shall be shared 50/50 by the Partners up to midnight of March 8, 2015 (with respect to Plaza Extra East and West) and April 30, 2015 (with respect to Plaza Extra Tutu Park). Thereafter, any such refunds belong to the transferees of such stores.

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<sup>3</sup> Because the Tutu Park Purchase Price was paid to Yusuf using Partnership funds, Yusuf was in fact paid an equal amount from the CRA representing a matching distribution to him of the funds used by Hamed to purchase Plaza Extra Tutu Park.

<sup>4</sup> If the Liquidating Partner determines that the Partnership is responsible to Tutu Park, Ltd. for additional rent in the form of taxes, the Partnership would be obligated to pay United comparable amounts since the rent for the Plaza Extra East store was pegged to the rent for the Tutu Park store, as recognized in this Court’s Memorandum Opinion and Order entered on April 27, 2015.

To date, no Partnership Assets requiring liquidation beyond those described above have been identified by or to the Liquidating Partner.<sup>5</sup> Hamed has inquired about the disposition of ½ acre of unimproved land located on St. Thomas that is allegedly owned by the Partnership and more particularly described as Parcel No. 2-4 Rem. Estate Charlotte Amalie, No. 3 New Quarter, St. Thomas, as shown on OLG Map. No. D9-7044-T002 (the “Land”). Although Yusuf submits that the Land has erroneously been carried on the balance sheet of the Partnership, the record owner of the Land, pursuant to a Warranty Deed dated July 26, 2006 and recorded August 24, 2006, is Plessen Enterprises, Inc. (“Plessen”), a corporation jointly owned by the Hamed and Yusuf families. The Land is encumbered by a mortgage dated August 24, 2006 from Plessen to United Corporation in the face amount of \$330,000. Except to complete the transfer of title based on a prior resolution of the matter between the Partners, the Liquidating Partner does not intend to pursue liquidation of the Land or the mortgage since the Partnership has no continuing interest in either.<sup>6</sup>

An updated balance sheet was provided to counsel and the Master on February 6, 2015, as required by § 9, Step 4 of the Plan. A combined balance sheet for the Plaza Extra Stores as of August 31, 2015, a balance sheet for each store as of August 31, 2015, a combined income statement for the Plaza Extra Stores from January 1, 2015 through August 31, 2015, income statements for each store for the same period, and supporting general ledger, cash reconciliation, accounts receivable aging, and accounts payable aging information (collectively,

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<sup>5</sup> With the permission of the Master, a 2005 Toyota Camry owned by the Partnership and used primarily by NejeH Yusuf in connection with his co-management of Plaza Extra Tutu Park was purchased by United Corporation on May 1, 2015 for the sum of \$5,000.

<sup>6</sup> On August 18, 2015, Hamed filed a “Notice of Objection to Liquidating Partners Bi-Monthly Reports” (the “Objection”), which raised the issue of the Land, among other issues, but acknowledged that these issues would be addressed in the “claims portion” of the liquidation process. On September 3, 2015, Yusuf filed his Response to the Objection, the contents of which are hereby incorporated by reference.

the “Financial Information”) have been provided to the Master and Hamed with or prior to this report. John Gaffney, an accountant who has been engaged on behalf of and paid by the Partnership, has compiled the Financial Information, which the Liquidating Partner believes is generally reliable and historically accurate.<sup>7</sup>

The pending litigation identified in Exhibit C to the Plan was updated by the more detailed list attached as Exhibit C-1 to the first bi-monthly report. Since that updated Exhibit was prepared, the Allembert and Isaac claims have been settled. The Liquidating Partner is attempting to establish appropriate reserves for all pending litigation and any future litigation that may be filed within the two year statute of limitations period for personal injuries allegedly occurring prior to the transfer of the Plaza Extra Stores. Such reserves will be established out of the funds in the CRA.

Section 9, Step 2, of the Plan requires the Liquidating Partner to “submit to Hamed and the Master each month a reconciliation of actual expenditures against the projected expenses set forth in Exhibit A. Unless the Partners agree or the Master orders otherwise, the Liquidating Partner shall not exceed the funds deposited in the Liquidated Expense Account.” That reconciliation was provided to the Master and Hamed with the third bi-monthly report. It reflected that the actual expenditures incurred through June 30, 2015 in winding up the Partnership and liquidating its assets were approximately \$4 million less than the projected expenses reflected in Exhibit A to the Plan. An updated reconciliation through August 31,

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<sup>7</sup> The submission of the Financial Information by the Liquidating Partner is not intended to impair or otherwise affect the right of either Partner to submit his proposed accounting and distribution plan contemplated by § 9, Step 6, of the Plan.

Hamed v. Yusuf, et al.  
Civil No. SX-12-CV-370  
Page 6

2015 was provided to the Master and Hamed with the filing of this report reflecting a similar difference.

Pursuant to the Stipulation Regarding Motion to Clarify Order of Liquidation filed with the Court on September 9, 2015, the Partners stipulated that the Liquidating Partner will provide the Master and Hamed with the Partnership accounting required by § 5 of the Plan on October 16, 2015 and the Partners will submit their proposed accounting and distribution plans contemplated by § 9, Step 6, of the Plan to each other and the Master by February 1, 2016.<sup>8</sup>

Respectfully submitted this 30th day of September, 2015.

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By: 

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<sup>8</sup> The Partners will be filing a further stipulation extending the time for the Liquidating Partner to provide the Partnership accounting from October 16, 2015 to November 16, 2015 and for the Partners to submit their proposed accounting and distribution plans from February 1, 2016 to March 3, 2016.

Hamed v. Yusuf, et al.  
Civil No. SX-12-CV-370  
Page 7

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30th day of September, 2015, I caused the foregoing **Liquidating Partner's Fourth Bi-Monthly Report** to be served upon the following via e-mail:

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