

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.,
Additional Counterclaim Defendants.

CIVIL NO. SX-12-CV-370
ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF
JURY TRIAL DEMANDED

UNITED CORPORATION,
Plaintiff,
v.
WAHEED HAMED
(a/k/a Willy Hamed),
Defendant.

CIVIL NO. ST-13-CV-0000101
Action for Damages
JURY TRIAL DEMANDED

MOTION TO CONSOLIDATE CASES

Fathi Yusuf ("Yusuf"), as the Liquidating Partner of the Plaza Extra Partnership, respectfully moves this Court, pursuant to Fed. R. Civ. P. 42(a), made applicable to proceedings in this Court by Super. Ct. R. 7, to consolidate Case No. ST-13-CV-0000101 ("Case 101") with Case No. SX-12-CV-370 ("Case 370") for final disposition. In support of this motion, Yusuf respectfully represents the following:

1. Pursuant to an “Order Adopting Final Wind Up Plan” entered in Case 370 on January 9, 2015 (the “Wind Up Order”), the Court adopted the “Final Wind Up Plan of the Plaza Extra Partnership” (the “Plan”), which was attached to the Wind Up Order. Pursuant to § 3 of the Plan, Yusuf was appointed the Liquidating Partner¹ “with the exclusive right and obligation to wind up the Partnership pursuant to this Plan and the provisions of the V.I. Code Ann. tit. 26, § 173(c), under the supervision of the Master.”

2. Pursuant to § 4 of the Plan, “the Liquidating Partner shall have authority to wind up the Partnership business, including full power and authority to sell and transfer Partnership Assets, engage legal, accounting and other professional services, sign and submit tax matters, execute and record a statement of dissolution of Partnership, pay and settle Debts, and marshal Partnership Assets for equal distribution to the Partners following payment of all Debts and a full accounting by the Partners, pursuant to agreement of the Partners or by order of the Court.”

3. Pursuant to § 9, Step 6 of the Plan, “[w]ithin forty-five (45) days after the Liquidating Partner completes the liquidation of the Partnership Assets, Hamed and Yusuf shall each submit to the Master a proposed accounting and distribution plan for the funds remaining in the Claims Reserve Account. Thereafter, the Master shall make a report and recommendation for distribution to the Court for its final determination.” The Master has recently extended the time for Hamed and Yusuf to submit their proposed accounting and distribution plans to May 2, 2016.

4. After Case 101 was filed, pursuant to a summary judgment entered in Case 370 on November 7, 2014, the Court declared that a partnership was formed in 1986 by the oral

¹ All capitalized terms not otherwise defined in this motion shall have the meaning provided for in the Plan.

agreement between Hamed and Yusuf for the ownership and operation of the Plaza Extra Stores, with each partner having a 50% ownership interest in all partnership assets and profits, and a 50% obligation as to all losses and liabilities.

5. All the claims asserted in Case 101 may be treated as claims for resolution in the liquidation process of the Partnership pursuant to the Plan adopted in Case 370.

Accordingly, since Case 370 is the oldest case, Yusuf respectfully moves the Court to consolidate Case 101 with Case 370 for final disposition. A proposed Order is respectfully submitted with this motion.

Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

DATED: March 17, 2016

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of March, 2016, I caused the foregoing **Motion To Consolidate Cases** to be served upon the following via e-mail:

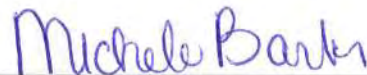
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CIVIL NO. ST-13-CV-0000101

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JURY TRIAL DEMANDED

WAHEED HAMED
(a/k/a Willy Hamed),

Defendant.

ORDER

Upon the Motion to Consolidate Cases filed by Fathi Yusuf, as the Liquidating Partner of the Plaza Extra Partnership, and for good cause shown, it is accordingly,

ORDERED that Case No. ST-13-CV-0000101 is hereby consolidated with Case No. SX-12-CV-370.

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Honorable Michael C. Dunston
Presiding Judge of the Superior Court
of the Virgin Islands

ATTEST:

Estrella George
Acting Clerk of the Court

By: _____
Deputy Clerk

cc: Nizar A. DeWood, Esq.
Mark W. Eckard, Esq.
Carl H. Hartmann, III, Esq.
Gregory H. Hodges, Esq.
Joel H. Holt, Esq.
Jeffrey B.C. Moorhead, Esq.
The Honorable Edgar A. Ross

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