

**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,)	
MUFEEED HAMED, HISHAM HAMED, and)	
PLESSEN ENTERPRISES, INC.,)	
)	
Additional Counterclaim Defendants.)	
)	

LIQUIDATING PARTNER'S EIGHTH 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 Partner¹, respectfully submits this eighth 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

¹ 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 April 30, 2016. Copies of the bank statements, ledgers, and a final reconciliation 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 previously been provided to the Master and Hamed.²

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

² 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 was transferred to the CRA.

the price of \$4,050,000 plus \$220,000 in fees attributable to the Tutu Park Litigation (collectively, the "Tutu Park Purchase Price"), which has been paid.³

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 that are a precondition to the valid transfer of the Tutu Park store. In the absence of the delivery of such releases, the Tutu Park store will require the further attention of the Liquidating Partner and the Court for separation. Given the passage of more than thirteen (13) months since the releases should have been delivered, the Liquidating Partner is requesting the Court's immediate intervention regarding Hamed's failure to provide the required releases.⁴ The significant problems created by Hamed's failure to obtain the required releases has been reported by the Liquidating Partner beginning with his fourth bi-monthly report and in each of his succeeding reports. Although Hamed has filed multiple objections to the bi-monthly reports, he has never disputed his obligation to obtain the releases or his failure to do so. Although the Tutu Park Litigation was initially stayed after the auction of the Tutu Park store to provide Hamed an opportunity to negotiate a new lease with Tutu Park, Ltd. and obtain the required releases, after approximately

³ 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.

⁴ In the absence of such releases, at a minimum, Yusuf submits that a reserve must be created for all rent, percentage rent, and real property taxes that may accrue during the remaining term of the lease with Tutu Park, Ltd. (30 months), plus any matching payment that would be due to Yusuf if Partnership funds are used to pay these obligations.

a year of fruitless negotiations, that stay has now been lifted and the Tutu Park Litigation has been set for trial. *See* Order dated February 19, 2016, attached as **Exhibit 1**, and Third Amended Scheduling Order dated April 18, 2016, attached as **Exhibit 2**. Originally, Hamed was not a party to the Tutu Park Litigation and United was the sole plaintiff and counterclaim defendant. As reflected in the Scheduling Order attached as Exhibit 2, sometime after the Tutu Park store auction, Hamed and KAC357, Inc. were substituted as plaintiffs in one of the cases comprising the Tutu Park Litigation. Since the transfer of the Tutu Park store and Tutu Park Litigation was expressly conditioned upon the delivery of the required releases to United and Yusuf, Hamed and his counsel cannot be allowed to control that litigation unless they immediately produce the releases that should have been provided more than one year ago. Accordingly, the issue involving Hamed's failure to provide the releases has now become critical requiring this Court's immediate attention.

The Liquidating Partner is also working to resolve issues involving recent claims presented by Tutu Park, Ltd. concerning property taxes for the years 2012, 2013, and 2014 and percentage rents claimed due for the period November 1, 2014 through October 31, 2015. The Liquidating Partner authorized the payment of the entire, allocable taxes for 2012 and 2013 in the amount of \$79,009.87 and for 2014 taxes in the amount of \$43,069.36. Checks for those amounts have been delivered to Tutu Park, Ltd. The property taxes for 2015 have not yet been billed, but reserves will be set aside to pay these taxes (estimated to be \$14,356.44 based on

4/12 x \$43,069.36)⁵, disputed federal unemployment (Form 940) taxes (approximately \$732,000)⁶, and contemplated accounting fees (approximately \$30,000).

The Liquidating Partner's sixth bi-monthly report incorrectly stated (at p. 4) that Tutu Park, Ltd.'s claim for percentage rents in the amount of \$41,462.28 had been rejected when, in fact, that claim was paid on December 17, 2015 via CRA check no. 278 and a matching check was issued to Yusuf via CRA check no. 279. Copies of these checks were provided to Hamed and the Master with the submission of the sixth bi-monthly report.

To date, no Partnership Assets requiring liquidation beyond those described above have been identified by or to the Liquidating Partner.⁷ 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"). Yusuf submits that the Land has been erroneously carried on the balance sheet of the Partnership, because the record owner of the Land, pursuant to a Warranty Deed dated July 26, 2006 and recorded August 24, 2006, was Plessen Enterprises, Inc. ("Plessen"), a corporation jointly owned by the Hamed and Yusuf families. The Land was encumbered by a mortgage dated August 24, 2006

⁵ If the Liquidating Partner determines that the Partnership is responsible to Tutu Park, Ltd. for additional rent in the form of taxes or otherwise, 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. For example, when \$79,009.87 and \$43,069.36 in real property taxes were paid to Tutu Park, Ltd., the Liquidating Partner and the Master authorized matching payments of \$89,442.92 and \$46,990.48 to United based on this formula. Accordingly, in addition to creating a \$14,356.44 reserve for the 2015 pro-rated real property taxes, a reserve for the matching payment to United should be created in the amount of \$9,812.14.

⁶ The Liquidating Partner does not believe that any such taxes are actually due and owing.

⁷ 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 on May 1, 2015 for the sum of \$5,000.

from Plessen to United in the face amount of \$330,000. Pursuant to a Deed In Lieu Of Foreclosure dated October 23, 2008 and recorded on March 24, 2009, Plessen conveyed the Land to United. Pursuant to a Release Of Mortgage dated October 23, 2008 and recorded on March 24, 2009, United released its mortgage covering the Land.⁸ Copies of the Deed In Lieu Of Foreclosure and Release Of Mortgage have been provided to the Master and Hamed. Accordingly, the Liquidating Partner does not intend to pursue liquidation of the Land or the mortgage since the Partnership has no continuing interest in either.⁹

Hamed has claimed that the Liquidating Partner has “fail[ed] to identify a significant partnership asset, a Merrill-Lynch account that has in excess of \$300,000 in it, all of which came from Plaza Extra funds.” *See, e.g.*, Motion To Remove The Liquidating Partner filed by Hamed on January 29, 2016 at p. 6.¹⁰ At page 3 of Yusuf’s September 3, 2015 Response to the Objection, Yusuf states:

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. (footnote omitted).

⁸ The fourth bi-monthly report contained dated information. After that report was filed, counsel for the Liquidating Partner learned of the subsequent conveyance of the Land to United.

⁹ 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. On February 8, 2016, Hamed filed his “Notice of Objection to Liquidating Partner’s Sixth Bi-Monthly Report,” to which Yusuf replied on February 24, 2016.

¹⁰ Yusuf filed his Opposition to that motion on February 17, 2016.

To date, the Liquidating Partner has been provided with no information whatsoever that even suggests the unidentified Merrill Lynch account was funded with Partnership money, contains any Partnership funds, or otherwise constitutes Partnership Assets.

An updated balance sheet was provided to counsel and the Master on February 6, 2015, as required by § 9, Step 4 of the Plan. Combined balance sheets and income statements for the Partnership as of April 30, 2016 and supporting general ledger, cash reconciliation, accounts receivable aging, and accounts payable aging information (collectively, the “Financial Information”) have been provided to the Master and Hamed with 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.¹¹

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. The Liquidating Partner is attempting to establish appropriate reserves for all pending litigation¹² 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.

On March 17, 2016, Yusuf, as Liquidating Partner, filed motions to consolidate three cases pending in the Superior Court, namely, *United Corporation v. Waheed Hamed*, Civ. No.

¹¹ 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.

¹² An updated, more detailed list of pending litigation (Exhibit C-2) was previously provided to the Master and counsel for Hamed.

ST-13-CV-0000101, *United Corporation v. Waleed Hamed*, Civ. No. SX-13-CV-000003, and *United Corporation v. Wadda Charriez*, Civ. No. SX-13-CV-0000152, with this case since the claims asserted in these three cases “may be treated as claims for resolution in the liquidating process of the Partnership pursuant to the Plan adopted” in this case. For similar reasons, on March 21, 2016, the parties filed a stipulation to consolidate two cases pending in the Superior Court with this case, namely, *Hamed v. Yusuf*, Civ. No. SX-2014-CV-278, and *Hamed v. United Corporation*, Civ. No. SX-2014-CV-287.¹³

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, 2015 was provided to the Master and Hamed with the filing of the fourth bi-monthly report reflecting a similar difference. An updated comparison through October 31, 2015 was provided to the Master and Hamed with the filing of fifth bi-monthly report. An updated comparison through December 31, 2015 was provided to the Master and Hamed with the filing of the sixth report, an updated comparison through February 29, 2016 was provided with the filing of the

¹³ By Order dated April 15, 2016, Civ. No. SX-2014-CV-287 was consolidated with this case.

seventh report, and an updated comparison through April 30, 2016 was provided with the filing of this report.

On October 15, 2015, the Master requested counsel for the Partners to submit a list of (a) any Partnership Assets other than the Plaza Extra Stores that require the attention of the Liquidating Partner or the Court for separation; and (b) any pending motions that affect the disposition of Partnership Assets. Counsel for the Partners submitted such lists to the Master on October 23, 2015 and reviewed such lists with the Master at a meeting on January 25, 2016. At such meeting, the parties discussed, among other issues, an invoice in the amount of \$57,605 from Dudley, Topper and Feuerzeig, LLP for services rendered to the Liquidating Partner after entry of the Wind Up Order through November 30, 2015 related to the Liquidating Partner's duties pursuant to § 4 of the Plan. The Liquidating Partner and the Master co-signed CRA check no. 281 on December 29, 2015 in payment of those fees.

Pursuant to a "Further Stipulation Regarding Motion to Clarify Order of Liquidation" filed with the Court on October 5, 2015 and "So Ordered" on November 13, 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 November 16, 2015, which was done, 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 March 3, 2016. At the request of Hamed, the Master extended the date for submission of the Partners' accounting and distribution plans until May 2, 2016. Subsequently, that deadline was further extended by the Master without a date certain.

Section 9, Step 4 of the Plan provides, in pertinent part, as follows: “Hamed’s accountant shall be allowed to view all partnership accounting information from January 2012 to present and to submit his findings to the Master.” Yusuf submits that Hamed’s accountants have not been prevented from viewing any Partnership accounting information for the relevant period. Instead of accepting John Gaffney’s proposal to have one of Hamed’s accountants work alongside him to facilitate their ability to review the relevant accounting information, Hamed’s accountants submitted 81 “Questions/Requests for Info” to Yusuf, and those requests were recently expanded even further. As reflected in his Reply to Plaintiff’s Notice of Objection to Liquidating Partner’s Seventh Bi-Monthly Report (page 5), Yusuf objects to these discovery requests to the extent they seek to interrogate Yusuf, through Mr. Gaffney, as opposed to simply seeking Mr. Gaffney’s assistance in accessing or reviewing partnership accounting information.

On May 17, 2016, Mr. Gaffney wrote a letter to counsel for Hamed, which accompanied his submission of responses to some of the document requests and questions from Hamed’s accountants. A copy of that letter is attached as **Exhibit 3**. After quoting Section 9, Step 4 of the Plan, Mr. Gaffney concludes his letter as follows:

To date, no one has been denied access to original records that we possess. Under the pending VZ requests, instead of being “allowed to view” the relevant partnership accounting information, I am being effectively requested to gather and spoon feed that information to VZ. I respectfully submit that my proposal to have a VZ accountant work on premises with the original records is much more consistent with the information access contemplated by the Plan than the process of my responding to the myriad information requests submitted by VZ.

The Master has reviewed and approves the process I have recommended.

Hamed v. Yusuf, et al.
Civil No. SX-12-CV-370
Page 11

Respectfully submitted this 31st day of May, 2016.

DUDLEY, TOPPER and FEUERZEIG, LLP

By: 

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Attorneys for Liquidating Partner

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of May, 2016, I caused the foregoing **Liquidating Partner's Eighth Bi-Monthly Report** to be served upon the following via e-mail:

Joel H. Holt, Esq.
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**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

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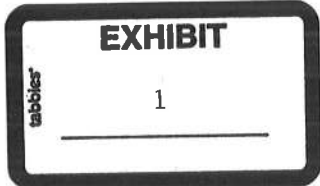
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St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED CORPORATION	)	CASE NO. ST-1997-CV-097
d/b/a PLAZA EXTRA,)	
	)	ACTION FOR BREACH
Plaintiff,	)	OF CONTRACT
v.)	
	)	JURY TRIAL DEMANDED
TUTU PARK LIMITED)	
)	
Defendant.)	
<hr/>		
UNITED CORPORATION	)	CASE NO. ST-2006-CV-353
d/b/a PLAZA EXTRA,)	
	)	ACTION FOR DAMAGES
Plaintiff,	)	AND INDEMNITY
v.)	
)	
TUTU PARK LIMITED)	
)	
Defendant.)	
<hr/>		



ORDER

This matter is before the Court *sua sponte*.¹ During a status conference on November 16, 2015, this matter was scheduled for jury selection on October 31, 2016. The Court granted the parties' request for an additional 90-day stay of this case in order to facilitate settlement negotiations. The parties were informed that the Court would fix pretrial deadlines at the expiration of the 90-day stay. The 90-day stay has now expired.

Accordingly, it is

ORDERED that this matter remains scheduled for jury selection **on October 31, 2016, at 9:00 a.m. in Courtroom III**; and it is further

ORDERED that, **on or before September 26, 2016**, Plaintiff shall submit its portion of the Joint Final Pretrial Order to Defendant in accordance with LRCi 16.1 and Appendix 1 to LRCi 16.1;² and it is further

¹ Case Nos. ST-1997-CV-097 and ST-2006-CV-353 were consolidated by Court Order dated January 10, 2007.
² Local Rule of Civil Procedure 16.1 applies to this proceeding as a rule of last resort through the operation of Superior Court Rule 7. *Sweeney v. Ombres*, 60 V.I. 438, 442 (V.I. 2014). The Court elects to rely on the well-developed framework provided by LRCi 16.1 due to the absence of same from the Superior Court Rules.

United Corp. v. Tutu Park, Ltd., Case No. ST-1997-CV-097
United Corp. v. Tutu Park, Ltd., Case No. ST-2006-CV-353
Page 2 of 2
Order

ORDERED that, on or before October 3, 2016, Defendant shall submit its portion of the Joint Final Pretrial Order to Plaintiff in accordance with LRCi 16.1 and Appendix 1 to LRCi 16.1; and it is further

ORDERED that the parties' fully completed and integrated Joint Final Pretrial Order in accordance with LRCi 16.1 and Appendix 1 to LRCi 16.1 and signed by both parties shall be filed with the Court by Plaintiff's attorney on or before October 17, 2016; and it is further

ORDERED that this matter is scheduled for a final pretrial conference on October 24, 2016 at 9:45 a.m. in Courtroom III; and it is further

ORDERED that a copy of this Order shall be directed to Attorney Carl A. Beckstedt, III, counsel for Plaintiff, and to Attorney Charles S. Russell, Jr., counsel for Defendant.

Dated: February 19, 2016

ATTEST:

Estrella H. George
Acting Clerk of the Court

By: 

Lori Boynes-Tyson
Court Clerk Supervisor 2/22/16



DENISE M. FRANCOIS
Judge of the Superior Court
of the Virgin Islands

CERTIFIED A TRUE COPY

DATE: 2/22/16

ESTRELLA H. GEORGE
Acting Clerk of the Court

By: 

Cameil A. Clarke
Court Clerk II

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

MOHAMMED HAMED and KAC357, INC., d/b/a)	
PLAZA EXTRA,)	
	)	CASE NO. ST-2001-CV-0000361
Plaintiffs,)	
vs.	)	ACTION FOR BREACH OF
	)	CONTRACT
TUTU PARK LIMITED and P.I.D., INC.,)	
	)	JURY TRIAL DEMANDED
Defendants.)	
)	

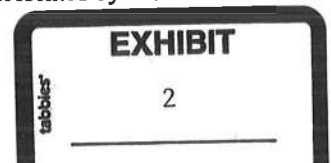
THIRD AMENDED SCHEDULING ORDER

By Order dated February 19, 2016, this Court directed the parties¹ to meet and confer and draft a proposed third amended scheduling order within fourteen (14) days of entry of the Order. This Court having received and reviewed the parties' proposed Third Amended Scheduling Order filed on March 4, 2016 along with their Revised version filed on April 8, 2016, it is

ORDERED that the Second Amended Scheduling Order issued by the Court on February 24, 2015 is hereby **AMENDED**, and the parties shall adhere to the following schedule in this matter:

1. All Supplementary Responses to written discovery shall be filed in accordance with the time limits set forth in the Federal Rules of Civil Procedure;
2. All factual depositions have been completed;
3. Any reply by Plaintiffs to Defendants TPL and PID's March 29, 2016 Opposition to former Plaintiff United Corporation's Motion for Partial Summary Judgment shall be filed **on or before April 15, 2016**;
4. Plaintiffs' experts shall be identified and copies of their reports, and Rule 26(a)(2)(B) and Rule 26(a)(2)(C) materials shall be served upon Defendants **on or before May 27, 2016**;
5. Defendants' experts shall be identified and copies of their reports, and Rule 26(a)(2)(B) and Rule 26(a)(2)(C) materials shall be served on Plaintiffs **on or before July 8, 2016**;
6. All experts' depositions shall be completed **on or before August 12, 2016**;
7. Mediation shall be completed **on or before September 23, 2016**;
8. *Daubert* motions, together with supporting brief, and any motions for summary judgment, shall be filed and served **on or before September 2, 2016**. The parties do not agree on whether summary judgment motions may be filed following remand from the V.I. Supreme Court, and what issues they may address. It is Plaintiffs' position that such motions must be limited to

¹ Plaintiffs are represented by John K. Dema, Esquire, and the Defendants are represented by Moore Dodson & Russell, P.C. (J. Daryl Dodson, of counsel).



matters that are unrelated to expert testimony and were not addressed in previous motion practice. It is Defendants' position that the Court should decide what issues may be addressed, in conformity with the V.I. Supreme Court's decision and instructions on remand, by ruling on the summary judgment motions ultimately submitted by the parties, and not through an advance ruling on what those motions may or may not contain. The parties reserve all rights and defenses in this regard;

9. Any brief in opposition to *Daubert* motions shall be filed and served **on or before September 21, 2016**, and replies shall be filed and served **on or before September 28, 2016**;

10. In accordance with LRCi 16.1 and Appendix I to LRCi 16.1, Plaintiffs shall submit their portion of the Joint Final Pretrial Order to Defendants **on or before October 28, 2016**;

11. In accordance with LRCi 16.1 and Appendix I to LRCi 16.1, Defendants shall submit their portion of the Joint Final Pretrial Order to Plaintiffs **on or before November 4, 2016**; and

12. The parties' Joint Final Pretrial Order, fully completed and integrated in accordance with LRCi 16.1 and Appendix I to LRCi 16.1 and signed by both parties, shall be filed with the Court by Plaintiffs **on or before November 11, 2016**; and it is further

ORDERED that this matter is hereby scheduled for a **final pretrial conference on Wednesday, January 18, 2017 at 9:30 a.m. in Courtroom III**; and it is further

ORDERED that all motions in *limine* shall be filed **at least twenty-one (21) days** prior to the date on which the trial is scheduled to commence; and it is further

ORDERED that this matter is hereby scheduled for **jury selection on Monday, January 23, 2017 at 9:00 a.m.** with trial to commence sometime during the following three-week jury period; and it is further

ORDERED that this Third Amended Scheduling Order shall not be modified except with good cause shown and the Court's approval; and it is further

ORDERED that a copy of this Third Amended Scheduling Order shall be directed to John K. Dema, Esquire, and Moore, Dodson & Russell, P.C. (Treston E. Moore, of counsel).

DATED: April 18, 2016
Nunc Pro Tunc to March 4, 2016



DENISE M. FRANCOIS
Judge of the Superior Court of the Virgin Islands

ATTEST:
ESTRELLA H. GEORGE
Acting Clerk of the Court

BY: _____
LORI BOYNES-TYSON
Court Clerk Supervisor ____/____/____



P.O. Box 763
Christiansted, VI 00821

May 17, 2016

Joel Holt, Esq. P.C.
2132 Company Street, Suite 2
Christiansted, VI 00820

Dear Joel,

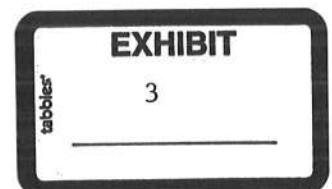
This letter accompanies my first submission of responses to document requests and questions from Vizcaino Zomerfeld (VZ). At this point I must point out the burdensome, time-consuming and expensive nature of these document requests. After reviewing my responses, you can decide yourself whether any of them serve in winding up the Partnership.

In our very first meeting with VZ in your office, I challenged the very extensive nature of the initial document request. Betty Martin, VZ Partner verbally backed off the initial request some. When I asked her about the scope of VZ's review, the answer was vague and you even questioned that scope in a later conversation with me in your office. We did establish that the scope did not include a full audit as I made it clear we did not have the resources for such work.

I suggested a less burdensome and more productive approach that Betty and her team thought could be implemented. The suggestion was to assign a junior level auditor who would work along with me. That was before the St. Thomas store auction. After the auction our challenge was overwhelming and would have likely crashed except for the assistance from Humphrey Caswell, former PE St. Thomas Controller.

Admittedly, there was a long gap between our initial meeting in March 2015 and beginning VZ field work in January 2016. During that gap, we completed the Kauffman Rossin DOJ review while I continued receiving extensive accounting record requests from VZ. But due to the extended time between the first and second meetings, I was able to provide most of the records. But doing so was so burdensome, time-consuming and expensive that I recommended again that I provide all accounting databases augmented with 6 month increments of original records. In other words, I would deliver 6 months of original records and upon review completion I would deliver the next 6 months and pick up the first 6 months.

To date the first 6 months of original records have not been returned nor have you requested the next 6 months. During our meeting in January 2016, I suggested again that someone be assigned to work closely with me, especially in response to VZ's request for detailed till stat reports. Instead of requesting the provision hundreds of detailed till stat reports, have someone from your team work with me to review a handful of such reports. Once done, I was confident VZ would conclude that reviewing hundreds was unnecessary just as Kauffman Rossin did during their review.



Keep in mind, the Hameds controlled the cash rooms and managed the cash registers in all three stores during my entire time with the company. The Yusufs were much less involved in this area and although I implemented the "sales journal" system, I had no indication that there were any weaknesses or other issues in the Hameds' management of the cash rooms and registers. Once someone from VZ duplicates the documents contained in the daily sales journals and the integrity therein, I'm confident they would see that a document request for hundreds of till stat detail reports is non-productive and unnecessarily time-consuming and expensive.

Similarly, the extensive requests for documents supporting expenditures including cancelled checks are questionable knowing that no payments were made without signatures from a member of each family. If the Hameds disputed an item, they simply refused to sign the check. Admittedly, we aren't able to provide many cancelled checks. Once you review my responses, you should clearly understand why. In view of the extent to which I've provided original bank records though, I question the intent behind continued requests for cancelled checks or bank statements that VZ knows we don't have, either because the Hameds retained possession or banks refused to provide them.

Your recent document requests and inquiries submitted last week appear to be legitimate as VZ has challenged or questioned some of my accounting decisions in winding up the Partnership. While I don't object to being challenged, I would like to say that I put off having to make some decisions as long as possible. I mentioned this in my meetings with VZ as well. The very request for VZ to assign someone to work with me was so we could discuss and make joint decisions on nominal issues.

For instance, after the March 8, 2015 East/West split there were employee loans that were extremely difficult to track and collect. Employees who owed money at PE East transferred to PE West and vice versa. While I offered to provide and may have even sent details to PE West, I assumed that some loans simply would not be collected. Or that if they were collected, I might not be informed of it as in the case of 3 payments by one employee at PE West who we followed up on a few months ago. Therefore, I made the decision to write them off with the plan of revisiting them when time allowed. There are adjustments (credits) however small that are due to the Partnership. But the time it takes to research these credits is being consumed in otherwise burdensome, time-consuming and expensive document requests.

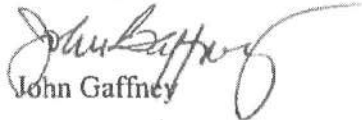
With the provision of what I've done so far, I plan to take a leave of absence from any other work for the Partnership related to these document requests for at least one month in order to tend to other emergencies, many of which relate to the Partnership. Refer to my documents of ongoing PE challenges with taxing authorities which are being ignored due to VZ document requests.

Also, I request for VZ to return the original records consisting of the sales journals for PE East and West for the first 6 months of 2013 and after one month for VZ to assign someone who can work on premises (Plaza East) with original records to avoid the burdensome task of providing electronic copies. As you know, Section 9, Step 4 of the Plan simply provides that "Hamed's accountant shall be allowed to view all partnership accounting information from January 2012 to

present..." To date, no one has been denied access to original records that we possess. Under the pending VZ requests, instead of being "allowed to view" the relevant partnership accounting information, I am being effectively requested to gather and spoon feed that information to VZ. I respectfully submit that my proposal to have a VZ accountant work on premises with the original records is much more consistent with the information access contemplated by the Plan than the process of my responding to the myriad information requests submitted by VZ.

The Master has reviewed and approves the process I have recommended.

Sincerely,


John Gaffney