

**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,
MUFEEED HAMED, HISHAM HAMED, and
PLESSEN ENTERPRISES, INC.**,

Additional Counterclaim Defendants.

MOHAMMAD HAMED,

Plaintiff,

v.

UNITED CORPORATION,

Defendant.

MOHAMMAD HAMED,

Plaintiff,

v.

FATHI YUSUF,

Defendant.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

Consolidated With

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES
AND DECLARATORY RELIEF

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT
AND CONVERSION

JURY TRIAL DEMANDED

OPPOSITION TO MOTION TO SEVER

Defendants/counterclaimants Fathi Yusuf ("Yusuf") and United Corporation ("United") (collectively, the "Defendants"), through their undersigned counsel, respectfully submit this

Opposition to the “Motion and Memorandum In Support of Motion to Sever” (“Motion to Sever”) filed by plaintiff/counterclaim defendant Mohammad Hamed (“Hamed”) on December 15, 2016. The Motion to Sever should be summarily denied for the following reasons:

1. On March 18, 2016, counsel for Hamed signed a “Stipulation Re: Consolidation” in which he stipulated “to substantively consolidate these cases, since the claims asserted in the more recently filed case, SX-2014-CV-278 [the “278 Case”] (assigned to Judge Molloy), may be treated as claims for resolution in the liquidation process of the older case, SX-2012-CV-370 [the “370 Case”] (assigned to Judge Brady).” See Stipulation attached as **Exhibit 1**, which was entered as an Order of the Court on October 13, 2016. As a result of and in reliance upon this Stipulation, Yusuf addressed the \$802,966 claim asserted in the 278 Case in his Accounting Claims and Proposed Distribution Plan (“Yusuf Accounting Claim”) submitted to the Master and counsel for Hamed in the 370 Case on September 30, 2016, noting at page 11 thereof that “the parties stipulated to have these claims consolidated into the 370 Case and incorporated into the Partnership accounting and distribution.” (Footnote omitted). Having stipulated to have his claims consolidated into the 370 Case and incorporated into the Partnership accounting and distribution, Hamed cannot now seek to undo the consolidation he agreed to, Yusuf relied upon, and the Court ordered.

2. As Yusuf pointed out in his Opposition to Hamed’s Motion and Memorandum for Partial Summary Judgment, attached as **Exhibit 2**, Hamed has improperly “cherry picked” and filed only a portion of Yusuf’s Accounting Claim with this Court in an effort to mislead it into believing that Yusuf has conceded that he owes \$802,966 to Hamed. As pointed out in that Opposition, nothing could be further from the truth since a complete review of Yusuf’s Accounting Claim shows that Hamed owes Yusuf at least \$13,402,709.36 after crediting Hamed with the \$802,966 at issue in the 278 Case.

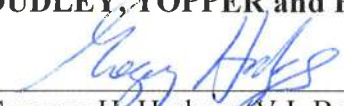
For all of the foregoing reasons, Defendants respectfully request this Court to deny the Motion to Sever and to provide them such further relief as is just and proper under the circumstances.

Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: December 22, 2016

By:



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Attorneys for Fathi Yusuf
and United Corporation

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of December, 2016, I served the foregoing **Opposition To Motion To Sever** via e-mail addressed to:

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The Honorable Edgar A. Ross
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**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MOHAMMAD HAMED, by his
authorized agent **WALEED HAMED**,

Plaintiff/Counterclaim Defendant,

vs.

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MOHAMMAD HAMED,

Plaintiff,

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UNITED CORPORATION,

Defendant.

MOHAMMAD HAMED,

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v.

FATHI YUSUF,

Defendant.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

Consolidated With

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES
AND DECLARATORY RELIEF

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT
AND CONVERSION

JURY TRIAL DEMANDED

EXHIBIT 1

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IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

MOHAMMAD HAMED

Plaintiff)

)

)

)

vs)

FATHI YUSUF

)

)

)

CASE NO. SX-14-CV-0000278

ACTION FOR: DEBT - CIVIL

Defendant

**NOTICE OF ENTRY OF
ORDER GRANTING
STIPULATION FOR
CONSOLIDATION**

TO: HON. EDGAR ROSS (VIA E-MAIL)
JOEL H. HOLT, ESQ.
CARL HARTMANN, ESQ.
✓ GREGORY HODGES, ESQ.
NIZAR DEWOOD, ESQ.
MARK ECKARD, ESQ.
JEFFREY MOORHEAD, ESQ.

Please take notice that on October 14, 2016 a(n) ORDER GRANTING
STIPULATION FOR CONSOLIDATION dated October 13, 2016 was entered by
the Clerk in the above-entitled matter.

Dated: October 14, 2016

Estrella H. George
Acting Clerk of the Court



TAMARA ALLEN
COURT CLERK II

**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 and Counterclaimants,

vs.

**WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED, and
PLESSEN ENTERPRISES, INC.,**

Counterclaim Defendants.

MOHAMMAD HAMED,

Plaintiff,

vs.

FATHI YUSUF,

Defendant.

Case No.: SX-2012- CV-370 ✓

**ACTION FOR DAMAGES,
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

Case No.: SX-2014- CV-278

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

STIPULATION RE: CONSOLIDATION

The parties in each of the above captioned matters, by counsel, hereby stipulate to substantively consolidate these cases, since the claims asserted in the more recently filed case, SX-2014-CV-278 (assigned to Judge Molloy), may be treated as claims for resolution in the liquidation process of the older case, SX-2012-CV-370 (assigned to Judge Brady). As SX-2012-CV-370 is the oldest case, it is respectfully submitted that SX-2014-CV-278 should be consolidated with it for final disposition and assigned to Judge Brady. A proposed Order is attached.

It is further stipulated that this stipulation renders moot the motion for stay of discovery filed by Mohammad Hamed on February 26, 2016 in Civil No. SX-2014-CV-278.

It is further stipulated that this stipulation shall be filed in Civil No. SX-2012-CV-370 and Civil No. SX-2014-CV-278.

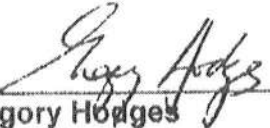
Dated: March 11, 2016



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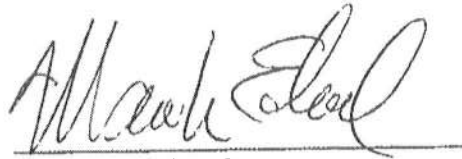
Dated: March 10, 2016



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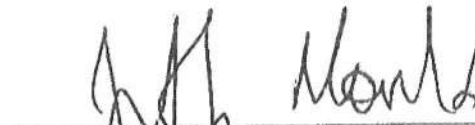
Nizar A. DeWood
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nizar@dewood-law.com

Dated: March 18, 2016



Mark W. Eckard
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Dated: March 18, 2016



Jeffrey B. Moorhead
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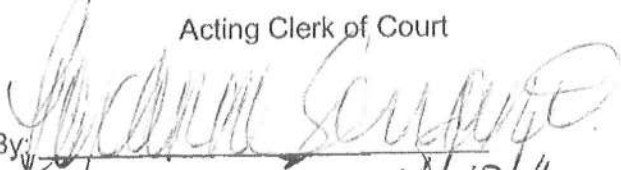
ORDER
Page 2

Dated: 10/13/16


HONORABLE ROBERT A. MOLLOY
Judge, Superior Court

ATTEST: ESTRELLA GEORGE
Acting Clerk of Court

CERTIFIED TO BE A TRUE COPY
This 14th day of Oct 2016

By: 
Deputy Clerk
10/13/16

CLERK OF THE COURT
By:  Court Clerk

Dist: Honorable Edgar Ross, Joel H. Holt, Carl Hartmann, Gregory Hodges, Nizar Dewood, Mark Eckard, Jeffrey Moorhead

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
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)
Plaintiff/Counterclaim Defendant,)

vs.)

FATHI YUSUF and UNITED CORPORATION,)
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Defendants/Counterclaimants,)

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WALEED HAMED, WAHEED HAMED,)
MUFEED HAMED, HISHAM HAMED, and)
PLESSEN ENTERPRISES, INC.,)
)
Additional Counterclaim Defendants.)

MOHAMMAD HAMED,)
)
Plaintiff,)
v.)
UNITED CORPORATION,)
)
Defendant.)

MOHAMMAD HAMED,)
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Plaintiff,)
v.)
FATHI YUSUF,)
)
Defendant.)

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

Consolidated With

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES
AND DECLARATORY RELIEF

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT
AND CONVERSION

JURY TRIAL DEMANDED

EXHIBIT 2

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

MOHAMMAD HAMED,

Plaintiff,

v.

FATHI YUSUF,

Defendant.

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT
AND CONVERSION

JURY TRIAL DEMANDED

**OPPOSITION TO HAMED'S MOTION AND MEMORANDUM FOR PARTIAL
SUMMARY JUDGMENT**

Defendant Fathi Yusuf ("Yusuf"), through his undersigned counsel, respectfully submits this Opposition to "Hamed's Motion and Memorandum for Partial Summary Judgment" filed on November 17, 2016 (the "Motion"). Because the Motion is filled with misrepresentations and is noncompliant with the summary judgment procedure followed by this Court, it should be summarily denied. Furthermore, the Motion improperly cites and relies upon a portion of Yusuf's Accounting Claims and Proposed Distribution Plan ("Yusuf's Claim"), which was not filed with the Court but rather submitted only to the Master and counsel for Hamed pursuant to this Court's January 7, 2015 Order Adopting Final Wind Up Plan (the "Wind Up Order") in the pending case captioned *Hamed v. Yusuf*, Civ. No. SX-12-CV-370 (the "370 Case"), the November 13, 2015 Order approving the parties' Stipulation Regarding Motion To Clarify Order of Liquidation (the "Stipulated Order") in the 370 Case, and the September 22, 2016 directive of the Master in the 370 Case. Contrary to Hamed's representation at p. 2 of the Motion, Yusuf's Claim was never filed with the Court. In fact, the only portions of Yusuf's Claim that have been filed with the Court are the portions Hamed has cherry picked and improperly filed in an effort to

mislead this Court into believing that Yusuf has conceded that he owes \$802,966 to Hamed. Nothing could be further from the truth. Although Yusuf has filed motions to strike and for sanctions in the 370 Case because of Hamed's clear violation of the Wind Up Order, Stipulated Order, and the Master's directive by filing his accounting claims and portions of Yusuf's Claim directly with the Court, because Hamed has so far escaped the consequences of his intentional violation of this Court's Orders and the Master's directive, he continues to mischaracterize Yusuf's Claim, which is not before the Court in this case or in the 370 Case, because it was submitted only to the Master and counsel as required by the Wind Up Order, Stipulated Order, and the Master's directive.

By quoting from § V of Yusuf's Claim only, without the context of the entire Yusuf Claim, Hamed attempts to give this Court the false impression that Yusuf concedes he owes Hamed \$802,966. This is the same false impression that Hamed attempted to give the Court in the 370 Case in his "Opposition to Yusuf's Motion to Strike Supplemental Claims" filed in that case on October 25, 2016 (the "Opposition"). At p. 4 of the Opposition, Hamed misquoted a footnote to the Claim Distribution Summary attached as Exhibit A to Yusuf's Claim, which reflected that the total due from Hamed to Yusuf was \$13,402,709.36. The footnote actually read as follows:

This amount [\$13,402,709.36] represents the sum of \$9,670,675.36 from § V and \$4,385,000 from § VIII less \$652,966.00 (\$802,966.00 from § VI - \$150,000.00 from Claim n. 15). It represents the amount known as of September 30, 2016 based upon the information available, not including any punitive damages to which Yusuf may be entitled. It is subject to further revision following the reopening of discovery.

Clearly, Yusuf is claiming that Hamed owes him at least \$13,402,709.36 after crediting Hamed with the \$802,966 at issue. Hamed's claim that there is no dispute that the \$802,966 is due and owing to him is simply disingenuous.

Hamed claims at p. 1 of the Motion that "to date, no consolidation order has been entered" in this case. This is untrue since this Court entered an order granting the stipulation for consolidation on October 13, 2016. Accordingly, the Motion should be summarily denied since it should have been filed in the consolidated 370 Case.

Finally, the Motion should be summarily denied because it is clearly noncompliant with LRCi. 56.1(a)(1), the provisions of which are routinely followed by this Court pursuant to Super. Ct. R.7. The Motion is deficient in that it is not supported by any affidavits and it is not accompanied by a separate statement of the material facts about which Hamed contends there is no genuine issue.

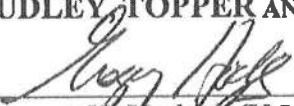
For all of the foregoing reasons, Yusuf respectfully requests this Court to deny the Motion and to provide him such further relief as is just and proper under the circumstances.

Respectfully submitted,

DUDLEY, TOPPER AND FEUERZEIG, LLP

Dated: December 7, 2016

By:


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Attorneys for Fathi Yusuf

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 2016, I caused the foregoing First **Opposition To Hamed's Motion And Memorandum For Partial Summary Judgment** to be served upon the following via email:

Joel H. Holt, Esq.
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The Honorable Edgar A. Ross
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Michelle Barker

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