

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

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD 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,

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED,

Plaintiff,

vs.

UNITED CORPORATION,

Defendant.

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED,

Plaintiff,

vs.

FATHI YUSUF,

Defendant.

Case No.: SX-2012-cv-370

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

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-287

**ACTION FOR DECLARATORY
JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-278

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

**HAMED REPLY AS TO CLAIM NO. H-3:
\$504,591.03 OF PARTNERSHIP FUNDS TAKEN BY YUSUF - PAID TO HIS LAWYER**

The Yusuf/United ("Yusuf") opposition is really a motion to stay pending additional discovery. However, Defendants' request that they be allowed to do discovery of their own (former) lawyer, Joe DiRuzzo, is simply a delay tactic that this Court should not permit, as this claim can be resolved on the record before the Master without any further discovery.

In this regard, Judge Brady, referencing hearing exhibits 15 and 16, found in his April 25, 2013, opinion as follows:

Funds from supermarket accounts have also been utilized unilaterally by Yusuf, without agreement of Harmed, **to pay legal fees of defendants relative to this action and the Criminal Action**, in excess of \$145,000 to the dates of the evidentiary hearing. (Emphasis added).

See *Hamed v. Yusuf*, 58 V.I. 117, 128, 2013 WL 1846506 at *6 (¶38) (V.I. Super. Apr. 25, 2013). That section included a footnote 5, which stated:

Plaintiff has submitted Exhibit 30 with his February 19, 2013 Second Request to Take Judicial Notice and Request to Supplement the Hearing Record, granted by separate Order. Defendants' opposition to Plaintiffs' Motion did not address Exhibit 30, consisting of two checks in the total sum of more than \$220,000 in payment to defense counsel in this action, dated January 21, 2013 and February 13, 2013, drawn on a supermarket account by Defendants without Plaintiffs' consent. **Although the evidence is cumulative and not essential to the Court's decision herein, it reflects an ongoing practice of unilateral withdrawals and the possibility of continuing unilateral action in the future.** (Emphasis added).

Thus, the Court noted that a total of at least \$365,000 had been paid to Yusuf's personal lawyers from Partnership funds, without Hamed's consent, as of April 25, 2012.

In fact, Yusuf does not deny that funds in the amount of \$504,591.03 were eventually paid to DiRuzzo's law firm, as evidenced by the checks submitted with Hamed's motion regarding this claim. Instead, Yusuf now suggests that a portion of those funds were used for work in the criminal case, which Yusuf should not have to pay. That is untrue, **as all of these funds paid** to DiRuzzo were paid for the *personal legal fees* of Fathi Yusuf, and not for the Partnership, regardless of whether DiRuzzo billed for the criminal or civil case.

In this regard, attached is the declaration of Gordon Rhea verifying that neither DiRuzzo nor his firm did any criminal work **on behalf of the Partnership** under the Joint Defense Agreement, which ended on September 25, 2012. See **Exhibit 1**. Thereafter, when the Joint Defense ended, each defendant paid his own legal fees. In fact, DiRuzzo never contended that he represented the Partnership in the criminal case, if had he done so, he would not have been able to represent Yusuf personally in the civil case due to the obvious conflict of interest. As noted above, Judge Brady criticized civil **and criminal** fees.

Thus, the fact that DiRuzzo may have billed Fathi Yusuf for work in the criminal case as part of the \$504,591.03 is irrelevant, as it is undisputed that this total amount was for bills incurred in behalf of Fathi Yusuf individually. Thus, the total amount of \$504,591.03 (plus interest) is owed back to the Partnership.¹

One final comment is in order. Yusuf makes passing reference to an Hamed claim for reimbursement of fees incurred in the criminal case in excess of \$300,000 in order to try to muddy the record. This is a distinct claim for the payment of fees incurred by the Partnership under the Joint Defense Agreement prior to its termination, which Hamed finally paid at the urging of Magistrate Judge Barnard so the criminal case could be closed.

In summary, there is no dispute that the total amount of \$504,591.03 was paid to Yusuf's personal lawyer by the Partnership, which claim should now be resolved, with a required payment back to the Partnership, plus interest, or alternatively, an equal payment of this full amount to be paid to Hamed.

¹ To the extent Hamed's claim may have been misconstrued as only seeking reimbursement of fees related to the civil case, that misconception is hereby clarified—the claim for \$504,591.03 (plus interest) is for all fees paid by the Partnership for Yusuf's personal legal fees, whether incurred in regard to the criminal case or the civil case.

Dated: January 16, 2018



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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Hon. Edgar Ross
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CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

This document complies with the page or word limitation set forth in Rule 6-1(e).



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DECLARATION OF GORDON RHEA, ESQ.



I, Gordon Rhea, declare, pursuant to V.I. R. CIV. P. 84, as follows:

1. I have personal knowledge of the facts set forth herein.
2. I am an attorney licensed to practice law in the U.S. Virgin Islands.
3. I was one of the defense lawyers in the criminal action filed by the United States of America in the District Court of the Virgin Islands (St. Thomas Division), Docket No, 1:05-cr-00015, against the following defendants:

FATHI YUSUF MOHAMAD YUSUF, aka Fathi Yusuf
WALEED MOHAMMAD HAMED, aka Wally Hamed
WAHEED MOHAMMAD HAMED, aka Willie Hamed
MAHER FATHI YUSUF, aka Mike Yusuf
NEJEH FATHI YUSUF,
ISAM YUSUF, and
UNITED CORPORATION

4. All of the defendants in that criminal case, except for Isam Yousef who was never apprehended, were represented jointly by multiple counsel, including myself, under a Joint Defense Agreement.
5. The Joint Defense Agreement continued until September 19, 2012, when the Joint Defense Agreement was terminated.
6. Until the Joint Defense Agreement was terminated all legal bills were paid from a United Plaza account.
7. Joe DiRuzzo was never part of the Joint Defense Agreement and was not paid pursuant to it.
8. After the Joint Defense Agreement ended, each defendant paid their own fees.

I declare under penalty of perjury that the foregoing is true and correct, executed on this 15th day of January, 2018.

Dated: January 15 2018


GORDON RHEA