

**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,

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

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.

Yusuf does not dispute that neither his order for the two condensers nor the shopping carts were invoiced **until after** the parties had stipulated in January of 2015 that the value of the equipment for the Plaza East store was \$150,000. Nor does he dispute that Judge Brady approved on the split order on January 30, 2015. **The order provided for a valuation of Partnership equipment that Yusuf would have to pay to purchase this equipment from the Partnership.**

While who should pay for these two items has been previously disputed, Yusuf notes that the Special Master has already stated:

If said purchase was not considered at the time of the stipulation, then an adjustment should be made; if considered, then no adjustment.

This directive is simply common sense, and is what should control the determination of these two claims.

While Yusuf concedes these items were not 'officially' invoiced until after the January 30th Order, he raises several arguments in support of his assertion that the partnership should still pay for these two items (costing \$59,867.02 and \$13,177) that improved his store at the Partnership's expense **after** the \$150,000 valuation had already been agreed upon.¹

First, Yusuf argues that Hamed "*knew or should have known* these items were needed for the store" when the \$150,000 valuation was being done. That argument is contrary to both the facts (and the extensive record) in this case, as the Hameds were surprised by these two purchases and *immediately* objected to them. See *Declaration of Wally Hamed* attached as **Exhibit 1**. Indeed, it is absurd to argue that the Hameds "knew" about \$73,000 in new purchases (and took those purchases into consideration) when the total value of the entire store's equipment was agreed to only to

¹ The parties do not dispute that the condensers and shopping carts are "equipment."

be \$150,000. Nor is it clear why their knowing of needed repairs would change everything -- as Yusuf certainly is not arguing that the Hameds could charge for post-split repairs even if previously needed at Tutu.

Second, Yusuf argues that the Plaza East store was in terrible shape when the transfer took place. That point, even if true, is irrelevant, as the controlling figure of what the store's equipment was worth *is what the parties agreed to* (and the Court approved). Indeed, Plaza West had to replace its condensers and purchase shopping carts **after** the stores were transferred. These **were not paid for by the Partnership**. See **Exhibit 1**.

In short, the parties agreed upon the value of the equipment in the Plaza East store, it was approved by this Court on January 30, 2015, and Yusuf agreed to pay the partnership to purchase this equipment. Thus, Hamed is entitled to an equal payment (or Yusuf must reimburse the partnership) for the cost of the additional items Yusuf purchased for this store with partnership funds after that date, as he did here.

Dated: January 19, 2018

A handwritten signature in blue ink, reading "Carl J. Hartmann III", written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Hon. Edgar Ross

Special Master
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Carl J. Hamed

CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

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



Carl J. Hamed

DECLARATION OF WALLY HAMED

I, Wally Hamed, declare, pursuant to V.I. R. CIV. P. 84, as follows:

1. I am over 18 years of age.
2. I am now the named Plaintiff herein and am familiar with the facts set forth herein.
3. I am the person who agreed to the valuation of \$150,000 for the equipment in the Plaza East store, which the Court subsequently approved on January 30, 2015, setting the amount Fathi Yusuf would have to pay the partnership to purchase this equipment, which was agreed to after consulting my brother Mafi Hamed, as he and I were the two Hamed family members that worked in this store.
4. At no time were we informed about the potential purchase of the two condensers and the 100 shopping carts until we were presented with checks to pay for these items, which was well after January 30, 2015.
5. Had we known these new items, costing in excess of \$73,000, were to be included in the Plaza East equipment to be purchased by Fathi Yusuf from the Partnership, the Hameds would not have agreed to the \$150,000 figure that was then presented to the Court.
6. After the stores were transferred in March of 2015, the Plaza West store had to replace its condensers and buy new shopping carts, but the partnership did not pay for these items, nor was it asked to do so, as the valuations for the equipment being purchased from the Partnership had already been agreed to.

I declare under penalty of perjury that the foregoing is true and correct, executed on this 19th day of January, 2018.



Wally Hamed

EXHIBIT

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