

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,

Case No.: SX-2012-CV-370

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

JURY TRIAL DEMANDED

MOHAMMAD HAMED,

Plaintiff,

vs.

FATHI YUSUF,

Defendant.

Case No.: SX-2014-CV-278

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

MOHAMMAD HAMED,

Plaintiff,

vs.

UNITED CORPORATION,

Defendant.

Case No.: SX-2014-CV-287

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

**REPLY TO YUSUF'S OPPOSITION TO MOTION TO STRIKE THE
"REVISED BDO REPORT"**

Despite Yusuf’s efforts to put a positive spin on it, Judge Brady’s scathing criticism of the BDO report gutted it. Undaunted, Yusuf now submits a “revised” BDO report, reduced from 62 pages to a 1 page accounting spreadsheet. Yusuf touts this declaration as a “compilation” of *offsetting claims*. The revised spreadsheet is still defective, as it is nothing more than a simple invasion into the tasks assigned to the Special Master. Moreover, **additional 'discovery' will not correct this obvious flaw.**

I. The revised BDO report improperly attempts to usurp the Master’s role

The revised BDO report tries to “package” an “expert opinion” about multiple, individual claims into one “super claim”, seeking \$4.5 million from Hamed, as a “stand-alone” single claim. It is not. Instead, BDO’s revised report is an attempt to **decide** multiple claims that the Master needs to resolve -- without any evidentiary or testimonial support -- and then group them into one “claim.” However, the task of verifying or rejecting each of these claims (and any offsets) one at a time, is for the Special Master to decide based on actual evidence, not BDO’s say so.

A review of this *revised* report confirms that **each entry is a separate claim** that cannot be lumped together, as the Master must find that *each one* is valid. For example:

1. BDO still seeks to 'assess' Waleed (Wally) Hamed for \$1,778,103 for “Amount owed by Hamed family to Yusuf **as per agreement before raid Sept 2001.**” (Emphasis added). See **Exhibit 1**. However, as noted in the reply seeking to strike this claim, filed at the same time as this response, Judge Brady made it clear that transactions that predated September 17, 2006, were now barred. Thus, the inclusion of this claim in the “revised” BDO report is in direct violation of this Court’s order. More to the point here, **only the Master, not BDO, can decide if this claim is still valid or is barred.**
2. BDO allocates \$4.1 million in attorney’s fees to Hamed and \$237,691 to Yusuf for the defense of the criminal case. **Those “accounting entries” actually consist of “findings” that this allocation is appropriate, which is a finding reserved for the Special Master, not BDO.¹**

¹ BDO still ignores the un-contradicted declaration of Gordon Rhea, the lawyer who headed up the legal team for the criminal case, submitted at the March 6th hearing that all legal work was done jointly on behalf of all of the Yusuf/Hamed defendants, so that such an allocation was improper. See **Exhibit 7** to Hamed’s initial motion re BDO.

3. Yusuf argues on pp. 10-12 of its opposition that BDO *did* take into account the fact that Mafi Hamed earned rents outside of his Plaza income, attaching Table 26B from BDO’s report for Scotia account 9811 that supposedly supports this argument. However, a review of that table confirms that BDO **did not make any such adjustment for the years prior to 2012**, despite Mafi’s testimony that **all deposits into this account were rent from a business unrelated to Plaza Extra**. See **Exhibit 2**. Thus, this obviously incorrect allocation is **STILL** in the BDO report and **STILL** consists of a “finding” that this bank account contains partnership withdrawals.² **More to the point**, not only is this “accounting entry” incorrect, **but it involves a finding reserved for the Master**.
4. BDO includes the Hamed \$2.7 million claim (conceded by Yusuf) as simply an accounting entry, which it then offsets with other claims, even though that is a pending claim now before the Master to decide, as will be the case regarding any offsetting claims. **Again, BDO is attempting to replace the Master**.

These few examples make it clear that Yusuf is trying to use this “revised” BDO report to have BDO make “findings” that are in fact separate “judgments” as to ultimate issues -- decisions entrusted to the Special Master, not BDO.

In short, each BDO accounting entry constitutes a separate claim. While Yusuf is free to raise any claims that Hamed withdrew funds to which he is entitled to an offset, **he *must* present evidence proving *each* such specific claim to the Special Master**, not just say "allow it because BDO says so" in an accountant’s “compilation” summary.

II. Yusuf’s request to do more discovery will not correct this fatal flaw

Because the very nature of the revised BDO report is flawed, no amount of discovery will cure this defect. **Indeed, the mere suggestion that this report may be further modified "after discovery" runs afoul of the Bar Orders entered in this accounting phase**. BDO’s \$4.5 million claim is set, which is nothing more than an unwarranted intrusion into the Master’s task of deciding claims. Thus, further discovery

² See **Exhibit 2**, attached hereto, with markings in red where no such alleged adjustment was made. It is amazing that Yusuf argues that Mafi’s March 6th testimony was addressed by BDO, when no adjustment was made. When will such antics stop?

would be a waste of time and resources, further delaying this matter, as such discovery will not cure this fatal defect. It would also contravene Judge Brady’s orders.

III. Conclusion

The revised BDO report--that “packages” multiple “findings” into an alleged single “claim” of \$4.5 million--should be stricken as invading the province of the Special Master, who has been entrusted with the sole responsibility of making such findings. Moreover, **additional discovery will not change the simple fact that it is the Special Master, not BDO, who has been entrusted to make these decisions.** Thus, BDO’s one page “compilation” should be stricken now, allowing the Master to make all decisions on each individual claim, rather than allowing BDO to try grouping such findings it made into a single claim.

Dated: January 22, 2017



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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of January, 2018, I served a copy of the foregoing by email (via Case Anywhere ECF), as agreed by the parties, on:

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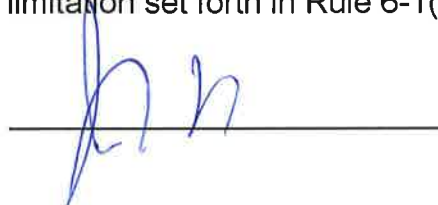
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CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

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





Dudley, Topper and Feuerzeig, LLP
 United Corporation
 Civil No. SX-12-CV-99

ITEM #4

ITEM #1

ITEM #2

Summary calculation of Additional Income as a result of withdrawals from Supermarkets' accounts (or partnership's accounts) - January 1994 to August 2014. (Including adjustments)

Summary of Withdrawals

Description	Hamed					Total
	Mohammad	Waleed	Waheed	Mufeed	Hisham	
Funds received from partnership through checks	\$ 1,500,000.00	\$ -	\$ -	\$ -	\$ -	\$ 1,500,000.00
Withdrawals from the partnership with a signed ticket/receipt	-	237,352.75	-	-	-	237,352.75
Amount owed by Hamed family to Yusuf as per agreement before raid Sept 2001. As per Mike's testimony these tickets were burned. (Refer to Letter dated August 15, 2012)	-	1,778,103.00	-	-	-	1,778,103.00
Payments to third parties on behalf of Hamed/Yusuf with partnership funds either with tickets or checks	-	20,311.00	-	-	-	20,311.00
Payments to Attorneys with partnership's funds	-	3,749,495.48	372,155.95	-	-	4,121,651.43
Funds received by cashier's checks	-	-	-	-	-	-
Total Partnership	1,500,000.00	5,785,262.23	372,155.95	-	-	7,657,418.18
Deposits to bank and brokerage accounts	16,505.80	430,439.13	100,000.00	306,999.56	510,061.57	1,364,006.06
Payments to credit cards	-	422,824.70	-	179,786.80	-	602,611.50
Investments (cost) sold as per tax returns	-	-	-	-	-	-
Subtotal Lifestyle analysis	16,505.80	853,263.83	100,000.00	486,786.36	510,061.57	1,966,617.56
Net Withdrawals	\$ 1,516,505.80	\$ 6,638,526.06	\$ 472,155.95	\$ 486,786.36	\$ 510,061.57	\$ 9,624,035.74

Note:

1 Total amounts include adjustments made for withdrawals in 2016.

ITEM #3





Dudley, Topper and Feuerzeig, LLP

Mohammad Hamed v. Fathi Yusuf and United Corporation

Civil No. SX-12-CV-99

(October 2001 to December 2012)

Account Owner: Mufeed Hamed / Wally Hamed
 Financial Institution: Scotiabank
 Type of Account: Checking Account
 Account Number: 058-45609811

Barred by Judge
Brady's Opinion

Year	Statement Date	Transaction Date	Deposits	Adjustment	Adjusted Amount	Tickmarks/ Note
2001	10/15/2001	10/1/2001	\$ 5,000.00	\$ (1,000.00)	\$ 4,000.00	A, B, 1
2001	11/15/2001		No deposit			2
2001	12/15/2001		No deposit			2
Total Year 2001			5,000.00	(1,000.00)	4,000.00	
2002	1/15/2002		No deposit			2
2002	2/15/2002		No deposit			2
2002	3/15/2002	3/8/2002	3,980.00		\$ 3,980.00	A, B
2002	4/15/2002		No deposit			2
<i>Statements between May and August were not available.</i>						
2002	9/13/2002	No available	13,000.00		13,000.00	A
2002	9/13/2002	No available	2,500.00		2,500.00	A
2002	9/13/2002	No available	2,500.00		2,500.00	A
2002	9/13/2002	No available	2,000.00		2,000.00	A
2002	9/13/2002	No available	100.00		100.00	A
2002	9/13/2002	No available	1,500.00		1,500.00	A
2002	9/13/2002	No available	2,400.00		2,400.00	A
2002	9/13/2002	No available	4,410.00		4,410.00	A
2002	9/13/2002	No available	3,700.00		3,700.00	A
2002	9/13/2002	No available	3,500.00		3,500.00	A
2002	9/13/2002	No available	1,500.00		1,500.00	A
Total Year 2002			41,090.00	-	41,090.00	
<i>Statements between October 2002 and December 2006 were not available.</i>						

EXHIBIT
2

Barred by Judge Brady's Opinion

Year	Statement Date	Transaction Date	Deposits	Adjustment	Adjusted Amount	Tickmarks/Notes
2006	1/15/2007	12/20/2006	1,400.00		1,400.00	A
2006	1/15/2007	12/20/2006	2,000.00		2,000.00	A
Total Year 2006			3,400.00	-	3,400.00	
2007	1/15/2007	1/9/2007	1,400.00		1,400.00	A
2007	1/15/2007	1/9/2007	3,030.00		3,030.00	A
2007	1/15/2007	1/12/2007	0.60	(0.60)	-	A, 3
2007	2/15/2007	2/9/2007	1,355.00		1,355.00	A
2007	2/15/2007	2/9/2007	2,585.00		2,585.00	A
2007	2/15/2007	2/15/2007	1.30	(1.30)	-	A, 3
2007	3/15/2007	3/2/2007	3,030.00		3,030.00	A
2007	3/15/2007	3/2/2007	1,000.00		1,000.00	A
2007	3/15/2007	3/14/2007	2,145.00		2,145.00	A
2007	3/15/2007	3/14/2007	3,030.00		3,030.00	A
2007	3/15/2007	3/15/2007	1.20	(1.20)	-	A, 3
2007	4/15/2007	4/12/2007	3.00	(3.00)	-	A, 3
2007	5/15/2007	4/24/2007	2,100.00		2,100.00	A
2007	5/15/2007	4/24/2007	1,800.00		1,800.00	A
2007	5/15/2007	5/10/2007	1.40	(1.40)	-	A, 3
2007	6/15/2007	5/23/2007	700.00		700.00	A
2007	6/15/2007	5/23/2007	3,600.00		3,600.00	A
2007	6/15/2007	6/4/2007	975.67		975.67	A
2007	6/15/2007	6/4/2007	57.18		57.18	A
2007	6/15/2007	6/4/2007	106.73		106.73	A
2007	6/15/2007	6/7/2007	407.00		407.00	A
2007	7/15/2007	6/20/2007	1,780.00		1,780.00	A
2007	7/15/2007	6/20/2007	1,400.00		1,400.00	A
2007	7/15/2007	7/9/2007	1,325.00		1,325.00	A
2007	7/15/2007	7/9/2007	2,000.00		2,000.00	A
2007	8/15/2007	7/18/2007	700.00		700.00	A
2007	8/15/2007	7/18/2007	2,285.00		2,285.00	A
2007	8/15/2007	8/5/2007	1,100.00		1,100.00	A
2007	8/15/2007	8/6/2007	700.00		700.00	A
2007	8/15/2007	8/15/2007	1.40	(1.40)	-	A, 3
2007	9/15/2007	9/14/2007	0.60	(0.60)	-	A, 3



Rents Collected by Mafi Hamed unrelated to Partnership, but allocated as a Partnership withdrawal by BDO

Year	Statement Date	Transaction Date	Deposits			kmarks/ Note
2007	10/15/2007	9/19/2007	3,685.00		3,685.00	A
2007	10/15/2007	9/19/2007	3,000.00		3,000.00	A
2007	10/15/2007	10/15/2007	0.90	(0.90)	-	A, 3
2007	11/15/2011	11/15/2007	0.30	(0.30)	-	A, 3
2007	12/15/2007	11/20/2007	2,585.00		2,585.00	A
2007	12/15/2007	11/20/2007	6,040.00		6,040.00	A
2007	12/15/2007	12/14/2007	1.80	(1.80)	-	A, 3
Total Year 2007			53,934.08	(12.50)	53,921.58	
2008	1/15/2008	1/8/2008	1,400.00		1,400.00	A
2008	1/15/2008	1/9/2008	1,100.00		1,100.00	A
2008	1/15/2008	1/25/2007	0.90	(0.90)	-	A, 3
2008	2/15/2008	1/24/2008	4,400.00		4,400.00	A
2008	2/15/2008	1/24/2008	2,100.00		2,100.00	A
2008	2/15/2008	2/15/2008	1.80	(1.80)	-	A, 3
2008	3/15/2008	3/14/2008	1,400.00		1,400.00	A
2008	3/15/2008	3/14/2008	4,900.00		4,900.00	A
2008	3/15/2008	3/14/2008	1.20	(1.20)	-	A, 3
2008	4/15/2008	4/15/2008	5,350.00		5,350.00	A
2008	4/15/2008	4/15/2008	1,700.00		1,700.00	A
2008	4/15/2008	4/15/2008	0.60	(0.60)	-	A, 3
2008	5/15/2008	5/15/2008	1.80	(1.80)	-	A, 3
2008	6/15/2008	6/4/2008	1,300.00		1,300.00	A
2008	6/15/2008	6/4/2008	2,800.00		2,800.00	A
2008	6/15/2008	6/13/2008	0.30	(0.30)	-	A, 3
2008	7/15/2008	6/26/2008	2,400.00		2,400.00	A
2008	7/15/2008	6/26/2008	2,200.00		2,200.00	A
2008	7/15/2008	7/15/2008	1.20	(1.20)	-	A, 3
2008	8/15/2008	8/15/2008	0.90	(0.90)	-	A, 3
<i>Statement for September was not available.</i>						
2008	10/15/2008	9/18/2008	3,040.00		3,040.00	A
2008	10/15/2008	9/18/2008	1,500.00		1,500.00	A
2008	10/15/2008	9/24/2008	1,740.00		1,740.00	A
2008	10/15/2008	9/24/2008	1,400.00		1,400.00	A
2008	10/15/2008	10/10/2008	1,920.00		1,920.00	A

Rents Collected by Mafi Hamed unrealted to Partnership, but allocated as a Partnership withdrawal by BDO

Year	Statement Date	Transaction Date	Deposits	Ac		ckmarks/ Note
2008	10/15/2008	10/10/2008	2,200.00		2,200.00	A
2008	10/15/2008	10/15/2008	1.50	(1.50)	-	A, 3
2008	11/15/2008	11/15/2008	1.20	(1.20)	-	A, 3
2008	12/15/2008		No deposit		-	2
2008	1/15/2009	12/31/2008	74.55		74.55	A
Total Year 2008			42,935.95	(11.40)	42,924.55	
2009	1/15/2009	1/2/2009	400.00		400.00	A
2009	1/15/2009	1/7/2009	1,400.00		1,400.00	A
2009	1/15/2009	1/8/2009	3,450.00		3,450.00	A
2009	1/15/2009	1/13/2009	4,540.00		4,540.00	A
2009	1/15/2009	1/13/2009	1,280.00		1,280.00	A
2009	2/15/2009	1/23/2009	2,540.00		2,540.00	A
2009	2/15/2009	1/23/2009	770.00		770.00	A
2009	2/15/2009	2/13/2009	0.90	(0.90)	-	A, 3
2009	3/15/2009	2/17/2009	5,819.00		5,819.00	A
2009	3/15/2009	2/17/2009	770.00		770.00	A
2009	4/15/2009	3/31/2009	770.00		770.00	A
2009	4/15/2009	3/31/2009	2,240.00		2,240.00	A
2009	4/15/2009	4/4/2009	3,000.00		3,000.00	A
2009	4/15/2009	4/8/2009	2,930.00		2,930.00	A
2009	5/15/2009	4/28/2009	770.00		770.00	A
2009	5/15/2009	4/28/2009	4,690.00		4,690.00	A
2009	5/15/2009	5/9/2009	4,020.00		4,020.00	A
2009	5/15/2009	5/9/2009	1,270.00		1,270.00	A
2009	6/15/2009	6/3/2009	1,000.00		1,000.00	A
2009	6/15/2009	6/3/2009	2,170.00		2,170.00	A
2009	6/15/2009	6/11/2009	2,500.00		2,500.00	A
2009	7/15/2009	7/10/2009	3,080.00		3,080.00	A
2009	7/15/2009	7/10/2009	1,540.00		1,540.00	A
2009	8/15/2009	8/3/2009	2,900.00		2,900.00	A
2009	8/15/2009	8/3/2009	2,605.00		2,605.00	A
2009	8/15/2009	8/14/2009	0.60	(0.60)	-	A, 3
2009	9/15/2009	9/2/2009	3,540.00		3,540.00	A
2009	9/15/2009	9/2/2009	770.00		770.00	A

Rents collected by Mafi Hamed unrelated to Partnership, but allocated as a Partnership withdrawal by BDO

Year	Statement Date	Transaction Date	Deposits	Adjust		
2009	9/15/2009	9/15/2009	1.50			
2009	10/15/2009	10/8/2009	2,270.00		2,270.00	A
2009	10/15/2009	10/8/2009	3,770.00		3,770.00	A
2009	10/15/2009	10/8/2009	7,000.00		7,000.00	A
2009	10/15/2009	10/15/2009	1.20	(1.20)	-	A, 3
2009	11/15/2009	11/3/2009	770.00		770.00	A
2009	11/15/2009	11/13/2009	0.60	(0.60)	-	A, 3
2009	11/15/2009	11/3/2009	3,875.00		3,875.00	A
2009	12/15/2009	12/2/2009	770.00		770.00	A
2009	12/15/2009	12/2/2009	1,770.00		1,770.00	A
2009	12/15/2009	12/9/2009	2,040.00		2,040.00	A
2009	12/15/2009	12/9/2009	1,000.00		1,000.00	A
2009	12/15/2009	12/15/2009	1.20	(1.20)	-	A, 3
Total Year 2009			84,035.00	(6.00)	84,029.00	
2010	1/15/2010	1/7/2010	2,310.00		2,310.00	A
2010	1/15/2010	1/13/200	1.20	(1.20)	-	A, 3
2010	2/15/2010	2/12/2010	1.50	(1.50)	-	A, 3
2010	3/15/2010	3/3/2010	6,940.00		6,940.00	A
2010	3/15/2010	3/10/2010	4,640.00		4,640.00	A
2010	3/15/2010	3/15/2010	0.60	(0.60)	-	A, 3
2010	4/15/2010	4/15/2010	1.20	(1.20)	-	A, 3
2010	5/15/2009	5/3/2010	6,890.00		6,890.00	A
2010	5/15/2009	5/14/2010	0.90	(0.90)	-	A, 3
2010	6/15/2010	6/13/2010	0.60	(0.60)	-	A, 3
2010	7/15/2010	7/2/2010	7,330.00		7,330.00	A
2010	7/15/2010	7/15/2010	1.20	(1.20)	-	A, 3
2010	8/15/2010	7/21/2010	3,010.00		3,010.00	A
2010	8/15/2010	8/13/2010	1.80	(1.80)	-	A, 3
2010	9/15/2010	9/14/2010	6,120.00		6,120.00	A
2010	9/15/2010	9/15/2010	0.90	(0.90)	-	A, 3
2010	10/15/2010	10/4/2010	4,540.00		4,540.00	A
2010	10/15/2010	10/15/2010	1.20	(1.20)	-	A, 3
2010	11/15/2010	11/3/2010	4,040.00		4,040.00	A
2010	11/15/2010	11/15/2010	0.90	(0.90)	-	A, 3

Rents collected by Mafi Hamed unrelated to Partnership , but allocated as a Partnership withdrawal by BDO

Year	Statement Date	Transaction Date	Deposits	Adjustment	Adjusted Amount	Note
2010	12/15/2010	12/14/2010	500.00		500.00	A
2010	12/15/2010	12/14/2010	600.00		600.00	A
2010	12/15/2010	12/15/2010	6,120.00		6,120.00	A
Total Year 2010			53,052.00	(12.00)	53,040.00	
2011	1/15/2011	1/6/2011	600.00		600.00	A
2011	1/15/2011	1/10/2011	1,540.00		1,540.00	A
2011	2/15/2011	1/21/2011	2,650.00		2,650.00	A
2011	3/15/2011	3/9/2011	4,350.00		4,350.00	A
2011	3/15/2011	3/15/2011	1.90	(1.90)	-	A, 3
2011	4/15/2011	4/15/2011	0.30	(0.30)	-	A, 3
2011	5/15/2011	5/9/2011	7,340.00		7,340.00	A
2011	6/15/2011	6/15/2011	2,560.00		2,560.00	A
2011	6/15/2011	6/15/2011	0.60	(0.60)	-	A, 3
2011	7/15/2011	7/15/2011	1.60	(1.60)	-	A, 3
2011	8/15/2011	8/4/2011	7,975.00		7,975.00	A
2011	8/15/2011	8/15/2011	0.90	(0.90)	-	A, 3
2011	9/15/2011	8/30/2011	3,570.00		3,570.00	A
2011	9/15/2011	9/15/2011	3,409.00		3,409.00	A
2011	9/15/2011	9/15/2011	1.60	(1.60)	-	A, 3
2011	10/15/2011	10/13/2011	1,000.00	(1,000.00)	-	A,4
2011	11/15/2011	10/26/2011	1,000.00	(1,000.00)	-	A,4
2011	11/15/2011	11/3/2011	2,310.00		2,310.00	A
2011	11/15/2011	11/8/2011	2,940.00		2,940.00	A
2011	12/15/2011	11/22/2011	800.00		800.00	A
2011	12/15/2011	12/15/2011	1.20	(1.20)	-	A, 3
Total Year 2011			42,052.10	(2,008.10)	40,044.00	
2012	1/15/2012	1/9/2012	5,450.00	(2,310.00)	3,140.00	A, 5
2012	1/15/2012	1/13/2012	0.90	(0.90)	-	A, 3
2012	2/15/2012	1/25/2012	1,400.00		1,400.00	A
2012	2/15/2012	2/14/2012	3,210.00	(1,540.00)	1,670.00	A, 6
2012	3/15/2012	3/13/2012	2,340.00	(1,540.00)	800.00	A, 7
2012	3/15/2012	3/15/2012	1.50	(1.50)	-	A, 3
2012	4/15/2012	4/5/2012	2,170.00	(770.00)	1,400.00	A, 8