

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**

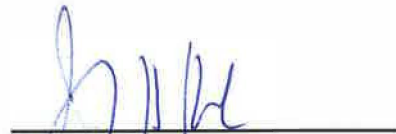
JURY TRIAL DEMANDED

**REPLY TO YUSUF'S MOTION TO FILE SURRESPONSE RE HAMED'S CLAIM H-3
FOR YUSUF PAYMENT OF \$504,591.03 TO DIRUZZO**

Hamed has no objection to Yusuf’s motion to file a “surrender” re Hamed’s Claim H-3 for Yusuf’s payment of \$504,591.01 (plus interest) to his personal lawyer’s law firm, so long as the attached response to that “surrender” is also permitted to be filed.

See **Exhibit 1**.

Dated: January 29, 2018



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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January, 2018, I served a copy of the foregoing by email (via Case Anywhere ECF), as agreed by the parties, as well as a hard copy as noted, on:

Hon. Edgar Ross
Special Master
edgarrossjudge@hotmail.com
(As well as 2 hard copies)

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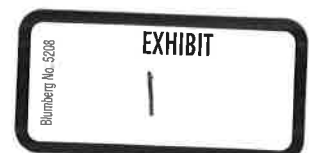
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JURY TRIAL DEMANDED

**REPLY TO YUSUF'S SURRESPONSE RE HAMED'S CLAIM H-3 FOR YUSUF
PAYMENT OF \$504,591.03 TO DIRUZZO**



Yusuf argues that a portion of the \$504,591.03 paid to DiRuzzo’s law firm was actually **authorized** by the partnership in defending the "criminal case", so that discovery should be permitted on the issue of whether a portion of such fees should be charged to the Partnership. That argument is without merit.

In this regard, **Yusuf concedes that the work DiRuzzo did for him regarding the defense of this civil case was for him personally, not for the Partnership**, but argues that discovery is needed to ascertain whether some of DiRuzzo’s work was for the criminal case. However, no such discovery is needed, as all payments made to DiRuzzo’s firm were made by Fathi Yusuf using Partnership funds for his individual obligations -- without the permission of Hamed, one of the partners.¹

While it is true that Hamed and Yusuf had agreed to pay the lawyers from the partnership to defend the criminal case under the Joint Defense Agreement, the partners never agreed for Yusuf to hire DiRuzzo. Hamed made it absolutely clear that DiRuzzo had **no authority to do anything on behalf of the Partnership**, so any fees incurred by him were solely Yusuf’s responsibility, **whether the work was for the criminal case or the civil case**. See **Exhibit A**.

What is most astounding in Yusuf’s new "theory" here is the fact that a **critical finding by Judge Brady** in deciding to issue the preliminary injunction against Yusuf -- to stop this exact abuse of Partnership funds was Yusuf paying DiRuzzo out of the Partnership funds even though the DiRuzzo was his personal lawyer:

¹ In support of this argument, Yusuf tries to confuse this Court by arguing that the *Partnership was not in the criminal case*, as the named Defendant was United. However, it has long been resolved (by Judge Brady’s summary judgment decision of November 7, 2014) that the Partnership **was** the sole entity operating the Plaza Extra Stores, **not United**. Thus, Yusuf’s 'argument' as to who was the Defendant in the criminal case has no relevance in deciding whether the payments to DiRuzzo’s law firm should be reimbursed to the Partnership.

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**. (Emphasis added).

Thus, the issue is not what work DiRuzzo did, but whether it was authorized by the partners, which, as Judge Brady held, was **not** authorized by Hamed.

As such, there is no need to waste time doing discovery on this claim, as the entire amount was done for work not authorized by both partners, so that **it was not a proper Partnership expense, as Judge Brady noted**. Thus, the entire sum needs to be repaid, with interest.

Dated: January 29, 2018



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I hereby certify that on this 29th day of January, 2018, I served a copy of the foregoing by email (via Case Anywhere ECF), as agreed by the parties, as well as a hard copy as noted, on:

Hon. Edgar Ross

Special Master

% edgarrossjudge@hotmail.com (As well as 2 hard copies)

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Stefan Herpel

Charlotte Perrell

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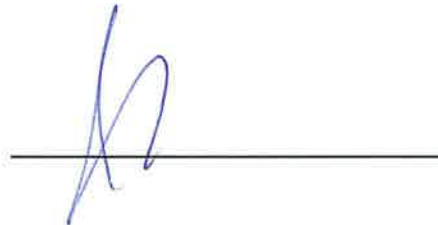
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DECLARATION OF WALLY HAMED

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. In 2012, I was representing my father's interest in the partnership pursuant to a power of attorney, as I had been doing for years.
4. Yusuf retained Joesph DiRuzzo and his law firm to represent him personally in June of 2012 to try to deny that a partnership ever existed and to terminate the Hamed's involvement in the Plaza Extra stores.
5. As part of that effort, the Hamed family received the attached letter from Nizar DeWood trying to accomplish this goal in June of 2012.
6. Negotiations then took place over the next month between the families. The Hamed interests were represented by Joel Holt, while Fathi Yusuf was represented by Joesph DiRuzzo as lead counsel, along with Nizar DeWood, with both counsel denying the existence of the Hamed-Yusuf partnership.
7. At no time did Attorney DiRuzzo ever suggest he represented the partnership. To the contrary, Attorney DiRuzzo's legal work was always adverse to my father's interest, as well as that of the Partnership, which he made clear was his position.
8. As soon as Attorney DiRuzzo and his law firm entered an appearance on behalf of United in the criminal case, I made it clear that DiRuzzo and his firm were not authorized to do any work on behalf of the Partnership in any capacity.

I declare under penalty of perjury that the foregoing is true and correct, executed on this 29th day of January, 2018.



Wally Hamed



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VIA EMAIL AND FIRST CLASS MAIL

June 19, 12

Joe Holt, Esq.
2132 Company St. Suite 2
Christiansted VI 00820

Re: United Corporation d/b/a Plaza Extra
-FINAL NOTICE -

Dear Atty Holt,

In April 2012, you represented to me that the business relationship between the Hamed family and Mr. Yusuf was a partnership. Apparently, the word “partnership” has been used loosely on both sides to describe the business relationship between Mr. Mohammed Hamed and United Corporation d/b/a Plaza Extra. After consultation with all the parties’ criminal defense attorneys, their accountants, and after a detailed review of numerous accounting records of United Corporation, and a detailed review of the tax status of your client and his sons, I have concluded that there is no partnership, nor has there ever been a partnership, as defined under the Virgin Islands Code. To the contrary, the business arrangement is not a partnership, but an oral agreement between Mr. Mohammed Hamed and United Corporation d/b/a Plaza Extra. This agreement allowed Mr. Mohammed Hamed to receive fifty (50%) of the profits of Plaza Extra after all expenses of the business operation was taken into account. It is clear that this was not a partnership for the following reasons:

1. Your client Mr. Mohammed Hamed never had the authority to manage any of the day-to-day operations of Plaza Extra. As a matter of fact, even his eldest son Waleed Hamed was brought to Plaza Extra at a young age to work as a clerk for United Corporation. During the day-to-day operations of Plaza Extra, Mr. Mohammed Hamed was relegated to a clerical position as warehouse receiving clerk because of his very limited education. He was not authorized, nor made any managerial decisions. To be sure, Mr. Mohammed Hamed never made any partnership level decisions.
2. Your client, Mr. Mohammed Hammed, never received a Schedule K-1, nor have any of his sons. Your client and his sons have never at any point declared Plaza Extra to be a partnership to any of their criminal defense attorneys, the Virgin Islands Bureau of Internal Revenue, nor the District Court.
3. Your client, Mr. Mohammed Hamed, never once volunteered to the U.S. Attorneys’ Office and/or the United States Department of Justice – Tax Division, that he was a partner. It is no wonder he has not been indicted.

Simply stated, your client, Mr. Mohammed Hamed, cannot have it both ways. Mr. Mohammed Hamed cannot mislead the Federal authorities and his sons' attorneys about Plaza Extra not being a partnership, only to declare Plaza Extra a partnership now that it suits the Hamed family's financial needs.

I have discussed with you in good faith an attempt to resolve the major dispute between the parties. You are fully aware that Mr. Yusuf will accept nothing short of a full and proper accounting. Your attempt to use the piece of land taken in satisfaction of any dispute is incredible, especially after I advised you that Mr. Yusuf was not at the time aware of the magnitude of financial malfeasance that he discovered after reviewing the FBI files. At no point did Mr. Yusuf ever waive any rights to pursue the Hameds for any unknown financial improprieties.

United Corporation, through its authorized representatives, has been more than ready to provide full consent and authorization to your client, Mr. Mohammad Hamed, for the release of all bank statements and financial records. You have not; worse you decided to prolong this issue for the next three months, without telling me your client's true intent. For the first time, on June 13, 2012, during a telephonic conference with Attorney Andriozzi, you stated that your client (presumably through his son Waleed Hamed) did not feel comfortable with signing any consents because he "doubted the intent" of Mr. Fathi Yusuf. I take serious exceptions to this statement and I am troubled by this last minute representation for the following reasons:

1. Your client, Mr. Mohammed Hamed is the person who made the original oral contractual agreement with Mr. Fathi Yusuf. It is not Waleed Hamed, nor Waheed Hamed, nor Mufeed Hamed, who has the oral agreement with Mr. Fathi Yusuf. Therefore, none of his sons have any right as employees of United Corporation to refuse to account for the whereabouts of the assets of United Corporation.
2. Your client's sons are nothing but manager-employees for United Corporation and could be dismissed at will, let alone for cause. If you have any doubts about that obvious statement of fact, my client is more than happy to demonstrate.
3. Each of the Hameds have represented to their criminal defense attorneys they are not partners, were never partners, and were only employees of Plaza Extra. Each criminal defense attorney has advised me that there was an oral promise type business venture between Mr. Fathi Hamed and Mr. Mohammed Hamed. To demonstrate, each of Mr. Mohammed Hamed's sons indicated that they have always filed Form 1040 Individual Income Tax Returns without Schedule K-1s. Not a single Hamed has ever received a Schedule K-1, nor demanded that a Schedule K-1 be issued, nor asserted that United Corporation needed to file a partnership informational return (Form 1065). Each of the Hamed brothers represented that their father, Mr. Mohammed Hamed, had a profit venture with United Corporation going back 25 years, and all brothers were mere employees of United Corporation. Should you feel the urge to raise the status of partnership in any civil proceeding, we will be more than ready to address same.

There are tremendous financial problems with Mr. Mohammed Hamed's sons' individual tax returns, including but not limited to unauthorized transfers to private bank accounts, substantial ownership of securities (possible obtained with converted funds), and other unexplained personal assets, in amounts utterly inconsistent with their only source of income from United Corporation.

4. There are unexplained payouts to unknown third parties by way of certified funds from cash belonging to United Corporation.

I have attempted to be courteous, and to give your client sufficient time to consult with you. All Mr. Fathi Yusuf has asked for was for the full consent and authorization to release all bank statements and financial information from your client and his sons. The excuse you gave me telephonically during our teleconference call with Mr. Andriozzi is without merit, and demonstrates nothing but bad faith on your client's part (see attached emails showing repeated empty promises).

Therefore, United Corporation hereby makes this offer (open until Friday June 29, 2012 at 4:30 p.m.):


- 1) Consent by Mr. Mohammed Hamed to a full forensic accounting of your client and his sons' finances (including but not limited to any related business entities, trust, partnerships, ventures, etc.).
- 2) In the event that any financial irregularity is discovered, liquidated damages shall be assessed against the wrongdoer in a 10 to 1 ratio. For example, if your client was found to have misappropriated \$1,000, he will have to pay \$10,000. This applies equally to the Yusuf family.
- 3) The parties will sign a Confession of Judgment for the amount to be determined by the forensic accountants.
- 4) Any judgment amount must be satisfied first from any assets held jointly by way of their shares in the various corporations, and then from each wrongdoer's personal assets.

United Corporation is entitled to know what each of its managers has been doing during the course of their employment. If your clients persist on refusing to provide United Corporation with the necessary consents, my client will have no option but to dismiss each of your client's sons from their employment effective June 22, 2012. A full notice of each employee's termination will be published immediately thereafter. In addition, a civil action will follow for a full accounting against your client and his sons who have been employed with United Corporation.

Finally, please note that United Corporation will retake the premises in Sion Farm no later than June 30, 2012, as repeatedly indicated in their notice to vacate, and will offset any rents due from any profits that may be derived.

In re United Corporation
Status Letter

I look forward to hearing from you no later than 4:30 p.m. Friday, June 29th, 2012.

Sincerely,

Nizar A. DeWood, Esq.

Cc: United Corporation