

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

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

Plaintiff,

vs.

UNITED CORPORATION,

Defendant.

Case No.: **SX-2014-CV-287**

**ACTION FOR DECLARATORY
JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

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

Plaintiff,

vs.

FATHI YUSUF,

Defendant.

Case No.: **SX-2014-CV-278**

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

**HAMED'S OPPOSITION
TO YUSUF'S MOTION
TO SOMEHOW, MAGICALLY, MAKE 117 HAMED CLAIMS JUST DISAPPEAR**

I. Introduction

Yusuf seeks to make 117 Hamed Claims simply 'disappear' with no factual inquiry, no briefing and no substantive determination of their individual validity.¹ Because of the extremely unusual nature of what Yusuf proposes as to two-thirds of Hamed's issues, with no reference to the applicable statute, it is important to briefly review what this proceeding is. This is the "winding up" process of a partnership—expressly being done pursuant to the *Revised Uniform Partnership Act* ("RUPA" or "the Act"), 26 V.I.C. §§ 1-274. See "Order Adopting Final Wind Up Plan", January 9, 2015. ("**wind up** and liquidate the Partnership in the manner provided herein and **as required by the Act**.²) In turn, the Act is specific as to the "winding up" process—a defined term described in RUPA *Section VIII* "Winding up Partnership Business," §§ 171-177.

II. The Act Requires that All Claims that the Partnership is owed Money It can Recover Before Dissolution be Heard and Decided

The most central, longest-lasting and easiest to understand concepts of RUPA and all prior versions of the UPA are the that each partner has an "account", that at the end of any RUPA partnership there must be an evaluation of the calculated value of these accounts, and that to do so, the partners can make their case as to any amounts which must be credited to or recovered by the Partnership. See 26 V.I.C. § 177(b) "Settlement of accounts and contributions among partners". ("Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business.") This does not say "just claims of a certain size", or "only claims that were phrased using specific terms"; nor does a partner have to do anything else to be entitled to this. Thus, at the end of a RUPA partnership, one of the automatic questions that must always be asked and answered, is: "What do the partnership's

¹ Yusuf lists the 101 claims from H-41 through H-141 and an additional 16 other claims (see **Exhibit 1**, with value of each claim listed) totaling 117 claims.

² That same Order provides, in Section 1, "DEFINITIONS 1.1 'Act' means the Uniform Partnership Act, V.I. Code Ann. tit. 26, §§ 1 -274."

books show as the value of a partner's account, and are they accurate?" Hamed can locate no RUPA case law in any jurisdiction that allows certain issues as to a partner's account, once raised, to simply be 'ignored'. To the contrary, the RUPA case law makes it clear that it is impossible to wind up a RUPA partnership without the determination and calculation of all questioned accounting transactions in the books.³

A formal account or (as it is sometimes called) an accounting is more than a presentation of financial statements. It encompasses **a review of all transactions, including alleged improprieties, which should be reflected in the financial statements.** It resembles a trustee's accounting.

If a partner asks his co-partners for an account and does not get it, or is not satisfied with it, he may bring an action for an accounting. **This is a comprehensive investigation of transactions of the partnership and the partners, and an adjudication of their relative rights.** It is conducted by the court or, more commonly, by an auditor, referee or master, subject to the court's review. Equitable throughout most of its long history, this action is well adapted to the complexity of partners' relations. But **its origins lie in the mutual fiduciary obligations of the partners.** . . .[and is] *designed to produce and evaluate all testimony relevant to the various claims of the partners.*" (Emphasis added in original, quoting Crane & Bromberg, Law of Partnership (1968), chapter 7, § 72, p. 410). (Emphasis added.)

Jacob v. Bald Mountain W., No. 312390, 2014 WL 4854309, at *2 (Mich. Ct. App. Sept. 30, 2014); *see also Pankratz Farms, Inc. v. Pankratz*, 2004 MT 180, ¶ 53, 322 Mont. 133, 146, 95 P.3d 671, 681, 2004 WL 1559728 ("to wind up a partnership's affairs, the court is obligated to provide 'for a full accounting of the partnership assets and obligations and distribution of any remaining assets or liabilities to the partners in accordance with their interests in the partnership.'"; *accord. Ferguson v. Holmes*, No. A-08-442, 2009 WL 306314, at *9 (Neb. Ct. App. Feb. 10, 2009) (criticizing the partnership wind-up accounting below "because the court

³ Yusuf tries to re-cast this as something other than an accounting for winding up—not an examination of the books for erroneous or wrongful payments for the benefit of Yusuf or United, but rather (what he calls in his argument): the far more limited exclusion of "*questions [that] relate to 'unclear ledger entries, which benefit Hamed, and thus, are not claims against Yusuf.'*" Nonsense. When a partner controls the books and is the Liquidating Partner too, money paid out without adequate explanation and documentation, whether intentional or in error, IS a claim that must be determined. While it is true that recovery of wrongfully paid out funds may benefit Hamed, the point here is that under RUPA a proper accounting not only benefits the partnership as a whole, but is also *required*.

did not provide a detailed statement setting forth the manner in which it *calculated* the balance of the parties' capital accounts...." requiring a full, detailed accounting review *de novo*.) If a partnership's bookkeeper made an entry, it can be examined and to be deemed valid it has to be backed up by documentation: More so if one partner benefited from that entry.

To insure this necessary analysis of his Partner account and those bookkeeping entries, Hamed hired two highly reputable CPA firms—one on St. Croix which specializes in USVI entities, and one with an international practice. After an *extensive* year-long analysis of the partnership books by actual on-site accounting reviews, real-world testing of account records and many in-person interviews (none of which Yusuf's accountant BDO did) an Expert Report was issued. See **Exhibit 2**, *Declaration of CPA* at ¶¶ 5-10. That Expert Report was based on accounting procedures as described in U.S. Statements on Auditing Standards (SA) AU Section 500, and it listed the applicable accounting standards for each claim individually. The facts and documents are individually set out, claim-by-claim, for each claim. *Id.*

The CPAs originally identified more than 450 exceptions to the books of this Partnership. With subpoenas and extensive research these have already been pared down to 165 items that they found to be exceptions. These items have been presented to the Special Master as the 165 "Hamed Claims" in Hamed's Revised Claims. *Id.* at ¶¶ 8-15.

There is no way, as much as every partner responsible for a partnership's books would *like to do so*, to make any arguably valid claim asserted in this process "magically disappear." There is no such thing as a claim that is "too small" to be heard—because one simply cannot calculate the value of the partnership share, as required by the Act, without hearing all of the potentially valid winding-up issues. *Id.* at ¶ 15-17. *This is particularly true as to claims that go to the accounting practices where one partner kept the books.* One would think that this is

even more true here, where the Court had to enter orders to open the accounting process after Judge Brady found the accounts were improperly unilaterally controlled by Yusuf.⁴

Similarly, there is no distinction in the Act between items that are called "questions" or "problems" with the partnership's accounting as opposed to ones labeled "claims". *Id.* at ¶ 18. Again, the Act requires that *all accounts* be correctly determined and then the partner's share calculated. There is no RUPA process of deciding to just not hear some of the issues identified. If Yusuf paid himself or United funds they were not entitled to, or paid vendors for the benefit of East—and thus he cannot show that a particular accounting entry was legitimate through documents—the amount must be recovered by the Partnership. *Id.* at ¶¶ 16-20.

3. The Parties Have Already Agreed to a Fast, Simple Means to Deal with These Claims and Hamed has Agreed to Pay 100% of the Cost of Doing the Analysis

In the stipulated *Joint Discovery Plan*, as agreed to and signed by the Special Master on January 29, 2018, there is a simple, efficient process already set out specifically to deal with just these accounting items. **When it was negotiated, Hamed agreed to pay 100% of the cost of Mr. Gaffney doing this limited, specific, well-described analysis.** The \$150/hour is exactly what Mr. Gaffney requested, and was not reduced one-cent by Hamed.

1. Mr. Gaffney will be paid by Hamed at the rate of \$150.00 per hour for the time he works, set forth in a contemporaneous kept timesheet for answering he [accounting] items in this "Section A". Mr. Gaffney will submit daily emails to counsel for Hamed informing them of the hours worked and what was done. Unless counsel or Hamed disapproves the work by the end of the following day, Mr. Gaffney will continue the work, if it is disapproved, the Master will be consulted for a decision before work resumes. These emails will then form the basis of weekly billings that shall be paid within one month of receipt of same.

2. For each of the Hamed Claims numbered H-41 to H-141, which survive the Motion, John Gaffney will provide a written response, in his fiduciary capacity as the Partnership Accountant, to the following two items:

a. *Interrogatory*: Provide a written statement describing the transaction, with reference to when the actual activity or delivery occurred, who the persons/entities are, what amounts were involved, and what it was for (with reference to why the funds are allegedly properly charged to the Partnership) and making reference to any checks, invoices or other relevant documents.

⁴ See the Court's Orders dated April 25, 2015 and May 31, 2013.

b. *Production of Documents*: Attach to the above interrogatory response, the documents referenced in your response.

* * * *

4. Hamed shall have a total of 14 hours to depose Mr. Gaffney. . . .

5. The written portion. . . will be completed by Mr. Gaffney by July 31. . . .

III. The Claims are Each Specific, Well-Documented and Accompanied by Information

As another part of the *Joint Discovery Plan*, Hamed provided Yusuf 146 pages of individual, explicit, detailed descriptions of the claims, on a claim-by-claim basis. This included descriptions of all claims, each with: new and old claim numbers, all information and documents identified as to each claim, all responses previously received from Mr. Gaffney or Yusuf, and the CPA-noted deficiencies. Moreover, all of this information has been in Yusuf's hands, *verbatim*, for more than a year—except the new claim numbers.

IV. It is Impossible to Argue the 117 Claims Here in Five Pages

Hamed cannot argue the validity of each of these 117 claims here—but asks the Master to consider just the first three challenged as examples. Claim H-41 involves payments to Caribbean Refrigeration & Mechanical of \$ 95,420 that Hamed believes were solely for United or Seaside. H-42 was a purchase of plastic bags from Miadden Plastic that Hamed and his CPAs believe were for the East Store only—\$ 49,565. H-43 is thought to be Yusuf's collection of a settlement and keeping it rather than splitting it—another \$42,970.

V. Conclusion

Yusuf confuses the polite accounting phrasing of "unclear" or "unsupported" accounting ledger entries with what that really means—that it appears Yusuf intentionally or erroneously used funds from the Partnership for his and United's benefit. *Id.* at ¶ 20. These are not delicate "questions" or "maybe claims." Either the East Store got and used those plastic bags for which the Partnership paid, or it did not, this is not a complex a series of issues. This is basic claims accounting. Yusuf is attempting to argue about these many claims in just 5 pages, *en masse*, to avoid having to address and discuss the specific facts.

Dated: February 15, 2018



Carl J. Hartmann III, Esq (Bar #48)

Co-Counsel for Plaintiff

5000 Estate Coakley Bay, L-6

Christiansted, VI 00820

Email: carl@carlhartmann.com

Tele: (340) 719-8941

Joel H. Holt, Esq.

Counsel for Plaintiff

Law Offices of Joel H. Holt

2132 Company Street,

Christiansted, VI 00820

Email: holtvi@aol.com

Tele: (340) 773-8709

Fax: (340) 773-8670

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e), and that on this 15th day of February, 2018, I served a copy of the foregoing by email (Via CaseAnywhere), as agreed by the parties, on:

Hon. Edgar Ross (with 2 Hard Copies by Mail)

Special Master

% edgarrossjudge@hotmail.com

Gregory H. Hodges

Stefan Herpel

Charlotte Perrell

Law House, 10000 Frederiksberg Gade

P.O. Box 756

St. Thomas, VI 00802

ghodges@dtflaw.com

Mark W. Eckard

Hamm, Eckard, LLP

5030 Anchor Way

Christiansted, VI 00820

mark@markeckard.com

Jeffrey B. C. Moorhead

CRT Brow Building

1132 King Street, Suite 3

Christiansted, VI 00820

jeffreymlaw@yahoo.com



**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

Exhibit 1

101 Hamed "Accounting" Claims H-41 to H-141			
New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
H-41	361	Payments to Caribbean Refrigeration & Mechanical LLC	\$ 95,420
H-42	363	Transactions with Miadden Plastic	\$ 49,565
H-43	364	General Ledger entry "Collection of Setallment [sic]"	\$ 42,970
H-44	365	General Ledger entries "Foreign taxes paid"	\$ 18,804
H-45	366	General Ledger entries POS charges for Seaside Market	\$ 11,660
H-46	367	General Ledger entries "change order" and "cash requisition"	\$ 26,510
H-47	369	General Ledger entries "credit card paid"	Discovery Required
H-48	370	General Ledger entries "RDC Frozen Account"	\$ 350,000
H-49	371	Scotiabank Telecheck transfers were deposited in Partnership accounts	\$8,500,000
H-50	373	General Ledger entries regarding "return check mutilated"	\$ 83,800
H-51	374	General Ledger entry regarding "Cash - Transfer Clearing, Banco Proc Error re Xfer"	\$ 360,000
H-52	375	General Ledger entry regarding "2013 US Customs Exp Per Schedule"	\$ 9,916
H-53	376	General Ledger entries regarding Merrill Lynch	\$4,261,939
H-54	377	General Ledger entries regarding Daas corporate loan	\$ 327,500
H-55	378	General Ledger entries to "Due from (to) Yusuf"	\$ 693,242
H-56	380	Unclear what the reclassification of partnership income in 2013 and 2014 notation on the general	Discovery Required
H-57	381	Many General Ledger entries are missing descriptions	\$1,026,856
H-58	383	General Ledger entries regarding "nominal cash reconciliation	\$ 4,313
H-59	384	General Ledger entry "Accrue 2012 rent as directed by legal"	\$ 678,549

**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
H-60	385	Partnership may have paid Fathi Yusuf's personal attorney's fees	\$ 14,995
H-61	386	General Ledger entries regarding deposit adjustments	\$1,700,000
H-62	388	General Ledger entries regarding due/to Shopping Center	\$ 900,000
H-63	390	Transactions with Alamnai Co.	\$ 37,629
H-64	391	General Ledger entries regarding "Adjust due/to from"	\$ 241,558
H-65	392	Improper payments to Carol's newspaper distribution	\$ 1,697
H-66	393	General Ledger entries regarding "Cash Reques"	\$ 6,500
H-67	394	General Ledger entry regarding "AT&T MOBILITY"	\$ 2,950
H-68	396	Transactions with JKC Communication	\$ 13,389
H-69	397	Transactions with House of Printing	\$ 860
H-70	398	Transactions with Foampack	\$ 1,257
H-71	399	General Ledger entries regarding "All Scotia Account Closures"	\$ 615,172
H-72	400	General Ledger entries regarding "Fathi Yusuf matching draw"	\$1,288,603
H-73	401	General Ledger entries regarding United Corporation	\$ 120,431
H-74	405	Numerous unexplained General Ledger entries regarding Hamed	\$ 51,061
H-75	408	General Ledger entry for \$176,353.61 dated 9/30/15	\$ 176,354
H-76	409	General Ledger entries regarding transfers and closed accounts	\$ 837,554
H-77	410	General Ledger entry regarding 50/50 distribution	\$ 165,000
H-78	411	General Ledger entry regarding accrued accounting fees to complete 2015 year-end taxes	\$ 16,315
H-79	412	General Ledger entry regarding accounting error for Tropical Shipping invoices	\$ 10,242
H-80	414	General Ledger entry regarding adjust cash on hand to count on 3/11/15	\$ 24,934

**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
H-81	415	General Ledger entry regarding clearing Banco irregularities	\$ 8,482
H-82	416	General Ledger entry regarding balance sheet balances closed for insurance items to expedite	\$ 51,569
H-83	417	General Ledger entries regarding clear misc Yusuf/Pship Due to/fr accounts	Discovery Required
H-84	418	General Ledger entry regarding United reimbursement to Hamed of 7/13 overpayment	\$ 38,668
H-85	419	General Ledger entry regarding combined services inv dtd 2/24/15 paid on behalf of East	\$ 4,935
H-86	420	General Ledger entry regarding CRA check 215 to reimburse KAC357 for STT deposit errors	Discovery Required
H-87	421	General Ledger entry regarding Daily (United C. CK)	Discovery Required
H-88	422	General Ledger entry regarding excess cash over \$50k per court order	\$ 44,400
H-89	423	General Ledger entries regarding prepayment of insurance	\$ 139,231
H-90	425	2015 Accounts Payable-Trade to John Gaffney	\$ 1,544
H-91	427	2013 Accounts Payable-Trade to John Gaffney	\$ 1,214
H-92	428	General Ledger entries regarding 2015 Accounts Payable-Trade to Maher Yusuf	\$ 1,866
H-93	430	Unsubstantiated check to NejeH Yusuf	\$ 2,032
H-94	431	General Ledger entry, Non-cash distribution to Yusuf	\$ 245,090
H-95	432	General Ledger entry, North Western Selectra Inc.	\$ 4,524
H-96	433	General Ledger entry, J Ortiz	\$ 1,250
H-97	434	General Ledger entries regarding St. Thomas petty cash	\$ 10,339
H-98	436	General Ledger entry regarding United Shopping Center payment of accounting fees for the	\$ 4,500
H-99	437	General Ledger entry regarding United Shopping Center payment of legal fees for the Partnership	\$ 4,946
H-100	438	Transaction with Source Accounting	\$ 3,500
H-101	439	General Ledger entry regarding St. Thomas 1.5% CR Reduction (FUTA) paid by West to United	\$ 12,346

**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
H-102	440	General Ledger entry regarding temporary adjustment for unreimbursed cash expenses during	\$ 46,725
H-103	443	General Ledger entry regarding price gun deposits	\$ 1,780
H-104	444	General Ledger entries regarding 2013 Q3 VIESA deficiency, plus penalty and interest in 2005	\$ 9,386
H-105	445	General Ledger entries regarding United Corporation	\$ 6,933
H-106	446	General Ledger entries regarding United Corporation – FUTA	\$ 10,047
H-107	447	General Ledger entry regarding United Corporation – Gift Certificates	\$ 2,630
H-108	449	General Ledger entries regarding Industrial Video and Luxor Goods	\$ 9,803
H-109	450	General Ledger entry regarding Hector Torres' invoice	\$ 2,000
H-110	451	General Ledger entries for Ramone Reid Felix invoices	\$ 1,092
H-111	452	General Ledger entries regarding Tasty Alternatives	\$ 30,721
H-112	453	Scotia Invoices	\$ 11,411
H-113	454	Lissette Colon's salary, benefits, bonuses and incidental expenses	\$ 6,215
H-114	455	Myra Senhouse's salary, benefits, bonuses and incidental expenses	\$ 2,259
H-115	456	Humphrey Caswell's salary, benefits, bonuses and travel and entertainment expenses	\$ 28,666
H-116	457	2016 General Ledger entries regarding the United Corporation in 2016	\$ 238,829
H-117	459	General Ledger entry regarding United Corporation – Worker's Compensation	\$ 318
H-118	460	General Ledger entries regarding FUTA late fee	\$ 85,697
H-119	464	Transaction with Raja Foods	\$ 410
H-120	465	2016 transactions with Caribbean Refrigeration & Mechanical LLC	\$ 10,902
H-121	466	General Ledger entries We Are Wine LLC	\$ 2,705
H-122	467	General Ledger entries regarding US Customs penalty	\$ 2,250

**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
H-123	468	2016 payments to Dudley, Topper and Feuerzeig, LLP (Fathi Yusuf's personal attorney) w/ #38	\$ 9,680
H-124	469	General Ledger entries regarding Inter Ocean refund	Discovery Required
H-125	470	General Ledger entries regarding "Lutheran Family Social Services"	\$ 1,246
H-126	471	General Ledger entries regarding KAC357	\$ 3,640
H-127	472	2016 General Ledger entries for Banco Popular Puerto Rico	Discovery Required
H-128	473	General Ledger entries regarding 2016 V.I. Employment Security contributions and penalties	\$ 13,048
H-129	475	Fathi Yusuf draw from Partnership funds for gift	\$4,000,000
H-130	476	Wireless Tech Rent	\$ 15,000
H-131	477	General Ledger entries regarding Hanun loan	\$ 35,000
H-132	478	General Ledger entries regarding distributing cash on hand in 2015	\$ 19,333
H-133	479	General Ledger entry regarding Yusuf distribution of WAPA deposit	\$ 110,842
H-134	480	General Ledger entries regarding "Yusuf distribu for trade AR"	\$ 15,701
H-135	481	General Ledger entry regarding "xfer fr Yusuf fam BPPR a/c to United BPPR a/c"	\$ 1,449
H-136	482	General Ledger entry regarding "Yusuf refund of overpayment"	\$ 77,336
H-137	483	General Ledger entry regarding "CLEAR MISC YUSUF/PSHIP DUE TO/FR ACCOUNTS"	\$ 247,870
H-138	484	General Ledger entries regarding "correct Yusuf/Hamed distrib settle on 9/30 ref ck 251 for \$183,381.91"	\$ 20,484
H-139	485	General Ledger entry regarding "clear pship a/c 28600 intraco bal's to equity"	\$ 247,138
H-140	487	General Ledger entry "clear misc Hamed/pship due to/fr accounts" in the amount of \$39,788.40.	\$ 39,788
H-141	488	General Ledger entry regarding "due t/fr settlement re stmt at 9/30/15"	\$ 183,382

**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

16 other Hamed Claims Yusuf Seeks to Make Disappear			
New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
			\$ 389,364
H-7	248	KAC357, Inc. payment of invoices from J. David Jackson PC	
H-8	256	David Jackson, CPA, bill owed for tax work done related to the Partnership's 2013 taxes	
H-24	310	2015 Health permit payments for Plaza East	\$ 850
H-25	314	2015 Business license payment for Plaza East	Discovery
H-27	319	BJ's Wholesale Club vendor credit	Required
H-29	331	2015 Insurance for St. Thomas Plaza Extra car	Discovery
H-30	333	KAC357, Inc. payment of Partnership AT&T invoices	Required
H-31	334	Point of Sale transactions (purchases on account)	\$ 926
H-34	340	Rents collected from Triumphant church	\$ 3,900
H-36	345	UVI payment	\$ 293
H-39	358	STT Tutu gift certificates	Discovery
H-40	360	Approximately \$18 million in "purged" (i.e. missing) transactions in 2013	Required Discovery
H-147	3010	Vendor rebates	Required
H-156	372/379	General Ledger entries regarding miscellaneous adjustments to employee loans	\$ 122,905
H-158	403/413	general ledger entries for By Order	\$ 260,491

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

Exhibit 2

I, **BRACEY ALEXANDER**, declare under penalty of perjury pursuant to 28 U.S.C. Section 1746, as follows:

1. I am a Certified Public Accountant.

2. I am employed by and write this Declaration as an authorized representative of Prager Metis CPAs, LLC., a GGI Independent Member; previously Jackson Vizcaino Zomerfeld, LLP.

3. Prager Metis is a Top 10 International firm with over 60 partners and principals, more than 400 team members, and ten offices worldwide including New York, Los Angeles, London, Miami, New Jersey, and Connecticut.

4. I have personal knowledge of the factual assertions herein as the Engagement Manager for a team of CPAs and staff that submitted an Expert Report in this action based on a year long agreed upon procedures engagement conducted in St. Croix and in Florida. We were retained to ascertain and I did participate in ascertaining the following: (1) The accuracy and completeness of the Plaza Supermarket Partnership and Subsidiaries' (the "Partnership") accounting records and financial statements based on established standards (2) Expenses and transactions that were valid business expenses or served a business purpose based on established standards (3) Improper transactions and those that lacked a proper business purpose were properly documented as claims (4) A proper estimate for value of such claims.

5. It was agreed that the procedures we were to perform would be based on procedures similar to those prescribed in audit engagements as described in U.S. Statements on Auditing Standards (SAS) AU Section 500 to obtain *Audit Evidence* to support the financial information provided by the Yusufs. As part of that process we:

a. Met with and interviewed John Gaffney (the Partnership's controller), Plaza Extra Partnership accountants, bookkeepers, and staff to obtain an understanding of the accounting system and controls.

b. Met with and interviewed Plaza Extra Partnership managers.

c. Obtained and reviewed the extensive information listed in Attachment II to our Expert Report.

d. Reviewed the general ledger for strange or unusual transactions (transactions such as duplicate payments, payments to parties in interest, payments to unknown vendors, large or unusual adjustments and unexplained journal entries).

e. Requested supporting documentation (such as bank statements, cancelled checks, registers, invoices, agreements and other financial records) for transactions listed in Attachment V to our Expert Report.

f. Compared financial information to underlying supporting documentation.

g. Documented transactions which appeared to be improper and those that lacked proper business purpose in Attachment III to our Expert Report.

6. Thus, that Expert Report is based on procedures similar to those used to obtain *Audit Evidence* to determine if expenses or transactions were valid business expenses or serve a business purpose and we listed the applicable standards we applied for claims both generally, and where needed, individually.

7. The facts, related documents, issues and estimates were described individually for each of Hamed's claims.

8. We reviewed the accounting records from 2012 on as the earlier records were deemed by the other CPA expert to be inadequate.

9. We originally identified more than 450 questions or "exceptions" for items we were not able to determine if it was valid business expense or serve a business purpose.

10. We investigated these and sent many written inquiries to the Defendants to the attention of Mr. John Gaffney.

12. We were able to exclude many of the exceptions based on information provided.

13. These were pared down to 165 items we were not able to determine if it was a valid business expense or serve a business purpose.

14. Those items were included individually in our Expert Report and later presented to the Special Master as the 165 "Hamed Claims" in Hamed's Revised Claims.

15. We have read and reviewed the motion submitted by Mr. Yusuf and the United Corporation which seeks to strike 117 of the exceptions we noted.

16. We know of no accounting basis which allows us to eliminate such validly identified exceptions in bulk, as they propose.

17. To the contrary, to have an accurate and complete record of a Partner's account, a determination of the validity of questioned items must be made.

18. We note that Mr. Yusuf and the United Corporation attempt to characterize these exceptions in various ways, however, there is no valid accounting distinction between such items regardless of what they are labeled. To obtain an accurate and complete record of a Partner's account, these must be reviewed and validated.

19. For proper accounting of any business, including a partnership, if partners pay themselves funds they were not entitled to from the business accounts, or cannot show that an accounting entry was legitimate, the amount must be validated for there to be an accurate and complete accounting.

20. There appears to be some confusion by the Defendants, or an attempt by Mr. Yusuf to try to confuse our accounting *phrasing* as to these exceptions with what they mean; that it appears, based on the records and our examination, that Mr. Yusuf may have used Partnership funds for his and United's benefit -- using the accounting system as a means to do so.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 15, 2018



Bracey Alexander