

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

**MOHAMMAD HAMED, BY HIS
AUTHORIZED AGENT WALEED HAMED,**

PLAINTIFF/COUNTERCLAIM DEFENDANT,

v.

**FATHI YUSUF AND UNITED
CORPORATION,**

DEFENDANTS/COUNTERCLAIMANTS,

v.

**WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED,
AND PLESSEN ENTERPRISES, INC.,**

COUNTERCLAIM DEFENDANTS.

**WALEED HAMED, AS EXECUTOR OF THE
ESTATE OF MOHAMMAD HAMED,**

PLAINTIFF,

v.

UNITED CORPORATION,

DEFENDANT.

MOHAMMAD HAMED,

PLAINTIFF,

v.

FATHI YUSUF,

DEFENDANT.

Civil No. SX-12-CV-370

**ACTION FOR INJUNCTIVE
RELIEF, DECLARATORY
JUDGMENT, PARTNERSHIP
DISSOLUTION, WIND UP, and
ACCOUNTING**

CONSOLIDATED WITH

Civil No. SX-14-CV-287

**ACTION FOR DAMAGES and
DECLARATORY JUDGMENT**

CONSOLIDATED WITH

Civil No. SX-14-CV-378

**ACTION FOR DEBT and
CONVERSION**

ORDER

THIS MATTER came before the Special Master (hereinafter “Master”) *sua sponte*. It has come to the Master’s attention that, while the Court has declared the existence of a partnership between Hamed and Yusuf¹ and that “each partner having a 50% ownership interest in all partnership assets and profits, and 50% obligation as to all losses and liabilities,”² neither the Court nor Parties have detailed other specifics as to the Partnership, including but not limited to the duties, responsibilities, benefits and obligations of each partner.

In Hamed’s motion as to Hamed’s Claim H-13: 2013 refusal to pay 2002-2012 Taxes for Waleed and Waheed Hamed—despite having paid the identical taxes for Yusuf family members, Hamed proceeds as if each partner was equal in all aspects of the Partnership, including management and profit sharing. However, in Yusuf’s opposition to Hamed’s motion, Yusuf claimed that only profit sharing was equal but management was Yusuf’s sole responsibility and that United and its shareholders enjoyed special pre-profit benefits not available to Hamed.³

¹ Yusuf has also conceded the existence of a partnership between him and Hamed. *See* Nov. 7, 2014 Order, p. 2 (“In his Motion re Master, Defendant Yusuf conceded the existence of a partnership by operation of law between himself and Plaintiff Hamed, and requested that this Court dissolve said partnership”); *Id.* (“In subsequent filings and in open court, Defendants have reiterated their concession as to the existence of the partnership.”)

² In the Court’s November 7, 2014 order, the Court found and declared that “a partnership was formed in 1986 by the oral agreement between Plaintiff and Defendant Yusuf for the ownership and operation of the three Plaza Extra Stores, with each partner having a 50% ownership interest in all partnership assets and profits, and 50% obligation as to all losses and liabilities.” (Nov. 7, 2014 Order, p. 3)

³ In his opposition, Yusuf stated that:

Yusuf made it clear in his Motion to Amend that “[c]onsistent with longstanding practice going back decades, United, a subchapter S ‘flow through’ corporation, assigned all of the grocery store income for the 2002 to 2012 tax years to Mr. Yusuf and the other shareholders of United to be taxed at that level.” Yusuf’s April 20, 2018 Motion at p. 4. The shareholders of United are Yusuf and his wife, and their sons, Maher, Nejeh, Yusuf, Zayed, and Syaid. As Yusuf explained in his Motion, “United made annual and quarterly estimated income tax payments to the IRB for those tax years on behalf of Mr. Yusuf and the other Yusuf shareholders for the grocery store income that had been allocated to them.” *Id.* at 4. In June 2013, United agreed to pay \$6,586,132 for income taxes still owed for the 2002 to 2012 tax years for all of these Yusuf shareholders based primarily on shortfalls in estimated taxes paid for United income that was allocated to all of the Yusuf shareholders for each of those years. (Opp., p. 3)

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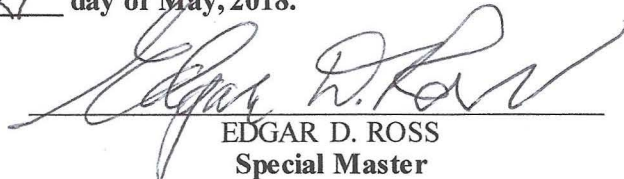
Waleed and Waheed were employees of United, while Yusuf’s sons were shareholders liable for their *pro rata* share of grocery store income taxes by virtue of United’s subchapter S status. And because United’s business income was exponentially greater than the income of Waleed and Waheed, the tax

At this juncture, the Master believes Parties shall seek declaration from the Court as to the full scope of the Partnership—including but not limited to each partner’s duties and responsibilities, the benefits of and to each partner, and the benefits to United and its shareholders. These issues fall outside the parameters of the Master’s current role—which is to “direct and oversee the winding up of the Hamed-Yusuf Partnership” (Sept. 18, 2015 order: Order Appointing Master) and “make a report and recommendation for distribution [of Partnership Assets] to the Court for its final determination.” (Jan. 7, 2015 order: Final Wind Up Plan). Thus, unless otherwise directed to do so by the Court, for it is the Court who sets the parameters for all of Master’s activities, the Master will defer to the Court in ruling as to the aforementioned issues. As such, the Master will stay the consideration of all claims that assert special benefits to United and its shareholders or Yusuf and all claims that assert a right to equal treatment for Hamed or his family members as Yusuf or his family members received. Accordingly, it is hereby:

ORDERED that Parties shall seek declaration from the Court as to the full scope of the Partnership—including but not limited to each partner’s duties and responsibilities, the benefits of and to each partner, and the benefits to United and its shareholders. **And** it is further:

ORDERED that all claims that assert special benefits to United and its shareholders or Yusuf and all claims that assert a right to equal treatment for Hamed or his family members as Yusuf or his family members received shall be stayed until further notice.

DONE and so **ORDERED** this 21st day of May, 2018.


EDGAR D. ROSS
Special Master

CC: HONORABLE DOUGLAS BRADY

liability for grocery store income allocated to the Yusuf sons and paid for by United was exponentially greater than Waleed and Waheed’s \$133,128 tax liability. (Id., at p. 4)