

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.

**HAMED MOTION FOR RECONSIDERATION
OF THE SPECIAL MASTER'S SEPTEMBER 14, 2019 ORDER
AS TO HAMED CLAIM H-2: \$2.8 MILLION TAKEN BY YUSUF FOR PERSONAL USE**

The Special Master's Order of September 14, 2018 is based solely and completely on a single error of law. He misreads the Court's April 25, 2013 order as to the use to which Yusuf put the \$2.8 million at issue – and thus, mistakes that Court's clear and unequivocal holding. Judge Brady EXPLICITLY FOUND AND HELD that Yusuf both took and personally used the funds for his own totally unrelated businesses.

FACTS

The Special Master makes the following two statements as the basis for his decision:

In other words, Yusuf withdrew \$2,784,706.25 from the Partnership to allegedly equalize the distributions between the Partners based on the expert report prepared by Fernando Scherrer of BDO Puerto Rico, P.S.C.; Yusuf did not withdraw \$2,784,706.25 from the Partnership to fund personal expenses.⁷ As such, the Master finds it premature...

and

Unlike what Hamed argued in his motion, the Court did not rule in his favor as to Yusuf's withdrawal of \$2,784,706.25 from the Partnership Fund. In its April 25, 2013 Memorandum Opinion, **the Court merely acknowledged that Yusuf unilaterally withdrew \$2,784,706.25 from the Partnership Fund. The Court never made a ruling as to the appropriateness of Yusuf's withdrawal of \$2,784,706.25 from the Partnership Fund as a distribution.** As such, Hamed cannot claim that the Court already ruled on Hamed Claim No. H-2 in its April 25, 2013 Memorandum Opinion and Order. (Emphasis added.)

This is totally incorrect both as a matter of fact and as a matter of law. Judge Brady explicitly found that the Yusuf's not only used the funds for non-partnership purchases for Yusuf's other, totally unrelated businesses (including a Yusuf mattress business) – but that the Yusufs had lied to the Court in testimony to make it LOOK like the funds WERE used for valid purchases. There is no equivocation in Judge Brady's order at all.

36. On the first hearing day, Mahar Yusuf, President of United. Corporation testified under oath that he used the \$2,784,706.25 withdrawn from the Plaza Extra operating account to buy three properties on St. Croix in the name of United. **On the second hearing day, Mahar Yusuf. contradicted**

his prior testimony and admitted that those withdrawn funds had actually been used to invest in businesses not owned by United, including a mattress business, but that none of the funds were used to purchase properties overseas., Tr. 250:2' 251:15, Jan. 25, 2013; Tr. 118:12-120:2, Jan. 31, 2013. (Emphasis added.)

Unfortunately, in the instant order, the Master relied on totally false factual statements in the instant Yusuf briefs on this – that **DIRECTLY contradict Judge Brady's findings and holding** on this exact point. In repeating Yusuf's false statements (and BDO's parroting of the false statements) **the Master was wholly misled.**

Judge Brady expressly found as fact (and held as law) that the Yusufs:

1. Had taken the \$2.8 from Partnership accounts
2. Had transferred them to non-partnership Accounts
3. Had used them for Yusuf personal projects unrelated to the partnership
4. And....had lied to the Court about the fact that the funds were used for Yusuf-only businesses– until, on a second day of testimony, Mike Yusuf was confronted with documentation about the use of these funds and admitted that they were used for Yusuf's unrelated businesses, and that his original testimony was false.

As such, this is the law of the case, and must be applied in the instant motion.

Conclusion

The Special Master's decision must be reconsidered, and an order for Hamed entered. Moreover, any offsetting claims to the \$1.6 million or other amounts will be separately determined on their own merits as they have already been made and fully laid out as independent Yusuf claims Y-7, Y-9 and Y-10.

Dated: September 14, 2018



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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September, 2018, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

Hon. Edgar Ross
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CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

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