

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,*

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**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.*

---

**FATHI YUSUF**, *Plaintiff,*

vs.

**MOHAMMAD A. HAMED TRUST**, *et al,*  
*Defendants.*

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**KAC357 Inc.**, *Plaintiff,*

vs.

**HAMED/YUSUF PARTNERSHIP**,  
*Defendant.*

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**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**

Consolidated with

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

Consolidated with

**Case No.: ST-17-CV-384**

Consolidated with

**Case No.: ST-18-CV-219**

**SUPPLEMENTAL DECLARATION OF COUNSEL IN SUPPORT OF  
HAMED'S EXPEDITED MOTION TO COMPEL RE CLAIM H-1 --  
FATHI YUSUF'S FAILURE TO PAY FUNDS RE SALE OF THE DOROTHEA CONDO**

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

1. I have personal knowledge of the facts set forth herein.
2. I am an attorney licensed to practice law in the U.S. Virgin Islands.
3. I am co-counsel for Mohammad Hamed (now the Mohammad Hamed Estate) in *Hamed v. Yusuf et al.*, **SX-12-CV-370**.
4. Pursuant to this court's Rule 6-1(d)(2), and in further support of the averments made at paragraphs 7 & 6, at page 6 of the instant motion, I have conducted and/or directed attempts to identify the dates on which Fathi Yusuf received payment of the funds related to the sale of the Y & S stock at issue in this motion, and that I or persons working under my direction have ascertained the following:

**A. I reviewed and directed attempts to review** all financial information provided to Hamed, his counsel and his CPAs which might relate to this transaction. I have caused discovery to be propounded to Yusuf and others. In discovery and otherwise Yusuf has supplied no invoices, receipts, deposits, transaction ledgers and/or correspondence related to his receipt of the funds at issue, as the agent-nominee for such payments under the contract.

**B. I have reviewed and directed attempts to review** all of Mr. Yusuf's prior statements with regard to what, when and how he received these payments – particularly as to whether such payments, and particularly the final payment that led to the 2012 release of escrow occurred after the Court-ordered cutoff date in 2006. I have located the following:

- i. Fathi Yusuf, testified in a post-2006 deposition, on April 2, 2014, that he received the final payment within three years of February 19, 2012 release of the escrow:

**Q [Holt].** Okay. And when did you get that money?

**A. [Yusuf]** I get that money, I don't have a date. **But I get that money maybe, I can guarantee you, it's not three years. It's less than three years.** I sold this property many, many years ago. (Emphasis added.)

**Exhibit 1.** Deposition of Fathi Yusuf at 105.<sup>1</sup> Thus, the “new” Yusuf assertion that his present (very convenient) view is that all payments were received before 2006, should be open to a SINGLE interrogatory question – and fully responded to, with supporting RFPD documents, in light of his specific, directly contradictory testimony that “**I can guarantee you, it's not three years. It's less than three years**” prior to the execution of the escrow release.

Because Mr. Yusuf attempted to conflate the date the contract was entered into with the date that final payment was received, and the escrow released in 2012, Attorney Holt again tried to tie the date down, and Yusuf again stated that “maybe” he had received the funds in 2012, around the time this action was filed and the time when the escrow was released and the Y&S stock actually transferred under the contract.

**A [Yusuf].** I get that money, I don't have a date. But I get that money maybe, I can guarantee you, it's not three years. It's less than three years. I sold this property many, many years ago.

**Q. [Holt]** Okay. So you got this money, would it be fair to say you got it in 2012?

**A.** I don't know when.

**Q.** Okay.

**A.** I don't remember.

**Q. Well, this lawsuit was filed in August of 2012.**

**Did you get the money before this lawsuit was filed?** [MR. HODGES: [Interjecting] September 2012.]

**A. Maybe.** (Emphasis added.)

**C. I have reviewed and directed attempts to review** all of the Hamed's information with regard to what, when and how they were directed to sign the escrow release in 2012 and receive the funds – particularly as to whether such payments, and particularly the final payment that led to the 2012 release of escrow occurred after the Court-ordered cutoff date in 2006. I have located the following:

- i. Shawn Hamed has related to me and will testify in his scheduled deposition on January 22, 2019, that Fathi Yusuf called him and said that he [Fathi] wanted to come to West and get Shawn to sign the release of escrow so he could split the funds he had received on the Dorothea sale. Approximately 4-5 days before

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<sup>1</sup> The entire examination regarding the Dorothea property and the sale appears at pp. 99-105, which are provided for full context as Exhibit 2.

Shawn signed the escrow release on , Fathi did, in fact, appear at the West store and proffer two documents: (1) a marked-up copy of the 'release of escrow' form and a handwritten sheet showing the reasons that the Hameds were not getting the full half of the amounts Fathi had collected due to other charges and deductions. [That handwritten sheet is attached to the instant Motion as Exhibit 8, and was Exhibit 12 to Fathi Yusuf's Deposition. Fathi acknowledged that handwritten accounting in his deposition at 99-100:

**Q. (Mr. Holt) All right. All right. Showing you Exhibit No. 12, can you tell me if you recognize that? Do you recognize that document --**

**A. Yes, it's my handwriting.**

**Q. And at the top it has "Dorothea" written, is that correct?**

**A. Yes.**

**Q. Can you tell me, what -- what -- what what does this transaction mean?**

**A. The transaction that we bought -- we was in partnership with a third person, that we own 50 percent of the Dorothea real estate -- a real estate in Dorothea, and the other partner owned the other 50 percent. Finally, I come to this decision to sell it to my partner. He bought it at one-and-a-half million, and this number below, it was an idea to Mr. Hamed what would I -- I am counted for, up to the time I give it to him. I tell him what it is. By example, Jordan Fund, 75,000, it's a checking account. This, I'm going to reclaim it back. Because at that time I did it, I did it in the most honest way, and we end up transferring property to myself. That transfer the property cost me money, well, I have to put that money out of my own pocket, even though the obligation**

**[Yusuf]** And then I'm going to use whatever it cost me to transfer that property into my name, at the expense of both of us . . . .

**Q [Holt]. Okay. So now the first line, Dorothea, 1.5 million, those were the funds that you received when the other partner bought you out or paid you off?**

**A. Excuse me, sir?**

**Q. The first line, the 1.5 million on that line?**

**A. Yeah, this is a fund I received -- I received from Dorothea.**

**Q. And is that actually technically YNH Investments, Inc.? Is that --**

**A. Yes.**

**Q. Okay. And -- and so those were funds that you received from them, is that correct?**

**A. I received for our half, but I kept it. I'm not stealing it. We're going to account for it.**

**Q. Okay. (Emphasis added.)**

Shawn Hamed confirmed that Fathi asked him to re-type the release of escrow form exactly as it appeared in the marked-up sheet that was proffered, and return it to Fathi – at which time Fathi would pay over the \$802,966 shown on the accounting. Shawn noted that he would do so in a day or two, after reviewing the document with Wally Hamed and Mohammad Hamed.

I have further confirmed with Wally Hamed and he will so testify at his deposition on January 21, 2019, that he reviewed the re-typed escrow release form with Shawn and Mohammad, and that Wally also reviewed the handwritten accounting, although he believes that Yusuf provided him with his own separate copy of that handwritten accounting and separately told Wally that the Hamed funds would be provided immediately following transfer of the stock.

Both Shawn and Wally Hamed confirmed with me and will so testify at their depositions that thereafter, in reliance on the assertion that the funds would be paid out to the Hamed, Shawn signed the re-typed Notice of Payment of Purchase Price and Authorization to Release Stock Certificates and delivered it to Fathi Yusuf on or about that same date, February 19, 2012. However, instead of paying the Hameds the funds, soon thereafter Fathi Yusuf, having kept the funds, began his attempt to take over the Partnership and stole \$2.7 million in additional funds from the Partnership – leading to the instant action.

**Dated:** December 24, 2018



**Carl J. Hartmann III, Esq.**

*Co-Counsel for Plaintiff*

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Christiansted, VI 00820

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 24<sup>h</sup> day of December, 2018, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

**Hon. Edgar Ross**  
Special Master  
edgarrossjudge@hotmail.com

**Gregory H. Hodges**  
**Charlotte Perrell**  
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Handwritten signature of Carl J. Hamed, underlined.

**CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)**

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



Handwritten signature of Carl J. Hamed, underlined.

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

MOHAMMED HAMED by His Authorized )  
Agent WALEED HAMED, )  
)  
Plaintiff/Counterclaim Defendant, )  
)  
vs. ) Case No. SX-12-CV-370  
)  
FATHI YUSUF and UNITED CORPORATION, )  
)  
Defendants/Counterclaimants, )  
)  
vs. )  
)  
WALEED HAMED, WAHEED HAMED, MUFEED )  
HAMED, HISHAM HAMED, and PLESSEN )  
ENTERPRISES, INC., )  
)  
Additional Counterclaim Defendants.)

**THE VIDEOTAPED ORAL DEPOSITION OF FATHI YUSUF**

was taken on the 2nd day of April, 2014, at the Law Offices  
of Adam Hoover, 2006 Eastern Suburb, Christiansted,  
St. Croix, U.S. Virgin Islands, between the hours of  
9:17 a.m. and 4:16 p.m., pursuant to Notice and Federal  
Rules of Civil Procedure.

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Reported by:

Cheryl L. Haase  
Registered Professional Reporter  
Caribbean Scribes, Inc.  
2132 Company Street, Suite 3  
Christiansted, St. Croix U.S.V.I.  
(340) 773-8161

## FATHI YUSUF -- DIRECT

1 Q. Which is another -- another item.

2 A. Definitely this was an expense. I brought that  
3 money out.

4 Q. Okay. So you start with the 1.5 million, which is  
5 50/50, and then you start adding --

6 A. One million and a half is absolutely 50/50. I'm  
7 not hiding anything.

8 Q. Okay. And when did you get that money?

9 A. I get that money, I don't have a date. But I get  
10 that money maybe, I can guarantee you, it's not three years.  
11 It's less than three years. I sold this property many, many  
12 years ago.

13 Q. Okay. So you got this money, would it be fair to  
14 say you got it in 2012?

15 A. I don't know when.

16 Q. Okay.

17 A. I don't remember.

18 Q. Well, this lawsuit was filed in August of 2012.

19 Did you get the money before this lawsuit was filed?

20 MR. HODGES: September 2012.

21 A. Maybe. Look at the date. Go to the owner and  
22 look at the date, or go to the public recorder office.  
23 That's something that can be resolved.

24 Q. (Mr. Holt) Okay.

25 A. I don't remember.



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

MOHAMMED HAMED by His Authorized )  
Agent WALEED HAMED, )  
)  
Plaintiff/Counterclaim Defendant, )  
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vs. ) Case No. SX-12-CV-370  
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FATHI YUSUF and UNITED CORPORATION, )  
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Defendants/Counterclaimants, )  
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vs. )  
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WALEED HAMED, WAHEED HAMED, MUFEED )  
HAMED, HISHAM HAMED, and PLESSEN )  
ENTERPRISES, INC., )  
)  
Additional Counterclaim Defendants.)

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(340) 773-8161

**FATHI YUSUF -- DIRECT**

1 (Deposition Exhibit No. 12 was  
2 marked for identification.)

3 **Q. (Mr. Holt)** All right. All right. Showing you  
4 Exhibit No. 12, can you tell me if you recognize that? Do  
5 you recognize that document --

6 **A.** Yes, it's my handwriting.

7 **Q.** And at the top it has "Dorothia" written, is that  
8 correct?

9 **A.** Yes.

10 **Q.** Can you tell me, what -- what -- what what does  
11 this transaction mean?

12 **A.** The transaction that we bought -- we was in  
13 partnership with a third person, that we own 50 percent of  
14 the Dorothia real estate -- a real estate in Dorothia, and  
15 the other partner owned the other 50 percent.

16 Finally, I come to this decision to sell it  
17 to my partner. He bought it at one-and-a-half million, and  
18 this number below, it was an idea to Mr. Hamed what would  
19 I -- I am counted for, up to the time I give it to him. I  
20 tell him what it is. By example, Jordan Fund, 75,000, it's  
21 a checking account. This, I'm going to reclaim it back.  
22 Because at that time I did it, I did it in the most honest  
23 way, and we end up transferring property to myself. That  
24 transfer the property cost me money, well, I have to put  
25 that money out of my own pocket, even though the obligation

**FATHI YUSUF -- DIRECT**

1 was on both of us.

2 And then I'm going to use whatever it cost me  
3 to transfer that property into my name, at the expense of  
4 both of us, even though we missing three, four property that  
5 he never transferred it to me. It's still in his name. He  
6 said no, but I can claim, I can prove, still in his name.

7 **Q.** Okay. So now the first line, Dorothisia,  
8 1.5 million, those were the funds that you received when the  
9 other partner bought you out or paid you off?

10 **A.** Excuse me, sir?

11 **Q.** The first line, the 1.5 million on that line?

12 **A.** Yeah, this is a fund I received -- I received from  
13 Dorothisia.

14 **Q.** And is that actually technically YNH Investments,  
15 Inc.? Is that --

16 **A.** Yes.

17 **Q.** Okay. And -- and so those were funds that you  
18 received from them, is that correct?

19 **A.** I received for our half, but I kept it. I'm not  
20 stealing it. We're going to account for it.

21 **Q.** Okay.

22 **A.** This is yours, this is mine.

23 Excuse me. I going back a little bit towards  
24 the 251,000. That wasn't Mr. Hamed money. Mr. Hamed, I  
25 were giving him \$150,000 to the batch plant, and I have

**FATHI YUSUF -- DIRECT**

1 proof I deposited it for him in St. Thomas. And up to now,  
2 he denying that money. That money, I give him \$150,000 to  
3 deliver to the batch plant, and he claim that the batch  
4 plant is ours.

5 It's not ours. We put it just not to let the  
6 town fight together.

7 **Q.** Okay. I am going to ask you about the batch  
8 plant, but --

9 **A.** Oh, whenever you want.

10 **Q.** -- I want to try to stick on this document?

11 **A.** Yeah. But I want to show you why these people, I  
12 believe they owe me a lot of money.

13 **Q.** I understand.

14 **A.** Why should I pay them? Let's sit down and say,  
15 What is yours and what is mine.

16 **Q.** No problem. Let me go down this list.

17 Dorothia is -- the 1.5 million were -- were  
18 monies paid that belonged to you and -- and Mr. Hamed?

19 **A.** Yes.

20 **Q.** And then the Jordan fund, it says 75,000 dinar. I  
21 take it that, converted, that's 105,932 U.S. dollars?

22 **A.** Right.

23 **Q.** Okay. and those are funds that are to be split  
24 between you and Mr. Hamed, as well?

25 **A.** I explained to you, sir.

**FATHI YUSUF -- DIRECT**

1 Q. Yeah.

2 A. The 105 is by mistake. I end up transferring from  
3 his -- the property was mine and his.

4 Q. Right.

5 A. And I choose for some reason to put it in his  
6 name, because I trusted him.

7 Q. Right.

8 A. Now, when we decide to leave, we have to shake  
9 hands forever. I'm not looking back anymore. I need my  
10 half back, Mr. Mohammad.

11 Q. What is -- what is that plot number, the -- the  
12 one you're talking about?

13 A. Several. We have -- we have properties, too much.  
14 We have 1,200 or two -- 1,200 acre right here in the Virgin  
15 Islands.

16 Q. Okay.

17 A. Were owned between both of us.

18 Q. All right. So then the next line comes down and  
19 it says, 617,000 for Fathi Yusuf.

20 A. No. Yeah, this is -- I -- I don't know why I  
21 should give him that. This is my half. I went and bought  
22 the property with it.

23 Q. Okay. So you --

24 A. After I give him notice, I don't want to work with  
25 you no more.

**FATHI YUSUF -- DIRECT**

1           **Q.**    So we -- tell you what, let's get to the bottom.  
2    At the bottom of this calculation is \$802,966.

3                        Do you see that?

4           **A.**    Sir, it's a lot of -- this 8,200 (sic) I owe him  
5    on account.

6           **Q.**    Okay.

7           **A.**    We sit down, he give what I owe him to the  
8    accountant, I give what I believe he owe me to the  
9    accountant, and let's (indicating).

10          **Q.**    Okay.

11          **A.**    Let's, what do you call it, reconcile the account,  
12    and who owe who, we'll settle. I'm not running away.

13          **Q.**    Okay. So one of the items that you owe them for,  
14    I understand there are items back and forth, but one of the  
15    items you owe him is the 802,960 --

16          **A.**    Not 802, sir. I told you I already spent 105, or  
17    most of it, in a property where both of us is responsible to  
18    spend that money.

19          **Q.**    Okay. So you would take the 105 off of this 802?

20          **A.**    I might -- well, the others -- yeah, this -- that  
21    should go off.

22                        **MR. HARTMANN:** Half.

23          **Q.**    **(Mr. Holt)** Half of that should go off?

24          **A.**    Yeah, but I -- sir, thanks God, I -- I -- you  
25    know, I'm not speaking Arabic, not even one word up to now.

**FATHI YUSUF -- DIRECT**

1 Okay? They all English. I'm talking to you in plain  
2 English. Let's sit down and give this to an accountant and  
3 what is yours is yours, what is mine is mine. I have a  
4 check of 536,405, begging Mr. Wally to give me an answer for  
5 this check. This is written to your father, drawn on your  
6 account. Can you tell me what is this for?

7 **Q.** Okay.

8 **A.** All I'm getting, I'll get to the bottom of it.  
9 When this gentleman is going to reach the bottom?

10 **Q.** All right. So the sale of -- the money in  
11 Dorothea was 1.5 million, to be split between the two of  
12 you.

13 **A.** Yes, sir.

14 **Q.** Okay. And then you did some more accounting to  
15 come up with the fact --

16 **A.** Yeah, this will go, and we'll go through every  
17 little thing, right? Whatever is his is his, whatever is  
18 mine is mine.

19 **Q.** Okay.

20 **A.** I'm not denying anything.

21 **Q.** All right. And on that pile, is 802,966 is --

22 **A.** Yes, yes, but all of it is not his.

23 **Q.** All of this is not his.

24 **A.** Because there's an accountant. Some of it, I told  
25 you, by example, the bank statement.

**FATHI YUSUF -- DIRECT**

1 Q. Which is another -- another item.

2 A. Definitely this was an expense. I brought that  
3 money out.

4 Q. Okay. So you start with the 1.5 million, which is  
5 50/50, and then you start adding --

6 A. One million and a half is absolutely 50/50. I'm  
7 not hiding anything.

8 Q. Okay. And when did you get that money?

9 A. I get that money, I don't have a date. But I get  
10 that money maybe, I can guarantee you, it's not three years.  
11 It's less than three years. I sold this property many, many  
12 years ago.

13 Q. Okay. So you got this money, would it be fair to  
14 say you got it in 2012?

15 A. I don't know when.

16 Q. Okay.

17 A. I don't remember.

18 Q. Well, this lawsuit was filed in August of 2012.

19 Did you get the money before this lawsuit was filed?

20 **MR. HODGES:** September 2012.

21 A. Maybe. Look at the date. Go to the owner and  
22 look at the date, or go to the public recorder office.  
23 That's something that can be resolved.

24 Q. **(Mr. Holt)** Okay.

25 A. I don't remember.



**FATHI YUSUF -- DIRECT**

1 Q. So you don't remember when it was sold.

2 A. No. At least I'm not hiding anything, but I don't  
3 remember when I sold it.

4 Q. All right. Let's go back to the batch plant then.  
5 Explain to me, first of all, how -- how was the batch --  
6 batch plant first purchased? How did you -- how did that  
7 get -- where did the funds come from to buy that batch  
8 plant?

9 A. The batch plant, when we was selling the water and  
10 sending it back home to the poor people, --

11 Q. Uh-huh.

12 A. -- split between his family members -- I mean his  
13 family could be 2,000.

14 Q. Right.

15 A. I don't mean his brothers and sister, no. Mine,  
16 more or less the same.

17 Then every year, they start to ask, Where's  
18 the water money? I say, Mr. Hamed, look. We have to put an  
19 end to this. What do you think, we making our people lazy?  
20 They start to get free money. Why don't we try to give them  
21 something to do? After all, you came with nothing. I came  
22 with less than nothing. We poor. Our parents is poor.  
23 Very respectable parents, but they're poor. And now we made  
24 it. And you are a Muslim, and I am a Muslim.

25 And Muslim religion have five pillar. The