

**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 Deft.,)
)
vs.) Case No. SX-2012-CV-370
)
FATHI YUSUF and UNITED)
CORPORATION,)
)
Defendants/Counterclaimants,)
)
vs.)
)
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,)
)
vs.) Consolidated with
) Case No. SX-2014-CV-287
)
UNITED CORPORATION,)
)
Defendant.)
WALEED HAMED, as Executor of the)
Estate of MOHAMMAD HAMED,)
)
Plaintiff,)
)
vs.) Consolidated with
) Case No. SX-2014-CV-278
)
FATHI YUSUF,)
)
Defendant.)

**VIDEOTAPED ORAL DEPOSITION OF
FATHI YUSUF**

THE VIDEOTAPED ORAL DEPOSITION OF FATHI YUSUF

was taken on the 21st day of January, 2019, at the Offices of Joel H. Holt, 2132 Company Street, Downstairs Conference Room, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 12:22 p.m. and 2:41 p.m., pursuant to Notice and Federal Rules of Civil Procedure.

Reported by:

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By: Charlotte Perrell

Also Present: Maher Yusuf
Hisham, Mufeed, and Waheed Hamed
Michael Gelardi, Videographer

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FATHI YUSUF -- DIRECT

1 **THE VIDEOGRAPHER:** In the matter of Waleed
2 Hamed versus Fathi Yusuf and United Corp., in the Superior
3 Court in the Virgin Islands, Division of St. Croix, Civil
4 Action Number SX-2012-CV-370.

5 My name is Michael Gelardi. I'm the
6 videographer for today's proceedings. Our court reporter is
7 Susan Nissman. Today's date is January 21st, 2019. The
8 deponent is Fathi Yusuf. The time is 12:22.

9 For the purpose of voice identification, I am
10 requesting that the attorneys present -- present identify
11 themselves at this time.

12 **MR. HARTMANN:** Carl Hartmann, for Hamed.

13 **MS. PERRELL:** Charlotte Perrell, on behalf of
14 the Yusufs and United.

15 **THE VIDEOGRAPHER:** Please swear in the
16 witness.

17 **FATHI YUSUF,**
18 called as a witness, having been first duly sworn,
19 testified on his oath as follows:

20 **DIRECT EXAMINATION**

21 **BY MR. HARTMANN:**

22 **Q.** Good afternoon, Mr. Yusuf.

23 **A.** Good afternoon, sir.

24 **Q.** I'd like to ask you a couple of questions before
25 we get into the documents.

FATHI YUSUF -- DIRECT

1 Have you taken any medications, or is there
2 any reason that you cannot testify fully and clearly in the
3 deposition today?

4 **A.** No, there is no reason.

5 **Q.** Okay. And have you been given any diagnosis or
6 other indication that you can't give sworn testimony to a
7 court of law?

8 **A.** Not that I know of.

9 **Q.** Okay. And could you give me your full address,
10 please?

11 **A.** 92-C La Grande Princesse, St. Croix.

12 **Q.** Okay. And do you maintain a business office?

13 **A.** Yes.

14 **Q.** And what's the address of that business office?

15 **A.** At 4200 Estate Sion Farm, Suite 1.

16 **Q.** Okay. And do you have any other residences or
17 business offices, other than the two you've mentioned?

18 **A.** Business office, not that I know of.

19 **Q.** Okay. I'm going to show you a document that's
20 labeled Claim H-1 Exhibit 1.

21 (Deposition Exhibit No. H-1 Exhibit 1 was
22 marked for identification.)

23 Can I have that back for just one second?

24 Just his.

25 **MS. PERRELL:** Oh, Mr. Yusuf, he needs one of

FATHI YUSUF -- DIRECT

1 these back.

2 **MR. HARTMANN:** I'm going to snap one of these
3 on and so we'll know which one is the original.

4 **MS. PERRELL:** Carl, you're starting with the
5 Dorthea property, not the rent? Your exhibits are in
6 different order.

7 **MR. HARTMANN:** Yeah.

8 **MS. PERRELL:** I just didn't know if --

9 **MR. HARTMANN:** Yeah.

10 **MS. PERRELL:** Okay. By design.

11 **MR. HARTMANN:** Yeah.

12 **MS. PERRELL:** That's fine.

13 **Q. (Mr. Hartmann)** Have you had a chance to look at
14 that document, sir?

15 **A.** I'm looking at it right now.

16 **Q.** All right. Tell me when you're ready.

17 **A.** It look like this document have something to do
18 with Y & S Corporation in St. Thomas.

19 **Q.** Okay. You don't have to explain it to me. I'll
20 ask you questions once I give you the document, okay?

21 **A.** Okay.

22 **Q.** Okay. So this -- it says at the top the "Minutes
23 of the Organizational (sic) Meeting of Y & S Corporation,
24 Inc.," is that correct?

25 **A.** Yes.

FATHI YUSUF -- DIRECT

1 **Q.** And it lists the following people in the second
2 line. Says it was held at the Law Office --

3 **A.** Hakima Salem, Rifat Salem and Fathi Yusuf.

4 **Q.** That's correct.

5 And just above it, it says where it took
6 place.

7 Do you see that?

8 **A.** Robert L. King, attorney.

9 **Q.** That's right. And that it took place in September
10 of 1994.

11 Do you see that?

12 **A.** Yes.

13 **Q.** Okay. So you were one of the original
14 incorporators of Y & S Corporation?

15 **A.** Yes.

16 **Q.** Okay. And do you -- if you look at the third page
17 of the document where the arrow's pointing, you notice that
18 it says that at that organizational meeting, the president
19 of Y & S Corporation was Fathi Yusuf?

20 **A.** Yes.

21 **Q.** Okay. Do you remember that you were the president
22 of Y & S Corporation in 1994?

23 **A.** I don't remember, but I sees it. I seen it.

24 **Q.** Okay. You don't remember whether you were or not?

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

FATHI YUSUF -- DIRECT

1 **Q.** Okay. That's fine.

2 Do -- do you have any reason to believe that
3 the document isn't correct?

4 **A.** No, I would -- I have no doubt.

5 **Q.** Okay. And -- and if you look at the last page of
6 that document, you'll see that your signature occurs on it?
7 Waiver of notice of meeting, ratification of the meeting.

8 **A.** Which page? Which page you're talking about?

9 **Q.** Oh, I'm sorry. In the lower left-hand corner,
10 you'll see HAMD6015906.

11 **A.** Which page, Page 6 you're talking about?

12 **Q.** Seven.

13 **A.** Okay.

14 **Q.** Okay.

15 **A.** Um-hum.

16 **Q.** So is that your signature?

17 **A.** Yes.

18 **Q.** Okay. So you believe that you were at that
19 meeting?

20 **A.** Excuse me?

21 **Q.** You -- were you -- do you think, based on your
22 signature being on these documents, that you were at that
23 meeting?

24 **A.** I don't know. This is lawyer work.

25 **Q.** Okay.

FATHI YUSUF -- DIRECT

1 **A.** This is --

2 **Q.** All right.

3 **A.** -- lawyer did it according to the law. Maybe I
4 was in there.

5 **Q.** Okay. I'm now showing you a document that's
6 labeled Exhibit -- Claim H-1 Exhibit 2.

7 (Deposition Exhibit No. H-1 Exhibit 2 was
8 marked for identification.)

9 Here you go. Would you look over that
10 document?

11 **A.** (Witness complies.)

12 **Q.** Okay. Do you remember why you created Y & S
13 Corporation?

14 **A.** We create it is because we -- there's a property
15 that we bought, ourself and the Salem family, and we create
16 that corporation for that purpose.

17 **Q.** Okay. When you say "we bought" it, who -- who
18 owned the stock of Y & S Corporation?

19 **A.** Who owned the stock, I don't recall. I think we
20 bought a property from the bank.

21 **Q.** Okay. But did the Hameds own half and the Yusufs
22 own --

23 **MS. PERRELL:** Wait, objection. Let -- let
24 him finish his answer.

25 **MR. HARTMANN:** Oh, I'm sorry.

FATHI YUSUF -- DIRECT

1 **A.** What is that?

2 **MS. PERRELL:** You can finish your answer,
3 what you were saying.

4 **A.** We bought from -- this property from the bank for
5 myself and Mohammad Hamed and Salem.

6 **MS. PERRELL:** Your phone is --

7 **A.** Yeah. No, no, no. Time to go pray. Okay.

8 **Q.** **(Mr. Hartmann)** Okay. So when you and Mohammad
9 Hamed bought it in the form of Y & S Corporation, did you --
10 did you get -- did you buy some property?

11 **A.** What we bought is about 51 acre of bare land and
12 about 23 condo.

13 **Q.** Okay. And do you remember if that was -- you can
14 look at the document I just gave you. Do you remember if
15 that was transferred to Y & S Corporation on or about
16 September 21st, 1994?

17 **A.** I don't remember none of this.

18 **Q.** Okay. But looking at the deed now, does that
19 refresh your recollection as to when it bought the property?

20 **A.** I bought the property, yes.

21 **Q.** Okay. Do you think this is the deed that
22 transferred that property?

23 **A.** I believe so.

24 **Q.** Okay. I'm now showing you a document that's been
25 marked Claim H-1 Exhibit 3.

FATHI YUSUF -- DIRECT

1 (Deposition Exhibit No. H-1 Exhibit 3 was
2 marked for identification.)

3 Now, the first document was in consideration
4 of \$900,000?

5 **A.** Yeah.

6 **Q.** And the second one is in consideration for
7 \$100,000?

8 **A.** Yes.

9 **Q.** Do you know what the difference of the 2 deeds is?

10 **A.** I honestly don't remember the difference.

11 **Q.** Okay.

12 **A.** This is the lawyer who wanted these papers were.
13 You could direct that to the lawyer.

14 **Q.** Okay. But you do recall that you bought both
15 land, but you also bought condominiums?

16 **A.** Yeah, but from the same owner.

17 **Q.** Right.

18 **A.** With the same value.

19 **Q.** I'm now giving you a document that's labeled Claim
20 H-1 Exhibit 4.

21 (Deposition Exhibit No. H-1 Exhibit 4 was
22 marked for identification.)

23 **A.** Yeah. What is this?

24 **Q.** This is -- this is, you gave testimony previously
25 in this case, didn't you?

FATHI YUSUF -- DIRECT

1 **A.** Um-hum.

2 **Q.** And do you remember if that was on or about
3 April 2nd, 2014?

4 **A.** No, I don't remember.

5 **Q.** Okay. Would you look at the first page of this
6 document?

7 **A.** Yeah, I have no doubt in it, but I don't remember
8 what you saying.

9 **Q.** You don't remember your prior deposition being
10 taken?

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

12 **Q.** I understand.

13 Are you saying you don't remember the date or
14 you don't remember that your deposition was taken?

15 **A.** I don't remember the deposition and I don't
16 remember the date.

17 **Q.** Okay. So you don't know that you gave a previous
18 deposition?

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

20 **Q.** Okay. If you -- have you given depositions
21 previously in your life?

22 **A.** Yes.

23 **Q.** And when you gave the depositions, did the court
24 reporter always give you an oath?

25 **A.** Yes.

FATHI YUSUF -- DIRECT

1 **Q.** And you swore on your oath to tell the truth?

2 **A.** Yes.

3 **Q.** So if this was a deposition --

4 **A.** And I'm telling the truth right now. I don't
5 remember.

6 **Q.** I understand that.

7 I'm just asking, if your deposition was taken
8 in 2014 --

9 **A.** Yes.

10 **Q.** -- you would have told the truth then?

11 **A.** If I remember, I will say it.

12 **Q.** Okay. That's fine.

13 Okay. I'm now showing you a document labeled
14 Claim H-1 Exhibit 5.

15 (Deposition Exhibit No. H-1 Exhibit 5 was
16 marked for identification.)

17 **A.** Yeah, that's my signature.

18 **Q.** Okay. And this document is dated June 15th, 2000.

19 Do you see that at the upper right-hand corner?

20 **A.** Hold on, please. I need to understand your
21 question.

22 **Q.** Okay.

23 **A.** What happened? Repeat your question, please.

24 **Q.** Oh, I'm sorry.

25 Do you see the date in the upper right-hand

FATHI YUSUF -- DIRECT

1 corner?

2 **A.** The date?

3 **Q.** Yeah.

4 **A.** June 15, 2000.

5 **Q.** Okay. And do you see what you signed there, it
6 says, "I, Fathi Yusuf, hereby tender my resignation as
7 director of Y & S Corporation ... to take effect
8 immediately"?

9 **A.** Maybe, yes. If my signature is there, it's --
10 it's fact.

11 **Q.** Okay. So -- so that's -- that's a fact?

12 **A.** But I still don't remember when I signed this.

13 **Q.** You don't remember when you signed this?

14 **A.** I know it's my signature, but when, I remember
15 when I sign it, I don't know.

16 **Q.** Okay. I'm now showing you a document labeled
17 Claim H-1 Exhibit 6.

18 (Deposition Exhibit No. H-1 Exhibit 6 was
19 marked for identification.)

20 And I'd like you to take the time to look
21 through that whole document and see if you recall what it
22 is.

23 **A.** I don't recall none of this. This is lawyer work.
24 Lawyer, will tell him what we want and he'll write according
25 to law. And after that, he hand it to me and I signs it.

FATHI YUSUF -- DIRECT

1 Q. Okay.

2 A. That's all I know.

3 Q. Okay. No, you didn't -- you didn't sign this
4 document.

5 A. I don't know. If I signed it, I -- this is not my
6 signature.

7 Q. Right.

8 A. This is Hamed, Hisham and Najah and Hakima.

9 Q. Okay.

10 A. I signed as -- on the left as witness.

11 Q. Okay.

12 A. That's it.

13 Q. I'd ask you to turn to the second page of it.

14 A. Second page?

15 Q. Yep.

16 A. Okay.

17 Q. And you see the big arrow there on the second page
18 at the top?

19 A. Okay.

20 Q. And you see Paragraph 2?

21 A. Paragraph 2?

22 Q. Yeah.

23 A. In consideration of the transfer of its 1000 share
24 of Y & S Corporation, ... Buyer agree to pay seller nominee,
25 Mr. Fathi Yusuf of 9-C Princess Hill. Okay. And then the

FATHI YUSUF -- DIRECT

1 sum of 900,000.

2 Q. Okay. So you were no longer the -- a director or
3 the president of Y & S?

4 A. Um-hum.

5 Q. But you were going to collect the money for Y & S;
6 is that correct?

7 A. Yes, yes. Okay.

8 Q. And what -- do you remember what was going to
9 happen after you collected the money?

10 A. Do I remember what?

11 Q. You were going to get money --

12 A. Yes.

13 Q. -- from Mr. Salem, right?

14 A. Okay.

15 Q. And was Salem then going to get the -- the shares
16 of stock?

17 A. Yeah, okay.

18 Q. Do you remember that?

19 A. I'm sure. If it says that, --

20 Q. Okay.

21 A. -- I'm sure it's right.

22 Q. Okay.

23 A. I'm not denying I receive a million and a half.

24 Q. Okay.

25 (Respite.)

FATHI YUSUF -- DIRECT

1 I'm now going to hand you two documents, just
2 to make life complex.

3 (Deposition Exhibit No. H-1 Exhibit 7 was
4 marked for identification.)

5 (Deposition Exhibit No. H-1 Exhibit 8 was
6 marked for identification.)

7 The first one is labeled Claim H-1 Exhibit 7,
8 which is a notice of payment of pre-purchase price and
9 authorization to release stock certificates.

10 And I'm also handing to you a second
11 document, which is labeled Claim H-1 Exhibit 8, which is a
12 handwritten document. And I'd ask you if you could look at
13 both of those documents?

14 **A.** Yeah, I recognize both of them.

15 **Q.** Okay.

16 **A.** This one, I don't remember seeing. But this one
17 is my handwriting.

18 **Q.** Okay. So that's your handwriting, --

19 **A.** Yes.

20 **Q.** -- is that correct?

21 And do you remember when you wrote this?

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

23 **Q.** You don't remember?

24 **A.** No.

25 **Q.** Do you remember giving it to Wally Hamed?

FATHI YUSUF -- DIRECT

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

2 **Q.** Do you remember giving --

3 **A.** I never have to give it to Wally, because I hardly
4 see Wally.

5 **Q.** Okay. Do you remember giving it to Wally Hamed?

6 **A.** Maybe Willie.

7 **Q.** Okay.

8 **A.** Or maybe Hisham, one of the two. But Wally, I
9 don't have to give it to him. Wally is in different island.

10 **Q.** Okay.

11 **A.** I was always in St. Thomas.

12 **Q.** So you think you may have given it to either Shawn
13 or --

14 **A.** One of the two, because one -- both of them, they
15 was in St. Thomas.

16 **Q.** Okay. Either Shawn or Willie, is that what you're
17 saying?

18 **A.** Yes.

19 **Q.** Yes. Okay.

20 And why did you give it to them? What were
21 you --

22 **A.** Because they have the right to it. They own
23 50 percent of the million and a half.

24 **Q.** Okay. And -- and what is the eight -0- two nine
25 six six?

FATHI YUSUF -- DIRECT

1 **A.** This is -- I honestly don't remember what. This
2 is my -- I was doing something, but I remember the one -0-
3 five nine thirty-two. This here was a loan to somebody.
4 And I asked Mohammad Hamed to pay it. And this is what,
5 70,000 dinar, Jordanian dinar. I convert it into U.S.
6 dollar. They came up one -0- five nine thirty-two. And
7 then I brought the total. The total would be one -- one
8 million six -0- five nine thirty-two. Half of that is
9 802,966.

10 But, for the record, the one -0- five nine
11 thirty-two, I already give Mohammad Hamed share when I
12 collected that loan. I gave it to them in the city of
13 Zarqa, in his house, in front of his wife. So we're back to
14 one thousand -- one and a half million.

15 **Q.** Okay. So when you gave this to them, you were
16 saying to them, if I understand what you're saying, that
17 this is a calculation out of the Dorthea deal of how much
18 money you'll receive; is that right?

19 **A.** How much money I receive is one and a half
20 million. This one -0- five nine thirty-two, it was a
21 conversion currency from -- this is -- was since I told my
22 partner to go ahead and release this fund to a gentleman, he
23 wouldn't have receive it, but I felt I'm responsible,
24 because if it wasn't me, he would not make that release.
25 But as soon as I get that loan back, I make sure I give my

FATHI YUSUF -- DIRECT

1 partner his half.

2 Q. Okay.

3 A. So we're back to square one. A million and a
4 half. I will never deny that, the million and a half being
5 collected.

6 Q. And when did you collect the million and a half?

7 A. I collect by the way, one million three fifty.
8 The other one hundred and fifty, I told the Salem family to
9 transfer it into a concrete batch plant, because 10 years
10 earlier, Mohammad Hamed received that money to deliver it to
11 the batch plant and he never did deliver it, so --

12 Q. Okay. Just so -- just so -- just so I'm clear,
13 you received money from Mr. Salem?

14 A. Yes.

15 Q. And when you received that money from him --

16 A. Yes.

17 Q. -- you sent that for the batch plant?

18 A. I did not receive the one hundred and fifty.

19 Q. You had him send it?

20 A. I direct them --

21 Q. Okay.

22 A. -- to take it off of the bill and send it.

23 Q. So that -- just so I'm clear.

24 A. Yeah.

25 Q. That one fifty was part of the 1.5 million?

FATHI YUSUF -- DIRECT

1 **A.** Exactly.

2 **Q.** Oh, okay. And you received that in what year?

3 **A.** I don't remember, honestly.

4 **Q.** But -- but the way you received it, you had
5 Mr. Salem send it, the one fifty?

6 **A.** The one fifty, Mr. Salem sent it through a bank
7 transfer.

8 **Q.** And so whenever he sent it, that's -- that's when
9 you received it? That's when you got the payout from the --

10 **A.** Well, the man don't owe us any more money.

11 **Q.** Okay.

12 **A.** And Mohammad, by the way, do not owe us any money,
13 because when I give him, 10 years ago, 150,000, and
14 unfortunate, he never deliver it and he never say, I still
15 have it. So when I find out from the people in the batch
16 plant, I feel Mohammad Hamed obligated to pay what he
17 already take to deliver, but he never deliver the money.

18 **Q.** Okay. And I guess -- I guess what I -- I'm trying
19 to understand is this: I've seen the check that you're
20 describing where Mr. -- or the transfer where Mr. Salem
21 transfers the money --

22 **A.** Right.

23 **Q.** -- for the batch plant. And that's money under
24 the -- Mr. Salem's original contract; is that correct? It's
25 part of the total money?

FATHI YUSUF -- DIRECT

1 **A.** It's part of the one and a half million.

2 **Q.** Okay. It is.

3 And whenever he sent it, that's when you guys
4 received it?

5 **A.** I don't --

6 **Q.** Okay.

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

8 **Q.** Okay.

9 **A.** When -- when I received the million and a half,
10 yes, it's the date I received the million -- they received
11 the -- they received the million and a half.

12 **Q.** Okay. So when you went to -- when you went to
13 looking at that other document that I showed you, the one
14 just before this.

15 **A.** You showed me document, Attorney --

16 **Q.** Exhibit 7, that one. Yeah, okay.

17 **A.** These document is --

18 **Q.** Do -- do you remember that you had to get -- I
19 know you may not remember.

20 **A.** Don't give me this things. This is lawyer work.

21 **Q.** Okay.

22 **A.** And you's a lawyer. You know how they work.

23 **Q.** Okay. So what I'm asking you is, when you got --
24 when you were talking to, you think, Willie and Shawn, you
25 needed Willie or Shawn to do something, right?

FATHI YUSUF -- DIRECT

1 **A.** I want them to give the release, because the
2 people ask for the release. They already paid the money
3 long time, and they requested the release, and I told Shawn
4 to sign the release.

5 **Q.** Okay.

6 **A.** Before he signed the release, he called his
7 brother, Wally.

8 **Q.** Okay. So --

9 **A.** And he tell him go ahead and sign the release.

10 **Q.** Okay. But you said, I need you to sign this
11 release and then I'm going to give you the money, was
12 that --

13 **A.** What's that? No, no, no, no, no, no. Arab
14 normally trust each other for years and years and years. We
15 don't have to sign for each other.

16 **Q.** Okay. But, coincidentally --

17 **A.** Not but, please.

18 **Q.** Okay.

19 **A.** They give each other for 20 years. They never
20 have to have signature. You owe me, you owe me.

21 **Q.** But you had to get this signed for Mr. Salem,
22 right?

23 **A.** Mr. Salem needed for some reason. He have all the
24 right to get it. Whether -- he already pays me, right? I
25 ask Hisham to go ahead and sign the release, because we

FATHI YUSUF -- DIRECT

1 received the money already.

2 **Q.** Okay. So -- so when -- when you got this release,
3 you said Mr. Salem needed the release signed, but who really
4 needed the release?

5 **A.** I don't remember who needed the release.

6 **Q.** Did you give it to Mr. King?

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

8 **Q.** You don't remember who had the stock?

9 **A.** Honestly, I don't remember.

10 **Q.** Okay.

11 **A.** I don't remember to who I give. I know I remember
12 telling Hisham to sign the release and -- and he call his
13 brother to see if it's okay to release, and his brother tell
14 him go ahead and release it.

15 **Q.** Okay.

16 **A.** That's it.

17 **Q.** And do you have any -- you said you got the money
18 from Mr. Salem, right?

19 **A.** Yeah.

20 **Q.** So let me just check and see if I'm right.

21 You got a hundred and fifty thousand from
22 Mr. Salem in the form --

23 **A.** Sir, please, please. Forget about the one fifty.
24 I never touch the one hundred and fifty.

25 **Q.** No, I know.

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1 **A.** This is converted to fulfill Mohammad loan,
2 Mohammad Hamed delivery. He never deliver it.

3 **Q.** Okay.

4 **A.** So it's actually from his share I hold that money
5 to go directly to where it's suppose to go.

6 **Q.** Okay. So of the 1.5 million that Mr. Salem is
7 supposed to give you, a hundred and fifty of it went
8 directly for the batch plant?

9 **A.** One hundred and fifty out of the one and a half
10 million went to the batch plant.

11 **Q.** Okay. And the other payments he gave you, the
12 rest of the money?

13 **A.** Yes.

14 **Q.** So if he gave you one fifty for the batch plant,
15 there's now \$15,500,000 (sic) more that he has to pay you?

16 **A.** We haven't reached the million yet.

17 **Q.** 1.3 million?

18 **A.** You said 13 million.

19 **Q.** 1.3 million.

20 **A.** Okay.

21 **Q.** Hey, that's why I'm a lawyer and you're a
22 businessman.

23 Do you have any documents that show when you
24 received the other 1.3 million?

25 **A.** No.

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1 **MR. HARTMANN:** That's absolutely correct.

2 **MS. PERRELL:** Okay.

3 **Q. (Mr. Hartmann)** As a matter of fact, I'll represent
4 to you, sir.

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

6 **Q.** I will tell you, you can take it as fact, that --
7 that on July 7th, 2014, Mr. Hamed filed a complaint against
8 you.

9 Do you recall that? Not the exact date, but
10 do you know that in 2014, a lawsuit was brought?

11 **A.** Well, whatever it is, it is.

12 **Q.** Okay. And do you remember that in that date in
13 2014, attached to that complaint, was this document that
14 we've just been looking at, the Dorthea document?

15 **A.** Yeah.

16 **Q.** You remember that?

17 **A.** Okay.

18 **Q.** Okay. So as of that date in 2014, did you
19 understand that you and Mr. Hamed were now in a dispute with
20 each other in the court?

21 **A.** Yeah.

22 **Q.** Okay. Do you understand that Mr. Hamed was
23 arguing that you had a partnership and that that partnership
24 now is ending?

25 **A.** Yes. I end it, not he.

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1 **Q.** You ended it?

2 **A.** Yes.

3 **Q.** Okay. And when did you end it?

4 **A.** When I found out.

5 **Q.** Okay.

6 **A.** I decided to end it when I find out they -- they
7 smuggling.

8 **Q.** Okay. And -- and after they -- after they brought
9 that complaint, --

10 **A.** Um-hum.

11 **Q.** -- okay.

12 **A.** Yes.

13 **Q.** Did -- did you ever have any written agreement
14 between you and Mr. Hamed, or you and Wally Hamed, or you
15 and anybody, that said from that date forward, from the date
16 of that complaint, that you should act for them? That you
17 should do things for the Hameds?

18 **A.** I should what?

19 **Q.** You should do any acts for the Hameds?

20 **A.** What?

21 **Q.** You can talk to your lawyer.

22 **A.** No, no, what he saying?

23 **MR. HARTMANN:** Let's pause. Let's go off
24 record.

25 **THE VIDEOGRAPHER:** Okay. We're going off

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1 record. The time is 12:53.

2 (Short recess taken.)

3 **THE VIDEOGRAPHER:** Going back on record. The
4 time is 12:55.

5 **Q. (Mr. Hartmann)** Okay. A colloquy was held off the
6 record between counsel and Mr. Yusuf, and we've agreed on
7 how the question should be phrased.

8 Mr. Yusuf, after you ended the partnership,
9 and the complaint was brought in this case, did you later
10 become the liquidating partner?

11 **A.** I been assigned by the courts, yes.

12 **Q.** Okay. Aside from your assignment as liquidating
13 partner, did you ever have any written or oral agreement
14 with Mr. Hamed or his sons that you should act for the
15 partnership or for them?

16 **A.** No. I thought it was nothing, come in contact
17 with each other.

18 **Q.** Okay. That's fine.

19 (Deposition Exhibit No. H-1 Exhibit 10 was
20 marked for identification.)

21 I'm going to show you an exhibit marked
22 Exhibit H-1, 10, Exhibit 10. This is another one of those
23 lawyer documents that you don't like.

24 Do you understand that there have been
25 several different cases brought by all the different parties

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1 in this lawsuit and that some of them have been consolidated
2 into this case? They've been brought together into this
3 single case?

4 **A.** Yeah, I'm aware of it.

5 **Q.** You are aware?

6 **A.** Some of it, yeah. I don't know which and which.

7 **Q.** Okay. And -- and do you know if the matters
8 regarding Dorthea, do -- do you recall whether the matters
9 regarding Dorthea were originally brought as a separate
10 case, but are now consolidated in this case?

11 **A.** No, I don't know.

12 **MR. HARTMANN:** Counsel, will you stipulate?

13 **MS. PERRELL:** I'd have to look exactly. I
14 know -- I thought that --

15 **MR. HARTMANN:** All you have to do is
16 stipulate that this is a valid consolidation.

17 **MS. PERRELL:** There is a consolidation. I
18 don't know that I agree with exactly the way you've worded
19 it, which is my issue.

20 **MR. HARTMANN:** Okay.

21 **MS. PERRELL:** There is a consolidation. And
22 the reason I'm not going to agree with your statement is
23 that as I recall, even at one point in time in the 370 case,
24 Mr. Yusuf raised the Dorthea issue separate and apart from
25 any and all outside claims, so as part of a reconciliation.

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1 So I don't necessarily disagree. I don't necessarily agree
2 with what your statement is, but it has been consolidated,
3 and it was already, I think, some of it was part of 370 to
4 start with. So -- but it may not have been, so --

5 **MR. HARTMANN:** Do you agree that there are no
6 other Dorthea cases pending anywhere, other than within the
7 accounting now?

8 **MS. PERRELL:** There is no other Dorthea
9 cases, other than what is pending right now.

10 **MR. HARTMANN:** In this --

11 **MS. PERRELL:** However it was consolidated and
12 whenever it was consolidated.

13 (Deposition Exhibit No. H-1 Exhibit 11 was
14 marked for identification.)

15 **Q. (Mr. Hartmann)** So I'm now giving you H-1 -- Claim
16 H-1 Exhibit 11. And this is -- I will represent to you that
17 this is a document that your lawyers filed. And I would ask
18 you to read over called "Yusuf's Accounting Claims and
19 Proposed Distribution Plan." And I would ask you to look at
20 the second page of this, which is labeled at the top, Page
21 11, Section 5, and I'd ask you to read over the statements
22 there about Y & S and R & F that you made, that your clients
23 made. That your counsel made.

24 **A.** (Witness complies.) I don't know if this is
25 partnership. It's not a partnership. United have nothing

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1 to do with this.

2 **MR. HARTMANN:** You can talk to him.

3 **MS. PERRELL:** Right. The question is, is was
4 this part of the original claims recording that we put
5 together in September of 2016? And I would recommend -- and
6 I would represent that, in fact, this was a appropriate
7 excerpt. We since modified that with various defenses, but
8 this was the representation that --

9 **A.** Okay.

10 **MS. PERRELL:** -- we made in September of
11 2016.

12 **A.** Okay.

13 **MR. HARTMANN:** Okay. So you'll stipulate to
14 that?

15 **MS. PERRELL:** I will stipulate this is what
16 we did in 2016, September.

17 **MR. HARTMANN:** Okay.

18 **MS. PERRELL:** And that there are subsequent
19 amendments.

20 **Q. (Mr. Hartmann)** And -- and when you submitted it to
21 the Court, you made several -- your lawyers for you -- I
22 know you didn't write the document, but your lawyers for
23 you, said a number of things, okay?

24 If you look in the middle -- the middle of
25 that paragraph, look for the sentence that starts out "The

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1 funds."

2 **A.** Yes, it says here 900,000.

3 **Q.** Yeah. I want the sentence that says -- it's about
4 halfway down the paragraph. Starts out with the words "The
5 funds were not paid."

6 **A.** Where's the funds are not paid? Where?

7 **MS. PERRELL:** Can I direct him?

8 **MR. HARTMANN:** Yeah, sure.

9 **MS. PERRELL:** Now I'm trying to find it
10 upside down.

11 **Q. (Mr. Hartmann)** I'll read it to make it easier for
12 everybody.

13 "The funds were not paid in a lump sum, but
14 rather periodically and often late."

15 Were the funds paid late sometimes, if you
16 can recall?

17 **A.** I don't know. I don't know what to tell you.

18 **Q.** But you said -- let me -- let me strike that
19 question and answer, ask it a different way.

20 You said you don't recall -- you don't have
21 any documents that show when you received any of the funds?

22 **A.** Yeah, I don't have.

23 **Q.** Okay.

24 **A.** Honestly.

25 **Q.** Do you remember that some of the times when you

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1 were paid the funds, they were paid late?

2 **A.** Maybe, yes. Maybe it been late.

3 **Q.** Okay. But you don't remember any of the dates
4 they were paid?

5 **A.** No.

6 **Q.** Okay. Then at the bottom, the last sentence of
7 this says, "As a result of the various adjustments reflected
8 in Exhibit 1 to the complaint in SX-2014-CV-278, \$802,966
9 should be allocated to Hamed to equalize the Partnership
10 distribution between the parties (sic) resulting from the
11 sale of the stock."

12 You've never disputed that, right? You've
13 never --

14 **A.** I dispute -- I don't dispute the one and a half
15 million.

16 **Q.** Okay.

17 **A.** Not half of it is seven fifty minus the one fifty
18 Mohammed Hamed owes for 10 years. He kept it.

19 **Q.** Okay. And I guess -- I guess part of the question
20 I'm trying to ask here is that 800 -- that money, whatever
21 you owe. You aren't saying a number. Whatever money you
22 owe, is money that was owed under that original contract
23 that was entered into in 2000, right? The original sale
24 contract. This was payment. You're simply saying this is
25 payment for the land and the condominiums?

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1 **A.** Right.

2 **Q.** And that you collected all that money?

3 **A.** I collect 600 on his behalf.

4 **Q.** Okay. And you still have all that money?

5 **A.** Yes.

6 **Q.** Okay. And I don't want to ask -- I don't --
7 answer this very slowly, and maybe talk to your counsel
8 before you answer, but all of the money you received from
9 Salem, except the one fifty we talked about.

10 **A.** Yes.

11 **Q.** Okay. All of that money you received, did you
12 receive that all as cash money or did you receive other
13 things?

14 **A.** I received -- I admit receiving it, but actual
15 cash, I did not get.

16 **Q.** Okay. So -- that's okay.

17 **A.** Okay.

18 **Q.** You don't have to answer any more.

19 And if you received other things than money,
20 do you know the date you received those other things?

21 **A.** No, I honestly don't remember.

22 **Q.** Okay. Do you recall a conversation with -- with
23 Wally Hamed in 2011 in which you told Wally Hamed you were
24 getting certain other things from Salem around that time?

25 **A.** I never discuss no business whatsoever with Wally

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1 Hamed. I say that and he hearing me.

2 Q. Okay.

3 A. Not one word, even though we discuss --

4 Q. Did you ever discuss it with Mohammad Hamed?

5 A. No Mohammad Hamed.

6 Q. Okay.

7 A. I saw Mohammad Hamed maybe twice, 10 minute each.

8 Q. Okay. Are there any documents that you have that
9 show when that other stuff, the noncash stuff you received,
10 was received --

11 A. I don't have the document.

12 Q. Let me just finish.

13 Was received in relationship to when you
14 asked Shawn Hamed to sign the transfer of the stock?

15 A. I honestly don't have anything right now.

16 Q. Okay. Did you ever have?

17 A. Yeah, I have in the past.

18 Q. You had in the past?

19 A. I don't know. I honestly don't know when I
20 received this money. I did receive the 600, but when I
21 receive it, I don't know.

22 Q. But it wasn't money? It wasn't 600 --

23 A. No, I received in substitute for his money and my
24 money.

25 Q. Okay. But you don't know --

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1 **A.** I bought land for it from Hamed. I bought land
2 with it.

3 **Q.** I don't want to go into --

4 **A.** But I don't receive no cash.

5 **Q.** Okay. But you don't know when that was?

6 **A.** No, that, I don't remember.

7 **Q.** Could that have been in 2011?

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

9 **Q.** Could it have been in 2010?

10 **A.** You know, go to Webster's diction -- the Webster's
11 dictionary and look what that word, "I don't remember."
12 What that mean? You's a lawyer. You supposed to be very,
13 very intelligent. When I tell you I don't remember, I mean
14 I don't remember.

15 (Deposition Exhibit No. H-1 Exhibit 12 was
16 marked for identification.)

17 **Q.** Okay. I'm now going to show you a document that's
18 labeled Claim H-1 Exhibit 12. And I will represent to you,
19 sir, that this is that same claim that we were just talking
20 about. In other words, what your lawyers were saying you
21 were claiming.

22 **A.** You gave me the same paper.

23 **Q.** No, no, aww, but it's got a special thing for it.
24 This is the amended claim. This was changed and
25 resubmitted, okay?

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1 So if you now go to Page 2 again.

2 **A.** Go ahead.

3 **Q.** Okay. And remember that place that we looked at
4 in the original one that said the funds were not paid in a
5 lump sum, but rather periodically and often late?

6 **A.** Yes.

7 **Q.** Do you see that there?

8 **A.** I don't know where I see it.

9 **Q.** Okay.

10 **A.** No, I don't see it.

11 **Q.** Hold on just a second.

12 (Respite.)

13 **A.** We're back to square one. It's the same answer
14 I'm telling you. I don't remember.

15 **Q.** Exactly, that's -- that's my point.

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

17 **Q.** So -- so it's the same thing?

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

19 **Q.** Okay. You -- you don't remember whether you got
20 it late?

21 **A.** I --

22 **Q.** Okay.

23 **A.** I -- the money was fulfill, but I don't receive
24 cash and I don't remember when. I have the settlement.

25 **Q.** Okay. Who dealt with Mr. King regarding the Y & S

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1 property?

2 **A.** Me.

3 **Q.** Okay. And --

4 **A.** Excuse me, may I just correct myself?

5 **Q.** Absolutely.

6 **A.** Me and the buyer.

7 **Q.** And?

8 **A.** And Salem.

9 **Q.** And Salem. Okay.

10 **A.** Yeah.

11 **Q.** Was -- did Salem have his own lawyer or was
12 Mr. King the only lawyer? Did Salem have a different
13 lawyer?

14 **A.** No.

15 **Q.** Okay. So -- so did Mike deal with Mr. King?

16 **A.** Who's Mike?

17 **Q.** Your son, Mike?

18 **A.** Mike, I don't know if he even know Mr. King,
19 Attorney King.

20 **Q.** Okay. So I'm just establishing that no other
21 Yusufs dealt with Mr. King about Y & S, is that correct?

22 **A.** I don't know. About Y & S? No, it's only me and
23 Salem.

24 **Q.** Okay.

25 **A.** None of my sons.

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1 **Q.** Okay. So that document that I showed you, the --
2 the document that told Mr. King to release the -- the
3 stock, --

4 **A.** Um-hum.

5 **Q.** -- you would have been the one to gave that to
6 Mr. King, right?

7 **A.** I don't know who requested it, the lawyer or
8 Salem. When he requested it, I tried to fulfill it by going
9 to Hisham and sign it.

10 **Q.** Okay.

11 **A.** And whoever took -- or ask me for the release, I
12 give it back to them, but I don't remember who.

13 **Q.** Okay. And that was in 2012?

14 **A.** I don't remember what year.

15 **Q.** Okay. And did you also ask NejeH to sign it?

16 **A.** Excuse me?

17 **Q.** Did you also ask your son, NejeH, to sign that
18 document?

19 **A.** NejeH, I think so. I think he have something to
20 do with -- because it's two half.

21 **Q.** Okay.

22 **A.** It was Mrs. Salem and --

23 **Q.** Could -- could we look at that document, just to
24 get -- so you don't have to --

25 **A.** I don't need to look at it.

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1 **Q.** Okay. They signed it and dated it.

2 **MS. PERRELL:** Object. Can you let him finish
3 his answer? Go ahead.

4 **MR. HARTMANN:** He says he doesn't need to
5 look at it.

6 **A.** We bought a property from the bank for a million
7 dollar, 51 acre and about 22 or 23 condo. And some reason,
8 we decided to split it into two company.

9 **Q.** **(Mr. Hartmann)** Um-hum.

10 **A.** And I notice in here, the 600 and 900. I seen
11 600. I don't know what is this 600 for. And that's the
12 overall value of our purchase from Barclays Bank.

13 **Q.** Okay.

14 **A.** I end up selling our half that cost us half a
15 million dollar. I end up selling it for a million and a
16 half to my partner.

17 **Q.** What I'm asking is, this is Exhibit 7 that you
18 looked at before, which is the document you got from Neje
19 and from Shawn.

20 **A.** I didn't know.

21 **Q.** No, I understand that.

22 But you notice where they signed it?

23 **A.** Yeah, I --

24 **Q.** You see where they signed it?

25 **A.** I see somebody sign on top, Hisham here on 2012.

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1 And my son, Negeh, February 19, 2012.

2 Q. Okay. Do you have any reason to believe that this
3 wasn't signed in February of -- in February 19th of 2012?

4 A. What do you mean, reason to believe? If the date
5 is there, it's there.

6 Q. Okay. And -- and if the date is there, is it
7 right?

8 A. Yeah, it's right.

9 Q. Okay. That's good. I have no further questions
10 on Dorthea.

11 Do you want to run your cross on Dorthea
12 first, or do you want to wait?

13 MS. PERRELL: That would be fine. I think it
14 would be more logical, but I don't want to mess you up.

15 MR. HARTMANN: No, no, wouldn't mess me up.

CROSS-EXAMINATION

17 **BY MS. PERRELL:**

18 Q. Okay. So Mr. Yusuf, in regard to the Dorthea
19 property.

20 A. Yeah.

21 Q. Did you take --

22 MR. HARTMANN: This is my exhibits.

23 MS. PERRELL: Oh, oh, okay. I thought he
24 handed it to you.

25 MR. HARTMANN: His copy have the stickers on

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1 them, in addition to.

2 **MS. PERRELL:** See? It's magically
3 disappeared.

4 **MS. JAPINGA:** That was quick.

5 **MS. PERRELL:** This is no original sticker,
6 because --

7 **MR. HARTMANN:** Here it is. Here it is.

8 **Q. (Ms. Perrell)** All right. So Mr. Yusuf, with
9 regard to Exhibit 7, which was this one here, --

10 **A.** Yes.

11 **Q.** -- which is in regard to the lease, the release,
12 do you have any recollection as to -- I know you don't
13 remember when all of the value was received, but do you have
14 any recollection whether it was many years before or shortly
15 before this was signed, or you don't know?

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

17 **Q.** You don't know?

18 **A.** Honestly.

19 **Q.** Okay.

20 **A.** Honestly, I don't remember.

21 **Q.** Okay. All right.

22 **A.** This was very, very minor things for me to
23 remember.

24 **Q.** Okay. Do -- the original contract indicates that
25 the payments were supposed to be made in 2001, 2002, 2003,

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1 and 2004.

2 Do you -- does that help refresh any
3 recollection?

4 **A.** It could be, it could be not. I'm not sure.

5 **Q.** Okay. All right. With regard to the amount, to
6 the extent there would be any amount due to the Hameds on
7 this amount, what amount are you contending would be due?

8 **A.** No more than 600 in particular for -- for Dorthea.

9 **Q.** Okay. And the 600 is because it's the eight -0-
10 two minus --

11 **A.** Their share is seven fifty. The eighty-two --
12 eight-two nine thirty-two was giving it to them back. I
13 mean, not eighty-two, fifty-two.

14 **Q.** Well, let's --

15 **A.** Fifty-two, I think. Half of the one -0- two.
16 Whatever it is. His share, whatever it is amount money, he
17 gets it back in his house, in his own house in the city
18 where he live and in front of his wife. The man pass away,
19 God bless him. His wife still alive. She can be asked. I
20 took that money.

21 **Q.** Okay.

22 **A.** And I check with Wally, and there's money -- his
23 brother have two account in Amman, Jordan.

24 **Q.** Okay.

25 **A.** And we came up with it, calculation, and he end

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1 up -- I end up own him 18,361. I told his father to go
2 ahead and draw 18,361. Excuse me, U.S. currency. He went
3 ahead and draw Jordanian currency, which is one dollar only
4 worth 70 percent of the Jordanian currency.

5 **Q.** Okay. Let me just --

6 **A.** It's clear I told Mr. Hamed, 18,361, you can go
7 ahead and draw. He use it, but he draw U.S. -- Jordanian
8 currency. Seventy percent, 30 percent more. It hurts me
9 when I see these thing from an old man. God bless him.
10 He's -- he's someplace else now.

11 **Q.** All right. I just want to get back to these
12 numbers.

13 So just so that we're clear, we're looking at
14 Exhibit Number 8, which is the handwritten document --

15 **A.** Yes.

16 **Q.** -- that you -- your internal calculations?

17 **A.** Yes.

18 **Q.** Okay. So the first number is 1,500,000. That's
19 for the sale of the Dorthea property?

20 **A.** That's the value of -- the full value of the
21 Dorthea property.

22 **Q.** Okay. And then the next number, which is the
23 one --

24 **A.** This is a loan was given to a friend of mine. I
25 asked Mr. Mohammad Hamed at that time to go ahead and give

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1 him 75,000 dinar. The dinar equal to hundred and five nine
2 thirty-two U.S. currency. I add them together, and I end up
3 owing this.

4 But after I give them this paper, I went to
5 Jordan and I give him his money right in front of his own
6 wife. Whatever, it's 52,000 and change.

7 **Q.** Okay. So what you're saying is, is that this
8 number that's in the calculation here was addressed
9 subsequent to this --

10 **A.** Way before I make this 52, whatever his share is
11 from the loan.

12 **Q.** Okay. Just let me finish, 'cause she's going to
13 get upset.

14 **A.** Yeah.

15 **Q.** She won't be able to take us down.

16 **A.** No, no.

17 **Q.** So what I want to understand is that the
18 handwritten document, the second number, which is the
19 105,000 and change, and then it comes again three
20 sentences -- three lines later, hundred and five. Your
21 point is that that is taken off the table. It shouldn't be
22 as part of the calculation for what's owed on Dortehea?

23 **A.** Exactly.

24 **Q.** That's one thing. So now we're back to the one
25 million five.

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1 **A.** Exactly.

2 **Q.** Okay. Now, the next question is, of the one
3 million five that was overall value received, a hundred and
4 fifty thousand was transferred to the batch plan. And your
5 position is that that was coming out of Mr. Hamed's share?

6 **A.** Share, because it's to pay back the money we give
7 him 10 years earlier to give him.

8 **Q.** Right.

9 **A.** To deliver it.

10 **Q.** So -- so he would be owed originally half of
11 the -- of the one million five hundred?

12 **A.** I owe him 600 out of the one million five hundred.

13 **Q.** Okay. Because he would normally be owed seven
14 fifty?

15 **A.** He's entitled to seven fifty, but he owes one
16 fifty. I -- we pay him. His son even -- I told his son to
17 go ahead and deposit one fifty. He decide to deposit to his
18 father over \$40,000 too much and I asked him for it and he's
19 absolutely deny it, he ever make deposit in his father name.

20 **Q.** Okay. But you took care of that because --

21 **A.** I took care of it because it's clear.

22 **Q.** Okay.

23 **A.** Mohammad Hamed account is in St. Croix and the
24 fund was deposited from St. Thomas. And it says deposit in
25 St. Thomas to Mohammad Hamed in St. Croix. He was

FATHI YUSUF -- REDIRECT

1 depositing. The gentleman is here. He deposit \$30-40,000
2 too much more than what he was told, and yet, unfortunately,
3 when I discovered the wrongdoing, I went to him, approach
4 him, he denied completely.

5 **Q.** Okay. I just -- let's keep it just on this one.

6 So that's how you get to the 600,000?

7 **A.** Right.

8 **Q.** 1.5 divided by two and then you take out an
9 additional one fifty for Mr. Hamed?

10 **A.** That's exactly what I did.

11 **MS. PERRELL:** Okay. All right. No further
12 questions.

REDIRECT EXAMINATION

13
14 **BY MR. HARTMANN:**

15 **Q.** This whole idea that the eight hundred two you
16 subtract money out of it that -- that you just talked about?

17 **A.** Only I subtract --

18 **Q.** That whole idea is new?

19 **A.** The whole thing is, from beginning to end, is me.

20 **Q.** No, no, no. What I'm saying is, your lawyers
21 submitted two different claim documents. One was called the
22 original accounting claims, which we've marked H-1 Exhibit
23 11, and another one, which is H-1 Exhibit 12. And in both
24 of those documents -- well, let's look at the first
25 document.

FATHI YUSUF -- REDIRECT

1 The last line says, "As a result of the
2 various adjustments reflected on Exhibit 1," which was the
3 written document, the handwritten document, "802,966 should
4 be allocated to Hamed."

5 So when you filed your claim in this case,
6 that whole hundred fifty argument, that didn't exist, did
7 it? In other words, it's not in this?

8 **A.** My lawyer was told. If he did not put it, and the
9 proof is still there, clear like the sun, it's bank
10 document, it's not document that I made.

11 **Q.** So it's your lawyer's fault?

12 **A.** With respect to him, I could say he miss it.

13 **Q.** Okay. And -- and the same thing with the second
14 claim, the amended claim?

15 **A.** I told him about that, too.

16 **Q.** Okay. So -- so, in other words, what we have here
17 is not a situation where you're making up a new story now,
18 but rather where you told the correct story to your lawyer,
19 and your lawyer just screwed it up?

20 **A.** I -- I have -- my lawyer knows about it.

21 **Q.** Okay. So -- so if your lawyer didn't put anything
22 in there about the reduction of a hundred fifty back when
23 the claim was actually made --

24 **A.** He had the document.

25 **Q.** -- to the Court, that's just -- that's an error by

FATHI YUSUF -- REDIRECT

1 your lawyer, right?

2 **A.** No, no. We -- I give him the document.

3 **Q.** Yeah. All right. I don't doubt it.

4 **A.** If I gave the document, that document in the file.

5 **Q.** Okay.

6 **A.** My lawyer's always working in my behalf. I never

7 look, --

8 **Q.** Okay.

9 **A.** -- examine my lawyer what he doing.

10 **Q.** Well, a lot of times, your lawyers just make
11 mistakes. That's the way it goes.

12 I guess what I'm asking is, when you took the
13 original document to Hamed, you said you took it to either
14 Willie or to Shawn, the handwritten document?

15 **A.** Okay.

16 **Q.** It showed \$802,000. It didn't show \$600,000?

17 **A.** This was not -- I did not take it. I took it to
18 way before the release. Way, way before the release.

19 **Q.** I see.

20 **A.** I don't remember. I took it the time I made the
21 sale.

22 **Q.** So I'm confused now.

23 You went to -- you went to the Hameds and you
24 said to them, I -- I need to get your signature, right?

25 **A.** That's way later after I get paid completely and

FATHI YUSUF -- REDIRECT

1 after this document was already in their possession.

2 Q. So you think now that maybe this document was
3 written at some other time? It wasn't? It's Exhibit 8 to
4 Claim H-1.

5 MS. PERRELL: This one.

6 Q. (Mr. Hartmann) When was that money -- you said
7 that there was a transfer of 75,000 dinars from the Jordan
8 fund.

9 When was that?

10 A. That was not transfer, sir. That 75 dinar, it was
11 not transfer.

12 Q. When did it occur?

13 A. It was told. I don't remember. And it was --
14 this account was under the control of Mohammad Hamed.

15 Q. But this document --

16 A. I told the man, Give him 75,000 dinar. So I held
17 responsible by giving him, and nothing wrong with it. The
18 man paid me back the money, and right away, I give Mr. Hamed
19 his share, because it's his money.

20 Q. But you don't know when that was?

21 A. I don't remember.

22 Q. And you don't know when --

23 A. Way before 2012. Way, way before that.

24 Q. Okay. So -- so when your -- when your lawyers
25 wrote that you did owe the \$802,000 in -- in your claims, --

FATHI YUSUF -- REDIRECT

1 **A.** Um-hum.

2 **Q.** -- maybe they were confused, you think?

3 **A.** I'm sure they confuse, because they have the one
4 fifty on their record that I give for one fifty.

5 **Q.** So they just made a mistake?

6 **A.** I -- whatever you want to call it. And I told
7 them this, I paid back the -- the 52,000 to the man.

8 **Q.** Okay.

9 **A.** Now, my lawyer, he missed it, there's nothing I
10 can do about it.

11 **Q.** That's right. Yeah, the claim's the claim, you're
12 right.

13 What -- what about your prior deposition,
14 though? You said you don't remember a lot of stuff that
15 went on.

16 **A.** Which deposition?

17 **Q.** The one that we took in this case in 2014.

18 **A.** I don't remember the date. What is the -- oh, I
19 don't remember what I said.

20 **Q.** You don't remember saying that -- that this all
21 happened within 3 years?

22 **A.** I tell you what, ask me the same language. I
23 don't remember I ever make a deposition, but ask me the same
24 language, you will get the same exact answer, because I
25 never lie in my answer.

FATHI YUSUF -- RECROSS

1 **Q.** Okay. Okay. At Page 105 of your original
2 deposition, which is Exhibit Claim H-1, 4, you were asked
3 this: "And when did you get that money?" In other words,
4 when did you get the money that we're talking about here.

5 **A.** Don't remember.

6 **Q.** And you said, "I get the money, I don't have a
7 date. But that I get that money maybe, I can guarantee you,
8 it's not three years. It's less than three years."

9 **A.** Whatever I said, it says.

10 **Q.** Okay. So did you get the money less than 3 years
11 from the deposition?

12 **A.** Whatever I said, I said. It's there.

13 **Q.** Okay. So that's correct?

14 **A.** Yeah. I mean, I say now.

15 **MR. HARTMANN:** I have no further questions.

16 **RECROSS-EXAMINATION**

17 **BY MS. PERRELL:**

18 **Q.** I have one more follow-up.

19 With regard to Exhibit 4, there's some
20 indication that somehow this is -- this is new or that this
21 was somewhat confused.

22 In your deposition at Page 101, in response
23 to various questions, you stated the following: "Up to now,
24 he denying (the) money. That money, I give him (a hundred
25 and fifty) to deliver to the batch plant, and he" -- "and he

FATHI YUSUF -- RECROSS

1 claim that the batch plant is ours." It is not ours. We
2 just put him to let the two fight together.

3 I don't know what that means. But isn't it
4 true that you discussed this batch plant for a hundred and
5 fifty in the context of the receipt of the Dorthea money in
6 a prior deposition?

7 **MR. HARTMANN:** Huh? Object.

8 **MS. PERRELL:** Okay.

9 **MR. HARTMANN:** I don't know what my objection
10 is.

11 **Q. (Ms. Perrell)** Isn't it true that this is your
12 deposition testimony? I know you said you don't recall, but
13 it was in 2004.

14 **MR. HARTMANN:** '14.

15 **Q. (Ms. Perrell)** '14. Sorry.

16 **A.** Okay.

17 **Q.** And one of the statements you said is "Up to now,
18 he denying" the money. "That money, I give him ... to
19 deliver to the batch plant, and he claim that the batch
20 plant is ours."

21 When we talk about the batch plant and a
22 hundred and fifty, is that the same money that you're
23 talking about?

24 **A.** Same money.

25 **Q.** Okay. All right. And --

FATHI YUSUF -- RECROSS

1 **A.** I think up to now, they deny it.

2 **Q.** Correct.

3 And then at the bottom of that page, there's
4 a question. It says, "And then the Jordan fund," this is a
5 question, it says 75 (sic) dinar. "I take it that" -- "I
6 take it that, converted," \$105 (sic) to "U.S. dollars," and
7 you said, "Right."

8 And are those to be split by Hamed and you
9 said, "I explained it to you, sir."

10 And then you said at Answer 102, "The 105 is
11 by mistake. I end up transferring ... his -- the property
12 was mine and his."

13 Do you recall that?

14 **A.** Which property?

15 **Q.** The 105,000?

16 **A.** It wasn't -- it wasn't for a property, it was a
17 loan.

18 **Q.** Okay.

19 **A.** It wasn't in property.

20 **Q.** Do you recall making a statement relating to the
21 105,000 --

22 **A.** If I made it, I made it, but I don't know. But it
23 wasn't no property. It was a loan for -- for a portion.

24 **Q.** Okay.

25 **A.** It was not a property. I know I don't owe that

FATHI YUSUF -- REDIRECT

1 money no more.

2 Q. All right. At Page 103, the question was "So one
3 of the items that you owe them for," this is the question to
4 you, "I understand there are items back in forth, but one of
5 the items you owe him is 802,960." And do you recall your
6 answer was, "Not 802, sir. I told you" -- already, "I
7 already spent 105, or most of it, in a property where both
8 of us is responsible to spend that money."

9 Is that the same thing that you're talking
10 about here, the one -0- five?

11 A. I don't know.

12 Q. Okay.

13 A. I honestly don't know. I honestly didn't know.

14 Q. And then the question was, is, "So you would take
15 the 105 off of the 802?"

16 A. Yeah, it have to be off.

17 MS. PERRELL: Okay. All right. I have no
18 more questions on Dorthea.

19 **REDIRECT EXAMINATION**

20 **BY MR. HARTMANN:**

21 Q. Okay. I'd like to move on to Claim H-153, which
22 is partnership funds used to pay for United Shipping (sic)
23 Centers -- oh, no, I'm sorry. That's not the one. I'm
24 going to the container. That's Y-14. I'm sorry. Half the
25 value of six containers.

FATHI YUSUF -- REDIRECT

1 **A.** Excuse me?

2 **Q.** Half the value of six containers.

3 **A.** Um-hum.

4 **Q.** Do you know that claim?

5 **A.** Yes.

6 **Q.** Okay. Could you explain that claim to me? Just
7 in your own words.

8 **A.** The thing is, when we do -- when we -- before we
9 start to bid, I told the Master, Judge Ross, I am bidding
10 only what underneath this roof, nothing outside. And he
11 said, Yes. I repeat it, three -- I believe, three time, I'm
12 only bidding what underneath this roof. And he say, he
13 admit, Yes.

14 **Q.** Okay.

15 **A.** Go ahead and bid what underneath this roof.

16 And when I bid underneath that roof, we have
17 never bid -- and I'm sure the other party aware of it --
18 when we bid, we was bidding on product inventory
19 underneath -- inventory and equipment underneath the roof.

20 **Q.** Okay.

21 **A.** Okay.

22 **Q.** So you're saying that your understanding from
23 Judge Ross was that the things in containers and other
24 things like that were not included in the original sales
25 price, so you want to get the value of what's in those

FATHI YUSUF -- REDIRECT

1 containers?

2 **A.** This is -- is the answer. I mean, look, if the
3 bid was only what underneath this roof and something comes
4 up that I forget all about outside that roof, I honestly
5 strongly believe I'm entitled to my right.

6 **Q.** Okay. And -- and during the course of -- of
7 discovery in this case, Mr. Hamed's lawyers have asked your
8 lawyers to ask you for a list of all the items that were in
9 those containers.

10 Do -- do you remember being asked that
11 question in discovery?

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

13 **Q.** What's in the containers?

14 **A.** What's in the container, I gave my lawyer the --
15 just the other day what's in the containers.

16 **Q.** So --

17 **A.** Not what's in container. A similar load can be.

18 **Q.** Aww, okay. So let's talk about --

19 **A.** I don't know what's in the container. It's
20 product for sale in -- in the supermarket.

21 **Q.** Okay. So you don't know what was in the
22 containers?

23 **A.** No, I don't know.

24 **Q.** Okay. I have no further questions.

25 **A.** Store inventory for sale in Plaza Extra Tutu Park.

FATHI YUSUF -- RECROSS

1 **A.** Yes, hold on.

2 **Q.** Okay.

3 **A.** I'm trying to lock my phone. Okay.

4 **Q.** Okay. I'm going to hand you what's been marked as
5 Exhibit 1. This includes Bates Numbers FY --

6 **MR. HARTMANN:** You said Exhibit 1.

7 **Q.** **(Ms. Perrell)** I'm sorry, that's what it says on
8 the first page. Let me clarify.

9 I'm going to hand you what's been marked
10 Exhibit 7 in this deposition. There is some language above
11 that says Exhibit 1, but we're going to refer to it as
12 Exhibit 7 here. It is Bates Numbered FY 015045 through
13 0105134. And then ask you about this.

14 When you were asked to provide some
15 information as to the value of the claim, are these the
16 documents that you provided?

17 **A.** Yes.

18 **Q.** Okay. And can you explain to us what is the
19 calculation and how did you arrive at this valuation for
20 those six containers?

21 **A.** I remember I gave you these invoices --

22 **Q.** Okay.

23 **A.** -- as an example and --

24 **Q.** So Mr. Yusuf, --

25 **A.** Yes, go ahead.

FATHI YUSUF -- RECROSS

1 **Q.** -- you -- you worked at the St. Thomas store for
2 many, many years, correct?

3 **A.** Yes.

4 **Q.** Okay. And so during your time working in the
5 store in St. Thomas, were you familiar with the types of
6 products that you would store in the containers in
7 St. Thomas?

8 **A.** Yes.

9 **Q.** Okay. And can you tell us, generally speaking,
10 what kinds of product you stored in the containers outside
11 the store in St. Thomas?

12 **A.** Nothing -- something with a long expiration date.
13 It's a dry container. There's no -- no refrigerated item.
14 And no -- it have to be pack in a strong vacuum package,
15 otherwise -- you can't put water, because if you put water,
16 it's contain in a plastic container and that does not take
17 load. Or Clorox, it's too dangerous. You can't put water,
18 you can't put Clorox. Yes, you could put tuna fish,
19 sardine, paper towel, anything that does not break that easy
20 or bust, you know, damage or leak, 'cause if you leak, it
21 will damage everything. And the weight is no question ask,
22 because the trailer's not on the highway, and filled to
23 capacity.

24 **Q.** Okay.

25 **A.** If we need the room, we just fill to capacity.

FATHI YUSUF -- RECROSS

1 **Q.** Okay. And so how many years were you at the
2 St. Thomas store?

3 **A.** About 22 years.

4 **Q.** Okay. And so over those 22 years, you're familiar
5 with the kinds of things that you stored in those containers
6 in St. Thomas?

7 **A.** Yeah, I have a little experience, but the one that
8 is really familiar is the -- is the people that works, the
9 manager, you know. I'm -- I don't know what's in the
10 trailer, but I know something that -- water, we can't afford
11 to put it, because it will bust. It doesn't have any
12 strength. And the Clorox, no. You put paper towel. You
13 put rice. You put canned goods. That's what you put.

14 **Q.** Okay.

15 **A.** Something really hard. It could stand temperature
16 and strong.

17 **Q.** Okay. And the document that you provided, which
18 is this Exhibit 7, how did you calculate -- how many
19 trailers are there?

20 **A.** Here is three container I give you.

21 **Q.** Okay. What are their sizes?

22 **A.** 3,300 cubic foot and 40 -- 40 cubic foot and
23 20 cubic foot. I mean, 45-footer, 40-footer, and 20-footer,
24 and the cube.

25 **Q.** Okay. And then you -- how did you arrive at

FATHI YUSUF -- RECROSS

1 the -- the value that you arrived at here of 415,000?

2 **A.** I have give it to you. I don't know. I give it
3 to you on the paper. I don't know what it is.

4 **Q.** Okay.

5 **A.** But I -- what I did, I used standard high cube
6 container. It can never be more than 2,700 cube. That's
7 the largest, 40-footer or a 20-footer. But the -- the one
8 we have on -- on -- for storage purposes, it's a 45 in
9 length with 3,300 in cube.

10 **Q.** Okay.

11 **A.** And this, the 40 and the 20, it have restriction
12 on weight in the highway. And these 45, because it's not
13 traveling, it's not moving, is no restriction on it.

14 **Q.** Okay. So you're saying you could load these
15 down --

16 **A.** All the way up.

17 **Q.** -- because you won't have to put it on the
18 highway?

19 **A.** Yeah, because it's not moving.

20 **Q.** Okay.

21 **A.** It wouldn't break.

22 **Q.** All right. And then all of these receipts that
23 are behind this, what do those receipts represent?

24 **A.** I think this receipt is -- some represent
25 20-footer and some represent a 40-footer.

FATHI YUSUF -- RECROSS

1 **Q.** Okay. And did you use those receipts to do the
2 calculation as to --

3 **A.** Yes.

4 **Q.** -- the types of products that would have been
5 in -- in the container?

6 **A.** Yes.

7 **Q.** Okay. And that was based on your experience
8 knowing --

9 **A.** Yeah.

10 **Q.** -- what was stored there --

11 **A.** Yeah, I have --

12 **Q.** -- correct? Hang on. You got to --

13 **MR. HARTMANN:** Yeah, you also -- now you're
14 testifying. You can -- he's your witness. You can't lead
15 him like that. I mean, I don't mind if you lead, actually.
16 I'm just saying technically, you can't.

17 **MS. PERRELL:** Okay.

18 **MR. HARTMANN:** You got to ask him a question.

19 **Q.** **(Ms. Perrell)** So these receipts --

20 **A.** Now I notice what I wrote. It's right here.

21 **Q.** Okay.

22 **A.** The 40-footer, I give you several invoices and
23 estimate 35,000 -- worth \$35,000 in cargo.

24 If I put that into the 40-footer, it will end
25 up being \$79,545. The 20-footer, it came up to \$18,000 in

FATHI YUSUF -- RECROSS

1 value. And if I puts it in the 45-footer, it will be -- end
2 up 81,818.

3 Q. Okay.

4 A. Now I -- I see it, Attorney Hartmann, where my
5 writing is. And I -- I don't need her, with her respect, I
6 don't need her information. It's already here.

7 Q. Okay. And so this Exhibit Number 7 is a
8 calculation that you have made and --

9 A. Yes.

10 Q. -- you believe it's a fair and accurate --

11 A. This is very fair. Wally and his brother is here.
12 They could tell you it's 45-foot -- 40-footer is 35,000.
13 It's a fair average cargo --

14 Q. Okay.

15 A. -- because you cannot -- most of the trailer we
16 receive, 40-footer. We never receive it full, because it
17 hit maximum weight allows in the state highway. So I think
18 the law's about 44 or 46,000 pound, where there is no limit
19 on that 45-footer.

20 Q. So what you're saying is, is you've made these
21 calculations based upon what is --

22 A. Based on the equipment that we on the site.

23 Q. Okay. And these receipts support the numbers
24 that -- of the types of materials -- let me finish -- the
25 types of product that would be in those containers in

FATHI YUSUF -- REDIRECT

1 St. Thomas?

2 **A.** Yes, 35,000 for the average 40.

3 **Q.** Okay.

4 **A.** 18,000 for the average 20.

5 **Q.** Okay.

6 **A.** But I did make calculation based on the 45,
7 because it's unlimited weight and you can -- and the trailer
8 is stationed. It does not move.

9 **Q.** Right.

10 **A.** When something doesn't move, it does not have the
11 force of moment to break it.

12 **Q.** Okay. So my question to you is, this calculation
13 that you did is a fair and accurate representation of the
14 average amounts of product that would be in those containers
15 and their value as stored on the St. Thomas store?

16 **A.** I would say yes.

17 **MS. PERRELL:** Okay. All right. No more
18 questions to that.

19 **REDIRECT EXAMINATION**

20 **BY MR. HARTMANN:**

21 **Q.** I have two questions.

22 **A.** Yes, sir.

23 **Q.** You said these were examples, right?

24 **A.** Yes.

25 **Q.** This had nothing to do what was actually in there?

FATHI YUSUF -- REDIRECT

1 **A.** No. See, this -- I attach invoices to my attorney
2 to show her the average is 35,000 per container for the 40.
3 At the same time, I attach 20-foot loads to show her what is
4 the average.

5 **Q.** Right. Okay. And so on -- remember when we
6 closed all the stores and they did an inventory for -- they
7 did an inventory in Tutu?

8 **A.** Yeah.

9 **Q.** And they did an inventory in West and inventory in
10 East, right?

11 **A.** Yeah.

12 **Q.** Did they do an inventory of what was in these
13 containers?

14 **A.** I'm sure.

15 **Q.** You are? Okay.

16 **A.** Yeah.

17 **Q.** So if I asked your counsel to supply that
18 inventory, what was in those containers, she could give me
19 that?

20 **A.** That inventory, sir, went up to the office and my
21 son, Neje, looked for it all over. Someone took it off.

22 **Q.** I see. So --

23 **A.** Took it off. Only what's in the container, it was
24 not there.

25 **Q.** So you think one was done and somebody took it?

FATHI YUSUF -- REDIRECT

1 **A.** Yeah, it's been done. Each -- he's coming to give
2 us what is our financial strength. Naturally, he will make
3 an inventory in all our trailers.

4 **Q.** This is an outside vendor who did --

5 **A.** Yeah, a certify.

6 **Q.** -- the inventory?

7 So if he did those containers, he would still
8 have that?

9 **A.** We asked him. He said he don't have it.

10 **Q.** I see.

11 **A.** We asked.

12 **Q.** So he doesn't have it and nobody else has it?

13 **A.** Nobody else has it.

14 **Q.** Okay. So there is no inventory for what was
15 actually in those containers?

16 **A.** It was in inventory and somebody took it off.

17 **Q.** But it's gone?

18 **A.** It's gone.

19 **Q.** Okay. And did you once ask Judge Ross to give you
20 the money for what's in those containers?

21 **A.** Yes.

22 **Q.** And what did Judge Ross say?

23 **A.** I -- no, I -- I don't remember calling for it.

24 **Q.** You don't remember.

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

FATHI YUSUF -- REDIRECT

1 **A.** Yeah.

2 **Q.** Addressed to you and it's copied to Mike, Mike
3 Yusuf.

4 **A.** Um-hum.

5 **Q.** Okay. Do you remember receiving this letter?

6 **A.** No, sir.

7 **Q.** Do you doubt that you received this letter?

8 **A.** Excuse me?

9 **Q.** Do you doubt that you received it?

10 **A.** I'm definitely sure I have never saw this paper
11 before.

12 **Q.** So you've never seen this document?

13 **A.** I never seen it before.

14 **Q.** Okay. Who was Mr. Luff?

15 **A.** I honestly don't remember him. My son remember
16 him.

17 **Q.** Which son?

18 **A.** Mike.

19 **Q.** Okay.

20 **A.** Maher.

21 **Q.** So we'd have to ask Mike about this?

22 **A.** Yes. The simple reason, because I was in
23 St. Thomas working all the time.

24 **Q.** And -- and why would Mike know about it? What --
25 what was Mike's position at the time that he would know

FATHI YUSUF -- REDIRECT

1 about it?

2 **A.** He's my son. Forget about the position. He's the
3 president.

4 **Q.** Okay.

5 **A.** But it is his father property.

6 **Q.** But he was also the president of United, wasn't
7 he?

8 **A.** Yes.

9 **Q.** Okay. So this was United property owned by United
10 and a letter was being sent to United by United's property
11 manager and he copied Mike because Mike was the president of
12 United, we think?

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

14 **Q.** Okay. We'll ask Mike.

15 **A.** Can't answer for anybody.

16 **Q.** Now, if you look at the documents that are
17 attached to this letter, which are analyses of the rents and
18 the vacancies for the property in 2001, did you receive
19 those types of documents from -- or did Mike receive those
20 documents?

21 **A.** As far as I'm concerned, sir, I already gave you
22 the answer. I will repeat it one more time.

23 **Q.** Okay.

24 **A.** I have never seen this document before.

25 **Q.** No, I'm not asking that, sir. I'm saying that the

FATHI YUSUF -- REDIRECT

1 types of documents that are in it, year-to-date summaries on
2 rents, the monthly rental statements, did you get those
3 normally or did Mike get those normally?

4 **A.** I never received it, not even one time. Not
5 normally or not normally. I have never received such
6 documents.

7 **Q.** Do you think Mike got them or do you think nobody
8 got them?

9 **A.** I don't know. Let Mike answer the question.

10 **Q.** Okay. That's fine.

11 So you know nothing about this at all?

12 **A.** I can answer about the next one.

13 **Q.** About the next?

14 **A.** Yeah. The next sheet. There's one more sheet
15 from the same gentleman.

16 **Q.** There is? Where's that?

17 **A.** Where is this? You know the other sheet?

18 **MS. PERRELL:** Yeah, it's in the back.

19 **A.** In the back? No, ma'am. It's both of them. Two
20 of them.

21 **MS. PERRELL:** No, there's only one from --
22 from Mr. Luff.

23 **A.** There is one more.

24 **Q.** **(Mr. Hartmann)** Okay. Well, wait, wait.

25 **A.** Look for the document, please. You'll find it.

FATHI YUSUF -- REDIRECT

1 **Q.** Let's -- let's stop. You've given your answer.
2 We'll ask Mike about it.

3 Okay. I'm going to show you Exhibit --

4 **A.** Excuse me. Excuse me, sir.

5 **Q.** Yes.

6 **A.** Look for that, please, for the next one. Next one
7 to this.

8 **MS. PERRELL:** The one after?

9 **A.** Where we get that.

10 **MR. HARTMANN:** Well, it's my deposition, so
11 why don't I -- just let me --

12 **MS. PERRELL:** Yeah, we'll do it at a break.
13 We'll do it at a break.

14 **THE COURT REPORTER:** Just one at a time,
15 please.

16 **A.** Can I mention anything about the next paper?

17 **MS. PERRELL:** Let him ask the questions and
18 then we'll come back.

19 **A.** He's not coming to us with questions.

20 **MS. PERRELL:** I think he might.

21 **A.** Okay.

22 **MS. PERRELL:** So let's see what happens.

23 **A.** I will.

24 **Q.** **(Mr. Hartmann)** Go ahead. Please, tell me about
25 the next paper.

FATHI YUSUF -- REDIRECT

1 **A.** I have to listen to my lawyer, not you.

2 **Q.** No, no, no. I'm -- I'm asking. Tell me about the
3 next paper.

4 **A.** The next one have sent to me by fax and the paper
5 is blank. There is no fax ID on it. That's means it's a
6 false document, because says my address to my fax number and
7 there's no ID of my fax on it.

8 **MR. HARTMANN:** Counsel, do you have such a
9 document?

10 **MS. PERRELL:** I do not have such a document.
11 This is the document, Mr. Yusuf. This is the document.

12 **Q.** **(Mr. Hartmann)** That has no fax number on it.

13 **A.** There's one. I'll find it. I'll find a way to
14 find it.

15 **Q.** Okay. I just want to make sure he gets a full
16 chance to answer.

17 **MS. PERRELL:** Just to be clear for the
18 record, when you forwarded me the documents on whenever it
19 was last week, I forwarded them to him and he printed them
20 out. I think that they came in two -- two --

21 **MR. HARTMANN:** That's fine.

22 **MS. PERRELL:** -- documents, but I think that
23 here, they've somehow been stapled together as one.

24 **MR. HARTMANN:** That's fine.

25 **MS. PERRELL:** That's what I think is creating

FATHI YUSUF -- REDIRECT

1 the confusion.

2 **MR. HARTMANN:** Okay.

3 **MS. PERRELL:** But that's -- there is no -- no
4 document source, other than the receipt of it from you guys,
5 and I understand what you're saying it came from, but there
6 is no -- anything else.

7 **Q. (Mr. Hartmann)** Okay. Okay. What I'm really
8 trying to get at here, Mr. Yusuf --

9 **A.** Yes.

10 **Q.** -- is are you the person I should be asking
11 questions about 5 and 8, or should I be asking Mike?

12 **A.** No, 5 and 8 is very important that I being asked.

13 **Q.** That you be asked?

14 **A.** Yes.

15 **Q.** Okay. In your claim, your lawyers have made a
16 claim for you in this case --

17 **A.** Yes.

18 **Q.** -- for renting 5 and 8, right?

19 **A.** Yes.

20 **Q.** In your claim, it states that a particular square
21 footage, a cost per square foot, is being charged?

22 **A.** Yes, sir.

23 **Q.** Okay. Who -- where does that cost per square foot
24 come from?

25 **A.** All right, sir. The number is -- it came from the

FATHI YUSUF -- REDIRECT

1 previous tenant, Ali Hardware. I was renting it for \$5 a
2 square foot, plus maintenance and property tax.

3 When I build the Plaza Extra, I billing just
4 dollar fifteen a square foot for maintenance and I forget to
5 bill for the property tax. That's is for Number 8. It does
6 not come out of my head. It come out from the previous
7 tenants. And the -- then Plaza used the place for 7-8
8 years. And then we open up Frederiksted. We don't need 8
9 no more. We thought we don't need 8 anymore. So I have a
10 tenant and I will rent that to Robert Hill, some company, a
11 wholesaler in St. Croix. He took it, I think, for -- I
12 don't remember what -- how many years. And after that, he
13 left.

14 We realize that we should never rent it,
15 because even though we have Plaza West with a huge warehouse
16 capacity, still, we should never rent it to Robert Hill
17 because we need this to be close by --

18 **Q.** Okay. So --

19 **A.** -- to the store.

20 **Q.** -- if you look back at -- if you look back at that
21 document that you said you've never seen.

22 **A.** Excuse me?

23 **Q.** Exhibit 1. It's the one --

24 **A.** Oh, this one?

25 **Q.** Right.

FATHI YUSUF -- REDIRECT

1 **A.** I have never seen this.

2 **Q.** You've never seen that. Okay.

3 In the document you've never seen, --

4 **A.** Um-hum.

5 **Q.** -- three pages from the back --

6 **A.** Yeah.

7 **Q.** -- there's a document that ends in Bates

8 Number 274.

9 **A.** Okay.

10 **Q.** And it says, Accounts Receivable Current Month.

11 **A.** Okay.

12 **Q.** And against every bay in there, there's a cost per
13 square foot listed.

14 **A.** Okay.

15 **Q.** Do you know anything about that?

16 **A.** No.

17 **Q.** You've never seen this document, right?

18 **A.** I've never seen this.

19 **Q.** Okay. So you know nothing about those square
20 footages?

21 **A.** Nothing of this. I -- I don't --

22 **MS. PERRELL:** Wait. Objection. He knows
23 nothing about this document. That is mischaracterizing his
24 testimony as to whether -- what he knows as to cost per
25 square foot. So he knows nothing about this document, but

FATHI YUSUF -- REDIRECT

1 that doesn't necessarily mean that he doesn't know the cost
2 per square foot.

3 **MR. HARTMANN:** And what is your objection?

4 **MS. PERRELL:** My objection is it misstates
5 the testimony, your question.

6 **MR. HARTMANN:** What does?

7 **MS. PERRELL:** Your question. So you know
8 nothing about the square footage? You asked him if he knew
9 anything about this document.

10 **MR. HARTMANN:** So you're arguing that my
11 question is compound.

12 **Q. (Mr. Hartmann)** Okay. You know nothing about this
13 document, right?

14 **A.** This document --

15 **Q.** Okay.

16 **A.** -- I never seen before.

17 **Q.** Okay. See the column here that says cost per
18 square foot and it goes down?

19 **A.** Yeah, yeah.

20 **Q.** Do you know anything about where those numbers
21 came from?

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

23 **Q.** Okay. Do you know -- do you know whether those
24 numbers are accurate or not?

25 **A.** I said, sir --

FATHI YUSUF -- REDIRECT

1 Q. I know. Your client --

2 A. That's it. When I tell you --

3 Q. Your lawyer is making me ask --

4 **THE COURT REPORTER:** I'm sorry. One at a
5 time.

6 A. I don't know about. I have never seen this
7 before.

8 Q. **(Mr. Hartmann)** I understand. And I'm asking you,
9 do you know where these numbers come from?

10 A. I would assume from books. Maybe from the book.

11 Q. Okay. The bay --

12 A. But that does not mean --

13 Q. Sir, --

14 A. -- I receive this.

15 Q. -- you have to let me ask a question.

16 A. I tell you, I have never seen it. I have never
17 seen it.

18 Q. I understand. Your lawyer's objecting to my
19 asking the question that way. I have to ask you the
20 question this way. Okay.

21 A. Go ahead.

22 Q. So for Bay 5, for instance, it says in here that
23 it's a certain number of square feet, 3,125. And the cost
24 per -- the rental cost per square foot is \$7.01; is that
25 right?

FATHI YUSUF -- REDIRECT

1 **A.** That is impossible. What date is that? What is
2 the date here?

3 **Q.** 8-22-01.

4 **A.** '01?

5 **Q.** '01.

6 **A.** What is that, '01?

7 **MS. PERRELL:** You have to -- you have to
8 answer.

9 **Q.** **(Mr. Hartmann)** August 2001.

10 **A.** No way.

11 **Q.** So this is wrong?

12 **A.** The store was using it. The store was using that
13 warehouse.

14 Look, when we open in 1994, I was in
15 St. Thomas. I came and I was surprised to see my building
16 tearing apart, and I get angry, because I am the owner of
17 that building. But Wally was smart enough, each time he do
18 something he knows I don't like, he used to put my son with
19 him. I say, Mike, you know about this? He say, Yes, Daddy,
20 we need it and so. I say, Wally, you have to pay rent for
21 this. He said, I will pay rent.

22 Because, sir, you's a lawyer and I respect
23 your profession. You need to respect my profession. When
24 we order trailers -- one time we order 17 container in one
25 item when the price is right. That's why the warehouse is

FATHI YUSUF -- REDIRECT

1 very, very important to be available.

2 We order sardine one trailer. Take us 2
3 years to move it, but to get -- to be a competitive
4 retailer, you have to buy wholesale. And that's why -- now,
5 look at Plaza Extra, any supermarket have between 60 to
6 70,000 item. And you can't put more than one case. And the
7 most cases you can -- the real strong moving item, you might
8 put 4-5 cases. But the one you move 4-5 cases, you always
9 have at least a container in the ware -- in the warehouse,
10 'cause, you know, we receive one shipment every month.
11 Every week.

12 Q. Sir --

13 A. We can't be out of merchandise on the shelf.

14 Q. Could I ask you another question?

15 You've testified that you've -- that document
16 I was showing you, the accounts receivable, you've never
17 seen that or any document like that, okay?

18 If there was someone inside the United
19 organization who could testify about what's on this
20 document?

21 A. Excuse me, before I can answer you, could you give
22 me the -- please, the date when 12 was rented to Plaza?

23 MS. PERRELL: What he's asking, and I know
24 this is pending, so here's -- let me put this on the record.

25 I think it would assist my -- can I ask him

FATHI YUSUF -- REDIRECT

1 whether it would assist him to understand the dates, 'cause
2 he's already put this in the declaration? In his own
3 declaration?

4 **MR. HARTMANN:** You can give him anything you
5 want.

6 **MS. PERRELL:** All right.

7 **MR. HARTMANN:** You can -- actually, if you
8 want to give the answer for him, I'd be happy with that.
9 No, I'm dead serious.

10 **A.** Excuse me, sir, I don't need an answer. I'm 77
11 years of age and she's the age of one of my daughters.

12 **Q. (Mr. Hartmann)** Sometimes lawyers can put it in
13 lawyer speak.

14 **A.** Come on, now. Listen, when this man tear up my
15 building, the first tenant after 1994, it was the guy who
16 rented for 12. No middle tenant rented it.

17 **MR. HARTMANN:** Can we -- can we go off the
18 record for a second, Counsel?

19 **A.** That's why I have a strong argument.

20 **MR. HARTMANN:** Counsel?

21 **MS. PERRELL:** Yeah.

22 **THE VIDEOGRAPHER:** Going off the record. The
23 time is 2:03.

24 (Short recess taken.)

25 **THE VIDEOGRAPHER:** Going on the record. The

FATHI YUSUF -- REDIRECT

1 time is 2:07.

2 **Q. (Mr. Hartmann)** Okay. You said that in addition to
3 Plaza Extra, you had other tenants in there, Mr. Yusuf, in
4 Bay 5?

5 **A.** I -- I had before, I think it was the pharmacy.
6 And we catch fire. After the fire, it was vacant. And we
7 build the store in 1994. We reopen it and they tear up the
8 wall. This is adjacent to Plaza Extra. He tear up 25 feet
9 of that wall completely.

10 **Q.** I understand. The question is, are there other
11 tenants?

12 **A.** Excuse me. No, no, no, wait a minute.

13 After Plaza Extra, there is no tenant
14 whatsoever took that place, except the people, the Diamond
15 Girl, and they were paying \$12. That's why I base my rent
16 based on Diamond Girl rent.

17 **Q.** Okay. So there was another tenant, Diamond?

18 **A.** It was the pharmacy.

19 **Q.** Okay.

20 **A.** Part of the pharmacy, which is why -- I mean, I
21 think it burned down, the pharmacy, or -- or close down?

22 **Q.** That's all right.

23 **A.** Close down. Okay.

24 **Q.** She can't answer. You told her not to answer.

25 **A.** No, I don't remember. No, I'm talking to my son,

FATHI YUSUF -- REDIRECT

1 not to her.

2 Q. Oh, okay. So -- so when you had this other tenant
3 in there, you had a lease; is that correct?

4 A. After the fire, sir. After Plaza Extra fire, the
5 first tenant called me, myself, a tenant. The first tenant
6 was Plaza Extra East. The second tenant was Diamond Girl.

7 Q. Okay, good.

8 A. Diamond Girl is \$12.

9 Q. Now, when you had Diamond in there, did Diamond
10 have a lease?

11 A. Yes.

12 Q. Okay. And when Plaza was in there, did Plaza have
13 a lease?

14 A. No.

15 Q. Okay. And on the Diamond lease, it said they
16 could be there for a certain amount of time, right?

17 A. Yes.

18 Q. And you couldn't move them out just one day
19 because you felt like it, could you?

20 A. I don't want to move them out.

21 Q. Oh, no, of course not, 'cause they're a
22 rent-paying tenant --

23 A. Yes.

24 Q. -- so you want them in there for the period of the
25 lease?

FATHI YUSUF -- REDIRECT

1 **A.** Yes.

2 **Q.** And -- and they paid you \$12 --

3 **A.** Yeah.

4 **Q.** -- so that you couldn't move them out so they
5 could use it; is that correct?

6 **A.** Yeah, --

7 **Q.** Okay.

8 **A.** -- that's exactly what happened.

9 **Q.** But you could move Plaza Extra out any time?

10 **A.** What?

11 **Q.** Could you move Plaza Extra out any time?

12 **A.** Yes.

13 **Q.** Okay. So they weren't really a tenant?

14 **A.** Who?

15 **Q.** Plaza Extra?

16 **A.** It's not a free world.

17 **Q.** No, I'm not asking --

18 **A.** Wait.

19 **Q.** I'm asking, could you move them out?

20 **A.** Me and my sons. We the owner of the building.

21 Now, we have someone, outsider, who have not
22 a drop a blood in that building. My blood in that building.
23 I am not a tenant, but when Mohammad Hamed became my
24 partner, he is a tenant.

25 **Q.** Could he -- could he stay there even if you wanted

FATHI YUSUF -- REDIRECT

1 to move Diamond in?

2 **A.** What?

3 **Q.** If you wanted to move Diamond in -- when you moved
4 Diamond in, didn't you just go to them and say you have to
5 take the Plaza Extra stuff out?

6 **A.** Who?

7 **Q.** Didn't you tell him Hamed?

8 **A.** Yeah, yeah.

9 **Q.** You did?

10 **A.** Yeah.

11 **Q.** And you could tell them to leave any time?

12 **A.** Yeah, because I give it to them and they used it.
13 I really feel bad to have that bays always close. It does
14 not look good for the building. But no tenant come in.
15 When the tenant come, the right one, we negotiate, and he
16 have it for \$12.

17 **Q.** And did you -- but what I'm asking you is, when
18 you talked to Hameds about them using the building, at some
19 point you went to the Hameds, right, and said, Let's use
20 Bay 5, right?

21 **A.** I never tell him, Let's use Bay 5.

22 **Q.** What did you say?

23 **A.** He used it without my knowledge.

24 **Q.** Without your knowledge? Okay.

25 **A.** You know.

FATHI YUSUF -- REDIRECT

1 **Q.** When he used it without your knowledge, did you
2 ever say to him, You need to pay me \$12 an hour (sic)?

3 **A.** I said, I will charge you rent.

4 **Q.** You did?

5 **A.** Yes.

6 **Q.** And how much did you say?

7 **A.** I have no idea.

8 **Q.** You have no idea.

9 **A.** I have no idea.

10 **Q.** So it could be \$2?

11 **A.** When I have a new tenant, I establish the price.

12 **Q.** And one of the things you used when you
13 established the price is the fact that while they're there,
14 they own it for that period of time? They can stay there
15 for that whole year or the whole 2 years?

16 **A.** I don't want it, even if you pay 20. Reason why,
17 I (sic) will hurt the shopping center.

18 **Q.** You want him in there?

19 **A.** I don't want him in there.

20 **Q.** You don't want who in there?

21 **A.** From day one, I don't want Plaza Extra there.

22 **Q.** You wanted a tenant in there?

23 **A.** I want a tenant, yes.

24 **Q.** Because the tenant will pay you full value?

25 **A.** Not only that -- this is part of it, yes, but this

FATHI YUSUF -- REDIRECT

1 is a shopping center; it's not a warehouse.

2 **Q.** Right.

3 **A.** I own now warehousing and retail areas.

4 **Q.** So if --

5 **A.** It's two different name. Two different picture.
6 Two different visitors.

7 **Q.** So at any time, if you could have gotten, for
8 instance, another pharmacy, or if you could have gotten an
9 eyeglass store, or if you could have gotten something like
10 that, --

11 **A.** Uh-huh.

12 **Q.** -- you would have preferred to have them?

13 **A.** I prefer to have anybody but not Plaza Extra.

14 **Q.** I -- okay. And that's --

15 **A.** Plaza Extra --

16 **Q.** -- because they would pay you full rent?

17 **A.** Plaza Extra -- it's not that.

18 **Q.** It's what?

19 **A.** I tell you that is built for retail store, not for
20 warehousing.

21 **Q.** Okay.

22 **A.** But Wally use it for a warehouse.

23 **Q.** So you said that the Hameds did it without your
24 knowledge?

25 **A.** Without my permission.

FATHI YUSUF -- RECROSS

1 **Q.** Without your permission. And -- and they did it
2 without your permission for how many years?

3 **A.** About whatever the document said.

4 **Q.** Like 15 years? 20 years?

5 **A.** Whatever the document says.

6 **MR. HARTMANN:** Okay. I have no further
7 questions.

8 **RECROSS-EXAMINATION**

9 **BY MS. PERRELL:**

10 **Q.** Okay. Mr. Yusuf, just to clarify, when you say
11 they used it without your permission, you determined that
12 they were using the store on Bay 5 when they broke through
13 the wall, correct?

14 **A.** Yes, yes.

15 **Q.** All right. And after they broke through the wall,
16 you had a conversation with Wally, correct?

17 **A.** Yes.

18 **MR. HARTMANN:** Objection. Lead.

19 **MS. PERRELL:** Okay.

20 **MR. HARTMANN:** You got to ask him questions.

21 **Q.** **(Ms. Perrell)** Okay. Did you have a conversation
22 with Wally after he broke through the wall?

23 **A.** I have few words with Wally. You're going to pay
24 rent, Wally.

25 **Q.** Okay.

FATHI YUSUF -- RECROSS

1 **A.** He say, Yes.

2 **Q.** Okay.

3 **A.** That's a rental.

4 **Q.** Okay. So at that point, you were permitting Plaza
5 Extra to use Bay 5, correct?

6 **A.** Yeah, I did. They put me in position I had no
7 choice.

8 **Q.** Okay. All right. And the same would go for
9 Bay 8?

10 **A.** Bay 8 is also the store needs it.

11 **Q.** Okay.

12 **A.** But it does not needed a free ride.

13 **Q.** Okay. All right.

14 **A.** The man stays there years.

15 **Q.** Right.

16 **A.** You don't put somebody years free.

17 **Q.** Right.

18 **A.** And I know -- I know how much the store is making
19 money.

20 **Q.** Okay. And so it's your testimony that your -- you
21 discussed it with Wally and you never had any intention for
22 them to be able to use Bay 5 and 8 for free when they were
23 using it?

24 **A.** Never.

25 **Q.** Okay. And do you know whether they were using

FATHI YUSUF -- RECROSS

1 it -- during the periods that we have articulated, do you
2 know whether they were using it continuously?

3 **A.** Definitely.

4 **Q.** Okay.

5 **A.** I hear the conversation few minutes ago, he say in
6 and out. I want this gentleman to know that location is not
7 a hotel to be in and out, it's a warehouse.

8 **Q.** Okay.

9 **A.** There's no in and out for -- in a warehouse.

10 **Q.** All right. With regard to Plaza Extra utilizing
11 Bays 5 and 8, just to understand, you charged them the rent
12 that you ultimately ended up charging the tenants who came
13 in; is that right?

14 **A.** Yes.

15 **Q.** Okay. And in your mind, is that the clearest
16 determination as to the fair market value of that space?

17 **A.** Yes, plus this is right almost next door to the
18 Plaza Extra East. Plaza Extra East receive about 4,000
19 customers, shopping customers, daily.

20 **Q.** Okay.

21 **A.** Definitely. Ali Hardware was in the corner. Half
22 of it is blocked and the other -- only the customer can see
23 the other half, that's why it's six fifteen.

24 **Q.** Okay. That's why that rent is cheaper?

25 **A.** Oh, yes.

FATHI YUSUF -- RECROSS

1 **Q.** Okay.

2 **A.** First, it's the size double.

3 **Q.** Um-hum.

4 **A.** Second, half of it is already block because it
5 came in the corner. You look at the sketch, you will see
6 half of it is blocked. And he was paying five, plus
7 maintenance, plus property tax.

8 I did not charge -- unfortunate, I forget to
9 charge the property tax. I did put one -- \$1.15
10 maintenance. Well, Sunny Isle pays seven ninety-five a
11 square foot maintenance.

12 **Q.** Okay.

13 **A.** You know, I pick up the garbage and I pay the
14 light bill for the parking lot, but that's included in the
15 dollar fifteen.

16 **Q.** Right. And Mr. Yusuf, in July of 2013, did your
17 lawyer, at the time, Nizar DeWood, demand payment for Bays 5
18 and 8, along with --

19 **A.** I think so, yes.

20 **Q.** All right. And at that point in time, or in
21 response to that, did the Hameds refuse to pay or contest
22 that rent was owed?

23 **A.** I do not remember now.

24 **Q.** Okay. If the documents reflect that, you're
25 not -- you're not contesting that they -- they -- they're

FATHI YUSUF -- RECROSS

1 denying it and they denied it after Nizar sent the letter?

2 **A.** They deny it? On what basis did they deny it?

3 **Q.** No, I'm just asking if -- do you know that they --
4 after --

5 **A.** No.

6 **Q.** -- Nizar sent the letter, that's when they decided
7 they were not going to pay that rent?

8 **A.** I don't remember when I get the news.

9 **Q.** Okay.

10 **A.** Whether from Nizar or from you.

11 **Q.** Okay. All right.

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

13 **Q.** Okay.

14 **A.** There's nothing free. You could have a sit on my
15 chair for two or three hours, but you can't kick me out and
16 take my place. I have to live, too.

17 **Q.** Okay.

18 **A.** And Plaza Extra making very good money. And what
19 they pay in rent is very, very minor compare to what the
20 store make.

21 **MR. HARTMANN:** Are you done?

22 **MS. PERRELL:** I have no more questions on
23 Bays 5 and 8.

24

25

FATHI YUSUF -- REDIRECT**REDIRECT EXAMINATION**1
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25**BY MR. HARTMANN:****Q.** Okay. Have a couple redirect.

Sir, look again at Exhibit 1, if you would.

You have your own copy.

A. Yes.**Q.** The letter that you said you've never seen.**A.** This?**Q.** Yeah.**A.** Yes, sir.**Q.** I'm going to ask you some questions about it.**A.** Go ahead.**Q.** Okay. First of all, the paper that it's written on, just -- just the first page.**A.** Yeah, okay.**Q.** Okay. The paper that it's written on, --**A.** Uh-huh.**Q.** -- do you recognize this paper?**A.** No.**Q.** In other words, this is not a letterhead that United Corporation used?**A.** I don't know if this is the one or somebody typed this here. Is that the letterhead we carry?**MS. PERRELL:** You'll have to just answer and then --

FATHI YUSUF -- REDIRECT

1 **A.** I honestly don't know. I been in St. Thomas for
2 22 years.

3 **Q.** **(Mr. Hartmann)** Okay. So, sir, you don't know if
4 this is United's letterhead?

5 Do you know if the address here at the top is
6 correct?

7 **A.** The address is correct, yes.

8 **Q.** Okay. And is the phone number correct?

9 **A.** Yes.

10 **Q.** And is the fax number correct?

11 **A.** Yes.

12 **Q.** And would they have been correct in 2001?

13 **A.** No, this is an old number we have.

14 **Q.** Right. What I'm asking is, would -- would it have
15 been the number that was in effect in 2001?

16 **A.** Oh, yes, yes.

17 **Q.** Okay. And if you look at the address line, who
18 it's to, it says it's to Fathi Yusuf.

19 **A.** Oh, my God. I just noticed what I'm looking for.
20 The fax number underneath my address. That's my St. Thomas
21 fax number. This is my St. Thomas fax number, 775-5766.

22 **Q.** Okay. I was going to ask you about that.

23 **A.** That was the paper I was looking for.

24 **Q.** Oh, okay.

25 **A.** It was in front of me.

FATHI YUSUF -- REDIRECT

1 **Q.** Okay. Well, good.

2 **A.** Show me where -- show me this is a fax? Never
3 sent to me. I tell you, it never sent to me.

4 **Q.** Okay. Let me just ask you some questions about
5 it.

6 It says it's to Fathi Yusuf at Plaza Extra
7 St. Thomas. Were you at Plaza Extra in St. Thomas in August
8 of 2001?

9 **A.** Yeah.

10 **Q.** Okay. And did you have a fax machine at Plaza
11 Extra in St. Thomas?

12 **A.** Yes, this is here.

13 **Q.** Okay. And was your --

14 **A.** But I swear to God, your paper never came through
15 my machine.

16 **Q.** Okay. Is -- is the fax number that's listed on
17 this the correct fax number?

18 **A.** Yes.

19 **Q.** Okay. And it says, Subject is United Shopping
20 Plaza Reports.

21 At the time in August 20 -- 2001, excuse me,
22 did United Corporation own the United Shopping Plaza?

23 **A.** I think so.

24 **Q.** Okay. And at that time, did it employ a property
25 manager?

FATHI YUSUF -- REDIRECT

1 **A.** That question, my son will answer it.

2 **Q.** Okay.

3 **A.** I was in St. Thomas.

4 **Q.** Okay. Did you handle the property management for
5 St. Croix for the East store? Did you, personally?

6 **A.** No.

7 **Q.** And do you know who did at that time?

8 **A.** Wally.

9 **Q.** Wally did.

10 **A.** Managing Plaza Extra East.

11 **Q.** Okay. So the person who --

12 **MS. PERRELL:** Objection. Objection. I'm not
13 sure what objection this is, but I think you asked about
14 property management and I think he answered regarding
15 managing the store.

16 **MR. HARTMANN:** I think you're right.

17 **MS. PERRELL:** So I just think we're going to
18 get the record wrong.

19 **Q.** **(Mr. Hartmann)** Let me ask you the question again.

20 The property that was rented out, --

21 **A.** Yeah.

22 **Q.** -- that was -- that was strictly a United
23 operation, right?

24 **A.** Yes. Wally had nothing --

25 **Q.** Nothing to do --

FATHI YUSUF -- REDIRECT

1 **A.** -- to do with it.

2 **Q.** -- with Wally? Okay.

3 So who, for United Corporation in 2001, was
4 handling the -- the relationships with the tenants?

5 **A.** Ask my son.

6 **Q.** Which son?

7 **A.** This one.

8 **Q.** Mike Yusuf?

9 **A.** Yes.

10 **Q.** Okay. The record can't see who you're pointing
11 to?

12 **A.** Yeah, they can. They have a camera.

13 **Q.** Okay. You're right. It can.

14 So -- so Mike would have been the person
15 handling that?

16 **A.** Yes, yes.

17 **Q.** Okay.

18 **A.** Yes.

19 **Q.** So that would explain why any copies of property
20 management issues would have been copied to Mike, okay? Is
21 that correct?

22 **A.** I would assume so.

23 **Q.** Okay. Now, it lists a series -- the document
24 lists a series of enclosures that were sent along with the
25 document. It says there was a list of real estate taxes to

FATHI YUSUF -- REDIRECT

1 be paid by 8-31-01.

2 Do you know if you got that?

3 **A.** I was not managing this property in 2001. I was
4 always in St. Thomas.

5 **Q.** Okay. And -- and would the same answer be true
6 for all eight items listed there as enclosures, that you
7 would -- that that normally wouldn't be of any interest to
8 you?

9 **A.** Sir, we go back to square one. This letter I
10 never received, period.

11 **Q.** Okay.

12 **A.** And it says sent to me by fax, and the fax ID is
13 not on the page.

14 **Q.** Okay. And -- and the -- several times in the
15 letter, for instance, in the first paragraph on the next
16 page, it says -- it refers to Ben.

17 **A.** It's useless. Why you keep asking me for the same
18 thing, and I keep tell you, I never saw this before?

19 **Q.** I'm going to ask you a different question.

20 **A.** Are you trying to put words in my mouth?

21 **Q.** No.

22 **A.** I never. This letter is not familiar to me.

23 **Q.** I understand that. I'm going to ask you a
24 different question.

25 I'm now on the Page Number HAMD664268. It's

FATHI YUSUF -- REDIRECT

1 the second page.

2 **A.** Okay.

3 **Q.** And it says in the -- in the text, "There are
4 several other reports ... I keep for my use in collecting
5 rent and the accounts receivable sheet sent to Ben every
6 month."

7 Do you know who Ben is?

8 **A.** Ben is a gentleman, used to work with us in
9 St. Thomas, he's an accountant.

10 **Q.** He was your accountant?

11 **A.** Yes.

12 **Q.** And then in the next paragraph down there that
13 starts, "Please let me know if you would like any of these
14 reports sent monthly or any other period. I send Ben #3,4 &
15 5 with the bank statement mid-month."

16 So Ben would be the accountant. And what
17 they're saying is that this person sends Items 3, 4, and 5
18 to Ben every month.

19 Who did Ben report to? Who is Ben's boss?

20 **A.** Something like this, he would not report to me,
21 Ben, anyhow.

22 **Q.** Who would he report to?

23 **A.** To nobody. We are -- never look at these records.
24 I tell you, this paper never hit St. Thomas.

25 **Q.** I am -- I'm not disputing that.

FATHI YUSUF -- REDIRECT

1 **A.** Look, I'm done.

2 **Q.** I'm just asking, who is Ben's boss?

3 **A.** Huh?

4 **Q.** Who is Ben's boss?

5 **A.** Me and Willie.

6 **Q.** You and Willie?

7 **A.** Willie and -- Willie and me is the one managing
8 St. Thomas.

9 **Q.** Okay. So who -- if Ben was reporting about rents,
10 which has nothing to do with Willie, right?

11 **A.** He do not report about rent. Report to whom?

12 **Q.** Well, that's what I'm asking.

13 **A.** That's the man to ask. (Indicating.)

14 **Q.** Mike is?

15 **A.** Yes.

16 **Q.** Okay. We'll ask Mike.

17 **A.** Get me the letter when I say the rent for fire,
18 because in 2001, I think Plaza was in 5.

19 **MR. HARTMANN:** Okay. I have no further
20 questions on that topic.

21 **MS. PERRELL:** Okay. Carl, just one second.

22 **MR. HARTMANN:** Okay.

23 **MS. PERRELL:** Give me just a second to find
24 them.

25 **A.** I'll find it here. I'll find it here. I'll find

FATHI YUSUF -- RECROSS

1 it right here. Don't worry.

2 (Respite.)

3 What is the -- you said the rent -- the place
4 was rented for seven -0- one, Bay 5? What month?

5 **MR. HARTMANN:** No, you have to talk to your
6 own lawyer.

7 **MS. PERRELL:** Hold on.

8 **MR. HARTMANN:** Are you asking him questions?

9 **MS. PERRELL:** I was going to ask a follow-up
10 question.

11 **MR. HARTMANN:** Okay.

12 **MS. PERRELL:** So hold on just a minute.

13 **A.** I'll find that number.

14 **MS. PERRELL:** Here we go. All right.

15 **A.** Seven -0- one. I have it here. The place was
16 rented to Plaza.

17 **MS. PERRELL:** Let me -- let me do it this
18 way.

19 **A.** Up to July 31st, 2001. And from Plaza, went to
20 Island Girl. There is no third tenant. So that seven -0-
21 one is 110-percent false.

22 **RECROSS-EXAMINATION**

23 **BY MS. PERRELL:**

24 **Q.** Okay. Mr. Yusuf, let me just -- I'll go ahead and
25 put this in the record.

FATHI YUSUF -- RECROSS

1 This is a copy -- let me mark it as
2 Exhibit -- what number are we on? Eight? Are we on 8?

3 **A.** No, he telling me here there's --

4 **MS. JAPINGA:** Yes, you're correct.

5 **A.** -- seven -0- one for --

6 **MS. PERRELL:** Hold on, Mr. Yusuf. Hold on.
7 Let's make sure we get this all correct.

8 **MS. JAPINGA:** It's 8.

9 (Deposition Exhibit No. 8 was
10 marked for identification.)

11 **Q. (Ms. Perrell)** Okay. All of this is in here. This
12 is in your affidavit.

13 **A.** It says Plaza Extra vacant. And it says seven -0-
14 one. That's what it says. It doesn't say a tenant.

15 **Q.** Right.

16 **A.** Okay.

17 **Q.** Okay.

18 **A.** It doesn't. No manager ever have know the value
19 how much I'm renting my supermarket or Number 8 or 5.
20 That's none of his business. That between me and my partner
21 to know the prices.

22 Now I see him now, someone start to say, Hey,
23 Number 5 is seven -0- one. Where the seven -0- one come
24 from?

25 **MR. HARTMANN:** I couldn't tell you.

FATHI YUSUF -- RECROSS

1 **MS. PERRELL:** Okay.

2 **MR. HARTMANN:** I guess we'd have to ask

3 Mr. --

4 **MS. JAPINGA:** Luff.

5 **MR. HARTMANN:** -- Luff.

6 **A.** I tell you, I never seen this.

7 **Q.** (Ms. Perrell) I know.

8 **A.** And this one prove that Plaza Extra was, until
9 July 31st, 2001, in the place.

10 **Q.** Okay.

11 **A.** And after Plaza Extra, I'm sure 100 percent it's
12 Diamond Girl is the one who took it over at \$12.

13 **Q.** Okay. Just so that we're clear. Two things. Let
14 me hand you what's been marked Exhibit 8. This is simply
15 his July -- August 24th, 2014 declaration.

16 This is the declaration. Do you recall doing
17 a declaration relating to the rents in 2014?

18 **A.** Okay.

19 **Q.** Do you recall it?

20 **A.** Maybe. I don't know.

21 **Q.** Okay. Let me just direct your --

22 **MR. HARTMANN:** We'll stipulate --

23 **MS. PERRELL:** Okay.

24 **MR. HARTMANN:** -- that it's his signed

25 declaration.

FATHI YUSUF -- RECROSS

1 **Q.** **(Ms. Perrell)** And in the declaration, do you
2 recall preparing a chronology of the various time frames of
3 when the -- Bay 1, Bay 5, and Bay 8 were utilized by Plaza
4 Extra?

5 **A.** I never seen this document in the past, too.

6 **Q.** Okay.

7 **A.** I never see it.

8 **MR. HARTMANN:** Time to move on?

9 **Q.** **(Ms. Perrell)** All right.

10 **A.** I never see something like this.

11 **Q.** Okay. All right, Mr. Yusuf.

12 **A.** Wait a minute. 19 -- what is five twenty-two?
13 Three twenty-three, I have these numbers. One ninety-eight,
14 I have that. This, I, personally, never see this.

15 **Q.** Okay.

16 **A.** My lawyer could be drawing that.

17 **Q.** Okay. Mr. Yusuf, this was an exhibit that was
18 attached to your declaration.

19 **A.** It doesn't matter.

20 **Q.** Okay. Are you disputing the numbers --

21 **MR. HARTMANN:** Object on the basis of trying
22 to --

23 **A.** I'm not disputing.

24 **MR. HARTMANN:** -- impeach your own witness.

25 **A.** I'm not arguing here. I am arguing --

FATHI YUSUF -- RECROSS

1 **Q.** **(Ms. Perrell)** No, no. Just let me finish.

2 **A.** I'm arguing Bay 5.

3 **Q.** Mr. Yusuf, I know. Let me ask you this: You're
4 saying you don't -- you don't recall seeing this. I
5 understand that.

6 Take a look at it. You agree -- do you agree
7 that the numbers and the dates are accurate and correct?

8 **A.** Look at my paper now.

9 **Q.** This is your paper. This is what I'm trying to
10 tell you, Mr. Yusuf.

11 **A.** This is my paper?

12 **Q.** This is your paper.

13 **A.** Who type it? Whose language is this? Is this my
14 language? My signature, yes.

15 **Q.** Yes, yes, yes, yes, this is you.

16 **MR. HARTMANN:** I'd stipulate to something if
17 I could.

18 **Q.** **(Ms. Perrell)** Go back. There.

19 **A.** This is my -- this is -- I think this is wrong.

20 **Q.** Okay.

21 **A.** I follow on top with another one?

22 **Q.** Okay.

23 **A.** Where's the next one?

24 **Q.** Mr. Yusuf, let me back up. Let me just back up.

25 **A.** Okay.

FATHI YUSUF -- RECROSS

1 **Q.** All right.

2 **A.** I don't know the letter.

3 **Q.** Okay. This is a declaration. I'm going to
4 represent this to you: This is a declaration that you
5 prepared in 2014 regarding the rent.

6 **A.** Okay.

7 **Q.** Okay. You signed this document.

8 **A.** Hold on. Hold on.

9 **Q.** Okay. It's all right. It's fine.

10 This -- this chronology was attached to your
11 affidavit, okay?

12 **A.** Okay. Okay.

13 **Q.** Are you disputing this, or no?

14 **A.** I don't remember, but if it's there, it's there.

15 **Q.** Okay. So if it was attached to your declaration,
16 you're not disputing it?

17 **A.** No, I'm not here to dispute it, my own signature.

18 **Q.** Okay. With regard to Exhibit Number 2, you've
19 stated that you did not receive this document, correct?

20 **A.** This is for sure I never seen it.

21 **Q.** Okay. And do you have -- there's no doc --
22 there's no indications here and anywhere in this document to
23 indicate that a fax was actually sent to you; is that
24 correct?

25 **A.** Yeah, it's plain. There's nothing.

FATHI YUSUF -- RECROSS

1 **Q.** Okay. All right.

2 **A.** Even though it's address to my fax.

3 **Q.** Okay. All right. And then with regard to Bays 5
4 and 8, the indication here is that it says Plaza Extra, but
5 vacant.

6 Is it your testimony that this individual who
7 prepared these documents would not know what you were going
8 to be charging for Bay 5 to Plaza Extra?

9 **A.** No, he never know what I charged Mohammad Hamed.
10 He don't know the store, the store price, or Number 8 or
11 Number 5. It's not his business to know --

12 **Q.** Okay.

13 **A.** -- because he's not there to collect it.

14 **Q.** Right.

15 **A.** He collecting it from an outside tenant.

16 **Q.** Okay.

17 **A.** So it's not necessary to tell him how much this
18 bay and how much this bay.

19 **Q.** Okay.

20 **A.** But this seven -0- one in -- that is absolutely --
21 when the store get burned and reopen in '94, from '94 up to,
22 I think, I don't know, something like 15 or 20 years, it's
23 Diamond Girl in it. It wasn't no third -- no third tenant
24 at seven -0- one.

25 **Q.** Okay.

FATHI YUSUF -- REDIRECT

1 **A.** But here he says -- he's not saying anybody. He's
2 saying Plaza Extra vacant.

3 **Q.** Right.

4 **A.** And he give a price.

5 **Q.** Right.

6 **A.** Who gave him that price?

7 **Q.** Okay. So you didn't give him that price?

8 **A.** No.

9 **Q.** Okay. And that price is not an accurate
10 reflection of what you were going to charge --

11 **A.** No.

12 **Q.** -- to -- for Bay 5?

13 **A.** I have no idea how much to charge on 5 until I
14 rent the place whenever somebody come and get it.

15 **Q.** Okay.

16 **A.** My top priority is to rent the place, not to have
17 it for warehouse.

18 **MS. PERRELL:** Okay. No further questions.

19 **MR. HARTMANN:** Okay.

20 **MS. PERRELL:** Okay.

21 **REDIRECT EXAMINATION**

22 **BY MR. HARTMANN:**

23 **Q.** Okay. I -- I just want to do some exclusion
24 stuff, and then we'll be done.

25 With regard to Claims H-15, H-16 -- H-14,

FATHI YUSUF -- REDIRECT

1 H-15 and H-16, they deal with unsubstantiated checks to
2 Nejeah Yusuf, Nejeah Yusuf's cash withdrawals from the safe,
3 and Nejeah's use of partnership resources for his private
4 businesses in St. Thomas.

5 Do you have -- personally have any knowledge
6 about those things, sir?

7 **A.** What he say?

8 **MS. PERRELL:** He's asking you if you know
9 anything about those things, because if you don't, then he's
10 going to ask someone else.

11 **A.** I don't know nothing about these.

12 **MR. HARTMANN:** Okay. With regard to Issues
13 H-32, which is spoiled inventory; H-34, which is rents
14 collected by the Triumphant church; H-152 with regard to
15 corporate franchise taxes; and H-153 with regard to the
16 United Shopping Center's property insurance, are those all
17 issues that would be best answered by the entity, or the
18 entity along with its accountant, tomorrow in that
19 deposition, as opposed to you, personally?

20 **MS. PERRELL:** I would say that they would be.

21 **MR. HARTMANN:** In other words, he has no
22 independent personal knowledge about any of those items?

23 **MS. PERRELL:** He would have -- he has
24 personal knowledge relating to H-32, which is the credit for
25 the -- which is the spoiled inventory concept, okay, as

FATHI YUSUF -- REDIRECT

1 opposed to the specific issue as to how or if it was
2 credited or not. That's clearly going to be a Gaffney
3 thing.

4 The concept of spoiled inventory and what the
5 state of all of that was at the time --

6 **MR. HARTMANN:** But he would be testifying to
7 that on the basis of his being a partner, not him
8 individually as we've been discussing the other stuff?

9 **MS. PERRELL:** That would be correct.

10 **MR. HARTMANN:** It would be the liquidating
11 part.

12 **MS. PERRELL:** That would be correct, yes.

13 **MR. HARTMANN:** Because those are all
14 calculations dealing with liquidation. Okay.

15 **MS. PERRELL:** That's fine.

16 **MR. HARTMANN:** All right. So with those --
17 those agreements, his deposition is now --

18 **MS. PERRELL:** May I back up?

19 **MR. HARTMANN:** Sure.

20 **MS. PERRELL:** With regard to -- I would ask
21 him about H-34, which is the rents collected from the
22 Triumphant church.

23 **MR. HARTMANN:** That's United Corporation.

24 **MS. PERRELL:** Okay.

25 **MR. HARTMANN:** He personally never --

FATHI YUSUF -- REDIRECT

1 **MS. PERRELL:** You're talking about from a
2 personal -- I'm just -- does he know something, and you're
3 trying to say, not only does he know, but in what capacity,
4 that's that you're asking now.

5 **MR. HARTMANN:** Does he know anything about
6 rents collected for that property outside of the fact that
7 United was the entity collecting them?

8 **MS. PERRELL:** Okay. Well, he would be able
9 to testify on behalf of United, but we're going to do that
10 tomorrow.

11 **MR. HARTMANN:** Okay.

12 **MS. PERRELL:** Okay.

13 **MR. HARTMANN:** That's fine.

14 **MS. PERRELL:** Sorry.

15 **MR. HARTMANN:** So I would, pursuant to the
16 stipulation between counsel, I would adjourn his deposition
17 until such time in the future as we continue this with
18 regard to the rest of the issues set forth for him
19 personally.

20 **MS. PERRELL:** That's fine.

21 **MR. HARTMANN:** Okay.

22 **MS. PERRELL:** Okay.

23 **MR. HARTMANN:** Wait.

24 **THE VIDEOGRAPHER:** This is the conclusion of
25 the deposition. The time --

FATHI YUSUF -- REDIRECT

1 **MR. HARTMANN:** It's the adjournment of the
2 deposition.

3 **THE VIDEOGRAPHER:** This is the adjournment of
4 the deposition. The time is 2:41.

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(Whereupon the deposition adjourned

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at 2:41 p.m.)

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C-E-R-T-I-F-I-C-A-T-E

I, SUSAN C. NISSMAN, a Registered Merit Reporter and Notary Public for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above and named witness, **FATHI YUSUF**, was first duly sworn to testify the truth; that said witness did thereupon testify as is set forth; that the answers of said witness to the oral interrogatories propounded by counsel were taken by me in stenotype and thereafter reduced to typewriting under my personal direction and supervision.

I further certify that the facts stated in the caption hereto are true; and that all of the proceedings in the course of the hearing of said deposition are correctly and accurately set forth herein.

I further certify that I am not counsel, attorney or relative of either party, nor financially or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand as such Registered Merit Reporter on this the 5th day of February, 2019, at Christiansted, St. Croix, United States Virgin Islands.

My Commission Expires:
July 18, 2019

Susan C. Nissman, RPR-RMR
NP-70-15