

**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
NAJEH YUSUF**

THE VIDEOTAPED ORAL DEPOSITION OF NAJEH YUSUF

was taken on the 22nd 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 12:24 p.m. and 1:30 p.m., pursuant to Notice and Federal Rules of Civil Procedure.

Reported by:

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By: Carl Hartmann, III
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For the Defendants:

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By: Charlotte Perrell

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

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(None Marked.)

NAJEH YUSUF -- DIRECT

1 **THE VIDEOGRAPHER:** In the matter of Waleed
2 Hamed versus Fathi Yusuf and United Corporation, in the
3 Superior Court of the Virgin Islands, Division of St. Croix,
4 Civil 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 22nd, 2019. The
8 deponent is Najeh Yusuf. The time is 12:24.

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

12 **MR. HARTMANN:** Carl Hartmann, for the Hameds.

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

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

17 **NAJEH 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, sir.

23 **A.** Good afternoon.

24 **Q.** My name is Carl Hartmann. I'm the attorney for
25 the Hameds. I'll be taking your deposition today.

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1 If, at any time, I ask a question that you
2 don't understand, you can stop me. And if, at any time, you
3 have a question for your lawyer, you can tell me you want to
4 speak to your lawyer and we'll stop and let you speak to
5 your lawyer.

6 Also, I'd ask that since the court reporter
7 can't take us both talking at the same time, that if I ask a
8 question, you wait until I end, and I'll try to wait until
9 you finish before I ask a question.

10 Okay. Could you state your full name for the
11 record, please?

12 **A.** Najeh Yusuf.

13 **Q.** And how do you spell that?

14 **A.** It's spelled both ways; N-A-J-E-H or N-E-J-E-H.

15 **Q.** Okay. And if I looked on your birth certificate,
16 what would it say?

17 **A.** It should say N-A-J-E-H.

18 **Q.** And what is your residence address, please?

19 **A.** 3-AA and 4-AA St. Joseph and Rosenthal.

20 **Q.** Okay. And are you employed?

21 **A.** Yes.

22 **Q.** By whom?

23 **A.** Plaza Extra East.

24 **Q.** And what is the address of your employment?

25 **A.** 4200 Estate Sion Farm.

NAJEH YUSUF -- DIRECT

1 **Q.** And what position do you hold?

2 **A.** Manager.

3 **Q.** Okay. And have you taken any medications or do
4 you suffer from any medical condition that would impede you
5 in any way from full and correct testimony today?

6 **A.** No.

7 **Q.** First question is, after the last deposition in
8 this matter, and before your deposition was taken, your
9 counsel and your father and your brother left the premises
10 and had a discussion.

11 At any time during that discussion, was there
12 a discussion about what the prior testimony here today was?

13 **A.** They had -- they had --

14 **MS. PERRELL:** First of all, I would object
15 with regard to any kind of attorney-client privilege.

16 **MR. HARTMANN:** You can answer.

17 **MS. PERRELL:** I would direct him not to
18 answer.

19 **Q.** **(Mr. Hartmann)** Okay. Without regard to what you
20 said to your counsel, did you talk with your father and your
21 brother about the prior testimony here?

22 **A.** I spoke mainly with Charlotte.

23 **Q.** But did you also speak with your father and your
24 brother?

25 **A.** I -- can I answer that?

NAJEH YUSUF -- DIRECT

1 **MS. PERRELL:** He can -- he can answer if you
2 spoke to them.

3 **A.** I spoke to them, yes.

4 **Q.** (Mr. Hartmann) Okay. And did they relate to
5 you -- did either of them relate to you the prior testimony
6 here today?

7 **A.** She asked me a question, I answered it. And they
8 answered another question for me, or they -- they said --
9 they mentioned something to me.

10 **Q.** Okay. And did you -- did you discuss with them a
11 Mr. Mansour?

12 **A.** They asked me who it was, yeah.

13 **Q.** Okay. And did you tell them?

14 **A.** The questions was coming from Charlotte, and I
15 answered them.

16 **Q.** Okay. You -- don't tell me what you answered.

17 And did you talk about your -- what you would
18 now testify when you came here?

19 **A.** Say that again?

20 **Q.** Did you talk about what you would testify to when
21 you came in here?

22 **A.** No.

23 **Q.** Okay. Did you testify about -- did you tell them
24 what you would respond to me if I asked you about Mansour?

25 **A.** No.

NAJEH YUSUF -- DIRECT

1 **Q.** What -- what was the discussion about Mansour with
2 counsel?

3 **MS. PERRELL:** Objection. Same objection.

4 **Q.** **(Mr. Hartmann)** Is this lady your lawyer?

5 **A.** She's the lawyer for us present today, so --

6 **Q.** I understand, but --

7 **A.** -- she's acting -- she's --

8 **Q.** -- you're not a party in this lawsuit.

9 **THE COURT REPORTER:** Please.

10 **A.** She's right. She's here on my behalf.

11 **MS. PERRELL:** Yes.

12 **A.** Am I right or wrong?

13 **MS. PERRELL:** Yes, we represent Najeh Yusuf.

14 **MR. HARTMANN:** Not in this matter, though?

15 **MS. PERRELL:** Okay. But we represent Najeh
16 Yusuf. We are his attorney. We are representing him as
17 counsel.

18 **MR. HARTMANN:** Not in this matter, though?
19 If you had a discussion with him off the record about his
20 testimony here, that was not a privileged conversation in
21 this matter.

22 **MS. PERRELL:** Okay.

23 **MR. HARTMANN:** If you represent him in some
24 other matter, and you talked to him about that other matter,
25 then I have no problems, and you can assert privilege. But

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1 if you talked to him about this matter, about what was
2 asked, about what he was going to answer in this matter,
3 where you don't represent him, that was not a privileged
4 conversation, and you can't assert the privilege
5 conversation, and I get to examine him, unless you tell him
6 you won't let me examine him for that.

7 **MS. PERRELL:** Is your question related to who
8 the gentleman is, because I understood in our conversation
9 before we broke from the last deposition, or right after we
10 broke, is that we were not going to get into conversations
11 related to the gentleman, Mr. Mansour, and you had said that
12 that was the case.

13 **MR. HARTMANN:** No, I said that we wouldn't be
14 filing a brief, but I absolutely told you specifically that
15 I would examine him about Mr. Mansour. And then you walked
16 out with them, and you, and you, and you, all had a
17 discussion about what he would testify about, who was
18 Mr. Mansour, what was he about, what was I going to ask
19 about, and what was the prior testimony. And now what
20 you're doing is you're asserting privilege on a client that
21 you don't have in a case you don't represent him.

22 **MS. PERRELL:** Okay. Carl, my understanding
23 is that when we left the room, that you were not going to go
24 into the issues relating to Mansour because he was a
25 brand-new witness that no one knew anything about.

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1 **MR. HARTMANN:** That was absolutely not the
2 discussion, Charlotte. I said I would examine about
3 Mansour, but we would not be filing anything on him now. We
4 would take his deposition.

5 **MS. PERRELL:** Correct.

6 **MR. HARTMANN:** Not Mr. -- not Mr. NejeH's
7 deposition yet. We're not going to take him again. He's my
8 only witness today --

9 **MS. PERRELL:** But you said -- but you said --

10 **MR. HARTMANN:** -- and you're directing him
11 not to testify.

12 **A.** You don't know what she -- you don't know what --

13 **MR. HARTMANN:** Don't talk.

14 **MS. PERRELL:** Wait, yeah, you can't. Don't
15 speak right now.

16 You -- first of all, you said if we need to
17 take that claim off of the agenda today until we have the
18 deposition of Mr. Mansour --

19 **MR. HARTMANN:** Yes.

20 **MS. PERRELL:** -- that that's what we will do.

21 **MR. HARTMANN:** The deposition of Mr. Mansour,
22 not the deposition of Mr. Najeh.

23 **MS. PERRELL:** But why would we take --

24 **MR. HARTMANN:** You said -- Charlotte, you
25 said --

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1 **MS. PERRELL:** Carl, just let me finish.

2 **THE COURT REPORTER:** Yeah.

3 **MS. PERRELL:** You said that we would take
4 that issue off of the deposition for today, because that
5 is -- that is what my understanding was, is that you had
6 said you were going to take that -- and we looked up the
7 issue, what was the issue, where did that come up, and we
8 determined that it was, I believe it was H-16, and that you
9 specifically asked, or said, we could just take that one off
10 since he's -- this is the first you had heard of it, the
11 first we had heard of it.

12 **MR. HARTMANN:** We're taking it off the
13 schedule for briefing. Did I say that I wasn't going to?

14 **MS. PERRELL:** Okay. I mis --

15 **MR. HARTMANN:** I specifically said --
16 specifically said that I was going to take NejeH's testimony
17 with regard to Mr. Mansour.

18 **MS. PERRELL:** Okay. So I understood, and if
19 I have misunderstood, I understood that you were saying we
20 will just take that one off. I understood you were saying
21 that from the deposition today. And you're telling me that
22 that's not what you were saying? You're telling me --

23 **MR. HARTMANN:** I'm telling --

24 **MS. PERRELL:** No, no, I'm just trying to
25 understand. Is that what you're saying?

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1 **MR. HARTMANN:** I explicitly said to you.

2 **MS. PERRELL:** So you need to --

3 **MR. HARTMANN:** -- just before you walked out,
4 because you were walking out with them, I said as a warning
5 as you were walking out, Charlotte, I am going to be taking
6 NejeH's testimony today about Mr. Mansour. I said it
7 because you were walking out with the witnesses.

8 **MS. PERRELL:** Okay.

9 **MR. HARTMANN:** Out of this room to prep them.

10 **MS. PERRELL:** We will allow you to ask
11 Mr. Yusuf, Najeh Yusuf, about Mr. Mansour today to the
12 extent that he will be able to testify about that.

13 **MR. HARTMANN:** Yes, you're going to allow me
14 after you've prepped him. And you've told him what the
15 prior testimony was.

16 Are you telling me that when you were out
17 there, you didn't tell him that his name came up and in what
18 context it came up? Are you telling me that you didn't tell
19 him what questions I would ask and -- and what he was
20 supposed to answer?

21 **MS. PERRELL:** I did not tell him anything
22 that he was supposed to answer.

23 **MR. HARTMANN:** But you told him what
24 questions I would ask and you told him --

25 **MS. PERRELL:** No, I did not. I asked him,

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1 who was this gentleman? That's what I asked him, because
2 his name was new to everyone.

3 **MR. HARTMANN:** And you -- did you tell him
4 that Willie testified about him?

5 **MS. PERRELL:** I said his name came up in the
6 last deposition.

7 **MR. HARTMANN:** And you didn't tell him
8 anything about the subject? You mean, his name just came
9 up, Mansour came up, but it wasn't in the context of --

10 **MS. PERRELL:** You can ask him. You ask him
11 what we discussed.

12 **MR. HARTMANN:** You exerted privilege.

13 **MS. PERRELL:** Well, I will remove that for
14 the purposes of the Mr. Mansour questions.

15 **Q. (Mr. Hartmann)** Okay. So you all walk out of the
16 room right after Willie's deposition, right? And -- and
17 tell me exactly what happened. Who said what to whom? This
18 took about 15 minutes, right?

19 **A.** No, it didn't. I wasn't out there for 15 minutes.

20 **Q.** How long were you out there?

21 **A.** I mean, you seem to know. I wasn't out there for
22 15 minutes.

23 **Q.** I -- I seem to know. I would guess it was about
24 15 minutes.

25 **A.** No, I was not out there for 15 minutes.

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1 Q. Okay.

2 A. I walked out there and she was always in a
3 discussion with Mr. Yusuf, and I stood on the side and I
4 listened to what they talking about.

5 Q. Okay. And what were they talking about?

6 MS. PERRELL: Okay. That would be
7 privileged, and that has nothing to do with --

8 MR. HARTMANN: I'm not -- I'm not going to do
9 this anymore, okay? I'm going to examine the witness and
10 we'll deal with this as another issue.

11 MS. PERRELL: Okay.

12 Q. (Mr. Hartmann) Who's Mr. Mansour?

13 A. He's one of three brothers that I had some
14 business relations with before.

15 Q. And could you describe those business relations?

16 A. We opened up a few stores in St. Thomas.

17 Q. And what stores were those?

18 A. We did Wala ice plants. Wala paintball. Some
19 Sprint stores. A store in the mall. We did Western Union,
20 and I joined them with a restaurant, a hookah bar.

21 Q. And were those the only businesses you were in
22 with them?

23 A. That I can remember.

24 Q. Okay.

25 A. A kiosk in the mall.

NAJEH YUSUF -- DIRECT

1 **Q.** Okay. And approximately what time periods were
2 you in each of those businesses with him?

3 **A.** I think it started towards the end of 2012, maybe.
4 I believe that's when I have a document signed, 2012.

5 **Q.** Okay. And what form were those businesses? Were
6 they partnerships or corporations or LLCs?

7 **A.** I believe they were LLCs --

8 **Q.** Okay.

9 **A.** -- mostly in their name. All of them in their
10 names except the Sprint stores.

11 **Q.** Okay. And what was your relative relationship
12 with Mr. Mansour -- first of all, how do you spell
13 Mr. Mansour's name?

14 **A.** His first name is F-A-D-I, and then M-A-N-S-O-U-R.

15 **Q.** Okay. And -- and what was your relationship in
16 each of those? Take each of the businesses separately.

17 **A.** Well, I had -- I had did an agreement with Mansour
18 initially in the beginning. And because he seemed to have a
19 lot of bad reputation on the island, I went into the -- the
20 business, knowing that if I went in, he would have to leave
21 the island. He would have to get off the island and leave
22 in order for me to -- to be in business with these -- with
23 his brothers, his two other brothers.

24 **Q.** Okay. But what I mean, the relationship, I
25 mean --

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1 **A.** There's no relationship.

2 **Q.** Who is the -- who is the president? Who was the
3 general manager?

4 **A.** It's mostly his two other brothers.

5 **Q.** His two other brothers?

6 **A.** Right.

7 **Q.** Okay. So -- and how long were you in business
8 with Mr. Mansour?

9 **A.** Like I said, it started around 20 -- the ending
10 2012.

11 **Q.** Right. And how long did it last?

12 **A.** I believe up to about 2016, or -- about 2015-16,
13 when I moved over here, I was still partners with him, but I
14 was not engaged in the -- in the business. I was not on
15 island.

16 **Q.** But the business was still operational?

17 **A.** Yeah, most of them were still operational.

18 **Q.** And you were still partners with him?

19 **A.** Yes.

20 **Q.** Are you still partners with him?

21 **A.** On paper, yes. I am not partners, but I have an
22 agreement with them on paper.

23 **Q.** And what kind of an agreement is it?

24 **A.** I got --

25 **Q.** If it's not a partnership, it's a LLC or a

NAJEH YUSUF -- DIRECT

1 corporation?

2 **A.** Well, LLC and corporations, it's -- it's in their
3 names.

4 **Q.** It's in their names?

5 **A.** Right.

6 **Q.** But you have a written agreement with him?

7 **A.** We had an agreement when I first started, yes.

8 **Q.** Okay. Is that agreement still in effect now?

9 **A.** Somewhat.

10 **Q.** Okay. And if I were to look at that agreement,
11 what would that agreement list you as? You signed it at the
12 bottom, right? Does it say Yusuf partner or does it say --

13 **A.** I can't remember what it says.

14 **Q.** All right. And -- and during the -- the years
15 that you have been partners with him, you said you liked the
16 two brothers better than you liked him?

17 **A.** I associate myself with the two brothers, because
18 they had a better or a cleaner reputation than the other
19 guy.

20 **Q.** Okay.

21 **A.** They -- they needed help, and I came in to help
22 them. And in return, we had an agreement, but the deal was
23 to get Fadi off of the island, because he was causing
24 problems for his two brothers and the business that they
25 had.

NAJEH YUSUF -- DIRECT

1 Q. Okay. And where is he located now?

2 A. He's in St. Thomas, from what I heard.

3 Q. Okay. And my understanding is -- and correct me
4 if I'm wrong -- is that you and he are not in good standing?
5 Good -- on good terms now?

6 A. I have a -- a lawsuit against his brother, that he
7 was served about a week ago. And I have something else
8 pending against the three of them. I've broken it up into
9 about three or four parts, so they're going to get served
10 hopefully soon from another attorney.

11 Q. I see.

12 And who represents you in those lawsuits?

13 A. Mark Wilczynski, I believe, it is, down on the
14 waterfront.

15 Q. Okay. And in the fourth quarter of last year,
16 October, November, December, had these problems between you
17 and Mr. Mansour developed yet?

18 A. It developed the minute he came back on the
19 island.

20 Q. Since 2000 --

21 A. Whenever he came back from Jordan, because his mom
22 couldn't handle him and his brothers couldn't handle him.

23 Q. Okay.

24 A. And his -- he -- he bought his own ticket. He
25 sold whatever car that they bought him up there to stay up

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1 there, he sold it and bought a ticket and forced himself
2 back down here.

3 Q. Okay.

4 A. He started to cause some problems. And I said, I
5 don't want any part of this. This is not how I operate.

6 Q. Okay.

7 A. I don't -- I don't want to be associated with --
8 with someone that is causing problems.

9 Q. So the parting in is, is that he was gone to
10 Jordan for a period of time and then he came back to
11 St. Thomas; is that correct?

12 A. He was -- yeah, that's correct.

13 Q. And approximately when was that?

14 A. I can't remember.

15 Q. Year?

16 A. He was gone for about a year, year -- maybe more
17 than a year.

18 Q. So he's been on St. Thomas for three or four
19 years?

20 A. Three or four what, from?

21 Q. Recently?

22 A. Recently?

23 Q. Yeah.

24 A. He's been back -- I think he came back in 2000 --
25 2015.

NAJEH YUSUF -- DIRECT

1 **Q.** Okay. So -- so from the time after he got back to
2 now, he's been a problem the whole time?

3 **A.** I don't talk to him.

4 **Q.** Okay.

5 **A.** I got out of it and got out of the business, or
6 walked away from that because of him, because I was going to
7 beat him up.

8 **Q.** Okay.

9 **A.** So I got out. His brothers can't handle him.
10 He's not in any other businesses with his brothers. He went
11 back home, he caused problems. He came back here, he caused
12 problems. I don't associate myself with him.

13 **Q.** Okay. And at the time -- do you remember the time
14 that the Tutu stores split from the Hamed and Yusuf joint
15 ownership?

16 **A.** Right.

17 **Q.** Okay. At that time, did -- did you take certain
18 materials from that store and give them or sell them to --
19 either to or through Mr. Mansour?

20 **A.** I don't deal with Mansour, and I did not sell
21 anything to Mansour from Plaza.

22 **Q.** Or his brothers?

23 **A.** No.

24 **Q.** Okay.

25 **A.** I did not sell anything to them in -- in 2015. We

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1 had -- we had some cameras that we ordered just because the
2 price was way cheaper than what he were buying for locally,
3 and I purchased some for the store. In exchange for the
4 price, I had him ship it to Miami and I -- I paid the
5 shipping from Miami to -- to St. Thomas in our container. I
6 got maybe, I don't know, two boxes, maybe three boxes, and
7 the rest of it went to him in exchange for the lower price,
8 and we -- we saved over \$2,000 in just that one deal.

9 **Q.** Okay. I'm sorry, --

10 **A.** So --

11 **Q.** -- I lost the track.

12 Let's take the box of cameras, since
13 everybody seems to agree that they exist.

14 The box of cameras were purchased by Plaza
15 Extra or by you, personally?

16 **A.** I believe they were purchased by either me or
17 Wireless Tech store in the mall from China.

18 **Q.** You or who?

19 **A.** Either myself or the Wireless Tech store in the
20 mall, the electronic store in the mall.

21 **Q.** Okay. Which you owned with the Mansours?

22 **A.** I was -- I had an agreement with them.

23 **Q.** Okay.

24 **A.** They own it.

25 **Q.** Okay. So what you're saying -- but those got

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1 shipped to the Plaza Extra store?

2 **A.** They got shipped to Plaza Extra, right. He paid
3 the freight from China to Miami.

4 **Q.** Who paid the freight?

5 **A.** Wireless Tech paid the freight from China to
6 Miami. And in return, I brought it from Miami down for a
7 lower price. So he -- in China, you have to buy quantity to
8 get the price.

9 **Q.** Okay.

10 **A.** So I helped him by buying, because I needed
11 cameras.

12 **Q.** And when you said, "I had them shipped," you mean
13 you, Najeh, had them shipped, or, you, Plaza Extra, had them
14 shipped?

15 **A.** I can't remember, but I agreed with him that it
16 can come to Miami and I can ship it in my container.

17 **Q.** Okay.

18 **A.** And when it gets there, I get the lower price. I
19 get the cost of the -- of the units.

20 **Q.** Okay. So now the cameras have been shipped from
21 Miami and they're sitting in the Plaza Extra store.

22 Who do they belong to?

23 **A.** They belong to myself and Wireless Tech.

24 **Q.** And who is Wireless Tech?

25 **A.** The two Mansour brothers.

NAJEH YUSUF -- DIRECT

1 **Q.** Okay. Good. But they're in the -- they're in the
2 Plaza Extra store?

3 **A.** They were -- they were at the receiving. I don't
4 think it ever entered the store. It was on the receiving
5 dock. I mentioned it to the employee that they have cameras
6 there. Willie knew I was ordering cameras, because we had
7 installed those cameras in the store. We're talking about
8 over 30 cameras, 30-40 cameras, probably, or more.

9 **Q.** Okay.

10 **A.** So he was aware that the cameras were coming in,
11 and he was aware that I made a deal that I was getting the
12 cameras at cost.

13 **Q.** Okay. So I'm just trying to get the story
14 straight.

15 So if I were to -- to take the deposition of
16 Mr. Mansour, okay? And I asked him about those cameras,
17 Mr. Mansour would say that those cameras were bought by
18 Wireless Tech, shipped from Miami to Plaza Extra store, and
19 then what happened to them?

20 **MS. PERRELL:** First of all, I would object.
21 It really calls for speculation as to what it is that Mr. --
22 I think you said what is it that Mr. Mansour would testify
23 to.

24 **Q.** **(Mr. Hartmann)** You can still answer.

25 **A.** I think you asked me this question already.

NAJEH YUSUF -- DIRECT

1 **MS. PERRELL:** Calls for speculation.

2 **A.** Ask the question again.

3 **Q. (Mr. Hartmann)** Okay. I want to -- I want to
4 get -- you have an agreement with Wireless Tech, so you say
5 something about what Wireless Tech knows and doesn't know.
6 So I won't ask it in terms of Mr. Mansour. I'll say, if I
7 ask Wireless Tech what happened with these things, I just
8 want to make sure I got the story straight -- that Wireless
9 Tech wrote a check to somebody for a bunch of cameras, for a
10 box of cameras, and how many cameras were in the box, or in
11 the shipment?

12 **A.** I don't remember. I don't have the invoice in
13 front of me.

14 **Q.** Roughly?

15 **A.** It was -- it was over -- it was over 60 cameras.
16 It was maybe over -- it was over a hundred cameras.

17 **Q.** Okay. So -- so Wireless Tech would have written a
18 check for those cameras to the Chinese supplier?

19 **A.** It could have been wireless check. It could have
20 been -- I mean, it could have been Wireless Tech. It could
21 have been myself, because I -- I put a lot of funds in -- in
22 the business.

23 **Q.** Your personal check?

24 **A.** I don't know if it's personal. Yeah, personal or
25 whatever it is.

NAJEH YUSUF -- DIRECT

1 Q. I mean, it's -- it's not a Plaza Extra check?

2 A. It's not a Plaza Extra check, no.

3 Q. Okay. So either you or Wireless Tech or
4 Mr. Mansour, somebody involved with Wireless Tech, sent a
5 check to a Chinese supplier, and in return, the Chinese
6 supplier sent over a hundred cameras, and they arrived in
7 Miami. Then those were shipped down to the Plaza Extra
8 store, correct?

9 A. Right.

10 Q. Okay. And -- and where did -- where did they go
11 next? And how did they get there? Just what, mechanically,
12 happened?

13 Let's say they're sitting on the shipping
14 dock at -- at -- at --

15 A. They shipped -- they sat on a shipping dock. If I
16 remember right, they were loaded on a shopping cart. I
17 think I either went through my -- my boxes or -- or -- or I
18 don't know what happened, but -- I don't know. You know,
19 we're talking about a few years ago. They came in. Yes,
20 some of it was ours, and the rest of it was theirs.

21 Q. Whose is "ours" and "theirs"?

22 A. Plaza Extra St. Thomas.

23 Q. Some of the cameras belonged to Plaza Extra
24 St. Thomas?

25 A. Let me repeat myself here.

NAJEH YUSUF -- DIRECT

1 **Q.** Okay. I'm sorry.

2 **A.** We bought the cameras. I can't remember how it's
3 situated, if it's in my name or Wireless Tech's name. To
4 think about it now, it could have even been in Plaza Extra's
5 name, because Willie was aware of it, that we were getting
6 cameras from him, and we were paying roughly 30 bucks or 40
7 bucks a camera, versus \$169-\$170 a camera.

8 So cameras came in. I made a deal with the
9 guy, you pay it to Miami. Miami comes down in my container
10 to Plaza St. Thomas. I take what's my share. I don't know
11 if -- how it was taken. If it was delivered. If he picked
12 it up. If it went -- if it went, you know, in the store,
13 landed like right at the receiving inside and we opened it
14 up, I opened it up and separated mine's, but the cameras
15 came in. I bought it for the purpose of Plaza Extra saving
16 funds, because we were buying it for over \$150 a camera from
17 the local people. I used to install the cameras myself. I
18 bought it for 30 or 40 bucks a camera. I mean, you do the
19 math. It's a huge savings when we're doing over 40 cameras
20 in a big store like that.

21 **Q.** Okay. And -- and I don't know if he's going to
22 testify to this, and I haven't heard Mr. Mansour's
23 testimony, but if Mr. Mansour said that you took Plaza Extra
24 cameras out of the Plaza Extra store and then sold them
25 either through Wireless Tech or gave them to Wireless Tech

NAJEH YUSUF -- DIRECT

1 or something like that, it's -- it's your argument that he
2 would be lying about that; is that correct?

3 **A.** I never took anything out of the store. I didn't
4 take cameras out of the store --

5 **Q.** Okay.

6 **A.** -- that didn't belong -- that -- I didn't take
7 cameras out of the store and sold it to Wireless Tech.

8 **Q.** Okay. But you did take cameras out of the store
9 that went to Wireless Tech?

10 **A.** I took cameras that came in on the dock --

11 **Q.** Right.

12 **A.** -- and gave it to Wireless Tech, because that's
13 the agreement I had with them.

14 **Q.** Okay.

15 **A.** But I didn't go in the office 5 days later, a
16 month later, or whatever, and saw that I had some cameras
17 there and decide to pick it up and says, Hey, I could sell
18 this to you guys.

19 **Q.** So could Mr. Mansour -- if Mr. Mansour thought you
20 had taken some Plaza Extra cameras, could he have just
21 confused the two shipments?

22 **A.** I don't know. I mean, we're talking about Fadi
23 Mansour, but I dealt with his brother, Wala Mansour, on the
24 cameras.

25 **Q.** You did?

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1 **A.** I don't deal with Fadi. I had an issue with Fadi.
2 I heard of his problems in the beginning and I came in with
3 Fadi, knowing that Fadi -- I don't want to do anything with
4 Fadi. I dealt mainly with his brother, Wala, and the other
5 brother, Bashar. Fadi is nothing to me.

6 **Q.** Okay. So what -- could you give me the spelling
7 of the brother that you dealt with on the cameras?

8 **A.** Wala Mansour, W-A-L-A; and then M-A-N-S-O-U-R.

9 **Q.** Okay. Thank you.

10 And did you -- at the time that the -- the
11 division of -- the sale of the Tutu store occurred, did --
12 did you remove certain objects from the store or the
13 premises, such as a compressor?

14 **A.** No.

15 **Q.** Okay. You didn't take any --

16 **A.** A compressor?

17 **Q.** Yeah.

18 **A.** No. What kind of compressor?

19 **Q.** I'm -- I'm just asking whether you took anything?

20 **A.** There's many compressors. There's an air
21 compressor.

22 **Q.** Did you take any compressor?

23 **A.** No, never.

24 **Q.** Okay. Did you take any product?

25 **A.** No.

NAJEH YUSUF -- DIRECT

1 There was a -- a issue with a pressure washer
2 that was at my house that I borrowed before the -- the
3 split, and the manager called me, Johnny Gumbs, and says, We
4 want the pressure washer back. I said, It's at my house.
5 You want it, you can come get it. I'm not bringing it.

6 **Q.** Okay. And did they ever get that back?

7 **A.** So if you think that's considered a compressor,
8 which it's not, it's a pressure washer --

9 **Q.** Okay.

10 **A.** -- then that is what was at my house. And I guess
11 when you looked for it, he remembered that I had it at my
12 house. He asked me for it, 'cause I figured Willie told
13 him, Call Najeh and get the pressure washer back. I tell
14 him, you want it, you come get it.

15 **Q.** Okay. And where's the pressure washer now?

16 **A.** I think it's still there probably rotten.

17 **Q.** At your house?

18 **A.** Probably.

19 **Q.** Okay.

20 **A.** I -- I have to check in the pump room.

21 **Q.** And how about actual merchandise from the store?

22 Did you sell any of the merchandise from the store after the
23 sale?

24 **A.** Sell the merchandise from the store after the
25 sale?

NAJEH YUSUF -- DIRECT

1 **Q.** Yeah, did you personally, outside of the Plaza
2 Extra sales process, either sell any material to third
3 parties or take any material out of the store?

4 **A.** Materials, like what? What materials would I have
5 in my possession?

6 **Q.** Canned goods?

7 **A.** Where would I store canned goods after the sale?
8 I didn't have a warehouse of my own that -- that I -- that I
9 had food in there, canned goods and so forth from Plaza
10 Extra. It was not authorized to come to me in the first
11 place. All shipments came to the receiving dock at Plaza.

12 **Q.** So to the best of your recollection, you didn't
13 sell anything out of the Plaza Extra normal chain of supply
14 after the date of the sale of the store?

15 **A.** No.

16 **Q.** And -- and you didn't supply materials from the
17 Plaza Extra store to third parties?

18 **A.** I use --

19 **Q.** In other words --

20 **A.** That's a general question.

21 **Q.** Okay. After -- after the date of the sale --

22 **A.** After the day of sale. Right. Go ahead.

23 **Q.** -- did you remove any assets of Plaza Extra?

24 **A.** Let me explain something to you.

25 **Q.** Okay.

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1 **A.** The day of the sale happened, --

2 **Q.** Yeah.

3 **A.** -- I was allowed to only stay in the office area
4 and the grocery side area, the showroom. I was told
5 specifically by the mediator -- by the -- by the judge,
6 you're not allowed in the warehouse. You're to stay in the
7 store until the store ends, and that was it. So I didn't go
8 anywhere. I didn't sell anything from the store after the
9 sale.

10 **Q.** And -- and would your answer be the same for
11 the -- for the, say, a month before the sale, in
12 anticipation of a possible sale, did you move anything out
13 or did you sell anything?

14 **A.** No.

15 **Q.** Okay. Now, did you -- at the time of the sale,
16 did you --

17 **A.** Well, let me back up.

18 Move anything out or sell anything to whom?

19 **Q.** To anybody --

20 **A.** Because we --

21 **Q.** -- else?

22 **A.** We sold to vendors. We sold to the government.
23 We sold -- we sold to whoever we sold to, so you have to be
24 more specific, because I don't want you to come back and --
25 and try to bite me with that, --

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1 Q. Okay.

2 A. -- who did I sell merchandise to a month before.

3 Q. Did you sell it to anybody outside the normal

4 Plaza --

5 A. No.

6 Q. -- Extra experience?

7 A. No.

8 Q. Okay. And at the time of that sale, and the time

9 the stores were splitting up, did you have a Plaza Extra
10 credit card?

11 A. At the time of the sale, if I had a Plaza Extra
12 credit card? Yes.

13 Q. Okay. And did you make any personal charges to
14 that card?

15 A. It was a Plaza Extra credit card that I believe my
16 dad is listed as the -- the primary or the -- the one
17 responsible for it as, you know, when you open a business
18 account. So that credit card, it could have had -- yes, it
19 could have had some personal stuff on there that was paid
20 off.

21 Q. Okay. And -- and when you say it "was paid off,"
22 you mean you paid for the personal stuff?

23 A. Yeah.

24 Q. Okay. So if I have a -- if I have a credit card
25 payment receipt that shows that -- in fact, that Plaza Extra

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1 paid off that -- that card --

2 **A.** It was used both ways.

3 **Q.** Right.

4 **A.** Towards the end when we -- when we closed, or if I
5 did it -- if I used that credit card and I'm away, it's a
6 business expense, I use it. If -- if I used it for --
7 because it was in my dad's name and I believe Plaza Extra or
8 United, I can't remember how it was registered, but if I
9 used it for whatever reason it was, if I used it for
10 personal, I paid it. It was paid off with my funds.

11 Now, if Plaza --

12 **Q.** Okay.

13 **A.** Sometimes there were times if I charged something
14 on that card for Plaza, then it would be paid off by -- by
15 Plaza, by Plaza Extra funds.

16 **Q.** I guess what I'm asking is this: Do you remember
17 there being a final credit card payment of about \$50,000 due
18 and that you were asked to pay some of it for personal
19 expenses and you refused to pay that?

20 **A.** \$50,000 --

21 **Q.** Yeah.

22 **A.** -- on what, the credit card?

23 **Q.** On that credit card?

24 **A.** I can't remember unless I see what it is.

25 **Q.** Okay. And have -- do you -- do you still have the

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1 credit card receipts from that account? Or would they be at
2 the corporation?

3 **A.** It's been -- it's been -- you'll have to subpoena
4 the corporation for it. Or most of the documents -- and the
5 mail was coming in, at that time, to Plaza Extra St. Thomas.

6 **Q.** Okay. And if you had paid off the credit card,
7 let's say you had personal charges on it, okay? And if you
8 paid off that -- the personal charges on the credit card,
9 how would you have done that? Would you have paid it
10 directly to the credit card company or would you have paid a
11 reimbursement to Plaza Extra Supermarkets?

12 **A.** If it was used for Plaza, I would mainly take the
13 payments and pay it from Plaza to the credit card so that I
14 don't have to go back and audit anything from my personal
15 account. So if I paid a vendor with the credit card, I
16 would have Plaza cut a check to the credit card company.
17 That is typically how I did it.

18 **Q.** Okay. And -- and if you personally had, let's say
19 one day you were hungry and you went out and bought a
20 package of HoHos down at the 7-11 and -- and you had a \$2
21 charge for the HoHos and wanted to pay off -- you didn't
22 want Plaza Extra to pay the \$2 for the HoHos, would you
23 have -- would you have written a check to Plaza Extra for
24 that \$2 or would you have written that check to -- to the
25 credit card company?

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1 **A.** First of all, if it's \$2 or whatever it is and I'm
2 not doing Plaza Extra work, --

3 **Q.** Uh-huh.

4 **A.** -- then I wouldn't charge it on the credit card.
5 That's something I would charge -- I have other credit cards
6 that I use.

7 **Q.** Okay. So you never made personal charges to the
8 Plaza Extra credit card?

9 **A.** I said that earlier I did.

10 **Q.** You did?

11 **A.** Right. I -- I paid and I paid it back with my
12 funds, yeah.

13 **Q.** That's what I'm asking.

14 When you say, "I paid it back with my funds,"
15 how did you do that?

16 **A.** By check from my account.

17 **Q.** Okay. So there would be a check from your account
18 into the Plaza Extra account for whatever was your personal
19 charges?

20 **A.** Right.

21 **Q.** Okay. That's all.

22 And -- and do you know which bank that check
23 would have been written on?

24 **A.** I don't know. I had Scotia. But I had -- I had
25 Banco Popular mainly, probably. Yeah, Banco Popular.

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1 Q. Okay. Thank you.

2 And now let's talk about the collection of
3 the rents from the three businesses, the Triumphant -- well,
4 I'll ask you: Were the three businesses that you collected,
5 you and Willie also collected rents from on a monthly basis?

6 A. The rents wasn't coming in monthly.

7 Q. Well, did you collect the rents for them?

8 A. Yeah, we collected the rents from them.

9 Q. And what were the three businesses?

10 A. It was the -- well, it's mainly two businesses:
11 It was the church and the auto body shop.

12 Q. Wasn't there a plastic --

13 A. Plastic, but he -- he hasn't been there. I tried
14 to get the rent out of him, I haven't. I couldn't catch up
15 to him. He's hardly there. He's not there. He has a
16 wooden stand there, but to my knowledge, he hasn't paid
17 anything.

18 Q. Okay. So just tell me about how the collection of
19 the rents worked?

20 A. They would come into the service desk and they
21 would drop off the payment. And then I would, in turn, give
22 it to the girls upstairs to deposit in the account.

23 Q. Okay. So then there would be a ledger sheet that
24 showed all those deposits?

25 A. There would be a ledger sheet there. The lady --

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1 the church didn't come in monthly as planned, or as they
2 should. And the auto body shop didn't come in as planned.
3 He paid in lump sums, I guess, mainly by check, from what I
4 could remember.

5 **Q.** Okay. And did you ever -- any of the -- the money
6 that came in for rent, did it ever go through your hands or
7 did it always go through the desk?

8 **A.** They always called me. I handled it with the
9 folks. I wrote them a receipt from the store. And I had it
10 deposited in the accounts up until my dad told me stop
11 depositing those funds in the -- in the store's account.

12 **Q.** And when did he tell you that?

13 **A.** Towards the end of the partnership.

14 **Q.** Okay. And from that point on, where did the rents
15 go?

16 **A.** I just held onto it. It went -- either I held
17 onto it or it went into the -- I think I held onto it,
18 mainly. He said not to deposit into the account. We had
19 gone through it and I paid bills with it or whatever it was.

20 **Q.** Okay. Also there's been discussion about
21 withdrawals, cash withdrawals, from the safe.

22 **A.** Um-hum.

23 **Q.** And I understand there are a series of different
24 safes. There's a petty cash safe and there's a larger safe,
25 but are you aware that there's a controversy that says -- a

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1 claim that says that at the end of the -- the store, when it
2 was being sold, that the receipts in the safe did not match
3 up against the total amount that was in the safe and that
4 there was approximately \$53,384.67 missing from the safe?

5 **A.** Why would it be missing?

6 **Q.** Well, that there was supposed to be a certain
7 amount of money in the safe.

8 **A.** Um-hum.

9 **Q.** And then there were certain receipts against it,
10 but when the two added up, they didn't match. That there
11 was \$53,000 less cash than there were supposed to be.

12 **MS. PERRELL:** I would -- I would just pose an
13 objection. It's my understanding that the -- it's not so
14 much that it was missing, but that the claim is that it was
15 somehow improperly documented, as opposed to that there was
16 a short at a count of the safe. I'm just -- I'm asking you.

17 **Q. (Mr. Hartmann)** He can -- that's fine.

18 Do you know about that issue, that there was
19 \$53,000 money missing from the safe?

20 **A.** Well, you're asking a question, but you're not
21 asking it to -- to -- to my benefit or to be on the fair
22 side. How much money was in the safe for it to be missing?
23 How much was supposed to be in there?

24 **Q.** I'm just -- I'm not getting there yet.

25 **MS. PERRELL:** Wait, wait.

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1 **A.** I mean, but you're --

2 **MS. PERRELL:** Wait. Just a minute. Don't --
3 don't answer. Let me pose an objection. I think that the
4 question doesn't properly go to what it appears that the
5 claim is.

6 **MR. HARTMANN:** Okay.

7 **MS. PERRELL:** I don't think it goes to that.

8 **MR. HARTMANN:** I'll ask -- I'll re-ask it.

9 **Q.** **(Mr. Hartmann)** Do you know that there's a claim
10 about the money that was in the safe at the end?

11 **A.** Yeah, I see that -- I saw an Excel sheet with the
12 list of the claims, yes.

13 **Q.** Okay. Could you, without my putting words in your
14 mouth or characterizing it in any way, explain what
15 happened? What you understand happened?

16 **A.** Listen, towards the end, myself and Willie was
17 bumping heads, okay?

18 **Q.** Okay.

19 **A.** And the judge says the store has to run business
20 as usual. If I needed to go get paper for the copy machine,
21 he wanted me to get a quote first, give it to him for him to
22 approve. That's something we never did. He want to see the
23 paper that I brought in, I'll buy it, and you can audit it
24 when I bring it in. I can show you the receipt. Instead,
25 he didn't want to do that. He wanted me to go down there,

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1 get a quote, pick out what I want, get the amount, list it,
2 bring it to him for him to approve it, okay?

3 Q. Okay.

4 A. That list has forklift parts. I don't have a
5 forklift at home. That list has Hobart repairs. That list
6 has the copy machine that we -- the scanner that we scanned
7 in Lockhart office where I flew the guy from Puerto Rico to
8 set us up with the scanner and to teach us how to use the
9 scanner on the list that you're charging me. That list has
10 gas receipts where whenever we turned in gas receipts, he
11 got half of it. Whenever we turned in receipts, he got half
12 of it. So if it says gas, he got half, okay? I see that
13 list doesn't have any gas receipts for Willie, but he drove
14 a lot of cars, him and his kids, and he turned in receipts.
15 And a lot of receipts, too, I signed my name on his
16 receipts, but he got half.

17 Now, on your list, it has -- I saw it says
18 Miller something ice plant. My ice plant never opened, I
19 believe, in 2011. It has Nespresso coffee there. Coffee.
20 That's his coffee. I don't drink coffee. Everybody knows I
21 don't drink coffee. There's a lot of items on there that
22 you're charging me for that was regular routine business.

23 The girls in the office and the accountants
24 and the controller, every single one in the office knew that
25 he had a lot of resistance in the store where the store was

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1 supposed to run as it's supposed to run, and he refused to
2 pay or sign the checks. That's why the judge came over to
3 settle the differences between us. And then the judge told
4 Willie, pay the bill.

5 The expenses were going to run the business.
6 Forklift parts. Scale master needed to be fixed. You
7 have -- you have quite a few -- a battery for the generator.
8 \$500-and-some-dollar battery for the generator. It's
9 probably still sitting in the generator. You have a lot of
10 charges on that list that's pure -- W-3 forms or W-2 forms,
11 what the hell am I doing with W-3 and W-2 forms? Excuse my
12 language. That is the controller's order. There's a lot of
13 items on that list that does not belong to me; it belongs to
14 the store. And the gas receipts that were there, he got
15 half. I did not take anything out of the safe. He got
16 half. If I put it in, he gave me his receipts, we submitted
17 it. But we had gift certificates, he gave me certificates
18 that he got and I gave him gift certificate we got and we
19 split it. We used to split good money in the store on a
20 yearly basis. He's aware of that. Everything I did, he's
21 aware of it in the store, in -- in the -- as far as the
22 safe, because when I turned things -- something in, I give
23 him his half. When he turned something in or he give the
24 girls something, it came out of the safe. The receipts are
25 in the safe because he refused to replenish the petty cash

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1 in the back room and she ran out of money. I used to go to
2 her and turn in the receipts to get the -- the reimbursement
3 for it. So because he had his -- he wanted to be a whatever
4 he is, I went into the big safe and I put in the receipt and
5 I took the funds for it to get reimbursed to keep the store
6 running.

7 **Q.** Okay. So -- and I don't want to put words in your
8 mouth, I just want to check and make sure I'm clear.

9 Your -- your view of the thing is that the
10 reason that there is an imbalance showing is because in
11 actuality, both of you were getting and taking money out of
12 the safe and it just wasn't documented right?

13 **MS. PERRELL:** Objection.

14 **A.** No.

15 **MS. PERRELL:** Objection. I believe that
16 misstates the testimony.

17 **Q. (Mr. Hartmann)** Okay. I'm just trying to
18 understand it.

19 Do we agree that there's -- that there was a
20 \$53,000 imbalance?

21 **A.** There was an amount in a book that the marshals
22 had there for us, and there's roughly, I believe, around the
23 \$50-something-thousand-dollar range --

24 **Q.** Okay.

25 **A.** -- that was in the safe and it had a logbook in

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1 there, that I didn't see present, that shows the amount, and
2 when we audited the safe, because when we audited the safe,
3 we audited it, and we had somebody check it behind us.

4 **Q.** Okay. So we agree when they audited the safe, the
5 marshals said there was \$53,000 missing; is that right?

6 **MS. PERRELL:** I would object that this also
7 does not go to the nature of the claim. The nature of the
8 claim is that the accountants seem to indicate that there
9 was not sufficient supporting documentation, is what they
10 seem to indicate. That's the way you guys have described
11 it.

12 **MR. HARTMANN:** But Charlotte, insufficient
13 documentation for what? I'm just trying to establish --

14 **MS. PERRELL:** But -- but -- but let me
15 finish, but that this idea that somehow there's a shortfall
16 in the safe is a new concept that was not what the claim was
17 determined.

18 **MR. HARTMANN:** I'm just trying to ask him
19 what.

20 **MS. PERRELL:** Well, what I'm trying to say to
21 you is, is --

22 **MR. HARTMANN:** Let me do it this way,
23 Charlotte: Why don't you testify for him --

24 **MS. PERRELL:** Okay.

25 **MR. HARTMANN:** -- as to exactly what you

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1 think happened to the money that's being claimed? You
2 can -- go ahead. Just -- I'll let you state what your
3 position on this is.

4 We've made a claim. We've given you a list
5 of -- of what is in that claim. I'm just trying to get what
6 is your position on that claim. I thought what he said to
7 me was that the things that are on the list were really
8 split. Willie took some of it. I took some of it. Some of
9 it didn't get accounted. I don't care what the answer is.
10 Please, testify for him.

11 **MS. PERRELL:** Okay. And I don't appreciate
12 the sarcasm about that I would be testifying. What I'm --
13 my objection is --

14 **MR. HARTMANN:** No, that's not sarcasm. I'm
15 saying, please testify.

16 **MS. PERRELL:** Here is my objection: My
17 objection is, is that somehow through this questioning, you
18 have inserted this concept that is not the nature of the
19 claim that you have made. This concept that somehow there
20 is a shortfall in the safe.

21 The claim, as you've articulated it by the
22 JVZ accountants, is that they reviewed this receipt count
23 and that the record show cash withdrawals from Plaza East
24 St. Thomas store safe. JVZ exacted three -- 232 cash
25 withdrawals by Najeh Yusuf. Hamad's CPA provided John

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1 Gaffney a query dated February 15th, 2016 requesting an
2 explanation where the withdrawals identified in the Exhibit
3 242-A were represented in the financial statements. That is
4 the claim. That is the nature of the claim.

5 **MR. HARTMANN:** Right.

6 **MS. PERRELL:** But that is not a claim that
7 says somehow the safe, and the money in the safe, was short.

8 That is a claim saying that the list that has
9 been -- that was prepared, requires further backup or
10 documentation, but that is not saying that somehow the safe
11 should have been X and it ended up being Y.

12 **MR. HARTMANN:** Okay.

13 **MS. PERRELL:** So that's why I'm saying.

14 **MR. HARTMANN:** Okay. That's your objection.

15 **Q. (Mr. Hartmann)** Did you understand what she just
16 said?

17 **A.** I did.

18 **Q.** You did? Okay.

19 So what she -- what she just said is that the
20 accountants found that -- if I understand what she just
21 testified to, was that there was -- there was some amount of
22 money not there. There were not receipts for it.

23 **MS. PERRELL:** I would object. That is not
24 what I'm saying.

25 **MR. HARTMANN:** Okay. What are you saying?

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1 **MS. PERRELL:** I'm saying that it seems that
2 your explanation of your claim is not that the money wasn't
3 there, okay? The explanation is that they're saying they
4 don't have enough supporting documentation --

5 **MR. HARTMANN:** Okay.

6 **MS. PERRELL:** -- for the list and --

7 **Q. (Mr. Hartmann)** Do you know where the supporting
8 documentation is for the list then?

9 **A.** The list of what? Of?

10 **Q.** For what's supposed to be in the safe?

11 **A.** The list of what's supposed to be in the safe?
12 There's a booklet there that tells you what should be in the
13 safe. There's a log.

14 **Q.** I understand.

15 **MS. PERRELL:** Okay. I'm just -- let me put
16 this full objection onto the record.

17 The nature of your claim is that you are
18 arguing that there is a list. And we've already identified
19 it as an exhibit. And they are saying those things on this
20 list, they don't have the backup for it. That's all that
21 the claim appears to be. Not that somehow money is missing
22 from the safe.

23 What they're claiming is that they have a
24 list that appears to be provided by Mr. Humphrey.

25 **MR. HARTMANN:** Okay.

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1 **MS. PERRELL:** They look at the list and it's
2 got categories on it. But they, for whatever reason, didn't
3 have the backup documentation. And those doc -- those were
4 allegedly business expenses, and they want the backup
5 documentation. That's the claim as I understand it. Not
6 that money's missing from the safe. That's something that
7 you continue to insert --

8 **MR. HARTMANN:** Okay.

9 **MS. PERRELL:** -- into the questions, and
10 that's the difference.

11 **MR. HARTMANN:** I understand your objection.
12 I understand your objection.

13 **Q. (Mr. Hartmann)** Okay. Let -- let me ask the
14 question again.

15 Do you understand that the accountants have
16 said that for the receipts that you placed in the safe,
17 there is not backup documentation?

18 **A.** There's not backup documentation?

19 **Q.** Is that good?

20 **A.** So what happens when I give them a receipt for a
21 part that has a letterhead from Rigg's Equipment, that's
22 not -- how much more backup do you need?

23 **Q.** I don't know. I'm just asking you where that is?

24 **A.** Listen, if the part was required or the scale
25 needed to be fixed -- fixed, he was aware of it. If the

NAJEH YUSUF -- DIRECT

1 forklift --

2 Q. I understand.

3 A. I'm just -- I'm just -- you're asking me for
4 backup documents. I put in receipts. What more do I get
5 from when I buy a part? I get one receipt. I don't get
6 backup documents to back up that receipt.

7 Q. Okay. Let's take one example like we did with the
8 cameras, okay?

9 You brought up the forklift stuff.

10 A. Right.

11 Q. Okay. So you took money out of the safe, right,
12 to buy a forklift part?

13 A. No.

14 Q. No?

15 A. I took money out of the safe to reimburse myself
16 for the forklift part.

17 Q. Okay.

18 A. We never --

19 Q. Okay. No, no, don't go on.

20 Where is the -- where is the thing from the
21 forklift company that shows that that's what it was actually
22 used for? How do I know you didn't take a trip to Hawaii?
23 How do I know that you didn't --

24 A. If I took a trip to Hawaii, it would say Hawaii on
25 it, because that's how I did business.

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1 **Q.** I understand that's how you did business, but what
2 I'm asking you is a different question.

3 Where is the information that shows that
4 that -- what you put in the -- the safe is what? What does
5 it look like? What is actually in the safe --

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

7 **Q.** -- for the forklift part?

8 **A.** A receipt --

9 **Q.** When you say, "a receipt" --

10 **A.** -- for the forklift that was given to me when I
11 purchased the forklift. I get a receipt. That receipt goes
12 in the safe. I take out the money that I paid for that
13 forklift part.

14 **Q.** Okay. Now we've got --

15 **A.** That's what I explained earlier.

16 **Q.** So what you're saying is in that safe, there is a
17 actual receipt from the forklift company?

18 **A.** When I take my reimbursement --

19 **Q.** Right.

20 **A.** -- and if I took it from the safe, I left the
21 receipt, so --

22 **Q.** You left the receipt?

23 **A.** Yes, sir. Why would I take -- why would I take
24 funds from the safe and not leave a receipt so my partner
25 can see what the funds was -- was being taken out for?

NAJEH YUSUF -- DIRECT

1 **Q.** Now, we're down to that receipt that you put in
2 the safe, is it the actual invoice from the forklift
3 company?

4 **A.** Yeah.

5 **Q.** It is?

6 **A.** Yeah.

7 **Q.** So it would say John's Forklift Company?

8 **A.** That's what it said, yes.

9 **Q.** Okay. And it would say what the part was? Let's
10 say it's a part.

11 **A.** Either the part, however they would describe it,
12 yes.

13 **Q.** Okay. And -- and then it would say, Najeh took
14 this? Najeh took money for this?

15 **A.** I would have -- I would have signed the receipt.
16 I would have -- I would have signed my name or -- or my
17 initials on it so that I was the one -- it was aware that I
18 was the one that took the funds and here's the receipt in
19 place of it.

20 **Q.** Okay. I think your counsel wants to give you a
21 piece of paper.

22 **MS. PERRELL:** No, I'm not. I'm just looking
23 at it.

24 **Q.** **(Mr. Hartmann)** So -- so when the accountants, CPAs
25 went into this, went into this safe and looked at the

NAJEH YUSUF -- DIRECT

1 receipts for -- that were in the safe and they said there
2 was no backup for these -- for things that you had put into
3 the safe and took out money. So what you're saying is, if I
4 understand it and what your counsel has said, what I'm
5 saying -- what you're saying is, they're just wrong?

6 **MS. PERRELL:** Objection. We do not know
7 whether the accountants went into the safe to check it. All
8 we know --

9 **MR. HARTMANN:** Charlotte, I'm not going to do
10 this anymore. Make an objection for the record.

11 **MS. PERRELL:** It misstates the evidence
12 already in the case. There is no evidence.

13 **Q. (Mr. Hartmann)** Okay. You can answer. Stop. You
14 can answer the question.

15 If -- if an accountant says that there wasn't
16 backup, your view of that is they're just wrong, right?

17 **A.** So what was there to tell you what the part was?
18 If you have a list, how did you create this list? Based off
19 of what?

20 **Q.** All I'm saying is, if you said -- you're saying
21 that for everything that you -- you took money out of the
22 safe, you put a backup document in it?

23 **A.** Yes. When I took funds --

24 **Q.** You never wrote -- for instance, you never just
25 took a piece of paper and wrote \$850 to B & W Water Supply?

NAJEH YUSUF -- DIRECT

1 You always -- you always put in there the actual receipt
2 from the entity?

3 **A.** Let me say something here.

4 **Q.** Okay.

5 **A.** You can have a receipt. You can have a paper.
6 It's attached with a staple, so if you have a receipt that
7 says this went to so and so --

8 **Q.** Right.

9 **A.** -- and it doesn't have a receipt, then that
10 receipt is missing. But receipts was given in the safe.
11 Documentation was given in the safe that's more than
12 sufficient enough that was given to me from wherever I
13 purchase the material from for my reimbursement.

14 **Q.** Okay. I understand --

15 **A.** So -- so -- no, no, hold on now.

16 **Q.** Okay.

17 **A.** Because you -- you -- you don't seem fair. So I
18 don't want you to say, Well, I wrote -- this went to so and
19 so on a little piece of paper that I added up for the
20 receipts that are attached to it and then you take that
21 piece of paper and say that the receipts go to the garbage.
22 I just have the paper that says, Najeh have all of these
23 amounts and they went to so and so, and then you say, Well,
24 this what I put in.

25 **Q.** Okay.

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1 **A.** What I put in the safe, it had explanation for it
2 enough that was fair and -- and enough for my partners to
3 understand where the funds went.

4 **Q.** Okay. All right.

5 **A.** Or the accountants.

6 **Q.** No more questions.

7 **MS. PERRELL:** You have no questions?

8 **MR. HARTMANN:** No more questions.

9 **CROSS-EXAMINATION**

10 **BY MS. PERRELL:**

11 **Q.** All right. Najeh, a couple of questions for you.

12 With regard to this -- I'm going to show you
13 what's been marked as Exhibit 9. Did you have a chance to
14 review that?

15 **A.** Yeah. This is the Excel list, right? Yeah.

16 **Q.** Let me ask you, pages -- I'm going to start here
17 at JVZ-1180.

18 Do you recognize this document?

19 **A.** I recognize it from -- from what you showed me
20 before, yes.

21 **Q.** Okay. Is this -- is this something that before
22 this litigation that you would have seen before?

23 In other words, was this something that was
24 provided to you?

25 **A.** I can't remember if this came to me, or if it was

NAJEH YUSUF -- CROSS

1 provided to me. But more than likely, you know, it was
2 shown to me.

3 **Q.** Okay. And it looks as if it's prepared by a
4 gentleman named Humphrey Caswell.

5 **A.** Right, he was a -- the controller there.

6 **Q.** Okay. And is this the kind of thing that Humphrey
7 would have prepared on a regular basis, do you know?

8 **A.** I don't know if it was regular or how often he did
9 it.

10 **Q.** Okay. In order for Humphrey to prepare this
11 documentation, would he have had the receipts, do you know?

12 **A.** Yes, he would have had the receipts.

13 **Q.** Okay. All right. And your procedure of
14 putting -- or having receipts available for reimbursement,
15 was that something that Willie did as well?

16 **A.** He did.

17 I'd like to add, if you don't mind, at the
18 end of the week, if we have more than one receipt, we would
19 add it up together and I would take the check stub, the
20 blank check stub, staple it and put the amount on it. But
21 every single receipt had a signature on it.

22 **Q.** Okay. So what you're saying is, is -- make sure
23 we're clear. Let's say there was five receipts in a given
24 week for Home Depot, couple of other places, whatever, four
25 or five of them. Total added up to \$531.14, let's say.

NAJEH YUSUF -- CROSS

1 **A.** Right.

2 **Q.** All right. How would you deal with that on, let's
3 say, a Friday afternoon?

4 **A.** Typically, I would initial -- sign, initial or
5 sign the -- the totals. And then, because it's such,
6 whatever four or five, whatever it is, I would staple a
7 piece of paper to it and write the amount so that whoever's
8 going to add it, can verify that what I took, or what I
9 added up, matches up to what I wrote there.

10 **Q.** Okay. And then how did you physically get the
11 cash?

12 **A.** We used to get it from Julia in the back room.

13 **Q.** Okay. So you would have those receipts, give it
14 to Julia, and she would give you the cash?

15 **A.** Yeah. If it's the smaller amounts. The larger
16 amounts, we would ask Karima to -- to cut a check for it.

17 **Q.** Okay. And so then for the smaller amounts, when
18 Julia would give you the cash, do you know what she did with
19 the paperwork?

20 **A.** She, in turn, added it up. She took the funds out
21 of her petty cash, so she has to replenish her petty cash.
22 She would give it to Humphrey, the controller.

23 **Q.** Okay. So the flow of the paperwork would be, you
24 would purchase an item. You would keep the receipt from
25 the -- from the purchase; is that right?

NAJEH YUSUF -- CROSS

1 **A.** Right.

2 **Q.** Okay. After four or five of these, or at the end
3 of each week, you would take that stack, and if it was
4 large, you would go to who?

5 **A.** If it was larger amounts, I would go to Karima to
6 try to get paid for it. The more smaller amounts, I'd go to
7 Julia to get paid.

8 **Q.** Okay. So let's say we're going --

9 **A.** That's typically what happened.

10 **Q.** Okay. So you go to Julia. You give her the
11 stack. You've added it up and you're asking for the cash
12 back, correct?

13 **A.** Right.

14 **Q.** Okay. You would give it to her. She would give
15 you the cash?

16 **A.** She would, right.

17 **Q.** All right. And then she now is in possession of
18 the stack that's stapled. It's got the little addition on
19 the top, correct?

20 **A.** Right. If I had to add it, the addition, yes, it
21 would have been there, yes.

22 **Q.** All right.

23 **A.** But she had the receipts in place of her cash from
24 petty cash.

25 **Q.** Okay. So she's got to have backup for

NAJEH YUSUF -- CROSS

1 where the --

2 **A.** Where her money went.

3 **Q.** Right.

4 **A.** Petty cash.

5 **Q.** So she's got those receipts. And then what does
6 she do with those?

7 **A.** She would take it and get -- I believe she gave it
8 to Humphrey, who in turn got a check cut from -- either he
9 wrote it, I guess, I can't remember, or Karima wrote it.

10 **Q.** Okay. So that they could replace --

11 **A.** So they could replenish her -- her safe. Her
12 petty cash.

13 **Q.** Okay. All right. So the receipts then went
14 from -- either from you to some individual who was part of
15 the management of the safe, ultimately to Humphrey?

16 **A.** Right.

17 **Q.** Okay. And do you know where Humphrey kept these
18 receipts?

19 **A.** I don't know where -- or how he filed it or where
20 he kept it.

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

22 (Respite.)

23 With regard to any cash taken out of the
24 safes, was there any cash that was otherwise -- that you
25 didn't have some kind of a receipt for?

NAJEH YUSUF -- REDIRECT

1 **A.** Was there any?

2 **Q.** Did you ever take any -- have any cash given to
3 you or taken by you from the Plaza Extra stores in this
4 period of time, 2000 and -- let's go back to 2011 forward,
5 that there wasn't some kind of a written document or cash
6 for, or receipt for?

7 **A.** I don't understand the question. Say that again.
8 If --

9 **MR. FATHI YUSUF:** May I ask him?

10 **MS. PERRELL:** No, no.

11 **Q.** **(Ms. Perrell)** With regard to -- let me just do it
12 this way: With regard to any and all of these items that
13 are listed in Exhibit 9, --

14 **A.** Right, right.

15 **Q.** -- did you have backup and supporting
16 documentation that you gave to folks at Plaza Extra Tutu
17 Park?

18 **A.** Yes, I did.

19 **MS. PERRELL:** Okay. All right. All right.
20 I have no further questions.

21 **REDIRECT EXAMINATION**

22 **BY MR. HARTMANN:**

23 **Q.** I have one additional one.

24 I'm going to show a document that's labeled
25 Claim H-1 Exhibit 7. And, I'm sorry, and it's titled

NAJEH YUSUF -- REDIRECT

1 "Notice of Payment of Purchaseprice and Authorization to
2 Release Stock Certificates," and it bears Bates Number
3 HAMD203435. Just ask you if you recognize your signature on
4 that?

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

6 **Q.** Okay. And did you sign that document?

7 **A.** That's my signature, yes.

8 **Q.** Okay. And do you know when you signed that
9 document?

10 **A.** It says on the paper here, February 19th, 2012.

11 **Q.** Okay. And do you know what you did with that
12 document after you signed it?

13 **A.** I don't remember what I did with it, no.

14 **Q.** Do you remember if you gave it to your father to
15 give to Attorney King?

16 **A.** I'm sure this document was given to -- to myself
17 and Hisham to sign, but what happened -- what happened to
18 it --

19 **Q.** I guess what I'm asking is, did you ever do any
20 business with Attorney King yourself?

21 **A.** If I did any business, it was through my dad.

22 **Q.** Okay. So you would have given this to your dad
23 and he would have given it to Attorney King?

24 **A.** Yeah. Well, I mean, whoever brought it to me, if
25 Attorney King brought it to me and my dad was there and he

NAJEH YUSUF -- REDIRECT

1 said sign it, I signed it.

2 **Q.** Okay. But you wouldn't have signed it if your
3 father didn't say it was okay to sign it, right?

4 **A.** All of the aspects of a business transaction like
5 that, my dad and the Hameds were aware of it.

6 **MR. HARTMANN:** Okay. That's it.

7 **MS. PERRELL:** I have no questions on that
8 topic.

9 **THE VIDEOGRAPHER:** Okay. This is the --

10 **MR. HARTMANN:** Oh, one thing.

11 Pursuant to a stipulation of the parties, the
12 examination of this witness is only for the purpose of
13 specific items that were set forth on Exhibit 1, the topics
14 of the notice of deposition. By agreement of counsel and
15 the Court, it's been stipulated that this will be adjourned
16 rather than dismissed to a further time for the rest of the
17 topics.

18 **THE VIDEOGRAPHER:** This deposition will be
19 adjourned. The time is 1:30.

20

21

22 (Whereupon the deposition concluded

23 at 1:30 p.m.)

24

25

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, **NAJEH 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 8th 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